



Producer Responsibility Organisation for the extended producer responsibility of mattresses

Membership agreement for joining the VALUMAT system

This Agreement has been drawn up in consultation with VALUMAT's legal advisers with a view to a uniform application for anyone joining the VALUMAT system. It is not possible for VALUMAT to accept amendments or deletions - even partial ones - of the provisions of the Agreement at the Participant's initiative.

MEMBERSHIP AGREEMENT FOR THE VALUMAT SYSTEM

BETWEEN THE UNDERSIGNED:

1. VALUMAT, the non-profit organisation under Belgian law, with its registered office at Hof ter Vleestdreef 5, 1070 Brussels, for the purposes of this Membership Agreement is represented by:

....., in his/her capacity as
.....
and, in his/her capacity as
.....
duly authorised to do so, hereinafter referred to as 'VALUMAT',

AND

2. The company
(name and legal form) according to the law, with headquarters
in:
.....
for the purposes of this Agreement, hereinafter referred to as:
....., in his/her capacity as
.....
duly authorised to do so, hereinafter referred to as the 'Participant'.

Hereinafter referred to together as 'the Parties',

it is hereby set out as follows:

- I. Given that the regional authorities have developed and will be developing legislative initiatives under the Acceptance Obligation for Discarded Mattresses, being the Decision of the Walloon Regional Government of 23 September 2010, published in the Belgian Official Gazette of 9 November 2010, the Decision of the Flemish Government of 17 February 2012, published in the Belgian Official Gazette of 23 May 2012 and the Decision of the Government of the Brussels Capital Region of 1 December 2016, published in the Belgian Official Gazette of 13 January 2017.
- II. Given that the respective professional organisations Fedustria, Comeos and Navem have negotiated, agreed and signed an Acceptance Obligation Covenant, or are respectively negotiating with a view to signing it, as representatives of the Mattress Manufacturers in Belgium, with the Flemish Region and Environmental Policy Agreements with the Walloon Region and the Brussels Capital Region on the implementation of the Discarded Mattresses Acceptance Obligation.
- III. Given that the acceptance agents are able to comply with the Acceptance Obligation, as required by law, by joining the VALUMAT system and entering into an Agreement with the Producer responsibility organisation of which they then become Participants.
- IV. Given that the VALUMAT vzw (non-profit organisation) was set up at the initiative of Fedustria, Comeos and Navem to ensure the collective implementation of the Acceptance Obligation.
- V. Given that the manufacturer wishes to rely on VALUMAT in compliance with its Acceptance Obligation and to join the VALUMAT system in this respect.

and is agreed as follows:

Article 1 - Definitions

For the purposes of this Agreement, the following terms shall be understood as follows:

VALUMAT system: the system set up by VALUMAT with the aim of carrying out the Acceptance Obligation for Discarded Mattresses.

The Agreements on Environmental Policy: the agreements between Fedustria, Comeos and Navem, VALUMAT and the Walloon and Brussels Governments on the way in which the Acceptance Obligation for Discarded Mattresses is fulfilled for the benefit of the Manufacturers who have entered into a Membership Agreement with VALUMAT, in accordance with the following regional regulations:

in the Walloon Region:

Decision by the Walloon Government of 23 September 2010 on introducing a takeback obligation for certain waste materials, published in the Belgian Official Gazette of 9 November 2010;

in the Brussels Capital Region:

Decision by the Government of the Brussels Capital Region of 1 December 2016 on waste management, published in the Belgian Official Gazette of 13 January 2017.

Acceptance Obligation Covenant: the agreement between Fedustria, Comeos and Navem, VALUMAT and the OVAM on the way in which the Acceptance Obligation for Discarded Mattresses is fulfilled, in compliance with the following regional regulations:

Decision by the Flemish Government establishing the Flemish Regulations on the Sustainable Management of Material Cycles and Waste (VLAREMA) of 17 February 2012, published in the Belgian Official Gazette of 23 May 2012.

Agreement: this signed document, including all its Appendices, current and future, both handed over at the time the Agreement is signed and those passed on afterwards, as well as any amendments and additions to it at a later date.

Appendices: all current and future appendices to the Agreement, both published at the time the Agreement is signed and those subsequently published, as part of the VALUMAT system, on the VALUMAT website. Future appendices or amendments to existing appendices shall require the Participant's signature, except in the cases referred to in Article 10.4.2.

Acceptance Obligation: the aforementioned regional regulations imposed on the Manufacturers, intermediaries and end sellers of Mattresses.

Mattresses: are those mattresses for which Fedustria, Comeos, Navem and VALUMAT have concluded or will respectively conclude an Environmental Policy Agreement or Acceptance Obligation Covenant, with the three regions, i.e.: products intended for sleep and rest, suitable for human use for a long period of time, consisting of a strong cover, filled with core materials, and which can be placed on an existing supportive bed structure, including toppers. A topper (also called a mattress topper, mattress cover or top mattress) is a thin mattress (up to 10 centimetres thick) that is placed on top of the normal mattress.

Discarded mattresses: any mattress that the holder discards, intends to discard or is required to discard.

Manufacturer: any natural or legal person who, irrespective of the sales technique used, including distance selling within the meaning of Article I.8, 15° of the Belgian Code of Economic Law:

- a) is located on the Territory and manufactures Mattresses, or has them manufactured, under its own name or brand, which it trades under its own name or brand on the Territory or earmarks for its own use;
- b) is located on the Territory and resells Mattresses or earmarks them for its own use on the Territory, which have been manufactured by other suppliers under its own name or brand (private label). In doing so, the reseller shall not be regarded as manufacturer if the manufacturer's brand, as referred to in point (a), is visible on the product;
- c) is located on the Territory and professionally markets Mattresses initially on the Territory, whether or not for its own use;

- d) is located outside the Territory and professionally sells Mattresses through distance selling, within the meaning of Article I.8, 15° of the Belgian Code of Economic Law, directly or by using an online marketplace, to private households on the Territory.

Anyone who provides funding solely based on or under a funding agreement and who does not have the advantages and disadvantages associated with ownership shall not be deemed to be a manufacturer unless he also acts as a manufacturer as referred to in points (a) to (d).

Producer responsibility organisation: VALUMAT vzw (non-profit organisation), a body in the form of a non-profit organisation in compliance with the Law of 23 March 2019 introducing the Code of Companies and Organisations and various provisions, set up by the federations that have signed or will be signing the Environmental Policy Agreements or Acceptance Obligation Covenants relating to the Acceptance Obligation for Discarded Mattresses with the respective regional authorities.

Operator: the natural or legal entity with which VALUMAT has entered into an Agreement under the VALUMAT system and which carries out or manages one of the following activities itself: collection, treatment, processing, recycling and useful application of discarded Mattresses.

Late-payment interest: the interest calculated on the basis of the 1-year Euribor interest rate, based on a year of three hundred and sixty (360) days, increased by 2 basis points. This interest shall apply in the case of late payment of invoices or late filing of the Declarations and shall be calculated on the basis of the contributions due.

Declaration: the annual declaration by the Participant using the forms or online application made available to the Participants in accordance with the procedure attached in Appendix I concerning the Mattresses marketed by the Participant on the Belgian market.

Territory: the territory on which the Acceptance Obligation applies.

Article 2 – Subject matter of the Agreement

- 2.1. The Participant declares it is joining the VALUMAT system by signing this Agreement and undertakes to pay the funding contributions agreed below to VALUMAT.
- 2.2. By joining the VALUMAT system, the Participant is responsible to VALUMAT, which agrees to take all the necessary action for:
- implementing the Acceptance Obligation, including the obligations arising from the Environmental Policy Agreements or the Acceptance Obligation Covenant regarding the Acceptance Obligation for Discarded Mattresses;
 - the proper functioning of the VALUMAT system, in accordance with the conditions set out in the regulations on the Acceptance Obligation, in the Environmental Policy Agreements or in the Acceptance Obligation, concluded or to be concluded with the regions, and in this Agreement.

- 2.3. The Participant shall instruct VALUMAT to conclude agreements with the regional authorities on its behalf in order to implement collectively the extended Manufacturer responsibility for Mattresses. These agreements are binding on the Participant.

Article 3 – Scope

- 3.1. Membership of the VALUMAT system concerns the Mattresses for which an Acceptance Obligation rests on the Participant in the past, present and future.

Article 4 – Term

- 4.1. The Agreement shall begin on 1 January of the year in which the Agreement is signed. In the event of retroactive membership referred to in Article 5.2.2., the Agreement relates to the period from the first calendar year for which the Participant is unable to provide proof that it has already fulfilled its Acceptance Obligation, while it was subject to it.
- 4.2. The Agreement shall be for an indefinite period.

Article 5 – Funding contributions

5.1. General

- 5.1.1. To enable VALUMAT to carry out its task, the Participant shall pay the funding contributions for the entire term of the Agreement in accordance with the following methods defined below. Each year, the funding contributions are payable for all of the Mattresses, marketed by the Participant during the calendar year and for which the Acceptance Obligation applies. As an exception, VALUMAT shall invoice only 11/12 of the funding contributions due to the Participant for the 2021 calendar year.
- 5.1.2. The amount, method of calculation and use of the funding contributions shall be set annually by the VALUMAT General Meeting and shall apply by law to this Agreement from any date it enters into force set by the administrative body. The scales for the funding contributions are set out in Appendix I. The funding contributions can never be lower than the minimum funding contributions designated in Appendix I.
- 5.1.3. Each payment shall be made by a transfer to VALUMAT's bank account or by any other payment method accepted by VALUMAT as published on VALUMAT's website (see Appendix I).

- 5.1.4. Unless otherwise specified or there is a valid objection to the invoices within the twenty (20) calendar days following the date of invoice, the invoices sent by VALUMAT to the Participant must be settled by the Participant within the thirty (30) calendar days from the date indicated on the invoice. For any amount not paid within the above mentioned period, the Participant shall be liable by law and without additional notice of or formality for the Late-payment interest, up to the full payment of this amount.
- 5.1.5. The Participants in the VALUMAT system shall pass on the basic contribution to their customers from 1 January 2021. On invoices between professionals (with VAT number, B2B) this contribution must be visible on the invoice. This can be done via a line of text (including environmental contributions) or with an explicit indication of the amount of the environmental contributions. For sales to consumers (B2C), this contribution does not have to be stated on the invoice or the cash ticket but it is allowed.

5.2. Types of funding contributions

5.2.1. Special provisions relating to the funding contributions

The annual funding contribution shall be provided to finance VALUMAT's operating costs and all costs that must be borne in order to enable VALUMAT to carry out its assignment, if any:

- setting up a reserve fund;
- organising awareness-raising campaigns;
- carrying out studies and taking initiatives together with the Participants in connection with stimulating eco design;
- reimbursing the local authorities for the costs of collecting, transporting and processing the discarded Mattresses;
- reimbursing approved centres for re-using Mattresses;
- encouraging end sellers to accept discarded Mattresses from their customers on a voluntary basis when purchasing a new Mattress;
- reimbursing the costs for Manufacturers of setting up a reverse logistics system and for professional users in order to send discarded Mattresses for recycling as much as possible;
- reimbursing the operator's additional administrative costs of collecting, processing and delivering data relating to the quantities of discarded Mattresses collected, sorted, processed and re-used.

5.2.2. Special provisions relating to retroactive membership

Membership of the VALUMAT system is retroactive and the funding contributions are therefore due from 1 January 2021 or from 1 January of the first year for which the Participant is unable to provide proof that it has

already fulfilled its Acceptance Obligation in another regulatory manner while the Participant was subject to it. The funding contributions due shall be calculated on the basis of the scales as they were applicable in the previous years in question. Late-payment interest may be charged on the funding contributions due for the calendar years preceding the calendar year of affiliation.

5.3. Period for which funding contributions are due

Unless explicitly stipulated otherwise, the funding contributions shall be due from 1 January of the first year for which the Participant is unable to provide proof that it has already fulfilled its Acceptance Obligation while subject to it.

5.4. Settlement of funding contributions

5.4.1. Funding advances

In order to enable VALUMAT to carry out its assignment, the Participant shall pay it a funding advance that is at least equal to the minimum funding contributions referred to in Appendix I.

Funding advances for 2021

The funding advance for the 2021 calendar year is calculated on the Participant's final and actual figures for the 2020 calendar year, which the Participant is obliged to state in its Declaration.

Funding advances from 2022

The funding advance for the calendar years after 2021 shall be calculated on the basis of the Declaration for the previous calendar year.

In the absence of a Declaration for the previous calendar year, VALUMAT may calculate the funding advances on the basis of the most recent Declaration in its possession relating to the Participant.

The following measures will be taken against any Participant who fails to submit its Declaration to VALUMAT by 31 March each year at the latest, in accordance with Article 6.1.

- allocation of Late-payment interest;
- costs incurred by VALUMAT, directly or through a third party, are assigned with a view to carrying out checks that are required to draw up the Participant's Declaration.

Funding advances for Participants who were not active as Manufacturers in the previous calendar year

If the Participant was not active as a Manufacturer during the calendar year preceding its affiliation to VALUMAT, the funding advances will be determined on the basis of the expected sales volumes as indicated by the Participant.

5.4.2. Payment methods

For the calendar year of affiliation, a funding advance will be charged to the Participant for the current calendar year on the basis of the Declaration submitted.

From the second calendar year of affiliation and on the basis of the Declaration for the previous calendar year, VALUMAT will send the Participant two invoices: one for the final settlement of the previous calendar year and one for the funding advance for the current calendar year.

Funding advance for the current calendar year

The funding advance for the current calendar year shall be invoiced on receipt and processing of the Declaration. Payment of the invoice shall be made in instalments according to the schedule set out in Appendix I.

The final bill

The funding contributions shall be finally settled on the basis of the Declaration for the previous calendar year.

- If the amount of the funding contributions calculated on the basis of the Declaration does not exceed the total of the funding advances paid by the Participant, the difference defined in this way shall be the subject of a credit note repaid to the Participant within thirty (30) calendar days of receipt of the Declaration by VALUMAT.
- If the amount of the funding contributions calculated on the basis of the Declaration does exceed the total of the funding advances paid by the Participant, the difference defined in this way shall be the subject of an additional invoice raised by VALUMAT and payable within the thirty (30) calendar days from the date of invoice.

5.5. Reimbursement of funding contributions

VALUMAT shall reimburse each Participant who so requests with an amount for the quantity of Mattresses for which the Participant has paid a funding contribution and which he has delivered to a reseller who has exported these Mattresses. The amount to be recovered shall be equal to the funding contribution paid by the Participant to VALUMAT for marketing the Mattresses in question. To that end, the Participant shall inform VALUMAT of the nature and quantity of Mattresses exported by the reseller using a Declaration of honour provided by the reseller to the Participant, in accordance with the model established by VALUMAT.

Article 6 – Communication and processing of data

6.1. General

The Parties expressly agree that all data for defining the funding contributions must be handed over by the Participant to a third party designated by VALUMAT in order to maintain confidentiality.

The Participant undertakes to transfer the Declaration properly completed to that designated third party using the forms made available or online application. The data transmitted in this way should be collected truthfully and verifiably according to the procedures and criteria. These procedures and criteria, defined by VALUMAT's governing body in consultation with the third party, can be found in Appendix I.

The Participant undertakes by joining the system to submit to the control procedures established by VALUMAT with a view to the proper performance of the obligations imposed on the latter.

6.2. Administration

6.2.1. The Participant shall keep a sound file, consisting of all the calculation elements and documents needed to prepare the Declaration. VALUMAT shall have the right at any time, through the third party referred to in Article 6.1 or through the intervention of an auditor or an external accountant, who are bound by professional secrecy, to carry out the necessary checks to verify the accuracy of the information provided by the Participant.

6.2.2. The costs of these audits shall be borne by VALUMAT, unless the funding contributions due, calculated on the basis of the improved Declaration, exceed the total of the funding contributions paid by more than ten per cent (10%). Where appropriate, the costs of the aforementioned checks shall be borne by the Participant.

6.2.3. If inaccuracies were to be found by VALUMAT in the documents referred to in Article 6.1., through any legal means and on the basis of the audits provided for in Article 6.2.1., the Participant shall be required to pay VALUMAT in the event of obvious negligence or fraud the funding contributions avoided on the one hand, plus the Late-payment interest and, on the other hand, by way of compensation, to pay an additional amount equal to that of the financing contributions avoided.

Article 7 – VALUMAT's obligations

7.1. VALUMAT undertakes to comply with its obligations, including those relating to the Acceptance Obligation.

- 7.2. VALUMAT undertakes to treat all financial or commercial information entrusted to it by the Participant or of which VALUMAT becomes aware during the implementation of the Agreement, and to have it treated in the strictest confidence. When VALUMAT publishes information on the basis of the information made available to it, it undertakes to do so in such a way that no financial or commercial information can be derived therefrom by individual Participants. This confidentiality obligation shall not affect the duty of disclosure that VALUMAT has or could have under a law or regulatory provision.
- 7.3. VALUMAT undertakes to draw up a list of all Operators and Participants and shall keep these lists available to the Participant. On the other hand, VALUMAT is authorised to use the list of Participants in its own publications and/or communications.
- 7.4. Except for the name of the Participant, VALUMAT's use of the Participants' brands, logos or other identification elements, for information purposes in particular, is only possible under a written and signed Agreement, setting the conditions for use.
- 7.5. VALUMAT shall keep its annual accounts, as approved by its general meeting, during office hours at its registered office for inspection by the Participant.
- 7.6. In fulfilling its obligations and its general functioning, VALUMAT strives for the greatest possible administrative uniformity and simplification.

Article 8 – Applicable law and dispute resolution

This Agreement is governed by Belgian law. In the event of a dispute concerning the validity, interpretation or implementation of the Agreement, the Parties undertake to enter into consultations with each other with a view to reaching an amicable settlement. In the absence of an amicable settlement in this matter, unless otherwise agreed between the Parties, the dispute shall be finally settled in accordance with the CEPANI Arbitration Regulations, by one or more arbitrators appointed in compliance with these regulations.

Article 9 – End of the Agreement

9.1. Termination without error

- 9.1.1. The Participant may terminate the Agreement at the end of the current calendar year by registered letter with acknowledgement of receipt giving at least three months' notice.
- 9.1.2. The Parties may unilaterally terminate the Agreement upon simple notification by registered letter with immediate effect if:
 - Fedustria, Comeos, Navem and VALUMAT were to see the renewal of one of the Environmental Policy Agreements or Acceptance Obligation

Covenants finally refused;

- one of the regions cancels its Environmental Policy Agreement or Acceptance Obligation;
- VALUMAT were to be dissolved or its activities permanently discontinued;
- the Participant is the subject of bankruptcy proceedings, judicial reorganisation or settlement proceedings.

In these various hypotheses, the Parties undertake to consult on the destination of the funding contributions paid by the Participant to VALUMAT and to seek an alternative solution which, without prejudice to the respective legitimate interests of the Parties, enables the Participant to fulfil its obligations under the Acceptance Obligation and the Environmental Policy Agreements or Acceptance Obligation Covenants.

9.2. Dissolution at the Participant's expense

VALUMAT may terminate the Agreement by law, without further formalities, compensation or obligations, or judicial intervention at the Participant's expense:

- (i) in the event of any non-compliance by the Participant with the obligations imposed on it under the Agreement and which have not been remedied within twenty (20) working days following default by VALUMAT, stating the intention to dissolve it;
- (ii) in the event that VALUMAT informs the Participant by registered letter, stating the intention to dissolve it, of findings of new irregularities in the Declarations, which are due to the obvious negligence or fraud on the part of the Participant, and which have already previously been paid for the compensation referred to in Article 6.2.3.

9.3. Dissolution at the VALUMAT's expense

The Participant may dissolve the Agreement by law, without further notice of default, compensation or obligations, or judicial intervention at VALUMAT's expense in the event of any serious breach of its obligations attributable to VALUMAT and not remedied within twenty (20) working days of notice of default by the Participant.

9.4. Consequences of terminating the Agreement

9.4.1. In the event that the Agreement is terminated in accordance with Article 9.1., none of the Parties shall be required to pay compensation, reparation, termination fees or other sums to the other Party, with the exception of what may be payable and due in accordance with the provisions of the Agreement.

9.4.2. In the event that the Agreement is terminated in accordance with Article 9.2.,

the sums paid by the Participant have been finally acquired by VALUMAT, without prejudice to VALUMAT's right to claim compensation for the damage suffered.

9.4.3. In the event that the Agreement is terminated in accordance with Article 9.3., VALUMAT is only obliged to pay compensation to the Participant in the event of proven fraud or intentional error.

9.4.4 In the event that the Agreement is terminated, the Participant will be required to make a Declaration on the basis of which VALUMAT will make a final financial settlement. The final financial settlement shall take into account all the Mattresses that are marketed by the Participant during the calendar year in question until the end of the Agreement and subject to the Acceptance Obligation.

Article 10 - Final provisions

10.1. Non-transferability

Under no circumstances may the Participant transfer the Agreement or outsource implementation thereof to a third party, subject to VALUMAT's prior written Agreement.

10.2. Use of VALUMAT's name or logo(s)

10.2.1. Except for the use of the name 'VALUMAT' for purely informative purposes, VALUMAT's name, brands, logos or other identification elements can only be used by the Participant on the basis of written authorisation or general guidelines issued by VALUMAT, further specifying the conditions for use.

10.2.2. VALUMAT may at any time, in order to ensure the VALUMAT system is functioning properly, introduce a logo in the event of a reasoned decision by its governing body, indicating the need for the logo and the conditions for use thereof.

10.3. Notifications

Any notification to be given under the Agreement shall be validly given by simple registered letter, unless expressly stipulated otherwise, addressed to the other Party.

10.4. Adjustments and Appendices

10.4.1. Unless expressly stipulated otherwise in the Agreement, all amendments to the Agreement shall be drawn up in writing and signed by both Parties.

- 10.4.2. Without prejudice to the provisions of the preceding paragraph, VALUMAT shall always have the right, by decision of its governing body, to the extent that such adjustments are necessary for compliance with the legislation or conditions imposed on it under the Environmental Policy Agreements or Acceptance Obligation Covenants, or the implementation of its statutory purpose and of the VALUMAT system.
- 10.4.3. The Appendices are an integral part of the Membership Agreement.
- 10.4.4. In the event of any conflict between this Agreement and the Appendices, this Agreement shall take precedence.

10.5. Signature

The Parties shall agree that this Agreement can be signed using digital signatures that include a digital certificate for independent identity validation (for example Adobe Sign, DocuSign, or similar technology for digital signatures). Digital signatures such as these have the same legal force and effect for all purposes as handwritten signatures. Digital copies of this Agreement, with digital signatures such as these, are deemed to be original copies. If the Agreement is signed with handwritten signatures, as many copies shall be signed as there are Parties and each Party shall then receive an original copy.

Drawn up in....., on
 (date).....,

On behalf of the Participant
 Name.....
 Capacity.....

On behalf of VALUMAT vzw
 Name.....
 Capacity.....

Signature:

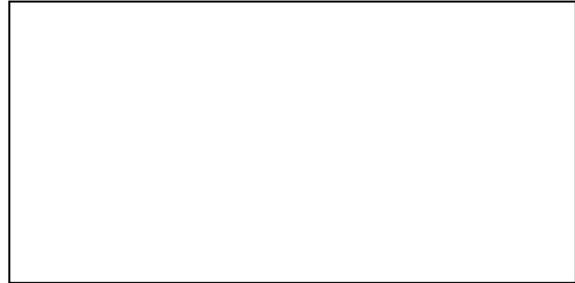
Signature:

On behalf of VALUMAT vzw

Name.....

Capacity.....

Signature:



Appendices: Appendix I: Explanatory Notes to the Declaration