

FIRST NATION CURBSIDE COLLECTION PARTNER AGREEMENT

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SAMPLE

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

BETWEEN:

[NAME OF FIRST NATION PARTNER], [if a corporation: having a place of business at [●]; if a Band: a band within the meaning of the *Indian Act*, RSC 1985 c I-5 as amended, and represented by their Chief and Council; if a society, a society within the meaning of the *Societies Act*, SBC 2015, c 18, as amended] (“**Collection Partner**”)

AND:

MMBC RECYCLING INC., a not-for-profit company incorporated under the *Canada Not-for-profit Corporations Act*, carrying on business as Recycle BC (“**Recycle BC**”).

BACKGROUND:

- A. Recycle BC represents companies and organizations (“**Producers**”) that supply products in packaging and printed paper to residents of British Columbia and which have certain obligations under the *Recycling Regulation* (the “**Regulation**”) under the *Environmental Management Act* (British Columbia).
- B. Recycle BC developed the Packaging and Printed Paper Stewardship Plan.
- C. The Packaging and Paper Product Extended Producer Responsibility Plan was approved by the Ministry of Environment in June 2019.
- D. Recycle BC is meeting Producers’ obligations under the Regulation by implementing the Packaging and Printed Paper Stewardship Plan, including through this Agreement.
- E. Recycle BC is committed to respecting the culturally rich history that the land on which it operates holds with Indigenous Peoples in stewardship, care and leadership and Recycle BC values the opportunity for continued learning and shared experiences in its work of environmental stewardship and partnership with Indigenous Peoples and communities across British Columbia.
- F. Collection Partner [is a First Nation /is owned by ●] in the Province of British Columbia.
- G. Recycle BC wishes to partner with the Collection Partner in connection with the collection of In-Scope PPP from its community as set out in this Agreement, and the parties wish to foster dialogue and a good business relationship in carrying out such services.

Recycle BC and Collection Partner agree as follows:

SECTION 1. INTERPRETATION

1.1. Definitions.

In this Agreement, the following terms will have the following meanings:

“**Affiliate**” means any entity which is either: (a) controlled by a party; (b) controlling a party; or (c) is under common control with a party.

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

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

“Change” has the meaning set out in Section 2.5.1.

“Change Order” has the meaning set out in Section 2.5.3.

“Change Proposal” has the meaning set out in Section 2.5.1.

“Claim Information” has the meaning set out in Section 6.3.2.

“Collection Container” means any reusable bin, box, tote, bag, open container or cart acceptable to Recycle BC which is used for household storage and curbside collection set-out of In-Scope PPP in the performance of this Agreement. Single-use bags are not included in this definition.

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

“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”**) that: (a) where Recycle BC is the Disclosing Party, is any information of Recycle BC 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 Collection Partner is the Disclosing Party, is limited to financial information of Collection Partner. However, Confidential Information does not include information that: (i) was already known to the Receiving Party, without obligation to keep it confidential, at the time of its receipt from the Disclosing Party; or (ii) is or becomes available to the public other than as a result of a breach by the Receiving Party; provided that the foregoing exceptions will not apply with respect to any personal information that is subject to Privacy Laws.

“Consolidation Facility” means a facility which has been approved by Recycle BC, where collected In-Scope PPP may be consolidated by material category before being transferred to the applicable receiving facility.

“Curb” or **“Curbside”** means a location within one metre of a Public Road or Private Road.

“Curbside Household” means a self-contained dwelling unit providing accommodation to one or more individuals, where the Occupant(s) in each unit are expected to (a) individually deliver In-Scope PPP to the Curb for collection; or (b) deliver In-Scope PPP to a central location on the property from which In-Scope PPP is collected.

“Curbside Household Baseline” has the meaning set out in Schedule 2.1.1.

“Customer” means Occupants within the Service Area.

“Designated Post-Collection Facility” means the facility where Collection Partner delivers Collection Partner-collected Inbound Material to the Designated Post-Collection Service Provider.

“Designated Post-Collection Service Provider” means the entity, chosen by Recycle BC, to receive Collection Partner-collected Inbound Material.

“Dispute” has the meaning set out in Section 13.1.

“Education Top Up” means a top up amount paid by Recycle BC to Collection Partner for the purposes of public promotion, community education and outreach programs in connection with PPP.

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

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

“Flexible Plastics” means material listed in the “Flexible Plastics” category of the Materials List.

“Foam Packaging” means material listed in the “Foam Packaging” category of the Materials List.

“Force Majeure” has the meaning set out in Section 14.6.1.

“Glass Bottles and Jars” means material listed in the “Glass Bottles and Jars” category of the Materials List.

“Hazardous Waste” means any waste that may pose a risk to health, safety or the environment if not properly managed, including materials that are corrosive, reactive, toxic, leachable or ignitable (e.g. used oil, paint, pesticides, batteries, chemicals).

“Inbound Material” has the meaning set out in Schedule 4.4.

“Industrial, Commercial and Institutional” or **“ICI”** means any operation or facility other than Curbside Household, including industrial facilities, commercial facilities, vacation facilities, institutional facilities and residences at which medical care is provided.

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

“In-Scope PPP” means the PPP set out in Schedule 2.1.2 and such other materials identified as In-Scope PPP by Recycle BC in writing from time to time.

“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.

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

“Labour Disruption” has the meaning set out in Section 4.8.1.

“Materials List” means Recycle BC’s list of accepted materials which is incorporated here by reference and available here: <https://recyclebc.ca/what-can-i-recycle/>.

“Mixed Containers” means material listed in the “Plastic Containers”, “Cartons and Paper Cups”, “Aluminum Containers” and “Steel Containers” categories of the Materials List.

“Mobile Depot Collection” means a curbside collection model using a cube van or similar vehicle with a series of super sacks or containers set up in the vehicle to manage and collect all In-Scope PPP categories, separated from each other, from individual Curbside Households.

“Multi-Stream” means In-Scope PPP collected as distinct material categories. These categories may include Paper and Cardboard and Mixed Containers, with each category stream collected and maintained separate from each other.

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

“Occupant” means any individual that lives in or inhabits a Curbside Household.

“Other Service Providers” has the meaning set out in Section 10.2.

“Packaging and Printed Paper” or **“PPP”** means Paper and Cardboard, Mixed Containers, Glass Bottles and Jars, Flexible Plastics and Foam Packaging.

“Paper and Cardboard” means material listed in the “Paper” and “Paper Packaging and Cardboard” categories of the Materials List.

“Privacy Laws” has the meaning set out in Section 8.4.

“Private Road” means a privately-owned and maintained road that allows for access by a service vehicle and that serves multiple residences.

“Public Road” means a public road used for public travel. It includes public alleys.

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

“Recycle BC Policies and Standards” has the meaning set out in Section 4.4.

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

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

“Representatives” has the meaning set out in Section 8.1.

“Service Administration Top Up” means an amount paid by Recycle BC to Collection Partner for the purposes of administrative expenses associated with PPP program coordination, including office staff, data analysis, correspondence, office rent and office equipment.

“Service Area” means the geographic area set out in Schedule 2.1.1.

“Service Commencement Date” means [●].

“Service Level Failure” has the meaning set out in Section 4.7.2.

“Service Level Failure Credit” has the meaning set out in Schedule 4.7.

“Service Levels” has the meaning set out in Section 4.7.1.

“Services” has the meaning set out in Section 2.1.

“Single-Stream” means In-Scope PPP collected as combined material categories. These categories may include Paper and Cardboard and Mixed Containers, collected together in the same Collection Container.

“Term” means the term of this Agreement.

“Transition and Implementation Plan” has the meaning set out in Section 2.4.

“Withheld Taxes” has the meaning set out in Section 5.6.

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

1.2. Interpretation.

- 1.2.1. The terms ‘including’ and ‘includes’ are not terms of limitation.
- 1.2.2. Any capitalized term used in this Agreement that is not defined will have the generally accepted industry or technical meaning given to such term.
- 1.2.3. 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 neuter 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. The headings in this Agreement are only for convenience of reference and will not be used to interpret or construe the provisions of this Agreement.
- 1.2.5. Unless otherwise stated in this Agreement, all monetary amounts referred to will refer to the lawful money of Canada.
- 1.2.6. When calculating the period of time under this Agreement, the date which is the reference date in calculating that time period will be excluded. If the last day of such period is not a Business Day, then the time period in question will end on the first Business Day following the non-Business Day.
- 1.2.7. All 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 understood as referring to them as they are updated or replaced over time.
- 1.3. Schedules. As of the Effective Date, the following Schedules form part of this Agreement (note that Schedule numbering is not sequential and is based on a related section reference):

Schedule	Description
Schedule 2.1.1	Service Area
Schedule 2.1.2	In-Scope PPP
Schedule 4.4	Recycle BC Policies and Standards
Schedule 4.7	Service Level Methodology and Service Level Failures
Schedule 5.1	Fees
Schedule 11.1	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 and any Schedule the inconsistency will be resolved by reference to the following descending order of priority: (a) Section 1 through Section 14 of this Agreement; and (b) the Schedules annexed to this Agreement.
- 1.5. Animating Principles. Recycle BC acknowledges and agrees that each of the following principles shall be taken into account and considered in connection with the application and performance of this Agreement:
- 1.5.1. Recycling of In-Scope PPP involves important issues of public health, safety and fair treatment of Collection Partner and Occupants;

- 1.5.2. Collection Partner and Occupants should have access to recycling facilities equal to that of any other municipality and such municipalities' occupants;
- 1.5.3. Viable and cost effective alternatives to Recycle BC for Collection Partner and Occupants to recycle In-Scope PPP may be limited; and
- 1.5.4. Making alternate arrangements with another service provider for the recycling of In-Scope PPP may require considerable time and expense from Collection Partner.

SECTION 2. SCOPE OF SERVICES

2.1. Services. Collection Partner will, on the terms and conditions set out in this Agreement, collect In-Scope PPP at Curbside from all Customers within the Service Area, and where approved by Recycle BC in accordance with Section 2.1.1(c), ICI locations, as set out in this Section 2.1 (the "**Services**");

2.1.1. Service Area.

- (a) Collection Partner will provide the Services to all Curbside Households in the Service Area.
- (b) Changes to the Service Area will be made in accordance with the change process set out in Section 2.5.
- (c) Following a request from Collection Partner to Recycle BC in writing, Recycle BC may, in its sole discretion, approve Collection Partner to collect In-Scope PPP from ICI locations in the Service Area. Collection Partner will collect In-Scope PPP only from ICI locations approved by Recycle BC in advance in writing. Collection Partner will not be entitled to receive any Fees or other payments in respect of In-Scope PPP collected from ICI locations and will be solely responsible for all costs associated with the collection and post-collection management of In-Scope PPP collected from ICI locations.

2.1.2. PPP Materials.

- (a) Collection Partner will collect In-Scope PPP, as designated in Schedule 2.1.2.
- (b) If Flexible Plastics, Foam Packaging or Glass Bottles and Jars are designated as In-Scope PPP in Schedule 2.1.2, Collection Partner will (i) collect these materials from each Curbside Household in the Service Area; and (ii) keep such materials separate from other In-Scope PPP.
- (c) Materials collected by Collection Partner will comply with the requirements and restrictions set out in Schedule 2.1.2. Loads that do not meet such requirements and restrictions may (i) be subject to rejection by the Designated Post-Collection Service Provider or the Consolidation Facility; or (ii) result in a Service Level Failure Credit.

2.1.3. Collection.

- (a) Collection Partner will not place unreasonable limits on the quantity of In-Scope PPP collected from Customers. Where Collection Partner uses automated carts as the Collection Container, the quantity of material collected may be limited to what can reasonably fit inside the Collection Container.
- (b) Subject to Section 2.1.3(d), Collection Partner will perform the Services, which may include Mobile Depot Collection, from each Curbside Household in the Service Area as often as is adequate for the community.

- (c) Collection Partner will perform the Services on a regular schedule, which may shift as necessary to accommodate community events, holidays, extreme weather events, construction and other unforeseen events.
- (d) If Collection Partner rejects any In-Scope PPP set out by a Customer for being highly contaminated, out of scope or hazardous, Collection Partner will notify the Customer of the reason for the rejection, with the ultimate goal of continuous improvement.

2.1.4. Collection Containers.

- (a) Subject to Section 2.1.4(c), Collection Partner will provide Collection Containers to each Curbside Household in the Service Area. The Collection Containers must be large enough to accommodate In-Scope PPP generated by Customers between collections so that the amount of material the Collection Container can hold is not a barrier to Customer use of the Services.
- (b) If Curbside Households or geographical areas are added to the Service Area, Collection Partner will deliver Collection Containers to any new Curbside Households added to the Service Area.
- (c) If any Customers choose to provide their own Collection Containers, Collection Partner will handle the Customer-owned Collection Containers in a way that prevents undue damage. Collection Partner will be responsible for unnecessary or unreasonable damage to Customer-owned Collection Containers. Collection Partner is not required to collect materials from any Customer-owned Collection Container if (i) collecting material from such Collection Container would involve a risk of injury to Collection Partner personnel or risk of damage to Collection Partner or Customer property; (ii) the Collection Container is otherwise incompatible with Collection Partner's collection model; or (iii) Customer provided Collection Containers are prohibited by community bylaw.
- (d) Collection Partner may not collect In-Scope PPP in single-use bags.
- (e) If Collection Partner proposes to change the type of Collection Container it uses for the Services in the Service Area, Collection Partner will submit a detailed transition plan to Recycle BC at least three (3) months before the scheduled or planned change. Any change to the type of Collection Containers used for the Services in the Service Area is subject to approval in writing by Recycle BC, which approval will not be unreasonably withheld.

2.1.5. Designated Post-Collection Facility.

- (a) Collection Partner will deliver all collected In-Scope PPP to the Designated Post-Collection Facility or Consolidation Facility, as directed by Recycle BC, on the day of collection, unless other arrangements have been agreed upon with Recycle BC. If Collection Partner is unable to deliver collected In-Scope PPP to the Designated Post-Collection Facility or Consolidation Facility on the day of collection for an unforeseen reason outside Collection Partner's reasonable control, Collection Partner will deliver such collected In-Scope PPP to the Designated Post-Collection Facility or Consolidation Facility on the next possible Business Day. Until such delivery can be made, Collection Partner will store such In-Scope PPP in a safe and secure manner. Collection Partner will not deliver In-Scope PPP to any location other than the Designated Post-Collection Facility or Consolidation Facility or dispose of any collected In-Scope PPP without prior written authorization from Recycle BC.
- (b) Collection Partner will deliver all collected In-Scope PPP to the Designated Post-Collection Facility or Consolidation Facility separated in the manner set out in Attachment 2.1.2.

- (c) If Collection Partner collects Paper and Cardboard and Mixed Containers in Multi-Stream, Collection Partner must unload both Paper and Cardboard and Mixed Containers in separate bunkers or locations, as directed by the Designated Post-Collection Service Provider.
- (d) Collection Partner will follow all reasonable instructions and procedures regarding the delivery of In-Scope PPP as directed by the Designated Post-Collection Service Provider, the Consolidation Facility and Recycle BC, including instructions and procedures pertaining to health and safety, delivery and unloading of In-Scope PPP, audit procedures and weigh scale operation.
- (e) If Collection Partner is scheduled to collect In-Scope PPP from Curbside Households in the Service Area on a holiday, Collection Partner will coordinate directly with the Designated Post-Collection Service Provider or the Consolidation Facility and Recycle BC at least ten (10) Business Days in advance of the holiday in order to schedule the delivery of such In-Scope PPP.
- (f) Subject to Section 2.1.5(g), Recycle BC will cause the Designated Post-Collection Service Provider to locate the Designated Post-Collection Facility or Consolidation Facility within sixty (60) kilometers from the Service Area boundary at the point of least distance to Designated Post-Collection Facility. [If delivery to the Designated Post-Collection Facility or Consolidation Facility requires the use of a ferry or barge, then delivery boundary is the ferry or barge terminal and the Designated Post-Collection Service Provider will be responsible for the part of the trip that requires ferry or barge travel]¹.
- (g) If, after using commercially reasonable efforts, the Designated Post-Collection Service Provider is unable to locate a Designated Post-Collection Facility or Consolidation Facility in accordance with Section 2.1.5(f), Collection Partner will not be required to deliver In-Scope PPP to the Designated Post-Collection Facility or Consolidation Facility except on terms mutually acceptable to Collection Partner and the Designated Post-Collection Service Provider.
- (h) Recycle BC may change the location of the Designated Post-Collection Facility or Consolidation Facility with (i) thirty (30) days' written notice if the new Designated Post-Collection Facility is within 20 kilometers of the existing Designated Post-Collection Facility and in compliance with Section 2.1.5(f); and (ii) ninety (90) days' written notice if the new Designated Post-Collection Facility is more than 20 kilometers from the existing Designated Post-Collection Facility and in compliance with Section 2.1.5(f).
- (i) If at any time during the Term the Designated Post-Collection Facility or Consolidation Facility is temporarily closed for three (3) Business Days or less, including for an emergency, mechanical breakdown or maintenance, Collection Partner shall deliver In-Scope PPP collected under this Agreement to an alternative location specified by Recycle BC in writing. If the Designated Post-Collection Facility is closed for longer than three (3) Business Days, Collection Partner and Recycle BC will mutually agree on a solution.

2.1.6. Spillage.

- (a) All loads collected by Collection Partner will be completely contained in collection vehicles at all times, except when In-Scope PPP is actually being loaded. Hoppers on all collection vehicles will be cleared frequently to prevent the occurrence of blowing or spillage.
- (b) Any spillage of In-Scope PPP that occurs during the performance of the Services will be immediately cleaned up or removed by Collection Partner at its sole expense and Collection

¹ Note to Draft: Bracketed section only to be included where applicable.

Partner expressly acknowledges it is solely responsible for any violations of Applicable Law that may result from such spillage.

- (c) Without limiting Section 2.1.6(b) above, Collection Partner will maintain all collection vehicles to ensure that no liquid wastes (e.g., leachate) or oils (e.g., lubricating, hydraulic or fuel) are discharged to Customer premises, Public Roads or Private Roads. All collection vehicles used by Collection Partner will have a spill kit sufficient in size to contain a spill of equivalent volume to the largest lubricating, hydraulic or fuel tank on the largest collection vehicle. Collection Partner will clean up or remove, at its sole expense, any discharge of liquid wastes or oils that may occur from Collection Partner's collection vehicles as soon as practicable after Collection Partner discovers the same or is notified of such discharge by route staff, Customers or Recycle BC. Collection Partner will immediately notify Recycle BC or the Designated Post-Collection Service Provider of any spills that enter ground-water or drainage systems.
- 2.2. Customer Service and Management. As part of the Services, Collection Partner will provide the following customer service and management services:
- 2.2.1. Community Education Requirements. With the support of Recycle BC as set forth in Section 2.3, Collection Partner will provide and maintain throughout the Term community education initiatives to support Customer understanding and education for the Curbside or Mobile Depot Collection programs. Collection Partner representatives will be familiar with the Recycle BC program requirements and will make best efforts to be available for communication with Customers and Recycle BC representatives.
 - 2.2.2. Community Education Representative. Collection Partner staff will provide education and feedback to Customers on proper sorting of In-Scope PPP categories, Not Accepted Materials and work towards continuous improvement in Customer participation.
- 2.3. Promotion, Education and Outreach.
- 2.3.1. Collection Partner will have primary responsibility for:
 - (a) executing public promotion, community education and outreach programs associated with the collection of In-Scope PPP; and
 - (b) providing service-oriented information to Customers, such as dates and times of curbside collection.
 - 2.3.2. Collection Partner is encouraged to incorporate Recycle BC-developed communications messages and images in Collection Partner's public promotion, community education and outreach programs.
 - 2.3.3. Recycle BC will maintain accurate and current educational material for Collection Partners use in their public promotion, community education and outreach associated with the collection of In-Scope PPP, including recycling guides, collection calendars, website content and "oops tags."
- 2.4. Transition and Implementation Services. If, immediately prior to the Effective Date, Collection Partner did not perform or provide the Services from Curbside Households in the Service Area, Collection Partner will, with Recycle BC's assistance, prepare and deliver to Recycle BC within 30 days following the Effective Date a draft transition and implementation plan (the "**Transition and Implementation Plan**"). The Transition and Implementation Plan will set out how Collection Partner will implement the Services and will cover the period from the Service Commencement Date up to and including the six (6) month anniversary of the Service Commencement Date (the "**Transition Period**"). Collection Partner will describe in detail what is involved with each of the activities and events listed in the Transition and Implementation Plan. The final Transition and Implementation Plan will be subject to Recycle BC's prior approval and will be developed in collaboration with

Recycle BC. Each of Collection Partner and Recycle BC will use good faith efforts to ensure that the Transition and Implementation Plan is finalized at least 30 days prior to the Service Commencement Date.

2.5. Changes.

- 2.5.1. Either party may, at any time and from time to time, request additions, deletions, amendments or any other changes to the Services or the manner in which such Services shall be performed (a “**Change**”) by issuing a detailed proposal (a “**Change Proposal**”).
- 2.5.2. If it is not technically possible for Collection Partner to implement the Change Proposal, the parties will meet to discuss, in good faith, possible alternatives to implement the Change Proposal.
- 2.5.3. Within thirty (30) Business Days of delivery of a Change Proposal, Collection Partner will, in collaboration with Recycle BC, provide a detailed change order to Recycle BC, which must include details with respect to the implementation of the Change and details of any costs or other changes required to this Agreement to comply with the Change (a “**Change Order**”).
- 2.5.4. If Recycle BC, in its sole discretion, accepts a Change Order, the parties will execute such Change Order. For clarity, Collection Partner will not implement any Change Order unless it has been accepted and executed by Recycle BC.
- 2.6. Non-Exclusive. This Agreement will not grant Collection Partner exclusivity of supply unless expressly stated otherwise, with reference to this Section.

SECTION 3. DURATION

- 3.1. Term of Agreement. This Agreement will begin on the Effective Date and will continue until _____, 2029 (the “**Initial Term**”).²
- 3.2. Renewal. Collection Partner shall have the option to renew this Agreement for subsequent five (5) year terms (each such term, a “**Renewal Term**”). In order to exercise its right to renew this Agreement, Collection Partner must provide written notice to Recycle BC at least 90 days prior to the end of the Initial Term or applicable Renewal Term. In connection with its decision to renew (or not renew) the Agreement in accordance with this Section 3.2, Collection Partner may request amendments to the Agreement (including Schedule 5.1) . Recycle BC will in good faith consider any requested amendments to the Agreement having regard, in each case, to the principles set forth in Section 1.5. Any amendments to the Agreement pursuant to and in accordance with this Section 3.2 will be set forth in a written instrument signed by each of the parties in accordance with Section 14.20.

SECTION 4. SERVICE STANDARDS

- 4.1. Performance. Collection Partner guarantees that Collection Partner will perform, or cause to be performed (including through appropriate supervision and inspection), the Services and otherwise fulfill its obligations in this Agreement honestly and in good faith by exercising reasonable skill, care and diligence, in accordance with generally recognized industry standards. Except where otherwise set out in the Agreement, all weighing and measurement to be performed by Collection Partner will be made in accordance with the Recycle BC Policies and Standards on weights and measurements identified in Schedule 4.4.

² Recycle BC has proposed a term end date that will align with the term end date of its existing agreements for operational purposes.

- 4.2. Personnel Conduct. Collection Partner personnel performing the Services will at all times be courteous, refrain from loud, inappropriate or obscene language, exercise due care, perform their work without delay, minimize noise and avoid damage to public or private property.
- 4.3. Vehicle Standards. Without limiting any other requirements or obligations of Collection Partner, Collection Partner will meet or exceed the following standards in respect of collection vehicles used to perform the Services: will: (a) be well maintained and clean; (b) have appropriate safety markings, including all highway lighting, flashing and warning lights, clearance lights and warning flags, all in accordance with Applicable Law; (c) operate properly and be maintained in a condition compliant with all Applicable Laws and good industry standards; and (d) be equipped with variable tone or proximity activated reverse movement back-up alarms. Any vehicles not meeting the requirements in this Section 4.3 will not be used within the Service Area until repairs are made.
- 4.4. Collection Partner to Comply with Recycle BC Policies and Standards. Collection Partner will comply at all times with all terms and requirements set out in the policies and standards set out in Schedule 4.4, as such policies and standards may be updated by Recycle BC from time to time, and such other policies and standards that Recycle BC brings to the attention of Collection Partner from time to time through written notice (collectively, "**Recycle BC Policies and Standards**"). Notice of updating of, or new, Recycle BC Policies and Standards may be made by Recycle BC by e-mail to the address set out in Section 14.8 and, despite Section 14.8, such notice will be deemed properly given when it has been e-mailed. There is no need to confirm receipt. If compliance with updated or new Recycle BC Policies and Standards would require a Change and would require Collection Partner to incur material additional costs, then Collection Partner may request a Change under Section 2.5 for the implementation of the updated or new Recycle BC Policies and Standards; as long as Collection Partner makes any such request within thirty (30) days of Recycle BC providing notice of the updated or new Recycle BC Policies and Standards.
- 4.5. Compliance with Law. Collection Partner will perform its obligations under this Agreement in a manner that complies with all Applicable Laws, including, for certainty, all environmental, waste management and employment standards laws.
- 4.6. Suitable Personnel. Upon Recycle BC's request, Collection Partner will promptly investigate any written complaint from Recycle BC regarding any unsatisfactory performance by any of Collection Partner's personnel (including employees of a subcontractor or agent) and take immediate corrective action.
- 4.7. Service Levels.
- 4.7.1. Collection Partner will continuously monitor each Service in order to identify, measure and report and correct problems and to ensure that Collection Partner is meeting or exceeding the following service levels (the "**Service Levels**"):
- (a) all service levels set out in this Agreement, including Schedule 4.7; and
 - (b) if no service level is provided for a Service or a component of a Service, all performance levels and measurements for such Service or component that are industry best practices.
- 4.7.2. If Collection Partner fails to meet a Service Level (each such failure a "**Service Level Failure**"):
- (a) (i) Collection Partner will notify Recycle BC in writing immediately of a Service Level Failure; or (ii) if such Service Level Failure was reported to Recycle BC by a third party or discovered pursuant to an audit, Recycle BC will notify Collection Partner in writing of a Service Level Failure;

- (b) Collection Partner will provide an action plan to Recycle BC that addresses the Service Level Failure and sets out how a similar Service Level Failure will be avoided in future (a **"Remediation Plan"**);
 - (c) at Recycle BC's request, the parties will meet to discuss the Remediation Plan; and
 - (d) Recycle BC may, in its sole discretion, charge Collection Partner the applicable Service Level Failure Credit in the amount set out in Schedule 4.7, provided that Recycle BC will not charge Collection Partner for any Service Level Failure Credits during the Transition Period.
- 4.7.3. Collection Partner agrees that Service Level Failure Credits compensate Recycle BC in part for the reduced value of the Services actually provided by Collection Partner (and not as a penalty or exclusive liquidated damages).
- 4.7.4. Upon either parties request, and in any event at least once per year, Recycle BC will meet with Collection Partner (which meeting may be in person or by phone as determined by Recycle BC) to review and discuss Collection Partner's performance level of the Services and to strategize for meeting the Service Levels, including through implementing effective public promotion, community education and outreach.
- 4.7.5. If the Designated Post-Collection Service Provider rejects a load of In-Scope PPP from Collection Partner due to a verified claim that the load either (i) contains more than 5% by weight of Not Accepted Materials; (ii) contains any Hazardous Waste; or (iii) resulted in the cross contamination of separated materials, Recycle BC has the right to designate alternative procedures and requirements associated with that load and to deduct any additional costs incurred from the Fees otherwise due to Collection Partner. Any such deduction of Fees shall represent the actual costs associated with the non-compliant load of In-Scope PPP and shall be distinct from any applicable Service Level Failure Credit.
- 4.8. Labour Disruption.
- 4.8.1. In the event that a labour disruption of any kind causes a reduction in Service Levels (a **"Labour Disruption"**), Collection Partner will tell Recycle BC as soon as possible by phone and e-mail of the nature and scope of the disruption.
- 4.8.2. In the event that a Labour Disruption lasts more than three (3) collection cycles (e.g. bi-weekly), and for so long as the Labour Disruption continues, Recycle BC may elect to suspend payment of Fees and/or terminate the Agreement through the following process:
- (a) Recycle BC will provide written notice to Collection Partner setting forth its concerns with respect to the impact of the Labour Disruption on Service Levels and that it may exercise its right to terminate this Agreement for cause if (i) the Labour Disruption is not resolved within twenty-one (21) days following delivery of such notice or (ii) Collection Partner does not take actions satisfactory to Recycle BC, acting reasonably, to mitigate the impacts of the Labour Disruption on Service Levels during such twenty-one (21) day period.
 - (b) If the Labour Disruption is not resolved within twenty-one (21) days following delivery of such notice and Collection Partner has not taken actions satisfactory to Recycle BC, acting reasonably, to mitigate the impacts of the Labour Disruption on Service Levels during such twenty-one (21) day period, Recycle BC may at any time during the continuance of the Labour Disruption suspend payment of Fees and/or terminate this Agreement; provided, however, that Recycle BC shall take into account the principles set forth in Section 1.5 and consider in good faith any information provided by Collection Partner with respect to such Labour Disruption, including information with respect to the anticipated duration of the

Labour Disruption and/or actions taken to mitigate the impact of such Labour Disruption prior to exercising its right to suspend payment of Fees and/or terminate this Agreement pursuant to and in accordance with this Section 4.8.2.

SECTION 5. PAYMENT

- 5.1. Fees. The fees payable to Collection Provider in consideration of the complete and proper fulfillment of Collection Partner's obligations in accordance with the terms and conditions of this Agreement (the "**Fees**") will be as set forth in Schedule 5.1. Except as expressly set out in Schedule 5.1, there will be no other amounts payable by Recycle BC to Collection Partner 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. For greater certainty, the parties acknowledge and agree that the Fees do not relate to, and will not be allocated to, the operation and maintenance of the Collection Partner's community infrastructure assets, including solid waste management and related services, and in particular would not constitute funding similar to any funding provided by Indigenous Services Canada ("**ISC**") to the Collection Partner under ISC's Capital Facilities and Maintenance Program (or any program which may provide similar funding to the Collection Partner for the operation and maintenance of the Collection Partner's community infrastructure assets).
- 5.2. Purchase Orders. Recycle BC will issue purchase orders to Collection Partner at the end of each calendar month for the pro-rata portion of the annualized rate, which will be calculated from the Curbside Household Baseline. If In-Scope PPP includes Glass Bottles and Jars, purchase orders will include any relevant amounts from approved Claim Information.
- 5.3. Payment. Subject to the terms and conditions of this Agreement, Recycle BC will pay Collection Partner, via electronic funds transfer, the undisputed Fees for the Services within thirty (30) days of the purchase order date. Collection Partner will provide Recycle BC with complete and accurate billing and contact information, including all information required by Recycle BC to effect electronic funds transfers and a billing email address to which Recycle BC may send submission reports and purchase orders. Collection Partner will promptly provide Recycle BC with any updates to such billing and contact information.
- 5.4. Set-Off. Recycle BC may set-off and deduct from any amounts payable to Collection Partner: (a) any amounts owing by Collection Partner to Recycle BC under this Agreement or any other agreement between Collection Partner and Recycle BC that deals with the Services, including any Service Level Failure Credits; and (b) any costs incurred by Recycle BC in collecting any amounts owing by Collection Partner to Recycle BC under this Agreement or any other agreement between the parties that deals with the Services. The failure by Recycle BC to set-off or deduct any amount from an invoiced payment will not be considered a waiver of Recycle BC's right to set-off, deduct or collect such amount.
- 5.5. 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 Collection Partner clearly and separately itemizes such taxes on Collection Partner's invoice to Recycle BC, Recycle BC will pay and Collection Partner will pay such taxes to the appropriate taxing authority. On request, Collection Partner will provide reasonable assistance to Recycle BC to challenge the validity of any tax imposed on it due to this Agreement. If it is determined that Recycle BC paid Collection Partner an amount for tax that was not due, Collection Partner will refund the amount to Recycle BC. 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.
- 5.6. Withholding Taxes. Recycle BC may deduct or withhold from any payment(s) made to Collection Partner any amount that Recycle BC 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 Collection Partner by Recycle BC.

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

SECTION 6. REPORTING AND AUDIT

- 6.1. Record Keeping. During the Term and until the later of: (a) three (3) years (or such longer period as may be required by Applicable Law); or (b) the date all Disputes or other matters relating to this Agreement are resolved, Collection Partner 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 Collection Partner by Recycle BC (including tonnage by collection date and weight scale ticket, which must include the collector name and truck number), and all data, records, and documents relating to the performance of the Services, and compliance with Collection Partner's obligations under this Agreement.
- 6.2. Reporting. Collection Partner will provide the following reports to Recycle BC:
- 6.2.1. provide a report to Recycle BC on associated collection metrics necessary to calculate the greenhouse gas emissions associated with the performance of the Services no more frequently than once per quarter and no less frequently than once per year;
 - 6.2.2. upon Recycle BC's request, provide a report on the costs associated with the performance of the Services, no more frequently than once per year;
 - 6.2.3. upon Recycle BC's request, provide a response to questions posed by Recycle BC's non-financial auditor; and
 - 6.2.4. such additional reports as Recycle BC may reasonably identify from time to time to be generated and delivered by Collection Partner on an ad-hoc or periodic basis.

For reports that are provided at Recycle BC's request, Recycle BC will use best efforts to communicate such request sixty (60) days in advance of due date. Collection Partner and Recycle BC will meet to discuss requests outside of this scope, all parties being reasonable.

- 6.3. Claims Reporting.
- 6.3.1. Responsibility for claim reporting under this Section 6.3 shall be assigned to the Designated Post-Collection Service Provider, provided that, Collection Partner will be responsible for claim reporting in the event that the Designated Post-Collection Service Provider is precluded from doing so.
 - 6.3.2. All loads will be documented by the Designated Post-Collection Service Provider in a manner specified by Recycle BC, including by a certified scale ticket provided by the Designated Post-Collection Service Provider with Collection Partner name and address, Designated Post-Collection Facility's name and address, date, time, truck number, net weight by material type (as set out in Schedule 2.1.2) and such other information as Recycle BC may designate (collectively, "**Claim Information**").
 - 6.3.3. Recycle BC will issue a claim summary to Collection Partner based on Claim Information directly provided to Recycle BC by the Designated Post-Collection Service Provider, under Section 6.3.2,

and Collection Partner will review the claim summary for accuracy. Collection Partner must report to Recycle BC any content in the claim summary that Collection Partner disputes within thirty (30) days of the claim summary being issued.

- 6.3.4. After Recycle BC has approved the Claim Information, Recycle BC will issue a purchase order to Collection Partner in accordance with Section 5.2.

6.4. Audit.

- 6.4.1. Without limiting any other audit right, during the Term and for the period Collection Partner is required to comply with Section 6.1, Recycle BC (or its audit representative) will have the right upon reasonable prior written notice, to inspect and audit:

- (a) any site, facility, vehicle, or equipment relating to the performance of the Services;
- (b) any materials collected, transported, processed, or otherwise handled under this Agreement; and/or
- (c) all data, records, documentation and other information of Collection Partner relating to this Agreement or the Services, including those retained under Section 6.1,

in order to verify Collection Partner's performance and compliance with its obligations under this Agreement or the amounts paid or payable by Recycle BC under this Agreement.

- 6.4.2. If an audit reveals any breaches or deficiencies in respect of the terms of this Agreement, including an overpayment by Recycle BC to Collection Partner, Collection Partner will rectify such breach or deficiency within ten (10) Business Days.

- 6.4.3. Collection Partner will co-operate with and provide (or cause its subcontractors to cooperate with and provide) to Recycle BC (or its audit representative) such reasonable assistance as they require in order to exercise the rights set out in this Section 6.4.

SECTION 7. REPRESENTATIONS AND WARRANTIES

- 7.1. Collection Partner Representations and Warranties. Collection Partner represents and warrants to and covenants with Recycle BC that:

- (a) **[if Collection Partner is a corporation or a society:** 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 in order to transact its business and perform its obligations set out in this Agreement;

if Collection Partner is a band: it is a band within the meaning of the *Indian Act*, RSC 1985 c I-5 as amended, and represented by their Chief and Council, and has been authorized to enter into this Agreement;]

- (b) it has full power, authority, and right to execute and deliver this Agreement, to make the representations, warranties, and covenants set out here, and to perform its obligations under this Agreement in accordance with its terms;
- (c) this Agreement has been validly executed by an authorized representative of Collection Partner, and creates a valid and legally binding and enforceable obligation of Collection Partner;

- (d) it has and will, at its own expense, obtain all permits, certificates and licenses required by Applicable Law for the performance of the Services;
- (e) the representations, warranties, covenants, claims, inducements, and agreements made by Collection Partner in Collection Partner'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 fee; and
- (f) 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 Recycle BC in connection with this Agreement and, to the best of its knowledge, no officer, director, employee, agent or representative of Collection Partner has given any such commissions, payments, kickbacks, gifts, entertainment or other inducements to any employee or agent of Recycle BC.

SECTION 8. CONFIDENTIALITY

- 8.1. Confidentiality Covenant. The Receiving Party will: (a) take all measures reasonably required to maintain the confidentiality and security of the Confidential Information of the Disclosing Party; (b) 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; (c) 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 (d) be responsible for any breach of this Agreement by any of its Representatives.
- 8.2. Legal Requirement. Despite Section 8.1, 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.
- 8.3. 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 irrecoverably destroy, any Confidential Information of the Disclosing Party.
- 8.4. Privacy Laws. Collection Partner will not access, collect, use, disclose, dispose of or otherwise handle personal information that is subject to Applicable Laws relating to privacy ("**Privacy Laws**") in the performance of its obligations under this Agreement, unless it necessary to perform the Service. Any collection, use, disclosure, disposal or handling of personal information by Collection Partner will be: (a) in accordance with all Privacy Laws (including any consent requirements); and (b) in a manner that enables Recycle BC to comply with all Privacy Laws. Collection Partner will immediately notify Recycle BC if Collection Partner becomes aware that Collection Partner has failed to comply with Privacy Laws in connection with the performance of this Agreement.

SECTION 9. PROPRIETARY RIGHTS

- 9.1. Intellectual Property. Except as otherwise agreed to by the parties in writing, the Work Product, together with any Intellectual Property Rights in the Work Product, will be owned by Recycle BC. Accordingly, Collection Partner will assign and does assign to Recycle BC all rights, title and interest it may have from time to time in the Work Products effective upon creation. During the

Term, Collection Partner will have a non-exclusive, non-transferable license to use the Work Products for the sole purpose of providing and completing the Services. Collection Partner will obtain from all individuals involved in the development of the Work Product an express and irrevocable waiver in favour of Recycle BC, 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 Collection Partner or such individuals, as authors, have with respect to the Work Products. Despite this, Recycle BC shall not acquire any Intellectual Property Rights with respect to Collection Partner's tools, equipment, methodologies, questionnaires, responses, and proprietary research and data, as well as any and all computer software, code or codes and technology, used by Collection Partner in connection with the provision of the Services under this Agreement that is created or acquired prior to the Effective Date or otherwise created or acquired independent of the Services ("**Collection Partner Background IP**"). Collection Partner grants to Recycle BC a perpetual, worldwide, fully-paid, and sub-licensable license to the Collection Partner Background IP as necessary for Recycle BC to exercise its rights in and to the Work Product and otherwise use the Services and obtain the rights granted to Recycle BC under this Agreement. All Work Product in the possession of Collection Partner will be promptly delivered to Recycle BC following termination of this Agreement or at such other time as Recycle BC may reasonably request.

SECTION 10. INDEMNITY

- 10.1. Indemnity. Collection Partner will indemnify and save harmless Recycle BC, 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 Collection Partner or any person for whom the Collection Partner is, at law or under this Agreement, responsible, in relation to the Services or this Agreement, including those arising out of any (a) breach of this Agreement; (b) damages to persons or property, personal injury or death; (c) breach of Applicable Law; (d) spill, leak, contamination, or other environmental damage; or (e) infringement, violation or misappropriation of any third party's right, including any Intellectual Property Right.
- 10.2. Available Remedies. If Collection Partner sustains damage in the course of performing the Services that is caused by another contractor of Recycle BC with whom Collection Partner is required under this Agreement to interact with directly (an "**Other Service Provider**"), Recycle BC will, upon Collection Partner's reasonable and good faith request, use commercially reasonable efforts to exercise, for Collection Partner's benefit, such contractual remedies of indemnification or receipt of Service Level Failure Credits as Recycle BC may have with the Other Service Provider that apply to the damage sustained by Collection Partner and the event which caused the damage; provided that Collection Partner: (a) has first used reasonable efforts to address the damage directly with the Other Service Provider, including exercising direct remedies Collection Partner may have under Applicable Law, contract or otherwise; and (b) will have a duty to mitigate its damages.

SECTION 11. INSURANCE

- 11.1. Insurance. During the Term, and for any additional period following the end of the Term set out in Schedule 11.1, Collection Partner 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 11.1, and Collection Partner will (and will cause its subcontractors to) otherwise comply with the provisions of Schedule 11.1. Failure to secure or maintain such insurance coverage, or the failure to comply fully with any of Schedule 11.1 will be considered a material breach of this Agreement. None of the requirements contained in this provision with regard to types, limits and approval of insurance coverage to be maintained by Collection Partner, are intended to and will not in any manner limit the liabilities and obligations assumed by Collection Partner under this Agreement. **[Note to Collection Partner: This insurance clause sets out the typical**

requirements for contractors of Recycle BC, but the parties may discuss available alternatives.]

SECTION 12. TERMINATION

- 12.1. Termination for Convenience. Collection Partner party may terminate this Agreement upon giving Recycle BC one hundred eighty (180) days' prior written notice (or such shorter amount of notice as mutually agreed in writing by the parties).
- 12.2. Termination by Recycle BC for Cause. Recycle BC may elect to terminate this Agreement by providing written notice of such termination, effective immediately or at such other time set out in the notice of termination, to Collection Partner in the event that:
- (a) Collection Partner becomes subject to proceedings in bankruptcy or insolvency, voluntarily or involuntarily, if a receiver is appointed with or without Collection Partner's consent, if Collection Partner assigns its property to its creditors or performs any other act of bankruptcy, if Collection Partner becomes insolvent and cannot pay its debts when they are due, and/or if any event, circumstance, or action similar to any of the foregoing occurs with respect to Collection Partner and/or any of its property (as determined by Recycle BC in good faith after discussion with representatives of Collection Partner and good faith consideration of any information provided by Collection Partner);
 - (b) Collection Partner commits a material breach of this Agreement and does not cure such breach within sixty (60) days of receipt of notice regarding the same from Recycle BC (or such longer period as Recycle BC and Collection Partner may agree in writing if Collection Partner is making reasonable efforts to cure such breach);
 - (c) Collection Partner fails to provide all or a material part of the Services for a consecutive period of more than twenty-one (21) days, unless this is a result of a Labour Disruption (in which case the rights of Recycle BC to terminate this Agreement will be solely as set forth in Section 4.8) or Force Majeure (in which case the rights of Recycle BC to terminate this Agreement will be solely as set forth in Section 14.6) ;
 - (d) Collection Partner's performance of the Services creates a hazard to public health or safety or to the environment and Collection Partner does not resolve such issue to the reasonable satisfaction of Recycle within twenty-one (21) days following receipt of notice regarding the same from Recycle BC (or such longer period as Recycle BC and Collection Partner agree in writing if Collection Partner is making reasonable efforts to address such hazard);
 - (e) Collection Partner is assessed five separate Service Level Failure Credits during any rolling six (6) month period and fails to take such corrective action approved by Recycle BC as is necessary to ensure that the applicable Service Level Failures do not continue to occur; or
 - (f) any other termination right described in this Agreement is triggered.

Notwithstanding the foregoing, and having regard to the principles set forth in Section 1.5, Recycle BC acknowledges and agrees that it will (i) provide Collection Partner with the opportunity to provide Recycle BC with information regarding any of the events or circumstances set forth in clauses (a) to (e) and give reasonable consideration to such information prior to exercising any right to terminate the Agreement pursuant to this Section 12.2 and (ii) to the extent applicable, work collaboratively with Collection Partner to identify mutually acceptable strategies to cure or otherwise address the events or circumstances that gave rise to such termination right.

- 12.3. Termination by Collection Partner for Cause. Collection Partner may elect to terminate this Agreement by providing written notice of such termination, effective immediately, to Recycle BC in

the event that Recycle BC fails to pay undisputed Fees, as they become due, in the preceding three months and Recycle BC does not cure such non-payment within sixty (60) days of receipt of notice from Collection Partner.

- 12.4. Change in Applicable Law. Recycle BC may elect to terminate this Agreement by providing written notice of such termination, effective immediately or at such other time set out in the notice of termination, to Collection Partner in the event that there is a material change in Applicable Law applicable to Recycle BC or the Services, including if there is a material change to an approved plan under the Regulation or if any new plan (whether submitted by Recycle BC or any other person) is approved under the Regulation, as a result of which Recycle BC no longer has the legal authority or mandate to perform its obligations under this Agreement, or (b) Recycle BC ceases, for any other reason, to be engaged in the business of managing the recycling of In-Scope PPP in the Province of British Columbia. In each case, Recycle BC shall provide written notice of termination pursuant to this Section 12.4 as far in advance as reasonably practicable in the circumstances.
- 12.5. Termination Obligations and Assistance. Upon termination or expiration of this Agreement, Collection Partner will cooperate with Recycle BC to ensure the orderly wind down of the Services.
- 12.6. Survival. The following sections will survive the expiration or termination of this Agreement: Section 8 (Confidentiality), Section 10 (Indemnity), Section 11 (Insurance and Performance Bond), Section 13 (Dispute Resolution) and Section 14 (General Provisions) in their entirety, and Sections 6.1, 6.4, 9.1, 12.5, and 12.6. For the avoidance of doubt, each of the parties acknowledges and agrees that the termination of this Agreement shall not impact the right of Collection Partner to be paid in full, on and subject to the terms and conditions of this Agreement, for Services provided prior to such termination.

SECTION 13. DISPUTE RESOLUTION

- 13.1. Disputes. Any dispute, controversy, disagreement, or claim arising out of, relating to or in connection with this Agreement, or the breach, termination, existence or invalidity (each, a "**Dispute**"), between Recycle BC and Collection Partner will be addressed as follows:
- (a) Either party may notify the other party of a Dispute by providing a written notice of the Dispute ("**Dispute Notice**").
 - (b) Upon receipt of a Dispute Notice, the parties will first attempt to resolve the Dispute through negotiation and consultation between the parties. If parties are unable to informally resolve the Dispute within fifteen (15) days, either party may escalate the Dispute to senior representatives of Recycle BC and Collection Partner, who will meet and work together in good faith to attempt to resolve the Dispute within a further fifteen (15) days, or as otherwise agreed upon.
 - (c) If the Dispute is not resolved in accordance with Section 13.1(b), 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). The parties will attempt to resolve the Dispute through mediation for a period of forty-five (45) days from the point at which a party escalated the Dispute to mediation, following which either party may escalate the Dispute by delivering a written notice to the other party referring the matter to binding arbitration. Each party will be responsible for its own costs of participating in a mediation and 50% of the costs of the mediator.

- (d) If the Dispute is not resolved in accordance with Section 13.1(c), unless otherwise mutually agreed by the parties in writing, either party may escalate the Dispute by delivering a written notice to the other party referring the matter to binding arbitration. The arbitration will take place before a single arbitrator in Vancouver in the English language under the rules of the ADR Institute of BC. 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 ADR Institute of BC. 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 Recycle BC and Collection Partner as the case may be. Each party will be responsible for its own costs of participating in a mediation and 50% of the costs of the arbitrator.
- (e) Despite anything to the contrary in this Section 13.1, 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 attorns to the non-exclusive jurisdiction of the courts of the province of British Columbia for such purpose.

SECTION 14. GENERAL PROVISIONS

- 14.1. Relationship of the Parties. The Collection Partner and Recycle BC 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 require or bind the other party. Personnel supplied by Collection Partner will work exclusively for Collection Partner and will not be considered employees or agents of Recycle BC for any purpose.
- 14.2. Assignment. This Agreement may not be assigned by either party in whole or in part, without the other party's prior written consent, except that Recycle BC may assign this Agreement without Collection Partner's consent to a person with an approved plan under the Regulation, or who otherwise has obligations similar to those of Recycle BC or one or more Producers under any successor regulation or legislation, or to a person as part of a corporate reorganization of Recycle BC. Any attempt by a party to assign all or any part of this Agreement without prior written consent (where such consent is required) is void. Any assignment occurring by operation of law such as on a bankruptcy or amalgamation will be considered an assignment and will be subject to this Section 14.2.
- 14.3. No Double Charge. Collection Partner will not directly or indirectly charge Customers, including by way of tax, levy or other surcharge, for the cost of providing the Services if and to the extent that such costs are covered by Fees (prior to deducting any Service Level Failure Credits) or other payments that Collection Partner is entitled to receive from Recycle BC under this Agreement. In the event that the Fees do not fully cover the Collection Partner's costs of the program, the Collection Partner may directly or indirectly charge Customers for the portion of the costs of providing the Services that are not covered by the Fees; provided that the Collection Partner shall not profit from such amounts.
- 14.4. Scavenging Forbidden. Collection Partner will not scavenge, or permit any employee (or, at the request of Recycle BC, any other person) to scavenge, any materials (including, if permitted by law, materials other than In-Scope PPP that have been set out to be collected by other collection service providers) at any time and at any location during Collection Partner's performance of the Services or otherwise.
- 14.5. Risk. Collection Partner will be responsible for all risks, including risk of loss or damage caused by the In-Scope PPP, from the time that the In-Scope PPP is collected by Collection Partner until the Collection Partner delivers such In-Scope PPP to the Designated Post-Collection Facility or Consolidation Facility. In-Scope PPP will be deemed to be delivered when off-loaded from Collection Partner's vehicles at the Designated Post-Collection Facility or Consolidation Facility and accepted by receipt of scale ticket or bill of lading from the Designated Post-Collection Service

Provider. Collection Partner will be responsible for the cost of any damage to Collection Containers, the Designated Post-Collection Facility or the Consolidation Facility caused by Collection Partner.

14.6. Force Majeure.

14.6.1. Neither party to this Agreement will be liable to the other party for any failure or delay in fulfilling an obligation under this Agreement if said failure or delay is attributable, in whole or in part, to any condition or cause not in its control or not avoidable by reasonable diligence ("**Force Majeure**"), which shall include the following:

- (a) an act of God, natural disaster, earthquake, fire, flood or epidemic;
- (b) war, riot or civil disturbance
- (c) prolonged power failure;
- (d) unusual or extraordinary damage, breakage or other issues beyond such party's reasonable control affecting the equipment, machinery or facilities of such party resulting in curtailment or suspension of operations; and
- (e) material curtailment or suspension of the recycling operations at the Designated Post-Collection Facility beyond such party's reasonable control.

The parties agree that the deadline for fulfilling the obligation in question will be extended for a period of time equal to that of the continuance of the Force Majeure.

14.6.2. Upon the occurrence of a Force Majeure, the party to which the Force Majeure applies will (a) provide prompt written notice to the other party, (b) use all commercially reasonable efforts to minimize the effect of the Force Majeure on its performance under this Agreement and (c) provide the other party with reasonably frequent updates on the status of the Force Majeure and its anticipated duration. During the continuance of the Force Majeure, each of the parties will in good faith collaborate to find potential solutions for mitigating the impact of the Force Majeure event and restoring Services as soon as reasonably practical.

14.6.3. If Collection Partner (a) fails to perform its obligations under this Agreement for a period of sixty (60) days or more due to a Force Majeure event and (b) and is not taking such actions to mitigate the impacts of the Force Majeure event as Recycle BC may reasonably require, Recycle BC may at any time during the continuance of the Force Majeure event suspend the payment of fees and/or terminate this Agreement on no less than thirty (30) days prior written notice to Collection Partner; provided, however, that such notice of termination will be automatically revoked if the Force Majeure event is resolved or such failure is otherwise cured to the satisfaction of Recycle BC, acting reasonably, during the applicable notice period.³

14.7. Governing Law. This Agreement will be governed by and construed in accordance with the applicable laws of the Province of British Columbia and the laws of Canada.

14.8. Notices. All notices, requests, demands or other communications given by one party to the other party, will be in writing, in the English language, and addressed to the other party at its address listed below (or such other address may be specific in writing by either party).

³ Under this drafting, Recycle BC would only be permitted to terminate the Agreement if the Force Majeure event continues for at least 90 days **and** Collection Partner is not making reasonable efforts to mitigate the impacts of the Force Majeure event.

To Collection Partner:



email: [redacted]

Attention: [redacted]

To Recycle BC:

MMBC Recycling Inc.
405-221 West Esplanade
North Vancouver, BC V7M 3J3

email: agreements@recyclebc.ca

Attention: Director, Collection Recycle BC

Notices will be deemed properly given (a) when delivered by hand; (b) by e-mail (with receipt confirmed); (c) on the designated day of delivery after being given to an express overnight courier with a reliable system for tracking delivery; or (d) six (6) days after the day of mailing, when mailed by Canada Post, registered or certified mail, return receipt requested and postage prepaid.

- 14.9. Further Assurances. Each party agrees to execute such other documents or instruments of any nature whatsoever and to do and perform such other acts and things as the other party may reasonably request in order to give effect to this Agreement.
- 14.10. No Publicity. Except as required by Applicable Law, neither party shall issue any press release or otherwise make any public statement with respect to this Agreement or Service performance metrics without the prior consent of the other party; provided, however, that nothing in this Section 14.10 will prevent or restrict (a) Recycle BC from referencing the existence of this Agreement or its partnership with Collection Partner in connection with general presentations on its recycling programs or (b) Collection Partner from disclosing the existence of this Agreement or its partnership with Recycle BC to Occupants. Collection Partner will not use the name or trademarks of Recycle BC unless it has obtained Recycle BC's prior written approval.
- 14.11. Binding Effect. This Agreement shall enure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.
- 14.12. Authority under Enactments. Except as specifically provided herein, nothing in this Agreement shall affect the rights and powers of either Recycle BC or Collection Partner in the exercise of their respective functions, rights, powers or authority under any enactments or regulations, which may be fully and effectively exercised as if this Agreement had not been made.
- 14.13. Jurisdiction over the Service Area. This Agreement shall not be construed so as to prejudice or in any way affect Collection Partner's interest in and jurisdiction over the Service Area (as applicable) or provide, in any manner, Recycle BC with any jurisdiction it otherwise does not have over the Service Area.
- 14.14. Aboriginal Rights and Title. None of the existence of this Agreement or the contents of this Agreement or the transactions contemplated by this Agreement shall be admissible before any court, tribunal, board, commission or other body to impair or confirm any aboriginal rights or title of the aboriginal nation or which the Collection Partner is part, or of any other aboriginal people of Canada. All are without prejudice to the position any party to this Agreement may take with respect to aboriginal rights or title now or at any time or place in the future.

- 14.15. Good Faith. The parties will perform their respective obligations under this Agreement in good faith.
- 14.16. Timing. Time is of the essence in this Agreement.
- 14.17. Severability. If any provision of this Agreement is determined by any court of competent jurisdiction to be illegal or unenforceable, that provision will be severed from this Agreement and the remaining provisions will continue in full force and effect.
- 14.18. Waiver. A waiver of any provision of this Agreement will only be valid if provided in writing by the waiving party to the other party, and no waiver of a provision in one instance will be considered a waiver of any other instance involving the exercise of that provision unless set out in writing by the party giving the waiver.
- 14.19. Remedies Cumulative. No single or partial exercise of any right or remedy under this Agreement will prevent any other or further exercise of any other right or remedy in this Agreement or as provided at law or in equity. Rights and remedies provided in this Agreement are cumulative and not exclusive of any right or remedy provided at law or in equity.
- 14.20. Amendment. This Agreement will not be amended except as set out in writing and signed by the parties.
- 14.21. Entire Agreement. This Agreement makes up the entire agreement between the parties and supersedes all prior agreements between the parties related to the subject matter of this Agreement.
- 14.22. Counterparts. This Agreement may be executed electronically and in counterparts. Each counterpart is deemed to be an original and, collectively, deemed to be the same instrument.

(Signature page follows.)

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

MMBC RECYCLING INC.

[COLLECTION PARTNER]

Signature: [SAMPLE – NOT FOR SIGNATURE]
(I have authority to bind Recycle BC)

Signature: [SAMPLE – NOT FOR SIGNATURE]
(I have authority to bind Collection Partner)

Name: _____
(Please Print)

Name: _____
(Please Print)

Title: _____

Title: _____

Signature: [SAMPLE – NOT FOR SIGNATURE]
(I have authority to bind Collection Partner)

Name: _____
(Please Print)

Title: _____

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

**SCHEDULE 2.1.1
SERVICE AREA**

1. Under this Agreement, the initial Curbside Household Baseline will be [●].
2. The Service Area is:

[Note: When the Agreement is executed, Schedule 2.1.1 will include a description of the geographic area to be serviced with the Services by Collection Partner.]

SAMPLE

SCHEDULE 2.1.2 IN-SCOPE PPP

1. In-Scope PPP

For the purpose of this Agreement, In-Scope PPP will mean the material described in the categories of PPP below that have been selected, as shown by an “x” in the associated check box (and the In-Scope PPP shall be separated, at a minimum, in the streams that have been selected below):

- ☐ PPP, in Single-Stream, in which Paper and Cardboard and Mixed Containers are collected together.
- ☐ PPP, in Multi-Stream, in which Paper and Cardboard must be separated from all other PPP.
- ☐ PPP, in Multi-Stream, in which Mixed Containers must be separated from all other PPP.
- ☐ PPP that is Glass Bottles and Jars, which must be separated from all other PPP.
- ☐ PPP that is Flexible Plastics, which must be separated from all other PPP.
- ☐ PPP that is Foam Packaging, which must be separated from all other PPP.

To the extent beverage containers as defined in Schedule 1 of the Regulation are comingled with In-Scope PPP to be collected by Collection Partner, such beverage containers shall be deemed to be In-Scope PPP for the purposes of this Agreement, with polycoated beverage containers, plastic beverage containers and metal beverage containers defined as Mixed Containers and glass beverage containers defined as Glass Bottles and Jars.

2. Requirements and Restrictions

Collection Partner will implement and maintain reasonable procedures to ensure that loads delivered to the Designated Post-Collection Facility or approved Consolidation Facility comply with the requirements and restrictions set out in this Section 2, including procedures to monitor the content of collected materials and procedures to notify and reject material from Customers who do not comply with such requirements.

Recycle BC will work collaboratively with Collection Partner to provide assistance and direction to support Collection Partner in ensuring that loads delivered to the Designated Post-Collection Facility or Consolidation Facility comply with the requirements and restrictions set forth in this Section 2, with the ultimate goal of continuous improvement.

	Type of In-Scope PPP	Requirement/Restriction	Consequences for Failure
1	All In-Scope PPP	Must not contain more than 5% by weight of Not Accepted Materials.	Subject to rejection by the Designated Post-Collection Service Provider or the Consolidation Facility.
2	All In-Scope PPP	Must not contain (i) any packaging containing Hazardous Waste; (ii) comingled Foam Packaging; or (iii) comingled Flexible Plastics	Service Level Failure Credit (see Section 2 of Schedule 4.7)
3	Paper and Cardboard collected in Multi-Stream	Loads of Paper and Cardboard must not contain more than 1% by weight of Mixed Containers	Service Level Failure Credit (see Section 2 of Schedule 4.7)

4	Mixed Containers collected in Multi-Stream	Loads of Mixed Containers must not contain more than 3% by weight of Paper and Cardboard	Service Level Failure Credit (see Section 2 of Schedule 4.7)
5	Paper and Cardboard and Mixed Containers (whether collected in Single-Stream or Multi-Stream)	Loads must not contain more than 3% by weight of Glass Bottles and Jars	Service Level Failure Credit (see Section 2 of Schedule 4.7)
6	Flexible Plastics separated from all other In-Scope PPP	Must not contain more than 5% by weight of Paper and Cardboard, Mixed Containers or Glass Bottles and Jars	Service Level Failure Credit (see Section 2 of Schedule 4.7)
7	Foam Packaging separated from all other In-Scope PPP	Must separate coloured Foam Packaging and white Foam Packaging	Service Level Failure Credit (see Section 2 of Schedule 4.7)
8	Foam Packaging separated from all other In-Scope PPP	Must not contain Paper and Cardboard, Mixed Containers or Glass Bottles and Jars.	Service Level Failure Credit (see Section 2 of Schedule 4.7)
9	Glass Bottles and Jars	Must not contain more than 1.5% by weight of Not Accepted Materials and other categories of In-Scope PPP (individually or in the total).	Subject to rejection by the Designated Post-Collection Service Provider or the Consolidation Facility. Service Level Failure Credit (see Section 2 of Schedule 4.7)

SCHEDULE 4.4 RECYCLE BC POLICIES AND STANDARDS

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

1. Recycle BC's weight and measurement standards, as follows:
 - a. Recycle BC requires that materials collected by Collection Partner in connection with the Services ("**Inbound Material**") be weighed, and that accurate weights be reported to Recycle BC.
 - b. Weight is defined by Recycle BC in the following manner:
 - i. "**Gross Weight**" means the weight of the truck or container plus its contents, measured in kilograms unless otherwise noted.
 - ii. "**Tare Weight**" means the weight of the empty truck, container or equipment without its contents, measured in kilograms unless otherwise noted.
 - iii. "**Net Weight**" means the weight of the contents of the container or truck, calculated as Gross Weight minus Tare Weight, measured in kilograms unless otherwise noted.
 - c. The following equation must always be true:
$$\text{Net Weight} = \text{Gross Weight} - \text{Tare Weight}$$
 - d. Recycle BC accepts the process for taking and recording weights as published by Measurement Canada in the following comprehensive guide:
<http://www.ic.gc.ca/eic/site/mc-mc.nsf/eng/lm00205.html>.
 - e. Collection Partner must document all loads in a manner specified by Recycle BC, as amended by Recycle BC from time to time, including a certified scale ticket. The certified scale ticket may be provided by the Designated Post-Collection Service Provider to the Collection Partner if the weighing is performed by the Designated Post-Collection Service Provider. If the Collection Partner is performing the actual weighing, the Designated Post-Collection Service Provider responsibilities noted in Section 1(f) below must be followed by the Collection Partner.
 - f. Collection Partner will maintain Net Weight records and provide upon request to Recycle BC for the tonnage of Inbound Material by collection date and individual truck number.

SCHEDULE 4.7
SERVICE LEVEL METHODOLOGY AND SERVICE LEVEL FAILURES

1. Service Level Methodology

Collection Partner will measure and record all data reasonably required by Recycle BC to determine Collection Partner's performance of the Services against the applicable Service Levels. Collection Partner will keep such records in accordance with Section 6.1 of the Agreement. Upon request, and upon such frequency as Recycle BC may show (which may not be more frequently than monthly), Collection Partner will deliver to Recycle BC a report, in a form and format approved by Recycle BC, setting out details of Collection Partner's actual performance of the Services as measured against each Service Level during the applicable reporting period.

2. Service Level Failures

Collection Partner may incur Service Level Failure Credits for the Service Level Failures described in this Schedule 4.7; provided, however, that the total amount of Service Level Failure Credit in respect of any calendar year shall not exceed the total amount of Fees payable to Collection Partner in respect of such calendar year:

	Service Level Failure	Service Level Failure Credit
1	Failure to clean up or collect spilled PPP within two hours from the time the Collection Partner has been notified of the spill or it has been observed by the Collection Partner.	Twice the cost of cleanup incurred by Recycle BC (if Recycle BC performs the cleanup).
2	Collection Partner: a) fails to accurately report under Section 3(a) of Schedule 5.1; b) overstates or otherwise inaccurately reports the Curbside Household Baseline; or c) understates the number of ICI locations in the Service Area per Section 2.1.1(c) of the Agreement.	Withholding the total of one (1) months value of Fees due to Collection Partner, per incident, until the applicable Service Level Failure is resolved
3	Failure to provide a required report under Section 6.2 or Schedule 5.1	Withholding of all Fees due to Collection Partner until the required report is submitted.
4	The delivery of materials to the Designated Post-Collection Facility that contains more than 5% by weight of Not Accepted Materials.	Within any calendar year: (a) on the first instance, withholding the total of one (1) months value of Fees due to Collection Partner for the month which the infraction occurred; and (b) for all further instances, a withholding of all monthly Fees due to Collection Partner for the month which the infraction occurred and Recycle BC, in its sole discretion, may charge Collection Partner to cover all associated costs with managing the contaminated material.
5	Delivery of a load that does not comply with the requirements and restrictions set out in Section 2 of Schedule 2.1.2	The per load amount for each weigh-scale ticketed load that results in a Service Level Failure, provided that the total Service

Service Level Failure		Service Level Failure Credit	
		Level Failure Credit for this Service Level Failure in respect of any calendar year shall not exceed 24 times the applicable per load amount.	
		Curbside Household Baseline	Per Load Amount
		499-2,499	\$1,000
		0-499	\$500
6	Collection Partner delivers In-Scope PPP to any location, such as a landfill, incinerator or energy recovery facility, other than the Designated Post-Collection Facility without the prior written permission of Recycle BC	Withholding the total of one (1) month's value of Fees due to Collection Partner, per incident.	
7	Collection Partner fails to follow Designated Post-Collection Service Provider or Consolidation Facility direction as per Section 2.1.5(d).	Withholding the total of one (1) month's value of Fees due to Collection Partner, per incident, until the applicable Service Level Failure is resolved.	

SCHEDULE 5.1 FEES

1. In this Schedule, the following terms will have the following meaning:

“Curbside Household Baseline” means the number of Curbside Households in the Service Area as initially set out in Schedule 2.1.1, as may be changed in accordance with Section 3 of this Schedule 5.1.

2. In consideration for Collection Partner’s performance of the Services, Recycle BC will pay Collection Partner:

- (a) The selected (as shown by an “x” in the associated check box) annual amount in the table below times the Curbside Household Baseline (to be payable in arrears, in equal monthly payments on net thirty (30) day terms) (collectively, the **“Curbside Collection Fee”**):

Curbside Collection Fee		
	Collection Type	\$ per Curbside Household per Year
<input type="checkbox"/>	Single-Stream using automated carts – Mixed Containers and Paper and Cardboard	\$41.00
<input type="checkbox"/>	Single-Stream using Collection Containers other than automated carts – Mixed Containers and Paper and Cardboard	\$42.60
<input type="checkbox"/>	Multi-Stream – Paper and Cardboard separate from Mixed Containers	\$71.10
<input type="checkbox"/>	Flexible Plastics - which must be separated from all other PPP	\$8.00
<input type="checkbox"/>	Foam Packaging (both white and coloured) – which must be collected in separate streams and segregated from all other PPP	\$0

- (b) Each of the following that are selected (as shown by an “x” in the associated check box) in the table below (which may be none): (i) the Education Top Up amount; and (ii) the Service Administration Top Up amount (collectively, the **“Top Up Fee”**), in each case as set out in the table below times the Curbside Household Baseline (to be payable in arrears, in equal monthly payments on net thirty (30) day terms):

	Top Up Fee	\$ per Curbside Household per Year
<input type="checkbox"/>	Education Top Up	\$1.25
<input type="checkbox"/>	Service Administration Top Up	\$3.75

Without limiting Collection Partner’s obligations under the Agreement (including the cost that Collection Partner is required to incur to perform such obligations), the Education Top Up amount must be used for the purpose of providing education in respect of the Services.

- (c) If selected (as shown by an “x” in the associated check box), the following per tonne amount, to be invoiced and paid under the claims submission process in accordance with the terms of the Agreement:

Curbside Collection Glass Bottles and Jars Fee		
<input type="checkbox"/>	Glass Bottles and Jars	\$ per Tonne
		\$80.00

3. The Curbside Household Baseline may be adjusted as follows:

- (a) On July 1 of each year, or on any other date determined by Recycle BC, and at such other times as the parties may agree, Collection Partner will, in good faith, report and attest (in a form acceptable to Recycle BC) to the then-current number of Curbside Households in the Service Area.
- (b) Recycle BC may also provide evidence of the then-current number of Curbside Households in the Service Area. Based on Collection Partner's evidence and the evidence provided by Recycle BC, Recycle BC and Collection Partner will work in good faith to mutually agree on the new Curbside Household Baseline. Any Dispute in establishing this will be resolved by the Dispute resolution process under the Agreement.
- (c) For purposes of reporting and determining the number of Curbside Households:
- (i) A single family dwelling is considered one Curbside Household;
 - (ii) A laneway house is considered one Curbside Household;
 - (iii) A duplex is considered two Curbside Households;
 - (iv) A triplex is considered three Curbside Households;
 - (v) A fourplex is considered four Curbside Households;
 - (vi) A single family dwelling that has been converted into two, three or four dwelling units, shall be considered a duplex, triplex or fourplex, as described in (iii), (iv) and (v), respectively, if Collection Partner recognizes the conversion for utility and/or contract billing;
 - (vii) A single family dwelling that has been converted into multiple dwelling units that is recognized by Collection Partner as a single family dwelling for utility and/or contract billing is considered one Curbside Household; and
 - (viii) Each self-contained dwelling unit in a rowhouse or townhouse is considered one Curbside Household if the Occupant(s) of each unit (a) deliver In-Scope PPP to the Curb for collection in separate Collection Containers; or (b) deliver In-Scope PPP to a central location on the property from which In-Scope PPP is collected.

4. If the average annual amount of In-Scope PPP collected per Curbside Household by Collection Partner, in any twelve (12) month period (based on the Curbside Household Baseline) falls below fifty (50) kilograms, then Recycle BC may require Collection Partner to, within ninety (90) days, prepare and submit to Recycle BC for approval a plan designed to raise its collection yield above fifty (50) kilograms per Curbside Household. Recycle BC will work collaboratively with Collection Partner to identify effective changes to improve program capture rates and to adopt best practices

recommended by Recycle BC in order to increase collection yield. Following approval of the plan by Recycle BC, Collection Partner will execute the plan. If material improvement does not occur within one hundred and eighty (180) days of beginning to execute the plan, then, and, at Recycle BC's discretion, may result in an equitable downward change in the Fees to reflect the reduced value of the amount of In-Scope PPP being collected by Collection Partner.

5. The Curbside Collection Fee and Top Up Fee will be adjusted each year, up or down, on the first day of January of each year. Recycle BC reserves the right to choose the adjustment mechanism to be used each year, as between (i) the results of a cost study that samples the collection service providers to determine the costs associated with the performance of Services; and (ii) an adjustment that is based on the Consumer Price Index (CPI) for BC (All Items), which will be calculated as follows:

Curbside Collection Fee or Top Up Fee = Curbside Collection Fee or Top Up Fee, as applicable, in the previous year x (1 + (percentage change in CPI/100)), where

- (i) percentage change in CPI = (current year CPI – previous year CPI)/(previous year CPI) x 100%; and
- (ii) each year's CPI is the published CPI on September 1st of the year prior.

SCHEDULE 11.1 INSURANCE REQUIREMENTS

- 1. Insurance Coverage.** The insurance coverage required under Section 11.1 of the Agreement is as follows:

 - (a) Comprehensive 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 Collection Partner is a local government, Collection Partner may self-insure for equivalent or better coverage (in which case Collection Partner 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 Recycle BC were included in such policy as an additional insured) or, where Collection Partner is unable to obtain a deductible not exceeding \$100,000 per occurrence, Recycle BC may, in its sole discretion approve a higher deductible amount;
 - (b) Collection Partner will seek advice and get 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 Collection Partner will in any manner limit or qualify the liabilities and obligations assumed by Collection Partner under this Agreement); and
 - (c) Workers' Compensation Insurance or Workplace Safety & Insurance coverage with the applicable Provincial (including, in all cases, British Columbia) or Territorial Workplace Safety & Insurance Board or Employer's Liability Insurance or both with limits as required by Applicable Law covering all Collection Partner personnel.
- 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 Recycle BC's sole discretion).
- 3. Recycle BC as Additional Insured.** Collection Partner will add Recycle BC as an additional insured on its Comprehensive General Liability policy with the following language: "MMBC Recycling Inc. 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.** Collection Partner will cause its insurers to issue to Recycle BC certificates of insurance on the Effective Date, and once each calendar year after that time, evidencing that the coverages and policy endorsements required under this Agreement are maintained in force. Where Collection Partner is a local government and decides to self-insure under Section 1(a), Collection Partner 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 Recycle BC, on the Effective Date and once each calendar year after that time.
- 5. Changes to Insurance Coverage.** Collection Partner will not reduce any insurance coverage below the requirements set out in this Schedule without Recycle BC's prior written consent. Collection Partner will provide not less than thirty (30) days' notice to Recycle BC prior to any material change to its insurance coverage or to its insurer.
- 6. Coverage Details.** The insurance coverages under which Recycle BC 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 Recycle BC. 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 Recycle BC.

7. **Additional Period of Coverage.** Collection Partner will continue to have and maintain in force the insurance coverages set out in this Schedule, and Collection Partner will continue to comply with Section 11.1 of the main body of the Agreement and Schedule 11.1, beyond the end of the Term for an additional 2 years after that time.

SAMPLE