

## **Amended and Restated Program Agreement**

### **Preamble**

**THIS AGREEMENT** made in duplicate is effective as of this 1<sup>st</sup> day of January, 2010.

**B E T W E E N:**

**WASTE DIVERSION ONTARIO,**  
a corporation without share capital  
incorporated by the *Waste Diversion Act, 2002*

(hereinafter referred to as "Waste Diversion Ontario")

- and -

**STEWARDSHIP ONTARIO,**  
a corporation without share capital continued  
under the *Waste Diversion Act, 2002* (Ontario)

(hereinafter referred to as "Stewardship Ontario")

**WHEREAS** according to Subsection 25 (3) of the *Act*, a waste diversion program developed under this *Act* must include an agreement between Waste Diversion Ontario and the industry funding organization that the program is developed in cooperation with, governing the role of the industry funding organization in the implementation and operation of the program and governing the exercise of the industry funding organization's powers under the *Act*;

**AND WHEREAS** Waste Diversion Ontario has caused Stewardship Ontario as the industry funding organization to be established under Section 24 of the *Act* for the purposes of developing and implementing a waste diversion program for designated Blue Box wastes under the *Act*;

**AND WHEREAS** the parties hereto entered into a Program Agreement dated February 28, 2003 and have subsequently amended and restated it from time to time and have agreed that it would be desirable to further amend and restate the Agreement as hereinafter set out.

**NOW THEREFORE** in consideration of the premises and mutual agreements contained herein and subject to the terms and conditions hereinafter set forth, the parties covenant and agree as follows:

#### **1. Purpose of the Agreement**

1.1 The purpose of this Agreement between Waste Diversion Ontario and Stewardship Ontario is to:

- (a) Define the roles and responsibilities of the two parties;

- (b) Set out the operating relationships between the two parties; and
- (c) Ensure openness and transparency to serve the public interest.

## 2. Definitions and Interpretation

2.1 Terms beginning with capital letters and used herein without definition shall have the meanings given to them in the Act, unless otherwise specified.

2.2 When used in this Agreement, the following words and expressions have the following meanings:

- (a) "**Act**" means the *Waste Diversion Act, 2002*, S.O. 2002, c. 6, as it may be amended from time to time;
- (b) "**Agreement**" means this Program Agreement which is entered into pursuant to Section 25 (3) of the *Act* and includes all attached schedules and any amendments thereto;
- (c) "**Blue Box Program Plan**" means the waste diversion program submitted by Stewardship Ontario and approved by Waste Diversion Ontario and submitted to the Minister for approval, of which this Agreement forms a part;
- (d) "**Blue Box Waste**" means waste materials defined under Ontario Regulation 273/02 as amended by Ontario Regulation 34/08;
- (e) "**Business Day**" means any working day, Monday to Friday inclusive, excluding statutory and other holidays, namely: New Year's Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day, Boxing Day and any other day which the Government of Ontario has elected to be closed for business;
- (f) "**Documentation**" means, for purposes of Section 9 of this Agreement, correspondence, documentation pertaining to public consultation during development of the Blue Box Program Plan, minutes of meetings of the Board of Directors and subcommittees, internal reports, consultants' reports, agendas and other information and data obtained, created or maintained by Stewardship Ontario;
- (g) "**FIPPA**" means the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended;
- (h) "**Funds**" means monies received by Stewardship Ontario as described in Subsection 32(3) of the *Act*;
- (i) "**Operating Agreement**" means the Operating Agreement entered into between Waste Diversion Ontario and the Minister;
- (j) "**Program Request Letter**" means the letter dated September 23, 2002 from the Minister issued to Waste Diversion Ontario;

- (k) "**Stewards**" means the persons or classes of persons designated under the Blue Box Program Plan rules as responsible for paying fees to Stewardship Ontario;
- (l) "**Steward**" means any member of the class of "Stewards";
- (m) "**Waste Diversion Program**" means a program referred to in Sections 23 and 25 of the *Act*.

2.3 In this Agreement,

- (a) Words denoting the singular include the plural and vice versa and words denoting any gender include all genders;
- (b) The word "including" or "includes" shall mean "including [or includes] without limitation";
- (c) Any reference to a statute shall mean the statute in force as at the date hereof, together with all regulations promulgated thereunder, as the same may be amended, re-enacted, consolidated and/or replaced, from time to time, and any successor statute thereto, unless otherwise expressly provided;
- (d) When calculating the period of time within which or following which any act is to be done or step taken, the date which is the reference day in calculating such period shall be excluded; if the last day of such period is not a Business Day, the period shall end on the next Business Day;
- (e) All dollar amounts are expressed in Canadian dollars;
- (f) Any tender of notices or documents under this Agreement shall be made upon the relevant party at the address set out in Section 13;
- (g) The division of this Agreement into separate sections and subsections, and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement; and
- (h) Except as specifically defined or provided for in this Agreement, words and abbreviations which have well known or trade meanings are used in accordance with their recognized meanings.

2.4 The parties acknowledge that the recitals to this Agreement are true and correct.

### 3. Term of Agreement and Amendment

3.1 The parties acknowledge and agree that the initial term of this Agreement commenced upon approval of the Blue Box Program Plan by the Minister on December 22, 2003 and was successively automatically extended until December 22, 2013. The term of this Agreement shall be automatically renewed for successive periods of five (5) years each following expiry of the current term unless terminated earlier in accordance with Section 17 of this Agreement or amended in accordance with Subsection 3.5.

3.2 Any changes to the terms of this Agreement shall be by written amendment signed by both parties. No changes shall be effective or shall be carried out in the absence of such an amendment.

3.3 The parties agree to conduct a review of the performance and implementation of this Agreement not later than two (2) years following the date of commencement of the term of this Agreement and every two (2) years thereafter. As part of such review, each of the parties may suggest any appropriate amendments to the terms of this Agreement.

3.4 Notwithstanding Subsection 3.3, the parties agree that Waste Diversion Ontario and Stewardship Ontario shall be able to suggest appropriate amendments to the terms of this Agreement to the Minister at any time.

3.5 No material change may be made to the Blue Box Program Plan or to the terms of this Agreement without the written approval of the Minister as set out in Section 27 of the *Act*. Material changes include but are not limited to the following:

- (i) Definition of Blue Box wastes in the approved Blue Box Program Plan.
- (ii) Definition of Stewards - Meaning the persons or classes of persons designated under the Blue Box Program Plan Rules for Stewards (2006) as responsible for paying fees to Stewardship Ontario.
- (iii) Change in the methodology for calculating fees as outlined in Schedule A hereto.

#### **4. Roles of the Parties**

4.1 Waste Diversion Ontario represents and warrants that it has approved the Blue Box Program Plan and the Rules for Stewards with respect to the Payment of Fees (2010) set out in Schedule B hereto.

Waste Diversion Ontario:

- (a) Will ensure that the terms and conditions of this Agreement are carried out in a responsible, complete and thorough manner, and on a timely basis;
- (b) Will provide estimates to Stewardship Ontario from time to time of the following:
  - (i) the costs incurred or expected to be incurred by Waste Diversion Ontario in respect of developing, implementing and operating the Waste Diversion Program in respect of Blue Box Waste; (ii) a reasonable share of the other costs incurred or expected to be incurred by Waste Diversion Ontario in carrying out its responsibilities under the *Act*; (iii) and a reasonable share of the costs incurred or expected to be incurred by the Ministry in administering the *Act*, all of which are to be charged to Stewardship Ontario under Section 32 of the *Act*;
- (c) Will invoice Stewardship Ontario for the costs referred to in paragraph 4.1(b) commencing at the end of the first quarter following the date upon which the Blue Box Program Plan commences following designation of Stewardship Ontario by

the regulations made under the *Act* as the industry funding organization for the Blue Box Program Plan (such costs to include costs identified in paragraph 4.1(b) incurred prior to the date upon which Stewardship Ontario is so designated);

- (d) Will implement the programs, policies and procedures identified as the responsibility of Waste Diversion Ontario in the Blue Box Program Plan approved by the Minister;
- (e) Will give written notice to Stewardship Ontario if, in the opinion of Waste Diversion Ontario, Stewardship Ontario has failed to comply with the terms of the Blue Box Program Plan, the Program Request Letter or the *Act* and advise Stewardship Ontario of the action required to remedy such non-compliance;
- (f) Will give written notice to Stewardship Ontario of any policies established by the Minister pursuant to Section 7 of the *Act* as soon as reasonably practicable following communication thereof by the Minister to Waste Diversion Ontario; and
- (g) Will implement relevant activities and functions as outlined in the Operating Agreement with the Minister.

#### 4.2 Stewardship Ontario:

- (a) Will, following approval by the Minister, implement the Blue Box Program Plan;
- (b) Will honour invoices from WDO with payment within 30 days;
- (c) Will consult with Waste Diversion Ontario from time to time during the implementation of the Blue Box Program Plan as reasonably required by Waste Diversion Ontario;
- (d) Will make commercially reasonable efforts to implement any policies established by the Minister pursuant to Section 7 of the *Act*;
- (e) Will comply with the terms of the Blue Box Program Plan, the Program Request Letter and the *Act* (including the preparation of an annual report pursuant to Section 33 of the *Act*);
- (f) Will, subject to the resolution of any dispute pursuant to the provisions of Section 16 hereof, make commercially reasonable efforts to implement any actions required by Waste Diversion Ontario pursuant to paragraph 4.1(e) above to bring Stewardship Ontario into compliance with the terms of the Blue Box Program Plan, the Program Request Letter and the *Act*; and
- (g) Will adopt and maintain a Code of Conduct for its directors, officers and committee members that is satisfactory to Waste Diversion Ontario, acting reasonably, and amend its by-laws as required to enable Stewardship Ontario to carry out the terms of the Blue Box Program Plan, the Program Request Letter or the *Act*, provided that any amendments to the composition of the Board of

Directors of Stewardship Ontario shall be subject to an appropriate regulation made by the Minister and to the approval of Stewardship Ontario.

## **5. Fees and Business Plans**

5.1 Stewardship Ontario has adopted the Methodology for Calculating Stewardship Ontario Material Specific Fee Rates set out in Schedule A hereto and the Rules for Stewards with respect to the Payment of Fees (2010) set out in Schedule B hereto, both of which have been approved by Waste Diversion Ontario. Any amendments to the Methodology set out in Schedule A hereto or the Rules set out in Schedule B hereto and any new rules shall be subject to the prior written approval of Waste Diversion Ontario. Any new and/or amended Rules shall be initialled by representatives of each of the parties to signify their approval thereof and such new and/or amended Rules shall thereafter be appended to Schedule B of this Agreement and incorporated herein for all purposes.

## **6. Transparency**

6.1 Stewardship Ontario will maintain an Internet website accessible by the public and will post every rule made pursuant to the *Act* on its website. Subject to confidential or proprietary considerations, and provided that information is available in electronic format, Stewardship Ontario's website is to include information on, or contain the appropriate electronic links to, the Blue Box Program Plan and Stewardship Ontario's annual report pursuant to Section 33 of the *Act*. Stewardship Ontario will provide a copy of a rule to every person who requests a copy and may charge the person a reasonable fee for such copy.

## **7. Information Sharing**

7.1 Subject to confidential and proprietary considerations, Stewardship Ontario shall provide data and information obtained in the course of developing or implementing the Blue Box Program Plan to Waste Diversion Ontario upon request. The parties acknowledge and agree that data and information which might be confidential or proprietary in relation to one Steward may cease to be proprietary or confidential if aggregated with data and information relating to more than one Steward, provided that after such aggregation it will not be possible to identify individual Stewards within the aggregated information. Information to be shared shall include, without limitation, comments received from Stewards with respect to the Blue Box Program Plan. The parties have agreed upon the information sharing protocol set out in Schedule C hereto to implement the provisions of this Subsection 7.1.

7.2 Stewardship Ontario acknowledges that information provided by Waste Diversion Ontario to the Minister is under the control of the Minister within the meaning of FIPPA. Waste Diversion Ontario shall retain full control over all other information obtained, created or maintained by Waste Diversion Ontario.

7.3 Any data or materials provided by Stewardship Ontario to Waste Diversion Ontario which are confidential and are to remain confidential shall be clearly marked as confidential. In the event that the Minister receives a request under the FIPPA relating to the disclosure of any such confidential information which has been provided by Waste Diversion Ontario to the Minister and provides notice thereof to Waste Diversion Ontario, Waste Diversion Ontario agrees to provide Stewardship Ontario with notice to that effect. Notwithstanding the foregoing,

Stewardship Ontario acknowledges that the Minister is bound by FIPPA and may be required by order of a court or tribunal to disclose confidential information provided by Stewardship Ontario to Waste Diversion Ontario which has in turn been provided by Waste Diversion Ontario to the Minister.

7.4 Each of the parties agrees to hold data and information received from the other which are marked confidential in confidence, unless:

- (a) Such party is required to disclose such data or information by applicable law or by the order of any court or tribunal of competent jurisdiction;
- (b) Such data or information have become generally available to the public without breach of this Agreement;
- (c) Such data or information were developed independently by the recipient without the use of such confidential data or information or were lawfully received from another source having the right to furnish such data or information; or
- (d) Such data or information were previously known to the recipient free of any restriction as evidenced by documentation in the recipient's possession.

## **8. Stakeholder and Public Consultation**

8.1 Waste Diversion Ontario may require Stewardship Ontario to provide opportunities for consultation with stakeholders, including the public, who may be affected by any proposed material changes to the Blue Box Program Plan. Such consultation is to be open, accessible and responsive to concerns expressed.

## **9. Stewardship Ontario Responsibility for Documentation and Audit**

9.1 Stewardship Ontario shall be responsible for maintaining Documentation in carrying out its responsibilities under this agreement, in a responsible and complete manner. Documentation may be maintained in paper or electronic format, as permitted by applicable law.

9.2 Without limiting the generality of the foregoing, the Board of Directors of Stewardship Ontario shall maintain the following:

- (a) All Documentation relating to its consultation activities, comments and responses received and a review of whether and how comments and responses were addressed; and
- (b) All Documentation relating to the Funds.

9.3 The receipt and disbursement of the Funds will be reflected in the audited financial statements of Stewardship Ontario. The audited financial statements are to be prepared in accordance with generally accepted accounting principles and accompanied by the auditor's report thereon.

9.4 Stewardship Ontario agrees to implement and maintain measures to ensure the security and integrity of the Documentation and to protect the Documentation against loss, alteration and destruction.

## **10. Complaints and Inquiries Handling**

10.1 Waste Diversion Ontario shall be responsible for handling all complaints and inquiries it receives in the following manner:

- (a) Waste Diversion Ontario will be responsible for determining if the complaint and/or inquiry is related to:
  - (i) its responsibilities as set out under the *Act* or as set out in this Agreement;
  - (ii) any other action of Waste Diversion Ontario; or
  - (iii) Stewardship Ontario;
- (b) If the complaint/inquiry is related to Waste Diversion Ontario's responsibilities as set out under the *Act* or as set out in this Agreement, or to any other action of Waste Diversion Ontario, Waste Diversion Ontario will be responsible for addressing the complaint or responding to the inquiry;
- (c) If the complaint/inquiry is related to Stewardship Ontario, Waste Diversion Ontario shall forward the complaint/inquiry to Stewardship Ontario asking it to address the complaint or respond to the inquiry (in accordance with any applicable dispute resolution mechanism) and report to Waste Diversion Ontario within one calendar month and every calendar month thereafter until the dispute is resolved;
- (d) In the event that Waste Diversion Ontario receives complaints/inquiries pertaining to enforcement issues, Waste Diversion Ontario will forward such complaints/inquiries to the Ministry; and
- (e) With respect to any other complaint or inquiry, Waste Diversion Ontario will be responsible for forwarding the complaint or inquiry to the appropriate person.

## **11. Insurance**

11.1 Stewardship Ontario shall put into effect and maintain throughout the term of this Agreement all the necessary and appropriate insurance for a prudent not-for-profit corporation.

11.2 Without limitation to the generality of the foregoing, Stewardship Ontario shall obtain and maintain directors and officers liability insurance in amounts which are customary for a prudent not-for-profit corporation.



## **12. Assignment**

12.1 Stewardship Ontario shall not assign any of its rights or obligations under this Agreement or any part thereof without the prior written consent of Waste Diversion Ontario and the Minister.

12.2 Stewardship Ontario shall not subcontract any of its rights or obligations under this Agreement or any part thereof without the prior written consent of Waste Diversion Ontario, provided that Stewardship Ontario shall be permitted to retain StewardEdge Inc. to act as the Secretariat for Stewardship Ontario until expiry of the current contract on June 30, 2010.

## **13. Notices**

13.1 All notices to or upon the respective parties hereto shall be in writing and shall be delivered to the party to which such notice is required to be given under this Agreement at the respective address set out below by personal delivery, facsimile with confirmation of transmission or pre-paid registered post. All notices shall be deemed to have been duly given:

- (a) one (1) Business Day after such notice is received by the other party when delivered by personal delivery or by facsimile; or
- (b) five (5) Business Days after posting by prepaid registered post. In the event of a postal disruption, notices must be given by personal delivery or by a signed back facsimile and all notices delivered within one (1) week prior to the postal disruption must be confirmed by a signed back facsimile to be effective.

Notices to Waste Diversion Ontario shall be delivered to:

Waste Diversion Ontario  
4711 Yonge Street, Suite 1102  
Toronto, Ontario M2N 6K8

**Attention: Executive Director**

Facsimile: 416-226-1368

Notices to Stewardship Ontario shall be delivered to:

Stewardship Ontario  
21 St. Clair Ave. East, Suite 503  
Toronto, Ontario M4T 1L9

**Attention: Chief Executive Officer**

Facsimile: 416-323-3185

13.2 Either party may, by written notice delivered to the other party, designate a new address or facsimile number for these notices.

#### **14. Waiver**

14.1 No term, condition or provision hereof shall be or be deemed to have been waived by Waste Diversion Ontario by reason of any act, forbearance, indulgence, omission, or event. Only an express written waiver by Waste Diversion Ontario shall be binding and each such waiver shall be conclusively deemed to be limited to the circumstances, right or remedy therein specified.

#### **15. Severability**

15.1 In the event that any provision of this Agreement or any part of such provision shall be determined to be invalid, unlawful or unenforceable to any extent, such provision or part thereof shall be severed from the remaining terms and conditions of this Agreement which shall continue to be valid and enforceable to the fullest extent permitted by law.

#### **16. Dispute Resolution**

16.1 Stewardship Ontario shall include a dispute resolution mechanism in all contracts to which Stewardship Ontario is a party with the exception of contracts for goods and services in the ordinary course of business.

16.2 If any dispute arises between Stewardship Ontario and Waste Diversion Ontario as to their respective rights and obligations under this Agreement or the interpretation of the Blue Box Program Plan by Waste Diversion Ontario, the parties shall use the following dispute resolution procedures (modified if necessary pursuant to Subsection 17.3 below) to resolve such disputes:

- (a) The parties shall attempt to resolve disputes in the spirit of mutual cooperation through discussions and negotiations between the designated representatives of the parties within thirty (30) days of the date upon which written notice of the dispute was first given by one party to the other or as otherwise agreed upon;
- (b) If the parties are unable to resolve the dispute in the manner aforesaid, either party shall have the right, on notice in writing to the other, to require that such dispute be submitted to the Executive Director of Waste Diversion Ontario and the CEO of Stewardship Ontario for discussion and resolution within thirty (30) days of the date of the notice requiring such dispute to be submitted to them or as otherwise agreed upon;
- (c) In the event that the Executive Director of Waste Diversion Ontario and the CEO of Stewardship Ontario are unable to resolve such dispute, either party shall have the right, on notice in writing to the other, to require that such dispute be submitted to the Chair of the Board of Directors of Waste Diversion Ontario and the Chair of the Board of Directors of Stewardship Ontario for discussion and resolution within thirty (30) days of the date of the notice requiring such dispute to be submitted to them or as otherwise agreed upon;
- (d) If the Chair of the Board of Directors of Waste Diversion Ontario and the Chair of the Board of Directors of Stewardship Ontario are unable to resolve the dispute, either party shall have the right to refer the matter to binding arbitration in

accordance with the provisions of the *Arbitration Act, 1991*, S.O. 1991, c. 17, as amended. Each party shall bear the cost of its own counsel and witnesses but the costs of the arbitration including the fees of the arbitrator(s), the cost of court reporters and transcripts and the cost of the arbitration facility shall be borne equally by the parties. The arbitration shall take place in Toronto, Ontario, Canada, before a single arbitrator to be chosen jointly by the parties. If the parties cannot agree on the choice of an arbitrator within thirty (30) days of the notice requiring such dispute to be submitted to arbitration, then the parties will each select an arbitrator who in turn will select a third arbitrator as soon as reasonably practicable following such thirty (30) day period; and

- (e) The parties may determine the procedure to be followed by the arbitrator(s) in conducting the proceedings, or may request the arbitrator(s) to do so. The arbitrator(s) shall issue a written award within thirty (30) days of completion of the hearing.

16.3 Notwithstanding the provisions of Subsection 16.2, if such dispute relates to the costs recoverable by Waste Diversion Ontario (on its own behalf or on behalf of the Ministry) from Stewardship Ontario, to any invoice issued by Waste Diversion Ontario to Stewardship Ontario in respect of such costs or to any other issue which, in the reasonable opinion of Waste Diversion Ontario, pertains to the calculation of or responsibility for costs in relation to the Blue Box Program Plan, the following provisions shall apply:

- (a) The parties shall attempt to resolve such dispute in the spirit of mutual co-operation through discussions and negotiations between the designated representatives of the parties within fifteen (15) days of the date upon which written notice of the dispute was first given by one party to the other or as otherwise agreed upon;
- (b) If the parties are unable to resolve the dispute in the manner aforesaid, either party shall have the right, on notice in writing to the other, to require that such dispute be submitted to the respective auditors of the parties for discussion and resolution within fifteen (15) days of the date of the notice requiring such dispute to be submitted to them or as otherwise agreed upon;
- (c) In the event that the respective auditors of the parties are unable to resolve such dispute within such further fifteen (15) day period, such auditors shall, upon the request in writing of either party, select a third independent auditor as soon as possible to act as an arbitrator and to resolve such dispute in accordance with the provisions of the *Arbitration Act, 1991*, S.O. 1991, c. 17, as amended. In the event that the respective auditors of the parties are unable to agree upon the selection of an independent auditor to serve as arbitrator within five (5) days of the date of the written request by either party, Waste Diversion Ontario shall propose three (3) independent auditors to Stewardship Ontario and Stewardship Ontario shall, within two (2) days of receipt of such list, select one of such auditors to serve as the arbitrator;
- (d) The auditor chosen as arbitrator shall make a final decision within fifteen (15) days of its appointment or such longer period as the parties may agree upon; and

- (e) If any such dispute with respect to an invoice has not been finally resolved prior to the due date of such invoice, Stewardship Ontario shall pay the undisputed amount immediately to Waste Diversion Ontario and shall pay the disputed amount into a solicitor's trust account to be held pending the conclusion of the dispute resolution procedure. The disputed amount shall be disbursed by the solicitor in accordance with the results of the dispute resolution procedure. Each party agrees to continue performing its obligations under the Agreement pending the resolution of any dispute with respect to an invoice.

16.4 Stewardship Ontario will develop a dispute resolution procedure providing for the resolution of any dispute between Stewardship Ontario and a person with respect to the person's obligations under Section 31 of the Act or the person's obligations under the rules made by Stewardship Ontario under Section 30 of the Act, such dispute resolution procedure to be satisfactory in all respects to Waste Diversion Ontario.

16.5 Stewardship Ontario agrees to submit any dispute with respect to the determination of the total steward obligation to municipalities and payments or in-kind contributions to be made to the municipalities under the Blue Box Program Plan for resolution in accordance with the dispute resolution procedure adopted by Waste Diversion Ontario for this purpose, as amended from time to time. Waste Diversion Ontario Agrees to consult with Stewardship Ontario upon request, but without obligation, with respect to the terms of such dispute resolution procedure.

## **17. Termination**

17.1 If, in the reasonable opinion of Waste Diversion Ontario, there has been a breach of this Agreement by Stewardship Ontario, Waste Diversion Ontario may terminate this Agreement if Stewardship Ontario fails to remedy such breach within ninety (90) Business Days following written notice from Waste Diversion Ontario outlining the breach in reasonable detail. In the event that the remedy of such breach by Stewardship Ontario reasonably requires more than ninety (90) Business Days, Stewardship Ontario shall so advise Waste Diversion Ontario without delay and provide a revised time line to remedy such breach. Waste Diversion Ontario shall notify Stewardship Ontario in writing as to whether the revised time line is acceptable and, if it is, the revised time line to remedy such breach will apply. Notwithstanding the foregoing, with respect to a breach of Section 12, Waste Diversion Ontario may terminate this Agreement immediately if Stewardship Ontario has not given written notice to Waste Diversion Ontario that it disputes such breach within ten (10) days of the notice of breach from Waste Diversion Ontario.

17.2 Notwithstanding Subsection 17.1, Waste Diversion Ontario may terminate this Agreement immediately upon written notice to Stewardship Ontario if:

- (a) Stewardship Ontario makes a voluntary assignment or a proposal under the *Bankruptcy and Insolvency Act* or a petition or any other proceeding shall be filed, instituted or commenced with respect to Stewardship Ontario under any bankruptcy, insolvency, debt restructuring, reorganization, liquidation, winding-up or similar law now or hereafter in effect, unless such proceedings are commenced by a party other than Stewardship Ontario and are being diligently contested by Stewardship Ontario and are stayed within 30 days from the date of notice of such proceedings being received by Stewardship Ontario;

- (b) A receiver or trustee is appointed for any part of the assets of Stewardship Ontario; or
- (c) Stewardship Ontario ceases for any reason whatsoever to be the designated industry funding organization for the Blue Box Program Plan or the Blue Box Program Plan is terminated for any reason whatsoever.

17.3 The parties acknowledge and agree that any determination by Waste Diversion Ontario that Stewardship Ontario is in breach of this Agreement as set out in a written notice given pursuant to Subsection 17.1 above is subject to the dispute resolution provisions of this Agreement but termination of this Agreement pursuant to Subsection 17.2 above is not subject to the dispute resolution provisions of this Agreement. If Stewardship Ontario disputes the right of Waste Diversion Ontario to terminate this Agreement pursuant to Subsection 17.1, Stewardship Ontario shall be required to give written notice of the dispute to Waste Diversion Ontario within ten (10) days of receiving written notice of breach from Waste Diversion Ontario and, if the parties have not resolved the dispute pursuant to paragraphs 16.2(a) – (c) above within twenty (20) days thereafter, the parties shall, at the option of Stewardship Ontario, proceed to arbitration pursuant to paragraph 16.2(d) above and the arbitrator shall be directed to deliver a written decision within ninety (90) Business Days of the written notice of breach. If Stewardship Ontario has required arbitration of the issue, a notice given pursuant to Subsection 17.1 shall be effective ninety (90) Business Days thereafter unless the arbitrator has issued a written decision nullifying such notice on or before that date (without prejudice to any rights of Waste Diversion Ontario to appeal such decision on any basis provided for in the *Arbitration Act*, 1991, S.O. 1991, c. 17, as amended).

## **18. Agreement Binding**

18.1 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective permitted successors and assigns.

## **19. Entire Agreement**

19.1 This Agreement embodies the entire Agreement between the parties with regard to the operation of Stewardship Ontario and the implementation of the Blue Box Program Plan and supersedes any prior understanding or agreement, collateral, oral or otherwise, existing between the parties with respect to such subject matters at the date of execution of this Agreement.

## **20. Public Announcements**

20.1 Neither Waste Diversion Ontario nor Stewardship Ontario shall make any press release or other formal public announcement which refers to the role of the other in the development and implementation of the Blue Box Program Plan without first consulting the other concerning the contents of such proposed press release or public announcement. The parties agree that prior consultation shall not be required in respect of routine communications or other general information provided by either of the parties to the public with respect to the implementation of the Blue Box Program Plan.

**21. Governing Law**

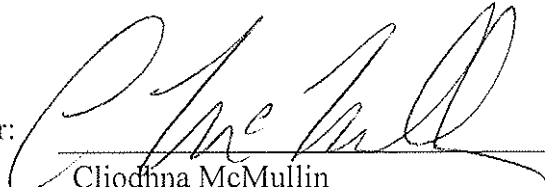
21.1 This Agreement shall be construed and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and the parties hereby agree that any dispute arising out of or in relation to this Agreement shall be determined in Ontario.

21.2 Stewardship Ontario agrees that it shall, and shall require its officers, directors and staff to, comply with all laws, ordinances, rules and regulations which apply to the operation of Stewardship Ontario, any activities of Stewardship Ontario and the responsibilities of Stewardship Ontario under the *Act*.

**22. Signatures**

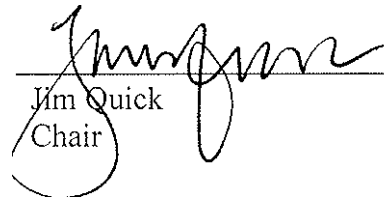
**IN WITNESS WHEREOF** the parties hereto have executed this Agreement as of the date stated in the Preamble to this Agreement.

**WASTE DIVERSION ONTARIO**

Per:   
Clodhna McMullin  
Chair

I/We have authority to bind  
Waste Diversion Ontario

**STEWARDSHIP ONTARIO**

Per:   
Jim Quick  
Chair

I/We have authority to bind  
Stewardship Ontario

## SCHEDULE A

### Methodology for Calculating Stewardship Ontario

#### Material Specific Fee Rates

Stewardship Ontario calculates and applies material specific fee rates on an annual basis as follows:

1. **Determine the recovery rate** of each designated Blue Box material based on:
  - a. Dividing the total tonnes of each designated Blue Box waste reported recovered through municipal Blue Box programs by the total tonnes of designated Blue Box waste generated in Ontario;
  - b. Sources of data
    - i. Data for the tonnes of Blue Box waste recovered as reported in the annual WDO Datacall for the applicable year and approved by the WDO;
    - ii. Data for the tonnes of Blue Box waste generated as calculated by Stewardship Ontario using available data from existing and annual waste composition studies (waste audit data); and
    - iii. Cross-checked with generation figures as reported by stewards to Stewardship Ontario for the applicable program year.
2. **Determine the net cost** of recycling each designated Blue Box material based on:
  - a. Subtracting the revenue from the sale of each material type calculated as described below from the gross costs to manage each material type calculated as described below;
  - b. Sources of data
    - i. Data for determining the gross cost to manage each tonne of each material in the municipal Blue Box recycling system determined through activity based cost allocation studies conducted or approved by Stewardship Ontario;
    - ii. Data for determining the revenue attributable to each material determined through the material-specific revenue reported in the WDO Datacall for the applicable years and averaged over the current reporting year and the previous two reporting years;
    - iii. Amended by the derived revenue from sale of each individual material resulting from revenue sharing agreements between municipalities and their contractors as reported in the WDO Datacall for the applicable year;
    - iv. Prorating the material-specific net costs using the gross cost and revenue data calculated above so that the sum of net cost for all materials is equal to the system net cost approved by the WDO for the purpose of calculating the Stewardship Ontario financial obligation to municipalities; after
    - v. Applying any applicable cost reductions as determined under the cost containment plan approved by the WDO.

The data and calculations used for establishing material-specific net costs are reviewed and approved on an annual basis by the Stewardship Ontario Board of Directors using the best available data for that year.

3. ***Allocate Stewardship Ontario financial obligation to municipalities<sup>1</sup>*** to each material according to a three-factor formula described below. The net effect of the three-factor formula is to share the cost of achieving the diversion target for Blue Box waste set by the Minister in the most cost-effective manner equitably among the stewards of all obligated materials.
- a. Net Cost – A percentage of the financial obligation to municipalities as set by the Stewardship Ontario Board is allocated in direct proportion to the net cost to manage each material.
  - b. Recovery Rate - A percentage of the financial obligation to municipalities as set by the Stewardship Ontario Board is allocated according to the relative percent recovery rate of each material.
  - c. Equalization – A percentage of the financial obligation to municipalities remaining after that allocated by the net cost and recovery rate factors is allocated based on both the cost to manage a material and recovery. Specifically, this is allocated in direct proportion to the calculated incremental cost for each material to achieve a common threshold percent recovery rate as specified by the Stewardship Ontario Board.
  - d. Sources of data
    1. Net Cost as calculated in Step 2
    2. Recovery Rate as calculated in Step 1
    3. Equalization using Net Cost as calculated in Step 2, Recovery Rate as calculated in Step 1, a threshold for recovery determined by Stewardship Ontario and the following relative weightings of Net Cost, Recovery Rate and Equalization:
 

For the 2007 program year: Recovery rate 40% weighting; Net cost 40% weighting; Equalization 20% weighting.

For the 2008 and subsequent program years: Recovery rate 35% weighting; Net cost 40% weighting; Equalization 25% weighting.
4. ***Add any material specific market development*** fees that may be required to support investments to promote improved markets for these specific materials. These fees may be used to create investment funds to be directed by Stewardship Ontario. Stewards who use specific materials may also develop and present detailed plans for the payment of recycled content credits for consideration and approval by the Stewardship Ontario Board of Directors. The Stewardship Ontario Board reviews and determines the need for additional market development fees on a material-by-material basis on an annual basis.
5. ***Add a share of the direct Stewardship Ontario BBPP delivery costs, Waste Diversion Ontario and Stewardship Ontario administration costs*** to each material based on a calculation of the relative number of stewards reporting generation of each material and the relative quantity of each material generated (based on the Stewardship Ontario calculated generation data described in step 1). The Stewardship Ontario Board reviews and amends as necessary the basis for this allocation on an annual basis.
6. ***Add a share of any shortfall*** in total fees collected in previous years of the program to be recovered in the next program year fees based on a combination of the amount of fees either underpaid or overpaid by each material and the same basis used to determine allocation of

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<sup>1</sup> Stewards are obliged under the WDA to pay municipalities 50 per cent of the WDO approved total net costs of the Ontario municipal Blue Box recycling programs



common costs (described in step 5). The Stewardship Ontario Board of Directors reviews and amends as necessary the basis for this allocation on an annual basis.

7. **Calculate the total fee** applicable to each individual material type by summing the allocated share of costs and fees for each material as determined through steps 3, 4, 5 and 6 above.
8. **Calculate the fee rates** for each individual material type by dividing the total fee (step 7) for each material by the quantity, in tonnes, of that material generated as determined by Stewardship Ontario from steward reports for that program year.
9. **Aggregate fees for some material categories** for the purposes of setting fee rates, as determined by Stewardship Ontario and approved by Waste Diversion Ontario. The aggregations approved by Waste Diversion Ontario for the 2010 program year are:

<b>Steward Reporting Categories</b>	<b>Fee Rate Categories</b>
<b>Printed Paper (1)</b>	
Newsprint - CNA/OCNA	Newsprint - CNA/OCNA
Newsprint - Non-CNA/OCNA	Newsprint - Non-CNA/OCNA
Magazines and Catalogues	Other Printed Paper
Telephone Books	
Other Printed Paper	
<b>Paper Packaging</b>	
Corrugated Containers	Corrugated Containers and Boxboard
Boxboard	
Gabletop Cartons	Other Paper Packaging
Paper Laminants	
Aseptic Containers	
<b>Plastics Packaging</b>	
PET bottles	PET bottles
HDPE Bottles and Jugs	HDPE Bottles and Jugs
Plastic Film	Other Plastics Packaging
Plastic Laminants	
Polystyrene	
Other Plastics	
<b>Steel Packaging</b>	
Food and Beverage Cans	Steel Packaging
Aerosol Cans	

<b>Steward Reporting Categories</b>	<b>Fee Rate Categories</b>
Paint Cans	
<b>Aluminum Packaging</b>	
Al Food & Beverage Cans	Al Food & Beverage Cans
Aerosol Containers	Other Aluminum Packaging
Foil and Other Aluminum Packaging	
<b>Glass Packaging</b>	
Clear Glass	Clear Glass
Coloured Glass	Coloured Glass

Material categories will be reviewed on an annual basis and further disaggregation of material categories may be implemented over time. Any further disaggregation of material categories implemented in 2008 or beyond will be forwarded to the Minister for information.



**Schedule B to the Program Agreement between Stewardship Ontario and the  
Resource Productivity and Recovery Authority**

**Rules for Stewards with Respect to Payment of Blue Box Fees for the Period  
Commencing January 1, 2018**

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## **PART I: DEFINITIONS**

1. In these Rules the following terms have the following meanings:

**“Adjustment Request”** is the mechanism by which Stewards may request changes to their previously Filed Annual Steward Report within two years from the associated report submission deadline pursuant to the [Policy for Steward-Initiated Adjustment Requests](#) in Appendix E and posted on the Stewardship Ontario website.

**“Affiliate”** means that one Steward shall be deemed to be affiliated with another Steward if:

- (a) one Steward is the subsidiary of the other Steward; or
- (b) both Stewards are subsidiaries of the same corporation; or
- (c) each Steward is ultimately controlled by the same corporation.

**“Annual Steward Report”** is the annual report Filed by all Stewards and Voluntary Stewards in accordance with Part IV of these Rules, which describes the aggregate amount of Designated Blue Box Waste, expressed in kilograms or units by category, Supplied by the Steward and its Franchisees or Affiliates during the Data Year<sup>1</sup>.

**“Blue Box Program Plan”** means the Blue Box Program Plan dated February 2003, or as may be amended from time to time, [found here](#).

**“Brand”** is a trademark.

**“Brand Owner”** is a Person Resident in Ontario who is:

- (a) the owner of the registered or unregistered trademark; or
- (b) a licensee of the registered or unregistered trademark, where “licensee” includes a person who packages goods, the packaging of which is Designated Blue Box Waste and bears a trademark, other than a packer or

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<sup>1</sup> This may differ for new stewards as their Data Year may include estimates based on data from their Obligation Year

filler of Private Label Goods, and includes any person whose corporate name or business name registration contains the trademark.

**“Confidential Information”** means sales or other data submitted by a Steward to Stewardship Ontario that is not publically available from any source.

**“Consumer”** means an individual (other than a Person in the Industrial, Commercial, or Institutional (IC&I) sector) to whom Designated Blue Box Waste is Supplied.

**“Data Year”** is the year for which the Steward is reporting, which could be:

- (a) calendar year in which the Steward Supplied Designated Blue Box Waste; or
- (b) the Steward’s fiscal year in which the Steward Supplied Designated Blue Box Waste; or
- (c) for new Stewards only, an estimate of the Steward’s Supplied quantity of Designated Blue Box Waste for the calendar year or fiscal year.

**“Designated Blue Box Waste”** is Printed Paper, Packaging or Service Packaging consisting of glass, metal, paper, plastic, or textile, or any combination that is Supplied to a Consumer.

Designated Blue Box Waste does not include:

- (a) Transportation Packaging,
- (b) Durable Packaging,
- (c) Packaging or Service Packaging made of wood, ceramic, crystal, rubber, borosilicate glass or leather.

**“Durable Packaging”** is Packaging that is used for long-term use, protection, transportation or storage of the product, which has a useful life of at least five years and which remains with the product throughout its useful life.



**“Filed”** or **“File”** means submitted by a Steward to Stewardship Ontario through the WeRecycle Portal at <https://wecycle.cssalliance.ca/irj/portal>.

**“First Importer”** is a Person Resident in Ontario who imports Designated Blue Box Waste into Ontario or is the first to take possession or control of Designated Blue Box Waste in Ontario for which a Brand Owner does not exist.

**“Franchisor”**, **“Franchisee”**, **“Franchise System”**, or **“Subfranchise”** have the meaning ascribed to these terms in the [Arthur Wishart Act \(Franchise Disclosure\)](#) or as may be amended or replaced. This includes Franchisors who conduct business in Ontario through their Ontario Franchise System, regardless of whether the Franchisor has a Franchisor-owned fixed place of business in Ontario.

**“Gross Revenue”** means a Steward’s total revenue derived from all goods and services Supplied in Ontario, without deduction.

**“IC&I Material”** means Packaging and Printed Paper which is supplied to the industrial, commercial, or institutional sector and which is not subsequently Supplied to Consumers.

**“IC&I Sector”** means the industrial, commercial, or institutional sector.

**“In Good Standing”** means a Steward who is current with and has fulfilled all of its Stewardship Obligations under these Rules, with respect to:

- (a) Steward reporting;
- (b) payment of Stewardship Fees;
- (c) responding to reasonable inquiries by Stewardship Ontario; and
- (d) record keeping obligations.

**“Industry Stewardship Plan”** or **“ISP”** means an RPRA-approved plan allowing one or more Stewards to manage waste that has been designated for a recycling program by the Minister.

**“Methodology”** means the process used by the Steward to determine its calculation of its Supplied quantity of Designated Blue Box Waste, including, but not limited to, data sources, percentage allocation of data reported, data collection systems, and the use of calculators, worksheets, commercial software, or mathematical formulae.

**“Obligation Year”** means the calendar year, or any part thereof, for which the Steward is obligated to fulfill its stewardship obligations under these Rules.

**“Packaging”** means materials that are used for the containment, protection, handling, delivery or presentation of goods Supplied to Consumers, and includes, but is not limited to, Service Packaging and all packaging components and ancillary elements integrated into the Packaging.

**“Person”** means an individual, partnership, joint venture, sole proprietorship, corporation, government, trust, trustee, executor, administrator or any other kind of legal personal representative, unincorporated organization, association, institution, or entity.

**“Primary Contact”** means an individual appointed by a senior officer in the Steward’s organization as the Steward’s authorized officer or agent under whose authority the Steward’s Annual Steward Report is Filed according to the [Primary Contact Policy](#) posted on the Stewardship Ontario website.

**“Printed Paper”** means any material that is not Packaging, but is printed with text or graphics as a medium for communicating information, Supplied to Consumers, and includes, but is not limited to:

- (a) newspapers, including those paid through subscription, provided through free distribution and those purchased through retail channels;

- (b) daily, weekly, monthly and quarterly glossy magazines including those paid through subscription, provided through free distribution and those purchased through retail channels;
- (c) directories, including those paid through subscription, provided through free distribution and those purchased through retail channels;
- (d) lottery tickets and lottery information;
- (e) warranty information, assembly instructions, product use instructions and health information, product registration cards and promotional information that is found inside purchased products;
- (f) envelopes, statements and information inserts from banks, credit companies, utilities, service providers, etc.;
- (g) information, forms and promotional materials distributed by municipal, regional, provincial and federal governments;
- (h) promotional calendars, posters that are distributed to consumers free of charge;
- (i) unsolicited promotional information, coupons, handbills and flyers; and
- (j) transportation and transit schedules.

Printed Paper does not include bound reference books, bound literary books, or bound textbooks.

**“Private Label Goods”** means goods that carry the Brand of a Brand Owner and are Supplied to Consumers by such Brand Owner that is a retailer in Ontario.

**“Registered”** means having completed the registration process by submitting all of the requested information to Stewardship Ontario either electronically or other means as required by Stewardship Ontario, including:

- (a) company name and contact information;
- (b) Primary Contact information; and
- (c) permitted Steward exemption status based on Gross Revenues and Total Weight.

**“Registered Charity”** means a charitable organization which is registered with the Canada Revenue Agency as a registered charity and listed in the attached link, which may be updated from time to time: <http://www.cra-arc.gc.ca/chrts-gvng/lstngs/menu-eng.html>.

**“Regulations”** means regulations made under the *Waste Diversion Transition Act* applicable to the Blue Box Program.

**“Reporting Deadline”** is the date by which a Steward must File its Annual Steward Report as set out in Appendix A to these Rules.

**“Resident in Ontario”** with respect to a corporation, means a corporation that has a permanent establishment in Ontario in accordance with the provisions of Appendix B. In the case of Franchisors, it includes Franchisors who conduct business in Ontario through their Ontario Franchise System, regardless of whether the Franchisor has a Franchisor-owned fixed place of business in Ontario.<sup>2</sup>

**“Residential Waste System”** means a system of waste collection which services residential dwellings, including all single family and multi-family dwellings, regardless of whether the service is provided by a municipal government or by private contractors.

**“Resource Productivity and Recovery Authority (RPRA)”** is a corporation which oversees the operation of Stewardship Ontario and the Blue Box Program in accordance with the *Waste Diversion Transition Act, 2016*. RPRA is the successor to Waste Diversion Ontario.

**“Rules”** means these Rules.

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<sup>2</sup> As referenced in the *Corporations Tax Act, Ontario* in Appendix B of these Rules.

**“Service Packaging”** means packaging which may or may not bear a Brand that is Supplied at the point of sale by the retail, food-service or other service providers to facilitate the delivery of goods, and includes all bags, boxes, and other items for the containment of goods at point of sale.

**“Steward”** means the Person who is obligated with respect to Designated Blue Box Waste in accordance with Part III of these Rules, and includes any Person who elects to become a Voluntary Steward in accordance with section 17 of these Rules and the Voluntary Steward Policy posted on the Stewardship Ontario website.

**“Stewardship Fees”** means the Fees calculated in accordance with these Rules.

**“Supplied”** means sold, leased, donated, disposed of, used, transferred the possession of or title of, or otherwise made available to a Consumer in Ontario or distributed for use by a Consumer in Ontario. Supply and Supplies have similar meanings.

**“Transportation Packaging”** means Packaging and Printed Paper that:

- (a) is used exclusively for packaging products during the shipment from their place of manufacture to the place of distribution in Ontario; and
- (b) is not Service Packaging.

**“Validation Data”** means information, including:

- (a) product categorization data such as SKU or UPC;
  - (b) descriptions of each product item or group;
  - (c) product sizes;
  - (d) packaging materials and weight;
  - (e) sales volumes; and
  - (f) Steward or industry-specific studies or other evidence to support a Steward’s deduction from their Annual Steward Report,
- that may be requested by Stewardship Ontario to:

- (a) substantiate quantities reported by Stewards in their Annual Steward Report and any deductions; or
- (b) assess a Steward's Adjustment Request.

**“Voluntary Steward”** means a Person who elects to become a Voluntary Steward in accordance with section 17 of these Rules and the Voluntary Steward Policy posted on the Stewardship Ontario website.

**“WeRecycle Portal”** means the internet portal that must be used by all Stewards when submitting their Annual Steward Report in accordance with Part IV of these Rules.

## **PART II: APPLICATION, DURATION, NONCOMPLIANCE, POLICIES, NOTICE, CONFIDENTIALITY**

### **Application of These Rules**

2. These Rules apply to all:

- (a) Stewards who are obligated to File an Annual Steward Report in the current year;
- (b) Stewards (regardless of whether they have Registered) who were obligated but failed to Register and/or File an Annual Steward Report in a prior year;<sup>3</sup>
- (c) New Stewards who began Supplying Designated Blue Box Waste in the current year;
- (d) Stewards who make an Adjustment Request in the current year in accordance with the [Policy for Steward-Initiated Adjustment Requests](#) in Appendix E and on the Stewardship Ontario website for any current or prior year's Annual Steward Report; and
- (e) Steward requests for Dispute Resolution made in the current year.

### **Duration of These Rules**

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<sup>3</sup> These Rules apply to all Annual Steward Reports which should have been Filed but were not Filed by a Steward for a prior Year. However, the calculation of Fees associated with any past unfiled Annual Steward Report will be calculated in accordance with the Stewardship Fee rates applied in each of the applicable prior Years.

3. These Rules:

- (a) remain in force from the time that they are approved by RPRA and posted on the Stewardship Ontario website until the time they are replaced on the Stewardship Ontario website with RPRA-approved Rules; and
- (b) shall be automatically amended for years subsequent to 2018 by substituting the year appearing in these Rules with the subsequent year unless or until new rules are approved by RPRA and are posted on the Stewardship Ontario website.

**Noncompliance with These Rules**

4. All Stewards are required to comply with these Rules. Failure to comply with these Rules may result in penalties and interest and/or compliance and enforcement actions undertaken by Stewardship Ontario and/or RPRA as provided for:
- (a) in these Rules;
  - (b) in the *Waste Diversion Transition Act, 2016*;
  - (c) in the Regulations,
  - (d) in the [Penalty and Interest Policy](#) in Appendix F of these Rules and on the Stewardship Ontario website; or
  - (e) as otherwise permitted by RPRA or the Ontario Ministry of the Environment and Climate Change.

**Policies, Guidance and Interpretive Memoranda**

5. Stewardship Ontario may, but is not required to, publish on the Stewardship Ontario website policies, guidance, and interpretive memoranda (collectively “secondary guidance”) with respect to these Rules that must be followed by Stewards.

**Notice to Stewardship Ontario**

6. A Steward must inform Stewardship Ontario within 30 days of its change of address, change of Primary Contact, bankruptcy, closing, merger, acquisition, sale, or

divestiture of all or part of its business and any impact on the Steward's obligation to pay Stewardship Fees. All notices to Stewardship Ontario shall be provided:

- (a) in writing, addressed to Stewardship Ontario, 1 St. Clair Avenue West, Suite 700, Toronto, ON, M4V 1K6, Attention: CFO; or
- (b) by email to [stewards@cssalliance.ca](mailto:stewards@cssalliance.ca).

### **Notice to Stewards**

- 7. All Stewards (regardless of whether the Steward has Registered with Stewardship Ontario) are deemed to have notice of the contents of these Rules and are bound by these Rules, including the reporting and payment obligations from the time that these Rules are approved by RPRA and posted on the Stewardship Ontario website.

### **Publishing of Company Names**

- 8. Stewardship Ontario may, but is not required to, publish any of the following:
  - (a) the names of Stewards Filing an Annual Steward Report with Stewardship Ontario;
  - (b) a list of all Stewards In Good Standing; and
  - (c) a registry of all Brands reported in Annual Steward Reports.

### **Confidentiality**

- 9. Stewardship Ontario will use reasonable diligence and care to prevent the unauthorized disclosure of a Steward's Confidential Information. Stewardship Ontario may disclose Confidential Information:
  - (a) to its administrative service provider or a third party auditor, provided that the administrative service provider or the third party auditor also agrees to protect the Steward's Confidential Information;
  - (b) to the RPRA as permitted by law or the Blue Box Program Plan; or
  - (c) in accordance with the Steward's consent.



## **PART III: DESIGNATION OF STEWARDS**

### **Designation of Stewards**

10. The following Persons are designated as Stewards for Designated Blue Box Waste. If two or more Persons are designated as a Steward pursuant to the following provisions, then the earlier provision shall prevail.

### **Stewards for Packaging**

11. For Packaging (except for Service Packaging) the Steward is the Person Resident in Ontario who:

- (a) is the Brand Owner for the Ontario market; or
- (b) if the Person described in paragraph (a) does not exist, then a Person who manufactures, packs or fills or causes the manufacturing, packing or filling of products regardless of whether the activity takes place in Ontario or not; or
- (c) if a Person described in paragraphs (a) or (b) does not exist, then the First Importer, unless the First Importer is a Consumer.

### **Stewards for Service Packaging**

12. Any Person that Supplies Service Packaging in Ontario at the point-of-sale shall be the Steward for such Service Packaging.

### **Stewards for Printed Paper**

13. For Printed Paper, the Steward is the Person Resident in Ontario who:

- (a) is the publisher of the Printed Paper, whether production of the Printed Paper takes place in Ontario or not; or
- (b) if a Person described in paragraph (a) does not exist, then a Person who is the title-owner of the Printed Paper or is a licensee of those rights for Ontario, whether production of the Printed Paper takes place in Ontario or not; or
- (c) if a Person described in paragraphs (a) or (b) does not exist, then a Person who prints or causes the printing of the Printed Paper whether the printing takes place in Ontario or not; or

(d) if a Person described in paragraphs (a), (b), or (c) does not exist, then the First Importer, unless the First Importer is a Consumer.

### **Franchisor is Obligated to Report for its Ontario Franchisees**

14. A Franchisor is obligated to report for its Ontario Franchisees with respect to all Designated Blue Box Waste which is Supplied within the Franchisor's Ontario Franchise System.

### **More Than One Brand Owner for the Same Designated Blue Box Waste**

15. If there is more than one Brand Owner for the same Designated Blue Box Waste, the Brand Owner more directly connected to the production of the Designated Blue Box Waste shall be deemed to be the Steward.

### **Products Containing Two or More Independent Brands**

16. If products containing two or more independent Brands are packaged to be Supplied together, the Brand Owner, First Importer or Franchisor most directly connected to the joint Packaging shall be designated as the Steward for the joint Packaging.

### **Voluntary Stewards**

17. A Person may elect to become a Voluntary Steward in accordance with Stewardship Ontario's [Voluntary Steward Policy](#) upon execution of Stewardship Ontario's Voluntary Stewardship Agreement by:

- (a) the Voluntary Steward; and
- (b) Stewardship Ontario.

Voluntary Stewards must comply with these Rules and the Voluntary Steward Policy.

### **Voluntary Steward Fails to Comply with Obligations**

18. In accordance with these Rules and the Voluntary Steward Agreement, in the event that the Voluntary Steward defaults on its responsibility to report on or pay

Stewardship Fees with respect to the Designated Blue Box Waste Supplied into Ontario, the obligation for that Designated Blue Box Waste will revert to the Brand Owner or First Importer. Voluntary Stewards must also comply with their Voluntary Steward Agreement.

### **Stewards that are Not-For-Profit Entities**

19. Subject to Part V (Steward Exemptions From Reporting or Paying Fees), a Steward that is a not-for-profit entity, including Registered Charities, not-for-profit corporations, educational institutions, municipalities and provincial agencies, is required to File an Annual Steward Report and pay Stewardship Fees pursuant to these Rules.

## **PART IV: STEWARD REPORTING**

### **Reporting Deadline for Stewards and Voluntary Stewards**

20. Every Steward shall:

- (a) File an Annual Steward Report and pay Stewardship Fees in accordance with the timetable in Appendix C;
- (b) if applicable, immediately File all overdue Steward Reports for prior Obligation Years; and
- (c) if applicable, File an Annual Steward Report within 60 calendar days after such Person becomes a Steward pursuant to Part III using the WeRecycle Portal.

### **Reporting Deadline for New Stewards**

21. A Steward who begins Supplying Designated Blue Box Waste must Register with Stewardship Ontario within 60 days and comply with the [Onboarding Policy](#) posted on the Stewardship Ontario website. Stewards who fail to Register with Stewardship Ontario will be subject to the compliance and enforcement actions in section 4.

### **Reporting for Affiliates and/or Franchisees**

22. A Steward, including a Franchisor, shall report for its Ontario Affiliates and/or Franchisees under one Steward number. Any Person whose Designated Blue Box Waste is included in its Affiliates' or Franchisors' Annual Steward Report shall not File a separate Annual Steward Report. Affiliates must seek Stewardship Ontario's approval to report separately.

### **Contents of Annual Steward Report**

23. Each Steward shall provide Stewardship Ontario with all of the information requested on the WeRecycle Portal, including but not limited to:
- (a) company name, mailing address, phone number, and sector;
  - (b) Obligation Year and Data Year<sup>4</sup> for the Annual Steward's Report;
  - (c) contact information, including email addresses and phone numbers for the Steward's Primary Contact, billing contact, secondary contacts and environmental lead;
  - (d) quantities of Designated Blue Box Waste Supplied during the Data Year according to the reporting categories set out in Appendix A;
  - (e) description of Methodology and sources of data, including any changes from the Methodology used by the Steward in the prior year's Annual Steward Report;
  - (f) details of any deductions from Supplied quantities of Designated Blue Box Waste, including Validation Data used to prepare, calculate and determine these deductions in the format requested by Stewardship Ontario;
  - (g) any Steward initiatives, business practices, or Packaging changes that may explain any variation in quantities in Supplied Designated Blue Box Waste from the prior year's Annual Steward Report;
  - (h) a list of Brands included in the Steward's Annual Steward Report, and any changes in Brands since the prior year's Annual Steward Report;
  - (i) a list of all Affiliates and/or Franchisees included in the Annual Steward Report; and
  - (j) the Primary Contact's declaration that the Annual Steward Report is accurate.

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<sup>4</sup> This may differ for new stewards as their Data Year may include estimates based on data from their Obligation Year.

### **Steward Fails to File its Annual Steward Report**

24. If a Steward fails to File its Annual Steward Report by the deadline or otherwise in accordance with Part IV, Stewardship Ontario will apply the [Penalty and Interest Policy](#) in Appendix F and on the Stewardship Ontario website and may take the action specified in section 4.

### **Steward's Duty to Ensure that the Annual Steward Report is Accurate**

25. Stewards must ensure that their Annual Steward Reports are accurate. Stewards shall not misrepresent any information provided to Stewardship Ontario in the Annual Steward Report. A Steward who misrepresents the data in their Annual Steward Report, upon notice from Stewardship Ontario will be:

- (a) deemed not to have complied with its reporting obligation, and subject to the [Penalty and Interest Policy](#) in Appendix F and on the Stewardship Ontario website;
- (b) escalated to Stewardship Ontario's compliance team and/or RPRA.

### **Errors in the Annual Steward Report**

26. Any Steward who discovers an error in its Annual Steward Report shall notify Stewardship Ontario of the error within 30 days<sup>5</sup>

### **Steward-Initiated Adjustment Requests to Annual Steward Report and Adjustment Policy**

27. A Steward who is In Good Standing may request an adjustment in an Annual Steward Report in accordance with the [Policy for Steward-Initiated Adjustment Requests](#) in Appendix E and on the Stewardship Ontario website.

### **Changes to the Annual Steward Report Initiated by Stewardship Ontario**

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<sup>5</sup> This is only a requirement to *notify* - not to submit an adjustment request. Stewards still have two years to submit an adjustment request as outlined in the Steward Initiated Adjustment Policy.

28. Stewardship Ontario may require changes to a Filed Annual Steward Report following an audit or review by Stewardship Ontario. For changes initiated by Stewardship Ontario as a result of an audit or review, Stewards are required to report and pay for all Designated Blue Box Waste Supplied to Consumers from the time the Steward begins Supplying the Designated Blue Box Waste for a maximum of five years prior to the current calendar year.<sup>6</sup> Penalties and interest will be applied in accordance with the [Penalty and Interest Policy](#) in Appendix F and on the Stewardship Ontario website.

### **Stewards' Obligations**

29. Subject to Part V (Steward Exemptions), Stewards are obligated to File and/or pay Fees for all Obligation Years starting from the date they were notified of Stewardship Ontario's Rules. This obligation applies regardless of whether the Steward has sufficient records to substantiate the Supplied quantities of Designated Blue Box Waste during prior years. Where necessary, Stewardship Ontario will rely on the Steward's most recent sales data or other available data to set the prior years' Stewardship Fees.

## **PART V: STEWARD EXEMPTIONS FROM REGISTERING, REPORTING OR PAYING FEES**

### **Steward Intends to Join an RPRA-Approved ISP**

30. Any steward that intends to join an RPRA-approved ISP covering Designated Blue Box Waste Supplied by the Steward that:

- (a) is In Good Standing with Stewardship Ontario; and
- (b) has received approval from RPRA to join the ISP,

is no longer required to report to Stewardship Ontario for the related Designated Blue Box Waste Supplied on and after the date on which the Steward is accepted

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<sup>6</sup> For example, Stewards are responsible for the Fees (if any) associated with errors in the current Report (2018) and for up to five prior Reports (2017, 2016, 2015, 2014, and 2013).

to join the ISP. The Steward must adhere to any additional criteria agreed to between Stewardship Ontario and/or RPRA and the ISP.

### **Steward Reporting Exemption: Gross Revenues Less Than \$2 Million**

31. A Steward is exempt from Filing an Annual Steward Report and paying fees to Stewardship Ontario if, during the Data Year, the Steward's, its Affiliates', and/or its Franchisees' combined Gross Revenues from all:

- (a) products; and/or
- (b) services

Supplied in Ontario was less than \$2 million.

### **Steward Fee Exemption: Supplied Kilograms Less Than 15,000**

32. Other than a Steward with Gross Revenues of less than \$2 million, a Steward shall File an Annual Steward Report but shall be exempt from paying Stewardship Fees otherwise due and payable to Stewardship Ontario if, during the Data Year, the Steward, its Affiliates and Franchisees in the combined aggregate Supplied less than 15,000 kg of Designated Blue Box Waste in Ontario.

### **Stewardship Ontario May Require an Exempted Person to File an Annual Steward Report**

33. Regardless of sections 31 and 32, Stewardship Ontario may require a Steward to File an Annual Steward Report by sending a written notice by registered mail or email to the Steward.

### **No Exemptions for Voluntary Stewards**

34. Voluntary Stewards are not eligible for the reporting and payment exemptions in sections 31, and 32.

## **PART VI: STEWARD FEES**

### **Calculation of Stewardship Fees**

35. A Steward's Stewardship Fee shall be calculated in accordance with:
- (a) the fee methodology in Appendix D; and
  - (b) the material fee rates as posted on the Stewardship Ontario website.

### **Calculation of Stewardship Fees for New Stewards**

36. For a Steward that begins to Supply Designated Blue Box Waste on or after January 1, 2018, the Steward's 2018 Stewardship Ontario Stewardship Fee will be calculated using an estimate of quantities of Designated Blue Box Waste that will be Supplied during 2018. The Annual Steward Report containing the estimate of quantities is due to Stewardship Ontario within 60 days of the date on which the Steward begins to Supply Designated Blue Box Waste in Ontario. Additional information can be found in the [Onboarding Policy](#) posted on the Stewardship Ontario website.

### **Stewards who Fail to Register with Stewardship Ontario**

37. Any Steward who fails to Register with Stewardship Ontario within 60 days of beginning to Supply Designated Blue Box Waste in Ontario is required to pay the penalties, and interest in accordance with the [Penalty and Interest Policy](#) in Appendix F and on the Stewardship Ontario website.

### **Newspapers**

38. Stewards who are members of the Canadian Newspaper Association or the Ontario Community Newspapers Association shall report and pay Stewardship Fees in accordance with the amendments to the Blue Box Program Plan dated November 4, 2005.

## **PART VII: COMPLIANCE**

### **Penalties and Interest**

39. Stewardship Ontario shall impose penalties and interest on a Steward or Voluntary Steward in accordance with the [Penalty and Interest Policy](#) in Appendix F and on the Stewardship Ontario website.



## **Steward and Voluntary Steward Records Retention**

40. All Stewards and Voluntary Stewards shall retain all of the records to substantiate and verify the accuracy of the information submitted in their Annual Steward Report for a period of not less than five years from the date of submission. Any Steward who fails to produce documentation to substantiate its Annual Steward Report Filed during the five year retention period must pay Stewardship Fees on the total amount of Designated Blue Box Waste:

- (a) substantiated by the Steward's available documentation; or
- (b) based on an estimate calculated with reference to a prior or subsequent year's Steward Report; or
- (c) as determined by a third-party auditor,

whichever is greatest. Stewards are subject to the [Penalty and Interest Policy](#) in Appendix F and on the Stewardship Ontario website.

## **Duty to Comply with Stewardship Ontario's Requests for Documentation**

41. Upon written request from Stewardship Ontario, Stewards and Voluntary Stewards shall within 30 days of receiving such a request from Stewardship Ontario, provide documentation in support of their Annual Steward Report, including, but not limited to:

- (a) data used by Stewards or Voluntary Stewards in the preparation of any Annual Steward Report;
- (b) relevant information regarding Affiliates and/or Franchisees included in the Annual Steward Report;
- (c) calculation Methodology;
- (d) quantities of Designated Blue Box Waste Supplied ;
- (e) Gross Revenue;
- (f) product and packaging data such as packaging samples or packaging data provided by vendors;
- (g) audit reports; and

- (h) a list of Brands included in the Annual Steward Report and any changes in Brands from those Brands reported in the prior Annual Steward Report.

### **Duty to Provide Access to Stewardship Ontario**

42. A Steward or Voluntary Steward shall grant access during business hours to Stewardship Ontario or its authorized representative to inspect and review the Steward's records maintained under Part VIII for up to five years after the Filing deadline for the Annual Steward Report.

### **Duty to Cooperate with a Verification Audit**

43. At the request of Stewardship Ontario, a Steward must:

- (a) provide confirmation from a senior officer confirming that the data contained in the Annual Steward Report is accurate and complete; and
- (b) cooperate in an audit or review of the Steward's records, including:
  - (i) providing Stewardship Ontario with all requested documentation, data, records and reports within 30 days of such request; and
  - (ii) providing access to the Steward's business premises by Stewardship Ontario, its administrative service provider, or an independent third-party within 30 days of such request.

## **PART VIII: DISPUTE RESOLUTION**

### **Dispute Resolution Policy and Procedure**

44. Disputes between Stewardship Ontario and a Steward or Voluntary Steward regarding the payment of Stewardship Fees shall be addressed through the [Dispute Resolution Policy](#) posted on the Stewardship Ontario website. A Steward must be In Good Standing with all of its obligations to Stewardship Ontario other than the matter which is the subject of the dispute resolution.

**Appendix A**  
**Designated Blue Box Waste Reporting Categories**

Material Category	2018 DBBW Reporting Categories
Printed Materials	Newsprint–CNA/OCNA Members
	Other Newsprint–Non-CNA/OCNA Members
	Magazines and Catalogues
	Directories
	Other Printed Materials
Paper Packaging	Gable Top Containers
	Aseptic Containers
	Paper Laminates
	Corrugated Cardboard
	Boxboard and Other Paper Packaging
Plastic Packaging	PET Bottles < 5 Litres
	PET Bottles ≥ 5 Litres
	HDPE Bottles and Jugs < 5 Litres
	HDPE Bottles and Jugs ≥ 5 Litres
	LDPE/HDPE Film
	LDPE/HDPE Film Carry-Out Bags
	LDPE/HDPE Film Carry-Out Bag Units*
	Expanded Polystyrene
	Non-Expanded Polystyrene
	Natural and Synthetic Textiles
	Other Plastic Packaging < 5 Litres
	Other Plastic Packaging ≥ 5 Litres
	Plastic Laminates
	PLA, PHA, PHB
Steel and Other Metal Packaging	Steel Aerosol Containers
	Steel Paint Cans
	Other Steel and Metal Containers and Packaging
Aluminum Packaging	Aluminum Food and Beverage Containers
	Aluminum Aerosol Containers
	Other Aluminum Packaging
Glass Packaging	Clear Glass
	Coloured Glass

\* Report LDPE/HDPE Film Carry-Out Bags Units in the number of units Supplied

## **Appendix B<sup>7</sup>** **Resident in Ontario<sup>8</sup>**

Resident in Ontario, with respect to a corporation, means a corporation that has a permanent establishment in Ontario, where:

- (a) “permanent establishment” includes branches, mines, oil wells, farms, timberlands, factories, workshops, warehouses, offices, agencies and other fixed places of business, and
- (b) the following rules apply:

### **Contracting Employees or Inventory Sufficient**

Where a corporation carries on business through an employee or agent who has general authority to contract for the corporation or who has a stock of merchandise owned by the corporation from which the employee or agent regularly fills orders which the employee or agent receives, such employee or agent shall be deemed to operate a permanent establishment of the corporation.

### **Commission Agent not Sufficient**

The fact that a corporation has business dealings through a commission agent, broker or other independent agent shall not of itself be deemed to mean that the corporation has a permanent establishment.

### **Subsidiary of Parent not Sufficient**

The fact that a corporation has a subsidiary controlled corporation in a place or a subsidiary controlled corporation engaged in a trade or business in a place shall not of itself be deemed to mean that the first-mentioned corporation is operating a permanent establishment in that place.

### **Licensed Insurance Company Sufficient**

An insurance corporation is deemed to have a permanent establishment in each jurisdiction in which the corporation is registered or licensed to do business.

### **Purchasing Office not Sufficient**

The fact that a corporation maintains an office solely for the purchase of merchandise shall not of itself be deemed to mean that the corporation has a permanent establishment in that office.

### **Ownership of Land Sufficient**

Where a corporation, otherwise having a permanent establishment in Canada, owns land in a province or territory of Canada, such land is a permanent establishment.

### **Production Packing and other Activities Sufficient**

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<sup>7</sup> Contents from “*Corporations Tax Act, Ontario*”

<sup>8</sup> The language in this appendix is from the Corporations Tax Act and should be applied to determine residency in Ontario rather than residency in Canada in order to help determine a Person’s status as a steward

The fact that a non-resident corporation in a year produced, grew, mined, created, manufactured, fabricated, improved, packed, preserved or constructed in whole or in part anything in Canada, whether or not the corporation exported that thing without selling it prior to exportation, shall of itself, be deemed to mean that the corporation maintained a permanent establishment at any place where the corporation did any of those things in the taxation year.

**Machinery or Equipment Sufficient**

The use of substantial machinery or equipment in a particular place at any time in a year of a corporation constitutes a permanent establishment of such corporation in that place for such a year.

**Principal Place of Business Sufficient**

Where a corporation has no fixed place of business, it has a permanent establishment in the principal place in which the corporation's business is conducted.

**Charter or By Laws designating Head or Registered Office Sufficient**

Where a corporation does not otherwise have a permanent establishment in Canada, it has a permanent establishment in the place designated in its charter or by-laws as being its head office or registered office.

**Appendix C**  
**Reporting and Payment Schedule**

**Table 1**

Reporting Schedule <sup>9</sup>	2018 Due Date
Steward's Report filing deadline	May 31, 2018

**Table 2**

Payment Schedule <sup>10</sup>	2018 Due Dates
<i>Quarterly payment option<sup>11</sup></i>	
First payment due (25%)	January 31, 2018
Second payment due (25%)	April 30, 2018
Third payment due (25%)	July 31, 2018
Fourth payment due (25%)	October 31, 2018
<i>Annual payment option<sup>12</sup></i>	
Annual payment due (100%)	January 31, 2018

<sup>9</sup> 2018 Reports are based on 2017 data except for new stewards whose data may be based on estimates

<sup>10</sup> 2017 Reports inform 2018 invoices

<sup>11</sup> Stewards may elect on the WeRecycle Portal to pay quarterly or annually

<sup>12</sup> Stewards may elect on the WeRecycle Portal to pay quarterly or annually

**Appendix D**  
**The Methodology for Calculating Stewardship Ontario Fees**

The Methodology for Calculating Stewardship Ontario Fees can be found in Schedule A of the Blue Box Program Agreement between Stewardship Ontario and Waste Diversion Ontario.

## Appendix E

# POLICY FOR STEWARD-INITIATED ADJUSTMENT REQUESTS

### KEY FEATURES:

- Stewards can request adjustments to submitted reports for a maximum of two years from the report submission deadline
- Adjustment requests must include supporting documentation
- Only adjustments that meet the policy requirements will be

## **I. Overview**

1. This policy provides guidance to stewards as to the types of adjustments that may be allowed.

## **II. Purpose**

2. This Policy promotes fairness and consistency for all stewards and enables stewardship programs to operate in a cost-effective manner.
3. The two-year time limit:
  - (a) helps stabilize fees as adjustments can impact the total quantities of supplied materials (i.e. steward-reported quantities) which in turn impacts fee setting for the subsequent period or year. For example, where an adjustment results in a credit, these funds must be recouped in the subsequent period or year from steward fees and will be added to the program's budget; and
  - (b) provides stewards with sufficient time to identify possible issues in their reports and submit adjustment requests. The table below stipulates the deadlines.

## **III. Scope**

4. This policy applies to all adjustment requests submitted on or after January 1, 2018, regardless of the data or reporting period/year associated with the adjustment request, initiated by stewards and voluntary stewards ("stewards") meeting their regulatory stewardship obligations with one or more of the following programs:

- (a) Recycle BC (formerly MMBC);



- (b) Multi-Material Stewardship Western;
  - (c) Multi-Material Stewardship Manitoba; and
  - (d) Stewardship Ontario (Blue Box Program and MHSW Program)
5. This policy:
- (a) shall remain in force from the time that it is posted on the programs' websites until the time it is replaced; and
  - (b) shall be automatically amended by substituting the year appearing in this policy with the subsequent year, unless or until a new policy is posted on the programs' websites.

#### **IV. Policy**

##### **Reporting and Payments Must be Up-to-Date**

6. Only stewards whose reporting and payments to the program are up-to-date may make an adjustment request.

##### **Two-Year Time Limit for Adjustment Requests**

7. Stewards can request adjustments for a period of up to two years (eight quarters for MHSW) from the associated report submission deadline (regardless of the date the steward submitted its report).

**Table 1 – PPP Reports (Annual cycle)<sup>13</sup>**

<b>Report</b>	<b>2016 Report (2015 Data)</b>	<b>2017 Report (2016 Data)</b>	<b>2018 Report (2017 Data)</b>
<b>Deadline for annual report submission</b>	May 31, 2016	May 31, 2017	May 31, 2018
<b>Deadline for completed Adjustment Request<sup>14</sup></b>	May 31, 2018	May 31, 2019	May 31, 2020

**Table 2 – MHSW Reports (Quarterly cycle)<sup>15</sup>**

<sup>13</sup> This table shall be automatically amended by substituting the year with the subsequent year, unless or until a new policy is posted in accordance with clause 5 of this policy

<sup>14</sup> If the deadline for an adjustment request falls on a non-business day, the deadline is extended to the next business day.

<sup>15</sup> This table shall be automatically amended by substituting the year with the subsequent year, unless or until a new policy is posted in accordance with clause 5 of this policy

MHSW Reports	Q1 - 2016	Q2 - 2016	Q3 - 2016	Q4 - 2016	Q1 - 2017	Q2 - 2017	Q3 - 2017	Q4 - 2017	Q1 - 2018
<b>Deadline for quarterly report submission</b>	Jan 31, 2016	Apr 30, 2016	July 31, 2016	Oct 31, 2016	Jan 31, 2017	Apr 30, 2017	July 31, 2017	Oct 31, 2017	Jan 31, 2018
<b>Deadline for completed Adjustment Request</b>	Jan 31, 2018	Apr 30, 2018	July 31, 2018	Oct 31, 2018	Jan 31, 2019	Apr 30, 2019	July 31, 2019	Oct 31, 2019	Jan 31, 2020

### Stewards Who Have Exited a Program

8. A steward who has exited a program:
- (a) may file an adjustment request within 30 calendar days of exiting the program, following which no adjustment request may be filed; and
  - (b) will be credited or debited within 90 calendar days, unless the adjustment request requires a third party review.

### How to Make an Adjustment Request

9. All stewards who wish to make an adjustment request must:
- (a) submit a completed and signed [Adjustment Request Form](#), and email it to [adjustments@cssalliance.ca](mailto:adjustments@cssalliance.ca); and
  - (b) provide accompanying supporting documentation.

### Contents of Adjustment Request form and Supporting Documentation

10. Adjustment requests must include:
- (a) clear and detailed supporting documentation and narratives to explain each of the errors; and
  - (b) an audit trail that, if followed, would confirm the legitimacy of the adjustment request.
11. If there are multiple errors in a single report, stewards must include all relevant information for all errors as only one adjustment request will be considered for each year's report.
12. See Appendix A: "Steps to Complete an Adjustment Request" for step-by-step guidance on submitting an adjustment request.

## Credits and Debits

13. Following assessment of the steward's adjustment request:
- (a) credits will be immediately applied to the steward's program-specific account so that it is available to the steward to access the credit against the next program invoice; and
  - (b) debits are due within 30 days of issue date.

## Permitted Adjustments

14. Subject to adequate substantiation, adjustment requests that will be considered are limited to the following circumstances:
- (a) incorrect formula in Excel spreadsheet or similar "tool";
  - (b) incorrect logic in Excel spreadsheet or similar "tool";
  - (c) material classification error;
  - (d) material weight input error (e.g., entered 1 instead of 10);
  - (e) data entered in the wrong units (e.g., in grams instead of kilograms)
  - (f) exclusion of materials in error;
  - (g) inclusion of material for which another steward is obligated;
  - (h) inclusion of non-obligated PPP;
  - (i) actual data to replace estimates used by newly on-boarded stewards.

## Non-Permitted Adjustments

15. Adjustment that will not be accepted include, but are not limited to:

**(a) Adjustments resulting from reporting methodology changes:**

- (i) changing from the use of calculators to the reporting of "actuals";
- (ii) application of a new study or change in internal processes that identifies previous errors in reported quantities;<sup>16</sup>
- (iii) changing percentage allocations (e.g. for IC&I sales or for packaging that never leaves the commercial establishment);
- (iv) revisions to Average Bill of Material groupings (ABOMs);
- (v) creation of ABOMs, when one was not originally used to develop the report

**(b) Adjustments on adjustments:**

Requests will not be considered for changes to a report where the steward previously requested an adjustment for the same report, regardless of whether the steward is seeking the same or a different adjustment to the previously submitted report.

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<sup>16</sup> Efforts to improve the accuracy of reports are appreciated, and can be used for future reports, but cannot be applied retroactively.

**(c) Adjustments due to changes to your business model such as divestments, mergers or acquisitions:**

If part of your business is acquired or divested in a given calendar year, the impact of those changes, if any, must be included during the next reporting cycle, but the steward will not be permitted to make an adjustment to a previously submitted report.

**(d) Adjustments with inadequate substantiation and supporting documentation:**

- (i) Stewards may be required to undergo a third-party review, at the steward's expense, in order to have their adjustment requests validated and processed.
- (ii) If an incomplete package is submitted or additional substantiation is required by the program(s), stewards will be notified and must provide the additional documentation within 30 days of notification. A steward's adjustment request will be closed where the steward fails to provide additional information requested by the program(s) within 30 days.

**Processing Time**

16. Adjustments can take from weeks to months to process. The amount of time is a function of a number of factors that include complexity, the completeness of the steward's supporting documentation, and the number of adjustments in the queue.

**Third-Party Reviews**

17. A third-party review is a detailed examination of a steward's methodology and data collection and reporting processes conducted by an independent consultant.

18. The programs reserve the right to initiate a third-party review of an adjustment request, and may do so in their sole discretion.

19. Third-party reviews will be paid for by the affected steward. In the event that the program(s) determines that a third-party review is warranted, a steward's refusal to participate in or pay for a third-party review will result in the steward's adjustment request being closed.

20. The scope and cost of the review will be outlined in a contract with the steward.

21. The professional services firm engaged to undertake the review will be required to ensure its independence.

22. Every effort will be made to collaborate with the steward with respect to the review process and timing.

### **CHECK THE ACCURACY OF YOUR REPORTS**

- All stewards are advised to take the following steps to identify potential errors in their reports on a timely basis:
- Carefully review Submission Detail Report (SDR) which is available on the WeRecycle Reporting Portal immediately upon submission of your steward report for accuracy.
- Review your first annual invoice for evidence of any errors (e.g. your invoice is significantly higher or lower than expected).
- Contact CSSA as soon as possible after identifying a potential error.

### **QUESTIONS AND ASSISTANCE**

Please contact National Steward Services with any questions about the adjustment process:

1 (888) 980-9549 or [adjustments@cssalliance.ca](mailto:adjustments@cssalliance.ca).

## Appendix A to Policy for Steward-Initiated Adjustment Requests

### Steps to Complete an Adjustment Request

1. Verify that your request meets the criteria for permitted adjustments.
2. Ensure that your request and submission of all materials to substantiate the request, including all information requested by CSSA, is made within the two-year timeframe.
3. Download the Adjustment Request Form [available here](#).
4. Complete the Adjustment Request Form.
  - Provide previously reported material quantities and revised material quantities.
  - Explain the errors that led to the request and provide supporting documentation (e.g., validation data such as SKU, UPC or other product categorization information, internal audit reports, weight data from suppliers, internal testing to validate weights, etc.) that provides an audit trail sufficient to allow for assessment of the adjustment request.
5. Email your completed Adjustment Request Form and supporting documentation to [adjustments@cssalliance.ca](mailto:adjustments@cssalliance.ca) with “Adjustment Request” in the subject line. Please include your steward number and name in the email.

## Appendix F

# PENALTY AND INTEREST POLICY

### KEY FEATURES:

- Penalties and interest will apply for obligated stewards who:
  - Fail to meet their registration obligations in accordance with program deadlines;
  - Fail to file their reports in accordance with program deadlines; and/or
  - Intentionally file an inaccurate report; and/or
  - Fail to pay an invoice according to program deadlines

## **I. Overview**

1. This policy provides guidance to stewards regarding conduct that will result in the application of penalties, and/or interest.
2. Nothing in this policy limits a program's ability to escalate a steward to the applicable Ministry or Authority as specified in the governing legislation.

## **II. Purpose**

3. The Penalties and Interest Policy promotes fairness and consistency for all stewards and enables stewardship programs to operate in a cost-effective manner by applying a set of consistent penalties and interest to serve as a deterrent to noncompliance.

## **III. Scope**

4. This policy applies effective January 1, 2018 for all stewards and voluntary stewards ("stewards") meeting their regulatory stewardship obligations with one or more of the following programs:
  - (e) Recycle BC (formerly MMBC);
  - (f) Multi-Material Stewardship Western (MMSW);
  - (g) Multi-Material Stewardship Manitoba (MMSM); and
  - (h) Stewardship Ontario (SO) Blue Box Program and Municipal Hazardous or Special Waste Program (MHSW).

## IV. Policy

### Penalties and Interest

5. Penalties and interest will be applied in the scenarios outlined in the following chart.

Scenario	Step I	Step II
<p><b>Not Registered</b> A new steward who is obligated but has <u>not registered</u> with the Program (SO, MMSM) or has <u>not executed</u> a Membership Agreement with Program (Recycle BC, MMSW) within 60 days of beginning to supply the material in the province (the “Obligation Date”)</p>	<p>Beginning on the 61<sup>st</sup> day after the steward began to supply material:</p> <ul style="list-style-type: none"> <li>• Back payment and back filing to the Obligation Date</li> <li>• Interest on the steward’s invoice(s) (when report(s) filed and invoices issued) from the Obligation Date at the RBC prime rate of interest +3% (MMSM) or CIBC prime rate of interest +4% (SO, Recycle BC, MMSW) to the date of registration or signing a membership agreement;</li> <li>• Report to regulatory authority (Recycle BC, MMSW, SO (Blue Box and MHSW))</li> </ul> <p>Beginning on the 121<sup>st</sup> day after the steward began to supply material:</p> <ul style="list-style-type: none"> <li>• Report to regulatory authority (MMSM)</li> </ul>	<p>Beginning on the 181<sup>st</sup> day after the steward began to supply material:</p> <ul style="list-style-type: none"> <li>• Penalty of 10% of all fees owing when report(s) filed</li> </ul>
<p><b>Not Filed</b> Steward has registered with the program, but has <u>not filed</u> its Report by the deadline or has intentionally filed an incorrect report prior to the reporting deadline</p>	<p>Beginning the first day following the report filing deadline:</p> <ul style="list-style-type: none"> <li>• Interest begins accruing on the steward’s invoice(s) (when report(s) filed and invoices issued) from the Obligation Date at the RBC prime rate of interest +3% (MMSM) or CIBC prime rate of interest +4% (SO, Recycle BC, MMSW)</li> </ul> <p>Beginning on the 31<sup>st</sup> day following the report filing deadline (MMSM):</p> <ul style="list-style-type: none"> <li>• Penalty of 10% of all fees owing when filed</li> </ul>	<p>Beginning on the 61<sup>st</sup> day following the reporting deadline:</p> <ul style="list-style-type: none"> <li>• Report to regulatory authority (Recycle BC, MMSW, SO (Blue Box and MHSW))</li> </ul> <p>Beginning on the 91<sup>st</sup> following the reporting deadline:</p> <ul style="list-style-type: none"> <li>• Penalty of 10% of all fees owing when filed (Recycle BC, MMSW, SO (Blue Box and MHSW))</li> <li>• Membership Agreement (Recycle BC, MMSW) will be cancelled</li> </ul> <p>Beginning on the 121<sup>st</sup> day following the reporting deadline:</p> <ul style="list-style-type: none"> <li>• Report to regulatory authority (MMSM)</li> </ul>



Scenario	Step I	Step II
<p><b>Steward does not respond to requests for substantiation</b> of the steward's report within 30 days during staff-initiated steward report review</p>	<p>Beginning on the 31<sup>st</sup> day after the initial request for substantiation:</p> <ul style="list-style-type: none"> <li>Report will be considered to be "not filed" and the consequences associated with that scenario will apply.</li> <li>Interest begins accruing on the steward's invoice(s) from the Obligation Date at the RBC prime rate of interest +3% (MMSM) or CIBC prime rate of interest +4% (SO, Recycle BC, MMSW)</li> </ul>	<p>Beginning on the 61<sup>st</sup> day following the initial request for substantiation:</p> <ul style="list-style-type: none"> <li>Membership Agreement (Recycle BC, MMSW) will be cancelled</li> <li>Report to regulatory authority (Recycle BC, MMSW, SO (Blue Box and MHSW))</li> </ul> <p>Beginning on the 91<sup>st</sup> day after the initial request for substantiation:</p> <ul style="list-style-type: none"> <li>Penalty of 10% of all fees owing</li> </ul> <p>Beginning on the 120<sup>st</sup> day following the initial request for substantiation:</p> <ul style="list-style-type: none"> <li>Report to regulatory authority (MMSM)</li> </ul>
<p><b>Not Paid</b> Steward has registered and has filed its report by the deadline, but it has <u>not paid</u> its invoice by the invoice deadline</p>	<p>Beginning on the 31<sup>st</sup> day following the invoice payment deadline:</p> <ul style="list-style-type: none"> <li>Interest begins accruing on the steward's invoice(s) from the Obligation Date at the RBC prime rate of interest +3% (MMSM) or CIBC prime rate of interest +4% (SO, Recycle BC, MMSW)</li> </ul>	<p>Beginning on the 61<sup>st</sup> day following the invoice payment deadline:</p> <ul style="list-style-type: none"> <li>Membership Agreement (Recycle BC, MMSW) will be cancelled</li> <li>Report to regulatory authority (Recycle BC, MMSW, SO (Blue Box and MHSW))</li> </ul> <p>Beginning on the 121<sup>th</sup> day following the invoice payment deadline:</p> <ul style="list-style-type: none"> <li>Report to regulatory authority (MMSM)</li> </ul> <p>Beginning on the 181<sup>st</sup> day following the invoice payment deadline:</p> <ul style="list-style-type: none"> <li>Penalty of 10% of all fees owing when paid</li> </ul>