

# PACKAGING WASTE SCHEME

## MEMBERS COMPLIANCE EVIDENCE POLICY

### 1 APPLICATION

- 1.1 This Packaging Waste Scheme Members compliance evidence policy ("MCEP") is applicable to all Members of the Packaging Waste Scheme and is subject to and shall be read in conjunction with and as part of the Membership Terms applicable to the Packaging Waste Scheme (including but not limited to the General Membership Terms and the Packaging Waste Scheme Membership Terms) copies of which are available on request and/or at [www.valpak.co.uk](http://www.valpak.co.uk).
- 1.2 (Except as otherwise expressly provided) the Member acknowledges and agrees that it shall (in addition to its obligations under this MCEP) continue to comply with its obligations under all of the other Membership Terms applicable to the Member's membership of the Packaging Waste Scheme (including but not limited to the General Membership Terms and the Packaging Waste Scheme Membership Terms (as appropriate)).

### 2 DEFINITIONS AND INTERPRETATION

- 2.1 In this MCEP words and expressions defined in the General Membership Terms and/or the Packaging Waste Scheme Membership Terms shall (where the context so permits) have the meanings set out in the General Membership Terms and/or the Packaging Waste Scheme Membership Terms (as appropriate) unless differently defined below for the specific purposes of this MCEP.
- 2.2 In this MCEP words and expressions defined in any clause of this MCEP shall (where the context so permits) have the meanings set out in such clause and the following words and expressions shall (where the context so permits) have the following meanings:
- "Eligible PRNs" means (subject to clause 11.1(a)) any PRN obtained, generated or issued by a Member (whether itself, via a third party or otherwise) from the reprocessing or export (as appropriate) of that Member's own Packaging Waste arising in the course of that Member's normal business activities, or from any other source of Packaging Waste, provided that such source is agreed in writing by both the member and Valpak;
- "Maximum Tonnage" means (subject to clause 11.1(b)) (in relation to each Member and each Obligation Year) the maximum number of PRNs which Valpak is permitted under the Regulations to offset against such Member's Producer Responsibility Obligations;
- "Qualifying PRN" means (in relation to each Obligation Year) any Eligible PRN that the Member agrees to obtain and deliver (free of charge) to Valpak pursuant to and in accordance with this MCEP and each Statement (as may be amended from time to time in accordance with this MCEP);
- "Qualifying Tonnage" means (in relation to each Obligation Year) the total tonnage of Qualifying PRNs (broken down by Packaging Waste type) that the Member agrees to obtain and deliver (free of charge) to Valpak as stated in each Statement (as may be amended from time to time in accordance with this MCEP);
- "Quarterly Tonnage" means (in relation to each Quarter) the quarterly tonnage as set out in the relevant Statement; and
- "Statement" means (subject to clause 11.1(c)) the statement of the Member's tonnage of Qualifying PRNs which the Member shall obtain and deliver to Valpak (free of charge) in each Obligation Year, such Statement being in the form required by Valpak from time to time.
- 2.3 References in this MCEP to clauses are (unless otherwise expressly provided) references to clauses contained in this MCEP.

### 3 ELIGIBLE PRNS

- 3.1 This MCEP shall apply to all Eligible PRNs (up to the Maximum Tonnage).
- 3.2 The Member shall use all reasonable endeavours (acting in good faith) to convert as much of its own Packaging Waste as possible into Eligible PRNs.

### 4 THE STATEMENT

- 4.1 The Member shall, in respect of each Obligation Year, complete a Statement in accordance with the terms of this clause 4.
- 4.2 The Statement in respect of the Member's forthcoming Obligation Year is set out at Schedule 1 to this MCEP.
- 4.3 The Member shall, in respect of each subsequent Obligation Year, no later than 31 October in each Obligation Year, complete and return to Valpak a signed Statement setting out the Member's tonnage of all of its Eligible PRNs (up to the Maximum Tonnage) in respect of the subsequent Obligation Year.
- 4.4 Within 30 days of receipt by Valpak of any Statement issued under clause 4.3 Valpak shall (in Valpak's absolute discretion) notify the Member whether it: (i) approves and accepts the Statement, or (ii) requires any amendments to the Statement. If the Member and Valpak are unable to agree on the Statement within 60 days of receipt by Valpak of such Statement then the terms of this MCEP shall not apply in respect of the following Obligation Year. Once Valpak accepts a Statement it shall sign it and issue a copy of the signed Statement to the Member. Once a Statement has been accepted by Valpak

in accordance with this clause 4.3 it shall be binding on the Member.

- 4.5 Any variation to an agreed Statement will only be valid if approved in writing and signed by both parties.
- 4.6 The Member shall comply with the terms set out in each Statement and shall ensure that the contents of each Statement is accurate in all respects (including but not limited to the amount specified as the Qualifying Tonnage).
- 4.7 Any dispute between the Member and Valpak as to whether a PRN is a Qualifying PRN shall be determined solely by Valpak acting reasonably.
- 4.8 For the avoidance of doubt, it is Valpak's sole discretion if it accepts and/or enters into any Statement and nothing in this MCEP shall place any obligation on Valpak to accept any Statement submitted by any Member.

### 5 QUALIFYING PRNS

- 5.1 Valpak shall (at Valpak's option) be entitled (in whole or in part) to offset all or any Qualifying PRNs (up to the Maximum Tonnage) against the Member's Producer Responsibility Obligations under the Regulations in accordance with clause 6.
- 5.2 The Member acknowledges and agrees that all Qualifying PRNs supplied by the Member to Valpak under this MCEP shall:
- (a) be properly and correctly completed in a form acceptable as evidence of compliance to the appropriate Agency (as defined in the Regulations) and to the reasonable satisfaction of Valpak;
- (b) be issued by an accredited reprocessor and/or an accredited exporter (as appropriate) in a form required under the Regulations and any statutory guidance issued from time to time pursuant to section 94(4) of the Environmental Act 1995 or any other regulations and/or guidance issued under such Act;
- (c) be issued in good faith and represent Packaging Waste that has been recovered and/or recycled in compliance with the requirements of the Regulations and all relevant legislative requirements and guidance (whether statutory or otherwise) that may be applicable;
- (d) be valid for the relevant Obligation Year in accordance with the Regulations; and
- (e) be subject to and in accordance with the terms set out in this MCEP.
- 5.3 The Member shall conform to all reasonable requirements of Valpak and provide Valpak with such information, assistance, co-operation and evidence as Valpak may reasonably request from time to time in relation to this MCEP including but not limited to:
- (a) information about the reprocessors and/or exporters (as appropriate) the Member intends to use in relation to each Qualifying PRN (and the Member shall notify Valpak as soon as possible and in any event within 28 days of any changes and/or anticipated changes to such reprocessors and/or exporters (as appropriate)); and/or
- (b) in order to determine whether a PRN obtained, generated or issued by the Member is a Qualifying PRN.
- 5.4 For the avoidance of doubt nothing in this MCEP shall prevent the Member and Valpak from agreeing to sell and purchase any PRNs (over and above the Maximum Tonnage) on such terms as may be agreed between the Member and Valpak from time to time and the terms of this MCEP shall not apply.

### 6 OFFSET

- 6.1 The Member acknowledges and agrees that Valpak is only entitled to offset Qualifying PRNs where and to the extent such is permitted under the Regulations and that where (for whatever reason) Valpak is not entitled to offset under the Regulations Valpak shall no longer be obliged to offset under clause 4.1.
- 6.2 In relation to each Member the Qualifying PRNs applicable to such Member shall be offset by Valpak against that Member's Producer Responsibility Obligations (subject to clause 11.4(b)) in each Obligation Year and in such order of priority as Valpak may from time to time (acting reasonably) decide.

### 7 MAXIMUM TONNAGE

Where the Maximum Tonnage for any Obligation Year has increased or decreased (for whatever reason) Valpak shall be entitled (but not obliged) (in its discretion) by written notice to the Member to increase or decrease the Qualifying Tonnage (acting reasonably).

### 8 DELIVERY OF QUALIFYING PRNS

- 8.1 The Member shall, at all times, comply with the terms of the Statement relating to the delivery of the Qualifying PRNs.
- 8.2 Notwithstanding the generality of clause 8.1, the Member shall in each Quarter deliver to Valpak the Quarterly Tonnage of Qualifying PRNs in accordance with terms of the Statement (including in accordance with any times or dates stated in such Statement).
- 8.3 The Member shall deliver or procure delivery to Valpak all Qualifying PRNs using the appropriate agency and/or system that that processes the delivery, collection and acceptance of PRNs.
- 8.4 Where the Member has in relation to any Quarter delivered Qualifying PRNs over and above the relevant Quarterly Tonnage Valpak may (in its absolute discretion) accept such Qualifying PRNs and offset them against the Quarterly Tonnage for the following Quarter(s) (as appropriate).
- 8.5 Time shall be of the essence for all deliveries by the Member under this MCEP.

### 9 FAILURE TO DELIVER IN ACCORDANCE WITH THE STATEMENT

- 9.1 For the avoidance of doubt Valpak shall be entitled but not obliged (in its absolute discretion) (without prejudice to any other rights or remedies Valpak may have) to reject any and/or all PRNs not delivered in accordance with and/or which do not conform with the terms of this MCEP.
- 9.2 The Member shall at all times keep Valpak fully informed as to any possible failure, delay or default on the part of the Member including but not limited to notifying Valpak in writing immediately the Member becomes aware (and (in any event) no later than 15 days prior to the relevant delivery deadline) where and to the extent that the Member either shall or may be unable to deliver the Quarterly Tonnage of Qualifying PRNs in accordance with clause 8.2.
- 9.3 (Without prejudice to any other rights or remedies Valpak may have) where the Member has in relation to any Quarter failed (in whole or in part) to deliver the relevant Quarterly Tonnage to Valpak in accordance with this MCEP Valpak may (in its absolute discretion):
- (a) invoice the Member for PRNs representing such shortfall on an indemnity basis being such a sum as is equal to the additional costs, charges and expenses incurred by Valpak in securing additional PRNs to fulfil such shortfall (for the avoidance of doubt nothing in the Agreement shall however oblige Valpak to purchase any PRNs to fulfil such shortfall);
- (b) adjust the relevant Quarterly Tonnage, associated Qualifying PRNs and/or total Qualifying Tonnage (in relation to the Obligation Year as a whole and/or to which such Quarter relates) to take account of such shortfall; and/or
- (c) terminate this MCEP and/or the Member's membership of the Packaging Waste Scheme by notice in writing to the Member with immediate effect.

### 10 INDEMNITY

- 10.1 The Member shall fully indemnify and keep fully indemnified Valpak against any and all actions, costs, claims, demands, damages, expenses (including legal fees), liabilities, losses and proceedings suffered or incurred by Valpak arising from a breach by the Member of this MCEP.
- 10.2 The provisions of this clause 10 shall continue in force notwithstanding the termination of this MCEP howsoever caused.

### 11 GROUP MEMBERSHIP

- 11.1 In relation to a Member who is the Common Holding Company of a Group Membership of the Packaging Waste Scheme the provisions of this clause 11 shall apply (notwithstanding any other provision of this MCEP) and in relation to such Member:
- (a) a Qualifying PRN may include any PRN obtained, generated or issued by each and every Group Company (which is part of such Group Membership)(whether itself, via a third party or otherwise) from the reprocessing or export (as appropriate) of that Group Company's own Packaging Waste arising in the course of that Group Company's normal business activities;
- (b) the Maximum Tonnage shall be deemed to be (in each Obligation Year) the maximum number of PRNs which Valpak is permitted under the Regulations to offset against the Producer Responsibility Obligations of all Group Companies which are part of the Group Membership as a whole; and the Statement shall include a statement of the estimated tonnage of all Qualifying PRNs (broken down by Quarter and by Packaging Waste type) which that Member expects all Group Companies which are part of

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the Group Membership to obtain in the relevant Obligation Year.

11.2 The Member who is the Common Holding Company of the relevant Group Membership shall:

- (a) be responsible for complying with this MCEP on its own behalf and for and on behalf of each and every Group Company (which is part of such Group Membership); and
- (b) serve on and report to Valpak all documents and other information to be served on and to be reported to Valpak pursuant to this MCEP on its own behalf and for and on behalf of each and every Group Company (which is part of such Group Membership).

11.3 Valpak shall have the right of first refusal in relation to all of the PRNs from each and every Group Company (which is part of the relevant Group

Membership)(up to the Maximum Tonnage) subject to and in accordance with the terms of this MCEP.

11.4 For the avoidance of doubt Valpak shall:

- (a) be entitled to offset any Qualifying PRN from any Group Company (which is part of the relevant Group Membership) against the Producer Responsibility Obligations of any and all Group Companies (which are part of the relevant Group Membership) as a whole; and
- (b) not be obliged to offset the specific Qualifying PRNs from any Group Company against that individual Group Company's Producer Responsibility Obligations.

## 12 TERMINATION

12.1 (Without prejudice to any other rights or remedies Valpak may have) this MCEP shall automatically terminate where:

- (a) the Member's membership of the Packaging Waste Scheme terminates or expires (for whatever reason); or
- (b) Valpak terminates this MCEP in accordance with clause 9.3(c).

12.2 Where this MCEP terminates (for whatever reason) during any Obligation Year Valpak shall not be liable to return any PRN delivered to Valpak by the Member in accordance with this MCEP.

Document Number	4187858
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**SCHEDULE 1 – STATEMENT FOR MEMBER’S QUALIFYING PRNS UPCOMING OBLIGATION YEAR**  
 Before completing this form please refer to the MCEP available at [www.valpak.co.uk](http://www.valpak.co.uk)

Company Name: ..... Membership Number: .....  
 Form submitted by: ..... E-mail address: .....

Please insert in the table below the tonnage of qualifying PRNs/PERNs in **metric whole tonnes** which will be secured by the member and supplied to Valpak to offset against the member’s Recycling and Recovery obligations.

Delivery Schedule - Quarterly Deadline for Delivery	RECYCLING						RECOVERY
	PAPER	GLASS	ALUMINIUM	STEEL	PLASTICS	WOOD	ENERGY FROM WASTE
*Quarter 1 – deadline for delivery 10 <sup>th</sup> April							
*Quarter 2 - 10 <sup>th</sup> July							
*Quarter 3 - 10 <sup>th</sup> October							
*Quarter 4 - 10 <sup>th</sup> December (for qualifying Oct & Nov PRNs)							
*Quarter 4 - 10 <sup>th</sup> January (for qualifying Dec PRNs)							
Year End Total							

\* Quarter – as defined in General Membership Terms

Please state the name/names of reprocessors who are contracted to supply you with your own waste PRNs/PERNs:

.....

Of the tonnage entered in the table above please indicate below the amount of qualifying PRNs/PERNs you intend to supply to Valpak that have not been obtained via your own back door waste.

RECYCLING						RECOVERY
PAPER	GLASS	ALUMINIUM	STEEL	PLASTICS	WOOD	ENERGY FROM WASTE

Signature of this statement is subject to and in accordance with the Packaging Waste Scheme Members Compliance Evidence Policy (available on request or at [www.valpak.co.uk](http://www.valpak.co.uk))

Signature..... Position ..... Date.....

Valpak signature..... Position ..... Date.....

**Please return to: Compliance Administration, Valpak Ltd, Stratford Business Park, Banbury Road, Stratford-upon-Avon, CV37 7GW or fax to 08450 682532**

Unless the context otherwise requires, words and expressions used in this form shall have the meaning set out in the Membership Terms or the MCEP (as the case may be).

The information requested in this form should be submitted to Valpak by close of business on **31st October** preceding the relevant compliance year.

If Valpak does not receive the information by this date then Valpak cannot guarantee to accept your own waste PRNs/PERNs.