

PROXY AGREEMENT

THIS PROXY AGREEMENT (“Agreement”) is made as of the _____ day of _____, 2016 between:

AMONG:

Call2Recycle Canada, Inc./Appel à Recycler Canada, Inc., a corporation incorporated under the Federal laws of Canada

(the “Corporation”)

- and-

[●], a corporation constituted under the laws of [●]

(the “Producer”)

- and-

[●], a corporation constituted under the laws of [●]

(the “Contributor by Proxy”, together with the Producer collectively, the “Members”)

WHEREAS

- A. the Corporation is a not for profit organization whose purpose is to develop and manage environmental stewardship programs for specific products (the “Programs”);
- B. various provinces have environmental stewardship regulations, pursuant to which, certain entities have been mandated to develop and manage a stewardship plan for specific types of products;
- C. the Corporation has developed and the Regulator (as defined in the Membership Agreement) has approved, the Programs, whereby the Corporation acts as an agent on behalf of its members in carrying out the members’ obligations thereunder pursuant to a membership agreement entered into by the members (including the Members) and the Corporation, effective as of the _____ day of _____, 2016 (the “Membership Agreement”);
- D. the Producer is required to pay environmental handling fees or any similar fees established pursuant to or in respect of the Regulations, or payable as a result of the management of any environmental stewardship plan for specific products and which are or become the subject of the Programs (the “EHFs”);
- E. The Producer and the Contributor by Proxy have both registered with the Corporation;
- F. the Producer and the Contributor by Proxy both agree that the Contributor by Proxy shall report and remit the EHF’s to the Corporation and this Agreement shall constitute evidence satisfactory to the Corporation that the Contributor by Proxy has agreed to report and remit the required EHF’s as a proxy on behalf of the Producer in satisfaction of Section 4.2 of the Membership Agreement. Attached as Schedule “A” is a list of all of the products for which all of the EHF’s are remitted.

NOW THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties agree as follows:

1. REMITTANCE, PAYMENT AND REPORTING OBLIGATIONS

- 1.01 The Contributor by Proxy shall be responsible for the remittance, payment and reporting requirements relating to the EHF’s on behalf of and for the Members in accordance with the Membership Agreement.

2. EFFECT OF AGREEMENT

- 2.01 Nothing in this Agreement obligates either party to pay any fee or administrative charge, handling charge or other amount (other than payment of the EHF’s) as consideration for entering into and carrying out its duties under this Agreement.
- 2.02 The Contributor by Proxy agrees to the disclosure of information to the Producer by the Corporation about the amount of EHF’s paid.

3. DISPUTE RESOLUTION

- 3.01 The requirement of the Producer to fulfill its obligations to report and remit EHF’s shall not be subject to or affected in any way by any disputes, accounts or equities which may exist between the Members under this Agreement. The Producer agrees that it will fulfil its obligations regarding the EHF’s regardless of any such disputes, accounts or equities and shall look only to the Contributor by Proxy with respect thereto.
- 3.02 In the event of any disputes, claim, question or difference arising out of or relating to the EHF’s or this Agreement or any breach hereof, the parties shall immediately advise the Corporation of such dispute and shall use their best endeavours to settle such dispute, claim, question or difference. To this effect, they shall consult and negotiate with each other, in good faith and understanding of their mutual interests, to reach a just and equitable solution satisfactory to all parties.
- 3.03 Except as is expressly provided in this Agreement, if the parties do not reach a solution pursuant to Section 3.02 within a period of 30 days, then upon Notice by any party to the others, the dispute, question or difference shall be finally settled by arbitration in accordance with the provisions of the *Arbitrations Act* (Ontario) and any amendments thereto. The arbitration tribunal shall consist of one arbitrator appointed by mutual agreement of the parties who are party to the dispute or in the event of failure to agree within 10 days, any party may apply to a judge of the Superior Court of Justice to appoint an arbitrator. The arbitrator shall be instructed that time is of the essence and the arbitration award must be rendered within 30 days of the submission of such dispute to arbitration. The arbitration shall take place in Toronto, Ontario. The arbitration award shall be given in writing and shall be final and binding on the parties, not subject to any appeal, and shall deal with the costs of arbitration and all matters related thereto.

4. TERMINATION OF AGREEMENT

- 4.01 This Agreement shall terminate effective immediately if one of the Members ceases to be a member of the Corporation.
- 4.02 Either party may terminate this Agreement by providing a 60-day cancellation notice to the other party.

- 4.03 Notwithstanding the termination of this Agreement by any party, the Producer shall be liable to the Corporation for any deficiency in EHF's paid.
- 4.04 If this Agreement is terminated for any reason, the Contributor by Proxy shall provide to the Producer all information necessary to enable the Producer to fulfill any responsibilities under the Membership Agreement.
- 4.05 Upon termination of this Agreement, all rights and obligations granted under or imposed by this Agreement shall immediately cease and terminate except for the rights, duties and obligations which by their nature one would reasonably expect to survive, including the rights and obligations covered in such provisions in this Agreement with respect to confidentiality, payments, remedies and governing law, arbitration and jurisdiction, assignment, severability, legal expenses, notices, waiver and this Agreement being the entire agreement of the parties.

5. GENERAL

- 5.01 Subject to Membership Agreement. This Agreement is subject to the terms and conditions of the Membership Agreement. In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of the Membership Agreement, the provisions of the Membership Agreement will prevail. This Agreement does not create, and will not be interpreted as creating, any rights or obligations of the parties other than those set forth in the Membership Agreement, nor does it derogate from, or will it be interpreted as derogating from, any rights or obligations of the parties under the Membership Agreement, it being understood that this Agreement is solely to confirm the transfers set forth in the Membership Agreement and, if necessary, to provide evidence of such transfers to third parties.
- 5.02 Assignment. The rights and obligations of the Members under this Agreement are personal and may not be assigned in whole or in part.
- 5.03 Agreement Binding. This Agreement shall enure to the benefit of and be binding on the parties, their heirs, legal personal representatives, successors and permitted assigns.
- 5.04 Notices. All notices or other communications required or permitted under this Agreement (each, a "Notice") shall be in writing and shall be delivered in person, by prepaid courier service, by e-mail or by facsimile to the addresses or facsimile number as follows:

To the Corporation at:

Call2Recycle Canada Inc.
Attention: Executive Director
5140 Yonge Street, suite 1570
Toronto, ON M2N 6L7
E-Mail: [●]

To the Producer at:

[●]

To the Contributor by Proxy at:

[●]

If personally delivered or delivered via pre-paid courier, a Notice will be deemed to have been given and received on the date of actual delivery and, if by facsimile or e-mail, a Notice will be deemed to have been given and received on the date sent if sent during normal business hours on a business day and otherwise on the next business day.

Either party may at any time and from time to time notify the other party in accordance with this Section 6.04 of a change of address, facsimile number or e-mail address, to which all notices will be given to it thereafter until further notice in accordance with this Section 6.04.

- 5.05 Waiver. Any waiver by a party or any failure on a party's part to exercise any of its rights in respect of this Agreement shall be limited to the particular instance and shall not extend to any other instance or matter in this Agreement or in any way otherwise affect the rights or remedies of such party.
- 5.06 Severability. If any provision of this Agreement is held invalid or unenforceable for any reason, the parties agree that such invalidity will not affect the validity of the remaining provisions of this Agreement, and further agree to substitute for the invalid provision a valid provision which most closely approximates the intent and economic effect of the invalid provision.
- 5.07 Entire Agreement. This Agreement supersedes any prior agreements or understandings between the parties, whether oral or written.
- 5.08 Governing Law. This Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws in force in the Province of Ontario.
- 5.09 Headings. The subject headings of the Sections of this Agreement are included for the purpose of convenience only and shall not affect the construction or interpretation of any of its provisions.
- 5.10 Time of Essence. Time shall be of the essence of this Agreement and every part of it.
- 5.11 Counterparts. This Agreement may be transmitted by facsimile or email attachment and the reproduction of signatures in such manner will be binding as if originals. Each party undertakes to provide the other party hereto with a copy of this Agreement bearing original signatures forthwith upon request.

<<signature page follows>>

IN WITNESS WHEREOF, each of the parties has executed this Agreement as of the first date written above.

CALL2RECYCLE CANADA INC.

Per:

Name:
Title:

I have authority to bind the corporation.

[PRODUCER]

Per:

Name:
Title:

I have authority to bind the corporation.

[CONTRIBUTOR BY PROXY]

Per:

Name:
Title:

I have authority to bind the corporation.

SCHEDULE "A"

[Insert product list]