

Amended and Restated Program Agreement

Preamble

THIS AGREEMENT made in duplicate is effective as of this 1st day of January, 2010.

B E T W E E N:

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

(hereinafter referred to as "Waste Diversion Ontario")

- and -

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

(hereinafter referred to as "Stewardship Ontario")

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

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

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

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

1. Purpose of the Agreement

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

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

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

2. Definitions and Interpretation

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

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

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

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

2.3 In this Agreement,

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

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

3. Term of Agreement and Amendment

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

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

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

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

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

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

4. Roles of the Parties

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

Waste Diversion Ontario:

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

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

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

4.2 Stewardship Ontario:

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

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

5. Fees and Business Plans

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

6. Transparency

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

7. Information Sharing

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

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

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

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

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

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

8. Stakeholder and Public Consultation

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

9. Stewardship Ontario Responsibility for Documentation and Audit

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

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

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

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

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

10. Complaints and Inquiries Handling

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

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

11. Insurance

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

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

12. Assignment

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

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

13. Notices

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

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

Notices to Waste Diversion Ontario shall be delivered to:

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

Attention: Executive Director

Facsimile: 416-226-1368

Notices to Stewardship Ontario shall be delivered to:

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

Attention: Chief Executive Officer

Facsimile: 416-323-3185

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

14. Waiver

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

15. Severability

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

16. Dispute Resolution

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

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

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

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

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

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

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

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

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

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

17. Termination

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

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

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

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

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

18. Agreement Binding

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

19. Entire Agreement

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

20. Public Announcements

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

21. Governing Law

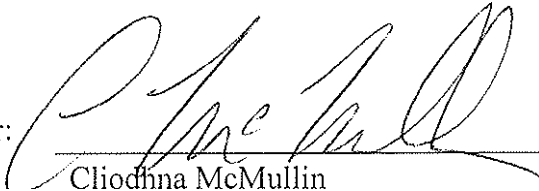
21.1 This Agreement shall be construed and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and the parties hereby agree that any dispute arising out of or in relation to this Agreement shall be determined in Ontario.

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

22. Signatures

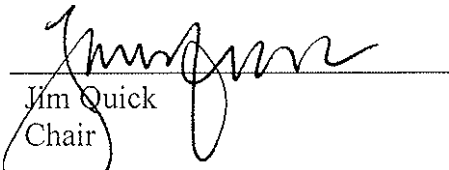
IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date stated in the Preamble to this Agreement.

WASTE DIVERSION ONTARIO

Per: 
Clodhna McMullin
Chair

I/We have authority to bind
Waste Diversion Ontario

STEWARDSHIP ONTARIO


Jim Quick
Chair

Per: I/We have authority to bind
Stewardship Ontario

SCHEDULE A

Methodology for Calculating Stewardship Ontario

Material Specific Fee Rates

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

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

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

3. Allocate Stewardship Ontario financial obligation to municipalities¹ to each material according to a three-factor formula described below. The net effect of the three-factor formula is to share the cost of achieving the diversion target for Blue Box waste set by the Minister in the most cost-effective manner equitably among the stewards of all obligated materials.

- a. Net Cost – A percentage of the financial obligation to municipalities as set by the Stewardship Ontario Board is allocated in direct proportion to the net cost to manage each material.
- b. Recovery Rate - A percentage of the financial obligation to municipalities as set by the Stewardship Ontario Board is allocated according to the relative percent recovery rate of each material.
- c. Equalization – A percentage of the financial obligation to municipalities remaining after that allocated by the net cost and recovery rate factors is allocated based on both the cost to manage a material and recovery. Specifically, this is allocated in direct proportion to the calculated incremental cost for each material to achieve a common threshold percent recovery rate as specified by the Stewardship Ontario Board.

d. Sources of data

1. Net Cost as calculated in Step 2
2. Recovery Rate as calculated in Step 1
3. Equalization using Net Cost as calculated in Step 2, Recovery Rate as calculated in Step 1, a threshold for recovery determined by Stewardship Ontario and the following relative weightings of Net Cost, Recovery Rate and Equalization:

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

For the 2008 and subsequent program years: Recovery rate 35% weighting; Net cost 40% weighting; Equalization 25% weighting.

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

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

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

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

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

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

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

2014 ARBITRATION ADJUSTMENT RULE ("ADJUSTMENT RULES")

AMENDMENT TO RULES FOR STEWARDS RESPECTING BLUE BOX FEES FOR THE CALENDAR YEAR 2014

1. Introduction

Prior to this Adjustment Rule, the Rules for the period commencing January 1, 2013 have continued to be in effect beyond December 31, 2013 pursuant to paragraph 5.2 of those Rules. Rules for the 2014 calendar year could not be made previously with updated fee rates until the 2012 calendar year net costs of the Blue Box Program were determined, which determination was subject to an arbitration between Stewardship Ontario and both the Association of Municipalities of Ontario and the City of Toronto. Thus, the 2013 fee rates became the 2014 fee rates until such time as the arbitration concluded.

On November 25, 2014 the award under the arbitration was issued and the 2012 calendar year net costs were determined. The 2014 payment to municipalities was fixed at \$115,172,322. This amount determined by the arbitrator results in a revenue gap that will increase the 2014 steward payment obligation.

Consequently, this Adjustment Rule is made to call for the payment of fees by stewards, which in the aggregate will equal the difference between the 2014 steward fees invoiced to date, and the revised amount as awarded under the arbitration.

2. Continuation of 2013 Rules

In these Rules, the 2013 Rules are continued, and extended so that stewards shall pay an additional Adjustment Fee per Kilogram as set out in Appendix A to these Rules.

The payment date for these fees shall be as set out in Appendix B.

APPENDIX A

Material Category	2014 Adjustment DBBW Fee Schedule based on 2012 Data Year	Initial 2013 Fee/Kilogram	Adjustment Fee/Kilogram	Revised 2014 Fee / Kilogram (following arbitration)
Printed Materials	Newsprint–CNA/OCNA Members	0.42 ¢/kg	-0.13 ¢/kg	0.29 ¢/kg
	Other Newsprint–Non-CNA/OCNA Members	3.62 ¢/kg	0.62 ¢/kg	4.24 ¢/kg
	Magazines and Catalogues	6.47 ¢/kg	0.50 ¢/kg	6.97 ¢/kg
	Directories	6.64 ¢/kg	0.19 ¢/kg	6.83 ¢/kg
	Other Printed Materials	9.99 ¢/kg	3.30 ¢/kg	13.29 ¢/kg
Paper Packaging	Gable Top Containers	18.22 ¢/kg	1.77 ¢/kg	19.99 ¢/kg
	Aseptic Containers	18.22 ¢/kg	1.58 ¢/kg	19.80 ¢/kg
	Paper Laminates	18.22 ¢/kg	1.77 ¢/kg	19.99 ¢/kg
	Corrugated Cardboard	8.39 ¢/kg	0.21 ¢/kg	8.60 ¢/kg
	Boxboard and Other Paper Packaging	8.39 ¢/kg	0.26 ¢/kg	8.65 ¢/kg
Plastic Packaging	PET Bottles	14.70 ¢/kg	0.55 ¢/kg	15.25 ¢/kg
	PET Bottles > 5 Litres	14.70 ¢/kg	0.55 ¢/kg	15.25 ¢/kg
	HDPE Bottles and Jugs	13.52 ¢/kg	0.33 ¢/kg	13.85 ¢/kg
	HDPE Bottles and Jugs > 5 Litres	13.52 ¢/kg	0.33 ¢/kg	13.85 ¢/kg
	Expanded Polystyrene	23.27 ¢/kg	2.08 ¢/kg	25.35 ¢/kg
	Non-Expanded Polystyrene	23.27 ¢/kg	2.08 ¢/kg	25.35 ¢/kg
	Other Plastic Packaging	23.27 ¢/kg	1.81 ¢/kg	25.08 ¢/kg
	Other Plastic Packing > 5 Litres	23.27 ¢/kg	1.81 ¢/kg	25.08 ¢/kg
	LDPE/HDPE Film	23.27 ¢/kg	2.20 ¢/kg	25.47 ¢/kg
	LDPE/HDPE Film Carry-Out Bags	23.27 ¢/kg	2.20 ¢/kg	25.47 ¢/kg
	LDPE/HDPE Film Carry-Out Bag Units	Number of units ¹	Number of units	Number of units
	Plastic Laminates	23.27 ¢/kg	1.85 ¢/kg	25.12 ¢/kg
	Disrupter Plastics	23.27 ¢/kg	1.85 ¢/kg	25.12 ¢/kg
Natural and Synthetic Textiles	23.27 ¢/kg	1.85 ¢/kg	25.12 ¢/kg	
Steel and Other Metal Packaging	Aerosol Containers	5.51 ¢/kg	0.00 ¢/kg	5.51 ¢/kg
	Paint Cans	5.51 ¢/kg	0.00 ¢/kg	5.51 ¢/kg
	Other Steel and Metal Containers and Packaging	5.51 ¢/kg	0.00 ¢/kg	5.51 ¢/kg
Aluminum Packaging	Aluminum Food and Beverage Containers	2.56 ¢/kg	0.39 ¢/kg	2.95 ¢/kg
	Aerosol Containers	6.97 ¢/kg	0.00 ¢/kg	6.97 ¢/kg
	Other Aluminum Packaging	6.97 ¢/kg	0.00 ¢/kg	6.97 ¢/kg
Glass Packaging	Clear Glass	2.84 ¢/kg	0.00 ¢/kg	2.84 ¢/kg
	Coloured Glass	4.84 ¢/kg	0.00 ¢/kg	4.84 ¢/kg

¹ LDPE/HDPE Film Carry-Out Bag Units does not carry a fee rate



Stewardship Ontario

APPENDIX B

Payment Description	Payment Due Date
Adjustment fee payment (as a result of arbitration decision)	February 27, 2015

B
Theresa Coyne
12/10/14

[Signature]
12/10/14

Marta
[Signature]
Dec. 11/14

SCHEDULE C INFORMATION

SHARING PROTOCOL

In accordance with Subsection 7.1 of the Program Agreement, Waste Diversion Ontario (WDO) and the Industry Funding Organization (IFO) agree to keep each other informed and apprised of matters as they relate to the implementation of the Blue Box Program Plan as set out below:

- The IFO agrees to provide WDO with information on a regular basis which is compiled or developed by the IFO during program implementation that is pertinent to WDO's responsibilities under the Waste Diversion Act. WDO will provide reasonable advance notice to the IFO of the timing and content of its information requirements.
- The IFO and WDO agree to share communications from stewards and stakeholders that include complaints or criticisms concerning the following aspects of the Blue Box Program Plan implementation process immediately upon receipt and to co-operate in determining an appropriate response to such complaints or criticisms:
 - complaints or criticisms that raise issues of compliance with the terms of the Program Plan, the Waste Diversion Act, 2002 (Ontario) or the Program Request Letter;
 - complaints or criticisms from stewards, service providers and other stakeholders that suggest that the Program Plan does not affect the marketplace in a fair manner;
 - complaints or criticisms from residents or businesses regarding access to the collection system or fees charged;
 - complaints or criticisms that reference the other, i.e. WDO or the IFO, as the case may be, the Ministry of the Environment or the Minister of the Environment.
- The IFO 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 the IFO notifying WDO designated communications staff as soon as possible.
- The IFO agrees to share with WDO all final 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 the IFO and WDO as soon as the material is ready to be submitted to WDO for review and comment 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, the IFO 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 and the Vice-President, Communications and Stakeholder Relations is the designated communications staff of Stewardship Ontario.
- WDO agrees to share with the IFO all final draft versions of news releases, fact sheets and announcements related to the Blue Box Program Plan for review. WDO will keep the IFO apprised of releases and events in as timely a manner as possible once approved for release.
- The IFO will handle inquiries related to its responsibilities under the Program Agreement.
- WDO will handle inquiries related to its responsibilities under the Waste Diversion Act, 2002 (Ontario) and the Program Agreement.
- WDO and the IFO 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 the IFO is seeking the participation of the WDO Chair or the Minister in any of its events or public appearances, the IFO agrees to give WDO Chair and the Minister reasonable notice.