

## GENERAL TERMS AND CONDITIONS

### 1. DEFINITIONS

**1.1. Agreement:** The membership agreement signed between Valorlux and the contracting party for the purpose of complying with the legal obligations of recovery and reporting of packaging waste, including the general terms and conditions.

**1.2. General terms and conditions:** The general terms and conditions applicable to the Agreement signed between Valorlux and the contracting party for the purpose of complying with the legal obligations of recovery and reporting of packaging waste.

**1.3. Packaging waste:** any packaging or packaging material covered by the definition of packaging in article 3 point 4 of the modified law of 21<sup>st</sup> March 2017 relative to packaging and packaging waste, excluding production residues.

1.3.1. Primary packaging or sales packaging: Packaging designed to form a retail unit for end users or consumers at the point of sale.

1.3.2. Secondary packaging or multi-packaging: Packaging designed to form, at the point of sale, a certain number of sales units, whether sold as such to the end user or to the consumer or used only for display at the point of sale; it can be removed from the product without changing the product's characteristics.

1.3.3. Tertiary packaging or transport packaging: Any packaging designed to facilitate handling or transport of a certain number of sales units or multi-packaging units to prevent damage during handling and transport. Transport packaging does not include road, rail, sea or air shipment containers.

**1.4. Household packaging waste:** packaging waste that constitutes household municipal packaging waste as defined in the law of 21<sup>st</sup> March 2012 relative to waste.

**1.5. Non-household packaging waste:** packaging waste that constitutes non-household municipal packaging waste as defined in article 4, point 4 of the modified law of 21<sup>st</sup> March 2012 relative to waste.

**1.6. Law:** Law of 21<sup>st</sup> March 2017 on packaging and packaging waste.

**1.7. Law of 9<sup>th</sup> June 2022:** Law of 9<sup>th</sup> June 2022 relative to the reduction of the incidence of certain plastic products on the environment.

**1.8. QR code :** A QR code "DigiDot" integrating the "Green Dot" logo as defined in Article 11 of the general terms and conditions.

**1.9. Obligation to recover:** Obligation of the packaging manager to meet the recovery and recycling rates referred to in Article 6 point 1 of the Law of 21<sup>st</sup> March 2017 on packaging and packaging waste.

**1.10. Authorised body:** Legal entity authorised in accordance with the Law of 21<sup>st</sup> March 2012 on waste, taking over the recovery obligation of the packaging manager.

**1.11. Packaging manager:** any natural person or legal entity which is

1.11.1. established in the Grand Duchy of Luxembourg and who, on a professional basis, fills or sells directly in the Grand Duchy of Luxembourg, no matter the sales technique used, including through distance contracts as defined in article L.222-1 of the Consumer Code, and puts packaged products on the market; or

1.11.2. the first stakeholder to receive, on a professional basis, packaged products imported into the Grand Duchy of Luxembourg by any natural person or legal entity established, or not, in the Grand Duchy of Luxembourg, no matter the sales technique used, including through distance contracts as defined in article L.222-1 of the Consumer Code, and puts packaged products on the market; or

1.11.3. established outside of the Grand Duchy of Luxembourg and who, on a professional basis, sells products packaged in the Grand Duchy of Luxembourg directly to households or to users other than households, no matter the sales technique used, including through distance contracts as defined in article L.222-1 of the Consumer Code.

As concerns general service packaging, any person who produces or imports general service packaging on a professional basis and for the purpose of putting them on the market is considered a packaging manager.

**1.12. Tobacco products:** Tobacco products as defined in article 2, point 1, letter a) of the modified law of 11 August 2006 on anti-tobacco;

**1.13. Single-use plastic products:** a product completely or partially produced from plastic and that is not designed, created or put on the market to accomplish, during its life-cycle, multiple circuits or rotations by being returned to a producer in order to be refilled or reused for the same use than what it was designed for.

**1.14. Territory:** The territory of the Grand Duchy of Luxembourg.

## **RIGHTS AND OBLIGATIONS OF THE PARTIES**

### **2. PURPOSE OF THE AGREEMENT**

**2.1.** The contracting party declares to subscribe, for its packaging, tobacco products and/or single-use plastic products to the specific waste management system as referred to by the Law and implemented by Valorlux. It furthermore undertakes to pay the financial contribution as agreed hereinafter to allow Valorlux to fulfil its mission.

With this subscription, the contracting party requests Valorlux to fulfil its legal obligation of recovery and grants Valorlux full powers to perform any necessary actions for the purpose of complying with the obligations of recovery and reporting incumbent upon Valorlux under the legislative framework.

**2.2.** Valorlux hereby grants the contracting party, who accepts, under the terms and conditions of the Agreement, a non-exclusive right (hereinafter the “right of use”) to use the QR code on primary household packaging only, against the payment of the financial contribution as set out in Article 5 below. The contracting party shall refrain from using the QR code on packaging that is not covered by the Agreement.

In the event the contracting party does not use the QR code, this shall have no impact on the existence or the enforceability of its obligation to pay the financial contribution referred to in Article 5 of the general terms and conditions.

**2.3.** The contracting party undertakes to participate for all of its packaging items and/or tobacco products and/or single-use plastic products in the system implemented by Valorlux and referred to in the Agreement.

**2.4.** Valorlux will take any necessary measures to ensure that the signature of this Agreement and the right of use, subject to the contracting party’s compliance with its reporting obligation as set out in Article 5.3 hereof and the payment of the contribution referred to in Article 5, will document with regard to the competent authorities, in conformity with the Law of 21<sup>st</sup> March 2017 on packaging and packaging waste, the subscription by such contracting party to the system implemented by Valorlux and its contribution to the packaging waste management.

### **3. SCOPE**

**3.1.** The right of use for the QR code only applies to primary household packaging.

**3.2.** The QR code may be used on primary household packaging in accordance with the terms and conditions set out in Article 10.1.

**3.3.** The right of use granted to the contracting party is limited to the territory.

### **4. TERM**

**4.1.** The Agreement is concluded for an unlimited period of time. Either party may terminate this Agreement on 31 December of each year with a notice period of 6 (six) months.

**4.2.** The Agreement may also be subject to early termination in the cases set out in Articles 7.2. and 16 below.

### **5. FINANCIAL CONTRIBUTIONS**

**5.1.** To enable Valorlux to fulfil its mission, as determined in Article 4, for the full duration of the Agreement, the contracting party will pay, under the terms agreed in Articles 5 and 7, annual contributions to Valorlux for the financing of the packaging, tobacco products and single-use plastic products waste management system implemented by Valorlux.

These contributions are determined through a rate scale that will evolve as described in Article 5.5. This rate scale is published on the website [www.valorlux.lu](http://www.valorlux.lu) and will be made available to Valorlux members by appropriate means. Contributions are due as of the date specified in Article 3.1 of the Agreement. However, notwithstanding the above, should the contracting party prove that it has fulfilled its obligation of recovery before signing the Agreement, either by fully complying therewith or by the payment of penalties imposed by the authorities following a failure to comply with such obligations, contributions are payable only as of 1<sup>st</sup> (first) January of the year the Agreement is signed, provided however, that in this case the contracting party expressly discharges Valorlux of any liability for the period prior to this signature and voluntarily agrees to provide guarantees should the authorities impose such penalties on Valorlux.

In any event, Valorldx can invoice the contracting party, together with the payment of its first quarterly instalment or its first annual instalment, as membership fee, a maximum amount equal to one fourth of the annual payment referred to in Article 5. The provisions of Article 5.4 will apply to the full payment of this amount. This membership fee will be calculated on the basis of the report as defined in Article 5.3.

Interests for late payment of contributions at the rate specified in Article 5.3 will apply ipso jure and without any formal notice for any contribution due for the calendar year(s) subject to such late payment.

**5.2.** Annual contributions are due for the total quantity of packaging, tobacco products and single-use plastic products put on the market during the year by the contracting party in the territory, subject to any deduction for packaging returns made in the territory, for which a credit note or a similar document was issued. The date on which packaging is put on the market shall be understood as the billing date to a third party (hence, not including billing to another entity of the same group as the contracting party in the context of an intermediate operation prior to putting packaging with the logo on the market) and, for packaging not subject to billing, the date it was actually put on the market.

Sixty (60) days after the end of each twelve (12) months validity period of this Agreement the contracting party will submit a summary report to Valorldx on the actual quantity of packaging, tobacco products and single-use plastic products put on the market, as set out in Article 5.1. above during that 12 (twelve) months validity period, including free samples made available to distribution networks and intended for end consumers.

**5.3.** To enable Valorldx to comply with its obligations towards the Minister of the Environment, the contracting party will, no later than on 28 February of each year and for the first time 30 days after the signature of this Agreement, submit a report to Valorldx on the actual quantity of packaging, tobacco products and single-use plastic products put on the market in the previous year as set out in Article 5.1. above, including the free samples intended for end consumers.

If on the last day of the month of March at midnight of any year, Valorldx did not receive the annual report on the packaging put on the market from the contracting party, the latter will ipso jure and without formal notice be subject to a contractual penalty amounting to 1 % of its annual contribution, with a minimum amount of EUR 50.00 (fifty Euro). The same amount will be due for each additional month of delay.

For each quarter covered by this Agreement and within 10 (ten) days of receipt of the invoice regarding the instalment referred to below, the contracting party will pay Valorldx a quarterly instalment of its annual contribution, i.e., a fourth of the annual amount. Should the annual contribution be less than EUR 500.00 (five hundred Euro) the contribution will not be invoiced on a quarterly basis but on an annual basis at the time the fourth quarter of the year is invoiced. This quarterly instalment will be calculated and invoiced by Valorldx on the basis of the most recent report submitted to Valorldx.

By way of derogation to the previous paragraphs, if the contracting party did not put any packaging, tobacco products and single-use plastic products on the market before the year in which this Agreement was signed, Valorldx will calculate and invoice the quarterly instalment or annual instalment for the first year of the Agreement based on the packaging quantities that the contracting party intends to sell and/or put on the market during the current year (year N) as referred to in Article 5.3 1<sup>st</sup> paragraph. After this period, the calculation described in the preceding paragraphs of this section shall apply.

For the purpose of this Agreement,

- year N means the current year of the Agreement's validity period;
- year N-1 means the previous year (i.e.: for the year 2022, this would be the year 2021);
- year N-2 means the year preceding year N-1 (i.e.: for the year 2022 this would be the year 2020).

Payments will be made via bank transfer or any other payment means approved by Valorldx. Invoices are payable in full. The contracting party shall only be validly and fully discharged from its obligation to pay an invoice after Valorldx received the full amount of the invoice. Therefore any bank fees for payments made by the contracting party may not be at charge of Valorldx.

Notwithstanding the above, every contracting party will be required to pay a minimum annual contribution should it appear that the annual contribution would be lower than this amount. This minimum contribution, which may not exceed 125.00 EUR (one hundred and twenty-five Euro) and the effective date will be determined by the Board of directors of Valorldx.

**5.4.** If the contributions payable by the contracting party, calculated on the basis of the actual packaging quantity put on the market for the year N, as resulting from the report referred to in Article 5.3., is higher or lower than the total amount of the quarterly or the annual instalment paid for that same period on the basis either of the actual packaging quantity put on the market for year N-1 or, if applicable, of projected quantities, the difference will either be subject to an additional invoice or a credit note to be issued by Valorldx.

**5.5.** To allow Valorldx to fulfil its mission, the parties expressly agree as an essential element of the Agreement, that Valorldx has the possibility, with a motivated decision of its Board of directors, to amend the rate scale as well as the effective date of this amendment and to adjust the contributions to be paid by the contracting parties referred to in Article 5.3. above, on the basis of a justified proposal by the Board of directors of Valorldx. This adjustment may be performed on an annual basis and the new rates will enter into force on 1<sup>st</sup> January of the following financial year.

## **6. SPECIFIC CASE: FOREIGN CONTRACTING PARTY SUPPLIER MANDATARY OF A PACKAGING MANAGER**

**6.1.** In the event a packaging manager uses a mandatary who is a foreign supplier of packaging, the mandatary of the packaging manager will have to assume all contractual and legal obligations of the packaging manager, including the reporting obligation in article 5.3. The report needs to contain an exhaustive list of all the packaging managers that they have been mandated by to fulfil their contractual and legal obligations, as well as of the packaging in question.

**6.2.** Personal obligations of the mandatary

Notwithstanding its quality as a foreign supplier of the packaging managers, the mandatary remains personally liable for the performance of any obligations arising from this Agreement for the packaging managers.

The mandatary shall strictly comply with the reporting and monitoring system as provided for in this Agreement and the Law.

The signature of this Agreement by the mandatary implies its commitment to comply with its obligations as a foreign supplier, as well as with those it undertakes as a mandatary of the packaging managers.

Notwithstanding the responsibility of the mandatary, the packaging manager remains equally responsible of the perfect execution of the contract by the mandatary towards Valorlux.

(\* ) Warning: This Article only applies to foreign suppliers of packaging managers. A service company may not subscribe to Valorlux on behalf of a packaging manager.

## **7. ACCOUNTING**

**7.1.** The contracting party shall keep a file with the calculation elements and all the documents used to prepare the report referred to in Article 5.3. and Valorlux will have the option, either directly or through an authorised auditor (réviseur d'entreprise agréé) bound by professional secrecy, to perform the necessary audits on all or part of the report so as to ensure that the correct contribution amount is paid.

Valorlux will pay the costs of these audits unless they lead to a readjustment of the paid contribution amount, prior to any penalties, which over the current calendar year, would be equal to or higher than 5 % (five per cent) of the contribution actually invoiced and, if applicable, paid.

The contracting party's failure to effectively collaborate in the audit operations of the auditors is not considered as an exceptional circumstance justifying the payment of overtime to the auditor by Valorlux. Such overtime will be at charge of the contracting party.

Should Valorlux perform a partial audit of the report and the audited sample is found to be incorrect, Valorlux may require the contracting party to have the entire report audited by an external auditor at the contracting party's expense.

The projected packaging quantities referred to in the fifth paragraph of Article 5.3. may not be subject to the audit right granted to Valorlux as set out in the above two paragraphs.

Details on the audit procedure are available on our website [www.valorlux.lu](http://www.valorlux.lu)

**7.2.** In the event Valorlux determines by any legal means, and in particular through the audit procedure described in Article 7.1., that the report is incorrect, the contracting party shall pay Valorlux the evaded contributions based on this incorrect report and, as a penalty, an additional amount equal to such evaded contributions plus interests for late payment on the due and unpaid amounts, calculated at the legal rate on the basis of either 12 (twelve) months, 9 (nine) months, 6 (six) months or 3 (three) months on each quarter of the total unpaid amount. In the event of a second offence, Valorlux may terminate this Agreement without notice in accordance with and pursuant to Article 16.

**7.3.** Considering the obligations resulting for Valorlux for the performance of its packaging waste management mission, any amounts payable by the contracting party, including the quarterly or annual instalments provided for under Article 5.3. that are still unpaid on their due date, will ipso jure and without any formal notice produce interests at the legal rate as of their due date and until full payment; this provision may not be considered as an authorisation of an extended payment deadline.

## **8. OBLIGATIONS OF VALORLUX**

**8.1.** Valorlux undertakes, as long as the contracting party meets its reporting and contribution obligations, to comply with its legal obligations, to maintain the required accreditations, to fulfil the obligations pertaining to such accreditations issued by public authorities and by doing so, to discharge the contracting party from its legal obligations for the recovery of packaging waste.

**8.2.** Valorlux undertakes to compile a list of contracting parties and to make such list available to them. Valorlux is authorised to use all or part of this list in its own publications and/or communications. Any contracting party may, at any time, request information about the subscriber status of another third party.

**8.3.** Valorlux undertakes to keep confidential any financial or business information communicated to it by the contracting party or of which Valorlux may have knowledge through the implementation of the Agreement.

This obligation of confidentiality applies in particular to the data referred to in Articles 5.2., 5.3., 5.4. and 7. This obligation of confidentiality may not undermine the disclosure obligations of Valorlux towards public or administrative bodies or any other person vested with specific powers by any law or legislative act.

**8.4.** Valorlux may use, only for the purpose of communication, the brands, logos or other identification elements of the contracting parties in accordance with authorisations specifying the terms and conditions of such use.

**8.5.** Valorlux will make available to the contracting parties (upon request), its annual accounts as approved by its General Meeting.

**8.6.** Any failure by Valorlux to comply with its obligations set out in this Article shall be subject to the penalties specified in Article 16.2. below.

## **9. PERSONAL DATA**

The contracting party is informed that its personal data or the personal data of any person of its organisation in contact with Valorlux will be kept, stored and processed. The following points are intended to inform the contracting party of any data of which the communication is required by Article 13 of the regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (hereinafter referred to as "GDPR")

### **Data controller**

Valorlux with registered office L-4370 Esch-sur-Alzette 1, boulevard du Jazz represented by its manager currently in office.

### **Purposes of data processing and legal basis for data processing**

Holding, storage and processing of personal data of the contracting party are performed to meet the legal and regulatory obligations of Valorlux.

### **Recipient of personal data**

Within the frame of Valorlux's missions, personal data collected from the contracting party will be sent to the Luxembourg Environment Agency (Administration de l'environnement de Luxembourg).

### **Transfer of personal data to a third country or to an international organisation.**

Valorlux does not intend to transfer any personal data of the contracting party to a third country or to an international organisation.

### **Retention period of personal data**

To comply with the limitation periods, Valorlux will store the data of the contracting party for a period of 3 years after the end of the contractual relationship, respectively for a period of 30 years after the end of the business relationship. These periods shall be extended in the event such limitation periods are interrupted or suspended.

### **Access to personal data, rectification or erasure of personal data, right to object to the processing and data portability**

The contracting party has the right to request access to its personal data from the data controller as well as the right to request rectification or erasure of such data or the restriction of the processing with regard to the person concerned.

The contracting party also has the right to object to the processing and to the portability of the data.

### **Complaint**

The contracting party has the right to lodge a complaint with the National Commission for Data Protection (Commission nationale pour la protection des données).

## **10. OBLIGATIONS OF THE CONTRACTING PARTY**

**10.1.** The contracting party may, as provided above, use the QR code on primary household packaging in compliance with the regulatory constraints applicable to such packaging.

The contracting party may only use the QR code on primary household packaging in accordance with the specifications contained in Article 11 of the general terms and conditions.

**10.2.** The contracting party undertakes to provide Valorlux, at the latter's written request and within a period of 6 (six) weeks of receipt of such request, with samples of the packaging carrying the QR code and/or intended to carry it. These samples will be selected on a random basis.

**10.3.** In the event Valorlux, or its authorised agent, acknowledges a breach of the provisions of Article 10.1. above, as for instance preventing it from exercising its auditing right provided for in Article 7.1. above, it will immediately notify the contracting party. The latter shall take any necessary measures to remedy its failings within 8 (eight) weeks after receiving such notice.

**10.4.** The contracting party is authorised, for the time of the Agreement, to state or display, in any advertising of the packaging or any advertising directly related to the packaging, the fact that the household packaging carries the QR code. The QR code may only be used for the purpose and in the way specified by Valorlux. Moreover, this right is granted only for advertising of the product or directly related to it and does not extend to any other advertising or communication. Thus in particular, the contracting party shall refrain from using the QR code or the Green Dot logo in any advertisements of its company or its activities. Nevertheless, Valorlux reserves the right, at its discretion and as agreed by the contracting party, to decide to withdraw this authorisation, in particular in the following cases:

- a) if because of such advertising, a court decision rules that the contracting party is in a position of unfair competition, is prohibited or convicted because of misleading advertising,
- b) if the contracting party's advertising is in contradiction with the communications issued by Valorlux, as they may be periodically and in summary brought to the knowledge of the contracting party. In case of doubt, the contracting party must request the prior written approval of Valorlux.

In case the authorisation is withdrawn, such withdrawal will be effective 30 (thirty) days after the pertaining notification was made.

## **11. GRAPHIC CHARTER OF THE QR CODE**

**11.1** The QR code must be immediately identifiable by the consumer. It must be legible, visible and scannable on the packaging or on the outer packaging of the products.

**11.2** The QR code may not be modified in any way. It must be used in accordance with the official templates made available by Valorlux via the Valbase Online portal, in its entirety, strictly respecting its proportions, colours, transparency and structure.

No modification, addition, deletion, graphic integration, alteration or transformation of the DigiDot or any of its components, including the QR code, is authorised.

**11.3** The DigiDot integrates the "Green Dot" trademark in digital form within a QR code. The integration of the "Green Dot" trademark into the QR code has no effect on the official definition of said trademark.

### **Colours**

The QR code may be used either:

- in the colour version, in accordance with the official CMYK specifications:
  - Main colour: CMYK 100 / 0 / 69 / 60 (Pantone 343 C equivalent)
  - Secondary colour: CMYK 18 / 0 / 47 / 0 (Pantone 366 C equivalent)
  - White background: CMYK 0 / 0 / 0 / 0
- or in the black monochrome version (1C), notably when technical printing constraints require it:
  - Monochrome version (1C): CMYK 0 / 0 / 0 / 100

Any other colour adaptation or graphic variation of the QR code is only permitted on an exceptional basis and subject to prior, express and written authorisation from the competent body. Otherwise, only the standard colour version or the black monochrome version is authorised.

### **Dimensions**

- **"Classic" version:**  
Height: 33.5 mm – Width: 25.5 mm
- **"Lite" version:**  
Height: 21.5 mm – Width: 21.5 mm



Classic Version



Lite Version

The “Lite” version may only be used when insufficient space is available on the packaging (where the available space is less than  $3 \times 4$  cm).

Any modification to the dimensions, proportions, or protective areas of the QR code is prohibited.

### Printing Techniques

The QR code may be affixed through:

- direct printing on packaging or overpackaging, including labels,
- offset printing, screen printing, gravure printing,
- thermal printing,
- embossing or debossing,

provided that the QR code remains legible and scannable.

### Derogation

Any derogation from the present specifications, for technical or legal reasons, is subject to a specific addendum to the present Agreement.

#### 11.4. Official QR code templates and conditions of use

The official PDF templates of all QR code variants are made available to the contracting party via Valorlux’s Valbase Online portal.

These templates must be used strictly without modification. Any alteration, adaptation or transformation may affect the readability and proper functioning of the QR code, which can therefore no longer be guaranteed.

When the space available on the packaging is less than  $3 \times 4$  cm, the contracting party is authorised to use the “Lite” version of the QR code instead of the “Classic” version, in accordance with applicable specifications.

Any request for adaptation or derogation must be submitted in advance to the competent service, either at [info@pro-e.org](mailto:info@pro-e.org) or to the contracting party’s usual contact person. Such requests are assessed on a case-by-case basis and are only effective once expressly accepted.

In the event of a modification of the QR code, whether authorised or not, the contracting party acknowledges that it assumes full responsibility for any risks associated with the use of the QR code.

It is, in all cases, the contracting party’s responsibility to perform scanning tests prior to any production run.

Valorlux acts solely as a technical and administrative intermediary between the contracting party and DSD, notably through the provision of its Valbase Online portal. As such, Valorlux assumes no obligation of control, verification or guarantee concerning the readability, scannability or functionality of the QR code integrated into the DigiDot, and shall not be held liable in any way for any malfunction, error or incompatibility resulting from the contracting party’s use of the QR code.

## 12. FILING AND OWNERSHIP OF THE LOGO

The contracting party shall not claim any rights to the QR code other than those expressly granted by this Agreement and its general terms and conditions. The contracting party acknowledges that the right of use does not grant any ownership rights or any other rights in the QR code, all of whose elements as described in Article 11 of the general terms are and remain the property of DSD.

The contracting party is prohibited from filing, or having filed through any third party, in any country, trademark applications identical or similar to the QR code, or containing the “Green Dot” logo in any form whatsoever.

### **13. SUB-LICENCES**

The contracting party is by no means authorised to grant any sub-licence for the use of the QR code, nor to transfer, even to third parties belonging to the same group in any way whatsoever, the right to use the QR code. This restriction does not apply to the branches of a parent company that is a Valorlux subscriber and pays the financial contributions referred to in Article 5 above for the entire packaging quantity put on the market by its group of companies covered by the Agreement.

### **14. COUNTERFEITING**

**14.1** The contracting party undertakes to immediately inform Valorlux of any counterfeiting or unauthorised use of the QR code or the Green Dot logo of which it may gain knowledge under this Agreement.

Valorlux alone is entitled, at its own sole expense, to launch proceedings and to terminate any acts of counterfeiting or illegal or unauthorised use of the QR code. Should however a contracting party reasonably consider that Valorlux's failure to act is detrimental to its rights, Valorlux shall be obliged to take measures to put an end to such detrimental acts.

**14.2** Any proceedings because of counterfeiting the QR code and more generally any proceedings launched by a third party because of copyright violation against the contracting party regularly using the QR code in the territory will be defended by Valorlux. In the case of any such proceedings, the contracting party must notify Valorlux within 24 (twenty-four) hours after it has received knowledge thereof and, in any event, after the date it was served any legal document. This information must be sent by registered letter, by a deed served by bailiff or any other similar means.

Valorlux will then continue the proceedings through its appointed legal counsels and at its own expense. In such matters, the contracting party will provide Valorlux with any required assistance to successfully conduct such proceedings.

In the event of proceedings, the contracting party may only suspend the payment of the amounts due under Article 5 above if it was subject of an enforceable decision forbidding it to use the QR code as a means of identifying packaging, without the authorisation of Valorlux, or another QR code and for as long as such ban is enforceable.

### **15. NON-TRANSFERABILITY**

The contracting party may not, under any circumstances, transfer the Agreement to a third party without the prior approval of Valorlux.

### **16. TERMINATION**

**16.1** The Agreement shall be terminated ipso jure and without any legal proceedings should the competent authorities withdraw or refuse to grant the required authorisation to Valorlux. In this case, Valorlux shall reimburse the corresponding part of the instalments already paid by the contracting party.

Under no circumstances will Valorlux be liable for damages except if it was found guilty of misrepresentation or serious misconduct.

**16.2** The Agreement shall be terminated ipso jure, at the contracting party's discretion, if 30 (thirty) days after notification to Valorlux of a request to stop a breach regarding any of the obligations resulting from Article 8 above, said violation did not cease.

Under no circumstances will Valorlux be liable for damages except if it was found guilty of misrepresentation or serious misconduct.

**16.3** Independently of the other cases of early termination as provided for by the general terms and conditions and more specifically by Articles 4.1., 7.2. and 16.4, Valorlux may terminate the Agreement ipso jure at its sole discretion without any formalities or legal proceedings:

- a) in the event the contracting party is subject to a voluntary or involuntary petition in bankruptcy, liquidation or any equivalent foreign procedure,
- b) in the event the contracting party fails to pay any due amounts, including the instalments set out in Article 5, 30 (thirty) days after notification by registered letter of a formal notice that remained unsuccessful,
- c) in case of any failure by the contracting party to comply with its obligations under the Agreement and the general terms and conditions, and where any such failing was not remedied within 30 (thirty) days after a formal notice sent by Valorlux. Serious misconduct shall be understood as any fault committed by the contracting party that has a substantial impact on the proper performance by Valorlux of its legal or contractual obligations. In the event of a written objection, within 30 (thirty) days as stated above, to the serious nature of the misconduct on the basis of which termination is sought, the contracting party may request the intervention of a mediator from Valorlux, which would exclude the conciliation procedure provided for in Article 20 of this Agreement.

**16.4** If during the performance of the Agreement, the contracting party starts to only put reusable packaging on the market, the Agreement may be subject to early termination, at the request of the contracting party, with effect as of 31 December at midnight following the notification of this termination.

**16.5** Any early termination, whether provided for under this Article 16 or under Articles 4.1. and 7.2., will enter into force ipso jure and without any legal proceedings, including emergency interim proceedings, by simple notification by registered letter with acknowledgement of receipt from the party intending to exercise such option. Unless otherwise agreed under the article setting out the grounds for termination, such termination will take effect 60 (sixty) days after its notification.

## **17. CONSEQUENCES OF THE TERMINATION OF THE AGREEMENT**

At the date the Agreement is terminated, the contracting party shall cease to use the QR code on its packaging.

For packaging carrying the QR code that was not put on the market before the termination of the Agreement, and subject to the contracting party paying the corresponding contribution, the contracting party will be entitled to continue to distribute such items for a maximum period of six months, unless special authorisation from Valorex. The same rules apply to labels and other items carrying the QR code or the Green Dot logo.

## **18. NOTIFICATION AND ADDRESS FOR SERVICE**

Any change of address must be notified as soon as possible to the other party.

## **19. LANGUAGE OF THE AGREEMENT**

The Agreement and the general terms and conditions are written in French, in German and in English. For issues regarding the interpretation of the Agreement and the terms and conditions, only the French version, as available on our website [www.valorex.lu](http://www.valorex.lu), is binding.

## **20. CONCILIATION COMMITTEE**

**20.1** In case of litigation between the parties about the existence, interpretation or performance of the Agreement and its general terms and conditions, such litigation will be referred to a conciliation committee by the most diligent party. This conciliation committee will be composed of two members. One of them will be appointed by Valorex and the other by the contracting party. These two members will, by mutual consent, appoint a third member to chair the committee. In the event the two appointed members disagree over the appointment of a chairperson, the latter will be appointed by the president of the District court at the request of the most diligent party. The arbitration rules of the Chamber of Commerce of Luxembourg (Chambre de Commerce de Luxembourg) shall apply.

**20.2** The conciliation committee will invite the parties by registered letter to a hearing at a date no later than two weeks after the conciliation committee's date of establishment. If one of the two parties may not be available on the specified date, it shall promptly inform the conciliation committee accordingly by registered letter. A new date will then be determined by mutual agreement. In case of absence of one of the two parties duly summoned on the determined date or on the mutually agreed date, this absence shall be construed as the impossibility to reach a compromise.

## **21. ARBITRATION**

**21.1** In case of litigation between the parties about the existence, interpretation or performance of the Agreement and its general terms and conditions, and assuming that the parties were not able to reach a compromise as set out in Article 20 above, this litigation will be submitted to an arbitration body in Luxembourg. The party wishing to refer the dispute to arbitration will notify the other party by registered letter, providing the identity of the person it has chosen to act as arbitrator. The other party will have 2 (two) weeks to notify the first party by registered letter of the identity of its arbitrator. The two arbitrators will then appoint by mutual agreement a third arbitrator who will chair the arbitration body.

**21.2** All matters regarding this arbitration procedure will be governed by the arbitration rules of the Chamber of Commerce of the Grand Duchy of Luxembourg.

## **22. LIABILITY OF THE CONTRACTING PARTY**

Any financial loss or other damages incurred by Valorex and which, fully or partially, directly or indirectly, are the result of any action of the contracting party, and in particular the result from its failure to duly comply with any of its obligations under this Agreement, will immediately lead to full compensation for Valorex by the contracting party.