

## **GENERAL TERMS AND CONDITIONS OF BUSINESS of the contract about participating in Interzero's recycling system for packaging materials**

### **1 Preamble**

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The Austrian Waste Management Act (AWG) and the Packaging Ordinance (VerpackVO) contain obligations for companies that put packaging or packaged goods, disposable plates and cutlery or certain single-use plastic products into circulation in Austria or import them for the operation of the company from abroad.

INTERZERO Circular Solutions Europe GmbH (Interzero) operates an approved SVS for household and commercial packaging and other products regulated in the Packaging Ordinance and organises, within the territory of the Republic of Austria, the collection and recycling of

household and commercial packaging in accordance with the Packaging Ordinance.

These T&Cs apply to both commercial and household packaging (incl. disposable plates and cutlery) and all other products (e.g. certain single-use plastic products) for which the Packaging Ordinance provides for participation in a collection and recycling system.

Any reference in these T&Cs to the Austrian Waste Management Act and the Packaging Ordinance applies correspondingly to the respective version in force.

### **2 Application of the General Terms and Conditions of Business**

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Interzero concludes contracts about participating in Interzero's recycling system for packaging materials and other products regulated in the Packaging Ordinance, so that the obligations which can be imposed on the participants in the system (partners) and which arise from the Packaging Materials Ordinance are assigned to Interzero and Interzero fulfils them on behalf of the contracting party

(release of responsibility). This version of Interzero's General Terms and Conditions of Business, which applies at the point in time when the contracts are concluded, is an integral part of this contract that is based upon it. The respectively applicable version of the General Terms and Conditions of Business can be called up from Interzero's home page at [www.interzero.at](http://www.interzero.at).

### **3 Participation in the system**

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#### **3.1 Extent of participation in the system**

The partner participates in Interzero's recycling system with all of his packaging materials put into circulation in Austria, his packaging materials imported for the operation of his company and other products regulated in the Packaging Ordinance, unless a legally regulated exception to the obligation to participate applies.

Extensions of the scope of the Partner's system participation, in particular also for products newly regulated in the Packaging Ordinance, shall become effective with the first of the notifications provided for in 3.4, 3.5 or 3.7 and shall apply in this case for the entire notification period for which the notification is submitted by the Partner.

If the partner not only participates in Interzero's recycling system within one category of tariffs but also participates in another recycling system, then he has to announce the understandable criteria for the splitting (e.g., the percentage extent of the split) to Interzero in advance. Changes that lead to a restriction of the scope of the obligation shall be permissible in accordance with the termination provision according to 6.2.

#### **3.2 Authorized representative**

Partners who do not have a registered office or a branch in Austria and who, as mail order companies, hand over products regulated by the Packaging Ordinance in Austria to a private end consumer within the framework of

distance selling (foreign mail order companies), as well as partners who have their registered office in another EU Member State and who distribute products regulated by the Packaging Ordinance in Austria to other than private end consumers, shall be obliged to appoint profitaria austria GmbH as an authorized representative for foreign mail order companies or as an authorized representative for foreign persons for such products placed on the market in Austria as of January 1, 2023, in accordance with the sample contracts provided.

#### **3.3 Calculation and notification of the participating amounts**

The partner must calculate the participating amounts according to an understandable method. If the partner's packaging material accumulates not only in the domestic area but also in the commercial area, then the partner has to proceed with the allocation according to the provisions of the Waste Management Law and the Packaging Materials Ordinance. Interzero does not accept any liability for the ascertained participating amounts.

The Waste Management Ordinance obligates the partner to issue a complete notification of the issued or imported participating amounts with which he participates in the recycling system.

#### **3.4 Notification of the annual forecast**

The partner will forward a notification of the annual forecast

of packaging materials put into circulation (planned quantity per category of tariffs) to Interzero when the contract is concluded at the latest, except in the case that he is the notifier of the all-inclusive quantity. The notification of the forecast forms the basis for roughly assessing the partner's remuneration as release from the responsibility and for classifying him as the monthly, quarterly or annual notifier.

If the notification of the annual forecast is not forwarded, then Interzero will classify the partner with a notifying period according to Clause 3.4.

### 3.5 Continual notification

The Packaging Materials Ordinance prescribes that the partner is obligated – insofar as he is not entitled to claim an all-inclusive regulation – to notify the recycling system about the sold packaging quantities for domestic packaging materials or commercial packaging materials with an expected annual remunerative sum (net) of:

- a) up to € 1,500 per calendar year (i.e., annual notifier)
- b) from € 1,500 to € 20,000 per calendar year (i.e., quarterly notifier) and
- c) over € 20,000 per calendar year (i.e., monthly notifier)

These notifications must be given by 15<sup>th</sup> day of the month following the notifying period.

If it is evident from the forecast that the same classification does not result for the domestic quantity and the commercial quantity in the notifying period, then the respectively shorter notifying period can be agreed for both notifications.

### 3.6 All-inclusive notification

Interzero is entitled to stipulate an all-inclusive notification for the annual notifier who does not issue more than 1,500 kg overall of the domestic packaging material and of the

commercial packaging material respectively in the calendar year. Therefore, it is not required to notify the actual status per category of tariffs. Nevertheless, the partner who uses all-inclusive notification is obligated to evaluate his issued quantities of domestic and commercial packaging material, as well as to inform Interzero whenever the imported all-inclusive limit is exceeded.

### 3.7 Notification of the annual accounts

By 15<sup>th</sup> March of the following year, the partner must submit a notification of the quantities (packaging and other products) placed on the market in the previous calendar year. Interzero will also provide a review of the notification punctually, in which the quantities that were notified for the respective calendar year are entered and which the partner can correct appropriately. The remunerative effects that arise as a consequence of the correction will be counter-charged separately, or they will be charged in the next due invoice at the latest. It is impermissible to correct the quantities arising from the review of the notification with the objective of notifying the quantities – which have been notified already to Interzero – to another recycling system.

In the course of the notification of the annual accounts, the partner shall report the data defined in Sections 9 (1b), 13 (3a) and 21a of the Packaging Ordinance (for beverage cups and food packaging: reporting by number of pieces and by mass, in each case subdivided into "completely" and "partly made of plastic") from the respective calendar years mentioned.

### 3.8 The form of notification

The respective participating quantities must be notified to Interzero on the provided (electronic) forms via Interzero's internet portal. Access data for using Interzero's internet portal will be provided to the participant in the system. The partner is responsible for ensuring that the access data is not forwarded to unauthorized third parties.

## 4 Remuneration

### 4.1 Calculation of the remuneration

The partner has to pay Interzero a remuneration (i.e., a remunerative fee) in return for Interzero accepting the assigned obligations according to the Packaging Material Ordinance. The remuneration is calculated from the quantity of packaging material that the partner issued in Austria or imported for the operation of his company per group of tariffs and which he notified to Interzero and from Interzero's valid tariffs.

### 4.2 Tariffs and minimum remuneration

The valid tariffs (€ / t) will be published in the review of tariffs at the site of [www.interzero.at](http://www.interzero.at).

Interzero is entitled to stipulate an all-inclusive remuneration in the review of tariffs for participants in the system who do not issue more than 1,500 kg of domestic packaging material and commercial packaging material respectively. Interzero is entitled to stipulate a reasonable minimum remuneration that must be paid by the participants in the system. The minimum remuneration will be published in the review of tariffs.

### 4.3 Alterations

Interzero is entitled to alter the tariffs, the categories of tariffs and the structure of tariffs, the all-inclusive remuneration and the minimum remuneration at the end of the first day of every month. Interzero will publish such alterations at [www.interzero.at](http://www.interzero.at) within one month at the latest before they come into force, if at all possible. If the partner does not agree to such alterations, then he can make use of the extraordinary right of cancellation according to Clause 6.4.

### 4.4 Invoicing and terms of payment

The invoices that Interzero issues must be settled within a time limit of 14 days (i.e., a fortnight) from the date of issue, without deducting expenses and other charges. If the respective remuneration for release from the responsibility is not paid on the due date for payment at the latest, then a default of payment will commence when this day expires. Interest amounting to 4% above the European Central Bank's basic interest rate must be paid on the arrears in the case of default.

The partner is not permitted to set off Interzero's due

remuneration for release from the responsibility, nor to retain it, insofar as the matter does not concern those partner's counter-claims against Interzero which are recognized by Interzero or established by a court as legally binding.

If the partner does not announce the monthly, quarterly or annual notification punctually, then Interzero will be entitled – irrespective of other claims – to invoice the

remuneration according to the preceding periods or to the notified annual forecast.

The Turnover Tax Law's decisive regulations must be considered when providing the work or service that is the object of the contract for companies or business enterprises that do not have any permanent establishment or a head office or registered office in Austria which is relevant for the Turnover Tax Law.

## **5 Auditing rights**

### **5.1 Audit**

Interzero is entitled to check the participating quantities in the partner's company – especially regarding correctness and completeness of the sold quantities that the partner has notified – or to choose an independent auditor to check it, who is obligated to maintain strict secrecy, after it has announced in good time that the check will be made. This shall also apply if an authorized representative has been appointed according to 3.2. This right also exists for the year following the termination of this contract. The partner also grants the aforementioned auditing rights to an approved office for coordinating the packaging materials or to the commissioned auditor.

The Waste Management Law prescribes that the partner is obligated to cooperate reasonably regarding the collection of resources. He will also keep and provide all of the documents that are required for understanding the correctness and completeness of the notification about the sold quantities or imported quantities for the operation of his company according to the intended legal periods and he grant access to premises and IT systems and cooperate in all audit activities.

### **5.2 Result of the audit**

The partner has to issue a correction notification immediately whenever it is established during a check that

the partner's notifications were incorrect or incomplete. The repayments or back payment that result from this check must be settled immediately. The partner has to pay interest on the amount of back payments, which is 4% above the European Central Bank's basic interest rate.

If a check at the partner's premises shows that the quantity stated is more than 5% too low for each tariff category, the partner shall be obliged to pay Interzero a contractual penalty of 20% of the amount of the shortfall in addition to the additional payment of the contractual fee in accordance with Section 29 (14) of the Waste Management Act, irrespective of fault and not subject to judicial mitigation.

The partner has to reimburse Interzero for the incurred checking costs whenever the partner makes a back payment because of giving untrue nor incomplete information deliberately or grossly negligently, or whenever the partner infringes the safekeeping duties or he is responsible for the check not being able to be completed properly. Interzero, its commissioned auditor or the office for coordinating the packaging materials has the right to estimate the sold quantities as a binding basis for calculating the owed remuneration for release from responsibility whenever the check cannot be completed properly within the partner's area of responsibility. The resulting refunds and supplementary payments must be treated according to the aforementioned explanations.

## **6 Term of the contract and cancellation**

### **6.1 Beginning of the contract and term**

The signed contract comes into force on the date that is given at the end of the contract (i.e., contractual document) and it is being concluded for an indefinite period.

### **6.2 Ordinary cancellation**

The contract may be terminated with effect from the end of each of the first full calendar years, for the first time with effect from the end of the first full calendar year, subject to six months' notice.

### **6.3 Extraordinary cancellation without notice**

A right of extraordinary cancellation without notice exists for this contract's respectively other party whenever there is an important reason for cancellation. This right exists:

- a) whenever insolvency proceedings are opened over the other party's assets (the insolvency administrator's confirmation), or whenever opening them is dismissed by a court for the lack of assets;
- b) whenever one party stops or suspends the

business activity;

- c) whenever one party does not fulfil the essential contractual obligations repeatedly, or after issuing a reminder and setting a reasonable period of grace.

### **6.4 Extraordinary cancellation with notice**

The contract can be cancelled with effect from the end of any calendar quarter, subject to complying with a period of notice of 4 weeks:

- a) by either of the two parties, whenever the legal fundamentals for the parties are changed by means of official measures or because the legal position has changed in such a way that the present contractual relationship is radically affected;
- b) by the partner, if Interzero announces a relevant increase of the tariffs, an increase of the minimum remuneration or an increase of the all-inclusive amount.
- c) by the partner, if he does not agree with a substantial change according to 8.3.

## 7 Use of logos

The partner receives the revocable right for the contract's term to label the packaging material at his own cost that is issued in Austria with 'Interzero's recycling logo' (a trademark of Interzero Circular Solutions Germany GmbH with its head office in Cologne, for utilizing secondary raw materials), which can be called up at [www.interzero.at](http://www.interzero.at). The right of use includes the right to utilize illustrations of the

product that is labelled with the 'Interzero's recycling logo' in advertising. The partner is not entitled to assign to third parties the right of using the logo that has been granted to him, without Interzero's prior written consent. The partner right to use the 'Interzero's recycling logo' lapses when the contract is terminated.

## 8 Final provisions

### 8.1 Liability

Interzero's liability on account of the contract is limited to the covering sum amounting to € 5,000,000 that is provided by the maintained liability insurance policy in the case of (criminal) intent and gross negligence.

The partner's cooperation is required for fulfilling the contractual obligations according to the contract. All of the partner's claims against Interzero are excluded and the partner is obligated to keep Interzero completely free from damages and claims – also against third-party claims – whenever the partner cannot carry out the cooperation that is stipulated in the contract.

### 8.2 Commissioning of third parties

Interzero is entitled to commission third parties with implementing the participatory contract. Interzero will only commission those companies or business enterprises which guarantee proper implementation of the services for the purposes of the Packaging Materials Ordinance and compliance with all of the regulations that are relevant according to the Waste Management Law.

### 8.3 Alterations

Interzero is entitled to revise the contract, these General Terms and Conditions of Business, as well as the forms and information sheets that are used in connection with participation in the system without the partner's consent, by means of Interzero sending him a unilateral notification and subject to complying with a reasonable lead time, in order to ensure that the systems functions or to improve or adapt it to suit the altered underlying legal conditions. The partner can exercise the extraordinary right of cancellation according to Clause 6.4 in the case that he does not agree with essential alterations of contractual points or essential alterations of the provisions in the General Terms and Conditions of Business.

### 8.4 The written form

Except in cases of an implied amendment of the contract by non-termination according to 6.4 (see 4.3 and 8.3), any amendment and supplement to the contract shall be made in writing. This rule also applies to annulling the requirement for the written form. The cancellation must be made according to Clauses 6.2 to 6.4 by means of a registered letter. The contracting parties have not made any verbal collateral agreements.

### 8.5 Invalidity of individual provisions

If one of the contract's provisions is inoperative or unworkable, then this circumstance will not affect the contract's operativeness otherwise. The parties undertake in such a case to substitute the corresponding provision by

an operative or workable provision which approximates as closely as possible to the spirit and purpose of the contract, as well as to its economic objective, insofar as possible. The same rule applies to any loopholes in this contract.

### 8.6 Confidentiality

Interzero will confidentially treat the information that the partner provides or which Interzero becomes aware of during the course of implementing the contract; Interzero will protect it from unauthorized access and not utilize it for purposes other than implementing the contract. The obligations of confidentiality do not apply at all to confidential information that is publicly available, or becomes publicly available, at the point in time when Interzero transmits it without infringing the agreement.

Interzero will only disclose confidential information if it is obliged to do so by law. Furthermore, confidential information must be disclosed if Interzero or official or judicial orders require it, as well as in the case of required information to VKS, in which case the partner will be informed immediately.

Interzero is entitled to disclose the partner's data (name, authorized representative, licensed product area) to the responsible authorities and to VKS, insofar as this disclosure is required for fulfilling its legal obligations.

### 8.7 Company address

The address of the other contracting party that is stated in the contract is decisive for each contracting party. Each contracting party has to notify the respectively other contracting party in writing immediately about alterations of the company address. Consignments that one contracting party does not receive at all, or does not receive in good time because of an infringement of the aforementioned duties of notification, apply as having been sent in good time.

### 8.8 Legal recourse

The contract is subject to Austrian law and it excludes the standards applying to conflicting laws that are stated in Austrian international law and in the 'UN Purchase Law' (i.e., the United Nations Convention on Contracts for the International Sale of Goods).

Interzero and the partner will strive to reach an agreement in all cases where there are differences of opinion. The court of the 1<sup>st</sup> Instance of Vienna's urban district that has material jurisdiction is agreed for settling all of the disputes arising from the contract or in connection with it, whenever the contracting parties cannot reach agreement about the differences of opinion.