



## AFIS CYPRUS LTD MEMBERSHIP AGREEMENT

The present Agreement is compiled today, \_\_\_\_\_, in \_\_\_\_\_  
between:

1. AFIS CYPRUS LTD a not-for-profit company incorporated at the initiative of the Cyprus Chamber of Commerce and Industry under Cyprus law, with registered offices at 229 Tseriou Av., 2047, Strovolos, Nicosia, under registration number 196415, whereby said company is referred to hereafter as «**AFIS**»,

and:

- 2 \_\_\_\_\_ .  
\_\_\_\_\_, a company  
Incorporated under the laws of \_\_\_\_\_  
\_\_\_\_\_, with registered offices at  
\_\_\_\_\_

under registration number \_\_\_\_\_ hereafter called the  
«Producer».

*WHEREAS:*

The European Parliament and Council Directives 91/157/EC, 2006/66/EC (hereafter called the Directive) for the Waste Batteries and Accumulators have been transposed into Cyprus Legislation by means of Regulation 125/2009, for the management of Batteries and Accumulators and waste Batteries and Accumulators (hereafter called the Regulation) which provides:

I. By virtue of the Regulation and the Directive, Producers of Household Type Batteries and Accumulators (H.B.&A.) are obliged to finance the collection of H.B.&A., collect them separately from the equivalent Batteries and Accumulators of industrial type and of vehicles, to finance their treatment and recycling at specific percentages provided for in the Directive, to finance the campaigns for public information for their collection and treatment, to accept returned used H.B.&A. from the consumers at the points of sale free of charge, to organize the transport of H.B.&A. from the collection sites to authorized treatment facilities, and ensure their reuse or environmentally sound treatment and recycling. To give maximum effect to the concept of «Producer Responsibility» each Producer is responsible for financing the management of the H.B.&A. from his own brand(s). The affected enterprises may be relieved from these obligations either by setting up an authorized individual compliance system, or by joining a collective collection and recovery system for all the  
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H.B.&A. they place in the market and thus transfer their legal obligations under the Regulation and the EU Directives to this system (participation in a collective compliance system). By participating in an accredited collective compliance system, the H.B.&A. Producer is relieved from any other responsibility for the treatment of its H.B.&A. and the respective responsibility is transferred to the collective system it participates in. Despite the fact that the Producers participation in a collective compliance system relieves them from their legal obligations, they still may undergo certain checks from the relevant authorities in order to ascertain that they abide by System rules and the Law.

II. Taking into consideration the recommendations of the Waste Management Advisory Committee, the Minister of Agriculture, Natural Resources and the Environment, approved AFIS as a Collective Management System for household type batteries and accumulators (hereafter called «the System»), in accordance with the Law. The Accreditation of AFIS is valid from 3<sup>rd</sup> September 2018 to 31<sup>st</sup> August 2024, and can be renewed for successive six year periods following a relevant application submitted six months prior to the expiration of the accreditation.

III. AFIS is a not-for-profit organization, whose activities are not intended to yield a profit, as provided by the Law.

IV. AFIS accreditation is for the management of dry household type batteries and accumulators up to 2 kilos of weight. Any other type of battery or accumulator with greater weight or of liquid type is considered by AFIS as either industrial or vehicle battery and is not covered by the System.

V. In view of the above, the Producer wishes, in order to fulfill its obligations pertaining from the Regulation for H.B.&A., to participate in the AFIS Collective System based on the terms and conditions described in this Agreement.

VI.

**In view of the foregoing, it has been agreed as follows: Article 1 Definitions**

1.1. «Agreement»

means the present document, as signed, along with any modifications and additional elements that may later be agreed.

1.2. «Regulation for the Waste Batteries and Accumulators»

K.D.P.125/2009, the Solid and Hazardous Waste Regulations (Waste Batteries and Accumulators) of 2009, based on the Article 7 of the Solid and Hazardous Waste Law of 2002 and any other relevant laws and regulations enacted or to be enacted.

1.3. «Battery» or «Accumulator»

means any source of electrical energy generated by direct conversion of chemical energy and consisting of one or more primary battery cells (non-rechargeable) or, consisting of one or more secondary battery cells



(rechargeable).

1.4. «Battery pack»:

means any set of batteries or accumulators that are connected together and/or encapsulated within an outer casing so as to form a complete unit, which the end user is not intended to split up or open.

1.5. «Portable Battery or Accumulator» means any battery, button cell, battery pack or accumulator that:

- a) is sealed, and
- b) can be hand-carried, and
- c) is neither an industrial battery or accumulator nor a vehicle battery or accumulator.

1.6. «Button cell» means any small round portable battery or accumulator whose diameter is greater than its height and which is used for special purposes such as hearing aids, watches, small portable equipment and back-up power.

1.7. «Waste battery or accumulator» means any battery or accumulator which is waste within the meaning of Article 1, paragraph 1(a) of Directive 2006/12/EC.

1.8. «Recycling» means the reprocessing in a production process of waste materials for their original purpose or for other purposes, but excluding energy recovery.

1.9. «Disposal» means any of the applicable operations provided for in Annex IIA of Directive 2006/12/EC.

1.10. «Treatment» means any activity carried out on waste batteries and accumulators after they have been handed over to a facility for sorting, preparation for recycling or preparation for disposal.

1.11. «Appliance» means any electrical or electronic equipment, as defined by Directive 2002/96/EC, which is fully or partly powered by batteries or accumulators or is capable of being so.

1.12. «Producer» means any person in a Member State that, irrespective of the selling technique used, including distance communication as defined in Directive 97/7/ EC of the European Parliament and of the Council of 20<sup>th</sup> March 1997 on the protection of consumers in respect of distance contracts <sup>(1)</sup>, places batteries or accumulators, including those incorporated into appliances or vehicles, on the market for the first time within the territory of that Member State on a professional basis.

1.13. «Distributor» means any person that provides batteries and accumulators on a professional basis to an end-user;

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1.14. «Placing on the market» means supplying or making available, whether in return for payment or free of charge, to a third party within the Community and includes import into the customs territory of the Community;

1.15. «Economic operators» means any producer, distributor, collector, recycler or other treatment operator;

1.16. «Cordless power tool» means any hand held appliance powered by a battery or accumulator and intended for maintenance, construction or gardening activities.

1.17. «Collective H.B.&A. Management System» means the organisation on a collective basis of the processes for the collection, transportation, temporary storage and treatment of H.B.&A..

1.18. «Participation in a Collective Compliance System» means the transfer of obligations of producers of H.B.&A. under the Regulation to an accredited collection, recovery and management system by way of contract, thereby passing on these obligations to the operator of the system.

## **Article 2 Purpose of the Agreement**

The purpose of the Agreement is the participation in the collective system organised by AFIS and the fulfilment by the H.B.&A. Producer of his obligations provided by the Regulation and the EU Directives. Therefore, the Agreement describes:

- a) the conditions for participating in the System set-up by AFIS
- b) the terms concerning the use of the AFIS mark

## **Article 3 Territory**

This Agreement has effect and applies only in the Cypriot territory - area controlled by the Republic of Cyprus (hereafter called «the Territory»). This means that the responsibility undertaken by AFIS on behalf of the Producer of H.B.&A. up to 2 kilos of weight is strictly limited to the products placed by the Producer in the local market (the Territory).

## **Article 4 Declaration of Household Type Batteries and Accumulators**

4.1 For the purpose of enabling AFIS to fulfil its obligations deriving from this Agreement and the Regulation, the H.B.&A. Producer shall provide AFIS, no later than 10 days after the completion of each quarter with a Quarterly Declaration of the actual amount of H.B.&A. placed by the Producer in the market during the previous quarter («the Quarterly Declaration»).



Therefore, the four Quarterly Declarations should be submitted as follows:

	<b>Period</b>	<b>Date of Submission</b>
1	January – March	10 April
2	April – June	10 July
3	July – September	10 October
4	October – December	10 January

4.2 Smaller H.B.&A. Producers (as these are defined by the System) are exempted and will only submit a Yearly Declaration of the actual amount of H. B.&A. placed in the market the previous year. This Declaration shall have the same form as Annex 1 and must be submitted to the System until the 31<sup>st</sup> January of each year for the previous year.

4.3 The format of the Declaration has been decided by AFIS and is accepted by the Producer. This format is included in Annex 1 of the present Agreement. AFIS has the right to change the format of the Declaration, and shall inform the Producer of any changes at least two months prior to the end of each year. It is understood that, any Declaration format or any changes in the above-mentioned Declaration should be effected according to the Regulations. The data required to fill in the Declaration will be limited to those that AFIS considers essential to conform with the Law and the relative Regulations.

4.4 AFIS undertakes to maintain complete confidentiality of the data transmitted to it, either directly by the Producer, or of which AFIS might acquire knowledge in the implementation of the Agreement. This confidentiality clause implies that no financial or commercial or other information will be communicated to other members, to shareholders or any other third party. This obligation for confidentiality will not prevent or prejudice the obligations that AFIS may have vis-a-vis the public or other government authorities or any other person invested with a special power by virtue of any act of legislative provision whatsoever to provide them with certain information.

4.5 Every Declaration submitted shall be certified as correct by the legal representative of the Producer. AFIS reserves the right to request the Declaration to be certified by the certified external auditors of the Producer. This certification shall be done at the expense of the Producer.

4.6 AFIS is entitled to undertake any audits (after formal notification to the Producer), whenever necessary, to ensure that the Declaration of the Battery data submitted is correct. AFIS reserves the right to undertake these audits either with its own staff or to employ certified external auditors bound by professional confidentiality to undertake the audits. AFIS shall cover the cost of

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these audits, unless the audit results show that the Producer's Declaration was wrong and contributions calculated were less than the actual, in which case the cost of the audit shall be covered by the Producer.

## **Article 5 Registration Fees**

5.1 A Producer enrolling as a Member, upon the signing of the present agreement, shall pay as a registration fee the amount of €400 *plus* V.A.T.. This fee is intended for the distribution of the initial set-up costs of the organization between all the Members and to cover the Member initial registration cost. The registration fees are non-refundable.

5.2 A Producer who is already a Shareholder of AFIS and has already contributed €1.710 as share capital shall pay AFIS, upon the signing of this Agreement, the amount of €1.

## **Article 6 Funding Contributions**

6.1 In order to enable AFIS to fulfil its obligations according to the Regulation, the Producer shall pay to AFIS annual contributions for financing the System. The contributions apply and shall be paid to the System from the 1<sup>st</sup> of May 2009.

6.2 The annual contributions concern and will be due to the System for Household Type Batteries and Accumulators placed in the market within the Territory by the Producer during the year as provided by the Producer on the Declaration to be submitted to the System according to Article 4 of this Agreement.

6.3 Payment of contributions to the System shall be made via bank transfer or bankers' cheque or, any other payment method approved by AFIS. All invoices are payable thirty (30) days from their receipt. Any dispute concerning invoices should be submitted by registered mail within 10 calendar days from the invoice date in order to be valid.

6.4 The contributions of the Producer are calculated based on the quantities of the H.B.&A. placed within the Territory and according to the Contribution Catalogue included in Annex 2 of the Agreement. In order to carry out its assignment, AFIS shall be able within the limits allowed by the Law and by duly reasoned resolution of its Board of Directors to revise the Contribution Catalogue and to fix the date on which such revision shall come into effect.

6.5 If the Producer does not submit its Declaration in due time, it shall be responsible for the delay and shall pay agreed compensation with an amount equivalent to 1% of the annual contribution per month of delay, with a minimum of fifty (€50) Euro per month and a maximum of three thousand five hundred Euro (€3,500) per month. In the event that AFIS, after a period of six



months, calculated in accordance with articles 4.01 and 4.02 respectively has not yet received the Declaration, AFIS will be legally entitled to dissolve the Agreement in accordance with article 11 of the Agreement.

6.6 In the event that AFIS, by any means available to it under the Law and in particular by means of the audits referred to in article 4.06, ascertains that false statement is contained in the Declaration of the Producer, the Producer shall be obliged to pay to AFIS, on the one hand, the contributions not paid plus interest on the sums due and not paid, calculated at the running legal lending interest rate of the European Central Bank plus 5%. In the event of a second breach, AFIS shall automatically be entitled to consider the Agreement terminated.

### **Article 7 Use of the AFIS Mark**

7.1 With the present Agreement and for all its duration, AFIS grants and the Producer accepts according to the terms and conditions of the Agreement, a non-exclusive right of use of the Mark as described in Annex 3 of the Agreement. The Producer has the right to use the Mark as a proof of participation to the System either placed directly on H.B.&A. or their packing, or on price tags at the point of sale, or as an exhibit in a prominent position in its shops.

7.2. The non-exclusive right of use of the Mark granted by AFIS to the Producer means that AFIS reserves the right to grant an equivalent right of use to all Producers participating in the System, without restrictions, through the individual Agreements signed with them.

7.3 The Producer shall not assert any rights over the Mark other than those expressly extended to it. The Producer acknowledges that by the Right of Use, it will not acquire any right of ownership or other right on the Mark, neither will it have in any way the authorization to provide any sublicense for the use of the Mark, or to transfer the rights of such use to a third party, including any third party belonging to the same group of companies.

### **Article 8 Accreditation of the Collective Management System of Household Type Batteries and Accumulators**

8.1AFIS undertakes to abide by the obligations laid down in the Law and the Regulations, to obtain and retain the necessary System Accreditation from the relevant Authorities, to fulfil any obligations enforced by the relevant authorities through the Accreditation and thereby, under the conditions laid down in the Law and the Regulations, to release the Producer from its obligations regarding the management of Household Type Batteries and Accumulators.

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## **Article 9 Duration**

The Agreement is in effect from the 1<sup>st</sup> of May 2009 for those signing within 2009 and from there on the 1<sup>st</sup> of January of the calendar year in which it is signed. The Agreement will remain in force until the date of expiration of the Accreditation of the System by the relevant Authorities (31<sup>st</sup> August 2024) and will be renewed automatically up until the next date of expiration of the Accreditation of the System. In case, and despite the fact that the System has applied in due time for the renewal of its Accreditation, the official decision on the renewal of this Accreditation is delayed beyond the date of expiration of the Accreditation, then the present Agreement is automatically extended and remains in force until the issuance of the official decision.

## **Article 10 Termination**

10.1 The Agreement shall terminate ipso jure, without any judicial intervention, in the event that the Accreditation of AFIS should be definitively withdrawn by the relevant Authorities. In no event shall AFIS be liable for any damages or compensation, unless found guilty of some deliberate act or serious negligence.

10.2 The Agreement shall terminate ipso jure at the Producers' demand if, thirty days after sending AFIS a request to cease breach of any of its obligations, said breach has not effectively ceased or no adequate explanation has been provided to the Producer.

10.3 Except in the case of premature termination, the Agreement may be legally terminated at AFIS' demand, without legal formalities or judicial intervention:

- o in the event that the Producer fails to effect payment of any sum due, fifteen working days after notice has been served by registered post for this purpose;
- o in the event of any serious fault on the part of the Producer committed in relation to the obligations incumbent upon it under the Agreement and which has not been remedied within ten working days of notice of default served by AFIS or no sufficient explanation has been given to the satisfaction of AFIS.

10.4 Any early termination, shall take effect ipso jure and without any judicial intervention, even under summarized proceedings, by mere notification sent by registered letter by the party wishing to assert its prerogative.

10.5 In the event of termination of the Agreement for whatever reason, neither of the parties shall be bound to the other in terms of damages, indemnities for termination or any other sums laid down by Law or otherwise, with the exception of that which may be due and payable in accordance with the terms of this Agreement. It is understood that all outstanding invoices at the time of termination of the Agreement are due in full. Any amount paid as an advance relating to the period after the termination, is deemed as a partial indemnity to AFIS.





## **Article 11 General Provisions**

### **11.1 Notices and domicile**

Any notice that may be required to be made by one party to the other within the context of the Agreement, unless otherwise expressly provided for, shall be duly and properly served when sent by registered letter with acknowledgement of receipt posted to the other party. The Producer is considered for the purpose of serving notices, to be domiciled at the address stated on the first page of this Agreement and to remain there throughout its duration, as long as AFIS has not been notified in writing of the existence of a new domicile.

### **11.2 Non-transferability**

The Producer shall in no event assign the Agreement to a third party without the prior written consent of AFIS.

### **11.3 Applicable Law**

This Agreement is governed by Cyprus Law. The responsible authorities for the settlement of any disputes possibly arising from the present agreement are the Courts of the Republic of Cyprus.

### **11.4 Liability**

In no event shall AFIS be liable for damages or interest, unless found guilty of some deliberate act or serious negligence.

### **11.5 Modifications and amendments**

Any modifications and amendments to the Agreement must be drawn up in writing and signed by representatives duly authorized by the parties.

### **11.6 All the provisions of this Agreement are essential.**

### **11.7 Prior agreements**

This Agreement overrides and supersedes, with effect at the time when it comes into force, any oral or written agreements previously entered into by the parties and concerning the same subject-matter.

### **11.8 Annexes**

The Annexes hereto form an integral part of the Agreement.

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The current document is signed in two originals, whereby each party acknowledges having received the original destined for it.

In \_\_\_\_\_

Date \_\_\_\_\_

Witnesses:

Parties to the Contract:

1. \_\_\_\_\_

1. \_\_\_\_\_

In full \_\_\_\_\_

AFIS CYPRUS LTD

2. \_\_\_\_\_

2. \_\_\_\_\_

In full \_\_\_\_\_

\_\_\_\_\_



## ANNEX 1

### DECLARATION OF HOUSEHOLD TYPE BATTERIES & ACCUMULATORS

<b>NON RECHARGEABLE</b>				
Weight Category	Contribution per piece €	Pieces	Total contribution €	Ordinary types
Up to 5 grams	0.02	0	0.00	Button cells
6 up to 30 grams	0.04	0	0.00	AA/(L)R06, AAA/(L)R03, etc
31 up to 150 grams	0.08	0	0.00	C/(L)R14, D/(L)R20, 4.5V/3(L)R12, 9V6(L)R61 F22 etc
From 151 up to 2000 grams	0.40	0	0.00	All non rechargeable between 150 and 2000 grams
		<b>0</b>	<b>0.00</b>	
<b>RECHARGEABLE</b>				
Weight Category	Contribution per piece €	Pieces	Total contribution €	Ordinary types
Up to 150 grams	0.10	0	0.00	AA/NC06, AAA/NC03, C/NC14, D/NC20,9V/NC22 etc
From 151 up to 2000 grams	0.40	0	0.00	All rechargeable between 150 and 2000 grams
		<b>0</b>	<b>0.00</b>	
	VAT	15%	0.00	
	<b>TOTAL</b>	<b>0</b>	<b>0.00</b>	

**Note:**

Member companies will be divided in two Categories, A' and B', as these will be defined by AFIS. These two categories will have to complete the same Declaration. The only difference between the two categories will be the timetable for the completion of the Declaration. The companies belonging to category A' (large Producers) will complete their Declaration every Quarter (Quarter Declaration) whereas the companies belonging to category B' (smaller Producers) will complete their Declaration once a year (Annual Declaration).

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## ANNEX 2

### SYSTEM CATALOGUE FEES

#### NON RECHARGEABLE

Weight Category	Contribution piece €	perOrdinary types
Up to 5 grams	0.02	Buttoncells
6 up to 30 grams	0.04	AA/(L)R06, AAA/(L)R03, etc
31 up to 150 grams	0.08	C/(L)R14, D/(L)R20, 4.5V/3(L)R12, 9V6(L)R61 F22 etc
From 151 up to 2000 grams	0.40	All non rechargeable between 150 and 2000 grams

#### RECHARGEABLE

Weight Category	Contribution piece €	perOrdinary types
Up to 150 grams	0.10	AA/NC06, AAA/NC03, C/NC14, D/NC20,9V/NC22 etc
From 151 up to 2000 grams	0.40	All rechargeable between 150 and 2000 grams

Note:

V.A. T is not included in the above fees.



## **ANNEX 3**

### **USE OF THE MARK**

#### **Basic rules for the use of the AFIS Mark**

The Mark must be visible and clearly recognizable (as mentioned in 8.01)

The Mark may not be modified. It must be used in full. The Mark may not be completed with text or with other graphic elements without the explicit, prior and written permission of AFIS. This also applies for other additions or modifications.

#### **Presentation (various ways of use):**



#### **Colours: Colours:**

If the Producer chooses to use the Mark in colour, the green colours below should be used.

The Mark may also be used with just one colour on a white background, or on a colour background, as the two second or the two third Marks above.