

# Compliance Service Agreement

## 1. Definitions and Interpretations

### 1.1 Definitions

“**Affiliate**” means, with respect to any person or entity (including either Party), any other person or entity that directly or indirectly controls, is controlled by, or is under common control with that person or entity.

“**Agreement**” means this Compliance Service Agreement.

“**Authorized Representative**” means any natural or legal person or partnership concluded within the scope of the EPR Law, that has been appointed by a Contracting Party not established in the Relevant EPR Country where the products are sold or packaging used, to perform EPR obligations on behalf of the Contracting Party under the EPR Law.

“**Compliance Scheme Entity**” means a legal entity which, in accordance with the EPR Law, is entitled to perform EPR obligations in the Relevant EPR Countries for obligated parties, such as the take-back of certain used products, packaging etc. and/or their reuse or recycling.

“**Compliance Scheme Contributions**” means any monetary obligation that is due by Contracting Party under EPR Law and as defined in Clause 6.3.

“**EPR**” means Extended Producer Responsibility.

“**EPR Law**” means (i) any law, regulation or subordinate legislation in force in a Relevant EPR Country from time to time to which a Contracting Party is subject and under which manufacturers, producers and, in some instances, other actors in the supply chain are obliged to take responsibility for the products sold and packaging by paying Compliance Scheme Contributions to support post-consumer product and packaging recycling, by taking back products and/or by complying with

registration and reporting requirements of relevant EPR authorities; (ii) any binding court order, judgment or decree related to EPR laws, regulations or subordinate legislation described in (i); (iii) any applicable EPR industry code, policy or standard enforceable by law; or (iv) any applicable EPR direction, policy, rule or order that is binding on Contracting Party and that is made or given by any regulatory body having jurisdiction over a Contracting Party or any of that Contracting Party's assets, resources or business.

**"EPR Proxy"** means any power of attorney granted by the Contracting Party to the Provider in a Relevant EPR Country, in accordance with the EPR Law applicable in the Relevant EPR Country, to represent the Contracting Party vis-à-vis third parties in connection with the Services to be provided by the Provider pursuant to this Agreement.

**"Landbell Services"** means the Services rendered by Landbell under this Agreement as defined in Clause 2.2 and [Annex 1](#).

**"Law(s)"** means (i) any law, regulation or subordinate legislation in force from time to time to which a Party is subject, including applicable Data Protection Laws; (ii) any binding court order, judgment or decree; (iii) any applicable industry code, policy or standard enforceable by law; or (iv) any applicable direction, policy, rule or order that is binding on a Party and that is made or given by any regulatory body having jurisdiction over a Party or any of that Party's assets, resources or business.

**"Losses"** means all losses, liabilities, fines, charges, damages, actions, costs and expenses, professional fees (including reasonable legal fees actually incurred) and disbursements and costs of investigation, litigation, settlement, judgment, interest and penalties.

**"Regulatory Event"** means a ruling by a governmental authority in one of the Relevant EPR Countries that substantially increases or reduces the EPR compliance obligations of Contracting Parties in respect to product sales or inventory storage in the affected countries.

“**Relevant EPR Country**” means any country in the European Union that enacted EPR liabilities provisions for marketplaces as of January 1st, 2022.

“**Service Fees**” is defined in Clause 6.1 and Annex 3.

“**Territory**” is defined in Clause 2.4 and Annex 1.

## 1.2 Interpretation

In this Agreement (except where the context otherwise requires):

- a) references to “include” and “including” (or any similar term) shall be construed without limitation and general words (whether or not introduced by the word “other” or any similar term) shall not be given a restrictive meaning because they are preceded or followed by words indicating a particular class of acts, matters or things or specific examples which are intended to fall within the meaning of those general words;
- b) a reference to a statute or a statutory provision or a regulatory requirement is a reference to it as amended, extended, re-enacted or consolidated and includes all statutory instruments or orders from time to time made pursuant to it; and
- c) where the context requires, words in the singular shall include the plural and vice versa and reference to one gender shall include a reference to other genders and vice versa.

## 2. Landbell Services, Territory

- 2.1 Contracting Party hereby mandates Landbell to advise, instruct and, as the case may be, report (for), represent, Contracting Party in the performance of legal compliance obligations arising from

Contracting Party's EPR pursuant to the EPR Law in the Relevant EPR Country ("**Landbell Services**") in accordance with the provisions of this Agreement.

2.2 Landbell-Services include to the extent permitted by law:

- advice on the measures to be taken in order to comply with the EPR Law in force in each Relevant EPR Country of the Territory;
- representation/support of the Contracting Party in registering with Compliance Schemes;
- reporting/support vis-à-vis the Compliance Schemes;
- representation of the Contracting Party in entering into contracts with Compliance Schemes;
- if this is mandatory by the EPR Law or on Landbell's request, acting as Contracting Party's Authorized Representative (as defined in the relevant EPR Law).

In detail Landbell shall provide the Landbell Services as listed in Annex 1 to this Agreement.

2.3 Landbell Services do not include services not listed in Clauses 2.2 and in Annex 1. In particular, as far as Landbell is not appointed as Contracting Party's Authorized Representative, Landbell Services do not include the monitoring

- of the proper fulfilment of contracts between the Contracting Party and the Compliance Schemes, in particular, without being limited thereto, Contracting Party's obligation to pay the Compliance Scheme Contributions (as defined in Clause 6.2),
- of the obligations of the Contracting Party under the relevant EPR Law as far as they are not transferrable to third parties as e. g. reporting obligations of the Contracting Party under German Packaging Law.

2.4 Landbell will provide the Landbell Services in those Relevant EPR Countries listed in Annex 1 ("**Territory**"). New Relevant EPR Countries will be added to Annex 1.

### **3. EPR Proxy / Appointment as Authorized Representative**

- 3.1 The Contracting Party grants Landbell the power of attorney (“**EPR Proxy**”) to comprehensively represent the Contracting Party in the fulfilment of the Landbell Services by signing in writing the EPR Proxy set out as template to this Agreement as Annex 2. The EPR Proxy i. a. entitles Landbell to conclude, amend and terminate contracts with Compliance Schemes on behalf of the Contracting Party, including those operated by companies of the Landbell Group, Mainz, and to appoint Authorized Representatives pursuant to Clause 3. 2. Until the EPR Proxy has been received by Landbell in a legally valid form, Landbell shall not be obligated to perform the Landbell Services.

The EPR Proxy is governed by German Law.

The EPR Proxy ends when Landbell has fulfilled all its obligations under this Agreement and is irrevocable until then.

- 3.2 As far as this is mandatory pursuant to EPR Law or on request of Landbell, Contracting Party will appoint Landbell as its Authorized Representative. Contracting Party will fulfil all legal requirements for Landbell to be duly appointed as Authorized Representative of the Contracting Party. Landbell is entitled to use the EPR Proxy to perform its duties as Authorized Representative. Should this not be sufficient, the Contracting Party is obliged to extend the EPR Proxy accordingly or to submit to Landbell on Landbell’s request all documents mandatory pursuant to the relevant EPR Law to enable Landbell to act as Contracting Party’s Authorized Representative.

### **4. Duties of the Contracting Party**

#### **4.1 On-Boarding-File**

Upon conclusion of this Agreement, the Contracting Party shall provide information on all items contained in the "On-Boarding-File" submitted by Landbell within the on-boarding process such as, for example, a certification of incorporation or a sales forecast. The Contracting Party guarantees

(guarantees in the sense of an independent guarantee commitment - "*garantiert im Sinne einer selbständigen Garantiezusage*") that all information provided in the On-Boarding-File is correct, complete and truthful. The Contracting Party shall notify Landbell without delay of any changes or additions to the information provided in the On-Boarding-File.

#### 4.2 Non-transferable legal obligations

The Contracting Party further guarantees (guarantees in the sense of an independent guarantee commitment "*garantiert im Sinne einer selbständigen Garantiezusage*") that he has duly fulfilled its legal obligations which are not transferable to third parties, as e.g. its obligation for (self-)registration pursuant to section 9 of the German Packaging Act.

### 5. **Duties of Landbell**

5.1 Landbell shall inform the Contracting Party about legal compliance obligations arising from Contracting Party's EPR pursuant to the EPR Law of each Relevant EPR Country of the Territory. As far as Landbell is hindered by law to fulfil Contracting Party's obligations, Landbell shall support the Contracting Party to be able to meet these obligations by itself.

5.2 Landbell shall inform the Contracting Party if governmental authorities or courts have notified Landbell of circumstances that could lead to a breach of the Contracting Party's (statutory) obligations. In such cases, the Contracting Party shall be obliged, upon request and at his own expense, to provide Landbell with all information within the deadlines set for him, which could lead to the defence against measures of the governmental authorities/courts. The Contracting Party shall bear the costs incurred by Landbell in this connection. The Contracting Party shall also disburse Landbell on Landbell's first request for any fines etc. imposed on Landbell within the performance of this Agreement unless the underlying violation was caused by Landbell's gross negligence or intent.

## 6. Service Fees, Compliance Scheme Contributions

- 6.1 Landbell Service Fees will be paid in advance by booking the Services through the Webshop Portal. Landbell is entitled to offer the Contracting Party other options for payment of the remuneration.
- 6.2 All fees and expenses (“**Compliance Scheme Contributions**”) charged by authorities and/or Compliance Schemes shall be borne exclusively by the Contracting Party. Therefore, the Contracting Party shall be solely responsible for the timely and complete fulfilment of the obligation to pay the Compliance Scheme Contributions. Any (co-)liability of Landbell in this respect is excluded, unless Landbell was responsible for the untimely or incomplete payment of the Compliance Scheme Contributions due to gross negligence or intent.

## 7. Liability

- 7.1 Landbell shall be liable without restriction for damages caused intentionally or through gross negligence by its legal representatives, assistants or vicarious agents. Furthermore, Landbell shall be only liable for damages resulting from breach of material contractual obligations and limited to typically foreseeable Losses. Material contractual obligations are such obligations as whose fulfilment enables the orderly performance of this Agreement in the first place, and in the compliance of which the contracting Party may and shall regularly rely on. The Parties agree that the typically foreseeable Losses and other Losses amount is limited to a maximum of EUR 10 million.

Any further liability of Landbell shall be excluded. Landbell shall be in particular not be liable under any circumstances for any lost profits or indirect, incidental, consequential or special damages, even if it has notice of that those kinds of damages may occur.

- 7.2 The Contracting Party shall be liable for all damages incurred by Landbell as a result of a breach of obligations under this Agreement by Contracting Party, in particular from any violation of Contracting Party’s obligation for the completeness, timely provision and accuracy of all data to be

provided to Landbell. Contracting Party shall furthermore indemnify Landbell and keep Landbell indemnified on Landbell's first request from and against any and all claims of third parties - as without being limited to Compliance Schemes and authorities - asserted in connection with the performance of this Agreement, unless Landbell has caused these claims by its own grossly negligent or intentional conduct.

## **8. Change of EPR Law, Regulatory Event**

If the EPR in any of the Relevant EPR Country of the Territory changes, particular if a Regulatory Event occurs after the signing of the Agreement, Landbell is entitled to amend / change the Landbell Services and the Services Fee accordingly.

## **9. Confidentiality and Publicity**

- 9.1 Each Party and its representatives (a) will protect and keep confidential the existence of this Agreement, its terms and conditions and any other Confidential Information of the other Party, (b) will use such other Party's Confidential Information only for the purpose(s) for which it was originally disclosed and in any case only for the purpose of fulfilling its obligations under this Agreement, and (c) will return all such other Party's Confidential Information to the other Party promptly upon the termination of this Agreement.
- 9.2 All Confidential Information will remain each Party's exclusive property, and no Party will have any right to use such Confidential Information except as expressly provided herein.
- 9.3 The obligations under this Clause 9 shall not apply to any information that (i) has already been common knowledge at the time of disclosure or becomes common knowledge afterwards without any breach of any of these obligations; (ii) Contracting Party legally receives or has legally received from a third party if the third party or the person from whom the third party received the information is not obliged to maintain confidentiality; (iii) has been independently developed by



Contracting Party; (iv) Contracting Party has to disclose to public authorities due to official regulations, provided that, where permissible, Contracting Party informs Landbell in advance of such disclosure and uses its best efforts to limit the disclosure to the minimum necessary; (v) upon disclosure of the respective information to Contracting Party, is already known to Contracting Party independent from Landbell and without using the Confidential Information received so far provided that Contracting Party objects to its confidentiality obligation without undue delay after receipt of the information.

9.4 Neither Party will use any trade name, trademark, service mark, logo, commercial symbol, or any other proprietary rights of the other Party or any of its Affiliates in any manner (including any use in any client list, press release, advertisement, or any other marketing or promotional material) without prior written authorisation of such use by an authorized managing director of the other Party. Neither Party will issue any press releases, publicity, or make any other disclosures regarding this Agreement or its terms or the nature or existence of any relationship between the Parties.

## **10. Assignment**

10.1 Subject to Clause 10.2, neither party shall assign, novate sub-licence, mortgage or otherwise transfer in whole or in part any of its rights and/or obligations under this Agreement without the prior written consent of the other Party.

10.2 Landbell may assign, novate, sub-license, mortgage or otherwise transfer in whole or in part any of its rights and/or obligations under this Agreement to an Affiliate or to any person to whom the Landbell is selling all or substantially all of its business.

## 11. Term; Termination

- 11.1 The Agreement shall be concluded for an initial term ending on December 31st, 2023. It shall thereafter be extended by 24 months at the end of each year unless terminated by either Party, this latter being subject to 6 months' written notice to the other Party.
- 11.2 The right of both Parties to extraordinary termination of this Agreement shall remain unaffected. For Landbell or the Contracting Party important reasons include but are not limited to:
- 11.2.1 breach by the Parties of material provisions of this Agreement;
  - 11.2.2 default in payment by the Contracting Party by more than four weeks;
  - 11.2.3 suspension of payment by a Party;
  - 11.2.4 application for insolvency proceedings on one Party's assets or the opening or termination of such proceedings due to lack of assets;
  - 11.2.5 termination of the business activities of one of the Parties in Germany.

## 12. General Provisions

- 12.1 The Agreement shall be governed by the laws of the Federal Republic of Germany, excluding the UN-Convention on Contracts for the International Sale of Goods (CISG). The sole place of jurisdiction for all disputes arising from this Agreement shall be Mainz.
- 12.2 All changes and additions to this Agreement shall be made in electronic form (*Textform*) (e. g. by e-mail). This shall also apply for cancellation or amendment of this Clause 12.2. Verbal ancillary agreements shall be deemed not to exist.
- 12.3 Should individual provisions of this Agreement be or become ineffective or unenforceable, this shall not affect the validity of the remainder of the Agreement. The Parties shall be obliged to replace

the ineffective or unenforceable provision with one that comes closest to the spirit, purpose and economic purpose of the invalid or unenforceable provision according to the Parties' intent without being ineffective or unenforceable. The same shall apply to any contractual gaps.

- 12.4 In case of any discrepancies between this Agreement and an agreement in accordance with Clause 3.2, the provisions of such separate agreement shall prevail.

### **13. Data Protection, Transfer of Data**

The Parties shall observe the provisions of the applicable data protection law. Landbell's current data protection information is available on the website at <https://landbell-group.com/wp-content/uploads/2020/01/Customers-Privacy-Notice-website.pdf>.

## **Annex 1**

### **Landbell POA**

With the signed power of attorney for the booked Services we immediately will start the registration if all contractual obligations are fulfilled. Please be aware that we contract with external Contracting Party responsibility organizations and as soon as those contracts are signed on your behalf, changes and cancellations are only possible according to their contracts.

## Annex 2

### EPR Proxy

Landbell AG für Rückhol-Systeme (“Landbell”), a company established under the Laws of Germany, whose registered address is Rheinstraße 4L, 55116 Mainz, and which is registered in the commercial register at the Mainz local court under the number HRB 6567

#### a **POWER OF ATTORNEY** (hereinafter referred to as “EPR PROXY”)

By this EPR PROXY Landbell is authorized to comprehensively represent the Contracting Party in the fulfillment of all obligations imposed on the Contracting Party within the scope of its Extended Product Responsibility pursuant to all national laws, in particular without being limited thereto those national laws implementing the European Battery Directive 2006/66/EU, and/or Packaging Directive 94/62/EC amended by the Directive (EU) 2018/852 and/or WEEE Directive 2012/19/EU or their equivalent in non-EU countries (hereinafter referred to as “EPR Law”).

#### **1. SCOPE OF THE EPR PROXY**

The EPR POXY entitles Landbell in particular, without being limited to:

- a) Enter into, terminate and/or modify agreements with (i) compliance scheme organizations (ii) authorized representative agreements and/or (iii) any other service providers agreements in each case concerning the Contracting Party’s compliance with EPR LAW;
- b) Register the Contracting Party with the Compliance Scheme organizations, registries of the national authorities or other relevant authorities involved in compliance with the national regulations.
- c) Appoint an or act as Contracting Party’s authorized representative.

- d) Report all Contracting Party's data requested by compliance scheme organizations, registries of national authorities or other authorities involved in compliance with EPR Law.
- e) Make any statement, application communication with any involved third party relating to the EPR Law or receive any such statement, application or communication from any third party with relation to the Contracting Party's compliance with EPR Law:
- f) Be billed instead of the Contracting Party, which may include when required ordering compliance services in Landbells own name but on behalf of the Contracting Party (service commission in the sense of Article 28 MwStSystRL (COUNCIL DIRECTIVE 2006/112/EG dated November 28, 2006 on the common system of value added tax)), receive and pay invoices, issued by third parties related to Contracting Party's compliance with the national regulations, provided that the Contracting Party meets the requirements described in the Provider Service Agreement concluded by the Parties.

## **2. DURATION OF THE EPR PROXY**

The EPR PROXY enters into force on the date its signature. This EPR PROXY shall be valid until Landbell has fulfilled its obligations under the Provider Service Agreement concluded by the Parties.

## **3. APPLICABLE LAW, EXEMPTIONS OF SEC. 181 GERMAN CIVIL CODE, SUB-POWER**

- 3.1 This EPR PROXY is governed by the laws of the Federal Republic of Germany. The sole place of jurisdiction for all disputes arising from this EPR PROXY shall be Mainz, Germany.
- 3.2 Landbell is exempted from the restrictions imposed by sec. 181 German Civil Code (BGB).
- 3.3 Landbell is authorized to grand sub-power of attorney of this EPR PROXY, also under exemption from the restrictions imposed by sec. 181 German Civil Co