

Membership terms and conditions



UK Batteries and Accumulators Compliance Scheme Membership

By completing the Comply Direct online batteries membership form the Member, as detailed herein, is accepting and will be bound by these terms and conditions. The terms and conditions may be updated.

It is within Comply Direct and CCR REBAT's sole discretion to accept or deny a producer as a Member, confirmation of acceptance is upon the sending of an invoice for participation in the CCR REBAT UK Scheme to a potential Member by CCR REBAT.

General

CCR REBAT provides to those placing batteries and accumulators on the UK market in terms of the Government Guidance Notes, hereinafter referred to as ("Member") a Battery Compliance Scheme as per the UK Statutory Instruments "The Waste Batteries and Accumulators Regulations 2009" of 05 May 2009 (2009 No. 890) which implement the waste battery provisions of the EU Directive on batteries and Accumulators and Waste Batteries and Accumulators 2006/66/EC.

The Battery Scheme will be operated by CCR REBAT (with Comply Direct acting as a marketing partner) and will register Member(s) with the authorities as a producer and report information while the Member retains the responsibility for financing and organizing the recovery and recycling obligations per each applicable compliance period as defined by the Batteries and Accumulators Regulations.

1. Purpose

1.1 CCR REBAT shall provide the UK Batteries Scheme services as indicated as in scope in Section 3 below ("Services") to Member in accordance with these terms. Member is entitled to receive those Services and all Services are provided only in consideration for the associated charges paid by Member in accordance with section 6 ("Charges").

2. Cooperation of the Member

- 2.1 Member is obligated for the due and proper execution of any and all obligations as mentioned in section 5 below.
- 2.2 Member acknowledges that the timely provision of assistance, cooperation, complete and accurate information and data are essential to performance of any Services and that CCR REBAT's ability to complete any Services is dependent upon same.
- 2.3 Member warrants that it has disclosed to CCR REBAT all information, documentations and other materials relating to the Services that can be considered relevant to CCR REBAT's performance and that information, documentation and materials are complete and accurate in all material respects. Member warrants that it shall fully and unconditionally cooperate, in a timely manner, with any requests from CCR REBAT regarding CCR REBAT's (internal) control and compliance programs.
- 2.4 At all times during the term of the membership, Member shall maintain full, true and accurate accounts and records with regards to its activities under the membership. Upon request of CCR REBAT, Member shall provide to CCR REBAT or a third party appointed by CCR REBAT such copies of documentation relevant to the Services as requested by CCR REBAT or a third party appointed by CCR REBAT in order to audit the documentation and verify compliance by Member with their obligations as set out herein.

3. Scope of the Services

- 3.1 CCR REBAT will for each compliance period (1) audit Members' processes to validate compliance with the UK Batteries and Accumulators Regulations, (2) register Member as with the UK authorities as a Member of the CCR REBAT Producer Compliance Scheme then in the course of a compliance period (3) interface with recycling partner to facilitate reporting and (4) submit accurate annual and quarterly reporting to UK authorities.

4. CCR REBAT's Obligations

- 4.1 CCR REBAT will provide an audit and assessment of producer profile:
- Determination of registration fee
 - Managing the take-back and recycling process including collection, exportation, treatment, recovery and environmentally sound disposal
 - Determination of reasonable reuse and collection targets
- 4.2 CCR REBAT will complete the Members producer registration with the appropriate authority.
- 4.3 CCR REBAT shall interface with the scheme Members' recycling partner to gather and consolidate relevant batteries data:
- Batteries collected
 - Supporting evidence notes
- 4.4 CCR REBAT shall submit accurate annual and quarterly reporting to appropriate authority:
- Batteries and Accumulators placed on the market
 - Batteries and Accumulators collected
 - Declaration of Compliance
- 4.5 CCR REBAT shall complete assessment of recycling objectives against targets for each compliance period.
- 4.6 CCR Rebat undertakes to assume the Members take back responsibilities as a distributor and ensure that the Member is provided with the correct information to pass on to its customers.

5. Members' Obligations

- 5.1 Applicants for membership must complete the appropriate membership form that can be found at www.complydirect.com. The form requires the producer to confirm they have read and agree to abide by the terms and conditions of membership.
- 5.2 When a producer submits an application to join CCR REBAT on www2.ccruk.co.uk, a document containing the producer's membership details is generated in pdf format. The producer must print this off, sign it and return it to CCR REBAT together with the supporting documentation requested.
- 5.3 Membership of CCR REBAT is open to producers of batteries and accumulators in terms of the "The Waste Batteries and Accumulators Regulations 2009" of 05 May 2009 (2009 No. 890).
- 5.4 Admission of new Members to CCR REBAT shall be at the discretion of CCR UK Ltd..
- 5.5 Member is responsible for financing the costs of the collection, treatment, recovery and environmentally sound disposal arising during a compliance period from Batteries and Accumulators.
- 5.6 A producer will be entitled to the benefits of membership and shall be bound by these Rules on receipt of notification by CCR UK Ltd. that the Member's application has been accepted. CCR UK Ltd. will then issue an invoice for the relevant membership fees as published by CCR UK Ltd. from time to time.
- 5.7 Member will be responsible for providing accurate and complete data to CCR REBAT necessary to register that producer; Each Member shall provide to CCR REBAT:
- a) The name and address of the registered office or, if the Member is not a body registered in the UK, the principal place of business
 - b) The Member's business name, if different from any name mentioned in (a) above
 - c) Where a Member is a partnership, the names of the partners
 - d) Total amount of Batteries and Accumulators placed on the market previous compliance period per chemistry (nickel cadmium, lead, others) and category (automotive, industrial or portables)

- e) Data shall be provided electronically no later than the dates specified below:
1. 1-15 April for Compliance Quarter 1 (Jan – March)
 2. 1-15 July for Compliance Quarter 2 (April – June).
 3. 1-15 October for Compliance Quarter 3 (July – September)
 4. 1-15 January (subsequent year) for Compliance Quarter 4 (October – December)
- 5.8 Previously registered Members shall provide their Batteries and Accumulators producer registration number.
- 5.9 Each Member shall ensure that all information provided to meet the requirements as accurate as reasonably possible and is in writing signed by:
- a) A director, company secretary or general manager if the Member is a body registered in the UK;
 - b) A partner if the Member is a partnership;
 - c) The individual who has control or management of the body if the Member is not a body registered in the UK;
 - d) If the Member is an individual, that individual.
- 5.10 Member must inform CCR REBAT within 28 days of change in the information originally supplied concerning their registration data as submitted to CCR REBAT to join the Scheme, or any other material change of information provided to CCR REBAT in the course of membership.
- 5.11 Member to allow CCR REBAT to periodically audit data provided regarding their Batteries and Accumulators compliance at the sole discretion of CCR REBAT.

6. Fees

- 6.1 Annual Membership Fee and Environment Agency Monitoring Fee. Member will pay the annual membership fee and Environment Agency monitoring fee to Comply Direct Ltd upon receipt of invoice.
- The Annual Membership Fee of £600 for a Member is required to be registered and who had a total amount of at least 1 tonne of batteries or accumulators put on the market in the last financial year.
 - The Environment Agency Monitoring Fee of £680 for each Member reflects the costs of monitoring producers with respect to data and compliance visits by the Environment Agency.
- Comply Direct will pass the Environment Agency Fee and Membership Fee to CCR REBAT who will pass the Environment Agency Monitoring fee to the appropriate authority.
- 6.2 Collection and Recycling Fees. Collection and Recycling agreements will exist directly between the Member and CCR REBAT.
- The collection and recycling fee is a yearly capped rate to offset against the Member's obligation. CCR REBAT is solely responsible to meet the return rate targets provided by the Battery and Accumulator Regulations latest version. In the unlikely case of over-collection CCR REBAT will not debit any extra charges to the Member. In the unlikely case that CCR REBAT will not achieve the return rate as a Battery Compliance Scheme, CCR REBAT will issue a credit note with respect to the missing volumes.
- 6.2.1 CCR undertakes to ensure the compliance scheme and recycling processes are administered and run in a cost efficient manner thus ensuring costs to the Member are minimized.

7. Invoicing, Payment, and Taxes

- 7.1 Comply Direct will invoice the annual membership fee and Environment Agency monitoring fee for the first time upon submission of the membership form.
- 7.2 Collection and Recycling fees will be based on the data from 7.7 (d) which will be calculated as follows:
- E.g. Total amount in 2009 were 80 tonnes.
Return rate in 2010: 10% = 8 tonnes
8 tonnes divided by 4 quarters equates to 2 tonnes per quarter
2 tonnes multiplied by the agreed price is equal to the price to be paid per quarter.
- Collection and Recycling fees that are due per compliance quarter will be invoiced thirty (30) days in advance before the start of the respective compliance quarter.
- 7.3 All sums quoted or charged are exclusive of VAT. The Member shall be responsible for paying VAT.

8. Term and Termination

- 8.1 The membership shall commence on its Effective Date and shall remain in effect for a period of at least one [1] compliance period and shall be renewed automatically unless terminated upon written notice at least one hundred and eighty (180) days before the date of renewal or terminated in accordance with section 8.
- 8.2 A party may suspend or terminate the membership if the other party is in material breach of any term herein and has not cured the breach within thirty (30) days of written notice specifying the breach, notwithstanding that party's other rights under applicable law.
- 8.3 If Member fails to provide reporting by the published Scheme deadlines, CCR REBAT is entitled to terminate the membership for breach.
- 8.4 In the event the Member fails to make payment on any due date, CCR REBAT shall have the right to terminate the membership with ten (10) day's prior written notice to Member. Under such circumstance, no cure period shall exist and Member shall pay CCR REBAT for all Services rendered and expenses incurred by CCR REBAT prior to the date of termination. In addition, Member shall also pay CCR REBAT for all out of pocket expenses and costs of early termination.
- 8.5 A party may terminate the membership if the other party enters into any form of insolvency administration.
- 8.6 Termination of shall not limit either party from pursuing any other remedies available to it, including injunctive relief, nor shall termination relieve Member of its obligation to pay all charges that accrued prior to such termination. All clauses and exhibits that by their nature should survive termination, shall survive termination or expiry of the membership.
- 8.7 Termination of the membership according to section 8, during a compliance period shall take effect at the end of the respective compliance period or sooner as permitted by the Batteries and Accumulators Regulations latest version.

9. Force Majeure

- 9.1 Neither Party shall be deemed to be in breach of the terms herein by reason of any delay in performing or failure to perform any of its obligations as set out herein to the extent that such delay or failure is due to any cause beyond its reasonable control, including but not limited to acts of god, explosions, flood, fire, accident, withdrawal of any approval by the concerning authorities, war, terrorism, sabotage, civil disturbance, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority, industrial action or trade disputes and disturbances in computer system or the internet.

10. Warranty and Disclaimers

- 10.1 CCR REBAT warrants that the Services will be performed with reasonable care and skill. The Member must report any deficiencies in the Services to CCR REBAT in writing within 15 (fifteen) days of performance of the Services.
- 10.2 The warranty herein is CCR REBAT's sole warranty and is in lieu of all other warranties, whether express or implied statutory or otherwise.
- 10.3 For any breach of the above warranty, Member's exclusive remedy, and CCR REBAT's entire liability, shall be the re-performance of the Services. If CCR REBAT is unable to re-perform the Services as warranted, Member shall be entitled to recover the fees paid to CCR REBAT for the respective deficient Services except fees paid to the authorities.

11. Limitation of Liability

- 11.1 In no event shall CCR REBAT or Comply Direct be liable for any indirect, incidental, special, consequential, reliance, or cover damages, or damages for loss of profits, revenue, data, or use, incurred by the Member or any third party, whether in action in contract or tort, even if the Member or any other person has been advised of the possibility of such damages.
- 11.2 The parties are absolutely only liable for intentional and gross negligence, with this also applying to their legal representatives and managers. The parties shall only be liable for slight negligence if a duty, the compliance with which is of special significance in achieving the purpose of the agreement, is violated. The liability is limited to a maximum of GBP 100,000 per claim and no more than GBP 400,000 per calendar year, with this also applying to violation of a cardinal duty. The foregoing provisions also apply in favour of CCR's employees. The foregoing limitations of liability do not apply if the law stipulates mandatory higher liability.
- 11.3 All warranties express or implied which are inconsistent with this Section 11 are hereby expressly excluded.
- 11.4 Whilst all necessary steps will be taken as soon as is reasonably practicable to maintain the continuity of the Service, CCR REBAT accepts no liability for permanent suspension or interruption occurring in the Service, however so caused.
- 11.5 Member shall indemnify CCR REBAT against all cost, claims, demands or expenses incurred by or made against CCR REBAT as a result of any breach by Member of these terms and conditions.

- 11.6 The provisions of this Section allocate the risks between CCR REBAT and the Member. CCR REBAT's pricing reflects this allocation of risk and the limitation of liability specified herein.
- 11.7 CCR shall indemnify The Member against failure on the part of CCR to fulfil its obligations as a responsible battery compliance scheme.

12. General

12.1 **Non-disclosure**

The Parties may provide to one another information that is confidential ("Confidential Information"). Confidential Information shall be limited to the terms and pricing under these terms and conditions, the contract property, and all information clearly identified as confidential or which, under the circumstances surrounding its disclosure or acquisition, ought to be treated as confidential. Confidential Information shall not include information which: (a) is or becomes a part of the public domain through no act or omission of the other party; (b) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (c) is lawfully disclosed to the other party by a third party without restriction on disclosure; (d) is independently developed by the other party; or (e) is disclosed by operation of law. Each party also agrees that it will safeguard the other party's Confidential Information using at least the same degree of care, but not less than reasonable care, that it uses to safeguard its own Confidential Information of like nature. The parties agree to hold each other's Confidential Information in confidence while the Professional Services are being performed and for a period of three (3) years thereafter.

12.2 **Relationship between the Parties**

The parties acknowledge that they are entering into the membership as independent parties; nothing herein shall be construed to create a partnership, joint venture, or agency relationship between the Parties. Unless as expressly stated otherwise, neither party shall represent the other party for any purpose.

12.3 **Governing Law and Jurisdiction & Arbitration**

These terms and conditions, and all matters arising out of or relating hereto, shall be governed by the laws of The United Kingdom without the rules with conflict to law and all disputes arising out of or in connection herewith will be exclusively be submitted to and will be finally settled by the England's court located in the district London even if there is an urgent interest.

Arbitration Procedure

Any dispute arising out of or in connection with these Membership Scheme Rules, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration, within 21 days of the dispute arising, under the London Court of International Arbitration rules.

- The number of arbitrators shall be one.
- The seat, or legal place, of arbitration shall be London.
- The language to be used in the arbitral proceedings shall be English.
- The governing law of the Terms shall be the substantive law of England and Wales.

12.4 **Notice** Notices to be given in connection with these terms and conditions and which relate to termination or allegation of a breach must be sent by receipt mail to the address of the recipient. All other notices must be in writing and may be sent by mail or e-mail.

12.5 **Severability** In the event any provision as set out herein is held to be invalid or unenforceable; the remaining provisions of these terms and conditions will remain in full force.

12.6 **Waiver** The waiver by either party of any default or breach of these terms and conditions shall not constitute a waiver of any other or subsequent default or breach. Except for actions for non-payment, no action, regardless of form, arising out of these terms and conditions may be brought by either party more than one (1) year after the cause of action has or occurred.

12.7 **Entire Agreement** These terms and conditions, constitutes the complete agreement between the parties and, supersedes all previous and contemporaneous agreements, proposals, or representations, written or oral, concerning the subject matter hereof. These terms and conditions may not be modified or amended except in a writing signed by a duly authorized representative of each party; no other act, document, usage, or custom shall be deemed to amend or modify this Agreement. It is expressly agreed that any terms and conditions of the Member shall be superseded by these terms and conditions.

12.8 **Subcontractors** CCR REBAT may, in its absolute discretion, use third party contractors to perform any of its obligations under these terms and conditions.