

MASTER SERVICES AGREEMENT

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DRAFT

This Master Services Agreement (this “**Agreement**”) is entered into as of [●] (“**Effective Date**”)

BETWEEN:

[**NAME OF CONTRACTOR**], having a place of business at [●] (“**Contractor**”),

AND:

Multi-Material Stewardship Manitoba Inc. (“**MMSM**”) a not-for-profit company incorporated under *The Corporations Act* (Manitoba) and registered as a provincial extended producer responsibility (“**EPR**”) agency in Manitoba (“**MMSM**”).

(“**MMSM**” and together with “**Contractor**”, the “**Parties**” and each a “**Party**.”)

RECITALS:

- A. Whereas MMSM represents companies and organizations (“**Producers**”) that supply products in packaging and printed paper to residents of Manitoba obligated under the *Packaging and Printed Paper Stewardship Regulation* under *The Waste Reduction and Prevention (WRAP) Act* (Manitoba);
- B. Whereas MMSM developed the Packaging and Printed Paper Stewardship Plan;
- C. Whereas the Packaging and Paper Stewardship Plan was approved by the Minister of Environment and Climate Change, Province of Manitoba Ministry of Environment and Climate Change on [●**Plan Approval Date**]
- D. Whereas MMSM is meeting Producers’ obligations under the WRAP Act by implementing the Packaging and Printed Paper Stewardship Plan, including through this Agreement; and
- E. Whereas MMSM wishes to receive, and Contractor wishes to provide, the Services set out through Statement(s) of Work, and the parties wish to foster dialogue and a good business relationship in carrying out such Services.

In consideration of the mutual covenants and obligations contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, MMSM and Contractor agree as follows:

SECTION 1. INTERPRETATION

1.1. Definitions. In this Agreement, the following terms will have the following meanings:

“**Affiliate**” means any entity controlled by, controlling, or under common control with a party.

“**Agreement**” has the meaning set out on the first page of this document and includes the Schedules (including Statements of Work) attached hereto or referred to herein.

“**Applicable Law**” means any domestic or foreign law, rule, statute, subordinate legislation, regulation, by-law, order, ordinance, protocol, code, guideline, treaty, policy, notice, direction or judicial, arbitral, administrative, ministerial or departmental judgment, award, decree, treaty, directive, or other requirement or guideline published or in force at any time during the Term which applies to or is otherwise intended to govern or regulate any person (including any party), property, transaction, activity, event or other matter, including any rule, order, judgment, directive or other requirement or guideline issued by any governmental or regulatory authority.

“Business Continuity Plan” has the meaning set out in section 4.5.

“Business Day” means any day other than a Saturday, Sunday or statutory holiday in the Province of Manitoba.

“Change” has the meaning set out in Section 2.2.1.

“Change Order” has the meaning set out in Section 2.2.2.

“Change Proposal” has the meaning set out in Section 2.2.3.

“Change Request” has the meaning set out in Section 2.2.1.

“Change Response” has the meaning set out in Section 2.2.2.

“Collection Contractors” or “Collectors” means the contracted party undertaking the Curbside, multi-family, facility and/or Depot collection of Printed Paper and Packaging.

“Collection Vehicle” means the truck used for the collection of Accepted Materials PPP. A collection vehicle may be one dedicated to picking up Depot materials.

“Confidential Information” means information of or relating to a party (the **“Disclosing Party”**) that has or will come into the possession or knowledge of the other party (the **“Receiving Party”**) whether such information is or has been conveyed verbally or in written or other tangible form, and whether such information is acquired directly or indirectly such as in the course of discussions or other investigations by the Receiving Party, that: (a) where MMSM is the Disclosing Party, is any information of MMSM or relating to its business or affairs including technical, financial and business information, ideas, concepts or know-how, Services performance and Services delivery reporting information, and the terms of this Agreement; and (B) where Contractor is the Disclosing Party, is limited to financial information of Contractor. However, Confidential Information does not include information that: (i) was already known to the Receiving Party, without obligation to keep it confidential; (ii) is independently developed by the Receiving Party, without access to or use of any Confidential Information; or (iii) is or becomes available to the public other than as a result of a breach hereof by the Receiving Party; provided that the foregoing exceptions do not apply with respect to any personal information that is governed by privacy laws.

“Contractor” has the meaning set out on the first page of this Agreement.

“Depot” means a fixed location collection site operated by Contractor to which Accepted Materials PPP can be delivered by Customers, and including, in each case, all surrounding portions of such site from the public entrance way onward, including any parking lots, buildings, and storage facilities.

“Designated Post-Collection Service Provider” means a designated service provider responsible for handling recyclables after collection.

“Dispute” has the meaning set out in Section 14.1.

“Effective Date” has the meaning set out on the first page of this Agreement.

“Fees” has the meaning set out in Section 5.1.

“Force Majeure” has the meaning set out in Section 15.3.

“Hazardous Waste” means any waste material that poses a substantial or potential threat to public health, safety, or the environment due to its characteristics.

“Industrial, Commercial and Institutional” or “IC&I” means any operation or facility other than a Curbside Household, including but not limited to industrial facilities such as warehouses, distribution centres, manufacturing facilities; commercial facilities such as retail stores, offices, strip malls and vacation facilities, such as hotels, motels, and rental, co-operative, fractional ownership, time-share or condominium accommodation associated with sports and leisure facilities (e.g., ski resorts); and, institutional facilities such as churches, community buildings, arenas, libraries, fire halls, long-term care homes and police stations.

“Intellectual Property Rights” means inventions, patents, copyrights, trademarks, industrial designs, integrated circuit topography rights, know-how, trade secrets, confidential information, and any other intellectual property rights whether registered or unregistered and including rights in any application for any of the foregoing.

“Key Personnel” has the meaning set out in Section 6.2.

“Labour Disruption” has the meaning set out in Section 4.6.1.

“Accepted Materials PPP” means the PPP identified by MMSM to be targeted as accepted for collection as set out in Schedule 3 and such other materials identified as Accepted Materials PPP by MMSM in writing from time to time.

“Material Recovery Facility (MRF)” means the processing facility where the sorting of Packaging and Printed Paper is undertaken to the specifications as set out by MMSM.

“Multi-Family Building” means a complex, where residents are expected to deliver Accepted Materials PPP to a central location accessible by all residents, from which collection occurs from a vehicle that is not used for single-family households.

“Multi-family Dwellings” means self-contained dwelling units where the residents are expected to deliver Accepted Materials PPP to a central location on the property of the Multi-Family Building from which Accepted Materials PPP collection occurs from a vehicle that is not used for single-family households.

“Multi-Material Stewardship” or “MMSM” has the meaning set out on the first page of this Agreement.

“MMSM” Policies and Standards” has the meaning set out in Section 4.2.

“Not Accepted Materials” means, collectively, any material that is not Accepted Materials PPP.

“Notices” has the meaning set out in Section 15.5.

“Other Service Provider” has the meaning set out in Section 11.2.

“Packaging and Printed Paper” or “PPP” means packaging and printed paper made from paper, plastic, metal or glass, and supplied for use in the Province of Manitoba.

“Party” and “Parties” has the meaning as set out on page one of this Agreement.

“Privacy Laws” has the meaning set out in Section 9.4.

“Receiving, Consolidation and Transfer (RCT) Facility” means the location of the first point of contact facility where Collection Vehicles take materials for bulking/consolidation for transfer to a Material Recovery Facility. A Material Recovery Facility may also act first as an RCT.

“Representatives” has the meaning set out in Section 9.1.

“Service Levels” has the meaning set out in Section 4.4.1.

“Service Level Failure” has the meaning set out in Section 4.4.

“Service Level Failure Credit” has the meaning set out in Schedule 4.4.

“Services” has the meaning set out in Section 2.1, including the delivery of any Work Product.

“Single Stream” means a system where all recyclable materials—such as paper, cardboard, plastics, metals, and glass—are collected together in a single bin without requiring residents to separate them.

“SOW Term” has the meaning set out in Section 3.2.

“Statement of Work” means any statement of work attached hereto or as may from time to time be issued hereunder.

“Term” has the meaning set out in Section 3.1.

“Valtype” has the meaning set out in Schedule [4.2](#).

“Value Added Taxes” means such sum as shall be levied upon any portion or all of the contract price (**“Taxable Portion”**) by the federal or any provincial government and is computed as a percentage of the Taxable Portion and includes the Goods and Services Tax, the Harmonized Sales Tax, and any similar tax, the collection and payment of which have been imposed on Contractor by Canadian or provincial tax legislation.

“Withheld Taxes” has the meaning set out in 5.5.

“Work Product” means the deliverables to be created or provided to MMSM by Contractor pursuant to any Statement of Work and any data, records, and reports that have been prepared, created, written or recorded in performance of the Services, whether by Contractor, MMSM, or Contractor and MMSM together.

1.2. Interpretation.

- 1.2.1. Including – Where the word “including” or “includes” is used in this Agreement, it means “including (or includes) without limitation”.
- 1.2.2. Technical Terms – Any technical or accepted industry term used in this Agreement that is not defined in Section 1.1 or elsewhere in this Agreement will have the generally accepted industry or technical meaning given to such term.
- 1.2.3. Number, Gender, and Persons – In this Agreement, words importing the singular number will include the plural and vice versa, and words importing the use of any gender will include the masculine, feminine and neutral genders and the word “person” will include an individual, a trust, a partnership, a body corporate, an association or other incorporated or unincorporated organization or entity.
- 1.2.4. Headings – The headings in this Agreement are solely for convenience of reference and will not be used for purposes of interpreting or construing the provisions hereof.
- 1.2.5. Currency – Unless otherwise provided for herein, all monetary amounts referred to herein will refer to the lawful money of Canada.
- 1.2.6. Calculation of Time – When calculating the period within which or following which any act is to be done or step taken pursuant to this Agreement, the date which is the reference date in calculating

such period will be excluded. If the last day of such period is not a Business Day, then the period in question will end on the first Business Day following such non-Business Day.

- 1.2.7. Legislation References – Any references in this Agreement to any law, by-law, rule, regulation, order or act of any government, governmental body or other regulatory body, including any Applicable Law, will be construed as a reference thereto as amended or re-enacted from time to time or as a reference to any successor thereto.

1.3. Schedules.

As of the Effective Date, the following Schedule(s) form part of this Agreement (note that Attachment numbering is not sequential and is based on a related section reference):

Schedule		Description
[Schedule 2.1(a)]	–	Statement of Work for Curbside Collection Services]
[Schedule 2.1(b)]	–	Statement of Work for Multi-Family Building Collection Services]
[Schedule 2.1(c)]	–	Statement of Work for Depot Collection Services]
[Schedule 2.1(d)]	–	Statement of Work for Unstaffed Depot Collection Services]
Schedule 3	–	PPP Definitions
Schedule 4.2	–	MMSM Policies and Standards
Schedule 4.4	–	Service Level Methodology
Schedule 12.1	–	Insurance Requirements

1.4. Priority. In the event of any inconsistency between any of the provisions of the main terms and conditions of this Agreement, any Schedule that is not a Statement of Work, and any Statement of Work, the inconsistency will be resolved by reference to the following descending order of priority: (i) Article 1 through Article 15 of this Agreement; and (ii) the Schedules annexed to this Agreement that are Statements of Work.

SECTION 2. SCOPE OF SERVICES

2.1. Services. Contractor will perform the services set out in each Statement of Work and any services that are inherent, necessary, or customarily provided as part of those services (collectively, the “**Services**”), all in accordance with the terms and conditions of this Agreement and the applicable Statement of Work. Each Statement of Work will be effective, incorporated into and form a part of this Agreement when mutually accepted and duly executed by both parties.

2.2. Changes.

- 2.2.1. MMSM may, at any time and from time to time, request additions, deletions, amendments or any other changes to the Services set out in any Statement of Work or the manner in which such Services shall be performed (a “**Change**”) by issuing a “**Change Request**”.
- 2.2.2. Contractor will provide an initial response to any Change Request (a “**Change Response**”) within twenty (20) Business Days following receipt of such Change Request, such response to indicate whether Contractor is able to implement such Change Request. If the Contractor is able to implement such Change Request, the parties shall sign a change order (“**Change Order**”) to reflect the terms of the Change Request.

- 2.2.3. Contractor acknowledges that MMSM may be dependent on Contractor for the provision of the Services and, accordingly, acknowledges and agrees that Contractor shall be required to make a good faith Change Proposal unless it would not be technically possible for Contractor to implement such Change Request. Where not technically possible for the Contractor to implement the Change Request, the parties will, on MMSM's request, meet to discuss, in good faith, what could be technically and possibly done to achieve the same goal. Unless the parties have agreed that it would not be technically possible for Contractor to implement a Change Request, Contractor will provide a detailed proposal (a "**Change Proposal**") in writing within fifteen Business Days of providing its initial response, such Change Proposal to include details with respect to the implementation of the Change Request and details of any costs or other changes required to this Agreement or the applicable Statement of Work to comply with the Change Request.
- 2.2.4. The Contractor may, at any time and from time to time, request a Change by delivering a Change Proposal to MMSM.
- 2.2.5. If MMSM, at its discretion, accepts a Change Proposal, an authorized MMSM representative will provide Contractor with written approval of MMSM's acceptance in the form of an executed Change Order. If MMSM does not accept a Change Proposal, the parties will, at MMSM's request, negotiate in good faith the terms pursuant to which the parties may agree to implement the proposed Change. For the avoidance of doubt, Contractor will not implement any Change to any Statement of Work without MMSM's prior written approval, and without the parties signing a Change Order.
- 2.2.6. Contractor will make requested Changes at no additional charge to MMSM unless otherwise agreed to in a Change Order. The Contractor will make available to MMSM all supporting information and documentation reasonably requested by MMSM that relates to the pricing of the proposed Change.
- 2.2.7. If Contractor submits a Change Proposal to its benefit, where the costs for delivery of service will decrease, Contractor must submit Change Proposal with business case pro forma wherein the opportunity for both parties to benefit is presented.
- 2.3. Non-Exclusive. Neither this Agreement nor any Statement of Work will grant Contractor exclusivity of supply unless expressly stated otherwise, with reference to this Section, in the applicable Statement of Work (and in no event will the scope of such exclusivity extend beyond the scope of Services under such Statement of Work).

SECTION 3. DURATION

- 3.1. Term of Agreement. This Agreement will commence on the Effective Date and will continue until the expiration or termination of the last Statement of Work under this Agreement (the "**Term**").
- 3.2. Term of Statement of Work. Each Statement of Work will set out the term of the Statement of Work and any terms and conditions relating to the renewal of the Statement of Work (the "**SOW Term**").

SECTION 4. SERVICE STANDARDS

- 4.1. Performance. Contractor warrants that Contractor will perform, or cause to be performed (including through appropriate supervision and inspection), the Services and otherwise fulfill its obligations hereunder honestly and in good faith, exercising reasonable skill, care and diligence, in accordance with recognized professional and North American industry standards, practices, and methods, in a timely manner and in accordance with the terms and conditions of this Agreement and any Statement of Work, having regard for the concerns, needs, and interests of residents and the environment. Except where otherwise set out in the Agreement, all weighing and measurement

to be performed by Contractor will be made in accordance with the MMSM Policies and Standards on weights and measurements identified in Schedule 4.2.

4.2. Contractor to Comply with MMSM Policies and Standards.

Contractor will comply at all times with all terms and requirements set out in the policies and standards set out in Schedule 4.2, as such policies and standards may be updated by MMSM from time to time, and such other policies and standards that MMSM brings to the attention of Contractor from time to time (collectively, "**MMSM Policies and Standards**"). Notice of updating of, or new, MMSM Policies and Standards may be made by MMSM by e-mail, mail, or courier to the address set out in Section 15.5 (as such address may be updated pursuant to Section 15.5) and, notwithstanding Section 15.5, such notice will be deemed duly given when so e-mailed, without the need to confirm receipt. If compliance with updated or new MMSM Policies and Standards would require a Change and would require Contractor to incur material additional costs, then Contractor may request a Change pursuant to Section 2.2.2 for the implementation of the updated or new MMSM Policies and Standards; provided that Contractor must make any such request within 30 days of MMSM providing notice of the updated or new MMSM Policies and Standards.

4.3. Compliance with Law. Contractor will perform its obligations under this Agreement in a manner that complies with all Applicable Laws, including:

- (a) *The Employments Standards Code*;
- (b) *The Workers Compensation Act*;
- (c) *The Manitoba Workplace Safety and Health Act* and Regulation thereunder;
- (d) *The Environment Act*; and
- (e) *The Waste Reduction and Prevention (WRAP) Act* and/or any revisions or amendments to the aforementioned statutes, as well as any regulations promulgated thereunder.

4.4. Service Levels.

4.4.1. Contractor will continuously monitor each Service in order to identify, measure and report and correct problems and to ensure that Contractor is meeting or exceeding the following service levels (collectively, the "**Service Levels**"):

- (f) all service levels set out in this Agreement, including in the applicable Statement of Work; and

(g) if Contractor is providing a service similar to services performed by Contractor prior to the start of the applicable SOW Term, Contractor will, at a minimum, continue to meet the existing service levels achieved by Contractor prior to the start of the applicable SOW Term (but only to the extent they do not conflict with the scope of Service, or the obligations, set out in the applicable Statement of Work); and

(h) if no service level is provided for a Service or component thereof, all performance levels and measurements for such Service or component that are industry best practices, provided that in the event of a conflict between any service levels, the highest service level standard will apply. Contractor will notify MMSM in writing immediately if Contractor knows that Contractor has failed, or believes Contractor will fail, to achieve a Service Level.

4.4.2. Contractor recognizes that Contractor's failure to meet a Service Level will have a material adverse impact on the business and operations of MMSM and that damages resulting from Contractor's

failure to meet a Service Level may not be capable of precise determination. As such (and without limiting MMSM's rights or remedies), MMSM will be entitled to any express remedies for Contractor's failure to meet a Service Level (each such failure a "**Service Level Failure**") that may be set out in this Agreement or the applicable Statement of Work. Contractor agrees that it is obligated to meet all Service Levels, even if no express remedy for a failure to meet such Service Level is provided in a Schedule or in a Statement of Work.

4.4.3. In the event of a Service Level Failure in respect of a Service Level expressly set out in a Statement of Work, Contractor will credit to MMSM the applicable Service Level Failure Credit set out in such Statement of Work. Contractor agrees that Service Level Failure Credits compensate MMSM in part for the reduced value of the Services actually provided by Contractor (and not as a penalty or exclusive of any other damages). Contractor agrees that the Service Level Credits are only partial compensation for the actual losses and damage that may be suffered by MMSM as a result of Contractor's failure to meet a Service Level and that payment of any Service Level Failure Credit is without prejudice to any entitlement MMSM may have to damages or other remedies under this Agreement, at law or in equity. Service Level Failure Credits will be due regardless of the manner in which the Service Level Failure is identified (including where reported by Contractor or identified by MMSM).

4.4.4. Upon MMSM's request, and in any event at minimum once per year, MMSM will meet with Contractor (which meeting may be in person, by virtual meeting or by phone as determined by MMSM) to review and discuss Contractor's performance level of the Services and Service Levels.

4.5. Contingency Planning. Without limiting Contractor's liability for performance of its obligations under this Agreement, Contractor will implement and maintain throughout the Term such contingency measures as may be appropriate, in MMSM's sole discretion (acting reasonably), including a comprehensive business continuity plan (the "**Business Continuity Plan**"), to continue the performance of its obligations under this Agreement under various scenarios including equipment failure, fuel shortage, strike, road closures (including due to weather, construction or otherwise), fire, pandemic, quarantine, and natural disasters. MMSM will have the right, upon demand from time to time, to review the Business Continuity Plan. Contractor will update its Business Continuity Plan at least once each year and in the event of any material change in operations or circumstance and shall provide evidence of compliance with this requirement to MMSM. Contractor will invoke its Business Continuity Plan where necessary due to any incident or event, including an event of Force Majeure, that has the potential to have a material impact on Contractor's ability to provide any material part of the Services for any material period of time, or upon the request of MMSM. Without limiting Contractor's obligations under this Agreement, whenever an incident or event that invokes the Business Continuity Plan also impacts other services provided by Contractor, and as a result Contractor is allocating resources or implementing temporary service changes or workarounds, Contractor will treat MMSM and the Services no less favourably than: (i) where Contractor is a local government, any other non-essential services it provides, or (ii) where Contractor is not a local government, any of its other customers, in each case in the allocation of such resources or in the implementation of such temporary service changes or workarounds.

4.6. Labour Disruption.

4.6.1. Contractor will provide MMSM with at least 30 days prior written notice of the expirations of any labour agreement and Contractor will include, with such notice, an assessment of the likelihood of a Labour Disruption (as defined below).

4.6.2. In the event that a labour disruption of any kind causes a reduction in Service Levels (a "**Labour Disruption**"), Contractor will inform MMSM within four hours by phone and e-mail of the nature and scope of the disruption, as well as Contractor's immediate plans to invoke any or all of its Business Continuity Plan.

- 4.6.3. Without limiting Contractor's obligations under this Agreement, where a Labour Disruption also impacts other services provided by Contractor, and as a result Contractor is allocating resources or implementing temporary service changes or workarounds, Contractor will treat MMSM and the Services no less favourably than any other services it provides, or any of its other customers, in the allocation of such resources or in the implementation of such temporary service changes or workarounds (for example, if Contractor provides collection Services hereunder and other collection services, and Contractor proposed to provide temporary drop-off sites in respect of its other collection services, then Contractor will also proposed to provide such sites in respect of the Services hereunder).
- 4.6.4. MMSM will have the right to make an equitable reduction to any Fees to reflect the value of any Services not received by MMSM due to a Labour Disruption.
- 4.6.5. In the event that a Labour Disruption lasts more than one calendar month, and for so long as the Labour Disruption continues, MMSM will have the right to suspend payment of Fees (defined below) and terminate this Agreement or any Statements of Work, for cause, immediately upon delivery of written notice of termination by MMSM to Contractor, at no cost to MMSM, and MMSM shall have no liability to the Contractor for doing so.

SECTION 5. PAYMENT

- 5.1. Fees. In consideration of the complete and proper fulfillment of Contractor's obligations and the provision of the Services in accordance with the terms and conditions of this Agreement, MMSM will pay Contractor the amounts set forth in any Statement of Work (the "**Fees**"). Except as expressly set out in a Statement of Work or as agreed to in a Change Order, there will be no other amounts payable by MMSM to Contractor in respect of the Services or this Agreement, including any amounts for expenses or costs of travel, personnel, fuel, equipment, or facilities relating to the Services or this Agreement.
- 5.2. Set-Off. MMSM may set-off and deduct from any amounts payable to Contractor: (a) any amounts owing by Contractor to MMSM pursuant to this Agreement or any other agreement between Contractor and MMSM, including any Service Level Failure Credits; and (b) any costs incurred by MMSM in collecting any amounts owing by Contractor to MMSM pursuant to this Agreement or any other agreement between the parties, including for amounts payable to due damage to or loss of Materials. The failure by MMSM to set-off or deduct any amount from an invoiced payment will not constitute a waiver of MMSM's right to set-off, deduct or collect such amount.
- 5.3. Invoicing.
- 5.3.1. Submission of Claims - Unless otherwise set out in a Statement of Work, Contractor will submit claims using the MMSM claims reporting portal, or through such other method as MMSM may designate. MMSM will review submitted claims and will issue a purchase order to Contractor for valid, approved claims.
- 5.3.2. Generation of Invoice - Invoices will be auto-generated, and MMSM may process payment based on the approved purchase order without requiring a separate invoice submission. Where invoices are not auto-generated, the Contractor will invoice MMSM for the validated claim, referencing the issued purchase order. MMSM may, at its discretion, choose to issue payment based on the approved purchase order without requiring an invoice. Where invoices are required by MMSM, the Contractor will submit invoices using the contact information provided by MMSM for such purposes, as may be updated by MMSM from time to time.
- 5.3.3. **Late Submission** – Where and as applicable as may be set out in a Statement of Work, Contractor must submit all claims within **fourteen (14)** days of the performance of the applicable Services, and

all invoices (where required to be submitted by MMSM) within 30 days of the purchase order date. In no event will MMSM be liable for payment of any claim submitted more than 90 days after the performance of the applicable Services, or payment of any invoice submitted more than 90 days after the purchase order date.

5.4. Taxes. Except where otherwise noted, the Fees exclude all applicable sales, goods and services, value added, use or other commodity taxes that may be lawfully imposed upon the Services; where Contractor clearly and separately itemizes such taxes on Contractor's invoice to MMSM, MMSM will pay and Contractor will remit such taxes to the appropriate taxing authority. On request, Contractor will provide reasonable assistance to MMSM to challenge the validity of any tax imposed on it due to this Agreement. If it is determined that MMSM paid Contractor an amount for tax that was not due, Contractor will refund the amount (plus any interest earned on it) to MMSM. The parties will cooperate with each other to enable each party to determine its tax liabilities accurately and to reduce such liabilities to the extent permitted by Applicable Law.

5.5. Withholding Taxes. MMSM may deduct or withhold from any payment(s) made to Contractor any amount that MMSM is required to deduct or withhold in accordance with Applicable Law, including administrative practice ("**Withheld Taxes**") and will remit such Withheld Taxes to the appropriate taxing authority in a timely manner. All such Withheld Taxes will be treated as having been paid to Contractor by MMSM.

5.6. Payment. Subject to the terms and conditions of this Agreement and any Statement of Work, MMSM will pay Contractor, via electronic funds transfer, (unless otherwise requested by Contractor) the undisputed Fees for the Services within 30 days of receipt of a satisfactory invoice. Contractor will provide MMSM with complete and accurate billing and contact information, including all information required by MMSM to effect electronic funds transfers and a billing email address to which MMSM may send submission reports and purchase orders. Contractor will promptly provide MMSM with any updates to such billing and contact information.

5.7. No Volume Commitment. Notwithstanding anything to the contrary in the Agreement, Contractor acknowledges that MMSM makes no representation or warranty as to the nature, timing, quality, quantity or volume of Services required from Contractor under this Agreement or the compensation that may be earned by Contractor, including as to any amounts of materials to be collected or managed through post-collection services by a Contractor.

5.8. PPP Ownership.

MMSM owns all Accepted Materials PPP collected under the program. The Contractor retains responsibility for the value of the Accepted Materials PPP while it is in their possession. Responsibility transfers upon delivery to the next designated facility in the processing chain:

- The Collection Contractor is responsible for Accepted Materials PPP until delivery to the RCT facility.
- The RCT Contractor is responsible for Accepted Materials PPP until delivery to the final MRF.
- The final MRF is responsible for Accepted Materials PPP until delivery to the end market.

If Accepted Materials PPP is lost or damaged due to any action or activity while in the Contractor's possession, the Contractor shall be liable for such loss or damage.

The contractor shall be responsible for compensating MMSM for the full value of the Accepted Materials PPP to be determined based on material audits and end market values as established by RecyclingMarkets.net (Chicago – Midwest/Central). Unless otherwise agreed between the two

parties, any monies owed to MMSM for lost materials will be debited from the monies owed to the Contractor for the given month.

SECTION 6. PERSONNEL

6.1. Suitable Personnel. Upon MMSM's request, Contractor will promptly investigate any written complaint from MMSM regarding any unsatisfactory performance of the Services by any of Contractor's personnel (including employees of a subcontractor or agent) and take immediate corrective action. If the offending conduct is repeated, and Contractor is not restricted by a collective agreement from doing so, MMSM may require that such person be removed from all performance of Services for MMSM. Removal of such person will be addressed by Contractor immediately.

6.2. Key Personnel. During the term of each Statement of Work, the Contractor shall not remove or replace any Key Personnel without cause unless a qualified replacement is in place. If any Key Personnel leaves their role for any reason, the Contractor must notify MMSM in writing within five business days and ensure the replacement has equal or greater ability, experience, and expertise.

6.3. Subcontracting. Contractor will not delegate, assign or subcontract all or any part of the Services, Contractor's obligations under this Agreement, or this Agreement to anyone without the prior written consent of MMSM (not to be unreasonably withheld), including that MMSM's prior written consent is required by Contractor to continue to delegate, assign or subcontract to a person following a change in control (including a sale of all or substantially all assets) of such person. The delegation or subcontracting of all or any part of Contractor's obligations under this Agreement will not relieve Contractor from any obligation or liability hereunder. Any breach of this Agreement by any delegate or subcontractor will be deemed to be a breach of this Agreement by Contractor.

SECTION 7. REPORTING AND AUDIT

7.1. Record Keeping. During the Term and thereafter until the later of seven (7) years (or such longer period as may be required by Applicable Law) or the date all disputes or other matters relating to this Agreement are resolved, Contractor will keep and maintain complete and accurate data, records, and documents in accordance with generally accepted accounting principles consistently applied to support and document all claims and amounts becoming payable to Contractor by MMSM hereunder, and all data, records, and documents relating to the performance of the Services, and compliance with Contractor's obligations under this Agreement.

7.2. Reporting. In addition to any other reporting obligations under this Agreement or a Statement of Work, Contractor will provide the following reporting to MMSM:

- (i) at least quarterly (or such other period as may be set out in a Statement of Work), Contractor will report, through MMSM's claims reporting portal, or through such other method as MMSM may designate, the reporting information set out in the applicable Statement of Work for Services performed.
- (j) upon such frequency as MMSM may request, reports pertaining to the performance of the Services and Contractor's other obligations under this Agreement reasonably sufficient to permit MMSM to monitor and manage Contractor's performance; and
- (k) such additional reports as MMSM may reasonably identify from time to time to be generated and delivered by Contractor on an ad hoc or periodic basis.

7.3. Audit.

- 7.3.1. Without limiting any other audit right, during the Term and for the period Contractor is required to comply with Section 7.1, MMSM (or its audit representative) will have the right upon reasonable prior written notice to audit and inspect : (a) any site, facility, vehicle, or equipment relating to the performance of the Services, provided that this requirement shall only apply during the Term of the Agreement and not for the seven-year period referenced in Section 7.1; and (b) all data, records, documentation and other information of Contractor relating to this Agreement or the Services, in order to verify Contractor's performance and compliance with its obligations under this Agreement, including that MMSM (or its audit representative) may conduct a financial audit to verify the amounts paid or payable by hereunder. If any audit reveals that MMSM has been overbilled, Contractor will reimburse the overcharged amount to MMSM within ten (10) business days of the determination being made, with interest at a rate equal to prime, as determined by MMSM's financial institution, plus one (1%) per cent. If the overbilled amount exceeds five (5%) per cent of the total amounts charged during the time period audited, Contractor will bear all of MMSM's costs in relation to such audit.
- 7.3.2. Without limiting any other audit right, during the Term and for the period Contractor is required to comply with Section 7.1, Contractor will make the data, records, and documents retained pursuant to Section 7.1 available for inspection or audit by MMSM (or its audit representative) upon MMSM's request, without delay.
- 7.3.3. Without limiting any other audit right, during the Term MMSM (or its audit representative) may conduct composition studies, without notice, of any materials collected, transported, processed, or otherwise handled under this Agreement, at any stage of the Services and regardless of the location of such materials.
- 7.3.4. Contractor will co-operate with and provide to MMSM (or its audit representative) such reasonable assistance in a timely manner as they require to exercise the rights set out in this Section 7.3. Contractor will ensure that it has agreements in place with all subcontractors to enable (or its audit representative) to directly exercise the audit rights under this Section 7.3 in respect of such subcontractor.
- 7.3.5. Any audit performed by MMSM for the purpose of determining contamination of materials collected, transported, processed, or otherwise handled under this Agreement, shall be in accordance with the protocol set out in Statement(s) of Work as amended by MMSM from time to time.
- 7.3.6. Notwithstanding anything else contained herein, any information obtained by MMSM directly or indirectly while conducting an audit will be treated as Confidential Information.

SECTION 8. REPRESENTATIONS AND WARRANTIES

8.1. Contractor Representations and Warranties.

Contractor represents and warrants to and covenants with MMSM that:

- (a) if it is a corporation, it is duly incorporated, validly existing, and in good standing under the laws of its jurisdiction of incorporation, and is duly qualified to do business in all jurisdictions in which qualification is necessary to transact its business and perform its obligations set out in this Agreement;
- (b) if it is a corporation, it has full power, authority, and right to execute and deliver this Agreement, to make the representations, warranties, and covenants set out herein, and to perform its obligations under this Agreement in accordance with its terms. This Agreement has been validly executed by an authorized representative of Contractor, and constitutes a valid and legally binding and enforceable obligation of Contractor;

- (c) it has and will, at its own expense, procure all permits, certificates and licenses required by Applicable Law for the performance of the Services;
- (d) the representations, warranties, covenants, claims, inducements, and agreements made by Contractor in Contractor's written response to any procurement process related to the Services or this Agreement are true and correct as of the Effective Date, including those in any proposal submitted in response to a request for proposals and any statements or claims in any completed and submitted questionnaire in response to any offer of a collection financial incentive; and
- (e) it has not given and will not give commissions, payments, kickbacks, gifts, lavish or extensive entertainment, or other inducements of more than minimal value to any employee or agent of MMSM in connection with this Agreement and, to the best of its knowledge, no officer, director, employee, agent or representative of Contractor has given any such commissions, payments, kickbacks, gifts, entertainment or other inducements to any employee or agent of MMSM.

SECTION 9. CONFIDENTIALITY

9.1. Confidentiality Covenant. The Receiving Party will: (i) take all measures reasonably required to maintain the confidentiality and security of the Confidential Information of the Disclosing Party; (ii) not use or reproduce Confidential Information for any purpose, other than as reasonably required to exercise or perform its rights or obligations under this Agreement; (iii) not disclose any Confidential Information other than to employees, agents or subcontractors of the Receiving Party ("**Representatives**") to the extent, and only to the extent, they have a need to know the Confidential Information in order for Receiving Party to exercise its rights or perform its obligations under this Agreement and who are bound by a legal obligation to protect the received Confidential Information from unauthorized use or disclosure; and (iv) be responsible for any breach of this Agreement by any of its Representatives.

9.2. Legal Requirement. Notwithstanding Section 9.1, the Receiving Party may disclose Confidential Information of the Disclosing Party to the extent required by a court of competent jurisdiction or other governmental authority or otherwise as required by Applicable Law, provided that, unless prohibited by Applicable Law, the Receiving Party gives the Disclosing Party an opportunity to oppose the disclosure or to seek a protective order protecting such Confidential Information prior to any such disclosure.

9.3. Return of Confidential Information. Upon expiry or termination of this Agreement, or upon request by the Disclosing Party, the Receiving Party will return to the Disclosing Party, or will cease any use or disclosure of any Confidential Information of the Disclosing Party.

9.4. Privacy Laws. Contractor will not access, collect, use, disclose, dispose of or otherwise handle information of or about individuals that is subject to Applicable Laws relating to privacy ("**Privacy Laws**") in the performance of its obligations under this Agreement, except: (a) to the extent necessary to perform the Service; (b) in accordance with all Privacy Laws; and (c) in a manner that enables MMSM to comply with all Privacy Laws, including that Contractor will obtain appropriate consents from the applicable individuals to allow Contractor and MMSM to exercise their rights and to perform their obligations under this Agreement as they relate to such information. Unless prohibited by Applicable Law, Contractor will immediately notify MMSM of any demand, or request by a third party (including any government or a regulatory authority) for the disclosure of any information of MMSM that is subject to Privacy Laws, and, to the maximum extent permitted by law, will oppose, seek judicial relief of and appeal any such demand or request. Contractor will immediately notify MMSM if Contractor becomes aware that Contractor has failed to comply with Privacy Laws in connection with the performance of this Agreement.

SECTION 10. PROPRIETARY RIGHTS

10.1. Ownership. Except as otherwise specifically provided in any Statement of Work, or as otherwise agreed to by the parties in writing, the Work Product, together with any Intellectual Property Rights therein will be owned by MMSM; accordingly, Contractor will assign and hereby assigns to MMSM all rights, title and interest it may have from time to time in the Work Products effective upon creation. During the Term, Contractor will have a non-exclusive, non-transferable license to use the Work Products for the sole purpose of providing and completing the Services. Contractor will obtain from all individuals involved in the development of the Work Product an express and irrevocable waiver in favour of MMSM, its successors and assigns of any and all moral rights arising under the Copyright Act (Canada) as amended (or any successor legislation of similar force and effect) or under similar legislation in other jurisdictions or at common law that Contractor or such individuals, as authors, have with respect to the Work Products.

SECTION 11. INDEMNITY

11.1. Indemnity. Contractor will indemnify and save harmless MMSM, its Affiliates, and their respective directors, officers, contractors, employees, volunteers, and agents from and against any and all manner of actions or causes of actions, damages, costs, losses or expenses of whatever kind (including related legal fees on a solicitor and client basis) which may be sustained or incurred by reason of or directly or indirectly arising out of any act or omission of Contractor or any person for whom the Contractor is, at law or under this Agreement, responsible, in relation to the Services or this Agreement, including without limitation arising out of any (i) breach of this Agreement; (ii) damages to persons or property, personal injury or death; (iii) breach of Applicable Law; (iv) spill, leak, contamination, or other environmental damage; or (v) infringement, violation or misappropriation of any third party's right, including any Intellectual Property Right.

11.2. Available Remedies. If Contractor sustains damage in the course of performing the Services that is caused by another contractor of MMSM with whom Contractor is obligated under this Agreement to interact with directly (an "**Other Service Provider**"), MMSM will, upon Contractor's reasonable and good faith request, use commercially reasonable efforts to exercise, for Contractor's benefit, such contractual remedies of indemnification or receipt of service level failure credits as MMSM may have with the Other Service Provider that apply to the damage sustained by Contractor and the event which caused the damage; provided that Contractor: (i) has first used reasonable efforts to address the damage directly with the Other Service Provider, including exercising direct remedies Contractor may have under Applicable Law, contract or otherwise; and (ii) will have a duty to mitigate its damages.

11.3. Limitation of Liability. Notwithstanding anything else contained herein, neither party shall be liable to the other for indirect, consequential, punitive, aggravated, or exemplary damages. Contractor's liability to MMSM for all other damages shall not in any case exceed the limits of insurance provided for in Schedule 12.1.

SECTION 12. INSURANCE AND PERFORMANCE BOND

12.1. Insurance.

During the Term and for any additional period following the end of the Term set out in in Schedule 12.1, Contractor will have and maintain in force in Canada, and will cause its subcontractors to have and maintain in force in Canada, at a minimum, the insurance coverages set out in Schedule 12.1, and Contractor will (and will cause its subcontractors to) otherwise comply with the provisions of Schedule 12.1. Failure to secure such insurance coverage, or the failure to comply fully with any of Schedule 12.1 will be deemed to be a material breach of this Agreement. None of the requirements contained herein as to types, limits and approval of insurance coverage to be maintained by Contractor are intended to and will not in any manner limit or qualify the liabilities and obligations assumed by Contractor under this Agreement.

12.2. Performance Bond. The Contractor agrees to provide a performance bond equal to twenty-five per cent (25%) of the contract price for each year for each Statement of Work and will adjust annually based on the contract price.

SECTION 13. TERMINATION

13.1. Termination for Convenience. MMSM may, at any time and without cause, terminate this Agreement or any Statements of Work upon giving Contractor 180 days' prior written notice (or such shorter amount of notice if agreed in writing by the other party). Upon receipt of a notice of termination, Contractor will commence the orderly wind down of the Services contracted hereunder, prepare its statement of account based on the effective date specified in the notice, and upon the end of the Agreement return all Work Product to MMSM, whether completed or not.

Contractor may, at any time and without cause, terminate this Agreement or any Statements of Work upon giving MMSM 365 days' prior written notice (or such shorter amount of notice if agreed in writing by the other party). Upon receipt of a notice of termination by MMSM, Contractor will commence the orderly wind down of the Services contracted hereunder, prepare its statement of account based on the effective date specified in the notice, and upon the end of the Agreement return all Work Product to MMSM, whether completed or not.

13.2. Termination by MMSM for Cause.

MMSM may elect to terminate this Agreement or any Statements of Work by providing written notice of such termination, effective immediately or at such other time set out in the notice of termination, to Contractor in the event that:

- (a) Contractor becomes subject to proceedings in bankruptcy or insolvency, voluntarily or involuntarily, if a receiver is appointed with or without Contractor's consent, if Contractor assigns its property to its creditors or performs any other act of bankruptcy or if the other party becomes insolvent and cannot pay its debts when they are due;
- (b) Contractor commits a material breach of this Agreement and does not cure such breach within 30 days of receipt of written notice thereof from MMSM;
- (c) Contractor fails to provide all or a material portion of the Services for a consecutive period of more than seven days;
- (d) Contractor's performance creates a hazard to public health or safety or to the environment which is not remedied to the satisfaction of MMSM or the appropriate legal authority, within five business days;
- (e) Contractor is assessed Service Level Failure Credits subject to the Service Level Failure Credit protocol during any rolling six-month period; or
- (f) any other termination right described in this Agreement or a Statement of Work is triggered.

13.3. Termination by Contractor for Cause. Contractor may elect to terminate this Agreement by providing written notice of such termination, effective immediately, to MMSM in the event that MMSM fails to pay Fees, as they become due in accordance with the terms of this Agreement, in an amount that exceeds the aggregate Fees invoiced by Contractor under the three most recent prior monthly consolidated invoices issued by Contractor and MMSM does not cure such non-payment within sixty (60) days of receipt of written notice thereof from Contractor.

13.4. Change in Applicable Law. MMSM may elect to terminate this Agreement or any Statements of Work by providing written notice of such termination, effective immediately or at such

other time set out in the notice of termination, to Contractor in the event that there is a material change in Applicable Law applicable to MMSM or the Services, including if there is a material change to an approved plan under the WRAP Act or if any new plan (whether submitted by MMSM or any other person) is approved thereunder.

13.5. Disruption of Service. The parties expressly agree that the failure or inability of Contractor to provide the Services or perform its obligations under this Agreement will constitute a breach hereunder, and that any costs and expenses reasonably incurred by MMSM for any replacement services resulting from such a failure or inability will be considered direct damages hereunder.

13.6. Termination Assistance. Upon termination or expiration of this Agreement, Contractor will continue to provide Services hereunder and will make reasonable efforts to cooperate and assist, according to mutually agreeable terms and conditions, to ensure that there is an orderly transfer of the Services required by MMSM pursuant to this Agreement.

13.7. Survival.

The following sections will survive the expiration or termination of this Agreement, regardless of the reasons for its expiration or termination, in addition to any other provision which by law or by its nature should survive: SECTION 9 (Confidentiality), SECTION 11 (Indemnity), SECTION 12 (Insurance and Performance Bond), SECTION 14 (Dispute Resolution) and SECTION 15 (General Provisions) in their entirety, and Sections 7.1, 7.3, 10.1, 13.6, and 13.7. The expiry or termination of this Agreement will not affect the rights of any party to make a claim for damages arising from a breach of any provision of this Agreement which occurred prior to such expiry or termination.

SECTION 14. DISPUTE RESOLUTION

14.1. Disputes.

Any dispute that touches upon the validity, construction, meaning, performance or effect of this Agreement or the rights or liabilities of the parties or any matter arising out of, or in connection with this Agreement (a “**Dispute**”), between MMSM and Contractor will be addressed as follows:

- (a) The parties will first attempt to resolve the Dispute through representatives from each of MMSM and Contractor who work most closely with each other on related matters, within 15 days after written notice of the Dispute was first given, or as otherwise agreed upon.
- (b) If the Dispute is not resolved at the first stage, either party may escalate the Dispute to the senior MMSM and Contractor representatives, who will meet and work together in good faith to attempt to resolve the Dispute within a further 15 days, or as otherwise agreed upon.
- (c) If the Dispute is not resolved through the discussion above within the time period set out above, then either party may escalate the Dispute to non-binding third party mediation. The mediation will take place at a time and place mutually agreed by the parties and will be led by a third-party facilitator jointly selected by the parties (who, unless otherwise mutually agreed by the parties, will be an individual accredited to provide such services). If the Dispute remains unresolved within 45 days from the point at which a party escalated the Dispute to non-binding third party mediation, either party may escalate the Dispute by delivering a written notice to the other party referring the matter to binding arbitration.
- (d) If the parties are unable to resolve the Dispute within the above period, unless otherwise mutually agreed by the parties in writing, the Dispute will be conclusively settled by means of private and confidential binding arbitration, to the exclusion of courts of law. The decision of the arbitrator will be final and binding on the parties and will not be subject to appeal on any grounds whatsoever and will be enforceable against MMSM and Contractor as the case

may be. The parties will mutually agree on an arbitrator. Where the parties are unable to mutually agree on an arbitrator, the arbitrator will be determined pursuant to the rules of *The Arbitration Act* (Manitoba).

- (e) Notwithstanding anything to the contrary in this Section 14.1, either party may start litigation proceedings in a court of law at any time for an application for a temporary restraining order or other form of injunctive relief and each party hereby attorns to the non-exclusive jurisdiction of the courts of the province of Manitoba for such purpose.

SECTION 15. GENERAL PROVISIONS

15.1. Relationship of the Parties. It is acknowledged by the parties hereto that the Contractor is being retained by MMSM in the capacity of independent contractor and not as an employee of MMSM. The Contractor and MMSM acknowledge and agree that this Agreement does not create a partnership, joint venture, agency, or other special relationship between them. Except as may be specified in writing, neither party will have the power to obligate or bind the other party. Personnel supplied by Contractor will work exclusively for Contractor and will not for any purpose be considered employees or agents of MMSM.

15.2. Assignment. MMSM may assign this Agreement without Contractor's consent to a person with an approved plan under the WRAP Act, or who otherwise has obligations similar to MMSM or one or more Producers under any successor regulation or legislation, or to a person as part of a corporate reorganization of MMSM.

15.3. Force Majeure. Neither party to this Agreement or any Statement of Work will be liable to the other party for any failure or delay in fulfilling an obligation hereunder, if said failure or delay is attributable to a fire, act of God, natural disaster, war, riot, civil disturbance, earthquake, flood, or court or governmental order beyond such party's reasonable control ("**Force Majeure**"). The parties agree that the deadline for fulfilling the obligation in question will be extended for a period equal to that of the continuance of the Force Majeure. The party to which the Force Majeure applies will use all commercially reasonable efforts to minimize the effect of the Force Majeure on its performance under this Agreement or any Statement of Work.

15.4. Governing Law. This Agreement and any Statement of Work will be governed by and construed in accordance with the laws of the Province of Manitoba and the laws of Canada applicable therein without regard to conflicts of law that would apply a different body of law. The parties hereby irrevocably attorn to the nonexclusive jurisdiction of the courts of the Province of Manitoba for any legal proceedings arising out of this Agreement, any Statement of Work or the performance of the obligations hereunder.

15.5. Notices. All notices, requests, demands or other communications (collectively "**Notices**") given by one party to the other party, will be in writing, in the English language, and will be deemed duly given (i) when delivered by hand; (ii) except for a notice of termination permitted under this Agreement, by e-mail (with receipt confirmed), (iii) on the designated day of delivery after being given to an express overnight courier with a reliable system for tracking delivery, or (iv) six (6) days after the day of mailing, when mailed by Canada Post, registered or certified mail, return receipt requested and postage prepaid, and addressed as follows:

To Contractor:

●

Fax No.: ●

E-mail: ●

Attention: ●

To MMSM:

Multi-Material Stewardship Manitoba Inc.
7th Floor 259 Portage Avenue
Winnipeg, MB R3B 2A9

Fax No.: ●

Email: ●

Attention: ●

or to such other address as may be designated by notice given by either party to the other.

15.6. Further Assurances. The parties will do, execute or deliver all such further acts, documents and things as the other party may reasonably require from time to time for the purpose of giving effect to this Agreement and will use reasonable efforts and take all such steps as may be reasonably within its power to implement to their full extent the provisions of this Agreement.

15.7. No Publicity. Contractor will not use the name or trademarks of MMSM nor make any statement or issue any advertisement, publicity release, press releases to the public or the media with respect to this Agreement or MMSM, unless it has obtained MMSM's prior written approval, including that Contractor will not disclose or otherwise publicly report on any Service performance metrics (including volumes of material collected or processed).

15.8. Timing. Time will be of the essence of this Agreement and of every part hereof and no extension or variation of this Agreement will operate as a waiver of this provision.

15.9. Severability. If any provision, or portion thereof, of this Agreement or any Statement of Work is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, such determination will not impair or affect the validity, legality or enforceability of the remaining provisions of this Agreement or any Statement of Work, and each provision, or portion thereof, is hereby declared to be separate, severable and distinct.

15.10. Waiver. A waiver of any provision of this Agreement or any Statement of Work will only be valid if provided in writing and will only be applicable to the specific incident and occurrence so waived. The failure by either party to insist upon the strict performance of this Agreement or any Statement of Work, or to exercise any term hereof, will not act as a waiver of any right, promise or term, which will continue in full force and effect.

15.11. Remedies Cumulative. No single or partial exercise of any right or remedy under this Agreement or any Statement of Work will preclude any other or further exercise of any other right or remedy in this Agreement or any Statement of Work or as provided at law or in equity. Rights and remedies provided in this Agreement or any Statement of Work are cumulative and not exclusive of any right or remedy provided at law or in equity.

15.12. Amendment. This Agreement or any Statement of Work may only be amended by written agreement duly executed by authorized representatives of the parties.

15.13. Entire Agreement. This Agreement and any Statement of Work and Schedules hereto will constitute the entire agreement between the parties with respect to the subject matter hereof and will replace all prior promises or understandings, oral or written. There is no representation, warranty, collateral term or condition or collateral agreement affecting this Agreement, other than as expressed in writing in this Agreement. Any purchase order or other instrument of Contractor

accompanying either a Statement of Work, a Contractor payment or otherwise is for Contractor's internal use only and its terms will not alter or amend the terms of this Agreement.

15.14. Counterparts. This Agreement and any Statement of Work may be executed in any number of counterparts, each of which will be deemed to be an original and all of which taken together will be deemed to constitute one and the same instrument. Delivery of an executed signature page to this Agreement or any Statement of Work by any party by electronic transmission will be as effective as delivery of a manually executed copy of this Agreement or the Statement of Work by such party.

(Signature page follows.)

DRAFT

IN WITNESS WHEREOF the parties have executed this Agreement effective as of the Effective Date.

**MULTI-MATERIAL STEWARDSHIP MANITOBA
INC.**

[CONTRACTOR]

Per: [SAMPLE – NOT FOR SIGNATURE]
(I have authority to bind MMSM)

Per: [SAMPLE – NOT FOR SIGNATURE]
(I have authority to bind Contractor)

Name: _____
(Please Print)

Name: _____
(Please Print)

Title: _____

Title: _____

Per: [SAMPLE – NOT FOR SIGNATURE]
(I have authority to bind Contractor)

Name: _____
(Please Print)

Title: _____

Note: Second signatory to be completed by Contractor only if Contractor requires two signatories (and by leaving the second signatory blank and returning the Agreement to MMSM, Contractor and the first signatory represent that no additional signatories are required).

SCHEDULE 3 PPP Definitions

1. **“Packaging and Printed Paper”** or **“PPP”** means the materials set out in MMSM’s Packaging and Printed Paper Description, a copy of which is set out in the table below:

<u>Accepted Materials PPP</u>	<u>Description/Examples</u>
Printed Paper	
Newsprint and flyers	Daily and weekly newspapers, and flyers
Magazines & catalogues	Glossy magazines, catalogues, calendars and product manuals
Telephone directories	Telephone books and other directories
Other Printed Paper	Writing paper, standard printing paper, paper gift cards, mail, bills, and statements
Paper Packaging	
Boxboard	Paperboard, cereal box, shoe box, frozen food box, and toilet paper rolls
Polycoat	Polycoat containers with gable shaped tops used to package sugar, molasses, milk, milk substitutes, and other food and beverages Items for future consideration: takeout coffee cups and other food and beverage containers not currently accepted. Aseptic containers, spiral wound containers, ice cream containers
Residential corrugated cardboard	Cardboard boxes, non-greasy pizza boxes, kraft paper bags and paper wrap, moving boxes
Aluminum Packaging	
Aluminum food & beverage containers	Soda cans, and aluminum food cans Items for future consideration: aluminum foil wrap, pie plates, baking trays
Steel Packaging	
Steel food & beverage containers	Soup cans, pet food cans, and other steel food and beverage cans
Glass Packaging	

Glass food & beverage containers	Clear and coloured glass containers such as pickle jars, salsa jars, baby food jars, sauce jars, vinegar bottles, wine bottles, and other glass food and beverage containers Cosmetic cream containers, perfume bottles, aftershave bottles, glass storage containers
Plastic Packaging	
PET Plastic (#1)	Soft drink bottles, juice bottles, cooking oil jars, clamshell containers, egg cartons, trays
HDPE Natural and Coloured Plastic (#2)	Milk jugs, soap and shampoo bottles, laundry detergent jugs, household cleaner bottle, #2 margarine containers, #2 yogurt containers
Household Plastics (#3, #4, #5, #7)	Rigid containers, hard packaging, plant pots, trays, pails (excludes black plastic)

SCHEDULE 4.2
MMSM POLICIES AND STANDARDS

As of the Effective Date, the following are MMSM Policies and Standards:

2. MMSM's Weight and Measurement Standards, a copy of which is set out below:

MMSM requires that all Accepted Materials PPP be collected, transported, processed, and be weighed, and that accurate weights be reported to MMSM.

Weight is defined by MMSM as the following:

Gross Weight means the weight of the truck or container plus its contents, measured in kilograms unless otherwise noted.

Tare Weight means the weight of the empty truck or container and any equipment without its contents, measured in kilograms unless otherwise noted.

Net Weight is the weight of the contents of the container or truck, calculated as Gross Weight minus Tare Weight, measured in kilograms unless otherwise noted.

The following equation must always be true.

$$\text{Net Weight} = \text{Gross Weight} - \text{Tare Weight}$$

Measurement Canada has produced a comprehensive guide on taking and recording weights, available at <http://www.ic.gc.ca/eic/site/mc-mc.nsf/eng/lm00205.html>.

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SCHEDULE 4.4
SERVICE LEVEL METHODOLOGY

1. Contractor will measure and record all data reasonably required by MMSM to determine Contractor's performance of the Services against the applicable Service Levels. Contractor will retain such records in accordance with Section 7.1 of the main terms of the Agreement. Upon request, and upon such frequency as MMSM may indicate (which may not be more frequently than monthly), Contractor will deliver to MMSM a report, in a form and format approved by MMSM, setting out details of Contractor's actual performance of the Services as measured against each Service Level during the applicable reporting period.
2. In the event of a Service Level Failure in respect of a Service Level expressly set out in a Statement of Work, Contractor will credit to MMSM the applicable Service Level Failure Credit set out in such Statement of Work. Contractor agrees Service Level Failure Credits compensate MMSM in part for the reduced value of the Services provided by Contractor (and not as a penalty or exclusive or any other damages).

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SCHEDULE 12.1 INSURANCE REQUIREMENTS

1. **Insurance Coverage.** The insurance coverage required pursuant to Section 12.1 of the main body of the Agreement is as follows:
- (a) Commercial General Liability coverage with limits of not less than \$5,000,000 (five million dollars) per occurrence with a deductible not exceeding \$100,000 per occurrence, or, where Contractor is a local government, Contractor may self-insure for equivalent or better coverage (in which case Contractor will respond to all claims, actions, demands, expenses and losses by whomsoever made in the same manner as if commercial comprehensive general liability insurance was purchased for same and as if MMSM were included in such policy as an additional insured);
 - (b) Contractor will seek advice and obtain any necessary environmental impairment liability insurance or other such policy as may be recommended by their insurance broker or legal counsel to adequately protect against risks of environmental liability, with typical environmental impairment liability insurance for the Services having a limit of not less than \$1,000,000 (one million dollars) per occurrence with a deductible not greater than \$100,000 (for clarity, neither the amount nor type of environmental impairment liability insurance obtained by Contractor will in any manner limit or qualify the liabilities and obligations assumed by Contractor under this Agreement);
 - (c) "All risks" property insurance in amounts sufficient to fully cover, on a replacement cost basis without deduction for depreciation, any building (including all depots, if any) and the equipment contained therein and all other property owned by the Contractor or by others located therein including equipment, furniture and fixtures. Such insurance shall provide for a waiver of subrogation in favour of MMSM.
 - (d) Sudden and Accidental Pollution Liability Insurance covering liabilities arising from unexpected and unintentional pollution and contamination, resulting in third-party property damage, bodily injury, cleanup costs and legal defense during the execution of this MSA. Such policy shall provide coverage for an amount not less than two million (\$2,000,000) dollars;
 - (e) Gradual Pollution Liability Insurance covering liabilities arising from pollution or contamination that occurs over time, resulting in third-party property damage, bodily injury, cleanup costs, and legal defense during the execution of this MSA. Such policy shall provide coverage for an amount not less than two million (\$2,000,000) dollars;
 - (f) Workers' Compensation Insurance or Workplace Safety & Insurance coverage with the applicable Provincial (including in all cases Manitoba) or Territorial Workplace Safety & Insurance Board or Employer's Liability Insurance or both with limits as required by Applicable Law covering all Contractor personnel;
 - (g) Automobile liability insurance for an amount not less than five million (\$5,000,000) dollars per occurrence on forms meeting statutory requirements covering all owned, non-owned, operated, hired, and leased vehicles used in the execution of this MSA. The policy shall be endorsed to provide contractual liability coverage;
 - (h) Such other insurance coverage as may be set out in a Statement of Work.

2. **Requirements for Insurer.** All insurers must be reputable and financially creditworthy insurers with an A.M. Best financial strength rating of "A-" or higher (or equivalent rating by a similar agency, in MMSM's sole discretion).
3. **MMSM as Additional Insured.** Contractor will add MMSM as an additional insured on its Commercial General Liability policy with the following language: "MMSM and its affiliated entities, officers, partners, directors, employees, representatives and agents are included as Additional Insureds for Comprehensive General Liability. Such coverage is primary and non-contributing."
4. **Evidence of Insurance.** Contractor will cause its insurers to issue to MMSM certificates of insurance on the Effective Date, and once each calendar year thereafter, evidencing that the coverages and policy endorsements required under this Agreement are maintained in force. Where Contractor is a local government and opts to self-insure pursuant to Section 1(a), Contractor will provide a written attestation stating and evidencing such self-insurance (including evidence of authority and financial ability to self-insure), in a form acceptable to MMSM, on the Effective Date and once each calendar year thereafter.
5. **Changes to Insurance Coverage.** Contractor will not reduce any insurance coverage below the requirements set out in this Schedule without MMSM's prior written consent. Contractor will provide not less than 30 days' notice to MMSM prior to any material change to its insurance coverage or to its insurer.
6. **Coverage Details.** The insurance coverages under which MMSM is named as additional insured will be primary, and all coverage will be non-contributing with respect to any other insurance or self-insurance that may be maintained by MMSM. All coverage required by this Agreement will, where allowed by Applicable Law, include a waiver of subrogation and a waiver of any insured-versus-insured exclusion regarding MMSM.
7. **Additional Period of Coverage.** Contractor will continue to have and maintain in force the insurance coverages set out in this Schedule, and Contractor will continue to comply with Section 12.1 of the main body of the Agreement and Schedule 12.1, beyond the end of the Term for an additional 2 years thereafter.