

PROGRAM AGREEMENT

Preamble

THIS AGREEMENT made in duplicate is effective as of this 25th day of February, 2009
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 -

ONTARIO TIRE STEWARDSHIP,
a corporation without share capital
incorporated pursuant to the *Corporations Act (Ontario)*

(hereinafter referred to as "Ontario Tire Stewardship")

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 Ontario Tire Stewardship 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 Used Tires under the *Act*;

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 Ontario Tire Stewardship is to:

- (a) Define the roles and responsibilities of the two parties during the implementation and operation of the Waste Diversion Program for Used Tires;
- (b) Set out the operating relationships between the two parties during the implementation and operation of the Waste Diversion Program for Used Tires; 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) “**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;
- (d) “**Documentation**” means, for purposes of Section 9 of this Agreement, correspondence, documentation whether paper or electronic pertaining to public consultation during development of the Used Tires 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 Ontario Tire Stewardship;
- (e) “**FIPPA**” means the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended;
- (f) “**Funds**” means monies received by Ontario Tire Stewardship as described in Subsection 32(3) of the *Act*;
- (g) “**Material change**” means a change to this agreement or the Used Tires Program Plan which requires review and approval by Waste Diversion Ontario and by the Minister as outlined in Section 3.5;
- (h) “**Minister**” means the Minister of the Environment, Province of Ontario;
- (i) “**Ministry**” means the Minister’s ministry;
- (j) “**Operating Agreement**” means the Operating Agreement (including all amendments) entered into between Waste Diversion Ontario and the Minister;
- (k) “**Stewards**” means the persons or classes of persons designated under the Used Tires Program Plan rules as responsible for paying fees to Ontario Tire Stewardship;
- (l) “**Steward**” means any member of the class of “Stewards”;
- (m) “**Used Tires**” means waste materials defined under Ontario Regulation 84/03;
- (n) “**Used Tires Program Plan**” means the waste diversion program submitted by Waste Diversion Ontario in cooperation with Ontario Tire Stewardship and submitted to the Minister for approval, of which this Agreement forms a part; and

- (o) **“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 term of this Agreement shall commence upon approval of the Used Tires Program Plan by the Minister and shall remain in effect until five (5) years after that date and for successive periods of five (5) years each thereafter 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 this Agreement first written above 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 Ontario Tire Stewardship 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 Used Tires 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 Used Tires in the approved Used Tires Program Plan.
- (ii) Definition of Stewards - Meaning the persons or classes of persons designated under the Rules included in the Used Tires Program Plan as responsible for paying fees to Ontario Tire Stewardship.
- (iii) Change in the methodology for calculating fees as outlined in the approved Used Tires Program Plan.

4. Roles of the Parties

4.1 Waste Diversion Ontario represents and warrants that it has approved the Used Tires Program Plan.

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 Ontario Tire Stewardship 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 Used Tires; (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 Ontario Tire Stewardship under Section 32 of the *Act*;
- (c) Will invoice Ontario Tire Stewardship for the costs referred to in paragraph 4.1(b) commencing at the end of the first quarter following the date upon which the Used Tires Program Plan commences, following designation of Ontario Tire Stewardship by the regulations made under the *Act* as the industry funding organization for the Used Tires Program Plan (such costs to include costs identified in paragraph 4.1(b) incurred prior to the date upon which Ontario Tire Stewardship is so designated);
- (d) Will implement the programs, policies and procedures identified as the responsibility of Waste Diversion Ontario in the Used Tires Program Plan approved by the Minister; and
- (e) Will implement relevant activities and functions as outlined in the Operating Agreement with the Minister.

4.2 Ontario Tire Stewardship:

- (a) Will, following approval by the Minister, implement the Used Tires Program Plan;

- (b) Will honour invoices from Waste Diversion Ontario for amounts set out in Section 4.1 with payment within 30 days;
- (c) Will comply with all of its obligations under the *Act* including the preparation of an annual report pursuant to Section 33 of the *Act*; and
- (d) Will adopt a Code of Conduct for directors, officers and committee members substantially equivalent to the Code of Conduct set out in By-Law 2008-1 of Waste Diversion Ontario and otherwise in form and substance satisfactory to Waste Diversion Ontario.

5. Methodology and Rules Concerning Fees

5.1 Ontario Tire Stewardship has adopted the Methodology for Calculating Ontario Tire Stewardship Fee Rates set out in Schedule A hereto. Any amendments to the Methodology set out in Schedule A hereto shall be subject to the prior written approval of Waste Diversion Ontario and the Minister.

5.2 Ontario Tire Stewardship proposes to adopt the Rules for Stewards with respect to the Payment of Fees set out in Schedule B hereto, which have been approved by Waste Diversion Ontario. Once Ontario Tire Stewardship has been designated in a regulation as the industry funding organization in respect of Used Tires, Ontario Tire Stewardship will formally make the Rules. At such time, the Rules so made will be initialled by the parties for identification and appended hereto as Schedule B, whereupon such Rules shall be deemed to replace the Rules set out in Schedule B hereto for all purposes. Any amendments to the Rules set out in Schedule B hereto and any new rules shall be subject to the prior written approval of Waste Diversion Ontario.

6. Transparency

6.1 Ontario Tire Stewardship will maintain an Internet website accessible by the public and will post every rule made pursuant to the *Act* on its website. Subject to confidentiality or proprietary considerations, and provided that information is available in electronic format, Ontario Tire Stewardship's website is to include information on, or contain the appropriate electronic links to, the Used Tires Program Plan and Ontario Tire Stewardship's annual report pursuant to Section 33 of the *Act*. Ontario Tire Stewardship 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 confidentiality and proprietary considerations and requirements, Ontario Tire Stewardship shall provide data and information obtained in the course of developing, implementing and operating the Used Tires 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 Used Tires Program Plan.

7.2 The parties acknowledge and agree that they have developed the Information Sharing Protocol set out in Schedule C hereto for the purpose of implementing the provisions of Section

7.1 above and agree to implement the terms of such Information Sharing Protocol in all respects.

7.3 Ontario Tire Stewardship 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.

7.4 Any data or materials provided by Ontario Tire Stewardship 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 Ontario Tire Stewardship with notice to that effect. Notwithstanding the foregoing, Ontario Tire Stewardship 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 Ontario Tire Stewardship to Waste Diversion Ontario which has in turn been provided by Waste Diversion Ontario to the Minister.

7.5 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; provided that the party required to disclose shall provide as much advance notice as possible to the other party of such requirement;
- (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 Ontario Tire Stewardship to provide opportunities for consultation with stakeholders, including the public, who may be affected by any proposed material changes to the Used Tires Program Plan. Such consultation is to be open, accessible and responsive to concerns expressed.

9. Ontario Tire Stewardship Responsibility for Documentation and Audit

9.1 Ontario Tire Stewardship 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 Ontario Tire Stewardship 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 Ontario Tire Stewardship. 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 Ontario Tire Stewardship agrees to implement and maintain measures to protect 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) Ontario Tire Stewardship;
- (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 Ontario Tire Stewardship, Waste Diversion Ontario shall forward the complaint/inquiry to Ontario Tire Stewardship 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 Ontario Tire Stewardship 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, Ontario Tire Stewardship 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 Ontario Tire Stewardship 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 Ontario Tire Stewardship 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.

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, pre-paid registered post or electronically by email. 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, by facsimile or by email; or
- (b) five (5) Business Days after posting by prepaid registered post. In the event of a postal disruption, notices must be given by acknowledged email, 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
45 Sheppard Avenue East, Suite 920
North York, Ontario M2N 5W9
Attention: Executive Director
Facsimile: 416-226-1368
Email: glendaqies@wdo.ca

Notices to Ontario Tire Stewardship shall be delivered to:

Ontario Tire Stewardship
c/o The Rubber Association of Canada
200 Argentia Road
Plaza 4, Suite 250
Mississauga, Ontario L5N 1W1

Attention: Chief Executive Officer

Facsimile: 905-814-1714
Email: glenn@rubberassociation.ca

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 Ontario Tire Stewardship shall include a dispute resolution mechanism in all contracts to which Ontario Tire Stewardship 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 Ontario Tire Stewardship and Waste Diversion Ontario as to their respective rights and obligations under this Agreement, the parties shall use the following dispute resolution procedures 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 Ontario Tire Stewardship 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 Ontario Tire Stewardship 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 Ontario Tire Stewardship 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 Ontario Tire Stewardship 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, subject to the agreement of the parties, such third arbitrator may act as the sole arbitrator of the dispute and the first two so appointed shall be deemed to have resigned; 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 Ontario Tire Stewardship, to any invoice issued by Waste Diversion Ontario to Ontario Tire Stewardship 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 Used Tires 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 Ontario Tire Stewardship and Ontario Tire Stewardship 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, Ontario Tire Stewardship 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 Ontario Tire Stewardship will develop a dispute resolution procedure providing for the resolution of any dispute between Ontario Tire Stewardship 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 Ontario Tire Stewardship under Section 30 of the Act, such dispute resolution procedure to be satisfactory in all respects to Waste Diversion Ontario.

16.5 Ontario Tire Stewardship agrees to submit any dispute with respect to payments or in-kind contributions to be made to service providers under the Used Tires 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 Ontario Tire Stewardship 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 Ontario Tire Stewardship, Waste Diversion Ontario may terminate this Agreement after giving Ontario Tire Stewardship ninety (90) Business Days prior written notice of the breach or default if Ontario Tire Stewardship fails to remedy such breach by the expiry of such ninety (90) Business Day notice period. In the event that the remedy of such breach by Ontario Tire Stewardship reasonably requires more than ninety (90) Business Days, Ontario Tire Stewardship shall so advise Waste Diversion Ontario without delay and provide a revised time line. Waste Diversion Ontario shall notify Ontario Tire Stewardship 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.

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

- (a) Ontario Tire Stewardship assigns or subcontracts any of its rights or obligations under this Agreement or any part thereof except as expressly provided for herein;
- (b) Ontario Tire Stewardship 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 Ontario Tire Stewardship 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 Ontario Tire Stewardship and are being diligently contested by Ontario Tire Stewardship and are stayed within 30 days from the date of notice of such proceedings being received by Ontario Tire Stewardship;
- (c) A receiver or trustee is appointed for any part of the assets of Ontario Tire Stewardship; or
- (d) Ontario Tire Stewardship ceases for any reason whatsoever to be the designated industry funding organization for the Used Tires Program Plan or the Used Tires Program Plan is terminated for any reason whatsoever.

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 Ontario Tire Stewardship and supersedes any prior understanding or agreement, collateral, oral or otherwise, existing between the parties at the date of execution of this Agreement.

20. Public Announcements

20.1 Neither Waste Diversion Ontario nor Ontario Tire Stewardship 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 Used Tires Program Plan without first consulting the other concerning the contents of such proposed press release or public announcement in accordance with the terms of the Information Sharing Protocol appended hereto as Schedule C. 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 Used Tires Program Plan.

21. Governing Law

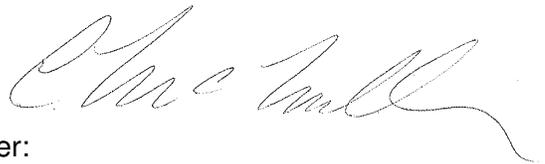
21.1 This Agreement shall be construed and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and the parties hereby agree that any dispute arising out of or in relation to this Agreement shall be determined in Ontario.

21.2 Ontario Tire Stewardship agrees that it shall, and shall use reasonable commercial efforts to require its officers, directors and staff to, comply with all laws, ordinances, rules and regulations which apply to the operation of Ontario Tire Stewardship, any activities of Ontario Tire Stewardship and the responsibilities of Ontario Tire Stewardship 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 have authority to bind Waste
Diversion Ontario

ONTARIO TIRE STEWARDSHIP

Per:



-
- Glenn Maidment
 - President

I have authority to bind Ontario
Tire Stewardship

SCHEDULE A
METHODOLOGY FOR CALCULATING ONTARIO TIRE STEWARDSHIP
FEE RATES

FEE SETTING METHODOLOGY

This section describes the authority with which OTS assesses Steward Fees, and describes the principles behind and the detailed fee setting methodology that will be employed by OTS under the Used Tires Program Plan. This information is presented in the following format:

- **Authority**
- **Used Tire Product Categories**
- **Principles**
- **Used Tire Fee Setting Methodology**

Authority

Under the WDA the Industry Funding Organization for an approved Program Plan may assess fees against companies designated as Stewards under the plan. Section 30 of the *Act* sets out the powers for fee setting as follows:

“30. (1) If an industry funding organization is designated by the regulations as the industry funding organization for a waste diversion program, the organization may make rules,

- (a) designating persons or classes of persons as Stewards in respect of the designated waste to which the waste diversion program applies;
- (b) setting the amount of the fees to be paid by Stewards under subsection 31 (1) or prescribing methods for determining the amount of the fees;
- (c) prescribing the times when fees are payable under subsection 31 (1);” [2002, c.6, s.30 (1)]

Used Tire Product Categories

Three Tire Categories for the purpose of setting Tire Stewardship Fees have been established:

1. On Road Tires – Passenger/Light Truck Tires
2. On Road Tires – Medium Truck; and
3. Off Road Tires.

Table 25: Used Tire Definitions

	Product Category	Definition
1)	On-Road Tires – Passenger/Light Truck	<p>Passenger Tires, Small RV Tires, ST Trailer tires and Light Truck Tires and Temporary Spares Includes passenger tires are designed for use on passenger cars, light trucks, small RVs and multipurpose passenger vehicles (MPVs), including sport utility vehicles (SUVs) and crossover utility vehicles (CUV's), and to comply with Canadian Motor Vehicle Safety Standard (CMVSS No. 109). The light truck tire category is tires designed for use on consumer or commercial light trucks, under 10,000 lbs. Gross Vehicle Weight, and comply with Canadian Motor Vehicle Safety Standard (CMVSS No. 119). Codes found on the sidewall of light passenger and light truck tires are P (Passenger) and LT (Light Truck). Temporary spare tires are marked T (Temporary).</p> <p>Motorcycle, Golf Cart and All Terrain Vehicle Tires Includes all tires specifically designed for on/off highway motorcycles, motorcycle sidecars, motor bikes, mopeds, mini-cycles, golf carts and all terrain vehicles.</p> <p>Forklift, Small Utility, Bobcat/Skid Steer Tires Includes pneumatic forklift tires, Bobcat/Skid Steer tires measuring 16” rim size and under</p> <p>Free Rolling Farm Tires Includes free rolling farm and implement tires up to 16” rim size used on farm equipment.</p>
2)	On-Road Tires – Medium Truck	<p>Medium Truck Tires Also commonly known as Commercial Truck Tires – Truck and Bus tires including Wide Base or Heavy Truck tires designed for truck/bus applications and Larger RV tires not marked "P or LT". All of which comply with Canadian Motor Vehicle Safety Standard (CMVSS No. 119).</p>

	Product Category	Definition
3)	Off-the-Road (OTR) Tires	<p>Agricultural Drive and Logger Skidder Tires Includes drive wheel tires used on tractors and combines and tree harvesting equipment. These tires are normally identified with a sidewall marking with suffix letters (R), or (HF) or (LS) and are 16.5” and up rim size. These tires are listed in The Tire and Rim Association Inc. annual yearbook Section 5 Agricultural.</p> <p>Forklift, Bobcat/Skid Steer Tires Includes pneumatic forklift tires, Bobcat/Skid Steer Tires measuring 16.5” and over.</p> <p>Small Off The Road Tires Sizes 1300R24 to 23.5R25 Rim Size</p> <p>Medium Off The Road Tires Above 23.5R25 to 33 inch Rim Size</p> <p>Large Off The Road Tires Above 33 inch to and including 39 inch Rim Size</p> <p>Giant Off The Road Tires Over 39 inch Rim Size</p> <p>Industrial (Solid) Tires Solid Industrial Tires e.g. for Forklift Trucks etc.</p>

Principles

Section 30 of the WDA also defines principles relating to fees as follows:

“(3) In making rules under clause (1) (b), the industry funding organization shall have regard to the following principles:

1. The total amount of fees paid by Stewards under subsection 31 (1) should not exceed the sum of the following amounts:
 - i. The costs of developing, implementing and operating the program.
 - ii. A reasonable share of costs not referred to in subparagraph i) that are incurred by Waste Diversion Ontario in carrying out its responsibilities under this Act.
 - iii. A reasonable share of costs incurred by the Ministry in administering this Act.

2. The fee paid by a Steward should fairly reflect the proportion of the sum referred to in paragraph 1 that is attributable to the Steward.” [2002, c. 6, s. 30 (3)]

Ontario Tire Stewardship (OTS), recognizing the principles previously established by other Industry Funding Organizations, adopted the following guiding principles to be applied to the fee setting process:

- 1) There should be no cross-subsidization of management costs across Used Tire Product Categories.
- 2) Stewards fees will be based on Tire units supplied in the Program year but will cover the projected cost to manage the Used Tires being managed through the Program in that year.
- 3) Fee setting is to begin with the cost to manage each Used Tire Product Category under the Program as determined by a transparent cost allocation methodology.
- 4) Material-specific fees may then be modified to achieve (a) the overarching Program policy goal to divert waste from disposal and (b) material specific policy goals including achieving targets established for accessibility, collection, reduction, reuse, and recycling.
- 5) Common and shared OTS costs will be assessed across all Stewards in a fair and transparent manner.

These guiding principles were used to develop the fee-setting methodology.

Tire Fee-Setting Methodology

Context

In addition to the requirements set out by the WDA, the fee-setting methodology for the Used Tires Program Plan must also meet the requirements and policy objectives as set out in the Minister's Used Tires Program Request Letter. Furthermore, while OTS has used the best available data for the purposes of setting fees for Year 1 of the Used Tires Program Plan, the quality of the data that will be available for fee setting in subsequent Program years will be improved significantly by the requirement for Stewards and service providers to provide more detailed reports upon Program approval and implementation.

Methodology for Setting Used Tire Stewards' Fees for Year 1

OTS has calculated the Year 1 fees for Used Tires Stewards using the following methodology and incorporating into the fee calculations the best available data and agreed approaches for allocating costs.

Section 7.0 describes the cost items included in the fees. These costs include program activities such as program management, collection, transportation, processing, reuse, recycling and, where 3Rs options are not available or technically feasible, disposal.

Direct costs (e.g. collection incentives, transportation incentives, processing incentives, manufacturing incentives and directed P&E or R&D) are directly allocated to the appropriate Tire Category. Shared costs (e.g. program development and start-up, OTS administration, WDO costs attributable to Used Tires, stockpile abatement costs and enforcement costs) are allocated based on the Passenger Tire Equivalents by Tire Category in the given budget year.

Year 1 Calculation Steps for Setting OTS Used Tire Stewardship Fees

OTS has calculated and applied specific fee rates to each of the Used Tire Product Categories to support the management of Used Tires as set out in the Program Plan in the following steps:

Step 1: Establish Tire Categories Based on Similar Handling and Cost Drivers

Three Tire Categories for the purpose of setting Tire Stewardship Fees have been established as described in Section 6.2:

- On-Road Passenger/Light Truck Tires;
- On-Road Medium Truck Tires; and
- Off-the-Road Tires

Step 2a: Determine 2007 Unit Sales Data by Tire Category

For each Tire Category, determine number of tires supplied into Ontario to determine Unit Sales by Tire Category based on:

- 2007 Wholesale Sales Data for program tires sold into the Ontario market. While Wholesale Sales Data represents sales into the market rather than direct sales to consumers, it represents the best available data. Use of these data assumes that wholesale sales into the market are matched by sales to consumers, with no fluctuation in wholesale or retail inventory levels throughout the distribution chain.
- New vehicle sales data to quantify the flow of new tires into the province on vehicles. It is estimated that this channel accounts for almost 30% of the new tires entering the Ontario market.

Step 2b: Adjust 2007 Sales Data by Tire Category to Represent Estimated Reported Sales by Registered Stewards

Multiply Unit Sales by Tire Category by 95% to calculate Adjusted Unit Sales on the basis that 95% of Stewards' Sales will be reported in Year 1.

Step 3a: Determine Passenger Tire Equivalents for each Tire Category

Establish Passenger Tire Equivalents for On-Road Passenger/Light Truck Tires, On-Road Medium Truck Tires and Off-the-Road Tires on the basis of:

Tire Categories	Passenger Tire Equivalents for Budget Costs	Passenger Tire Equivalents for Calculation of TSF
On-Road Passenger/Light Truck Tires	Adjusted Unit Sales multiplied by 1	Adjusted Unit Sales multiplied by 1
On-Road Medium Truck Tires	Adjusted Unit Sales multiplied by 2	Adjusted Unit Sales multiplied by 5
Off-the-Road Tires	Adjusted Unit Sales multiplied by tire weight divided by 10 kilograms	Adjusted Unit Sales multiplied by tire weight divided by 10 kilograms

Step 3b: Calculate Total Passenger Tire Equivalents for Adjusted Unit Sales by Tire Category

Calculate Total Passenger Tire Equivalents by Tire Category for allocating Shared Costs:

Tire Categories	Calculated Passenger Tire Equivalents for Adjusted Unit Sales
On-Road Passenger/Light Truck Tires	Multiply Adjusted Unit Sales (Step 2b) by 1 (Step 3a).
On-Road Medium Truck Tires	Multiply Adjusted Unit Sales (Step 2b) by 3 (Step 3a).
Off-the-Road Tires	Multiply Adjusted Unit Sales (Step 2b) by weight of tires divided by 10 kilograms (Step 3a).

Step 4a: Determine Collection Cost Per Tire Category

On-Road Passenger/Light Truck Tires

The Collection Cost for On-Road Passenger/Light Truck Tires is based on a Collection Allowance per tire. The Collection Allowance is set by the OTS Board based on market research.

On-Road Medium Truck Tires

The Collection Cost for On-Road Medium Truck Tires is based on a Collection Allowance per tire. The Collection Allowance is set by the OTS Board based on market research.

Off-the-Road Tires

A Collection Allowance has not been set for Off-the-Road Tires on the basis that Off-the-Road tires are typically transferred from a user's location directly to Processors.

Step 4b: Calculate Total Collection Cost

Tire Categories	Calculating Collection Cost
On-Road Passenger/Light Truck Tires	Multiply number of On-Road Passenger/Light Truck Tires collected by Collection Allowance (Step 4a).
On-Road Medium Truck Tires	Multiply number of On-Road Medium Truck Tires collected by Collection Allowance (Step 4a).
Off-the-Road Tires	Not applicable.

Step 5a: Determine Transportation Cost Per Tire Category

On-Road Passenger/Light Truck

The Transportation Cost for On-Road Passenger/Light Truck is based on a Transportation Incentive per tonne per kilometer. The Transportation Incentive is set by the OTS Board based on market research.

On-Road Medium Truck Tires

The Transportation Cost for On-Road Medium Truck Tires is based on a Transportation Incentive per tonne per kilometer. The Transportation Incentive is set by the OTS Board based on market research.

Off-the-Road Tires

The Transportation Cost for Off-the-Road Tires is based on a Transportation Incentive per tonne per kilometer. The Transportation Incentive is set by the OTS Board based on market research.

Step 5b: Calculate Total Transportation Cost

Tire Categories	Calculating Transportation Cost
On-Road Passenger/Light Truck Tires	Multiply number of On-Road Passenger/Light Truck collected by Transportation Incentive (Step 5a).
On-Road Medium Truck Tires	Multiply number of On-Road Medium Truck Tires collected by Transportation Incentive (Step 5a).
Off-the-Road Tires	Multiply number of Off-the-Road Tires collected by Transportation Incentive (Step 5a).

Step 6a: Determine Processing Cost per Tonne

Processing Incentives for categories of Tire Derived Products are set by the OTS Board based on market research. Processing Incentives are expressed in both:

- price per tonne of Used Tires delivered to a Processor, and
- the equivalent price per tonne of the resulting Tire Derived Product.

Step 6b: Calculate Quantity of Tires Available for Processing

Calculate the number of Used Tires available for processing by deducting the number of tires culled for reuse from Used Tires collected by Tire Category.

Calculate the weight of Used Tires available for processing by multiplying the number of Used Tires available for processing by the weight of the Used Tires.

Calculate the weight of Used Tires available for processing by category of Tire Derived Product by applying the assumed percentage ratio of Tire Derived Products to the total weight.

Step 6c: Calculate Total Processing Cost

Calculate Total Processing Cost by multiplying the weight of Tires available for processing by category of Tire Derived Product (Step 6b) by the Processing Incentive for the category of Tire Derived Product expressed as price per tonne of Used Tires delivered to a Processor (Step 6a).

Step 7a: Determine Manufacturing Incentive Cost per Tonne

The Manufacturing Incentive Cost is based on the Manufacturing Incentive per tonne of crumb rubber used in new product manufacture. The Manufacturing Incentive is set by the OTS Board based on market research.

Step 7b: Determine Quantity of Crumb Rubber Eligible for Manufacturing Incentive

The quantity of crumb rubber eligible for the Manufacturing Incentive is set by the OTS Board as an upset limit.

Step 7c: Calculate Total Manufacturing Incentive Cost

Calculate Total Manufacturing Incentive Cost by multiplying the quantity of crumb rubber eligible for the Manufacturing Incentive (Step 7b) by Manufacturing Incentive per Tonne (Step 7a).

Step 8: Determine Additional Direct Program Costs by Tire Category

Additional Direct Program Costs include but are not limited to the following:

- Additional costs that are identifiable and specifically linked to certain Tire Categories.
- Research and Development to determine cost-effective ways of handling, transporting and processing specific categories of Used Tires.
- Promotion and Education to promote:
 - collection of specific categories of Used Tires;
 - achievement of the program Collection objectives;
 - engagement of Used Tire Program stakeholders;
 - awareness of the benefits that the Used Tire Program will generate in regards to the Ontario environment and the Green economy.

Step 9a: Determine Shared Costs by Tire Category

Shared costs include both OTS administration costs, program delivery costs, program start-up costs and stockpile abatement costs.

a) OTS Administration Costs include but are not limited to the following:

- OTS Board operating costs
- Accounting
- Legal
- Registering obligated Stewards
- Receiving, verifying and auditing Steward's Reports
- Reporting to WDO, MOE, OTS Board and Stewards
- IT activities to develop and maintain reporting and accounting systems
- General administration costs including: Staff recruitment and staff costs, telephone, postage, stationery, printing, and photocopy/fax, subscriptions, equipment leases, meeting expenses, bank charges, office supplies, rent, travel, insurance, depreciation, computer supplies, Internet access and website maintenance

b) Program Delivery Costs include but are not limited to:

- OTS share of WDO costs that can be directly attributed to Used Tires and the OTS share of WDO's costs that are not directly attributable to programs.
- Development of a methodology for the ongoing measurement of the quantities of Used Tires available for collection using a variety of sources that would include other similar programs.
- Used Tires data tracking and verification processes to support vendor standards
- OTS administration of the tendering and contracting process for Program services related to Used Tires.

- Developing plans for meeting accessibility, collection, reduction, reuse and recycling targets and for the purposes of future fee setting.
- Designing and implementing research and development programs to improve overall Used Tires Program efficiency and cost effectiveness.
- Determining approaches to promoting reuse.
- Annual review and modification, as required, of the Program cost calculations, cost allocation methodologies, fee setting methodology and fee setting through the approved fee setting methodology, including:
 - Assessment and consultation on provision for potential factors to modify Used Tire Product Category fee rates or adding Used Tires Product Category specific costs to achieve policy objectives;
 - OTS Used Tires cost allocation field work as required.
 - Planning and implementation work related to any subsequent phases of the Used Tires Program as directed by the Minister.
 - Design and implementation of the provincial Used Tires promotion and education program.
 - OTS and MOE Used Tires related compliance activities.

c) **Program Development Costs** are costs for Program Plan development in 2003/2004 and 2008/2009 and include but are not limited to:

- Development and operation of OTS committees and working groups that helped to develop the Used Tires Plan.
- Discussions and negotiations with service providers, other stakeholders and WDO in the development of the plan.
- Consultation with municipalities, industry and the general public in the development and review of the draft plan.
- The analytical and technical work completed by OTS in the drafting of the plan.
- Consulting support for the development and drafting of the plan.
- Legal costs related to development of the Program Plan

d) **Program Start-up** costs will be incurred to put the resources, facilities and systems in place that will be required to successfully implement the Used Tires Program Plan in a timely manner. Program Start-up Costs include, but are not limited to, the following:

- Providing clarifications and responding to requests from WDO and the MOE for additional information following submission of the final Program Plan, as required.
- Ongoing discussions and pre-implementation planning with key stakeholders.
- Development of Used Tires Program administrative procedures.
- IT, data management and tracking systems development.
- Legal and accounting services.
- Communications and advertising.
- Industry consultation.
- Identification, notification and registration of service providers.
- Establishment and operation of OTS registration “call centre”.
- Identifying, notifying and registering obligated Stewards.

e) **Stockpile Abatement Costs** include the costs to remove Used Tires from identified stockpile sites, transport the tires to Processors, process the tires and manage the stockpile abatement program.

Step 9b: Calculate Shared Costs by Tire Category

Calculate Total Shared Costs by adding OTS Administration Costs plus Program Delivery Costs plus Program Development Costs plus Program Start-Up Costs plus Stockpile Abatement Costs (Step 9a).

Calculate a Shared Cost per Passenger Tire Equivalent by dividing Total Shared Costs by Total Passenger Tire Equivalents for Adjusted Unit Sales for all Tire Categories (total of Step 3b).

Calculate Shared Costs by Tire Category by multiplying the Shared Cost per Passenger Tire Equivalent by the number of Passenger Tire Equivalents by Tire Category (Step 3b).

Step 10: Calculate Total Costs by Tire Category

Tire Categories	Calculating Total Cost
On-Road Passenger/Light Truck Tires	Add Direct Program Costs (Step 4 to Step 8) + Shared Costs by Tire Category (Step 9b).
On-Road Medium Truck Tires	Add Direct Program Costs (Step 4 to Step 8) + Shared Costs by Tire Category (Step 9b).
Off-the-Road Tires	Add Direct Program Costs (Step 4 to Step 8) + Shared Costs by Tire Category (Step 9b).

Step 11: Calculate Tire Stewardship Fees

Tire Categories	Calculating Tire Stewardship Fees
On-Road Passenger/Light Truck Tires	Divide Total Costs (Step 10) by Total On-Road Passenger/Light Passenger Tire Equivalents for Calculation of TSF (Step 3b)
On-Road Medium Truck Tires	Divide Total Costs (Step 10) by Total On-Road Medium Truck Passenger Tire Equivalents for Calculation of TSF (Step 3b)
Off-the-Road Tires	Divide Total Costs (Step 10) by Total Off-the-Road Passenger Tire Equivalents for Calculation of TSF (Step 3b)

Proposed Methodology for Setting Tire Fees for Years 2 - 5 of an Approved Plan

OTS will calculate the Year 2 - 5 fees for Stewards using the same methodology as for Year 1, with specific differences and improved data as noted below:

- Determining the quantities of obligated Used Tire materials introduced into the Ontario market on the basis of Stewards' reports received during Year 1;
- Contracts between OTS and service providers for the collection, transportation, and processing of Used Tires and manufacturing of products from crumb rubber;
- Number and weight of Used Tires by Category transported and received by Processors to calculate weight per Tire Category;
- Marketplace costing studies as completed;
- Analysis of cost allocation;
- Analysis of specific R&D or service agreements required to expand collection and diversion infrastructure for Used Tires and to meet targets for accessibility, collection, reuse and recycling of Used Tires;

- Findings from review of the performance of recovery channels;
- The results of research and monitoring of P&E activities undertaken in Year 1; and
- Additional Used Tires product data, as reported in Year 1 Steward's Reports.

Modifications to the Used Tire Program Fee Setting Methodology for Years 2 - 5:

Following consultation on Year 2 fee setting and subsequent years, the OTS Board of Directors may consider applying factors to modify the fees calculated in Year 1 methodology to account for possible differences in the collection and diversion performance achieved and the relative cost to manage related Used Tires or to meet other Used Tires Program Plan policy objectives established by the OTS Board.

In Year 2 and subsequent years it may be appropriate for OTS to add any shortfall or surplus incurred or generated in the previous fiscal period, either on specific Tire Categories or shared across categories as required. The general approach for such action is described as follows:

- a. Establish any amount of fees either underpaid or overpaid by Stewards of each Tire Category for costs incurred during the previous fiscal period;
- b. Establish any deficit or surplus in the amount of common expenses incurred during the previous fiscal period allocated on the same basis used to determine allocation of common costs; and
- c. Establish any credits to Stewards to account for items managed directly by Stewards but for which costs do not fall to the Program.

There are numerous factors that make it difficult to collect precisely 100 percent of the fees set including non-payment and late-payment by Stewards, mergers and acquisitions, changes in sales between data at the time the fees were established and at which the Stewards make payments, higher or lower actual recovery rates on which payments must be made than had been projected for setting fees, etc.

The amount of any surplus that the OTS Board of Directors agrees to maintain from Tire Category specific contributions will be directed only to activities prescribed in the Used Tires Program Plan and fee setting methodology in respect of the specific Tire Categories for which the contributions have been made.

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

**Rules for Stewards with Respect to the Payment of Tire Stewardship Fees for the Period
Commencing March 22, 2018**

1. Interpretation

In these Rules, the following terms shall have the following meanings.

Affiliate means an affiliated body corporate within the meaning of subsection 1(4) of the *Business Corporations Act* (Ontario).

Base Fee Period means the period that begins on May 1, 2017 and ends on the Base Fee Period End Day.

Base Fee Period End Day means, for the purposes of subsection 6(1) of Ontario Regulation 390/16, October 1, 2018, or such earlier date as may be determined by RPRA and subject to not less than 30 days prior notice to Stewards.

Base Interest Rate means the interest rate established from time to time under the Rules of Civil Procedure of the *Courts of Justice Act* (Ontario), as amended from time to time, for prejudgment interest.

Brand means a trademark within the meaning of the *Trade-marks Act* (Canada), whether or not registered pursuant thereto;

Brand Owner means, with respect to Branded Tires, during any time in the Data Period:

- (a) a Person Resident in Ontario who is the registered owner of the Brand, or
- (b) a Person Resident in Ontario who is a licensee of the registered owner of the Brand, or
- (c) a Person Resident in Ontario, who owns the intellectual property rights to the Brand, or
- (d) a Person Resident in Ontario, who is a licensee, in respect of the intellectual property rights to the Brand.

Branded means that a Brand is attached to or otherwise associated with Tires.

Commencement Date means September 1, 2009.

Commercial Connection, for the purposes of these Rules, means that a Person has or will derive a direct economic benefit when particular New Tires are Supplied in Ontario, and which includes, for greater clarity, the promotional benefit arising when New Tires are Supplied gratis or at a loss.

Data Period means each calendar month in the period starting on the Commencement Date and ending on the Program Termination Date.

Exempted Tires as defined in Appendix A means New Tires which are not required to be reported as Supplied or remitted on by a Steward.

Filed means electronically submitted or mailed to OTS at an address identified to the Stewards by mail or electronically, with confirmation of transmission in the case of sending by electronic means.

First Importer means a Person Resident in Ontario who imports New Tires into Ontario but is not a Brand Owner of such New Tires, and includes a Person Resident in Ontario who is the first to take title to or delivery or possession of such Tires, upon or after arrival in Ontario from elsewhere during the Data Period. A Person who takes delivery/possession of New Tires only for the purpose of transporting them to another Person in Ontario is not the First Importer of the Tires.

New Tires means any tires which result in the generation of Used Tires, including Tires Supplied with a new vehicle, or equipment or new replacement Tires or new additional Tires Supplied separately or with used vehicles, but does not include Retreaded Tires.

Original Equipment Manufacturer (OEM) means a manufacturer or First Importer of new vehicles for Supply in Ontario.

OTS website means the website located at www.rethinktires.ca.

Person includes an individual, partnership, joint venture, sole proprietorship, company or corporation, government (whether national, federal, provincial, state, municipal, city, county or otherwise and including any instrumentality, division, body, department, board or agency of any of them), trust, trustee, executor, administrator or any other kind of legal personal representative, unincorporated organization, association, institution, entity, however designated.

Program Termination Date means December 31, 2018, the day designated by the Ontario Minister of the Environment and Climate Change as the day the waste diversion program for Used Tires will cease operation or any subsequent change to that termination date approved by the Minister of the Environment and Climate Change prior to that date.

Published Address means an address of a Steward in Ontario appearing in a current telephone directory or a recognized current published business directory.

Regulation means Ontario Regulation 390/16 made under the WDTA.

Resident in Ontario means either of the following:

- (a) having a Published Address in Ontario; or
- (b) having a "permanent establishment" in Ontario within the meaning given to that term in the *Corporations Tax Act* (Ontario);

Retreaded Tires means Tires which have been reconditioned for the purpose of extending the useful life of the Tires, including replacement of the tread rubber only or replacement of tread and sidewall rubbers.

Resource Productivity and Recovery Authority (RPRA) means the corporation which oversees the operation and wind up of OTS and the Used Tire Program in accordance with the WDTA. RPRA is the successor to Waste Diversion Ontario;

Rules means these rules, and includes additional rules or amendments to these Rules from time to time, as published by OTS on the OTS website.

Steward means a Person designated as such under Rule 2; and “Stewards” means more than one Steward.

Steward’s Report means a report in the form set out on the OTS website from time to time prepared by a Steward and filed with OTS describing the aggregate amount of New Tires Supplied in the Data Period by the Steward and its Affiliates.

Supplied means:

- (a) sold or otherwise transferred (whether by transfer of possession or title);
- (b) leased;
- (c) donated;
- (d) disposed of; or
- (e) otherwise made available or distributed

in the Province of Ontario or for use in the Province of Ontario, and includes an import of New Tires for a purpose set out in Rule 2(3)(b).

Supply and **Supplies** have similar meanings.

Surplus Attributable to the Steward means a Steward’s proportionate share of the OTS surplus, calculated as of the Program Termination Date, based on that Steward’s payments to OTS in excess of OTS’s expenses in respect of that Steward, since the Commencement Date.

Tire Stewardship Fees (TSFs) means the fees payable to OTS pursuant to the Regulation or as set out in Appendix C.

Tires in these Rules includes products comprised primarily of rubber for mounting on passenger vehicles, motorcycles, trucks, buses, mobile homes, trailers, aircraft, earthmoving, road building, mining, logging, agricultural, industrial and other vehicles to provide mobility, but does not include tires on or for toys, bicycles, personal mobility devices and commercial aircraft, or Exempted Tires.

TSF Notification means the letter posted on the website of OTS titled “TSF Notification to Stewards – March 2017” setting out the Tire Stewardship Fees applicable to the Base Fee Period.

Unbranded means a Brand is not attached to or otherwise associated with New Tires.

Used Tires has the same meaning as in the Regulation.

WDTA means the *Waste Diversion Transition Act, 2016* (Ontario).

2. Designation of Stewards

For the purposes of determining which Person shall be designated as a Steward for New Tires, the following provisions shall apply, in the order in which they are set out. If two or more Persons are designated as a Steward pursuant to the following, the earlier provision shall prevail.

- (1) An OEM is designated as the Steward with respect to all New Tires on vehicles Supplied by the OEM.
- (2) A Brand Owner is designated as a Steward with respect to all New Tires:
 - (a) Supplied in the Data Period in respect of which it is the Brand Owner; and
 - (b) to which it has a Commercial Connection.
- (3) A First Importer is designated as a Steward with respect to all New Tires:
 - (a) Supplied in the Data Period of which it is the First Importer; or
 - (b) of which it is the First Importer in the Data Period for use by it or its Affiliate in the Province of Ontario, other than New Tires purchased by an individual for personal use.
- (4) If there are Unbranded New Tires Supplied in the Data Period, and if the manufacturer is Resident in Ontario, the manufacturer of such New Tires shall be designated as the Steward for such New Tires; otherwise the First Importer shall be designated as the Steward for such New Tires.
- (5) If there are two or more Brand Owners for the same New Tires Supplied in the same Data Period, the Brand Owner most directly connected to the manufacture of the New Tires shall be designated as the Steward.
- (6) Where there is no Steward for a particular Supply of New Tires in Ontario, any Person who elects to become a Steward for such New Tires shall, upon obtaining the consent of OTS and executing an agreement to be bound by these Rules, be designated a Steward for such Supply.
- (7) If a Person who has been previously designated as a Steward subsequently finds that none of the circumstances set out in Rules 2(1) through 2(6) inclusive apply to it and that it is no longer obligated as a Steward with respect to New Tires, and if such Person wishes to be deregistered as a Steward:
 - (a) Using the form designated by OTS from time to time, the Steward shall notify OTS of its belief that it is no longer obligated as a Steward with respect to New Tires in Ontario, and that it desires to be deregistered as a Steward;

- (b) The Steward shall file such reports with respect to its final Supply of New Tires, and the cessation of its obligations as a Steward, as are required by these Rules and/or OTS, in such form as OTS may designate from time to time; and
 - (c) OTS shall review the Steward's final reports, and if OTS is satisfied that all the Steward's obligations have been discharged, provide confirmation in writing of deregistration as a Steward.
- (8) A Person designated as a Steward pursuant to these Rules shall remain a Steward and shall be required to fulfil all requirements hereunder at all times until the Steward receives a confirmation of deregistration as described in Rule 2(7)(c).

3. Steward's Report

- (1) Every Steward shall file its first Steward's Report with OTS 90 days after such Steward is notified of the existence of these Rules and how to obtain a copy of them. Notwithstanding the foregoing, any Steward who begins to Supply Tires into the Ontario market within 90 days of the Program Termination Date will be required to file its first Steward's Report with OTS within 30 days following the end of the month in which Tires were first supplied into Ontario.
- (2) Stewards shall file their reports in the form and using the technology prescribed by OTS and published on the OTS website from time to time.
- (3) A Steward may amend a Steward's Report within 15 days of filing and with the consent of OTS to correct information in the Steward's Report that is in error or to replace data previously reported.
- (4) Once it has filed its first Steward's Report, a Steward shall file subsequent Steward's Reports for each Data Period on or before the last day of the calendar month following the end of the Data Period, or on such other schedule as may be determined by OTS from time to time and posted in these Rules in Appendix B.
- (5) Notwithstanding the foregoing, OTS may require a Steward to file a Steward's Report for a specified time period within 30 days after OTS sends a written request to the Steward.
- (6) The first Steward's Report shall cover the period from the date on which the Person first became a Steward to the last day of the calendar month preceding the month of filing.

4. Fees Payable

- (1) During the Base Fee Period, Stewards shall pay the Tire Stewardship Fees payable under the Regulation to OTS on New Tires, other than Exempted Tires, Supplied in the relevant Data Period on or before the last day of the calendar month immediately following the end of such Data Period. The amount of Tire Stewardship Fees shall be calculated in accordance with the TSF Notification. The amount of Steward's Fees payable by a Steward shall be determined by

multiplying the number of units of each type of New Tires included in the Steward's Report as defined in Appendix A hereto by the fee rate set out opposite such type in the TSF Notification.

- (2) Following the end of the Base Fee Period until the Program Termination Date, Stewards shall pay the Tire Stewardship Fees set out in Appendix C hereto on New Tires, other than Exempted Tires, Supplied in the relevant Data Period on or before the last day of the calendar month immediately following the end of such Data Period. The amount of Tire Stewardship Fees payable by a Steward shall be determined by multiplying the number of units of each type of New Tires included in the Steward's Report as defined in Appendix A hereto by the fee rate set out opposite such type in the Appendix C hereto.
- (3) Notwithstanding that a Steward has not received the notice in Rule 3(1), it is responsible for payment of Tire Stewardship Fees for all New Tires for which it is a Steward from and after the Commencement Date to the date on which it receives such notice.
- (4) OTS may provide a credit for Tire Stewardship Fees which are overpaid, or which are paid in respect of the same New Tires for which another Person has paid Tire Stewardship Fees.
- (5) In addition to the Tire Stewardship Fees payable under Rules 4(1) and 4(2), Stewards shall pay the reconciliation fees, if any, determined under Rule 5 no later than June 30, 2019.
- (6) Tire Stewardship Fees do not include HST. If HST becomes eligible on Tire Stewardship Fees, OTS will indicate this on the OTS website and/or in the form of Steward's Report published by OTS, and Stewards shall remit HST applicable to Tire Stewardship Fees to OTS with each remittance of the Tire Stewardship Fees payable under the Rules.

5. Reconciliation of Steward Fees for Periods After January 1, 2017

- (1) In this section, "applicable period" means the period beginning on January 1, 2017 and ending at the Program Termination Date.
- (2) This section applies with respect to the fees that were required to be paid in respect of each month during the applicable period.
- (3) The amount of a fee that must be paid in respect of the applicable period by a Steward shall be determined by applying the method set out in this section.
- (4) Ontario Tire Stewardship shall, no later than May 15, 2019:
 - (a) Determine the cost attributable to each tire class in respect of the applicable period by:
 - (i) determining the sum of the amounts described in paragraph 1 of subsection 33(5) of the WDTA that were incurred in relation to used tires during the applicable period; and

- (ii) attributing a portion of that sum to each tire class.
- (b) Determine the cost attributable to a tire in each tire class in respect of the applicable period by:
 - (i) assigning each tire supplied by Stewards during the applicable period to a tire class if the tire meets the criteria of the tire class; and
 - (ii) dividing the cost attributable to a tire class, as determined under clause (a), by the number of tires assigned to that tire class under subclause (i).
- (c) Determine the amount of the fee required to be paid by a steward in respect of the applicable period by:
 - (i) assigning each tire supplied by the Steward during the applicable period to a tire class if the tire meets the criteria of the tire class,
 - (ii) multiplying the cost attributable to a tire in each tire class, as determined under clause (b), by the number of tires assigned to the tire class under subclause (i);
 - (iii) determining the sum of all amounts determined under subclause (ii);
 - (iv) determining the amount of fees paid under section 4 in respect of the applicable period and any other fees that were paid by the Steward under the WDTA in respect of Used Tires and in respect of the applicable period and any amounts credited to the Steward by OTS based on amounts paid in previous periods; and
 - (v) subtracting the amount determined under subclause (iv) from the sum determined under subclause (iii), in order to arrive at the amount of the fee required to be paid under this section by the Steward in respect of the applicable period.
- (5) If an amount is determined to be owing by a Steward under subclause (4)(c)(v), OTS shall apply Surplus Attributable to the Steward to settle such amount prior to invoicing the Steward for additional fees. If the amount arrived at under subclause (4)(c)(v) is less than zero, that amount is owed to the steward by OTS and no fee is required to be paid by the Steward under this section.
- (6) OTS shall provide written notice of the following to the Steward:
 - (a) The cost attributable to each tire class under clause (4)(a).
 - (b) The number of tires supplied by the Steward that were assigned to each tire class under subclause (4)(c)(i).

- (c) The amount required to be paid by the Steward in respect of each tire class, as determined under subclause (4)(c)(ii).
 - (d) The sum determined under subclause (4)(c)(iii).
 - (e) The portion of the amount of fees determined under subclause (4)(c)(iv) that was required to be paid by the Steward in respect of each tire class.
 - (f) The amount of the fee required to be paid under this section by the Steward in respect of the applicable period, as arrived at under subclause (4)(c)(v).
 - (g) If the amount set out under paragraph 5 is greater than zero and any amount, remains owing after OTS has applied Surpluses Attributable to the Steward to settle such amount, the date on or before which that amount is required to be paid by the Steward.
 - (h) If the amount set out under paragraph 5 is less than zero, the date on or before which that amount is required to be credited or paid to the Steward and a statement that no fee is required to be paid by the Steward under this section.
 - (i) The amount the Surplus Attributable to the Steward.
- (7) Notice under subsection (6) above and under the Regulation subsection 9(7) shall be no later than May 15, 2019.
- (8) A fee required to be paid by a Steward in respect of the applicable period, as determined under clause (4)(c) above and under the Regulation subsection 9(8) shall be paid no later than June 30, 2019.
- (9) If an amount is owed to a Steward under subsection (5) above and under the Regulation subsection 9(10), OTS shall either:
- (a) apply the amount as a credit against any amount payable by the Steward under these Rules in respect of Used Tires no later than June 30, 2019;
or
 - (b) pay any amount not applied as a credit under subclause (a) to the Steward no later than June 30, 2019.
- (10) The calculation of any amount owing under section 5 of the Rules will take into account any amount owing under section 9 of the Regulation.

6. Off The Road Steward Deficit Recovery Fee

- (1) This section applies to all Stewards who were determined by OTS to have account deficits in relation to Off the Road Tire (OTR) categories as of January 1, 2013.

- (2) OTS shall, on or before May 15, 2019 based on OTR Steward supply reports for 2018, determine the final aggregate premium paid by OTR Stewards in reduction of the OTR tire deficit in 2018 and the total amount of the remaining OTR deficit as of the Program Termination Date after those payments.
- (3) A final OTR Steward deficit recovery fee by Passenger & Light Truck (PLT) equivalent will be calculated by OTS by dividing the total amount of the remaining OTR deficit calculated under Rule 6(2) by the total OTR tire supply (Passenger Tire Equivalent [PTE]) reported by all OTR Stewards for the period from January 1, 2014 to the Program Termination Date.
- (4) OTS will calculate each OTR Steward's remaining deficit recovery fee by multiplying the final deficit recovery fee per PTE determined under Rule 6(3) by each OTR Steward's OTR tire supply (PLT equivalent) for the period from January 1, 2014 to the Program Termination Date.
- (5) OTS shall, not later than May 15, 2019, provide written notice of the following to each OTR Steward:
 - (a) The total amount of the OTR account deficit as of January 1, 2013;
 - (b) An accounting of payments made by OTR Stewards in reduction of the OTR account deficit between January 1, 2013 and December 31, 2018 and the amount of the remaining OTR account deficit as of December 31, 2018;
 - (c) The amount of the remaining OTR deficit recovery fee payable by each OTR Steward as calculated under Rule 6(4); and
 - (d) The date by which the fee must be paid.
- (6) A Steward receiving notice under Rule 6(5) shall pay the required fee to OTS within 30 days of receiving the notice and in all circumstances not later than June 30, 2019.

7. OTS Wind Up and Final Reconciliation

- (1) Following the Reconciliation of Steward Fees_final reconciliation provided for in Rule 5 above OTS will develop a schedule for either the potential distribution of any remaining OTS assets and property to Stewards or the collection of any remaining or the collection of any remaining costs including wind up related cost.
- (2) OTS will distribute property in accordance with the Corporations Act as modified by Ontario Regulation 357/17 and the Wind Up Plan in proportion to each Steward's contribution to this property. If necessary, these rules will be amended to provide future guidance.

8. Penalties, Interest, Enforcement Costs and Back Fees

- (1) Stewards who fail to pay Tire Stewardship Fees by the dates set out in Rule 4 or the Regulation, as applicable, will be liable to pay a penalty calculated at 10% of Tire Stewardship Fees due and payable.
- (2) If the amounts reported in a Steward's Report are inaccurate, any deficiency in Tire Stewardship Fees resulting from such inaccuracies shall be immediately due and payable from the date of the filing of the correcting Steward's Report or the date the Steward first knew of such inaccuracy, whichever is earlier, and, if not paid within 30 days, the Steward will be liable to pay a penalty equal to 10% of such Tire Stewardship Fee deficiency.
- (3) Interest on the amounts payable under these Rules shall accrue from the applicable due date at the Base Interest Rate plus 3% per annum.
- (4) A Steward shall pay all the internal and external collection costs of OTS with respect to unpaid Tire Stewardship Fees or other amounts owed to OTS, including all proper and reasonable legal and professional fees incurred by OTS, whether or not an action or any other legal remedy has been commenced. In addition, if any review by OTS or its designee of a Steward's records reveals that the Steward has failed to properly discharge all its obligations under these Rules, including the obligation to pay Tire Stewardship Fees, such Steward shall pay all of OTS's costs with respect to the review, whether on account of OTS's internal costs or amounts paid by OTS to external auditors, including for any follow-up review or inspection undertaken as a result of a finding of non-compliance. Such costs must be paid within 30 days of OTS giving written notice that payment is required.
- (5) OTS may waive all or part of any penalty, interest or charges otherwise payable under these Rules.

9. Record Provision and Retention

- (1) Upon request from OTS, Stewards shall promptly provide data necessary for the preparation of the Steward's Report, including calculation methodology, product data, internal audit reports, list of Brands reported and list of Brands excluded from report and such other information or data in the Steward's possession or control as may be reasonably requested by OTS to substantiate the accuracy of the Steward's Report.
- (2) A Steward shall retain records or, on receipt of written request, provide records at an address in the Province of Ontario to substantiate and verify the amounts set out in its Steward's Reports for a period of not less than five years from the date of the Steward's Report to which they relate. A Steward shall grant access to OTS or its designee upon OTS's request to examine its books and records to enable OTS to audit and inspect such records respecting a Steward's Report up to five years after the date of receipt of such Steward's Report by OTS. A Steward shall provide OTS or its designee with any and all records requested related to the supply or sale of New Tires and shall cooperate with the review of such records at the Steward's own cost.

10. Dispute Resolution

If any dispute arises between a Steward and OTS as to the amount of New Tires that is required to be included in a Steward's Report:

- (1) The parties shall attempt to resolve the dispute through designated representatives from each of OTS and the Steward within 30 days after written notice of the dispute was first given, or as otherwise agreed upon.
- (2) If the parties are unable to resolve the dispute within the above period, the Steward and OTS shall, within 30 days thereafter, jointly select an arbitrator to arbitrate the dispute. If the Steward does not nominate an arbitrator within the 30 day period, OTS shall nominate the arbitrator. The arbitration shall be conducted in accordance with the *Arbitration Act, 1991*.
- (3) The arbitrator shall render a written decision on the dispute within 14 days after the arbitration hearing or submission. The decision of the arbitrator shall be final and binding on the parties and shall be subject to appeal only on questions of law and not on questions of fact or mixed fact and law, in accordance with section 45 of the *Arbitration Act, 1991*, and shall be enforceable against OTS and / or the Steward, as the case may be, immediately on the issue of such decision to the parties to the dispute.

11. Interpretive Memoranda

OTS may publish on the OTS website interpretive memoranda on these Rules and how it proposes to administer them.

12. Publishing of Names

- (1) OTS will provide all Stewards with an identification number.
- (2) The names and identification numbers of Stewards filing Steward's Reports will be posted on the OTS website.
- (3) OTS may post a list on the OTS website of all Brands reported in Steward's Reports from time to time, and all OEM's, Brand Owners, First Importers and other Stewards associated with such Brands.

13. Notice

Any notice, request or other communication from OTS to a Steward which is required or may be given under these Rules may be delivered or transmitted by means of electronic communication, personal service or by prepaid first class postage to the Steward at a Published Address in Ontario and shall be deemed to have been received on the third day after posting and on the first day after the date of electronic transmission, in each case which is not a Saturday, Sunday or public holiday in Ontario.

14. Effective Date

This version of the Rules as amended shall be effective March 22, 2018.

15. Amendments to Rules

These Rules and any forms, fee schedules or other matters provided for or referred to in them may be amended, removed or replaced by OTS from time to time, subject to RPRA approval.

Appendix A
OTS Definition of Program Tires

	Product Category	Definition
1)	Exempted Tires	<p>All tires with an overall tire diameter of less than 7" regardless of weight</p> <p>All tires in which the rubber content is greater than 50% (by weight) derived from Used Tires</p>
2)	On-Road Tires	<p>Passenger Tires, Small RV Tires, ST Trailer tires and Light Truck Tires and Temporary Spares Passenger tires are designed for use on passenger cars, light trucks, small RVs and multipurpose passenger vehicles (MPVs), including sport utility vehicles (SUVs) and crossover utility vehicles (CUV's), and to comply with Canadian Motor Vehicle Safety Standard (CMVSS No. 109).</p> <p>The light truck tire category is tires designed for use on consumer or commercial light trucks, under 10,000 lbs. Gross Vehicle Weight, and comply with Canadian Motor Vehicle Safety Standard (CMVSS No. 119). Codes found on the sidewall of passenger and light truck tires are P (Passenger) and LT (Light Truck). Temporary spare tires are marked T (Temporary).</p> <p>Motorcycle, Golf Cart and All Terrain Vehicle Tires Includes all tires specifically designed for on/off highway motorcycles, motorcycle sidecars, motor bikes, mopeds, mini-cycles, golf carts and all terrain vehicles.</p> <p>Forklift, Small utility and Skid steer Tires Includes pneumatic and solid forklift and Skid Steer tires measuring 16" rim size and smaller.</p> <p>Free Rolling Farm Tires Includes free rolling farm and implement tires up to 16" rim size used on farm equipment.</p> <p>Medium Truck Tires Also commonly known as Commercial Truck Tires – Truck and Bus tires including Wide Base or Heavy Truck tires designed for truck/bus applications and Larger RV tires not marked "P or LT". All of which comply with Canadian Motor Vehicle Safety Standard (CMVSS No. 119).</p>

3)	Off-Road Tires	<p>All Terrain Vehicle Tires</p> <p>Agricultural Drive Tires Includes drive wheel tires used on tractors and combines and tree harvesting equipment. These tires are normally identified with a sidewall marking with suffix letters (R), or (HF) or (LS) and are 16.5" and up rim size. These tires are listed in The Tire and Rim Association Inc. annual yearbook section 5 Agricultural.</p> <p>Industrial Forklift, Skid Steer Tires Includes pneumatic and solid forklift and Skid Steer tires with a rim diameter greater than 16".</p> <p>Small Off The Road Tires Sizes 1300Tires < and = to 23.5R25 Rim Size</p> <p>Medium Off The Road Tires Above 23.5R25 to 33 inch Rim Size</p> <p>Large Off The Road Tires Above 33 inch to and including 39 inch Rim Size</p> <p>Giant Off The Road Tires Over 39 inch Rim Size</p>
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Appendix B Payment and Reporting Schedule

Payment and reporting schedule will be monthly. Stewards must submit their Steward's Report and TSF payment within 30 days of the end of the month to which the Steward's Report and payment relate.

Monthly Data period	Data period end date	Payment and Reporting deadline
April 2018	Last day of April 2018	30 days from last day April 2018
May 2018	Last day of May 2018	30 days from last day of May 2018
June 2018	Last day of June 2018	30 days from last day of June 2018
Etc.	Etc.	Etc.
Final data period: December 2018	Last day of December 2018	30 days from the last day of December 2018

Semi-Annual Reporting Schedule

If in the prior calendar year a Steward remitted less than \$10,000 in TSFs the Steward may elect to submit Steward's Reports and TSF remittances on a semi-annual schedule.

Semi-Annual Data period	Data period end date	Payment and Reporting deadline
January 1 2018 – June 30 2018	Last day of June 2018	30 days from last day of June 2018
July 1 2018 – December 31 2018	Last day of December 2018	30 days from last day of December 2018

**Appendix C
Tire Stewardship Fees**

Tire Category	Tire Description	Tire Class	TSF March 22, 2018 to October 1, 2018	TSF October 1 to Program Termination Date	Definitions
On-Road Tires	Passenger & Light Truck (PLT)	1	\$3.30	\$0.00	<p>Passenger Tires, Small RV Tires, ST Trailer tires and Light Truck Tires and Temporary Spares Includes tires designed for use on passenger cars, light trucks, small RVs and multipurpose passenger vehicles (MPVs), including sport utility vehicles (SUVs) and crossover utility vehicles (CUVs), including temporary spares.</p> <p>The Light Truck tire category includes tires designed for use on consumer or commercial light trucks, under 10,000 lbs./4500 kg. Gross Vehicle Weight. Passenger and Light Truck Tires must comply with Motor Vehicle Tire Safety Regulation (MVTSR), Technical Safety Bulletins (TSBs) 109 or 139.</p> <p>Motorcycle, Golf Cart Includes all tires specifically designed for on/off highway motorcycles, motorcycle sidecars, motor bikes, mopeds, mini-cycles, golf carts.</p>
	Medium Truck (MT)	2	\$12.95	\$12.95	<p>Also commonly known as Commercial Truck Tires – Truck and Bus tires including Wide Base or Heavy Truck tires designed for truck/bus applications and Larger RV tires not marked "P or LT". All of which comply with Motor Vehicle Tire Safety Regulation (MVTSR), Technical Safety Bulletin (TSB) 119.</p>
Off-Road Pneumatic Tires	1 to ≤ 15 kg	3	\$5.55	\$5.55	Non-DOT Regulated Tires / Wheels and/or tires not meeting the Definitions for Passenger & Light Truck Tires or Medium Truck Tires
	> 15 to ≤ 30 kg	4	\$11.10	\$11.10	
	> 30 to ≤ 70 kg	5	\$27.76	\$27.76	
	> 70 to ≤ 120	6	\$44.41	\$44.41	

	kg and Agricultural Tires* > 70 to ≤ 250 kg			
	> 120 to ≤ 250 kg	7	\$111.03	\$111.03
	> 250 to ≤ 375 kg and Agricultural Tires* > 250 kg	8	\$172.10	\$172.10
	> 375 to ≤ 700 kg	9	\$333.09	\$333.09
	> 700 to ≤ 1200 kg	10	\$516.29	\$516.29
	> 1200 kg	11	\$1,237.98	\$1,237.98
Solid & Resilient Tires	1 to ≤ 30 kg	12	\$11.10	\$11.10
	> 30 to ≤ 60 kg	13	\$22.21	\$22.21
	> 60 to ≤ 250 kg	14	\$55.51	\$55.51
	> 250 to ≤ 375 kg	15	\$172.10	\$172.10
	> 375 to ≤ 700 kg	16	\$333.09	\$333.09
	> 700 to ≤ 1200 kg	17	\$516.29	\$516.29
	> 1200 kg	18	\$1,237.98	\$1,237.98

Appendix D Methodology for Determining OTR Deficit and Allocation to Stewards

OTR TIRE PROGRAM DEBT RECOVERY

Until 2013 the OTR tire division of the Used Tires Program (UTP) was in a deficit position due to OTR tire supply, and hence revenues, significantly lagging estimates developed pre-program. As a result at the end of 2012 the OTR tire program had an accumulated deficit of approximately \$26 million.

In order to address this accumulated deficit and allow for the gradual repayment of the accumulated amounts in a manner which did not adversely impact the OTR tire Stewards and end-users in 2013, OTS began adding a “Deficit Repayment Premium” (DRP) to the costs per OTR PTE determined under the base Fee calculation. This DRP resulted in OTR Stewards remitting fees in excess of the OTR tire diversion costs and allowed PLT costs to be reduced by an equivalent amount. Through this approach the OTR Stewards addressed the accumulated deficit and PLT Stewards received the benefit through lower TSF rates.

$$\begin{array}{r}
 \text{2013 OTR Cost /} \\
 \text{PTE =}
 \end{array}
 + \frac{\text{2012 UTP Costs}}{\text{2012 UTP Actual Supply in PTEs}}
 + \frac{\text{2013 Debt Repayment Amount}}{\text{2012 OTR Actual Supply in PTEs}}$$

The amount to be repaid each year, and the timeline over which it would be repaid, was set by the OTS Board based on the impact on the TSF and the prior year’s financial performance of the program.

OTS established the accumulated OTR deficit at January 1 2013. OTS calculated each OTR Steward’s portion of the deficit by multiplying the aggregate final deficit by each OTR Steward’s OTR tire supply (PLT equivalent) for the period from September 1, 2009 to December 31, 2012.

Since 2013 OTS has been applying the DRP to the diversion cost per PTE for OTR tires. At the end of 2018 OTS will determine the remaining OTR account deficit and calculate a remaining deficit amount for each Steward by apportioning the remaining OTR deficit amount based on each Steward’s supply into the market during the deficit payback period (2014 to 2018). This methodology will continue the account reduction approach utilized by OTS for the last five years in apportioning any remaining OTR account deficit.

In 2015 OTS undertook a historic revenue reclassification based on the new tire supply information gathered subsequent to the imposition of the revised Tire Classes. This resulted in approximately \$4.39 million in revenues in the 2009-2012 timeframe being reallocated from the PLT to the OTR classes, further reducing the accumulated historic deficit. The methodology and reassessment was reviewed by Price Waterhouse Coopers (PWC) as part of the 2015-2016 Program Review. No issues were identified.

The following chart identifies aggregate OTR DRP payments from 2013 to 2016 and current OTS estimates of OTR Steward DRP payments for 2017 and 2018 (2018 OTR DRP and 2019 OTR DRP respectively) and provides an initial estimate of the aggregate OTR Deficit Balance Owing as of January 1, 2019.

OTR Deficit Summary		
Year	OTR Deficit	
2009	\$	2,617,409
2010	\$	8,328,900
2011	\$	7,685,601
2012	\$	6,984,955
2013	\$	-
2014	\$	(2,000,000)
2015	\$	(5,400,000)
Historic Revenue Reclassification	\$	(4,388,586)
2016	\$	(2,500,000)
OTR Recovery from 2015 Reconciliation	\$	(487,922)
2017 OTR DRP	\$	(2,547,521)
OTR Recovery from 2016 Reconciliation	\$	(171,467)
2018 OTR DRP	\$	(3,279,365)
2019 OTR DRP	\$	(3,353,653)
OTR Deficit Balance Owing @ Dec 31, 2017	\$	4,842,004
OTR Deficit Balance Owing @ Jan 1, 2019	\$	1,488,351
Amount to be collected from OTR Stewards		\$ 1,488,351

SCHEDULE C

INFORMATION SHARING PROTOCOL

In accordance with subsection 7.2 of the Program Agreement, Waste Diversion Ontario and Ontario Tire Stewardship agree to keep each other informed and apprised of matters as they relate to the implementation and operation of the Used Tires Program Plan as set out below:

- Ontario Tire Stewardship agrees to routinely provide WDO with information which is compiled or developed by Ontario Tire Stewardship during program development or implementation that is pertinent to WDO's responsibilities under the Waste Diversion Act.
- Ontario Tire Stewardship agrees to routinely provide WDO with draft and final copies of minutes from Board and Committee meetings.
- Ontario Tire Stewardship agrees to provide WDO with copies of minutes from staff and/or consultant project meetings related to implementation (or development) of the (insert material) Program Plan, upon request.
- Ontario Tire Stewardship and WDO agree to share communications from stewards and stakeholders that include complaints or criticisms of the (insert material) Program Plan implementation (or development) process immediately upon receipt and to co-operate in determining an appropriate response to the complaint or criticism.
- Ontario Tire Stewardship and WDO agree to share information about inbound calls from the media or other members of the public, identifying key questions and flagging potentially contentious issues. Media calls and requests for interviews should be accorded priority, with Ontario Tire Stewardship notifying WDO designated communications staff as soon as possible.
- Ontario Tire Stewardship agrees to share with WDO all draft versions of hardcopy or electronic communications materials for review including but not limited to:
 - a) Communications plans
 - b) Advertising plans;
 - c) News releases;
 - d) Media advisories;
 - e) Media backgrounders;
 - f) Schedules of upcoming media events or releases; and
 - g) Significant policy positions.
- The communications materials referred to above will be shared between designated communications staff at Ontario Tire Stewardship and WDO as soon as the material is ready to be submitted to WDO for review, comment and final approval, or seven (7) business days prior to release, whichever is earlier. If timely response to events does not allow for seven (7) days lead time, Ontario Tire Stewardship agrees to provide the materials to WDO as soon as available.

- For the purposes of this Information Sharing Protocol, the Executive Director is the designated communications staff of WDO.
- WDO agrees to share draft and final versions of news releases, fact sheets and announcements related to (insert material) Program Plan with Ontario Tire Stewardship. WDO will keep Ontario Tire Stewardship apprised of releases and events in as timely a manner as possible once approved for release.
- Ontario Tire Stewardship will handle inquiries related to its responsibilities under the Program (or Memorandum of) Agreement.
- WDO will handle inquiries related to its responsibilities under Waste Diversion Act and the Program (or Memorandum of) Agreement.
- WDO and Ontario Tire Stewardship agree to give each other at least seven (7) days notice regarding any planned events and public appearances (media interviews, etc.) by its officers and representatives. If event planning does not allow for seven (7) days lead time, the parties agree to advise each other as soon as possible.
- If Ontario Tire Stewardship is seeking the participation of the WDO Chair or the Minister in any of its events or public appearances, Ontario Tire Stewardship agrees to give WDO Chair and the Minister at least two (2) month's notice.