

## Membership Agreement

Please read the following Membership Agreement carefully.

It contains very important information about your rights and obligations, as well as limitations and exclusions that may apply to You.

By signing this Agreement, you are consenting to be bound by and are becoming a party to this Agreement.

Please contact Us at ~~stewards@multimaterialbc.ca~~ [stewards@recyclebc.ca](mailto:stewards@recyclebc.ca) or 1-888-980-9549 for any queries. We would be pleased to answer any questions You may have about this Agreement and any of Your stewardship obligations related to printed paper and packaging in British Columbia.

“You” or “Your” means the person or company whose address and contact information appears at the end of this Agreement and who intends to become a member of MMBC Recycling Inc.’s Packaging and Printed Paper Stewardship Program Plan ([MMBCRecycle BC](#) Plan) and Your Affiliates. “We”, “Our” and “Us” means **MMBC Recycling Inc. (“Recycle BC”)**.

**WHEREAS** the Regulation (defined below) requires You to have an approved plan as defined therein and comply with that plan;

**AND WHEREAS** under the Regulation the Director, Waste Management Policy Branch of the British Columbia Ministry of Environment has approved a packaging and printed paper stewardship plan of [MMBCRecycle BC](#) on April 15, 2013;

**AND WHEREAS** the Regulation permits You to appoint an agency to carry out Your duties under an approved plan by notifying the agency in writing of that appointment specifying the duties of the agency;

**AND WHEREAS** [MMBCRecycle BC](#) has confirmed in writing to the Director the duties that [MMBCRecycle BC](#) as an agency will perform on behalf of each producer that has joined the agency;-

**WHEREAS** You are a Producer under the British Columbia Recycling Regulation and appoint [MMBCRecycle BC](#) as Your agency -to carry out Your duties as a Producer under the Regulation -by- having -Us- perform or continue to perform duties -under Our- Stewardship Program Plan described below; and

**WHEREAS** You therefore wish to become or are already a Member of Our Stewardship Program Plan which has received acceptance from the Director for the

Stewardship Program Plan (defined below), on the terms and conditions contained herein;

**AND WHEREAS** ~~MMBC Recycling Inc.~~ Recycle BC is duly appointed by You given You comply in all respects with the terms contained in this Agreement;-

**AND WHEREAS** such appointment and compliance with the terms of this Agreement will place You in compliance under the Regulation;

**NOW, THEREFORE, THIS AGREEMENT WITNESSETH** that, in consideration of the mutual covenants contained herein, You and MMBC Recycle BC agree as follows:

## 1. DEFINITIONS

~~1.1.~~ Definitions. Capitalized terms in this Agreement will have the following meanings:

1.1. **“Affiliate”** means a Producer that controls another Producer or is controlled

by-

an entity that also controls a Producer as provided in section 2 of the *Business Corporations Act (British Columbia)* as amended from time to time.–

**“Agreement”** means this Membership Agreement between Us and You;

**“Annual ~~Data~~Steward Report”** means that report submitted each Reporting Obligation Year by You to MMBC Recycle BC in accordance with the terms of this Agreement;

**“Business Day”** means any day of the week other than a Saturday, Sunday or statutory holiday observed in Vancouver, British Columbia;

-**“Data Period”** means the calendar year that the Member Supplied or Supplies PPP to residential households;

**“Director”** means the Director of Waste Management Policy Branch for British Columbia;  
~~Columbia;~~

**“Fee Obligation Year”** means a calendar year during which a Member is required to discharge its obligation to remit fees to MMBC Recycle BC;

“**Fees**” means those fees payable by the Member to [MMBCRecycle BC](#) pursuant to this Agreement;

“**First Importers**” means those parties that import materials into British Columbia;

“**Franchise**” means a right to engage in a business where the Franchisee is required by contract or otherwise to make a payment or continuing payments, whether direct or indirect, or a commitment to make such payment or payments, to the Franchisor, or the Franchisor’s associate, in the course of operating the business or as a condition of acquiring the Franchise or commencing operations and,

(a) in which,

- i. the Franchisor grants the Franchisee the right to sell, offer for sale or distribute goods or services that are substantially associated with the Franchisor’s, or the Franchisor’s associate’s, trade-mark, service mark, trade name, logo or advertising or other commercial symbol, and
- ii. the Franchisor ~~or~~ the Franchisor’s associate exercises significant control over, or offers significant assistance in, the Franchisee’s method of operation, including building design and furnishings, locations, business organization, marketing techniques or training, or

(b) in which,

- i. the Franchisor, or the Franchisor’s associate, grants the Franchisee the representational or distribution rights, whether or not a trade-mark, service mark, trade name, logo or advertising or other commercial symbol is involved, to sell, offer for sale or distribute goods or services supplied by the Franchisor or a supplier designated by the Franchisor, and
- ii. the Franchisor, or the Franchisor’s associate, or a third person designated by the Franchisor, provides location assistance, including securing retail outlets or accounts for the goods or services to be sold, offered for sale or distributed or securing locations or sites for vending machines, display racks or other product sales displays used by the Franchisee;

“**Franchisee**” means a person to whom a Franchise is granted and includes,

- (a) a sub franchisor with regard to that sub franchisor's relationship with a Franchisor, and
- (b) a sub franchisee with regard to that sub franchisee's relationship with a sub franchisor;

**“Franchisor”** means one or more persons who grant or offer to grant a Franchise and includes a sub franchisor with regard to that sub franchisor's relationship with a sub franchisee;

**“Legislation”** means the British Columbia *Environmental Management Act*, as amended from time to time;

**“Members”** means the members of Our Stewardship Program Plan collectively, and **“Member”** means a member of Our Stewardship Program Plan;

**“Ministry”** means the Ministry of Environment for British Columbia or any successor ministry;

~~“MMBC” or MMBC Recycling Inc. means the not for profit stewardship agency incorporated under the British Columbia Society Act and operated by Canadian Stewardship Services Alliance, Inc. (which is federally incorporated under the Canada Not for Profit Corporations Act);~~

**“Primary Contact”** means ~~the, for new stewards, an individual designated by You~~ appointed by a senior officer in Your organization according to the Primary Contact Policy [insert link] as Your authorized to submit reports to MMBC under this Agreement officer or agent under whose authority Your Annual Steward Report is Filed;

**“Packaging and Printed Paper”** or **“PPP”** means that packaging and printed paper that is more thoroughly described in the *Environmental Management Act* and Schedule 5 of the Regulation respectively;

**“Producer Obligations”** means those obligations for which a Producer or Voluntary Producer, as applicable, is responsible pursuant to the Regulation;  
~~Regulation;~~

“**Producer**” has the meaning ascribed to producer in the Regulation (also known as a “steward”);

“**Recycle BC**” or “**MMBC Recycling Inc.**” is the corporation incorporated under the *Canada Not-For-Profit Act* which operates the Plan.

“**Recycling Obligation**” means the obligation to recycle PPP pursuant to the Regulation;

“**Regulation**” means the British Columbia Recycling Regulation 449/2004, as amended from time to time;

“**Reporting Obligation Year**” means a calendar year for which a Member is required to discharge its obligation to file an Annual DataSteward Report(s) in accordance with the terms of this Agreement<sup>1</sup>;-

“**Stewardship Program Plan**” means Our Stewardship Program Plan for PPP as approved by the Director;-

“**Supply**” means sells, offers for sale, or distributes goods for use by residential households in the Province of British Columbia. Supplied and Supplies have similar meanings; and

“**Voluntary Producer (also known as a “Voluntary Steward”)**” means any non-resident brand owner who elects to become a Member of MMBCRecycle BC in accordance with the Membership Agreement and the Voluntary Steward policy, as posted on the MMBCRecycle BC website and as referenced in Appendix A to this agreement; and

“**WeRecycle Portal**” means <https://werecycle.cssalliance.ca>;-

---

<sup>1</sup>-

Please note that Members that begin supplying PPP on or after January 1 of any calendar year, may be required to use estimates to inform their first Annual DataSteward Report(s).

## 2. YOUR OBLIGATIONS AS A MEMBER OF THE MMBCRECYCLE BC PLAN

- (a) New Membership. By Filing this signed Agreement on the WeRecycle Portal you are hereby becoming a Member. -In connection therewith, You agree that, while a Member, You are prohibited from fulfilling your Producer Obligations under the Regulation other than pursuant to Your membership in Our Stewardship Program \_Plan (such as by fulfilling those obligations yourself, or by contracting with a third party, or by joining another PPP stewardship program approved by the Director).\_-
- (b) Continuing Membership. If You are already a Member then this Agreement replaces Your existing Membership Agreement effective ~~the 31<sup>st</sup> of May 2016, unless You provide written notice to Us of Your non-acceptance of this replacement Agreement, in which case You shall continue as a Member under the terms of Your existing Membership Agreement until December 31<sup>st</sup> 2016.~~ January 1, 2018.
- (c) Pollution Prevention Hierarchy.- You shall use commercially reasonable efforts in Your business in British Columbia, in so far as it is both practicable and economically appropriate, to specify and use recycled, reused or otherwise conserved packaging materials and, on request, to supply MMBCRecycle BC with such evidence of examining the economic viability of specifying and using recycled, reused or otherwise conserved packaging materials.
- (d) Voluntary Producers. Voluntary Producers must complete and submit a Voluntary Steward Agreement (as posted on the MMBCRecycle BC website and as referenced in Appendix A) in accordance with the Voluntary Steward policy [insert link] as posted on the MMBCRecycle BC website and meet all the terms and conditions of the Voluntary Steward Agreement.-
- (e) Provision of Information:
- i. You shall File an Annual DataSteward Report within the time limits set out in this Agreement, including any required substantiation verifying your quantities of PPP included in your Report; any brands and affiliates You reported on; a description of your methodology (i.e. how You have collected data and calculated your quantities of PPP); as well as rationale for any amounts You have omitted from Your reported amounts.
  - ii. You shall inform MMBCRecycle BC promptly upon becoming aware that any information originally submitted by You to MMBCRecycle BC is not accurate or complete for any \_reason and shall as soon as practicable within

30 days thereafter supply to MMBCRecycle BC a statement in writing explaining the inaccuracy/incompleteness, together with the corrected/completed information.

- iii. In order to ensure that MMBCRecycle BC maintains accurate data for its Members, You shall inform MMBCRecycle BC in writing, as soon as practicable and in any event within ~~twenty-eight (28) business~~30 days of the happening of any of the following events:
- a. The bankruptcy, closing, sale or acquisition of all or part of Your business including the bankruptcy, closing, sale or acquisition of any subsidiary/brands that form(s) part of the Member's company and the bankruptcy, closing, sale or acquisition date and any impact on Your obligation to pay Fees;
  - b. A change in the registered office address or in the details provided to MMBCRecycle BC pursuant to the Annual DataSteward Report or telephone, email address and/or address provided for the purpose of Your membership in the MMBCRecycle BC Plan, or any factor that impacts your membership in the MMBCRecycle BC Plan or Your ability to pay fees.
- iv. You shall provide MMBCRecycle BC with all relevant Member contact details (telephone numbers, and email addresses) of Your Primary Contact for the service of notices and other communications, under and in connection with the Agreement.

(f) Annual DataSteward Report.-

- i. You must submit your Annual DataSteward Report by no later than May 31<sup>st</sup> of each Reporting Obligation Year.— and provide the information as required on the WeRecycle Portal. If You become a Member on or after May 31<sup>st</sup> of any Reporting Obligation Year, You must submit your Annual DataSteward Report(s) ~~as soon as reasonably practical, but in any event~~ no later than ~~twenty (20) business~~ 60 days from the date you became a Member. For all subsequent Reporting Obligation Years, You shall submit the Annual DataSteward Report to MMBCRecycle BC by no later than ~~the~~May 31<sup>st</sup> ~~day of~~ May of each respective Reporting Obligation Year.
- ii. Despite the above, and provided You are not a Voluntary Producer, whenever you become a Member, in the event that You were not previously a member of an approved PPP stewardship plan, you must



submit an Annual DataSteward Report for all Data Periods for which You were a Producer in British Columbia within ~~twenty (20) business~~60 days of becoming a Member. As a new Member, You agree to comply with the Onboarding Policy [insert link].

- iii. Producers are obligated to pay fees for all the periods (full or partial calendar years) for which they are obligated (i.e., Supplied PPP). This means Producers are obligated from the date they begin to Supply PPP to the date they no longer Supply PPP.
  - iv. For the Producer that becomes obligated (i.e., begins Supplying) and becomes a Member on or after January 1, ~~2016~~2018, the Member's ~~2016~~2018 financial obligation will be calculated using an estimate of quantities supplied ~~during 2016~~in accordance with the Onboarding Policy [insert link].
- (g) Disclosure of Information. You agree that MMBCRecycle BC shall be entitled to obtain from You and provide copies and/or details of information You have provided to MMBC Recycle BC to the Director, or to any other governmental authority to which MMBC Recycle BC is obligated, in each case pursuant to Legislation. Where practical in the circumstances, MMBCRecycle BC agrees to use reasonable effort to provide You with prior notice of any such disclosure out of the ordinary course of MMBC's Recycle BC's operations.
- (h) Records Retention.– You shall maintain and store in either electronic or written form all documents, data and/or records in respect of Your membership in MMBCRecycle BC and obligations under the Agreement to substantiate and verify the amount of PPP set out in each Annual DataSteward Report for a period of five (5) years from the filing date of each Annual DataSteward Report. –This includes all supporting data and/or records (as applicable) for each Annual DataSteward Report.–
- (i) Verification and Audit. –In order for MMBCRecycle BC to ensure a level playing field among all Members and to minimize costs associated with MMBCRecycle BC conducting audits or reviews related to Your fulfillment of Your obligations (primarily, submission of Annual DataSteward Reports), You shall-:
- i. As the first step, take measures to assess that your data is accurate and then provide assurance to the accuracy of your data as per the attestation on the WeRecycle Portal when you submit your data;
  - ii. As a second step, on request by MMBCRecycle BC, provide confirmation from a senior officer in your organization that the data



contained in submitted reports is accurate; and

- iii. As the final step, participate in an audit or review at the request of ~~MMBC Recycle BC~~. If ~~MMBC Recycle BC~~ makes such a request, You shall, within thirty (30) business days of such request and during normal business hours, afford to ~~MMBC Recycle BC~~ (or its authorized agent(s)) reasonable access to Your premises and to all of Your relevant documents, data, records and reports howsoever maintained and stored and permit ~~MMBC Recycle BC~~ (or its authorized agent(s)) to make and take copies of such documents, data and records. This section ~~2.9.3~~ shall survive termination or expiration of this Agreement. ~~MMBC Recycle BC~~ will not require You to participate in an audit or review of an activity associated with obligation fulfilled during a calendar year for which You are no longer expected to retain records (see ~~2.8~~); ~~s. 2 (h) Record Retention above~~ .).

#### ~~1.2. Fees:~~

##### ~~(i) - Amount and Principles.—~~

- ~~i.~~ You shall pay Fees as determined below to ~~MMBC Recycle BC~~ in respect of each Fee Obligation Year for which you are obligated (i.e. that corresponds to Your Reporting Obligation Year). —You also agree to comply with:
  - ~~a.~~ the Administrative Fee, Penalty and Interest Policy, [insert link].
  - ~~b.~~ the Parallel Import Policy [insert link].
  - ~~c.~~ the Reporting and Deductions Policy [insert link], and
  - ~~d.~~ such other policies or revisions to existing policies, as may be published from time to time on the Recycle BC website once 30 days' notice has been provided to Members.
- ~~i.ii.~~ By no later than November 30 of each Obligation Year ~~MMBC Recycle BC~~ shall make a non-binding estimate of the total Fees payable by the Member in respect of the following Obligation Year. From time to time during the Obligation Year, ~~MMBC Recycle BC~~ will keep the Member promptly informed of any material adverse change in its estimate of the Fees.
- ~~ii.iii.~~ ~~MMBC Recycle BC~~ intends that all Fees shall be calculated by ~~MMBC Recycle BC~~ on a fair basis with a view to ensuring, so far as reasonably possible, that ~~MMBC Recycle BC~~ in total incurs neither a profit nor a loss and with particular regard to the following principles:
  - a. All participating Members will pay Fees to support the cost of the program regardless of collection or processing performance of their obligated materials;

- b. Fee rates will take into account the actual cost for managing each material;
  - c. Fee rates are adjusted to reward those materials with higher recycling rates relative to other materials; and
  - d. MMBCRecycle BC will disclose the cost components contributing to material Fee rates.
- iv. The Fees shall be computed by reference to the following elements:-
- a. Cost to collect and recycle Your PPP;
  - b. Costs to promote the collection and recycling of PPP;-
  - c. Costs to set up and administer the PPP program;
  - d. Contributions to reserves, contingencies and recycling infrastructure investments as either MMBCRecycle BC shall have identified in its budget or is proved to be necessary in operating MMBCRecycle BC in the Members' best interests;
  - e. Interest on late payments and
  - f. A sum equivalent to the amount required to defray any losses.
- v. In computing all or any of the above costs and expenses, MMBCRecycle BC will be required to estimate such costs and expenses as it shall consider reasonable and appropriate and shall take into account in calculating the Fees any surplus or deficit in MMBCRecycle BC as a result of its operations.
- (j) Fees - Recalculation. Notwithstanding the foregoing, until the expiry of each Fee Obligation Year, MMBCRecycle BC may further recalculate the Fees on the basis set out in this Agreement and may adjust (either upwards or downwards) the Fees.

(k) Fees - Payment Terms.

- i. The Fees for each Fee Obligation Year shall be payable by You in four (4) equal quarterly instalments, which each such instalment due on January 31<sup>st</sup>, April 30<sup>th</sup>, July 31<sup>st</sup> and October 31<sup>st</sup> of the respective Fee Obligation Year. All sums payable under this Agreement are exclusive of any applicable taxes which shall be added to such sum to the extent applicable. -
- i.ii. All sums payable under and in accordance with the Agreement by the Member shall be paid in full without any deduction, withholding, counterclaim or set off.-

~~1.2.1. Interest. If any sum payable by You to MMBC under this Agreement remains unpaid for more than thirty (30) calendar days from the date of the invoice, MMBC may charge You interest on such sum at four percent (4%) per annum above the Canadian Imperial Bank of Commerce's (CIBC) prime lending rate. Interest will be calculated on a daily basis from the date upon which such sum became due and compounded monthly and is payable on demand.~~

~~iii. Late payment or nonpayment of Fees is subject to the Administrative Fee, Penalty and Interest policy [\[insert link\]](#).~~

~~(l) Annual [DataSteward](#) Report Adjustments. If you identify report corrections or revisions to Your Annual [DataSteward](#) Report, these must be submitted to [MMBCRecycle BC](#) in accordance with the ~~adjustment policy~~ [Policy for Steward-Initiated Adjustment Requests \[\\[insert link\\]\]\(#\)](#) as posted on the [MMBCRecycle BC](#) website. Where an approved adjustment results in an increase in Fees payable, they are payable ~~within thirty (30) calendar days to MMBC~~ in accordance with the [Policy for Steward-Initiated Adjustment Requests \[\\[insert link\\]\]\(#\)](#). If an approved adjustment results in a decrease from Fees previously payable, You will be credited ~~such amount towards Your Fees payable~~ in accordance with the [Policy for Steward-Initiated Adjustment Requests \[\\[insert link\\]\]\(#\)](#).~~

~~(k)(m) [Email Communications](#). You agree that We can communicate with you by email and provide You with Your Steward Invoices with consolidated Submission Detailed Report information and Statements of Account through email, at the email address You have provided to Us on the subsequent Fee Obligation Year. [WeRecycle Portal](#).~~

### 3. OUR OBLIGATIONS

(a) [Assumption of Responsibilities](#). We shall assume Your Producer Responsibility Obligations under the Regulation. You understand and agree that, if You become a Member part way through a Reporting Obligation Year, We shall assume and You shall pay for Your entire Producer Responsibility Obligations as described in this Agreement.

(b) [Guiding Principles](#). [MMBCRecycle BC](#) shall:

- i. Act in the best interests of all Members as a whole;
- ii. Use reasonable commercial efforts to carry out its obligations diligently and in a reasonable, proper and cost effective manner having regard to

the interests of all Members in securing compliance with the Regulation in future as well as in each Reporting and Fee Obligation Year, and the cost of such compliance in the current and future years; and

- iii. Exercise the skill and expertise to be reasonably expected of an organization whose plan is approved by the Ministry pursuant to the Regulation.

(c) Reporting & Disclosure.

- i. Annual Business Plan. We shall, in each year, develop a business plan and, other than in relation to those matters which We consider confidential as referenced in this Agreement and in the interests of ~~MMBC~~ Recycle BC Members, shall publish (either on Our website and elsewhere as appropriate, to properly inform all Members and stakeholders), a summary of the business plan. You acknowledge and agree that We may add, delete, amend or otherwise modify such business plan and, in the event of such modification(s), We shall notify Members of such modification(s).
- ii. Annual Report. We shall, on or before July 1 in each year, post an annual report on our website that includes the following information:
  - a. A description of educational materials and educational strategies used to communicate with consumers regarding the stewardship program;
  - b. A description and location of collection facilities, and any changes in the number and location of collection facilities from the previous report;
  - c. Efforts taken by or on behalf of the producer to reduce environmental impacts throughout the product life cycle and to increase reusability or recyclability at the end of the life cycle;
  - d. A description of how the recovered PPP was managed in accordance with the pollution prevention hierarchy;
  - e. The total amount of PPP product sold into market and collected and the recovery rate;
  - f. Independently audited financial statements.

- (d) Notice Requirements. - Pursuant to the Regulation, We shall notify You in the event one of the following occurs:
- i. If We receive any written notices, or written reasons provided under section 7 of the Regulation, alleging non-compliance with one or more requirements of the Regulation;
  - ii. If We are charged or convicted with an offence listed in section 16 of the Regulation;
  - iii. If We are issued a ticket in accordance with the Violation Ticket Administration and Fines Regulation (the "Fines Regulation") for an offence listed in Schedule 2 of the Fines Regulation respecting the Regulation.
- (e) Insurance. - We will possess comprehensive or commercial general liability insurance, including coverage for bodily injury, property damage, complete operations and contractual liability with combined single limits of not less than \$2,000,000 per occurrence, \$5,000,000 general aggregate. [MMBCRecycle BC](#) shall cause a certificate(s) of existing insurance executed by the insurer to be posted to its website.

#### 4. LIMITATION OF LIABILITY AND REMEDIES

- (a) Limitation of Liability. In no event will either party be liable for any indirect, incidental, special, exemplary or consequential losses or damages, including lost or anticipated profits, savings, interruption to business, loss of business opportunities, loss of business information, the cost of recovering such lost information, or any other like pecuniary loss arising out of this agreement, whether you have advised us or we have advised you of the possibility of such damages. Each party's aggregate liability in respect of any and all claims will be limited to the amount of Fees paid by you to [MMBCRecycle BC](#) in the most current Fee Obligation Year. The foregoing limitations apply regardless of the cause or circumstances giving rise to such loss, damage or liability, even if such loss, damage or liability is based on negligence or other torts or breach of contract (including fundamental breach or breach of a fundamental term).
- (b) A party may not institute any action in any form arising out of this Agreement more than one (1) year after the cause of action has arisen. Some provinces do not allow the exclusion of limitation of incidental or consequential damages so the above exclusions may not apply. Sections 4.1 (a) and 4.2 (b) shall survive termination or expiration of this agreement.

## 5. SUCCESSORS AND ASSIGNS

- (a) Successors and Assigns. You may not assign Your rights and duties under this Agreement to any party at any time without our consent which will not be unreasonably withheld. This Agreement will ensure to the benefit of and will be binding on Us and our respective successors and permitted assigns. In the event of Our corporate merger, amalgamation, divestiture or asset sale, We will have the right to transfer and assign Our rights and obligations hereunder to any third party (the “**Assignee**”), upon written notice to You.

## 6. CONFIDENTIALITY

- (a) Confidentiality. The Member and MMBCRecycle BC each acknowledge that all ~~customer~~customers, technical, financial and other business information received from the other in connection with this Agreement is considered private and confidential. Both the Member and MMBCRecycle BC will use reasonable diligence and care to prevent the unauthorized disclosure, reproduction or distribution of such confidential information to any other person. The Member acknowledges that Recycle BC may share confidential information with its administrative service provider, Canadian Stewardship Services Alliance, where the administrative service provider is bound by the same confidentiality provisions as contained in this Agreement.
- (b) If required by the Director, MMBCRecycle BC will inform You that information is transferred ~~to the Director~~. In all other cases, unauthorized disclosure, reproduction or distribution of such confidential information to any other person or association will first have to be consented to in writing by the disclosing party.-
- (c) Such confidential information will exclude:
- i. Information that is already in the public domain;
  - ii. Information already known to the receiving party, as of the date of the disclosure, unless the receiving party agreed to keep such information in confidence at the time of its original receipt;
  - iii. Information hereafter obtained by the receiving party, from a source not otherwise under an obligation of confidentiality with the disclosing party;



and

- iv. Information that the receiving party is obligated to produce under order of a court of competent jurisdiction, provided that the receiving party promptly notifies the disclosing party of such an event so that the disclosing party may seek an appropriate protective order.

(d) Notwithstanding anything to the contrary contained herein, You acknowledge that We may be required to disclose Your confidential information in the circumstances referred to in Section 2.7 above (~~(g) Disclosure of Information~~).

(e) This section 6.1 (Confidentiality) shall survive termination or expiration of this Agreement.

## 7. TERM

(a) Term. The term of this Agreement will commence on the date of Your submission to Us of this agreement as set out at the end of this agreement, either as an amendment to Your existing agreement with Us or as a new agreement pursuant to these terms and shall continue until terminated as follows:

- i. By MMBCRecycle BC: by notice in writing to You to take effect either forthwith or at such time as may be specified in such notice on or after the occurrence of any of the following events:
  - a. Any material breach by You of any of Your obligations under this Agreement which, if capable of remedy, shall not have been remedied to the reasonable satisfaction of MMBCRecycle BC within thirty (30) calendar days of receipt by You of a written request from MMBCRecycle BC for such breach to be remedied;
  - b. Notwithstanding section 7.1.1.1.(a) (i) a. above, any failure by You to comply with the provisions of the clause Provision of Information (Section 2.5 (e)) by the 31<sup>st</sup> of May of the respective Reporting Obligation Year;
  - c. Deliberate falsification of data or a pattern of providing false or misleading data in relation to Your Annual DataSteward Report;

d. Notwithstanding anything to the contrary contained herein, any failure by You to pay to MMBC Recycle BC any sum due hereunder within thirty (30) calendar days of the due date for payment thereof;

e. If a petition in bankruptcy is filed and a judgment is entered against You or if You are adjudged a bankrupt, or if You are insolvent or unable to make payments to creditors when due or You take advantage of any insolvency act or debtor's relief act, or You make an assignment for the benefit of Your creditors, or if You pass any resolutions or take any other actions for Your liquidation, winding up or dissolution.

ii. ~~by~~By the Member:-

a. The exit provisions for Voluntary Stewards are as per the terms and conditions of the Voluntary Steward Agreement as referenced in Appendix A.

~~1.2.1.1. — Provided You are not a Voluntary Producer, You may terminate this Agreement by notice to MMBC Recycle BC by May 1<sup>st</sup> of any calendar year. You must within thirty (30) days of notification, fulfill Your payment obligation for the remainder of that calendar year.~~

~~b. Provided You are not a Voluntary Producer, should You terminate this Agreement by notice after May 1<sup>st</sup> of any calendar year Your payment obligations will continue for the remainder of that year, plus the following calendar year. You must within thirty (30) days of notification, fulfill Your payment obligation for the remainder of that calendar year and the following year any prior years' Fees which remain outstanding.~~

~~c. Provided You are not a Voluntary Producer, should You terminate this Agreement by notice after May 1<sup>st</sup> of any calendar year You may be required to submit your Annual Steward Report by May 31<sup>st</sup> for that calendar year. You must also within thirty (30) days of notification, fulfill Your payment obligation for the remainder of that calendar year and any prior years' Fees which remain outstanding.~~

iii. By either party forthwith by notice in writing to the other if the Director shall rescind the approval of MMBC's Recycle BC's Stewardship Program Plan.

(b) The termination of this Agreement for whatever reason shall not affect any provision of this Agreement which is expressed to survive or operate in the

event of such termination and shall not prejudice or affect the rights of either party against    the other in respect of any breach of this Agreement or any monies payable by one party to the other in relation to any period prior to the effective date of termination. ~~Without limiting the generality of the foregoing, all payment obligations in respect    of monies payable by one party to the other shall survive termination or expiration    of this Agreement.~~

## 8. GENERAL

(a) Captions. The Article and paragraph headings used herein are for convenience only and are not a part of this Agreement and will not be used in construing it.

(b) Disputes. ~~Disputes between MMBCRecycle BC and You as to Your obligations under this Agreement shall be made under the dispute resolution process~~ Dispute Resolution Policy that is published on the MMBCRecycle BC website: [insert link]. Referral of any disputed matter shall not act to stay or defer Your obligations under this Agreement.

~~1.3. Entire Agreement~~. This Agreement constitutes the entire agreement between You and

(c) Us relating to the subject matter contained in this agreement.

(d) Equitable Relief. Each party agrees that any breach of Article 6 by such party would cause irreparable damage to the other party for which money damages would not    be a sufficient remedy, and that, in event of such breach, in addition to any and all remedies at law, the harmed party will have the right to an injunction, specific performance or other equitable relief to prevent the continuous violations of Article 6 without the necessity of proving actual damages or posting any bond or other security.

(e) Force Majeure. ~~Notwithstanding anything herein to the contrary, other than obligations to make payments pursuant to this Agreement, neither party shall be liable for any delay or failure in performance caused by circumstances beyond its reasonable control.~~

(f) Relationship of the Parties. This Agreement does not constitute a partnership or joint venture, and nothing herein contained is intended to constitute, nor will it be construed to constitute, such a partnership or joint venture. Except as expressly provided in this Agreement, neither We nor You will have any power or authority to act in the name or on behalf of the other party, or to bind the other party to any legal agreement.

(g) Severability. The provisions of this Agreement are to be considered

separately, and if any provision hereof should be found by any court or competent jurisdiction to be invalid or unenforceable, this Agreement will be deemed to have effect as if such provision were severed from this Agreement.

(h) Notices. All notices and communications required or permitted under this Agreement will be in writing and will be sent by electronic mail to Us or You at the respective addresses we provide to each other or to such other address as We or You may from time to time specify by notice to the other given as provided in this paragraph.

- i. In Our case, Our address is:  
[stewards@multimaterialbc.ca](mailto:stewards@multimaterialbc.ca)[stewards@recyclebc.ca](mailto:stewards@recyclebc.ca)
- ii. In ~~Your case, Your address is the address and contact~~ particulars ~~provided to~~ [MMBC Recycle BC](#) pursuant to the Provision of Information clause (Section 2.5 (e)) set forth in this Agreement.
- iii. Each such notice or communication shall be deemed to have been given or made and delivered within 24 hours of email transmission.

(i) JURISDICTION. The parties hereby irrevocably attorn to the exclusive jurisdiction of the courts of the province of British Columbia with respect to any dispute arising hereunder.

(j) GOVERNING LAW. This agreement shall be deemed to have been made in the province of British Columbia and shall be construed and interpreted according to the laws of the province of British Columbia and the applicable laws of Canada.

(k) REVISIONS TO THIS AGREEMENT.

- i. Revisions to this Agreement will be considered in Q4 of each year. We will provide advance written electronic notice of those changes not less than sixty (60) calendar days before May 31<sup>st</sup> of any Obligation Year. ~~We will advise You of any mid-year changes to the Membership Agreement via written electronic communique.~~
- ii. Notwithstanding the foregoing, if any such revision is necessary to comply with the Legislation or the Regulation such revision shall have effect from the date specified in the notice.

(l) EXECUTION OF THIS AGREEMENT. This agreement may be executed in any number of counterparts and may be delivered by Portable Document Format or other electronic means ("PDF") and each original, PDF copy, when executed and delivered, shall be deemed to be an original and all of which

taken together then construe one and the same instrument.

DRAFT



**RECYCLEBC™**

**THIS AGREEMENT** submitted for acceptance and is effective this [\_\_\_\_\_] day

of [\_\_\_\_\_] [ 20 \_\_\_\_ ] [\_\_\_\_\_] [\_\_\_\_\_] 20 \_\_\_\_ ]

Company Name (*please print*): \_\_\_\_\_):

Per (*please sign*):

Authorized Signing Officer  
(I have authority to bind the Corporation)

Name of Signing Officer (*please print*): \_\_\_\_\_)

Title:

Address:

Email

address:

Telephone Number: (\_\_\_\_\_) \_\_\_\_\_)





**RECYCLEBC™**

## Appendix A – Voluntary Steward Agreement

If you are a non-resident brand owner electing to become a Voluntary Steward, the Voluntary Steward Agreement can be downloaded ~~[here from the MMBC website. You can also request a copy by emailing \[stewards@multimaterialbc.ca\]\(mailto:stewards@multimaterialbc.ca\)](#)~~ [here from the Recycle BC website. You can also request a copy by emailing \[stewards@recyclebc.ca\]\(mailto:stewards@recyclebc.ca\)](#)

Rev: September 2017