

# GENERAL TERMS

## FOR ACCESS TO RETURPACK'S RECYCLING SYSTEM

APPLICABLE FROM 2018-10-22

### 1. Background

1.1 Returpack has created a system, hereinafter "**the Recycling System**" for collecting and recycling of aluminium cans and steel cans as well as PET bottles and other recognised plastic bottles, hereinafter "**Packaging**".

1.2 The Recycling System has been approved by the Swedish Board of Agriculture in accordance with the Ordinance on Recycling System of Plastic Bottles and Metal Cans (2005:220). During the validity of this Agreement, the Recycling System may be subject to change owing to technological development, law or the regulations of authorities. The changes in the Recycling System as well as in the amount of the Deposit or Fees are implemented in co- ordination by Returpack and the relevant branch organisations.

1.3 Returpack is responsible for the administration of the Recycling System. Returpack also bears the general responsibility for the co-ordination of the functioning of collection of Packaging in all stages.

1.4 The Company bottles, arranges the bottling or imports beverages ready for consumption in Packaging for professional delivery. According to the Ordinance on Recycling System of Plastic Bottles and Metal Cans (2005:220) the Company undertakes to ensure that the Packaging is part of an approved Recycling System. Therefore, the Company wishes to attach its Packaging to the Recycling System.

### 2. Definitions

As used in this Agreement, the following terms denote:

"**Administration fee**" is a fee valid for each specific Packaging payable in due course from time to time by the Company to Returpack in accordance with this Agreement;

"**Aluminium can**" is an aluminium can attached to the Recycling System;

"**Affiliation fee**" is the fee that Returpack is obliged to pay annually to the Swedish Board of Agriculture due to the Company joining the Recycling System (currently *förordning (1998:940) om avgifter för prövning och tillsyn enligt miljöbalken*). Changes of the law regarding the fee will change the definition of "Affiliation fee" accordingly;

"**Fees**" are the Administration fee and/or Sorting fee;

"**Agreement**" is this Agreement (including the page with the Company's signature, and the appendixes) on joining the Recycling System;

"**Company**" is the legal person with whom Returpack has concluded this Agreement;

"**Packaging**" is an aluminium can, a steel can, a PET bottle or a plastic bottle;

"**Deposit**" is the deposit valid for a specific Packaging from time to time, payable to Returpack by the Company in accordance with this Agreement;

"**Parties**" are the Company and/or Returpack;

"**PET-bottle**" is a recyclable PET bottle attached to the Recycling System;

"**Plastic bottle**" is a plastic bottle of a type other than PET, which has, from time to time, been accepted and attached to the Recycling System. The information on the types of plastic bottles (other than PET-bottles) accepted to the Recycling System is available from Returpack;

"**Reverse Vending Machine**" (RVM) is a machine for the collection of returned Packaging;

"**Returpack**" means Returpack-Burk Svenska AB (VAT No. SE556218911701) and Returpack-Pet Svenska AB (VAT No. SE556478420401);

"**Recycling System**" is Returpack's recycling system for the collection and recycling of Packaging;

"**Sorting fee**" is the fee valid for each specific

Packaging and payable in due course from time to time by the Company to Returpack in accordance with this Agreement;

“Steel can” is a steel can attached to the Recycling System.

### 3. Description of the Recycling System

3.1 The Recycling System means that producers bottling or arranging the manufacturing of beverages ready for consumption into Packaging as well as importers when making a delivery within Sweden must debit the receiver of goods a compensation attached to the Packaging, hereinafter “Deposit”, per each Packaging, and forward the Deposit, with applicable Fees, to Returpack, provided that the manufacturer or importer is part of the Recycling System. Further, the manufacturer or the importer shall inform Returpack of the relevant barcodes, whereupon Returpack shall arrange for the updating of Reverse Vending Machines with the information on valid barcodes. The Deposit shall thereafter follow the Packaging at all stages of the journey from the manufacturer or importer and the retailer to the consumer – i.e. the manufacturer or importer shall debit the retailer the Deposit and the retailer in turn shall debit the consumer.

3.2. The consumer returns empty Packaging to the retailer, whereupon the retailer controls that the Packaging is part of the Recycling System. If the Packaging is part of the System, the retailer shall repay the Deposit to the consumer. The control shall mainly be carried out by means of registering and counting the Packaging in Reverse Vending Machines with the help of the barcode, whereupon the retailer shall gather and deliver the Packaging to the collecting party in pallets approved by Returpack. For such mechanically counted Packaging Returpack shall reimburse the retailer for the Deposit and handling compensation on the basis of the reading of Reverse Vending Machines in accordance with an agreement between Returpack and the retailer. The collecting party shall thereupon debit Returpack a collecting fee based on the number of pallets with material that the respective collecting party has delivered for recycling in accordance with an agreement between Returpack and the collecting party.

### 4. The Packaging’s design

4.1 In order to be attached to the Recycling System, the Packaging shall be designed in accordance with the attached technical specification in [Appendix 2](#). There are different design regulations for different types of Packaging. After consultation with relevant industry organisations, Returpack may amend the regulations concerning the design of a specific Packaging with at least three months’ notice.

4.2 Concerning Plastic bottles, it is also necessary for the type of Plastic bottle (i.e. its material) to be approved for connection to the Recycling System.

4.3 The Company undertakes to deliver to the Recycling System only Packaging attached to the System, designed in accordance with the above design regulations. Prior to attaching a new Packaging, or changing the design of a Packaging already attached to the System, the Company shall send a design sample of the new Packaging, an application form and specifications to Returpack for approval. The Company may only deliver the Packaging to third parties after approval from Returpack.

4.4 The Company shall reimburse Returpack completely for any damages suffered by Returpack if a Packaging delivered by the Company fails to satisfy the current design regulations.

### 5. Marking of the Packaging

5.1 In order to join the Recycling System, the Packaging shall be marked in accordance with the attached marking manual, [Appendix 2](#). This includes clearly indicating that the Packaging is part of the Recycling System as well as the amount of Deposit that the respective Packaging entitles to. The Marking Manual also contains further regulations on the legibility and quality of the marking, including tests. There are different marking requirements for different types of Packaging. After consultations with relevant branch organisations, Returpack has the right to amend the regulations for the marking of a specific Packaging with at least three months’ notice.

5.2 In order to safeguard the functioning of the Recycling System, it is necessary for the Packaging to be traceable to the responsible supplier/importer. The Company therefore undertakes, to mark its Packaging in accordance with the abovementioned Manual prior to the delivery of Packaging to other parties. The Company furthermore undertakes to ensure that its Packaging are marked with a barcode containing a so-called supplier number that is, unique for the Company as well as the type of Packaging and the Deposit levels attached to the Recycling system.

5.3 If the Company has attached its Packaging to other recycling systems in Sweden besides Returpack, the barcode used by the Company for marking the Packaging shall be unique for the Recycling System (and thus difference from the barcodes used by the Company on Packaging attached to other recycling systems.) When reporting a previously registered barcode to

Returpack the barcode may furthermore not have been entitled to Deposit for a period of six months prior to the reporting

5.4 Supplier numbers for barcodes can be obtained from GS1 Sweden. Before activating a new barcode in the Recycling System, the barcode must be reported to and approved by Returpack.

5.5 After reporting the barcode to Returpack in accordance with Item 5.4, the Company is responsible for all the Packaging bearing the Company's barcode, which also means that the Company undertakes to pay the Deposit and the applicable Fees to Returpack in accordance with Item 7 for all Packaging marked with the Company's barcodes.

5.6 The Company may convey the barcode to third parties, after having reporting to Returpack and obtaining Returpack's approval. To report conveying a barcode to a third party, the Company shall use a form available from Returpack.

5.7 If the Company discontinues the delivery of a Packaging attached to the Recycling System, the Company shall inform Returpack in written form about recalling the Packaging's barcode. If not agreed otherwise by the Parties, Returpack shall remove the barcode from its register two years after the Company's recall of the barcode (provided that the Company fulfils its obligations pursuant to this Agreement). In case of termination of this Agreement, all the Company's barcodes shall be removed from Returpack's register two years after the date of termination, if not agreed otherwise by the Parties. The Company's responsibility for a certain barcode ceases at the moment of the barcode's removal from Returpack's register. After the removal of the barcode from the register, the respective Packaging no longer entitles to Deposit.

5.8 Returpack has the right to remove a certain barcode from its register with reasonable notice, whereafter the relevant barcode no longer entitles to Deposit. Returpack also has a right to with immediate effect, temporarily suspend or refuse to attach to the Recycling System a certain barcode, or otherwise require the Company to promptly change its barcodes if the Company violates this Agreement (by e.g. incorrect or deficient marking, reporting or payment), or if the Company's barcode is used by other parties or with the purpose to take advantage of the Recycling System.

5.9 In cases where the Company has no influence of the original label of the Packaging to the effect that it might comply with the currently applicable marking requirements, the Company shall follow the

marking regulations by means of using small adhesive labels. The adhesive labels shall be ordered from Returpack. The Company shall not use adhesive labels of its own making in order to comply with the marking regulations.

5.10 The Company shall fully compensate Returpack for any damage caused to Returpack if a Packaging delivered by the Company should fail to comply with the currently valid marking regulations.

## 6. Reporting of sales

6.1 The Company shall monthly, no later than the seventh day (or on the next working day following the seventh, if the seventh day is not a working day) of each month, report to Returpack the Packaging delivered during the previous month within the framework of the Recycling System. This shall be performed notwithstanding if the Company has imported the Packaging or bottled the beverages or arranged for a third party for the bottling process. The report shall contain information of the Company's sales per barcode, i.e. the products in the Company's report shall be divided by the amount of respective Packaging sold and the level of the Deposit. The Company shall submit a report even if there are no sales to report. The sales information reported to Returpack by the Company shall be handled in accordance with the confidentiality stipulated in this Agreement.

6.2 The above reports of the Company shall be submitted electronically and in compliance with all the instructions of Returpack.

6.3 In case of delayed report, as well as failure to report, Returpack may charge the Company an average monthly Deposit and the applicable Fees based on the sales reporting history of the Company, as well as a monthly delay charge corresponding to an 18% annual default fine interest on the average Deposit and the applicable Fees above.

## 7. Deposit and Fees

7.1 For each Packaging marked with the Company's barcode, the Company shall pay Deposit and applicable Fees to Returpack in accordance with [Appendix 3](#). Different Deposit levels and Fees are applicable to different Packaging. Returpack has the right to change the Deposit levels with at least three months' notice and applicable Fees with at least four weeks' notice.

7.2 On the basis of the Company's sales reports in accordance with Item 6, Returpack has the right to invoice the Company for the valid deposit including

applicable Fees. The payment shall be available to Returpack on the 22nd day of each month provided that Returpack has accepted a credit. In other cases, the payment shall be immediate. Delayed payment shall incur 18% annual interest.

7.3 If the number of collected Packaging marked with the Company's barcode exceeds the number of Packaging reported to Returpack by the Company according to Item 6, the Company is, upon Returpack's request, obliged to pay Deposit and applicable Fees to Returpack for the excess Packaging. The Company is also obliged to pay the Deposit and applicable Fees on the basis of average recycling level during the previous calendar year. (Average recycling level denotes the difference between the number of sold Packaging of a certain type and the number of the same type of Packaging returned to the Recycling System.) Delayed payment shall incur 18% annual interest.

7.4 However, the above clause shall not restrict Returpack's right to damages caused by the Company's breach of contract.

#### **8. Affiliation fee**

For each new calendar year of this Agreement a new affiliation fee is payable to Returpack by the Company at the 20th of January. Delayed payment shall incur 18 % annual interest.

#### **9. Auditing**

Returpack has a right, within reasonable extent (but at least once in a calendar year) and with the assistance of auditors, to review the accuracy of the Company's sales report and observance of this Agreement, and make sure that the Recycling System has not been subjected to fraud. Should Returpack in the course of such a review discover that the Company's sales reporting has been inaccurate, the Company shall compensate Returpack's legitimate costs related to the check.

#### **10. Force majeure**

10.1 A party is exempted from responsibility if loss, damage or delay is caused by circumstances which the party reasonably could not have anticipated, or whose consequences the party reasonably could not have prevented or surmounted (force majeure).

10.2 If force majeure persists for longer than three months, both parties shall have the right to terminate this Agreement immediately in written form.

10.3 The party wishing to plead force majeure to be exempted from contractual obligations shall

immediately undertake to inform the other party thereof in written form. This shall be the case also if circumstances that a party has pleaded for exemption from undertaken responsibility should suddenly cease.

#### **11. Disclaimer**

Returpack's responsibility pursuant to this Agreement is limited to the direct damages that Returpack has caused to the Company. Returpack is not to be held liable for indirect damages, e.g. loss of profit, declined turnover, or loss of goodwill. Returpack's obligation to pay damages shall under no circumstances exceed SEK 1 million per calendar year.

#### **12. Intellectual property rights**

All eventual intellectual property rights, similar to but not limited to copyright, patent rights, and trademark rights of the Recycling System, as well as knowledge about methods, use and other know-how related thereto is the property of Returpack. This Agreement shall not provide the Company with any rights to or right to take advantage of the Recycling System or knowledge related thereto in any other way than that explicitly stated in this Agreement.

#### **13. Secrecy**

The parties to this Agreement undertake, for the period of validity of this Agreement and within a period of five years thereafter, to observe the secrecy of confidential information about the other Party that may come to their knowledge. This concerns above all sales information.

The obligation of secrecy does not include:

- (a) information that was or has become public, provided that it has not occurred due to breach of this Agreement;
- (b) information that was already known to the receiving Party
- (c) information obtained by a third party, who is not bound by any obligation of secrecy; or
- (d) information that is required by a decision or decree of a state authority or pursuant to law.

Notwithstanding the above, Returpack has the right to give unrestricted information (whether considered confidential or not) to companies belonging to the same group of companies or ownership as Returpack, provided that such companies undertake to handle such information with the same degree of secrecy as Returpack. Furthermore, Returpack has

the right to provide information on current basis on the number of attached and collected Packaging (per barcode) to the Swedish Board of Agriculture.

#### **14. Transfer of the Agreement**

The Parties have no right to transfer the whole or part of their rights and/or obligations pursuant to this Agreement without having first obtained the written consent of the other Party. Nevertheless, Returpack has the right to cede all its rights and obligations pursuant to this Agreement to companies belonging to the same group of companies or ownership as Returpack.

#### **15. Amendments**

Returpack has, after consultations with relevant branch organisations, the right to amend this Agreement with at least three months' notice. If the Company does not accept such amendment of terms, the Company has the right to terminate this Agreement no later than two months before the amendment enters into force. Returpack shall publish the amendments to this Agreement and news about the Recycling System on the Returpack homepage (<http://www.returpack.se>).

#### **17. Premature termination of the Agreement**

17.1 Each Party has the right to terminate this Agreement in written form and with immediate effect if the other Party has committed a major breach of agreement, provided that the terminating Party has previously given the other Party a 14 days reprieve to make amends – to such extent as possible – and no improvement has occurred.

17.2 Furthermore, each Party has the right to terminate this Agreement with immediate effect if the other Party has been declared bankrupt, suspends its payments, enters into composition negotiations, goes into liquidation or may in other ways be considered insolvent.

17.3 Notwithstanding the above, Returpack has the right to terminate this Agreement with immediate effect, should the Company violate any of the provisions of this Agreement devised to safeguard the functioning and security of the Recycling System (including the Company's obligation to mark the Packaging in accordance with Item 5 and Appendix 2).

17.4 Upon the premature termination of this Agreement, Returpack has the right to immediately remove from register all the barcodes reported to Returpack by the Company. After the barcodes have been removed from register, the automatic payment of the Deposit shall cease. Further, the

Company shall immediately return all information obtained from Returpack, including all copies and excerpts of such information.

#### **18. Consequences of termination**

The provisions of this Agreement that extend beyond the expiry date of the Agreement, e.g. provisions on secrecy and responsibility for Packaging marked with the Company's barcode, shall continue to be valid after the expiry of this Agreement.

#### **19. Deposition of Security**

Upon the request of Returpack, the Company is obliged to deposit a security for their obligations pursuant to this Agreement. Such a security shall, if required by Returpack, continue to be valid until the Company has no further obligations towards Returpack.

#### **20. Law and Disputes**

20.1 This Agreement is regulated by Swedish law.

20.2 Any arguments concerning this Agreement shall be settled in court, with Norrköping District Court as the court of first instance.