

# Rules for members using B2BWEEE-Scheme's arrangements for WEEE collection, treatment and recovery

Version 5.01, 3rd August 2015

## 1. Interpretation

### 1.1 In these Rules, unless the context requires otherwise:

"AATF" (Approved Authorised Treatment Facility) has the meaning given in the Regulations;

"B2BWEEE-Scheme" means the scheme established by Sphera for the purposes of the Regulations and governed by these Rules;

"Compliance Period" has the meaning given in the Regulations;

"EEE" (Electrical and Electronic Equipment) has the meaning given in the Regulations;

"Sphera" means Sphera compliance limited, a company registered in England and Wales with number 9701701 whose registered office is at 73 Watling Street, London EC4M 9BJ;

"Member" means a member of B2BWEEE-Scheme;

"Regulations" means The Waste Electrical and Electronic Equipment Regulations 2006 (Statutory Instrument 2006 NO.3289), and any reference to a "Regulation" shall be construed accordingly;

"M.D.J. Light Bros" means M.D.J. Light Brothers (S.P.) Limited, a company registered in England and Wales with number 01028890 whose registered office is at 30-34 North Street, Hailsham, East Sussex, BN27 1DN; and

"WEEE" (Waste Electrical and Electronic Equipment) has the meaning given in the Regulations.

### 1.2 References in these Rules to the Regulations or any other legislation shall include references to such Regulations or legislation as amended, consolidated or supplemented from time to time.

## 2. Objectives

### 2.1 These Rules set out the terms for participation in Sphera's B2BWEEE-Scheme. Sphera reserves the right to vary these Rules at any time with immediate effect.

### 2.2 The objectives of B2BWEEE-Scheme are:

To register Members who are producers of non-household WEEE as required by Regulation 19 and including the information specified in Schedule 6 of the Regulations;

To facilitate arrangements under Regulations 9(2) and 23(2) for financing the collection, treatment, recovery and environmentally sound disposal of WEEE for which the Member is responsible under Regulation 9(1), as required by Regulation 23;

To facilitate arrangements with M.D.J. Light Bros for Members to prioritise the reuse of their whole products in accordance with Regulation 24;

To report the amount in tonnes of Members' WEEE delivered to M.D.J. Light Bros for treatment and the amount in units made available for reuse in accordance with Regulation 27;

To report the amount in tonnes of non-household EEE in each Category that each Member has put onto the market in the UK in each Compliance Period, in accordance with Regulation 28; and

To declare compliance to the Environment Agency following the end of each Compliance Period, as required by Regulation 29. The declaration of compliance shall include the information set out in Schedule 5 Part 2 and be accompanied by copies of evidence notes in respect of the relevant Compliance Period.

### 3. Admission of Members

- 3.1 Applicants for membership must complete an on-line application form on [www.b2bwEEE-scheme.com](http://www.b2bwEEE-scheme.com). This form requires the producer to confirm that they have read and agree to abide by all of the Member Rules of B2BWEEE-Scheme. A copy of these Member Rules is posted on [www.b2bwEEE-scheme.com](http://www.b2bwEEE-scheme.com).
- 3.2 When a producer submits an application to join B2BWEEE-Scheme on [www.b2bwEEE-scheme.com](http://www.b2bwEEE-scheme.com), 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 B2BWEEE-Scheme together with the supporting documentation requested.
- 3.3 Membership of B2BWEEE-Scheme is open to producers of non-household WEEE only. Membership of B2BWEEE-Scheme is not open to producers whose products comprise or contain cathode ray tubes, gas discharge lamps, cooling appliances containing refrigerants, spillable lead-acid batteries marked as hazardous, or mercury switches.
- 3.4 As part of the on-line application form, applicants must provide a brief justification that their products are non-household WEEE. Membership of B2BWEEE-Scheme is not open to producers whose products are 'dual use' (i.e. products designed to be used in both household and non-household applications)
- 3.5 Admission of new Members to B2BWEEE-Scheme shall be at the discretion of Sphera.
- 3.6 A producer will be entitled to the benefits of membership and shall be bound by these Rules on receipt of notification by Sphera that the Member's application has been accepted. Sphera will then issue an invoice for the relevant membership fees as published by Sphera from time to time.

### 4. Duration of Membership

- 4.1 Membership of B2BWEEE-Scheme is for whole Compliance Periods only. Except as provided in Rule 11 (Termination of Membership), Members can terminate their membership of B2BWEEE-Scheme only with effect from the end of a Compliance Period and must give at least 1 month's prior notice in writing.

## 5. Web-based System to Manage and Communicate WEEE Collection and Recycling

- 5.1 By participating in B2BWEEE-Scheme, each Member agrees to engage Sphera to supply internet content regarding the management and communication of WEEE collection and recycling arrangements to business end-users in the UK. That supply will be subject to Sphera's standard terms and conditions as in force from time to time. See [www.b2bweee.com](http://www.b2bweee.com) for details.
- 5.2 It is each Member's responsibility to ensure that such internet content is made available on the Member's website [at all times.]

## 6. Members' Arrangements with M.D.J. Light Bros

- 6.1 Each Member must enter into and maintain in force an agreement with M.D.J. Light Bros (the Sphera-specified AATF) to provide treatment and recovery services for the WEEE for which the Member is responsible under Regulation 9(1).
- 6.2 As part of its contract with M.D.J. Light Bros, the Member shall instruct M.D.J. Light Bros to report data to B2BWEEE-Scheme on the reuse, treatment and recovery of WEEE in each quarter of a relevant Compliance Period. The Member must require M.D.J. Light Bros to report this data to B2BWEEE-Scheme by the 15th day of the month following the end of each quarter.
- 6.3 As part of its contract with M.D.J. Light Bros, the Member shall instruct M.D.J. Light Bros to provide copies of evidence notes to B2BWEEE-Scheme covering the treatment and recovery of WEEE in each relevant Compliance Period. The Member must require M.D.J. Light Bros to provide copies of these evidence notes to B2BWEEE-Scheme by 1 April of the year immediately following the relevant Compliance Period.

## 7. Members' Responsibility for Collection and Recycling of WEEE

- 7.1 As provided for in Regulation 9 (2), the Member shall either:

include and enforce a clause in all of its sales terms and conditions which requires the end-user to arrange and pay for the costs of collection and transportation of WEEE to the recycler specified by the Member. The Member shall include the standard clause provided in Addendum 1 of these Rules, or shall include an equivalent clause which shall be subject to approval by Sphera, or

where such agreements are not or cannot be made, the Member undertakes to pay for the costs of collection and transportation to M.D.J. Light Bros of WEEE for which the Member is responsible under Regulation 9 (1).

- 7.2 As provided for in Regulation 23 (2), the Member shall provide arrangements to end-users of EEE that it has put on the market such that all costs for collection, treatment, recovery and environmentally sound disposal of WEEE for which the Member is responsible under Regulation 9 (1) are financed by the Member and / or end-users.
- 7.3 A Member who did not have the contractual arrangements specified in Rule 7.1(a) in place with end-users of its EEE prior to 13 August 2005 is responsible for financing all of the costs of collection, treatment and recycling of any new WEEE arising from EEE put on the market between 13 August 2005 and the date that the Member establishes contractual arrangements with end-users.
- 7.4 The Member shall indemnify and keep indemnified and hold harmless Sphera from and against all costs (including the cost of enforcement of these Rules), claims, liabilities and expenses which Sphera incurs or suffers as a result of a direct or indirect breach or negligent performance or failure in performance by the Member of its obligations under Rules 7.1, 7.2 or 7.3.
- 7.5 The Member shall keep records in writing of the amount in tonnes of non-household EEE in each Category which he has put on the market in the UK in each Compliance Period, or part of a Compliance Period, in accordance with Regulation 13. The Member shall keep these records for a

period of at least four years commencing on the date on which any such record is made and shall be made available to Sphera or the Environment Agency on demand.

## 8. Information to be provided to Sphera

### 8.1 Each Member shall provide to Sphera:

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

The Member's business name, if different from any name mentioned in (i) above

Where a Member is a partnership, the names of the partners

**8.2** In accordance with Schedule 6 (11) of the Regulations, the Member shall provide an electronic copy of the producer identification mark that appears or shall appear on Member's products in compliance with Regulation 16.

**8.3** Previously registered Members shall provide their EEE producer registration number.

**8.4** Each Member shall provide to Sphera the amount in tonnes of non-household EEE in each Category that the Member has put onto the market in the UK in each Compliance Period, by the 15th January following the previous year.

**8.5** Each Member shall ensure that all information provided to meet the requirements in Rules 8.1, 8.2, 8.3 and 8.4 is as accurate as reasonably possible and is in writing signed by

A director or company secretary if the Member is a body registered in the UK;

A partner if the Member is a partnership;

The individual who has control or management of the body if the Member is not a body registered in the UK;

If the Member is an individual, that individual.

**8.6** The Member shall inform Sphera in writing of any material change in any of the information provided to B2BWEEE-Scheme within 28 days of the occurrence of any such change, as required under Regulation 11 (2) (b).

## 9. Sphera's Obligations

**9.1** Based on the information provided to it by M.D.J. Light Bros in respect of each Member, Sphera shall report the amount in tonnes of Members' WEEE delivered to M.D.J. Light Bros for treatment and the amount in units made available for reuse in accordance with Regulation 27.

**9.2** Based on the information provided to each by each Member, Sphera shall report the amount in tonnes of non-household EEE in each Category that each Member has put onto the market in the UK in each Compliance Period, in accordance with Regulation 28.

**9.3** In respect of each Member, Sphera shall declare compliance to the Environment Agency following the end of each Compliance Period, as required by Regulation 29. The declaration of compliance shall include the information set out in Schedule 5 Part 2 and be accompanied by copies of evidence notes in respect of the relevant Compliance Period.

## 10. Confidential information

**10.1** During the course of discussions between a Member and Sphera, each party might acquire information of a confidential nature relating to the other's business arrangements (such information, when clearly designated as confidential, being hereinafter referred to as the "Information".) Sphera and the Member agree not to disclose this Information to any third party, save for Information that

Sphera is required to report to the Environment Agency as detailed in these Rules or Information which falls into the public domain otherwise than as a consequence of the breach by either party of its obligations under these Rules or Information which falls into the public domain otherwise than as a consequence of the breach by either party of its obligations under these Rules.

## 11. Termination of Membership

- 11.1** Sphera reserves the right to terminate a Member's membership of B2BWEEE-Scheme at any time on 10 days' written notice if that Member fails to meet payments as they fall due, or to terminate without notice if that Member is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or becomes bankrupt, or if a trustee, receiver, administrative receiver or similar officer is appointed in respect of any or all of the business of the client. This termination shall take effect at the end of the Compliance Period during which the termination is made.
- 11.2** If a Member breaches any of these Rules and (in the case of a breach capable of remedy) fails to remedy such breach within 10 days of notification in writing of the breach from Sphera, the Member shall be deemed to have terminated membership of B2BWEEE-Scheme. This termination shall take effect at the end of the Compliance Period during which the termination is made.
- 11.3** Immediately upon the termination of a membership under Rule 11.1 or 11.2, Sphera shall report the Member to the Environment Agency.
- 11.4** Where an act or default by a Member has resulted in the commission by Sphera of an offence under the Regulations, Sphera shall provide all available information to the Environment Agency regarding the act or default by the Member.
- 11.5** Any Member shall, upon ceasing to be a Member of B2BWEEE-Scheme, forfeit all rights to and claim to a refund of its registration and/or annual membership fees.
- 11.6** B2BWEEE-Scheme shall not be liable for any loss (including indirect or consequential), damage, delay, loss of market, costs or expenses of whatsoever nature or kind and howsoever sustained or occasioned by the Member by virtue of the termination of a membership under Rule 11.1 or 11.2.
- 11.7** Termination of a Member's membership of B2BWEEE-Scheme for any reason will not affect that Member's ongoing obligations under Rules 7.1 to 7.5 inclusive in respect of EEE put on the market on or prior to the date of termination.

## 12. Financial Matters

- 12.1** Each member shall pay the applicable membership fees at the rates published by Sphera from time to time.
- 12.2** All membership fees and other sums payable by Members to Sphera shall be paid within 30 days of receipt of the relevant invoice by the Member.
- 12.3** All sums quoted or charged are exclusive of VAT. The Member shall be responsible for paying VAT.

## 13. Agreement

- 13.1** Members are bound by these Rules which constitute an agreement under Regulation 23(2).
- 13.2** The Member acknowledges that it is not contracting hereunder as a consumer.
- 13.3** The failure of Sphera to insist in any one or more instances upon the performance of any provisions of this Agreement shall not be construed as a waiver or relinquishment of Sphera's right to future performance of such provision and the Member's obligation in respect of such a future performance shall continue in full force and effect.
- 13.4** The various provisions of this Agreement are severable and if any provision is held to be invalid or unenforceable by any court of competent jurisdiction then such invalidity or unenforceability shall not effect the remaining provisions of these Rules.
- 13.5** No other person who is not a party to this Agreement has any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce, or to enjoy the benefit of, any term of these Rules.

**13.6** These Rules, together with Sphera's standard terms and conditions as referred to in Rule 5.1, contain the entire agreement between the parties regarding its subject matter and supersedes all prior representations, agreements, arrangements, promises and undertakings made or existing between the parties, whether written or oral. All warranties, conditions and other terms implied by law are, to the fullest extent permitted by law, excluded from these Rules.

**13.7** These Rules shall be governed by and construed and interpreted in accordance with the laws of England and the parties hereby submit to the exclusive jurisdiction of the English courts.

## Addendum 1. Standard clause for insertion in sales terms and conditions for all sales to customers

The Buyer shall exclusively finance the collection and delivery of waste electrical and electronic equipment (WEEE) to the recycler's address specified by the Seller, as required by the Directive 2002/96/EC and applicable national law.

This clause applies to all new electrical and electronic equipment (EEE) put on the market by the Seller after 13 August 2005 (known as new WEEE), as well as all EEE put on the market before 13 August 2005 (known as historic WEEE) which becomes waste as a result of a purchase of new EEE from the Seller after August 2005.

If the Buyer resells the EEE to a Customer, the Buyer will ensure that this clause in its entirety is included in the contractual arrangements governing the sale to the Customer. The Buyer agrees to indemnify and keep indemnified and hold harmless the Seller and Sphera (as the operator of B2BWEEE-Scheme) from and against all costs and expenses which Sphera or the Seller incurs or suffers, as a result of a direct or indirect breach or negligent performance or failure in performance by the Buyer of its obligations in this clause.

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