

## WASTE TREATMENT OPERATOR CONTRACT

Between

**Electrão - Associação de Gestão de Resíduos**, NIPC (corporation tax n.º) 509300421, whose registered office is located at Restelo Business Center, Bloco 5 – 4.º A, Av. Ilha da Madeira, 35 I, 1400-203 Lisboa, henceforth called **Electrão**,

and

\_\_\_\_\_  
\_\_\_\_\_  
NIPC \_\_\_\_\_, whose registered office is located at  
\_\_\_\_\_  
\_\_\_\_\_,  
henceforth called **Second Party**,

henceforth collectively called the “Parties”,

Whereas:

- A)** Electrão is na entity licensed to organize and manage a collective take back scheme for waste batteries and accumulators (SIGRPA);
- B)** The Second Party states to be duly licensed for the exercise of the activity proposed in this contract and to meet the other conditions set out in the reference criteria;
- C)** Electrão carried out a tender for the provison of the services covered by this contract, having the Second Party’s proposal been selected.

In this context, this Waste Treatment Operator Contract is hereby established, henceforth called “WTO Contract”, which is subject to the provisions of the clauses below:

### Clause 1 (Object)

1. The purpose of this contract is to define the terms and conditions related to the provision of WBA treatment and recovery services, better defined in Annex 2, to be performed by the WTO in the respective facilities identified in Annex 1 within the scope of SIGRPA.
2. Regarding the WBA sent by Electrão, the WTO is obliged to assess the means, the packaging condition and the integrity and complexion of the WBA received with the objective of punctual compliance and with the highest quality of execution of the services covered by this contract.
3. The WTO is also bound to intervene and collaborate in the Waste Transboundary Movement(s) (WTM) process, fulfilling what is required as waste destination, under the guidance of Electrão, when applicable.
4. The WTO assumes responsibility for the waste covered by this tender and for the final destination of all fractions/components resulting from its treatment.

## **Clause 2**

### **(Scope)**

1. For the purposes of this contract and the resulting relationship between the contracting parties, the types of waste batteries and portable accumulators and industrial batteries and accumulators must be considered, including those that can be used in electrical and electronic equipment and/or any other equipments or appliances.
2. For the purposes of this contract, without prejudice to the other legally stipulated definitions, the WBA should be considered grouped as follows, or in another way that may be requested by Electrão or approved by it:

#### **WBA Types**

Alkalines

Button Cells

NiMH

NiCd

Lithium

Li-ion

Pb acid

Other

3. The services to be provided by the WTO, better identified in Annex 2, apply to all WBA that enter its facilities under the scope of Electrão SIGRPA.

4. All WTO obligations foreseen in the present contract apply to the totality of WBA sent by Electrão.

**Clause 3**  
**(Treatment and recovery process)**

1. The WTO must subject WBA to an appropriate treatment and in full compliance with the requirements provided in article 76° of DL 102-D/2020, and Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006, ensuring the technical requirements established in this contract, namely in respect of the best available techniques, and in compliance with all current legislation.
2. The WTO is also obliged to comply with minimum quality and efficiency requirements established by the Portuguese Environment Agency (APA).
3. The WTO is obliged to ensure the WBA reception, previously scheduled with Electrão, every working day, except for closing situations previously communicated to Electrão with a minimum advance of 30 (thirty) working days, which may not exceed as a whole, in each calendar year, 22 (twenty-two) days, under penalty of € 250 per day. The WTO guarantees a maximum waste discharge time of 2 hours, under penalty of 50 € for each additional hour in the reception of scheduled transports, unless justification accepted by Electrão.

**Clause 4**  
**(Conditions)**

1. The WTO states that fulfils, and undertakes to maintain and complement whenever necessary, the required conditions for waste treatment and recovery operations, which are the subject of this contract, and in accordance with the legislation in force (namely with Decree - Law no. 102-D / 2020, of 10 December, Directive 2006/66/EC of 6 September and legislation that alters or replaces it), namely as regards their facilities, equipment and techniques used;
2. The WTO states that it has the capacity to treat, and is obliged to comply with, all the waste quantities that are awarded to it by Electrão.
3. The WTO states that has the necessary licenses, permits and certificates to carry out the treatment and recovery operations object of this contract and undertakes to comply with all the qualification requirements that are defined by the Portuguese competent authorities,

namely by APA (Portuguese Environment Agency), which must demonstrate whenever requested by Electrão.

4. The WTO further declares that it does not have any litigation, action, investigation or any other process, as far as it is aware, that prevents it from entering into the contract and fully fulfilling the obligations assumed before Electrão.
5. The parties expressly acknowledge that the execution of this WTO Contract and integration of the Waste Treatment Operator in the SIGRPA network managed by Electrão, presupposes the verification and guarantee by the WTO, of the following requirements:
  - 5.1 Existence of necessary and adequate infrastructures and equipment for the WBA unloading operation;
  - 5.2 Existence of necessary and adequate infrastructures and equipment for storage, treatment and recovery operations.
6. The WTO is committed to ensuring and maintaining legal compliance, complying with the requirements applicable to the services it offers to provide at SIGRPA, namely in matters of environmental responsibility.
7. The WTO undertakes to comply, to the extent applicable, the provisions of chapter 6 of the license conditions granted to Electrão by Despacho No. 11275-D/2017, December 22th 2017, or others that, in the meantime, come into force, namely the calculation of recycling rates and efficiencies according to the method defined in Regulation (EU) n° 493/2012, of the Commission, of 11<sup>th</sup> June 2012.
8. The WTO is also committed to participate in the quality control procedure to be developed and implemented by Electrão, namely by filling out a form, and sending evidence (namely photographic records) whenever it receives a non-compliant cargo.

#### **Clause 5 (Seguros)**

Without prejudice to the responsibilities and obligations entrusted to it under this Contract, the WTO undertakes to contract, with an insurance company, and to maintain, during the contractual period, the legally required insurance in the Member State of the WTO for the activities carried out by the WTO and his employees under this Agreement.

## Clause 6

### (Declarations)

1. The WTO is obliged to provide all the information inherent to the services provided, at least once a year or whenever Electrão requests it, or whenever there is a significant change in its permit, process or facility.
2. The WTO also undertakes to submit to Electrão all the information it has access to regarding the services provided under the scope of this contract, namely:
  - 2.1 The WTO has to prepare and submit to Electrão the following information, committing itself to the strictest of the same:
    - 2.1.1 WBA quantities entering the WTO facility, with distinction by type and chemical system, or another previously indicated by Electrão;
    - 2.1.2 Quantities and destinations of the packaging means that entered the WTO, when applicable;
    - 2.1.3 WBA quantities effectively treated in the WTO, with distinction by type and chemical system, or another previously indicated by Electrão;
    - 2.1.4 WBA quantities, by type and chemical system, sent for treatment in acceptors down the treatment chain;
    - 2.1.5 Quantities and destinations related to the fractions resulting from the treatment process in the WTO;
    - 2.1.6 Estimated **recycling/recovery yield** for each chemical system. The requested information can be changed according to the requirements defined by the APA (Portuguese Environment Agency).
  - 2.2 The aforementioned information must be submitted by the WTO to Electrão, within a maximum period of 30 (thirty) days after each WBA delivery through the respective waste transboundary movement, or according to another periodicity defined by Electrão and previously communicated to the WTO, considering the following conditions:
    - 2.2.1 The information must be submitted in the format defined by Electrão and previously communicated to the WTO. Any updates to the initial model to be used will be communicated by Electrão to the WTO at least 1 (one) month prior to the period to be applied;
    - 2.2.2 After the submission of the information, Electrão proceeds to its analysis, validating it or, if reservations are raised, these will be transmitted to the WTO, which must provide the respective clarifications and/or rectifications within the next 5 (five) working days;

**2.2.3** In order not to compromise the monitoring of periodic information, the WTO must respect the deadlines provided for in paragraphs 2.2.1 and 2.2.2 respectively, under penalty of € 250 (two hundred and fifty euros) for each working-day non-compliance;

**2.2.4** The information submission frequency can be changed in accordance with the requirements of the APA (Portuguese Environment Agency). Any updates will be communicated by Electrão to the WTO in advance.

3. The WTO commits to collaborate in the operational activities, namely characterizations and sampling processes that aim at the determination of relevant indicators for the SIGRPA.
4. The WTO is obliged to calculate the rates and efficiencies of its processes according to the method defined in Regulation (EU) No. 493/2012, of the Commission, of 11<sup>th</sup> June 2012, and legislation that changes or replaces it, and to submit these calculations to Electrão in the means, term and format defined by it.
5. The WTO is obliged to ensure and demonstrate to Electrão that WBA that are exported outside the European Union are in compliance with applicable Community and national legislation (namely in accordance with Regulation (EC) No. 1013 / 2006, of the European Parliament and of the Council, of 14 June, of Regulation (EC) no. 1418/2007, of the Commission, of 29 November, and of Decree - Law no. 45/2008, of 11 March , and legislation that changes or replaces them). The WTO must also ensure that WBA is effectively recycled in circumstances comparable to those established by the applicable European Union provisions, ensuring and demonstrating the registration and traceability of the entire circuit, and providing Electrão, within the period set by it, with all information and documentation it considers necessary to demonstrate and verify compliance with the provisions hereof.
6. The WTO is obliged to issue and submit to Electrão, in the means and format defined by it, a responsibility declaration for the WBA and for the respective final destination within a maximum period of 30 days after receiving them.
7. The parties undertake to guarantee the confidentiality of the information to which they have access under this contract, with the exception of the data that Electrão has to report to official entities.
8. The duty of confidentiality enshrined in the previous point, is extended to workers, consultants, auditors and other employees of the WTO or other people that it uses in the fulfillment of this contract and shall prevail even after the term of this contract.



9. The parties acknowledge that all the industrial and intellectual property rights relating to all studies, proposals, reports or any other documents (in any format) produced by Electrão belong to Electrão, and the WTO is hereby authorized to use them, provided that it does so exclusively within the scope and purposes of the Contract.

#### **Clause 7 (Pricing)**

1. For the services provided by the WTO, Electrão will pay him a financial consideration for the WBA effectively subject to treatment and recovery, according to the adjudication made under the tender procedure implemented for the selection of WTO, agreed between the parties.
2. The WTO shall issue an invoice, with a minimum payment due date of 60 (sixty) days and to be received by Electrão, necessarily within 10 (ten) days following the date of the respective issue, corresponding to the service(s) provided under this contract. The invoice must be submitted through the Electrão Operation Platform (POPE), and the document must also be uploaded in digital format, or sent by email.
3. Whenever payments are made to Electrão, it will issue invoices for the amount payable by the WTO, which will be paid by the latter, within 60 (sixty) days from the date of issue of the invoices.
4. Unless agreed between the parties to the contrary, the preferred method of payment of invoices to be issued under this Agreement and under the terms of the preceding paragraphs is bank transfer.
5. Electrão is only obliged to pay invoices that respect the WBA in respect of which the provisions of paragraph 1 of this clause have been complied with and for which the WTO has issued a declaration of assumption of responsibility relating to them and by the respective final destination.
6. If the market value of materials undergoes significant changes (greater than 15% compared to the value on the date of signing this contract), there may be a review of the contractual value for the waste treatment, by agreement between the Parties.
7. Electrão may suspend payments due under this contract in the event of non-compliance by the WTO with the obligations arising from it under this contract and as long as such non-compliance is not resolved.

8. Electrão may revise, at any time, the agreed values and conditions, by means of a prior communication sent in writing by Electrão to the WTO, with an advance of 30 days in relation to the date of entry into force. If the WTO does not agree with this review, it may terminate this contract with effect for the date on which this change will take effect, provided that it communicates the termination of this contract to Electrão, by registered letter, within 15 (fifteen) days from the date on which it received the communication of revision thereof.

### **Clause 8 (Provision of Service)**

1. The WTO is obliged to receive, store and treat the WBA quantities delivered, under the operational and financial conditions defined in this contract.
2. The WTO is obliged to ensure the correct performance, in environmental and legal matters, of the operations to which it is bound by this contract.
3. The WTO is obliged to employ, in the fulfillment of this contract, employees with qualifications and adequate preparation for handling WBA.
4. The WTO is obliged to watch over the reputation of Electrão and SIGRPA, thus contributing to the good image of the WBA collection and treatment system and of Electrão, namely by not making statements that could harm the image of SIGRPA and Electrão.
5. The WTO is obliged to authorize access to the facilities and the WBA treatment and recovery process during opening hours to members of the team or other employees designated by Electrão.

### **Clause 9 (Performance)**

1. Electrão will carry out, at least once a year, an analysis of the service level provided by the WTO based on operational parameters, namely:
  - Reuse and/or recycling rates, as well as recovery rates achieved;
  - Non-conformities in service provision;
  - Delays in service provision (reception, processing and shipping);
  - Service complaints provided by Electrão's partners within the Integrated System.



2. During the term of the contract, it may be necessary to redefine the operational parameters. These changes or new parameters will be adopted upon prior notification by Electrão to the WTO.

#### **Clause 10 (Audits)**

1. During the term of this contract, Electrão may carry out formal and technical audits unexpected to the service provided by the WTO, which will include the verification of compliance with the contractual requirements, as well as the contractual execution, namely infrastructure, equipment, measurements, calibrations, final destinations of processed materials and others.
2. The audits referred to in the previous number will be carried out by Electrão or by a subcontracted entity, by Electrão, for this purpose.
3. The audits main objective is to assess the conformity of the WTO processes, namely, with regard to technical and operational requirements, as well as applicable legislation.
4. In order to enable the efficient execution of the audits, the WTO must be available to receive the audit team and provide all the necessary support, both in terms of documents and in terms of the audited technical resources.
5. The audits will be supported by Electrão, with the exception of costs related to follow-up audits, aimed at confirming the rectification of situations detected within the scope of the audit, and respective actions, namely when they involve travel by the audit team to verify a certain corrective action, in which case they will be charged to the WTO.

#### **Clause 11 (Penalties)**

1. The delay of more than 10 days in the reception, counted after the date of request for delivery by the origin, of WBA collected and shipped by Electrão to the WTO, gives Electrão the right to apply a penalty in the amount equivalent to the average cost of storage:

*200 € (two hundred euros) x (days of delay)*

2. Failure to receive, or refuse without justified reason, WBA collected and shipped by Electrão to the WTO, entitles Electrão the right to apply a penalty in the amount equivalent to the additional transport and treatment in another WTO, calculated as follows:

*(additional transport cost) + (difference in treatment cost)*

3. The penalties provided for in this contract have the nature of compulsory sanctions, in addition to the other rights that legally and contractually assist Electrão. Their payment does not exempt the WTO from fulfilling the missing obligations and its amount can be offset against any amounts owed by Electrão to the WTO.

**Clause 12**  
**(Subcontracting)**

1. Any subcontracting or delegation of third parties that the OTR intends to carry out for the performance of part or all of the services agreed in this contract requires prior and written authorization from Electrão.
2. The WTO is, for all purposes and without prejudice to the preceding paragraph, responsible to Electrão for the full performance of the contract, except in the case of proven non-imputability.

**Clause 13**  
**(Assignment of the contractual position)**

The transmission of the contractual position of each party assumed in this Agreement is subject to the prior written consent of the other party.

**Clause 14**  
**(Term of the contract)**

This contract is effective from April 1, 2021 and is effective for a period of 1 (one) year, which may be extended by written agreement of the Parties.

**Clause 15**  
**(Termination of the Contract)**

Failure by one of the parties to comply with the provisions of this contract, namely regarding the WTO the failure to provide the required information, non-compliance with recycling and recovery rates and APA criteria, gives the other party the right to be compensated for the damages suffered and, if the non-compliant party does not rectify the fact or omission that determines the non-compliance within the 10 (subsequent) days following the written notification that the complying

party has addressed to it for this purpose, the right to terminate this contract. Either Party may also terminate this contract with immediate effect in the event of a legal dispute between the two.

**Clause 16**  
**(Definitions and Interpretation)**

1. All references made in this contract to clauses, numbers or attachments refer to clauses, numbers or attachments to this Agreement, except when otherwise indicated.
2. The Attachments to this Agreement are an integral part of it for all legal and contractual purposes.
3. If any of the clauses of this Agreement is or becomes invalid, ineffective or unfeasible, this shall not affect the validity of the Agreement as a whole. Should this be the case, the Parties shall make every effort to replace any invalid, ineffective or unfeasible provisions with others which are valid, effective and feasible and with a similar economic effect.
4. In case of divergence, the provisions of the body of the Contract shall prevail over that provided for in the respective Annexes.
5. For all periods to be counted, within the scope of this contract, calendar days shall be considered, and when the last day is Saturday, Sunday or National holiday, the following working day prevails, unless otherwise indicated.
6. This contract revokes any and all previous or contemporary agreements and may only be changed by written document signed by the Parties.

**Clause 17**  
**(Settlement of litigation and applicable law)**

1. This Contract is subject to Portuguese Law, without prejudice to the fulfillment of legal requirements attributable to the WTO by legislation in force in the country where it is located and which must be communicated to Electrão.
2. The parties agree that, when legally permitted, any dispute resulting from this contract shall be submitted to the Lisbon jurisdiction.

**Clause 18**  
**(Communications)**

Rubrica (s):

1. Unless otherwise provided in the contract, all communications between the Parties relating to this Agreement must be made in writing, by registered letter with acknowledgment of receipt or by email, addressed to the following addresses:

(I) ELECTRÃO

C/O: Susana Ferreira

Address: Restelo Business Center, Bloco 5 – 4ª, Av. Ilha da Madeira, 35I, 1400-203  
Lisboa

Email: operacao@electrao.pt

(II) WTO

C/O: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_

2. Without prejudice to the provisions of the following numbers, communications made in writing, by registered letter, shall be considered to have been made on the date of the respective receipt or, if out of office hours, on the first working day immediately following.
3. For the purpose of service of summons in the context of a judicial action aimed at fulfilling pecuniary obligations arising from this contract, the addresses indicated in number 1 are agreed.
4. The change in the addresses indicated in number 1 must be communicated to the other party by registered letter with acknowledgment of receipt, within 30 (thirty) days after the respective change.

Drawn up on \_\_\_\_\_, in Lisboa, in duplicate, with each of the Parties keeping one copy.

On behalf of **Electrão**

On behalf of **Second Party**

Signature(s)

Signature(s)

## Annex 1

### Waste Treatment Operator Identification

Company name: \_\_\_\_\_

Address: \_\_\_\_\_

Location: \_\_\_\_\_

Country: \_\_\_\_\_

Permit nº: \_\_\_\_\_

Permit validity term: \_\_\_\_\_

Technical manager: \_\_\_\_\_

Telephone number: \_\_\_\_\_

E-mail: \_\_\_\_\_

Opening and closing hours: \_\_\_\_\_

Geographic coordinates

Latitude: \_\_\_\_\_

Longitude: \_\_\_\_\_

(in case of more installations, add identification form)

## Annex 2

### Description of the Services Provided

#### 1. Services provided by the WTO

The services to be provided by the WTO are those listed:

- Reception of waste;
- Weighing by type;
- Non-conformities identification and sending information and photographic record to Electrão;
- Storage;
- Treatment of waste batteries and accumulators;
- Shipping for final treatment of all fractions/components resulting from the treatment and shipping for final treatment of waste batteries and accumulators types non-processed if applicable;
- Speeding up the return of the means of conditioning the received waste, if applicable;
- Processing of all information regarding the total quantities received and shipped from the WTO installation, of all WBA types.

#### 2. Treatment and Recovery Process

The WTO treatment and recovery process can be outlined as follows:

(include process scheme)

The WTO must subject WBA to an appropriate treatment and in full compliance with the requirements provided in article 76º of DL 102-D/2020, and Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006, ensuring the technical requirements established in this tender procedure, namely in respect of the best available techniques, and in compliance with all current legislation.

The treatment and recovery processes managed by the WTO must comply with the requirements defined by Directive 2006/66/EC of 6 September 2006, namely:

- Treatment shall, as a minimum, include removal of all fluids and acids.
- Treatment and any storage, including temporary storage, at treatment facilities shall take place in sites with impermeable surfaces and suitable weatherproof covering or in suitable containers.



- Recycling processes shall achieve the following minimum recycling efficiencies:
  - (a) recycling of 65 % by average weight of lead-acid batteries and accumulators, including recycling of the lead content to the highest degree that is technically feasible while avoiding excessive costs;
  - (b) recycling of 75 % by average weight of nickel-cadmium batteries and accumulators, including recycling of the cadmium content to the highest degree that is technically feasible while avoiding excessive;
  - c) recycling of 50 % by average weight of other waste batteries and accumulators.