

General Commercial Terms and Conditions of the RETELA Take-Back System [GCTC]

Article I Definitions

1. **The recycler** is a person authorized to treat, process and recover electrical and electronic equipment (hereinafter also referred to as EEE) and to dispose waste electrical and electronic equipment (hereinafter also referred to as WEEE).
2. **System of collection points** is a contractual network of collection points for EEE from households within the scope of Sec. 3 (4) of the Ministry of the Environment Regulation no. 237/2002 Coll., as amended, and an adequate number of points for a separate collection of WEEE.
3. **Transportation system** is a contractual provision of the transportation from the collection points to the recycler.
4. **System of treatment** is a contractual provision of treatment, processing, recovery and disposal of collected EEE or separately collected WEEE.
5. **System of evidence** consists of data concerning amounts of EEE according to the categories or selected subcategories sold and placed on the market in the Czech Republic by the members of the RETELA take-back scheme, evidence of the organised collection, processing, recovery and disposal of WEEE.
6. **Information system** is designed for providing information to distributors, consumers and end users on collection points and the possibility of reuse of EEE as well as information on the material reuse, recycling and recovery of EEE. This system provides information for the recyclers regarding the treatment of WEEE, mainly information concerning the composition of EEE, presence of hazardous substances, the possibility of reuse of EEE as well as on the material recovery and disposal of WEEE.
7. **System of waste funds administration** is a system of financing of the taking back, separate collection, treatment, reuse and disposal of WEEE, operated and administered by RETELA in line with the provisions of the Act on Waste and related implementation regulations.
8. **Control system** is a system minimising a negative impact of non-registered Producers ("free riders") in line with the RETELA General Trading Terms and Conditions and protects Producers duly registered in RETELA or in another official take-back scheme.
9. **Business system** serves to objectify all costs related to the collection, transportation and final recycling.
10. **Contribution on treatment (CT)** is a financial amount paid by the producer to the RETELA take-back scheme to ensure the take-back, treatment, recovery and disposal of one piece or one kilogram of WEEE. Contribution on the historical EEE is an indispensable part of the contribution on treatment (until being valid by the legislation).
11. **Contribution on the historical EEE (Historical fee)** is a financial amount paid by the producer to the RETELA take-back scheme to ensure the take-back, treatment, recovery and disposal of one piece or one kilogram of historical EEE according point 16 below.
12. **Contribution on the reserve fund (RF)** is an amount for creating the compulsory reserves where required by the legislation.
13. **Administrative contribution (AC)** is a lump financial amount equal for all obligated persons. Its amount remains unchanged within the year.
14. **Contribution on operation (CO)** is a financial amount covering the remaining operation cost of the take-back scheme after the deduction of the administrative contribution.
15. **Contribution (C)** - is a financial amount which producers pay to the RETELA take-back scheme on ensuring the treatment of one piece or one kilogram of EEE from households as well as on ensuring treatment of one piece or one kilogram of WEEE. All above listed obligatory contributions are included ($C=CT+AC+CO$).
16. **Historical EEE** – is a EEE from households placed on the market by 13 August 2005 designed for the take-back.
17. **Recycling fee** is the above listed "Contribution", where provisions on an individual approach according to the Art. II. Par 10 is applicable for B2B regime. In cases specified by the valid legislation amount designed for creating the compulsory reserves is added to the Contribution.

18. **New photovoltaic panels** – are photovoltaic panels according to the point 26 placed on the market after 31 December 2012.
19. **Historical photovoltaic panels** – are photovoltaic panels according to the point 26 placed on the market before 31 December 2012.
20. **Interim period** - is a period between 1.1.2013 and date of the effect of the regulation on photovoltaic by Ministry Decree.
21. **Treatment of EEE and WEEE** – take back, separate collection, treatment, recovery and disposal of EEE and WEEE.
22. **Price lists** – set the valid amount of the advance recycling fees for all categories and selected subcategories of EEE.
 - a. **Weight price list** – set the amount of the recycling fee related to one kilogram of given the EEE. This price list is used with the strictly defined and previously agreed exemptions (e.g. gas discharge lamps and fluorescent tubes).
 - b. **Item price list** – set the amount of the recycling fee related to each item (piece) of given EEE.
23. **Multi-component EEE** – such EEE for which production more than two components are used, each of which is considered as EEE according to the §37g point a) Act on waste.
24. **Collection coefficient** – is set for each following period from the real ratio of the amount of totally collected EEE in the previous period (N_c) to the amount of totally placed on the market in the previous period (N_p):

$$C_c = N_c / N_p$$
25. **Photovoltaic cell** – is a cell defined in §37g, point i) of Waste law.
26. **Photovoltaic (solar) panel** – EEE defined in §37g, point j) of Waste law.
27. **Solar power plant** – plant producing electricity as defined in §37g, point k) of Waste law.
28. **Operator of the solar power plant** – holder of the licence on producing of electricity according to the special legal regulation in the solar power plant producing electricity from solar power plant as defined in §37g, point l) of Waste law.
29. **Reserve fund for new solar panels [RFNP]** – fund created according to the existing legislation on panels according to the point 18 above.
30. **Reserve fund for historical solar panels [RFHP]** – fund created according to the existing legislation on panels according to the point 19 above.
31. **Identification number of the solar panel – number** marked on the solar panel meaning an unique identification of the panel.
32. **Brand Trade mark [TM] of the solar panel** – brand marking on the solar panel meaning a unique identification of the producer or importer.
33. **Rules on creation, administration and principles of drawdowns of the funds** – rules on Funds given by the legislation according to the points 29 a 30 above.
34. **Pay-as-you-go financing system** – system of financing based on the principle of covering cost from watched period (usually a quarter) by producers' contributions, who are putting EEE on the market in this period.
35. **Non distinguishing and mutual solidarity principle** – wherever it will be allowed by legislation and will be economically and/or logistically suitable, WEEE will not be distinguished by producers, who are prepared to cover WEEE treatment in given group even in the case, when WEEE originator is no more known.
36. **Insurance coverage principle** - wherever it will be allowed by legislation and will be economically and/or logistically suitable, complete or partial replacement of reserves creation by insurance contracts will be considered.

Article II General Principles

1. Producer provides (if legislation or logic of covering cost it demand) information on amount of EEE placed on the market in a form of a report for previous quarter to the RETELA take-back scheme. The report for the subcategory of solar panels is accompanied with the list of identifications of each photovoltaic panels in order to prevent the use of the contribution on treatment of panels, for which the contribution has not been paid.

2. The due date for sending the report is a monthly period which begins with the first and ends with the last day of the month following the calendar quarter.
3. The recycling fee given in the price list for each category (or selected subcategory) of EEE devices is usually determined on the basis of an evaluation of the costs in the previous year, for advance payments in the following year.
4. RETELA's Articles of Association include a clause about the non-distribution of the profits. Therefore prevalently calculation based on the real cost for the accounting (reported) period is used for setting the main contributions (treatment contribution including the contribution on historical EEE and operation contribution). Fixed unit rates are used by the EEE categories where required (for instance in cases when the reserves are created).
5. RETELA's Articles of Association include a clause about the setting up of a Council of Waste Funds (CoWF), appointed by the RETELA Supervisory board on the suggestion of RETELA's CEO from the candidates proposed by Producers for various categories (or selected subcategories) of EEE. In the staffing of the ROF, attention shall be paid to the significance of each producer participating in the RETELA take-back, especially with respect to the proportion of their contribution to the system's financing or setting of collection points.
6. RETELA ensures that consumers or end users may hand in EEE originating from households and electric waste, free of charge, into the system of taking back and separate collection run by the operator of the collective system.
7. RETELA shall ensure that the recycling fee will be used in line with the implementation regulations to the Waste Act.
8. The export of EEE must be accomplished in line with the provision of §37l (5) of the Waste Act. Recycling fees are not paid for EEE provably exported abroad; exporting abroad means their release into the export mode pursuant to customs regulations, or their supply from the Czech Republic across the border into another EU member state.
9. The producer placing on the market solely electric equipment not designed for use in household (B2B), will not pay the historical fee. After end-of life of the EEE, the producer is obliged to pay the real cost for treatment.
10. The producer specified in point. 9 has the right (§37o of the Act on Waste) to choose the individual amount of the advance payment for dealing with the EEE issue as well as to choose the recycler in case of fulfilling the below conditions in the frame of the system of treatment of EEE (according to the Art. I of point 4 of the GCTC):
 - a. The recycler has concluded a valid contract with RETELA.
 - b. The producer and the recycler provide RETELA with a copy of their contract within 10 days after contract signature..
 - c. The producer and the recycler will ensure, that treatment of WEEE will be performed in accordance with the law and the rules of RETELA take-back system
11. If the producer proves that in the case of multicomponent equipment the historical fee for one or more components was already paid by other producer, the recycling fee will be decreased by the already paid amounts.
12. All producers shall be participating in the RETELA collective system by concluding the same Agreement on the Provision of Collective Performance, which ensures equal conditions for all producers for their compliance with their rules under the Waste Act.
13. RETELA keeps evidence of creating, amount and the drawdown of reserves calculated according to the valid legislation. This stipulation is primarily applied for the category of solar panels according to the Art. I points 29 and 30.
14. The drawdowns of reserves are stipulated by the existing legislation according to the Art. I, point 33.

Article III Price Lists

1. The Weight price list shall be the basic price list reflecting as objectively as possible the costs of the treating of EEE, WEEE and photovoltaic panels in connection with the real weight of EEE, WEEE and photovoltaic panels. This price list is used unless the Item price list is more appropriate from the legal or logical reasons. The price list is not subjected to change within the accounting period. Council of Waste Funds makes a decision about ranking a specific product - EEE category or selected subcategory in the Item price list upon the suggestion of the CeO, mainly in the following cases:
 - a) The costs of treatment of EEE differ significantly from the costs specified for the relevant category or subcategory in the Weight price list;
 - b) The producer intends to present the recycling fee or its part corresponding to the historical contribution on its products, in line with the provisions of §37n (3) of the Waste Act and at the same time applies for this intention in the strictly given way by 10 October of the year preceding the year for which this intention is requested. The producer shall state in its application the average weight of products and the number of items and kilograms placed on the market during the previous year and the range of prices (excl. VAT) for each such EEE category or selected subcategory, valid in the time of placing of products on the market.

- c) ROF finds other serious reasons for such an inclusion.

Article IV Fees and payment Conditions

1. The recycling fee, including value added tax at the relevant date, shall be paid in a form of advance payment by the Producer, always for the relevant quarter, on the basis of an advance invoice issued by RETELA. The advance invoice shall be payable within 30 days of its issue. RETELA is committed to distribute the invoice and the advance invoice for the payment with no delay as soon as the invoices are issued.
2. The recycling fee shall be advance-billed by RETELA for the relevant quarter at the amount constituting the multiple of the recycling fee according to the RETELA price list and information from the report presented by the Producer on the number of items and the weight of EEE placed on the market in the previous quarter, according to the current price list. This calculated amount is increased by the amount of the part of the lump fee of the administration cost. The producer is obliged to submit the listed report to RETELA within the 30 calendar days after the end of the calendar quarter. In the case of a belated delivery of the report by the Producer, RETELA may cut the payment period of the advance invoice by the period by which the report submission was delayed.
3. RETELA shall, upon the receipt of the advance payment of the recycling fee, issue a tax document for the Producer, in line with Act No. 235/2004 Coll., the value added tax act, as amended, as a settlement of the advance payment of the recycling fee. The date of taxable performance shall be the date on which RETELA received the advance payment of the recycling fee.
4. Upon the presentation of the report on the number of items and weight of the EEE placed on the market in the previous calendar quarter by the Producer, RETELA will issue a tax document - invoice, in which it will reconcile the actual amount of the recycling fee for the previous quarter and with the settlement of the advance payment of the recycling fee paid in the previous quarter. The date of taxable performance shall be the date on which the report on the number of items and the weight of EEE placed on the market in the previous quarter by the Producer is submitted. Any underpayments shall be payable within 30 days of the issue of the invoice, and overpayment shall be deducted by RETELA from the advance invoice issued for the recycling fee in the following quarter. RETELA is committed to distribute the invoice without delay as soon as possible from its issue date. In case the producer provably does not receive the invoice until the 10 calendar days from its issue, the due date is change to 30 days from its acceptance. RETELA will reduce the advance payment for the following quarter in case the overpayment.
5. In the case of a delay with the payment of any payment under article IV and VI of these GCTC, the Producer shall pay to the collective system operator a delay interest in the amount of 0,03 % of the outstanding amount for every day of delay . This provision shall not prejudice the right of the collective system operator to a contractual penalty, damages, or termination of the agreement in cases negotiated in the Agreement or prescribed by law.
6. If an underpayment of a recycling fee is detected on the basis of a corrective report, the Producer shall pay any such underpayment without delay, including a delay interest in the amount of 0.03 of the outstanding amount per day. Of the underpayment is ascertained during an inspection, the Producer shall pay to the collective system operator, aside from the above-mentioned delay interest, a contractual penalty under Article VI of GCTC.
7. The Producer understands and agrees that the recycling fee under the points above must be paid regardless of the date of the Producer's joining of the collective system, so that each producer pays the fee from the date when its obligations arose under the Waste Act, even retroactively. The recycling fee billed retroactively, from the date when the obligations arose, until the date of the conclusion of the Agreement on the Provision of Collective Performance, shall be billed to the Producer at the time of the first invoicing of the regular recycling fee. The Producer shall present to RETELA all relevant reports concerning the number of items and weight of the electric devices introduced to the market by the Producer from the date its obligation arose until the date of the signing of the Agreement. This obligation shall not apply to producers who, prior to the signing of the Agreement, performed its obligations, individually, on the basis of solidarity, or in another collective scheme.
8. At the termination of the Agreement, the contractual parties shall be entitled to a settlement of the billed expenses on the ensuring of the performance of obligations prescribed by the Waste Act. The amount settling the contractual claims of the contractual parties under this paragraph shall be payable within 60 calendar days of the termination of the given Agreement.
9. The Producer shall be entitled to a refund of the recycling fee paid for EEE treated in accordance with Art. II point 8, and subsequently provably exported abroad. The justification of the claim must be credibly documented by the Producer. The first following recycling fee billed shall be decreased by a duly submitted claim.
10. The recycling fee and other payments under this Agreement and these GCTC shall be paid by the Producer by a non-cash transfer to the bank account specified by RETELA.

Article V Control System

1. RETELA shall be authorized to carry out on-going inspections of the compliance of the Producer with its obligations under the Agreement and these GCTC (hereinafter referred to as the "control audit").
2. The subject of a control audit is, primarily, finding out whether a producer provides to the collective system operator correct information, whether the producer fills out reports correctly, and whether the producer pays a recycling fee in a due and timely fashion
3. The control audit shall be carried out exclusively by an auditor selected by RETELA, who shall provide a written authorization by RETELA. For the purposes of carrying out a control audit, the Producer shall enable the auditor to enter its premises and use them under regular conditions. The Producer undertakes to enable the performance of a control audit and to provide any and all co-operation to the auditor required for the carrying out of a due control audit, including access to all accounting and other documents related to the obligations of the Producer under this Agreement, however excluding any accounting documents and other documents concerning sale of electric equipment to third parties, which are not subject to placing of EEZ to the market in the Czech Republic.
4. The control audit is performed upon the initiative of the collective system operator or upon the request of another producer participating in the collective system. The collective system operator may request a control audit of a producer of its own initiative no more than once per calendar year, with the exception of cases when discrepancies were ascertained during the previous control audit in the reported data, or when the previous control audit was foiled due to a breach of the producers obligations.
5. Each producer participating in the collective system for period at least 6 months may request the performance of a control audit of another producer participating in the collective system, provided the following conditions are met:
 - a) It submits a written request for the performance of a control audit to the collective system operator, containing a rationale and the consent of the applicant with the conditions of the control audit, as specified in this Article,
 - b) It deposits immediately with the collective system operator the one-time amount of CZK 100,000 as the flat-rate deposit for the payment of the costs related to the performance of a control audit,
 - c) A control audit of the producer, who is to be audited, has not been performed in the previous 6 months, or the last audit of that producer ascertained discrepancies in the data reported.
6. The outcome of an audit shall be the auditor's written report with a conclusion about his findings concerning the actual status of the performance of the producer's obligations under the Agreement, whereas the following findings can be stated:
 - a) no breach of producers obligations
 - b) immaterial breach of producers obligations
 - c) material breach of producers obligations
7. The auditor is obliged to take professional care during audit, to protect confidential information obtained from the producer and to save rightful interests of producer. He is obliged to protect especially business secret of producer and not to disclose the data creating part of this business secret to third parties except RETELA. RETELA is obliged to bind the auditor to these obligations in written form.
8. If the control audit was carried out on the basis of a request of another producer, this producer will obtain only information, whether the audited producer did not breach the obligation upon the Agreement, breached immaterially or breached materially.
9. Should the auditor not find any breach of the obligations of the producer under this Agreement, or the breach of obligations ascertained was absolutely immaterial, the deposit paid under this Article by another participant in the collective system to the operator of the collective system forfeits.
10. Should the auditor ascertain a breach of the obligations of the producer under the Agreement, the producer is obliged to pay to the collective system operator, on the basis of an invoice issued by it, the costs of the control audit, in the amount of the deposit under this Article. This provision shall not prejudice the right of the collective system operator to a payment of a contractual penalty by the producer or its statutory right to damages. If the control audit were performed on the basis of a request of another collective system producer, the deposit paid by this other producer shall be refunded.
11. The collective system operator, producer, or another producer in the collective system, who requested the performance of a control audit, shall not be, aside from the above provisions, entitled to request any other compensation of costs related to the performance of the control audit from each other.
12. A material breach from the point of view of this Agreement, shall be deemed primarily such a breach of an obligation which is penalised with a contractual penalty under this Agreement, as well as all those breaches of obligations which do or may have any impact on the performance of the obligations of the collective system operator under the Agreement on the Provision of Collective Performance.

13. The provisions of the entire Article III shall apply, and shall be binding for the contractual parties, even after the termination of the Agreement, for 12 months following its termination.

Article VI Sanctions

1. In the case of a delay of the producer with the presentation of reports under Art. IV (1) (c) of the Agreement on the Provision of Collective Performance, the collective system operator shall be entitled to charge the producer a contractual penalty of CZK 100 for every day of delay, up to ten days of delay, and then CZK 1,000 for every other day of delay, up to the amount of quarter recycling fee due at the time when the reason for penalty raised, and the producer shall be obliged to pay to the collective system operator the contractual penalty charged.
2. If the producer has failed to provide to the operator complete and truthful information as is its obligation under Article IV (1) (c) of the Agreement on the Provision of Collective Performance, the collective system operator shall be entitled to charge the producer a contractual penalty amounting to double the difference between the recycling fee amount charged on the basis of an incorrectly or incompletely filled out report, and the amount of the fee which should have really be charged, and the producer shall pay to the collective system operator the contractual penalty charged.
3. Should a producer fail to enable the performance of a check pursuant to Article V above the operator may charge to the producer a contractual penalty of CZK 100,000 for each control audit foiled, and the producer shall pay to the collective system operator the contractual penalty charged.
4. All contractual penalties paid shall be set-off against damages. The payment of a contractual penalty shall not, however, prejudice claims to the payment of a delay interest.
5. Contractual penalties shall be due within 30 calendar days from the delivery of a contractual penalty billing to the producer by the collective system operator.

Article VII Confidentiality and Protection of Information

1. The contractual parties undertake to keep confidential any and all facts of which they have learned in connection with the Agreement, and to protect the confidentiality of the information of the other party from their unauthorized use by third parties. Confidential information shall always be marked as such. This shall not prejudice the right of the contractual parties to communicate such information to their barristers, tax advisors, auditors or other persons bound by an obligation of confidentiality on the basis of a special legal regulation; those persons must be informed of the confidential nature of the information. Information about the conclusion and termination of the Agreement shall not be considered confidential.
2. A breach of the confidentiality obligation shall not be considered the provision of information and data to the Ministry of the Environment, processors, and persons authorised to carry out a control audit, in a manner and under the conditions stipulated in the Agreement and in the Waste Act and its implementation regulations.
3. RETELA undertakes to treat as confidential information presented by the Producer in reports. This confidentiality obligation shall also apply to all third persons authorized by RETELA to handle that information.
4. The producer agrees to the collective system operator using, for the purpose of keeping a record and presenting the RETELA collective system, information about the number of electrical devices which the producer has presented in the reports, in a public manner, in the form of a consolidated statistic which does not allow to retroactively determine the sales and data of a particular producer.
5. The collective system operator gives the producer the right to use the RETELA collective scheme logo, included in an Appendix to these GCTC, on promotional and information documents of the producer.

Article VIII Transitional Provisions

1. Time between 1.1.2013 and date of the effect of the regulation on photovoltaic by Ministry Decree is considered as Interim period (see Art. I, point 20).
2. For this Interim period the Administrative contribution (AC) is set for solar panels same, as for other EEE.
3. For this Interim period the Contribution on operation (CO), with the Contribution on treatment (CT), with the Contribution on the reserve fund (RF) is set to fix fee given in actual price list valid for the quarter considered.
4. For this Interim period is assumed that all costs covering treatment of solar panels from Producers which are members of collective scheme (being registered and having Agreement with RETELA) are covered by combination of reserves allowed by legislation and pay-as-you-go for the differences to real costs. RETELA ensures that for solar panel subgroup the separate evidence of treatment costs and corresponding invoicing of Contribution on treatment (CT) will be kept.