

## CONTRACT ON COLLECTIVE COMPLIANCE

(Part One)

Contracting Parties:

**1. EKO-KOM, a. s.**

ID No.: 25134701, VAT No: CZ25134701

Registered Office: Na Pankráci 1685/17, 140 21 Praha 4,

Registered by the Municipal Court in Prague, Section B, File 4763

Represented by Ing. Petr Šikýř, MBA, Client Department Director, based on a power of attorney of the day 13<sup>th</sup> December 2012. The copy of the power of attorney forms Annex 1 to the Contract on Collective Compliance.

Bank details: ING Bank N.V., organisational unit, Nádražní 344/25, 150 00 Praha 5

Account No.: 1000366402/3500

IBAN: CZ10 3500 0000 0010 0036 6402

BIC (SWIFT): INGBCZPP

Electronic address: [info@ekokom.cz](mailto:info@ekokom.cz)

(hereinafter referred to as the 'Supplier')

and

**2. ....**

ID No.: ....., VAT No.: .....

Registered Office (place of business) .....,

Address .....,

Registered in the Commercial Register (Trade Licence Register) administered by .....,

Bank details: ....., account No.: .....

represented by .....,

(hereinafter referred to as the 'Client')

enter on the day, month and year stated below in accordance with Section 13 Paragraph 1 Letter c) of the Packaging Act 477/2001 Coll. and amendments to some other acts, as amended (the "Packaging Act") and in accordance with ACT No. 89/2012 Coll., the Civil Code, as amended (the "Civil Code"), into this Contract on Collective Compliance; the wording of the contract, along with its Annexes, is enclosed below and the contracting parties reached an absolute agreement on the facts stated below; both parts of the Contract and their Annexes form an integral unit. This unit represents unified terms and conditions pursuant to Section 21 Paragraph 1 Letter a) of the Packaging Act.

This Contract becomes effective on the day it is made and applies to all packaging and packaged products which the Customer introduces on the market or puts into circulation from the first day of the calendar quarter when the Contract is made, and it covers all rights, obligations and actions of the contracting parties which occur after this date.

The first deposit payment with regard to Remuneration (Article VII Paragraphs 8, 10), as determined by agreement of both parties, amounts to .....- CZK + VAT in accordance with applicable laws. The Supplier shall issue a proforma invoice for this payment within fifteen (15) calendar days of the date on which this Contract is signed. This first advance payment of the Remuneration shall be due and payable within a timeframe of fifteen (15) calendar days from the date of its issue. The Supplier shall send a tax invoice to the Customer within fifteen (15) days from the date when payment was received.

The Customer declares that he acquainted himself with all the provisions hereof (both parts of this Contract and the Annexes) and that these provisions were clearly legible and understandable, and that he took advantage of the opportunity for additional explanation of the provisions of the draft contract by the Supplier before concluding the Contract. The Customer did not find any provision that would be particularly disadvantageous for the Customer or that would grossly contradict business practices or principles of fair trade. For the avoidance of doubt, the Customer confirms that he is particularly well acquainted with the provisions of this Contract included in Article IV, in particular paragraphs 6 and 10 (method of reporting data on packaging placed on the market and put into circulation, method of filing corrective Statements and changing the method of reporting, including the obligation to tolerate an audit of performance of the obligations under this Contract), in Article V, paragraphs 5 and 6 (exclusion of Sections 1765 and 1766 – change of circumstances, extension of the limitation period to four years), in Article VI, paragraph 3 (changes to fees), in Article X (changes to the amount of Remuneration), Article XVIII (audit of performance of obligations of the Customer), provisions of Article XIX, paragraph 8 (exclusion of the possibility of a correction of Statements after the termination of the Contract), Article XX, particularly paragraph 6 (contractual penalty, flat fee settlement), and with the content of Annex 3 (Remuneration structure) to this Contract.

Contract No. «Contract No»

Prague, dated.....

In.....dated.....

---

Supplier

---

Customer

LIBERAL TRANSLATION

# Contract on Collective Compliance

(Part Two)

## PART I GENERAL PROVISIONS

### I. Preamble

1. This Contract represents uniform terms and conditions for collective compliance in accordance with Section 21 Paragraph 1 Letter a) of the Packaging Act and Amended Acts No. 477/2001 Coll. as amended (hereinafter the 'Packaging Act').
2. The Supplier is a public limited company that has been issued with the authorisation decision pursuant to Section 17 of the Packaging Act. The decision was issued by the Ministry of Environment on 28/ 3/2002, ref. No. OODP/9246/1440/3/02. Based on this fact the Supplier is authorised to provide collective compliance services with regard to the obligation of take-back and recovery of packaging waste, and for this purpose to enter into contracts of collective compliance; the services are provided as part of the EKO-KOM system which is operated by the Supplier. The decision of the Ministry of Environment No. OODP/5442/05 dated 29. 3. 2005 extended the validity of the authorisation decision stated above until 31. 12. 2012 and the decision of the Ministry of Environment No. OODP/101565/ENV/11, 6456/720/11 dated 22. 1. 2012 extended the validity of the authorisation decision stated above until 31. 12. 2020.
3. The Supplier is entitled to provide collective compliance services for sale, group and transport packaging and for all types of packaging.
4. By entering into this Contract on Collective Compliance the Customer declares to be a party introducing on the market or into circulation packaging and packaged goods pursuant to the Packaging Act. Therefore, the Customer has the obligation to ensure take-back of packages and recovery of packaging waste, and the Customer has the obligation to ensure that the waste from packaging, he introduces on the market or into circulation, is used within the scope stipulated by the Packaging Act.
5. The Customer and the Supplier enter into the Contract on Collective Compliance with the aim to ensure that the obligation of take-back and recovery of packaging waste as stipulated by the Packaging Act is observed by the Customer via the Supplier and the Supplier's contractual partners.
6. The Supplier organises the collective compliance services in cooperation with municipalities across the Czech Republic and in cooperation with other persons who are involved in the process of take-back and recovery of packaging waste within the system operated by the Supplier. Persons who are obliged to ensure take-back and recovery of packaging waste and who are the Suppliers' contractual partners, are also involved in this process (hereinafter 'the Collective Compliance System EKO-KOM').

### II. Subject-Matter of the Contract

The Supplier undertakes to ensure the fulfilment of the obligations for the take-back and recovery of packaging waste on behalf of the Customer and the Customer is obliged to pay remuneration to the Supplier for this services.

## PART II RIGHTS AND OBLIGATIONS OF THE CONTRACTING PARTIES

### III Rights and obligations of the Supplier

1. The Supplier is obliged:
  - a) to ensure that the obligations of take-back and recovery of packaging waste on behalf of the Customer is observed, using the EKO-KOM Collective Compliance System;
  - b) to send to the Customer a certificate of integration in the EKO-KOM Collective Compliance System (unless this has been done earlier based on a previous Contract on Collective Compliance made by the Supplier and the Customer) within fourteen (14) days after the Customer pays a Remuneration deposit for the first quarter of the effectiveness of the Contract and the Fee (in accordance with Part III of this Contract). The certificate is used to prove the fact that the parties to the contract entered into the Contract on Collective Compliance and that based on the payment of the first Remuneration deposit and the Fee the Customer has been included in the EKO-KOM Collective Compliance System with regard to third parties;
  - c) at the end of the calendar year the Supplier is obliged to issue to the Customer a certificate of fulfilment of the Customer's obligations in accordance with Article I Paragraph 4 of this Contract for the relevant period of the past year, provided all duties of the Customer against the Supplier have been met, in particular in terms of due submitting of statements under Article IV and the payment of the Remuneration, the Fee and the Remuneration deposits. The Supplier is obliged to send this certificate to the Customer within thirty (30) days after the expiry of the deadline for submitting the corrected Statement under Article IV Paragraph 4 for the last quarter of the past year. The Supplier shall state in this certificate in which period the Customer joined the EKO-KOM Collective Compliance System, and the volume of packaging waste based on which the Customer paid remuneration for the obligation of take-back and recovery of packaging waste. Provided the Contract is terminated before the

end of the calendar year for which the certificate is issued, the Supplier shall provide the Customer with a certificate, if requested by the Customer in writing;

- d) to publish the Customer's name in the database of Supplier's customers which is accessible to the public on the Internet via the Supplier's website (the current website address is [www.ekokom.cz](http://www.ekokom.cz));
  - e) to provide the Customer with advisory services, if requested by the Customer, in terms of prevention of packaging waste and the method of marking the packaging for further handling by organising seminars, providing the Customer with information booklets or by *ad hoc* consultations if absolutely necessary;
  - f) to provide the Customer with the right to use the EKO-KOM Trademark and GREEN DOT Trademark on his products in accordance with Part IV of this Contract; the Supplier is authorised to use these trademarks;
  - g) to pay the registration fee on behalf of the Customer in accordance with Section 30 Paragraph 2 of the Packaging Act and to comply with the registration and information duty with regard to the Ministry of Environment in accordance with Section 23 Paragraphs 1 and 2 of the Packaging Act;
  - h) to inform the Customer about any changes of the decision of authorisation in accordance with Article I Paragraph 2 by placing a notice in the Trade Bulletin.
2. The Supplier is obliged to publish the result data in the EKO-KOM Collective Compliance System on the Internet.
  3. For the take-back of packaging, the Supplier is obliged to ensure a sufficient number of collection places and their accessibility. The Supplier must not ask consumers to pay for having the possibility to return packaging.
  4. The obligation of take-back and recovery of packaging waste is ensured by the Supplier via the Collective Compliance System EKO-KOM for all persons (customers) for whom this obligation is mandatory and who are involved in the system based on the Contract on Collective Compliance. The level of recovery of packaging waste as required by the Packaging Act and the authorisation decision is demonstrated for all packaging for which the Supplier is responsible based on the Contract on Collective Compliances.
  5. By entering into this Contract the Supplier does not accept any other special duties of the Customer which might arise due to the fact that the packaging, introduced on the market or into circulation by the Customer, is returnable, in particular the Supplier accepts no special duties regarding returnable deposit packaging.
  6. The Supplier is not obliged to comply with obligations arising out of the special character of packaging that might be filled with dangerous objects, dangerous substances and dangerous agents that are beyond the scope of the Packaging Act and the authorisation decision in accordance with Article I Paragraph 2 of this Contract, nor is the Supplier obliged to bear the costs of ensuring such obligations. Pursuant to special legal regulations, the duties of the originator are not affected by entering into this Contract.

#### IV.

#### Rights and obligations of the Customer

1. In accordance with Part III of this Contract the Customer is obliged to pay the Supplier a Fee and Remuneration for the compliance with the obligation of take-back and recovery of packaging waste, via the EKO-KOM Collective Compliance System.
2. The Customer is obliged to keep up-to-date, true and complete records of all packaging introduced on the market or into circulation (including Exported packaging) in a due and demonstrable manner in accordance with the Packaging Act, the authorisation decision under Article I Paragraph 2 and this Contract. The records must be conclusive in particular in connection with the Customer's accounts.
3. The Customer is obliged to provide the Supplier with true and complete information regarding the volume of packaging introduced on the market or into circulation in accordance with Section 2 Letters d) and e) of the Packaging Act (including Exported packaging) in the relevant calendar quarter, organised by type and volume; this will be done in a uniform electronic format specified by the Supplier or in a uniform written format no later than by thirty (30) calendar days after the termination of the relevant calendar quarter. This information is provided in the statement about packaging and packaged products production for the relevant calendar quarter (hereinafter the 'Statement'); the statement template forms Annex 2 to this Contract.
4. In the case the Customer states a different volume of packaging on the Statement than the volume, which was actually introduced on the market or into circulation, or supplied across borders (Exported packaging) in the relevant calendar quarter, the Customer is obliged to provide the Supplier with a corrected Statement for the given quarter, prepared in accordance with the Statement regulations under this Article. This corrected Statement must be delivered no later than within the deadline set for the coming calendar quarter; provided the corrected Statement is being delivered for the fourth calendar quarter (October - December), this Statement must be delivered no later than by the end of February of the next coming calendar year. If the corrected Statement results in increased Remuneration for the Supplier, the Customer is obliged to pay the Supplier a late charge from this increase in accordance with Article X Paragraph 6 for the period starting with the last day when the Statement for the last quarter should have been delivered and ending with the due date of the invoice (corrected tax document, or tax credit not) issued by the Supplier, in which the Supplier invoices the increase to the Customer. In case of due and timely submission of the corrected Statement and due and timely payment of the Remuneration and the late charge, the Supplier's claim to a contractual fine in accordance with Article XX Paragraph 1 Clause two ceases to exist; nevertheless, this does not affect the Supplier's claim to compensation for damage, if any damage has arisen.
5. The Customer is entitled to file an objection that a smaller volume of packaging or different types of packaging were introduced on the market or into circulation than stated in the Statement (including the objection that he supplied a larger quantity of packaging across the border) but only via a corrected Statement submitted within the deadlines stipulated above. Objections that are made later cannot be considered due to the fact that based on the Statement the Supplier provides regular delivery under the contract; not even if the Customer subsequently discovers that no packaging has been introduced on the market or into circulation.
6. The Supplier is entitled to unilaterally change the template and structure of the Statement. The Supplier must inform the Customer about such a change in writing. If the change to the statement expands the duties of the Customer, the Customer is entitled to reject the change by terminating the Contract pursuant to Article X of the Contract. This right of the Customer does not arise if the change results from a change in law or from a binding decision or other action of the competent public body. If the Customer does not

terminate the Contract in accordance with the preceding sentence, he shall be obliged to provide the Supplier with information through a new Statement beginning from the calendar quarter referred to in the changed statement, but not before the calendar quarter in which the change to the Statement was announced. The notice shall be effective as from the day of its placement on the Supplier's website. The Supplier is also entitled to determine a simplified method of record keeping and the terms and conditions under which the simplified record keeping is made; the Supplier is obliged to inform the Customer in a suitable manner about the fact that a notice was placed on his Internet pages to that effect (for example by stating the fact on the invoice or by sending a notice by email). The Supplier is also obliged to communicate any cancellation or restriction of the simplified record keeping (in the same way as when introducing it) to the Customer no later than in the calendar quarter, preceding the calendar quarter when the change of the record keeping should become valid.

7. The Customer is obliged to inform the Supplier about any changes of data stated in the heading (preamble) of the Contract and changes of the contact person; this will be done no later than within fourteen (14) calendar days from the change. If this obligation is not complied with, the Customer is obliged to pay the Supplier all costs and damages which might arise as a result of this failure. The Customer is not entitled to claim against the Supplier based on the facts which were not notified to the Supplier as this is at variance with this Contract.
8. The Customer is obliged to cooperate with the Supplier as necessary and as can be reasonably expected so that the Supplier can comply with his obligations under this Contract and the Packaging Act; in particular the Customer is obliged to provide the Supplier with necessary information which is related to the take-back and recovery of packaging waste. If this obligation is not complied with, the Customer is obliged to pay the Supplier all the costs and damages which might arise in result of this failure.
9. In accordance with Part IV of this Contract the Customer is entitled to put the Trademarks EKO-KOM and GREEN DOT on his products, as the Supplier has the relevant rights of use; in accordance with the certificate issued pursuant to Article III Paragraph 1 Letter b) and the certificate issued under Article III Paragraph 1 Letter c) the Customer is entitled to state in his promotional materials the fact that he participates in the Collective Compliance System EKO-KOM operated by the Supplier for the duration of the Contract and its due delivery by the Customer. The Customer must not abuse the certificate issued in accordance with Article III Paragraph 1 Letters b) and c) in any way; this obligation survives the termination of this Contract.
10. The Customer is obliged to allow for an audit to take place in accordance with Article XVIII and to provide the auditor, appointed by the Supplier, with all relevant data regarding the packaging and packaged products introduced by the Customer on the market or into circulation, and the Customer is obliged to cooperate with the auditor as necessary.

### **PART III FEE AND REMUNERATION**

#### **V Joint provisions**

1. In accordance with Articles V to X of this Contract the Customer is obliged to pay the Supplier a Fee and Remuneration for the compliance with the obligation of take-back and recovery of packaging waste using the EKO-KOM Collective Compliance System. The Remuneration and the Fee do not include value added tax, consumption tax or any other similar taxes with regard to the provision of collective compliance. Should any such tax duty arise when providing the given services (as of the date of entering into the Contract, the value added tax applies - hereinafter the 'VAT'), the Customer is obliged to pay the Supplier these taxes beyond the scale of the Remuneration and the Fee under this Contract and these taxes are payable under the same terms and conditions as the Remuneration and the Fee. If the Customer faces the duty to pay taxes abroad on the Remuneration or the Fee, the amount of the Remuneration and the Fee under this Contract is regarded as a net amount after tax.
2. The Remuneration and the Fee are payable by bank transfer into the Supplier's account unless the Customer and the Supplier make other arrangements for specific payments. The Remuneration and the Fee are payable in Czech crowns. All possible charges connected with the money exchange and transfer into the Supplier's account are borne by the Customer; if this is not possible due to some special regulations that are binding for the bank, the Customer is obliged to transfer a sufficient amount of money to cover the full payment of the Supplier's claim and also the fee for the exchange and transfer. The amount is deemed as paid once it is credited to the Supplier's account.
3. The Supplier is not delayed with delivery if the Customer is in default in payment of the Remuneration or the Fee.
4. If the Supplier issues a confirmation of the settlement of a debt payable by the Customer under this Contract, such confirmation represents only evidence of settlement of the debt as expressly stated in the confirmation. The parties expressly agree that the confirmation of settlement of a debt due on a later date does not automatically mean that any debt due on a preceding date was settled as well.
5. If any circumstances change, after the conclusion of the Contract, to the extent that the performance of the Contract is more difficult for any party, it does not change its obligation to settle its debt. The provisions of the second sentence of Section 1764, and the provisions of Sections 1765 and 1766 of the Civil Code are not applicable.
6. The contracting parties negotiated an extension of the limitation period for all rights arising to the parties under this Contract, so that the period of limitation of any right lasts for four years from the date on which such right may be exercised for the first time.

#### **VI Fee**

1. The Customer is obliged to pay the Supplier a Fee for each calendar year of the duration of the Contract (hereinafter 'the Fee'). The Fee includes the annual registration fee pursuant to Section 30 Paragraph 2 of the Packaging Act (hereinafter 'the registration fee'; as of the day of entering of the Contract this registration fee amounts to 800 CZK) and the payment for administration services

under Article III, regarding the registration of the Customer in the EKO-KOM Collective Compliance System for the given calendar year, including the administration of the Customer.

2. The Fee is determined in the remuneration structure which forms an integral part of this Contract, Annex 3; VAT, as stipulated by law, shall be added to the determined Fee.
3. Provisions of Article X of this Contract apply with regard to any changes of the Fee. In the case of changes the Supplier must determine from which calendar year the new Fee applies; the Fee may be amended for the given calendar year only due to changes of the registration fee for the given year. The Customer declares that he accepts these changes of the Fee, which might arise due to the change of the registration fee in accordance with the Packaging Act and which will be implemented within the scope of change of the registration fee; in such case the change (decrease and increase) is automatic, the Supplier only communicates the change in the remuneration structure, and the Customer's right to terminate the Contract because of this change in accordance with Article X of the contract does not arise. If the registration fee for the given calendar year is changed after the delivery of services for which the Fee is paid (Paragraph 4), the Supplier shall amend the base tax and issue a remedial tax document (tax debit note or tax credit note) pursuant to the VAT Act.
4. Services which are subject to the payment of the Fee are provided in individual periods in accordance with the VAT Act. With regard to these services, an individual period refers to the period of the calendar year; provided the Contract lasts only for a part of the calendar year, the individual period only refers to the part of the calendar year during which the Contract lasted (the fact that the Contract lasted only for a part of the calendar year has no impact on the amount of the Fee, with the exceptions stated in Paragraphs 5 and 6). Services which are subject to the payment of the Fee are regarded as delivered on the day of the issue of the invoice (tax document) in accordance with the VAT Act. The Fee is payable based on an invoice (tax document) issued by the Supplier within fifteen (15) calendar days from the issue of the invoice (tax document), but not earlier than on the 15th of January of the calendar year for which the Fee is payable. Provided the Contract was made during the course of the calendar year and the Customer is obliged to pay Remuneration deposits, the Fee is payable along with the first Remuneration deposit.
5. Provided the Customer already participated in the EKO-KOM Collective Compliance System for some period of the calendar year in which this Contract was made, based on an earlier Contract on Collective Compliance which later ceased to exist, and based on this previous contract the Customer paid the Supplier a Fee for that year, the Fee for this given year shall be decreased for the Fee previously paid in accordance with Paragraph 2, unless this amount has been refunded to the Customer in one way or another.
6. Provided the Packaging Act exempts the Supplier from his duty to pay the registration fee or its part on behalf of the Customer subject to compliance with specific terms and conditions and the Customer really complies with these specific terms and conditions, the Fee is decreased by this registration fee or its relevant part. If the Contract is terminated during the course of the calendar year, the Supplier is obliged to evaluate if the terms and conditions for decreasing the Fee have been met, otherwise this evaluation is done at the end of the calendar year. Provided the terms and conditions for decreasing the Fee have been really met, the Supplier is obliged to return to the Customer the relevant difference; in case of termination of the Contract this shall be done within the deadline for returning the payment in excess in accordance with Article VII Paragraph 8 Clause seven, otherwise by the 30th of March of the following calendar year. Provided the conditions for decreasing the Fee are met and the Supplier has already paid the registration fee to the relevant tax administrator (fee administrator), the Supplier is obliged to ask the relevant tax administrator (fee administrator) for the refund of the excess payment of the registration fee without any unnecessary delay immediately after the Supplier establishes the reasons for decreasing the Fee under Paragraph 2; in this case the Supplier is not obliged to pay the Customer the amount corresponding with the decrease in the Fee earlier than eight (8) working days from receiving the excess payment of the registration fee from the relevant tax administrator (fee administrator). The Supplier is obliged to pay the Customer the amount corresponding with the decrease in the Fee and to invoice for it as follows: the VAT base shall be adjusted and a remedial tax document (tax credit note) shall be issued pursuant to the VAT Act. This does not affect the right to set off this amount against a Fee payable or Remuneration payable or any other claim payable by the Customer to the Supplier.
7. In the relevant calendar year (but not earlier than for 2012) the Customer has the right to a lower Fee (Fee discount); the Fee shall be lowered by an amount determined in the Remuneration structure which forms an integral part of this Contract, Annex 3, provided that:
  - a) the Customer delivered to the Supplier regular and timely Statements in accordance with this Contract for all relevant Periods of the given calendar year;
  - b) the Customer did not present a corrected Statement for any of the calendar quarters of the given calendar year and he was not obliged to submit any corrected Statements;
  - c) the Customer fulfilled all his payment obligations against the Supplier for the calendar year duly and on time (in particular the duty to pay the Remuneration deposits on time, and the Remuneration and Fee for deliveries provided in the relevant calendar year);
  - d) the Customer sent to the Supplier all Statements for the given calendar year in an electronic format; and at the same time
  - e) the Customer received all notices and reports from the Supplier in an electronic format throughout the whole relevant calendar year and received all tax and other documents, regarding deliveries provided in the relevant calendar year, in an electronic format
8. If the Customer duly fulfilled all terms and conditions under Paragraph 7, the Customer is entitled to a Fee discount. Unless stipulated otherwise by the Remuneration structure, the Fee discount is determined by a flat amount (excl VAT). The Customer is not entitled to a Fee discount if the Contract is terminated (ends) during the course of the calendar year for which the discount should be granted. The fact of whether the Customer is entitled to a Fee discount is evaluated at the time of delivering the Statement and paying Remuneration for the last calendar quarter of each calendar year for which the discount should be granted, and after the expiry of the deadline for submitting a corrected Statement for the last calendar quarter. The Fee for the following calendar year is decreased by the calculated discount; if the Contract terminated (expired) as of the last day in the calendar year for which the Fee discount was granted, the Fee for the calendar year, in which the Fee discount is granted, is decreased; the Supplier will invoice for the discount by adjusting the VAT base of the actual individual delivery and by issuing a corrected tax document (tax credit note) in accordance with the VAT Act.

## VII Remuneration

1. The Customer is obliged to pay the Supplier Remuneration for the services provided with regard to the obligations of take-back and recovery of packaging waste [Article III Paragraph 1 Letter a)] (hereinafter the 'Remuneration').
2. Services which are subject to the payment of Remuneration are provided in individual periods in accordance with the VAT Act. With regard to services that are subject to the payment of Remuneration, an individual period refers to the period of the calendar year; unless stated otherwise in Article IX; provided the Contract lasts only for a part of the calendar year the individual period only refers to the part of the calendar year during which the Contract was in operation. Unless stated otherwise, services for which Remuneration is paid are regarded as delivered by the VAT Act on the day a regular Statement is delivered to the Supplier. The Supplier must issue a tax document for this part performance (see Paragraph 8 of this Article) within fifteen (15) calendar days after the date of taxable fulfillment.
3. The Remuneration amount is calculated based on the total volume of packaging introduced by the Customer on the market or into circulation in the relevant calendar year in accordance with the Remuneration structure, which forms an integral part of this Contract, Annex 3, as follows: the relevant item of the Remuneration structure is multiplied by the volume of the packaging introduced on the market or into circulation in tons as shown in the Statement in the part on packaging subject to the payment of a fee. VAT as stipulated by law is added to the calculated amount. The amount of remuneration per unit based on the Remuneration structure usually depends on the kind, type and material composition of the packaging, or the special way in which the packaging is used or the economic sector in which the packaging is used; alternatively it depends on other criteria determined by the remuneration structure.
4. Remuneration is not payable for Prepaid packaging, Nonpaid packaging and Exported packaging. The Customer is obliged to record these types of packaging and to state them in the Statement. Upon a request the Customer is obliged to demonstrate to the Supplier that a certain kind of packaging is Prepaid, Nonpaid or Exported and this fact must also be subject to audit under Article XVIII.
5. Prepaid packaging refers to packaging where the person who delivered the packaging to the Customer can duly demonstrate that the obligations of take-back and recovery of packaging waste within the EKO-KOM Collective Compliance System was duly fulfilled and paid for by this person.
6. Nonpaid packaging refers to packaging where the person who received the packaging from the Customer can duly demonstrate that the obligations of take-back and recovery of packaging waste within the EKO-KOM Collective Compliance System was duly fulfilled and paid for by this person.
7. Exported packaging refers to packaging where the Customer demonstrably exported the packaging abroad. Export refers to the fact that the packaging is released into the export regime in accordance with customs regulations or it is delivered from the Czech Republic across the border to another member state of the EC.
8. Unless stated otherwise, the Remuneration shall be payable quarterly in advance on the basis of proforma invoices issued by the Supplier, within thirty (30) calendar days from the issuance of the proforma invoice. If the Customer delivers the Statement to the Supplier with a delay, the maturity of the financial obligation billed by the respective invoice is reduced to ten (10) calendar days, while the claim for the advance payment will be a good and valuable claim of the Supplier towards the Customer. If a deposit is accepted before the date of taxable fulfillment the Supplier is obliged to issue a tax document within fifteen (15) days from the day the deposit is accepted and to send it to the Customer. The Supplier is obliged to invoice for the paid deposit for the relevant calendar quarter within fifteen (15) calendar days from receiving the Statement for the quarter by issuing an invoice with all the essentials of a tax document in accordance with the VAT Act. The Customer is obliged to pay the Supplier an outstanding balance payment within thirty (30) days from the issue of the deposit invoice; if the Customer is late with delivering the Statement to the Supplier, the balance payment is payable within ten (10) calendar days; this maturity period also applies to the balance payment of Remuneration based on corrected Statements. Potential excess Remuneration payments are shown in the advance payment instructions for coming periods. The Supplier is entitled to use the excess Remuneration payment to settle any due claims against the Customer. If the Contract is terminated the Supplier shall return the excess Remuneration payment to the Customer's account stated in this Contract or to the account determined by the Customer for this purpose within thirty (30) calendar days from the termination of the Contract, but not earlier than after all duties of the Customer against the Supplier are met, in particular the delivery of regular Statements and the payment of any outstanding Remuneration and Fees.
9. The Supplier is entitled not to issue a deposit invoice, in particular if according to the Statement the Remuneration payable by the Customer is very low; in this case the Remuneration is payable based on an invoice according to Clause four Paragraph 8. The Supplier is also entitled to send an unilateral notice with regard to the fact that the payment of deposits is restricted or stopped; provided the notice does not state the period for which the payment of deposits is restricted or stopped, the payment of deposits is restricted or stopped until the Supplier announces a change of the deposit payment regime.
10. The amount of Remuneration deposit is determined as follows: the deposit amount for the given calendar quarter equals total Remuneration for the previous quarter, calculated in accordance with Paragraph 3 of this Article plus VAT as stipulated by law. By paying the Remuneration deposit calculated based on the Statement for the previous calendar quarter, the Customer confirms the data included in the Statement; this also applies to the payment of Remuneration calculated based on the Statement.
11. Should the Supplier's Remuneration claim change due to a timely submission of a corrected Statement (Article IV Paragraph 4 of this Contract) the Supplier shall invoice for this change by adjusting the VAT base for the delivered part performance and the Supplier shall issue a corrected tax document [tax debit note (for increased Remuneration) or tax credit note (for decreased Remuneration)] in accordance with the VAT Act. The increase or decrease of the Remuneration is payable based on an invoice - corrected tax document (tax debit note or tax credit note) issued by the Supplier. The Supplier is entitled to set off the decreased Remuneration amount against any due claim of the Customer against the Supplier.
12. The tax document, or any other accounting document, can be issued in an electronic format if approved by the Customer, provided this document is issued in accordance with the terms and conditions stipulated by special regulations (currently Section 26 Article 3 of the VAT Act). This consent is granted by the Customer in the Statement by selecting different options (filling in the relevant fields) and it can be cancelled; provided the Customer grants his consent in one Statement and in some of the following Statements

the Customer does not select the option of granting his consent with having the tax document issued in an electronic format, it is deemed that the Customer is cancelling his consent until the time he makes other relevant changes.

13. Accounting for VAT in cases with international features: the Customer is obliged to provide the Supplier with all due and timely data essential for due invoicing (issuing tax documents), including the data stated in the Customer's Declaration for the purpose of issuing tax documents and their amendment. If the Customer complies with legal requirements based on which VAT is not charged on the Remuneration and/or the Fee (VAT exemption, transfer of the place of delivery outside the Czech Republic), the Customer is obliged to provide the Supplier with data documenting that these requirements have been met no later than:
- a) before entering into the Contract (using the Statement delivered by the Customer to the Supplier before entering into the Contract), provided the requirements are met at the moment the Contract comes into operation,
  - b) five (5) working days before delivering the Statement for the calendar quarter, provided the requirements started to be met during the calendar quarter or before delivering the Statement for the given calendar quarter;
  - c) by the end of February of the given year, provided the requirements related to the payment of the Fee for that year are met.

The Customer is obliged to inform the Supplier about all facts essential for correct invoicing within the stated deadlines (including the submission of relevant documents or Customer's Declarations for the issue of tax documents). If the Customer does not provide the Supplier with data demonstrating his compliance with legal requirements for VAT exemption, the Supplier shall add VAT to the Remuneration and the Fee. If the Customer does not inform the Supplier about a change of data, the Supplier shall use the data submitted by the Customer last time. If the Customer asks for VAT exemption after a stipulated deadline, the Supplier is entitled to charge an administrative fee of 500 CZK for each such case (issued tax document) and the Customer is obliged to pay this invoiced amount to the Supplier.

## **VIII**

### **Bonus programme**

1. The Supplier is entitled to announce bonus programmes for his Customers on his Internet pages (at the time of entering into the Contract [www.ekokom.cz](http://www.ekokom.cz)) or in justified cases in some other suitable manner. The terms and conditions of the bonus programme shall be arranged in subcontracts to the Contract on Collective Compliance made between the Customer and the Supplier.
2. Provided the Supplier and the Customer agree in the Subcontract that the Customer shall participate in some bonus programme, the Remuneration calculated based on Article VII is adjusted (increased or decreased) using the bonus (malus); these bonuses (maluses) may be set at zero and they may decrease and increase the bonus, unless expressly stated otherwise. Provided the Remuneration is adjusted based on several bonuses, only the base of the Remuneration (excl VAT), calculated in accordance with Article VII Paragraph 3, is multiplied by individual bonuses, not the base adjusted by bonuses, unless expressly stated otherwise in the Subcontract. Provided the bonus (malus) amount is not determined by the Subcontract to the Contract, but it is stated in the Remuneration Structure in accordance with Article VII Paragraph 3 which forms Annex 3 to the Contract, the provisions of Article X apply for bonus (malus) changes unless stated otherwise in the Subcontract.
3. The Customer is not entitled to the bonus if the Contract is cancelled (terminated) during the course of the calendar year for which the bonus should be provided, or during another period which is decisive for evaluating the bonus entitlement according to the Subcontract. Unless the Subcontract states otherwise, the calculated bonus (discount) decreases the Remuneration for the first calendar quarter following the calendar year; if the Contract ceases to exist (is terminated) as of the last day of the calendar year when the Customer becomes entitled to a bonus, the calculated bonus (discount) decreases the Remuneration for the last calendar quarter of this calendar year; the Supplier accounts for the discount by adjusting the VAT base of the delivered part performance and by issuing a corrected tax document (tax credit note) to the Customer in accordance with the VAT Act.

## **IX**

### **Special provisions on accounting for the Remuneration**

1. Provided that in the given calendar year the Customer pays Remuneration to the Supplier based on the Contract on Collective Compliance which does not exceed the Minimum Amount valid as of 31/ 12/ of the calendar year, in the next coming calendar year the Customer is not obliged to pay Remuneration deposits and the Remuneration is payable only once a year after the delivery of the Statement for the last calendar quarter of the calendar year.
2. The minimum amount payable for individual calendar years is announced by the Supplier on his Internet pages (at the time of entering into the Contract on [www.ekokom.cz](http://www.ekokom.cz)), excl VAT.
3. With regard to the services that are subject to the payment of Remuneration, an individual period refers to the period of the calendar year; provided the Contract lasts only for a part of the calendar year the individual period only refers to the part of the calendar year during which the Contract was in operation. Unless stated otherwise, services for which Remuneration is paid, are regarded as delivered by the VAT Act on the day a regular Statement for the last part of the individual period is delivered to the Supplier.
4. If during the course of the calendar year the Statements, delivered by the Customer, show that the Customer is obliged to pay to the Supplier Remuneration exceeding the Minimum Amount for the past part of the year (e.g. this fact arises subsequently based on a corrected Statement), the Supplier is entitled to ask the Customer to pay deposits and Remuneration quarterly based on Article VII. In this case the Individual Period, during which the service is provided, is the period from the beginning of the year until the end of the calendar quarter preceding the first quarter in which the Supplier asks for the deposit payment; provisions of Article VII apply for the provision of services for the following part of the year. Provisions of Paragraph 3 do not apply in this case.
5. The provisions of this Article do not affect the duty to keep records under Article IV of the Contract and to show the data included in the records in the manner and within the deadlines stipulated herein.

## **X**

### **Change of Remuneration amount**

1. The Remuneration structure under Article VII Paragraph 3 forms Annex 3 to this Contract and it can be amended by the contracting parties based on a written agreement or following the procedure described below.
2. The Supplier shall be entitled to change the amount and structure of the Remuneration in the manner stipulated in this Contract. The Supplier is entitled to send to the Customer for this purpose a notice of change in the amount or structure of Remuneration (starting with the next quarterly period), in writing or electronically (e-mail), and also to publish such notice on its website (at the time of the conclusion of the Contract at [www.ekokom.cz](http://www.ekokom.cz)). Such a notice shall change the amount or structure of Remuneration within the meaning of the notice with effect from the date specified in the notice (which must always fall on the first day of a calendar quarter). The notice is regarded as made on the day this notice is placed on the Supplier's Internet pages; the Customer is obliged to familiarise himself with the notice.
3. The Customer shall be entitled to reject a change in the Contract and to terminate it for this reason. The termination of the Contract represents the only tool as agreed by the parties that can be used in the case of rejection of such a unilateral change of Contract by the Supplier. The right to terminate the Contract may be exercised by the Customer only within two weeks of receipt of this notice (period shall run from the date of the placement of the notice on the website of the Supplier) and the termination notice must explicitly refer to these provisions of the Contract. In the event that the termination of the Contract will not be in writing, it will not contain a reference to this provision of the Contract or if it will not be delivered to the Supplier within a two-week period, such termination will not be performed as agreed by the parties and will therefore be invalid. The Customer's right to refuse a change to the Contract made solely by the Supplier in accordance with this Contract (Article IV, paragraph 6 of the Contract, Article VI, paragraph 3 of the Contract) and therefore to terminate the Contract under this provision may be exercised by the Customer in all other cases only in accordance with this provision. If the change does not result in any increase in Remuneration or Fee, the right to terminate the Contract by the Customer does not arise.
4. In the event that the Customer terminates the Contract in the manner described in the previous paragraph, the Contract shall cease to be effective on the date immediately preceding the calendar quarter for which the change to the Contract started to be effective. Except where justified by exceptional circumstances, the Supplier must publish the notice under paragraph 2 so that the period for terminating the Contract starts to run at least 30 days before the date on which the change to the Contract should be effective.
5. In the event that the Customer does not terminate the Contract after the receipt of notice from the Supplier pursuant to paragraph 2 in the manner referred to in paragraph 3, the parties agree that the change applied through the notice made by the Supplier under this Contract shall be effective and binding for both Parties from the date specified in the notice. This applies even if the Customer acts in accordance with the change to the Contract, i.e. if he pays the Remuneration calculated according to the modified structure of Remuneration, or if he performs another act in relation to the Supplier constituting an acceptance of the proposal to change the structure of Remuneration.
6. In the case of late payment of any of the financial obligations under this Contract, the creditor is entitled to ask the party in delay to pay not only the sum due but also a late charge from the due amount as stipulated by law (Section 1970 of the Civil Code).
7. The Supplier is entitled, upon his discretion, to one-sidedly decide about granting a volume discount from the Remuneration for a specific calendar quarter, even if it covers only certain items from the remuneration structure or if the volume discount is backdated; this is usually done in reflection of the development of the waste handling market. The Supplier shall inform the Customer about this discount on his Internet pages (at the moment of entering into the Contract [www.ekokom.cz](http://www.ekokom.cz)) or by sending an addressed notice to the Customer's email or postal address.

## **PART IV**

### **PROVISION OF INDIVIDUAL LICENCE FOR THE GREEN DOT TRADEMARK**

#### **"DER GRÜNE PUNKT" – "THE GREEN DOT"**

## **XI**

### **The GREEN DOT Trademark**

1. As of the day of entering into this Contract the Supplier is the licence holder of the "DER GRÜNE PUNKT" / "GREEN DOT" trademark for the Czech Republic which covers all registered and unregistered marks (registered trademarks of goods and services, collective trademarks, trademarks and external changes acquired by use, companies, business names and business insignia) which consist of the pictorial symbol stated in Annex 4 to this Contract or include this pictorial symbol along with verbal description in German or any other language, in particular the words "DER GRÜNE PUNKT" / "GREEN DOT". All marks corresponding with this definition are collectively referred to as the 'GREEN DOT Trademark' herein. The GREEN DOT trademark is an international trademark protected in the Czech Republic, registered in the International Trademark Registry Nos. 579 144, 579 145, 585 713, 653 450 and 653 44 in the name of the owner: Der Grüne Punkt – Duales System Deutschland AG (hereinafter referred to as the 'DSD'). The licence to the GREEN DOT Trademark was acquired by the Supplier by entering into the 'Principal Licensing Agreement' on 12/ 4/2002 which was made by and between the Supplier and Packaging Recovery Organisation Europe s. p. r. l. (hereinafter referred to as 'PRO EUROPE'), that holds rights to grant the licence for the GREEN DOT Trademark for countries outside Germany to entities operating a used packaging handling system in accordance with EC Directive 94/62 dated 20/12/ 1994 regarding packaging and packaging waste as amended (hereinafter the 'Directive'). PRO EUROPE was authorised to enter into such supplier contract based on the 'Generallizenzvertrag' Contract made with the DSD. This licence was granted to the Supplier:
  - a) for the territory of the Czech Republic,
  - b) with the right to grant sub-licences (individual licences) to individual entities in the Czech Republic that comply with the requirements for using the GREEN DOT Trademark,

- c) for an indefinite period of time.
2. Furthermore, the Supplier is the holder of the 'EKO-KOM' trademark which is shown in Annex 5 to this Contract (referred to herein as the 'EKO-KOM Trademark'). Provisions of Article XII Paragraphs 1 - 6, Article XIII, Article XIV and Article XV Paragraph 3 apply accordingly with regard to the use of this trademark.

## **XII**

### **Individual licences**

1. Based on the licence granted in accordance with the Principal Licensing Agreement made with PRO EUROPE as stated in Article XI, the Supplier hereby grants the Customer the right to use the GREEN DOT trademark (hereinafter 'individual licence') on packaging introduced by the Customer on the Czech Republic market under the terms and conditions stipulated below.
2. Based on the individual licence the Customer is entitled to mark the packaging introduced on the Czech Republic market with the GREEN DOT Trademark, this is packaging for which the Customer paid the Supplier for the obligation of take-back and recovery of packaging waste in accordance with this Contract, or a third party, Customer's contractual partner, has demonstrably paid for the obligation of take-back and recovery of packaging waste to the Supplier using the EKO-KOM Combined Compliance System (for the whole packaging of the final product), provided the packaging complies with the following conditions:
  - a) definition of terms under Article 3 Paragraph 1 of the Directive, and
  - b) the packaging is not excluded from the use of the GREEN DOT Trademark based on the list compiled for PRO EUROPE. As of signing this Contract this list has not yet been determined. This list may be compiled for PRO EUROPE if it is necessary to exclude certain products of specific nature from the use of the GREEN DOT Trademark due to special requirements on handling waste and specific packaging. If compiled, the list shall be sent to the Customer by the Supplier within thirty (30) days from the issue.
3. The Supplier recommends that the Customer mark all disposable and multiple use sale packaging, covered by the licence, with the GREEN DOT trademark providing, unless they comply with the criteria of Section 13 Paragraph 2 of the Packaging Act. The Customer is not obliged to use the GREEN DOT Trademark; nevertheless, if the Customer uses the trademark it is deemed that the remuneration for providing this individual licence is included in the Remuneration under Article VII and IX, i.e. the Supplier is not entitled to claim any further Remuneration for the provision of this individual licence.
4. The GREEN DOT Trademark must have the same graphic design and size as shown in Annex 4 of this Contract, the colours are always light green and dark green and only exceptionally the GREEN DOT Trademark may be used in different colours or embossed in 3D. Any other verbal or pictorial additions to the GREEN DOT Trademark (others than 'DER GRÜNE PUNKT' or 'GREEN DOT') require the previous approval of the Supplier (this applies also to additions used for transborder activities under Article 9). The GREEN DOT Trademark must be placed so that it is clearly visible to the consumer.
5. The individual licence is non-exclusive.
6. The individual licence is non-transferable, i.e. the Customer is not authorised to transfer this individual licence to a third party, nor is the Customer authorised by this individual licence to grant sublicences to third parties, without the previous written approval of the Supplier.
7. The individual licence covers the territory of the Czech Republic. The Individual Licence does not regard packaging which is destined for import abroad or delivery from the Czech Republic across the border to another EC country, or which are only transported across the territory of the Czech Republic in order to be introduced on markets abroad.
8. The Customer understands that the use of the GREEN DOT Trademark on packaging introduced onto markets outside the Czech Republic is not covered by the individual licence and that the rights to use the GREEN DOT Trademark outside the Czech Republic are held by other persons (national system operators handling used packaging) based on contracts with PRO EUROPE. In order to use the GREEN DOT Trademark abroad the Customer must receive approval of the relevant GREEN DOT licence holder for the given territory. The Customer understands that due to different legal regulations abroad, the use of GREEN DOT Trademark by the Customer on its packaging is not admissible due to
  - the type of packaging (e.g. based on classification: sale, group, transport - and based on the definition of packaging in the foreign countries),
  - the nature of packaging materials,
  - the nature of goods (e.g. harmful substances),
  - or for some other reasons.
9. If the Customer acts and has contacts in foreign countries (transborder activity), the Customer is obliged to take measures when using the GREEN DOT Trademark to make it absolutely clear that the use of this GREEN DOT Trademark is granted only for the Czech Republic based on the individual licence, and that this GREEN DOT Trademark was not authorised for use in the foreign country (for example by using the GREEN DOT Trademark with Czech wording 'ZELENÝ BOD'). The Customer is obliged to tolerate similar use of the GREEN DOT Trademark in the Czech Republic in case of transborder activities of third parties which are authorised to use the GREEN DOT Trademark within the territory of some foreign country.

## **XIII**

### **The meaning of the GREEN DOT Trademark**

1. The GREEN DOT Trademark, for which a licence is granted based on this Contract, expresses financial participation of the Customer in the Combined Compliance System EKO-KOM. The use of the GREEN DOT Trademark tells third parties that a financial contribution was paid by the Customer to the Supplier for the creation and operation of this system which was set up in accordance with the principles determined in the Directive and the Packaging Act. This interpretation of the GREEN DOT Trademark, for which licences are granted in accordance with the Contract of Collective Compliance, is binding for the Customer

and the Customer is obliged to observe this interpretation in all announcements and other acts towards third parties (e.g. public announcements, information provided to third parties).

2. The Customer must always use, and interpret in his announcements the meaning of the GREEN DOT Trademark in order to prevent misunderstandings and interchangeability and not to damage justified interests of the Supplier, PRO EUROPE and DSD.

#### **XIV**

##### **Control entitlements of the Supplier**

1. The Customer shall allow the Supplier to check the due use of the GREEN DOT Trademark and the compliance with duties under this Contract.
2. The Customer is obliged to present the Supplier with information under Article IV of this Contract.
3. Furthermore, upon request the Customer is obliged to present the Supplier with samples of packaging and packaged products marked with the GREEN DOT Trademark in order to check compliance with the terms and conditions set forth by this Contract. In the case that this duty is not complied with, the Customer is obliged to pay a contractual fine which is also applicable if the Customer does not cooperate with the Auditor duly and on time (Article XX Paragraph 2).
4. The Customer is obliged to cooperate with the Supplier in order for the Supplier to carry out his control entitlements in the form of an audit, similarly to Article XVIII.
5. In the case that the GREEN DOT Trademark or the EKO-KOM Trademark are used unjustifiably by the Customer, or their use is at variance with the contents of this Contract, the Customer is obliged to rectify the situation immediately, but no later than within the reasonable deadline determined by the Supplier which should not exceed two months.

#### **XV**

##### **Duration of the individual licence**

1. The Principal Licensing Agreement replaces the licence, which was granted to the Supplier temporarily under the Provisional Principal Licensing Agreement dated 7/9/2000 for the period of time before the main licence granted by PRO EUROPE under the Principal Licensing Agreement came into operation. The main licence came into operation on 12/04/2002.
2. The Supplier acquired the main regular licence from PRO EUROPE in accordance with the Principal Licensing Agreement and grants the Customer an individual regular licence for an indefinite period of time.
3. The operation of this individual licence ceases to be valid at the moment this Contract is terminated.
4. If the regular main licence of the Supplier, granted under the Principal Licensing Agreement, ceases to be valid, the operation of this Contract with regard to the GREEN DOT Trademark under Article IV of the Contract (with the exception of Article XIV Paragraphs 3 and 4) also ceases to be valid, but not the operation of the Contract with regard to the EKO-KOM Trademark, the duty of the Supplier to provide the Customer with the right to use the GREEN DOT Trademark on his products also ceases to be valid; in accordance with the Contract made by and between PRO EUROPE and the Supplier, the Customer has a special right to use the GREEN DOT Trademark accordingly under the terms and conditions stipulated by this Contract for another period of 12 months from the end of operation of the individual licence; provided the Supplier holds no such right, the Customer is not entitled to claim this right either.

### **PART V SPECIAL PROVISIONS**

#### **XVI**

##### **Information for buyers and consumers**

1. The Customer is obliged to inform the buyer and the consumer about the method of how take-back of packaging is ensured, this is valid for all packaged products introduced on the market or into circulation through sale to consumers in accordance with provisions of Section 10 Paragraph 2 of the Packaging Act. Furthermore, the Customer is obliged to cooperate with the Supplier by providing information to the consumer based on the authorisation decision under Article I Paragraph 2, including enabling the organisation of informative events at the place of sale of packaged goods to consumers.
2. The Supplier is obliged to provide general information on the method of how take-back of packaging is ensured via the Internet as part of the EKO-KOM Combined Compliance System (at the time of entering into the Contract [www.ekokom.cz](http://www.ekokom.cz)).
3. The Customer hereby grants the Supplier his express agreement with receiving messages, information, confirmations of message delivery, urgent messages and any other notification with regard to this Contract and its delivery via electronic means, in particular via e-mail, using the Customer's e-mail contact (usually the e-mail address), provided the Customer has such contact available (e-mail address). This agreement also regards business notices regarding the collective compliance and related services sent by the Supplier to the Customer.

#### **XVII**

##### **Confidentiality and non-exclusivity**

1. The contracting parties are obliged to maintain confidentiality about all confidential data they have learnt in connection with this Contract and to protect the confidential nature of the information provided by the other party in order to prevent unauthorised use of

the information by a third party. This does not affect the right of the contracting parties to pass this information on to their lawyers, tax advisors, auditors and other persons who are bound by the duty of confidentiality in accordance with special legal regulations; these persons must be informed about the confidential nature of the data. Information on entering (the origin) and termination (cessation) of the Contract is not regarded as confidential.

2. The Customer agrees with the fact that the information on the volume of packaging and packaging materials, introduced by the Customer on the market or into circulations, provided to the Supplier in accordance with this Contract, may be used by the Supplier to demonstrate his compliance with the Packaging Act to relevant administrative authorities and to comply with his report and information duty with regard to the Ministry of Environment pursuant to Section 23 Paragraphs 1 and 2 of the Packaging Act. Furthermore, the Consumer agrees that the Supplier may use the information in public in a consolidated statistical format which does not allow to determine retrospectively the volume of packaging introduced on the market or into circulation by the Consumer himself.
3. The Supplier is obliged to take technical and organisational measures to protect confidential information. The Supplier is obliged to instruct his employees and members of his bodies to maintain confidentiality under this Contract and the Supplier is obliged to duly check if the duty of confidentiality is observed by these parties. The Supplier's employees must not pass the confidential information, they might learn in connection with this Contract, onto other Supplier's employees or members of the Supplier's bodies, unless it is absolutely essential in order to deliver work or in terms of their rank and position.
4. The Customer is aware of the fact that the Supplier will enter into the Contract on Collective Compliance with other persons who are introducing on the market or into circulation packaging and packaged products.

### **XVIII Audit**

1. The Customer is obliged to allow for an audit to be carried out in order to check delivery of this Contract on the part of the Customer, if requested by the Supplier or if the audit is initiated by another party participating in the EKO-KOM Collective Compliance System based on the Contract of Collective Compliance made with the Supplier (hereinafter 'the Other Client') in accordance with Paragraph 4.
2. The audit shall check the completeness and veracity of information which the Customer provided to the Supplier under this Contract, or in cases expressly stated in this Contract (e.g. Article XIV Paragraph 4) the audit may also verify other stated facts. The audit shall evaluate, in particular, if the Customer provides the Supplier with complete and true information, if the Customer pays Remuneration to the Supplier duly in accordance with this Contract and if the Customer complies with his duties under Article I Paragraph 4 with regard to all packaging which the Customer introduces on the market or into circulation.
3. The Supplier is not entitled to initiate an audit of the Customer more than once every 6 months.
4. The Other Client is entitled to request audit, provided the following conditions are met:
  - a) the audit is requested in a written request sent to the Supplier in accordance with these provisions, this request states the Other Client's consent with the terms and conditions for organising the audit as stated in this Article;
  - b) surety of 80,000 CZK + VAT is deposited with the Supplier which is to cover the overall costs related to the audit;
  - c) participation in the EKO-KOM Collective Compliance System for at least 6 months, and
  - d) no audit has been carried out at the Customer's under this provision in the last six months.
5. The audit shall be carried out by an auditor appointed by the Supplier. The Supplier is obliged to publish the list of auditors, used for audits in accordance with the Contract on Collective Compliance, on the Internet (on his webpage) and this list shall be updated regularly.
6. The Customer is obliged to cooperate with the auditor duly and on time so that the audit can be carried out in accordance with this Contract, in particular the Customer shall provide the auditor with correct and complete information regarding the packaging and packaged products which the Customer introduces on the market or into circulation (including provision of packaging samples) and regarding compliance with the Customer's obligations under the Packaging Act and this Contract; the Customer shall enable the auditor to view his accounting documents and any other documents and materials which are related to handling packaging and packaged products, to enable the auditor enter his outlets under standard conditions and to enable the auditor to view his logistic and accounting information systems in the presence of Customer's authorised employee and to export data from this system in an electronic, or documentary format, should the export of data in the electronic format be impossible (it is valid that the auditor holds this authorisation only for the audited period and only for the purpose of the audit). The Customer is obliged to enable the audit to take place in the Czech Republic; should the Customer and Supplier agree for worthwhile reasons that the audit will take place outside the Czech Republic, the Customer is obliged to pay the Supplier for any extra costs which might arise.
7. The auditor is obliged to proceed with due professional care, to protect confidential information which he receives from the Customer and to protect justified interests of the Customer. In particular, the auditor is obliged to protect trade secrets of the Customer and not to pass on data which forms a part of the trade secret, to third parties, excluding the Supplier. The Supplier is obliged to bind the auditor contractually to comply with these duties and the Supplier is liable for the auditor and his compliance with these obligations.
8. The auditor shall write a report about the audit; in accordance with Paragraph 2 herein the subject of the audit is to check Customer's compliance with his obligations and the report shall state if the Customer is in compliance with his obligations, alternatively which specific obligations have been violated and how. The auditor shall submit his report to the Customer and the Supplier; if the audit is carried out based on request placed by the Other Client, the auditor shall provide an abbreviated report to the Other Client; the abbreviated version includes only the fact if the auditor found the Customer to be in breach of the Contract, a short description of the breach in question and if this breach is important from the contractual point of view. Before submitting the report the auditor is obliged to discuss the preliminary wording of the report with the Customer, unless the Customer does not cooperate and causes delays.
9. Provided that the auditor does not find the Customer to be in breach of his obligations or if the report states that only minor violations were established which are quite insignificant from the contractual point of view, the security paid by the Other Client is

forfeited by the Supplier and it is not returned to the Other Client. The audit is then regarded as service provided to the Other Client. The Supplier shall issue a tax document for the amount of the security plus the relevant VAT. If the audit was initiated by the Supplier, the costs of the audit are borne by the Supplier.

10. In the case that the auditor finds that the Customer violated his obligations, and the report does not state that only minor, and from the contractual point of view insignificant violations were established, the Customer is obliged to pay a contractual fine amounting to the security amount, based on an invoice issued in accordance with Paragraph 4 letter b) (excl VAT); this does not affect the right to claim contractual fines under other provisions of this Contract. If the audit was initiated by the Other Client, the Supplier shall return the amount paid by the Customer to the Other Party without any unnecessary delay once the amount is paid.
11. The Customer is entitled to request an audit at entities that are participating in the EKO-KOM Collective Compliance System under similar conditions as stated in this Article.
12. The Customer, Supplier and Other Client, who has requested the audit, are not entitled to ask for reimbursement of costs related to the audit; this does not affect other provisions of this Article.
13. Provisions of Article XVIII are binding for the contracting parties for the period of 12 months after the termination of this Contract.

## **XIX**

### **Duration of the Contract**

1. This Contract is made for an indefinite period.
2. Either of the contracting parties is entitled to withdraw from this Contract in writing without stating the reason within three months from the end of the contractual period. The contractual period refers to the period of each twelve consecutive calendar months which in the first year of the duration of this Contract starts running on the first day of the calendar quarter when the Contract was made, and in the following years on the first day of the calendar quarter which is in terms of its sequence identical with the calendar quarter when the Contract was made.
3. The Supplier is entitled to withdraw from this Contract:
  - a) if the Customer is delayed with submitting a regular or complete Statement under Article IV Paragraph 3 for a period longer than thirty (30) calendar days; or
  - b) if the Customer does not cooperate with the auditor duly and on time in accordance with Article XVIII or Article XIV Paragraph 4 or if during the audit it is established that the Customer's duties were violated, unless the auditor states in his/her report that only minor violations, which are insignificant from the contractual point of view, were established; or
  - c) if the Customer is delayed with any of his payments to the Supplier for a period longer than thirty (30) calendar days; or
  - d) in case of unauthorised use of the GREEN DOT Trademark or the EKO-KOM Trademark by the Customer or their use at variance with the contents of this Contract (the unauthorised use of the GREEN DOT Trademark and the EKO-KOM Trademark refers, in particular, to introducing goods on the market or into circulation if the goods are marked with the GREEN DOT Trademark or the EKO-KOM Trademark in an unauthorised manner).

This does not affect the right of the Supplier to claim contractual fines or any other of his rights which arise by the end of cessation of this Contract, or by the end of withdrawal from this contract provided the day of cessation of the Contract precedes the day of withdrawal; by withdrawing from the Contract the Customer does not stop being liable for delivering his obligations which he has failed to deliver and due to which the Supplier has withdrawn from the Contract.

4. The right of both contracting parties to withdraw from the Contract for reasons stipulated by law is not affected. Before withdrawing from this Contract due to breach of contract by the other contracting party, the contracting party which intends to withdraw is obliged to inform the other contracting party about the breach of contract in writing or by e-mail no later than fourteen (14) days before the withdrawal. The contracting party which intends to withdraw is entitled to provide the other contracting party with an additional period of at least fourteen (14) days to remedy the situation, stating that unless the other contracting party complies with its obligations within this additional deadline, it shall withdraw from the Contract; in case of futile expiry of this deadline the effect of withdrawal is governed by the regulations stated in the following paragraph.
5. The withdrawal becomes effective, i.e. the contract ceases to exist as of the last day of the quarter in which the notice of withdrawal is delivered to the other contracting party with the following exceptions:
  - a) if the Customer is delayed with the payment of the Remuneration deposit (with the exception of the Remuneration deposit payable after entering into the Contract) the Contract ceases to be valid due to withdrawal from the Contract as of the last day of the calendar quarter which immediately precedes the last calendar quarter for which the Remuneration deposit in question should have been paid;
  - b) if the Customer is delayed with the payment of the Fee (with the exception of the first Fee payable after entering into the Contract) the Contract ceases to be valid due to withdrawal from the Contract as of the last day of the calendar year which immediately precedes the last calendar year in which the Fee should have been paid;
  - c) if the Customer is delayed with the payment of the Remuneration balance (i.e. the balance on deposit or the actual Remuneration, providing deposit is not required) the contract ceases to be valid due to withdrawal from the Contract as of the last day of the calendar quarter when the balance in question should have been paid;
  - d) if the Customer is delayed with the submission of the regular Statement (with the exception of submitting the Statement for the calendar quarter when the Contract is made) the Contract ceases to be valid due to withdrawal from the Contract as of the last day of the calendar quarter which immediately precedes the last calendar quarter when the Statement should have been submitted;
  - e) if the Customer is delayed with the submission of the regular Statement for the calendar quarter when this Contract was made, the contract ceases to be valid due to withdrawal from the Contract from its very beginning.
6. If the Customer does not pay the first Remuneration deposit on time or the first Fee payable after entering into the Contract, it is deemed that this Contract did not originate.
7. This Contract automatically ceases to be valid on the day of the cessation of the authorisation decision under Article I Paragraph 2, if relevant. The Contract does not cease to be valid if the authorisation decision is altered or amended in any way, or if a new

authorisation decision is issued for the Supplier, or if another decision is issued based on other legal regulations which entitle the Supplier to provide deliveries under this Contract and if the decision is chronologically linked with the authorisation decision under Article I Paragraph 2. Within three weeks from the cessation of the authorisation decision the Supplier is obliged to inform the Customer about the cessation of the decision in the Trade Bulletin or to inform the Customer about this fact in some other way.

8. In case of cessation of this Contract the contracting parties are obliged to settle their obligations under this Contract similarly to the terms and conditions set forth in this Contract (with the exception of Article IV Paragraph 4); in particular, the Customer is obliged to deliver to the Supplier a Statement for the last quarter of the duration of the Contract in the method and within the deadlines stipulated by this Contract, and the Supplier is obliged to charge for the Remuneration deposit for the last quarter of this Contract and the Customer is obliged to pay this Remuneration based on the accounts presented, these actions are subject to sanctions stated in the Contract. The possibility of submitted a corrected Statement after the cessation of the Contract is ruled out.
9. If required by legal regulations or authorisation decisions under Article I Paragraph 2, the Supplier is obliged to inform the Ministry of Environment about the cessation of the Contract.
10. The contracting parties expressly agree that if it is not possible to deliver notice to the Customer or to withdraw from this Contract or the Supplier cannot reach the Customer at his registered office, or the place of business as stated in the heading (preamble) of the Contract (or at the address provided to the Supplier by the Customer in accordance with Article IV Paragraph 7 of this Contract), the operation of this Contract ceases to be effective on the day the undelivered consignment, containing the notice or withdrawal from the Contract, is sent back to the Supplier. The impossibility of reaching the Customer refers to cases when the Customer does not reside at the place of his registered office or the place of business, and if the Customer does not pick the consignment during the appointed time or refuses to accept the consignment.

## **XX**

### **Contractual penalty**

1. If the Customer submit regular or complete Statement (except for the Statement in the calendar quarter when this Contract is made) late, the Supplier is entitled to charge the Customer a contractual penalty of 500 CZK for each day of delay and the Customer is obliged to pay the contractual penalty. If the Customer provides the Supplier with incorrect or incomplete information, the Supplier is entitled to charge the Customer a contractual penalty amounting to twice the difference between the Remuneration of the Supplier, calculated based on the information provided, and the Remuneration calculated based on complete and true information and the Customer is obliged to pay it to the Supplier.
2. If the Customer fails to cooperate with the Auditor duly and on time in accordance with Article XVIII or Article XIV Paragraph 4, the Supplier is entitled to charge the Customer a contractual penalty amounting to 30,000 CZK for each failure, and the Customer is obliged to pay the contractual penalty. This contractual penalty at the same amount is also payable if the Customer does not keep records in accordance with Article IV Paragraph 2, if the records have significant shortages or if the Customer fails to demonstrate to the auditor that the records are duly kept; the Customer is obliged to pay the contractual penalty as charged.
3. Should the obligations stipulated by Article XVII Paragraph 1 be violated, the entitled party has the right to charge the party, that has violated the obligations, a contractual penalty amounting to 30,000 CZK for each individual case, and the party, who has violated its obligations, is obliged to pay the contractual penalty as charged.
4. If the Customer violates its obligations under Article VII Paragraph 13 and the relevant administrative authority assesses arrears of VAT or some other tax and the Customer is charged with an administrative penalty, the Supplier is entitled to charge the Customer a contractual penalty amounting to 3,000 CZK and the Customer is obliged to pay this contractual penalty.
5. If the Customer submit regular or complete Statement late, the Supplier is entitled to charge the Customer a contractual penalty of 500 CZK for each day of delay and the Customer is obliged to pay the contractual penalty.
6. If the Customer violates the Contract in any of the ways stated in Article XIX Paragraph 3 Letters a) to c), the Supplier is entitled to charge the Customer a flat fee settlement under this Paragraph and the Customer is obliged to pay this flat fee settlement to the Supplier. The Supplier's claim to the flat fee settlement ceases to exist if the Contract is not terminated in one way or other within three months from the time of violation of the Contract by the Customer. The amount of the flat fee is settlement is calculated as a multiple of the quarterly flat fee settlement and the number of calendar quarters, remaining from the first day of the calendar quarter when the subject matter of the Contract was violated, until the end of the contractual period; provided the Contract is violated in accordance with Article XIX Paragraph 3 Letter a), the amount of the flat fee settlement is calculated as a multiple of the quarterly flat fee settlement and the number of calendar quarters, remaining from the first day of the calendar quarter when the Statement should have been duly presented by the Customer, until the end of the contractual period. The quarterly flat fee settlement equals the average Remuneration per calendar quarter (excl VAT) which the Customer is obliged to pay to the Supplier for the last four individual calendar quarters preceding the breach of Contract, including the Remuneration paid under the previous Contract on Collective Compliance which was replaced by this Contract (if the contractual relationship between the Customer and the Supplier lasted for a period shorter than one year, or if the Customer failed to submit to the Supplier a Statement for some of the last four calendar quarters and the Remuneration cannot be determined for this calendar quarter, the average Remuneration is calculated accordingly from the reduced number of calendar quarters). In the case that Article XIX Paragraph 3 Letter a) of the Contract was violated, the quarterly flat fee settlement equals the average Remuneration for the calendar quarter (excl VAT) which the Customer was obliged to pay to the Supplier for the last four calendar quarters preceding the calendar quarter when the Contract was violated (i.e. preceding the calendar quarter for which the Customer is late with submitting the Statement), including the Remuneration paid in accordance with the previous Contract on Collective Compliance which was replaced by this Contract (if, before the calendar quarter when the Contract was violated, the contractual relationship between the Customer and the Supplier was shorter than one year or if the Customer did not present the Supplier with a Statement for some of the last four calendar quarters and the Remuneration cannot be determined for this calendar quarter, the average Remuneration is calculated accordingly from the decreased number of the calendar quarters). This does not affect the right to claim a contractual penalty under some other provisions of this Contract.

7. Nor the claim to compensation for damage and return of wrongful enrichment, neither the claim to late charge payment are affected by the rise of the contractual penalty under this Contract or its payment.

## **PART IV FINAL PROVISIONS**

### **XXI Final provisions**

1. This Contract is governed by the law of the Czech Republic, in particular the Packaging Act and Act No. 89/2012 Coll., the Civil Code, as amended. The contracting parties agree that any disputes arising out of this Contract shall be resolved by the relevant court at the domicile of the Supplier at the time of entering into the Contract (Section 89a of the Civil Procedure Code).
2. This Contract may only be concluded in writing with signatures placed on the same document, and only when the contracting parties agree on its entire contents, including all of its requirements.
3. If this Contract shall be concluded by the parties remotely, on the basis of sending an offer to one party and its acceptance by the other party, then the acceptance of the offer by the other party with an addition or variation, although it does not substantially alter the terms of the offer, cannot be deemed as an acceptance of the offer, but shall be considered as a new offer. Any answer that defines the content of the draft contract in other words cannot be considered as an acceptance of the offer as well. Such an answer shall be also considered as a new offer.
4. The application of Section 1744 of the Civil Code, i.e. the possibility of the conclusion of this Contract or any of its arrangements by the acceptance of the offer only by acting in accordance with the offer by one party, e.g. through the acceptance of the performance or the provision of the performance, is hereby excluded.
5. This Contract is made in two copies, each of the contracting parties shall receive one copy upon signing this Contract.
6. Should any of the provisions of this Contract become invalid, this does not affect the validity of other provisions. Should any of the provisions of this Contract become ineffective or invalid, the contracting parties are obliged to replace this provision with a new one which is the same or similar in its meaning.
7. If there are changes to legal regulations (in particular the Packaging Act) or the authorisation decision under Article I Paragraph 2, or the authorisation decision under Article I Paragraph 2 is replaced with a new authorisation decision, this change or new decision will require amendments to this Contract and the contracting parties are obliged to set this Contract in compliance with the amended legal regulations or amended (new) authorisation decision no later than within one month from the time this amendment (new decision) comes into effect.
8. The Customer declares that he is aware of the fact that the authorisation decision was issued by the Ministry of Environment pursuant to Article I Paragraph 2 and the Customer has familiarised himself with this decision.
9. The individuals who enter into this Contract on behalf of the contracting parties hereby declare that they are fully authorised to enter into a valid contract.
10. Should any of the contracting parties fail to exercise some of their rights arising out of this Contract, this shall not be interpreted as if they were waiving or disclaiming this right; the failure shall not be interpreted as custom or standard practice setting the law at defiance.
11. This Contract may only be amended (except for changes under Article IV Paragraph 6, Article VI Paragraph 3 and Article X and changes implemented similarly under Article X), completed and cancelled in writing; written form is also required for all legal acts leading to waiving the requirement of written form. Any bilateral legal act must be signed by both parties on the same document.
12. The Supplier's signature on notices, invoices, reminders and invitations etc., and also the Supplier's signature on this Contract and documents leading to the amendment or termination of this Contract, may be replaced with mechanical means (signature facsimile).
13. Should any of the claims arising out of this Contract be assigned onto a third party, the assignor (creditor) is obliged to notify this fact to the other contracting party (debtor) in writing with authenticated signatures of the persons acting on behalf of the party; the debtor must not take regard of notices made in any other way.
14. Both contracting parties hereby unanimously declare that they read the contract before its signing, and that it was concluded after mutual negotiation as an expression of their true and free will, and that they agree about its contents, in proof of thereof they append their signatures.

Annex 1: Copy of Power of Attorney

Annex 2: Quarterly Statement Template

Annex 3: Remuneration Structure

Annex 4: picture of 'DER GRÜNE PUNKT' – 'GREEN DOT'

Annex 5: picture of 'EKO-KOM' Trademark