LEGAL NOTICE NO………………

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT
(No. 8 of 1999)
THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (EXTENDED PRODUCER RESPONSIBILITY) REGULATIONS, 2020

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THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT, 1999
(No. 8 of 1999)

IN EXERCISE of the powers conferred by section 86 of the Environmental Management and Co-ordination Act, No. 8 of 1999, the Cabinet Secretary for Environment and Forestry, on the recommendation of the National Environment Management Authority, makes the following Regulations—

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (EXTENDED PRODUCER RESPONSIBILITY) REGULATIONS, 2020

PART I — PRELIMINARY

Citation. 1. These Regulations may be cited as the Environmental Management and Co-ordination (Extended Producer Responsibility) Regulations, 2020.

Interpretation. 2. In these Regulations unless the context otherwise requires—


“Actors” refers different players in the extended producer responsibility value chain.

“Authority” means the National Environment Management Authority established under the Act;

“Circular Economy” – refers to initiatives for designing and redesigning out waste from products, extraction of maximum value from natural resources, closing of material loops and creation of new value from materials that would otherwise have been wasted.

“Converter” means an entity that transforms or combines secondary raw materials to produce a new product
“Consumer,” refers to the end user of a product.

“Compliance schemes,” refers to both individual and collective extended producer responsibility schemes”.

“Deposit Refund scheme” refers to a collection system that requires a monetary deposit on a product at the point of sale. Consumers redeem the surcharge when they return the product.

“Extended producer responsibility” refers to an environmental management approach in which a producer’s responsibility for a product is extended to the post-consumer stage of a product life cycle.

“Environmentally friendly/eco-design” refers to the practice of reducing environmental degradation and pollution by making products that comply with environmental sustainability that includes but not limited to minimal waste production, reusability, recyclability, compostability, biodegradability and safe disposability.

‘Environment sustainability’ refers to responsible interaction with the environment to avoid pollution, depletion or degradation of natural resources and allow for long-term environmental quality.

“Free rider” means an individual or entity that does not contribute to a collective scheme but benefits from its existence and action; it includes producers who fail to manage own products at the post-consumer stage; producers who under declare their volumes, or fails to demonstrate fulfilment of individual extended producer responsibility obligations, producer in a pooled scheme who fails to pay their subscriptions, submit accurate information or fulfil their membership requirements.

“Packaging,” refers to material in which a product is wrapped or covered with in order to protect it or prevent it from being contaminated, sold or transported. In this regulation, packaging shall also be considered
as a product.

“Producer” - refers to an entity that introduces goods, products and packaging into the country using authorised means by manufacturing, importing, distributing, converting, selling or re-selling or otherwise brings.

“Post-consumer” - means environmental responsibility for a product when it is discarded by a consumer or when it becomes waste.

“Product” – refers a good or packaging introduced in the Kenyan market by any entity or persons through production, importation, franchising, marketing, and distribution outlets and channels for consumption by the consumer.

“Producer responsibility organization” - refers to a membership organization set up to assume legal obligation to implement extended producer responsibility on behalf of its members in a Collective compliance scheme.

“Product life cycle,” refers to environmental sustainability of a product in all its stages from raw material extraction, design, production, transportation, distribution, consumption/use, repair and maintenance, recycling and end of life disposal.

“Individual compliance scheme” - refers to producers directly executing their EPR obligations.

“Collective compliance scheme” - refers to producers executing their EPR obligations in a PRO

“Mandatory initiatives” refers to initiatives implemented through government regulation.

‘National Environment Tribunal” means the Tribunal established under Section 125 the Environmental Management and Coordination Act, No. 8 of 1999;

Recovery- means retrieval of materials from waste it includes repair, refurbishment, recycling, remanufacturing, composting, power generation, or any other initiative aimed at extracting value from material that would
otherwise have been discarded as waste.

“Take back”- refers to mechanism by producers to collect their products from end users.

“Waste” means—

(a) any substance, material or object, that is unwanted, rejected, abandoned, discarded or disposed of, or that is intended or required to be discarded or disposed of, by the holder of that substance, material or object, whether or not such substance, material or object can be re-used, recycled or recovered and includes all wastes as municipal waste, domestic waste, waste from agriculture, horticulture waste, aquaculture waste, forestry waste, medical waste, chemical, hazardous and toxic industrial waste, pesticide and toxic substances, but does not include radioactive waste; or

(b) any other substance, material or object that is not mentioned above but may be defined as a waste by the Cabinet Secretary by notice in the Gazette;

(c) any waste or portion of waste, referred to in paragraphs (a) and (b) ceases to be a waste—

(i) once an application for its re-use, recycling or recovery has been approved by the Authority or, after such approval, once it is, or has been re-used, recycled or recovered;

(ii) where approval is not required, once a waste is, or has been re-used, recycled or recovered; and

(iii) where the Cabinet Secretary has, in the prescribed manner, excluded any waste stream or a portion of a waste stream from the definition of waste;

“Waste Treatment” - means the physical, mechanical biological, thermal, chemical processing of waste with a view of reducing its impact to the environment.

“Waste Management,”- refers to control and
monitoring of production to minimise waste, handling of post-consumer products including segregation at source, collection and take back schemes, transportation, processing of material recovered from waste, treatment and safe disposal of unrecoverable materials.

Object and purpose.

3. The object and purpose of these Regulations is to provide for extended producer responsibility for all products and packaging in all phases of their life cycle to enhance environmental sustainability through—
   (a) Reduction of pollution and environmental degradation;
   (b) Sustainable use of natural resources;
   (c) Promotion of circular economy;
   (d) Reduction of waste at source;
   (e) Promotion of environmentally friendly product designs; and
   (f) Promotion of a culture of environmental consciousness and responsibility.

Application of the regulations

4. (1) These Regulations shall apply to individual compliance schemes and producer responsibility organisations for the products listed in the First Schedule.

PART II - EPR OBLIGATION AND RESPONSIBILITIES

Extended producer responsibility obligations.

5. (1) Every producer shall bear extended producer responsibility obligation to reduce pollution and environmental impacts of the product that they introduce in the market.

   (2) In fulfilling this obligation, the producer shall;

   (a) establish post-consumer collection and take back schemes system which may include a deposit refund system.
   (b) register and provide reports of the status of the implementation of their extended producer responsibility obligations through the reporting system established by the Authority.
   (c) design products and packaging materials that minimize waste, facilitate reuse, recycling, recovery and are environmentally friendly at their end of life.
   (d) take financial and or physical responsibility for the management, treatment and disposal of their post-consumer products and end of life treatment for the waste generated by their products;
   (e) provide updated information on quantities of
products they introduce into the market, recyclability and reusability, interpretation of packaging labels, market traceability

(f) mechanism and any other prescribed information though reporting system established by the Authority.

(g) provide consumer with information on their role on reuse, return, take back points, meaning of recycling and recovery labels and symbols on the products.

(h) raise awareness on management of post-consumer products that they introduce in the market.

(i) carry out product life cycle assessment in relation to their products for enhancing environmental sustainability;

(j) Support establishment of markets for secondary raw materials;

(k) put in place circular economy initiatives and any other measures to reduce impact of their product on health and environment.; and

(l) fund research and development programs on emerging technologies to improve material recovery;

Execution of EPR obligations

6. (1) The producers shall fulfil their obligations by setting up individual or collective compliance scheme.

(2) An individual compliance scheme operator shall be responsible for the organisation, management, operational and reporting aspects of the execution of their obligations.

(3) A Producer can transfer part or their full obligations subject to membership agreement to a collective compliance scheme through a producer responsibility organisation, in which they take membership.

(4) A producer’s obligation in a collective scheme shall include but not limited to payment of membership fees to a registered and licensed producer responsibility organization which shall execute the obligations on behalf of its members.

(5) A producer who introduces a product shall assume responsibility for collecting and treating the waste resulting from the product it has introduced.
(6) Lack of an established Producer Responsibility Organisation mechanism shall not exempt any producer from individual responsibility.

7. (1) The products covered under these Regulations shall primarily be products that negatively impact on the environment and health, pose a challenge in recycling or recovery operations and which generate high management costs due to:
   (a) quantities;
   (b) hazards;
   (c) Risks; and
   (d) recovery operations.

(3) The Authority shall, in addition to the products listed in the First Schedule, provide a list of products which from time to time may be subjected to extended producer responsibility compliance schemes.

PART III - REGISTRATION OF PRODUCER RESPONSIBILITY ORGANIZATIONS

8. (1) No producer shall introduce a product into the country, as provided in the First Schedule of this Regulations, unless they have obtained producer responsibility registration from the Authority.

(2) Every producer shall obtain a producer responsibility number and a Producer Responsibility Organisation shall obtain a Producer Extended Responsibility Number from the Authority.

(3) For subsequent years of operation, an annual operating license shall be issued for individual producers’ compliance scheme and producer responsibility organisations’ that fulfil their performance standards as set out in the work plan, fulfil reporting obligations and assessed to be of good standing by the Authority.

(4) The EPR Registration Certificate may be revoked, suspended or cancelled if the Individual Producer Compliance scheme or the Producer Responsibility Organisation does not comply with statutory requirement, meet performance standards set out in the workplan.
or honour extended producer responsibility agreement entered into by the actors in the collective scheme.

(5) The Authority may, after the issuance of a registration certificate—
(a) cancel or revoke such certificate; or
(b) suspend such certificate, for such time, not more than twenty-four months, where the individual or producer organisation contravenes the provisions of the licence.
(c) Whenever a licence is revoked, suspended or cancelled, the holder thereof shall not proceed with the EPR scheme and each individual member of the PRO shall be responsible for the management of their product.

(1A) Where the Authority cancels, revokes or suspends a certificate in accordance with this section, the reasons for such action shall be given to the certificate holder in writing.

Requirements for registration of a Producer Responsibility Organization

9. (1) Requirements for registration or renewal of a producer responsibility organization shall be as provided under Tenth Schedule
(2) The Authority shall issue an interim permit for a period of ninety days for registration to enable the producer responsibility organization undertake stakeholder engagement.

Revocation, suspension or cancellation of Registration Certificate

10. (1) The Authority may, after the issuance of an annual operating licence—
(2) cancel or revoke such licence; or
(3) suspend such licence, for such time, not more than twenty-four months, where the licensee contravenes the provisions of the licence.
(4) Whenever a licence is revoked, suspended or cancelled, the holder thereof shall not proceed with the EPR scheme and each individual member of the PRO shall be responsible for the management of their product.

(2) Where the Authority cancels, revokes or suspends a licence in accordance with this section, the reasons for such action shall be given to the licensee in writing.

Approval of EPR Compliance Scheme by Authority

11. (1) The individual producer responsibility compliance scheme systems shall be approved by Authority for a maximum period of four years (renewable) on condition that the producer demonstrates proof of operational,
technical, management and financial capacity to meet their EPR obligations and terms of reference established by government.

(2) The Producer Responsibility Organisation shall be approved by the Authority for a maximum period of 4 years (renewed) subject to fulfilment of conditions set by the Authority and that the PRO demonstrates technical, managerial, financial and staffing and operational capacity to fulfil the requirements set out in the articles of association and agreements set by the members and stakeholders’ in the value chain.

(3) The producers shall be shareholders of the producer responsibility organization to which they belong.

EPR Plan 12 (1) The Ministry responsible for environmental matters upon recommendation from the Authority shall gazette collective national objectives, frameworks and targets for extended producer responsibility compliance schemes.

(2) Every individual and collective compliance scheme shall submit a two-year Extended Producer Responsibility plan to the Authority as provided for in the Seventh Schedule.

Producer Responsibility Organisations obligations. 13 (1) The Producer Responsibility Organisation shall be responsible for executing extended producer responsibility obligations on behalf of its members.

(2) The producer responsibility organization shall take the organisational and management responsibility for collection, sorting, material recovery, recycling, treatment and end of life management of its members’ products.

(3) The amount, ceiling and collection methods for the financial contribution under sub regulation (1) shall be as set out in the terms of reference of the contract.

(4) Establish post-consumer collection and take back schemes system which may include a deposit refund system.

(5) The members of the Producer Responsibility Organisation shall provide financial contributions which shall be used in their entirety to accomplish
the extended producer responsibility obligations as set out in sub regulation (10).

(6) The producers shall be shareholders of the producer responsibility organization to which they belong.

(7) The Producer Responsibility Organisation shall be responsible for modulation of EPR fees according to established environmental criteria on product design, useful life and end of life management as set out in the membership registration requirements and as reviewed during the annual members’ general meeting.

(8) Subject to conditions and limitations set out in the producer responsibility organization contract, a proportion of the waste recovered may be set aside for reuse or for recovery of usable parts.

(9) The Producer Responsibility Organisation shall be responsible for raising awareness on waste prevention, post-consumer product management and payment of a contribution to finance cross-sectorial communication campaigns in their territory of operation.

(10) Producer responsibility organisational shall undertake market development for the secondary raw materials market of the products under their scope.

(11) Producer Responsibility Organization shall fund research and development programs on emerging technologies to improve material recovery;

(12) A Producer Responsibility Organisation may recommend to the Authority to restrict or ban harmful or dangerous substances that undermine environmental sustainability in the products of its membership.

(13) A Producer Responsibility Organisation shall set minimum targets for reuse, recycling and recovery for its members and offer incentives for waste service providers and informal waste holders to encourage sorting of waste at source.

(14) A Producer Responsibility Organisation shall undertake organised monitoring of its membership activities to ascertain that objectives are being
achieved and to trigger inspections in view of applying sanctions to members who fail to fulfil their membership obligations.

(15) A Producer Responsibility Organisation shall establish any other applicable mechanisms and systems for enforcing extended producer responsibility of its members.

(16) The producer responsibility organization may be required to communicate to county governments the information they have on the quantities of waste collected and recovered through the extended producer responsibility mechanisms that have been declared in their territory of operation.

(17) The producer responsibility organization shall comply with the sustainable waste management objectives set by the Authority.

(18) All Producer Responsibility Organisations shall ensure effective management and harmonious relations between the different actors involved in the scheme.

(19) All Producer Responsibility Organisations shall hold an annual member meeting to deliberate on the progress and performance of the PRO, governance, management and administrative systems.

Charging and Modulation of EPR fees

14 (1) Members to a collective EPR compliance scheme shall pay registration fees to the producer responsibility organization, which shall then assume responsibility for the post-consumer and end of life management in lieu of the producers’ products.

(2) Producers shall contribute an annual subscription fee towards a collective extended producer responsibility compliance scheme.

(3) Producers shall pay extended producer fees, calculated using the same parameters for all the producers in a given scheme, and shall vary from one producer to another.

(4) The fees shall be modulated based on sustainability measures as provided in the Eleventh Schedule.

PRO finance

15 (1) The extended producer responsibility fees paid into the PRO shall be used for—
(a) Putting in place post-consumer products collection, logistics, recycling, recovery and safe disposal.

(b) Engagement of downstream partners in the chain who take back, recycle and treat and end-of-life product disposal.

(c) Consumer education and public awareness on sustainable waste management practices;

(d) Setting up material recovery facilities and sustainable waste management projects in partnership with counties;

(e) Training and capacity building of actors in the scheme including but not limited to waste service providers, transporters and recyclers;

(f) Management and administrative overheads of the extended producer responsibility system;

(g) To develop secondary markets and uses for the products under their scope.

(h) Fund research and development programs and on emerging technologies to improve material recovery removal of pollutants and effective systems for handling post-consumer products;

(i) Machinery and equipment to support collection and recovery; and

(j) Guide members on eco-design standards of their products and recycler-friendly packaging.

(2) The fees recovered under sub regulation (1) shall not be used for profit making purposes. All proceeds shall be ploughed back to the scheme to enhance sustainable waste management initiatives.

Producer Responsibility Organization Agreements

16 A producer responsibility organization shall enter into formal agreements with their members, waste service providers, recyclers and other key actors as required by the compliance scheme.

PRO 17 Members of a producer responsibility organisation
<table>
<thead>
<tr>
<th>Governance</th>
<th>are responsible for the management of the Producer Responsibility Organization.</th>
</tr>
</thead>
</table>

| Number of PROs per product | 18 (1) There shall be only one Producer Responsibility organisation per product.  
(2) Notwithstanding the provisions of 18(1) above the Authority may allow more than one Producer Responsibility Organisation to accommodate material variation of the product. |
| --- | --- |

| Registration certificate and operating license | 19 (1) The Authority shall issue registration certificate to registered licensed compliance schemes for—  
a) Individual Producer Responsibility  
b) Producer Responsibility Organisation  
(2) Application for registration and renewal for the individual producer responsibility compliance scheme and Collective Producer Responsibility Organisation shall be done in standard forms and submitted to the Authority as prescribed under Second Schedule.  
(3) The Registration granted under this regulation shall be valid for a maximum period of four years; unless revoked, suspended or cancelled by the Authority. |
| --- | --- |

<table>
<thead>
<tr>
<th>Annual Operating Licence</th>
<th>20 The Authority shall issue Annual Operating License to registered and licensed compliance schemes after meeting performance and reporting requirements and payment of the prescribed fee.</th>
</tr>
</thead>
</table>

| Fees | 21 (1) The fee payable under this Regulation shall be as prescribed in the Sixth Schedule of this regulation.  
(2) Requirements for registration and renewal shall be as prescribed in the Ninth Schedule |
| --- | --- |

| Renewal of Registration | 22 (1) The renewal of the registration issued under regulation 18 shall be done at the end of the four-year period subject to annual review reports by the Authority.  
(2) Any deregistered producer responsibility organization may re-apply subject to fulfilling the conditions and set out requirements.  
(3) The Authority shall establish a reporting mechanism for all the individual and collective extended producer responsibility schemes. |
(1) All producers shall maintain updated records of products managed, eco-design standards, contracts entered into by licensed waste service providers and Recyclers, and level of performance as per the work plan.

(2) All compliance schemes shall maintain updated records of products managed, eco-design standards, contracts entered into by licensed waste service providers and Recyclers, and level of performance as per the work plan.

(3) All compliance schemes shall publish their annual extended producer responsibility reports by 31st December of every year.

(4) All extended producer responsibility schemes both individual and collective shall submit up-to-date annual report of the preceding year to the Authority by January 31st of every year.

PART IV - EPR SCHEMES AND WASTE MANAGEMENT SERVICES

EPR and Counties

24 The Producer Responsibility Organisations may enter into public private partnerships with county governments on establishment and operationalization of collection, take back and waste disposal.

EPR Schemes and Waste management.

25 Compliance schemes shall operate under written agreement and contract, with designated waste actors with terms governing their engagement.

PART V - LICENSING, MONITORING AND COMPLIANCE

Role of the Authority

26 The Authority shall monitor the operation of extended producer responsibility chains and producer responsibility organization, by setting operational rules and targets including—

(a) Registration of producers under the First Schedule bearing extended producer responsibility obligations.

(b) Issue certificate of registration of extended producer responsibility for individual and collective schemes.
(c) Renewal of registration and issuance of annual operating licenses.

(d) Shall determine and review the terms of reference for registration and certifications from time to time.

(e) Undertake Periodic review of extended producer responsibly targets.

(f) Shall maintain registration of all licensed producer responsibility both individual and collective which shall be made available to the public.

(g) Updating the list of covered products within the extended producer responsibility;

(h) Maintain an updated register of all registered and licensed individual compliance schemes and producer responsibility organisations.

(i) Maintain and update periodic data transmitted by producer responsibility organization;

(j) Publishing annual status reports of compliance schemes;

(k) Evaluating the operations of extended producer responsibility chains;

(l) Ensuring proper implementation of Extended producer Responsibility schemes, including assessment of product and waste chains (quantities marketed, waste collected and treated, etc.)

(m) Verify that producer responsibility organizations comply with the terms of their authorisation, and take measures to sanction those that do not comply;

(n) Designation of products to be included in the First Schedule.

Oversight 27 (1) All registered and licensed schemes shall be subject to oversight by the Authority.
(2) All compliance schemes shall be monitored and audited annually by the Authority to ascertain whether it has attained its objectives, as well as to determine Kenya’s position in relation to the objectives set for waste management.

(3) The data gathered will be used to improve the performance and regulatory process and to sanction actors who are not in compliance, if necessary.

(4) The Authority shall maintain an updated register of all schemes which shall be made available to the public.

(5) The Authority shall in consultation with Lead Agencies recommend to the Ministry responsible for Environmental matters collective national objectives, frameworks and targets for extended producer responsibility compliance schemes.

**PART VI – APPEALS**

Dispute Resolution

28 (1) All appeals shall be addressed by the National Environment Tribunal. Any person aggrieved by the decision of the Authority can file an Appeal at the National Environment Tribunal.

(2) Any person who is aggrieved by—

(a) The grant of a licence or certificate or a refusal to grant a licence or certificate, regulations made thereunder.
(b) the imposition of any condition, limitation or restriction on a licence or certificate under this regulation made thereunder;
(c) the revocation, suspension or variation of a licence or certificate of registration under this regulation made thereunder;
(d) the imposition against him of an environmental restoration order or environmental improvement order by the Authority under this Regulations made thereunder, may within sixty days after the occurrence of the event against which he is dissatisfied make an appeal to the National Environment Tribunal.

Penalties and 29 (1) It shall be an offence for an individual compliance
(2) Where a producer responsibility organization is found guilty of the offence under sub regulation (1) the cost of management of the said obligation shall be borne by the offender.

(3) It shall be an offence for a producer or Producer Responsibility Organisation to under-declare or give false information on quantities held or managed under the EPR scheme.

(4) A producer who is not a member of a related producer responsibility organization and does not fulfil their individual obligations commits an offence.

(5) Offenses shall be liable upon conviction to a fine not less than two million or not exceeding four million Kshs or to imprisonment for a term not less than two years or to both.

Transitional Provision

Every producer shall within six (6) months of the commencement of these regulations comply with the provisions as specified under Regulation eight (8).
SCHEDULE 1

List of products and packaging subject to extended producer responsibility compliance scheme

1. Packaging materials
2. Composites (based on paper)
3. Agricultural film
4. Batteries
5. Oils
6. Metals
7. Plastic products
8. Glass
9. Electrical and Electronic Equipment (EEE)
10. Furniture
11. Graphic paper
12. Mercury Auto Switches and thermostats
13. Paints
14. Pharmaceuticals products including packaging
15. Textiles
16. Tyres
17. Vehicles
18. Leather
SCHEDULE 2
APPLICATION FORM TO OPERATE INDIVIDUAL /COLLECTIVE PRODUCERS

EXTENDED PRODUCER RESPONSIBILITY SCHEME

1. I hereby apply for a license to undertake Extended Producer Responsibility objectives for ………………………(product name) of which particulars are as given below;

Full Name of Applicant or contact person…………………………………………………………

Name of company on behalf of which the application is being made (if applicable) ……………………………………….

Registered address of Applicant/Company ………………………………………….

(Address and postcode)

Physical Locality :( location, building) …………………………………………………..

County …………………………………………………………………………………..

Phone/Mobile number ………………………………………………………………..

E-mail Address …………………………………………………………………………

PIN Number ……………………………………………………………………………

Company Registration Number ………………………………………………………………………….

(If applicable)

2. Production and product lifecycle management

2.1 What kind of products do you manufacture/import/distribute?
……………………………………………………………………………………………………
……………………………………………………………………………………………………
……………………………………………………………………………………………………

2.2 What is the annual volume/quantity of product(s) procured, imported or distributed?
……………………………………………………………………………………………………
……………………………………………………………………………………………………

2.3 What is amount of waste likely to be generated from your products/brands annually?…………………………………………………………………………………………

……………………………………………………………………………………………………
2.4 State techniques being used in identifying and tracking of your product?

3 Attach the following documents together with the application form
(Refer to schedule 2)
   i. A copy of the Certificate of Registration issued by the Registrar of Companies
   ii. Kenya Revenue Authority (KRA) Certificate
   iii. A copy of lease agreement of the facility of operation
   iv. Two year work plan and budget/financial plan in relation to the proposed scheme Product/Packaging (Individual EPR)
   v. One(1) hard copy of & one (1) soft copy of the work plan according to signed minutes of the engagement with proposed actors of the scheme
EXTENDED PRODUCER RESPONSIBILITY

CERTIFICATE OF REGISTRATION

This certificate has been issued to ………………..............................................
(Extended Producer Responsibility name) in fulfilment of the Extended Producer Responsibility Registration requirements which complies with the Extended Producer Responsibility Regulations 2020.

Date of issue: ..........................................................

Expiry Date;..........................................................

Signature .........................................................

Director General

National Environment Management Authority
SCHEDULE 4

APPLICATION/RENEWAL FORM FOR ANNUAL LICENSE

I hereby apply for a license to undertake extended producer responsibility obligations for…………………… (product name) of which particulars are given below.

Name and address of the applicant

………………………………………………………………………………………………………………

Physical Address ………………………………………………………………………………………

Postal Address…………………………………………………………………………………………

Telephone Number……………………………………………………………………………………

Email Address…………………………………………………………………………………………

PIN Number: ……………………………………………………………………………………………

Registration number of the Extended Producer Responsibility Scheme

………………………………………………………………………………………………………………

………………………………………………………………………………………………………………

………………………………………………………………………………………………………………

Number of members:

………………………………………………………………………………………………………………

………………………………………………………………………………………………………………

Type of Product: ………………………………………………………………………………………

………………………………………………………………………………………………………………

Category of Extended Producer Responsibility Scheme

………………………………………………………………………………………………………………

………………………………………………………………………………………………………………

Annual estimated volume or quantity of product:

………………………………………………………………………………………………………………

………….

Date:……………………………Signature

………………………………………………………………………………………………………………

Designation /Title

………………………………………………………………………………………………………………

FOR OFFICIAL USE ONLY
Application received by ................................................................. on ........................................20......

Fees paid Kshs
...........................................................................................................
............ (in words)

Director General
National Environment Management Authority
SCHEDULE 5

ANNUAL LICENCE TO OPERATE AN EXTENDED PRODUCER RESPONSIBILITY SCHEME

License number: ..........................................................................................

Application Reference: ..............................................................................

Name: ........................................................................................................

Postal Address: ..........................................................................................

You are hereby licensed to undertake Extended Producer Responsibility Obligations for .................. (product)

This License is valid from .......... (date of issue) to ............... (date of expiry)

This license is subject to the following conditions (see over leaf).

Date issued: ...............................................................................................
SCHEDULE 6

FEES

Application fees

Registration
1. Collective Extended Producer Responsibility Schemes – Ksh. 10,000
2. Individual Extended Producer Responsibility Schemes - Ksh. 5,000

Renewal of Registration
1. Collective Extended Producer Responsibility Schemes – Ksh. 10,000
2. Individual Extended Producer Responsibility Schemes - Ksh 10,000

Annual Licence
1. Collective Extended Producer Responsibility Scheme – Ksh 10,000
2. Individual Extended Producer Responsibility Scheme – Ksh 10,000

Individual producer registration(one off) – Ksh 5000
SCHEDULE VII
EXTENDED PRODUCER RESPONSIBILITY (EPR) PLAN

Components of an EPR plan

(a) Baseline for the products and packaging handled;
(b) Minimum targets for reuse, recycling or recovery operations;
(c) Collection, logistics, recycling and composting system and end of life disposal;
(d) Modulation of EPR membership fees and parameters based on environmental sustainability criteria as stipulated under regulation
(e) Public awareness and consumer education and information program on waste segregation and proper handling of postconsumer products;
(f) Verifiable paid up membership;
(g) List of service providers and actors in the scheme;
(h) Eco-design guidelines for the products handled by the scheme;
(i) A mechanism of controlling banned or dangerous substances’ in products;
(j) An annual reporting mechanism;
(k) Training and capacity building of members and actors in the scheme;
(l) Organized monitoring of members, product traceability system, inspections with a view of applying sanctions on producers who fail to meet expected requirements;
(m) Model of financing the scheme and itemized budget based on actual cost;
(n) Any other actions necessary for execution of responsibility or items prescribed by the Authority.
SCHEDULE 8

PERMIT FOR PRODUCER RESPONSIBILITY ORGANIZATION

(Extended Producer Responsibility Regulations, 2020)

Permit Number: ........................................

This is to authorize ........................................................................................................

(Name of Producer Responsibility Organization) to undertake extended

producer responsibility obligations for

................................................................. (name of product).

This permit is valid for a period of three (3) months

from...................................................... (Date of issue) to

..................................................... (date of expiry).

NOTE: This permit is not a guarantee for registration certificate.

Signature..................................................

...

Director General

National Environment Management Authority
SCHEDULE 9

REQUIREMENTS FOR ISSUANCE OF ANNUAL OPERATIONAL LICENSE:

a) Progress report for the past year
b) Certified copy of annual returns filled with the registrar of companies
   including audited financial accounts;
c) Certified copy of current register of PRO members
d) Certified copy of agreements with service providers
e) Work plan for the coming year
f) Copy of the registration certificate
g) Updated register of PRO members
h) Progress report of the previous year (for renewal)
i) Work plan and budget for the coming year
j) Audited financial accounts (for renewal)
k) Register of payment of prescribed fees
SCHEDULE 10

REQUIREMENTS FOR REGISTRATION OF A COMPLIANCE SCHEME

a) INDIVIDUAL COMPLIANCE SCHEME REGISTRATION REQUIREMENTS

Requirements for registration:

i. A declaration that the company is the sole producer of the product in the country
ii. Proof of registration as a company.
iii. Provide an EPR plan (see Schedule VII)
iv. Provide actual copies of contracts entered into with relevant actors of the EPR scheme.
v. Payment of the prescribed fees to the Authority
vi. Provide a dispute resolution mechanism for the actors in the scheme
vii. Ensure that the Articles and Memorandum of Association of the company declares that sole business of the company is to undertake EPR obligations on the specific products.

b) PRODUCER RESPONSIBILITY ORGANISATION REGISTRATION REQUIREMENTS

Requirements for interim registration:

i. Minutes of the meeting of sector members attended by at least 30 companies, the interim officials, the resolution and a reserved business name after the meeting
ii. List of membership
iii. Roadmap towards full registration of the company (PRO)

Requirements for registration:

i. Proof of registration as a company limited by guarantee as provided by the Companies Act Kenya
ii. Updated list of membership and fee structure of the membership.
iii. Provide an EPR plan (see Schedule VII)
iv. Signed minutes of meetings with relevant actors
v. Provide copy of lease agreement of the facility of operation
vi. Payment of the prescribed fees to the Authority
vii. Provide a dispute resolution mechanism for the actors in the scheme
viii. Ensure that the Articles and Memorandum of Association of the company declares that sole business of the company is to undertake EPR obligations on the specific products.
ix. The directorship and membership of the company comprises of members of the PRO
x. Memorandum of Association to declare change of Directorship every two years
SCHEDULE 11

Parameters for modulation of EPR fees within a PRO.

a) Quantity of products introduced to the market.
b) Existence of mechanism for segregation of products at source.
c) Recyclability and Recoverability of products.
d) Existence of markets for use of producer’s secondary raw material.

e) Absence/presence of hazardous or none hazardous but disruptive additives.

f) Products with or without defined environmental foot prints.