

MASTER SERVICES AGREEMENT
for
SERVICES RELATED TO BLUE BOX MATERIAL

Number 2023 - ●

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This Master Services Agreement (this “MSA”) is entered into as of ●, 2023, (“Effective Date”)

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Between

_____, a [corporation incorporated under the laws of ●], having a place of business at
<insert address> (“Contractor”)

And

Circular Materials, a federal not-for-profit corporation, having a place of business at 1 St. Clair Avenue
West, Suite 700, Toronto ON M4V 1K6, operating as Circular Materials Ontario (“CMO”)

RECITALS

WHEREAS, CMO is the administrator of the common collection system for Blue Box Material; and

WHEREAS, CMO issued an offer to the Contractor in connection with the collection of Blue Box Materials
and related services; and

WHEREAS, Contractor and CMO (each a “Party”, and collectively the “Parties”) jointly desire to enter
into this MSA respecting the collection of Blue Box Material and related services for the applicable Eligible
Community as set out in one or more Statements of Work which, once such Statements of Work are duly
executed, shall form part of, and be subject to and governed by, this MSA; and

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WHEREAS the Contractor agrees to provide the Work in accordance with the terms and conditions of this
MSA;

NOW, THEREFORE, in consideration of the promises, mutual covenants, and agreements contained
herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby
acknowledged, the Parties acknowledge and agree to all covenants, terms and conditions as stipulated in
this MSA, as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

“APPLICABLE LAW” means any federal, provincial, municipal, local, domestic or foreign law, rule, statute, subordinate legislation, regulation, by-law, order, ordinance, protocol, code, guideline, treaty, policy, notice, direction or judicial, arbitral, administrative, ministerial or departmental judgment, award, decree, treaty, directive, or other requirement or guideline published or in force at any time which applies to or is otherwise intended to govern or regulate any Person (including any Party), property, transaction, activity, event or other matter, which in any way applies to the Work under this MSA or any Party, including any rule, order, judgment, guideline, directive or other requirement or guideline issued by any governmental or regulatory authority. Applicable Law shall include privacy laws, the (Ontario) *Freedom of Information and Protection of Privacy Act*, the (Ontario) *Municipal Freedom of Information and Protection of Privacy Act*, the (Canada) *Competition Act*, the (Ontario) *Environmental Protection Act*, the *Ontario Water Resources Act*, the (Ontario) *Dangerous Goods Transportation Act*, the (Ontario) *Occupational Health and Safety Act*, the (Ontario) *Resource Recovery and Circular Economy Act, 2016* and the Regulation.

“BLUE BOX MATERIAL” has the meaning set out in the Regulation, except in the context of a Statement of Work it has the meaning set out in such Statement of Work to the extent expressly set out otherwise in such Statement of Work.

“BUSINESS DAY” means any day from Monday to Friday inclusive, excluding statutory holidays in the province of Ontario.

“CHANGE NOTICE” has the meaning set in Section 8.8(a) of this MSA.

“CHANGE ORDER” has the meaning set in Section 8.8(f) of this MSA.

“COLLECTION DATA” means all data or information pertaining to Equipment or Blue Box Material or other aspects of the Work or activities involving any of the foregoing that is collected, generated or observed pursuant to this MSA, including any Statement of Work, or otherwise in the course of the Work. The Collection Data includes data and information expressly required to be delivered by the Contractor to CMO pursuant to this MSA.

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“COLLECTION VEHICLE” means a vehicle used to perform collection services.

“CONTRACT PRICE” means the total price payable under this MSA, as set forth in the Statements of Work.

“CONTRACTOR DEFAULT” means a failure of the Contractor to comply with the requirements of this MSA or unsatisfactory performance of the Contractor’s obligations under this MSA, other than a Material Contractor Default.

“COST ESTIMATE” has the meaning set out in Section 8.8(b) of this MSA.

“CURRENT PANDEMIC CONDITIONS” means advice, guidelines, recommendations, instructions, requirements, restrictions, and laws of governmental authorities (including the Ontario Ministry of Labour, Training, and Skills Development, and Chief Medical Officer of Health / Provincial Health Officer) and industry associations relating to an epidemic or a pandemic, including, without limitation, COVID-19, which are in effect as of a Statement of Work Effective Date, including by way of example restrictions that may delay, reduce productivity, or increase the cost of performance of the Work, in respect of the Statement

of Work applicable to such Statement of Work Effective Date, such as physical distancing, wearing task-appropriate levels of personal protective equipment and cleaning or disinfecting.

“EFFECTIVE DATE” has the meaning set out above in this MSA.

“ELIGIBLE COMMUNITY” has the meaning set out in the Regulation.

“EQUIPMENT” means all vehicles, including Collection Vehicles and Hauling Vehicles, machinery, apparatus and other items used in completing the Work.

“HAULING VEHICLE” means a vehicle used to perform hauling services.

“INTELLECTUAL PROPERTY RIGHTS” means all intellectual property rights as recognized under any Applicable Law, including rights in and to patents, trade secrets, proprietary information, copyright, trademarks, industrial designs, and design patents whether or not registered or registrable and other rights in intellectual property of the same or similar effect or nature relating to the foregoing and any component thereof throughout the world.

“LEGISLATIVE CHANGE” means changes in Applicable Law, including repeal, replacement or amendment of an Applicable Law, including the Regulation, that give rise to the Work (or any part thereof) no longer being required or necessary, as determined by CMO in its sole and absolute discretion.

“LOSSES AND CLAIMS” means liabilities, claims, demands, losses, costs, expenses, damages, orders, penalties, actions, suits and other proceedings (including legal fees and disbursements).

“MANAGER” means the manager of this MSA identified by CMO, from time to time, in writing.

“MATERIAL CONTRACTOR DEFAULT” means the Contractor has committed any of the following acts or omissions:

- (i) disposing of any Blue Box Material that was collected as part of this MSA at any alternate fuel facility, landfill, energy from waste facility or other disposal location or with a Person not expressly permitted by this MSA;
- (ii) deliberately falsifying data, or exhibiting a pattern of providing false or misleading data, in relation to any documentation provided to CMO;
- (iii) failing to comply with the MSA, including any Statements of Work, in a manner that results in CMO or Producers becoming non-compliant with the Regulation; or
- (iv) abandoning the Work.

“PERSON” means any individual, partnership, limited partnership, joint venture, syndicate, company or corporation with or without share capital, trust, trustee, executor, administrator or other legal personal representative, and any federal, provincial or municipal government, regulatory authority, agency, tribunal, commission, board or department of any such government or entity however designated or constituted.

“PRIME” means the Bank of Canada’s target for the overnight (interest) rate, as posted from time to time.

“PRODUCER” has the meaning set out in the Regulation.

“REGULATION” means Ontario Regulation 391/21 under the (Ontario) *Resource Recovery and Circular Economy Act, 2016*.

“STATEMENT OF WORK” means a statement of work entered into between CMO and the Contractor in the form attached to Schedule A.

“STATEMENT OF WORK ELIGIBLE COMMUNITY SERVICE COMMENCEMENT DATE” means the applicable date on which the Work commences in an Eligible Community.

“SUBCONTRACTOR” means a subcontractor employed by the Contractor pursuant to Section 5.2.

“UNUSUALLY SEVERE ADVERSE WEATHER CONDITIONS” means unusually severe adverse weather conditions at the place of the Work which:

- (i) are different from those normally and customarily experienced at the place of the Work (as documented by weather data from Environment Canada) over the past twenty (20) years taking into consideration severity, duration and time of year conditions; and
- (ii) preclude the safe performance of the Work.

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

“WORK” means the performance of services including the supply of all materials, Equipment, labour, facilities, supervision, services, permits, licenses, or approvals required to complete the Contractor’s obligations under this MSA, including the Statements of Work and any Change Orders agreed to by the Parties.

“WORK REPORT FOR THE MONTH” has the meaning set forth in the applicable Statement of Work.

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1.2 Interpretation

- (a) Whenever inconsistent in the context, words used in the present tense include the future tense, words in the plural include the singular, words in the singular include the plural, and the use of any gender shall be applicable to all genders whenever the sense requires. Words not defined in Section 1.1 or elsewhere in this MSA shall be given their common and ordinary meaning.
- (b) The words authorized, directed, required, requested, approved, ordered, sanctioned, and satisfactory, unless some other meaning is obvious from the context, shall mean respectively authorized, directed, required, required, approved, or sanctioned by or satisfactory to CMO or its appointed representative.
- (c) Where the word “including” or “includes” is used, it means “including (or includes) without limitation”.
- (d) The word may in this MSA denotes permissive.
- (e) The words shall and will in this MSA denote imperative.

- (f) Any capitalized term used in this MSA that is not defined in Section 1.1 or elsewhere in this MSA will, if applicable, have the meaning set out in the Regulation or otherwise will have the generally accepted industry or technical meaning given to such term.
- (g) 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.
- (h) The headings in this MSA are solely for convenience of reference and will not be used for purposes of interpreting or construing the provisions hereof.
- (i) Unless otherwise provided for herein, all monetary amounts referred to herein will refer to the lawful money of Canada.
- (j) When calculating the period of time within which or following which any act is to be done or step taken pursuant to this MSA, the date which is the reference date in calculating such period will be excluded. If the last day of such period is not a Business Day, then the time period in question will end on the first Business Day following such non-Business Day.
- (k) Any references in this MSA to any law, by-law, rule, regulation, order or act of any government, governmental body or other regulatory body, including any Applicable Law, will be construed as a reference thereto as amended or re-enacted from time to time or as a reference to any successor thereto.
- (l) Attached to and forming an integral part of this MSA is Schedule A – Statements of Work.
- (m) This MSA shall constitute the entire agreement between the Parties and shall supersede all prior agreements, understandings, negotiations, and discussions, oral or written, between the Parties. In the event of any inconsistency between any of the provisions of this MSA, the inconsistency will be resolved by reference to the following in descending order of priority:
 - (i) Amendments to the Statements of Work;
 - (ii) Statements of Work;
 - (iii) Amendment to the other portions of this MSA made in accordance with the requirement of this MSA, including Change Orders; and
 - (iv) Other portions of this MSA.

1.3 Managed Contract

- (a) The Parties acknowledge and agree that this MSA may be managed for CMO by a Manager. As of the Effective Date, CMO identifies RLG Systems Canada Inc. or one or more of its affiliates (“RLG”) as the Manager. Notwithstanding any other provision in this MSA, CMO may identify, in writing, its rights under this MSA, in whole or part, that may also be exercised, or enjoyed, by the Manager.
- (b) The Manager:
 - (i) shall receive copies of documents, and may request copies of documents, provided to CMO, or that may be requested by CMO, pursuant Sections 5.2(b) and 8.8(h)(i) of this MSA;

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- (ii) shall be notified, along with CMO, pursuant to Sections 6.2(e), 6.2(g) and 8.9(b) of this MSA; and
- (iii) may provide notice to the Contractor pursuant to Section 7.1(b) of this MSA.

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ARTICLE 2 TERM

2.1 Term

- (a) This MSA shall remain in effect from the Effective Date until all Statements of Work have expired or been terminated, unless this MSA is terminated as described in Sections 7.4 and 7.5, or as otherwise provided for in this MSA.
- (b) CMO and the Contractor may, by Change Order, extend a Statement of Work. Any such extension shall be under the terms and conditions of this MSA and the Statement of Work, as amended by CMO and Contractor from time to time.
- (c) CMO reserves the right to terminate this MSA or a Statement of Work in accordance with Section 7.5, or as otherwise provided for in this MSA. Termination shall not affect CMO's right to make a claim against Contractor for the damages on account for such a breach.

ARTICLE 3 SCOPE OF WORK

3.1 Service Provision

- (a) The Contractor shall provide all materials, personnel, and Equipment as required to provide the Work.
- (b) All Applicable Laws shall be complied with by the Contractor in the performance of all portions of the Work. The Contractor is familiar with all Applicable Laws, which in any manner affect the Work, those engaged or employed in the Work, or in the facilities or Equipment used in the Work, and no plea of misunderstanding will be considered on account of ignorance.
- (c) If, during the term of this MSA, there is a change in Applicable Law which is in effect as of a Statement of Work Effective Date that results in a material impact on the performance of any act required by the Statement of Work applicable to such Statement of Work Effective Date, the Parties shall renegotiate the provisions of this MSA, including the Statement of Work, using a Change Order pursuant to Section 8.8. If the Parties are unable to agree on the revised terms and conditions either Party may submit the dispute to arbitration in accordance with the provisions of this MSA.
- (d) CMO is committed to diverting Blue Box Materials from disposal and achieving efficiencies in the Work. To this end CMO will continue to explore new methods and technologies and, as a proposed change in the Work, CMO may issue a Change Notice to the Contractor in respect of such new methods and technologies. If CMO chooses to proceed with such new methods and technologies CMO will issue a Change Order to the Contractor in accordance with Section 8.8.

3.2 Environmental Attributes

- (a) Environmental Attributes means the interests or rights arising out of attributes or characteristics relating to the environmental impacts associated with the performance of the Work under this MSA. Any Environmental Attributes resulting from the Work performed under this MSA shall be and remain the sole property of CMO for its exclusive use. The Contractor hereby transfers and assigns to, or to the extent transfer or assignment is not permitted, holds in trust for, CMO who thereafter shall retain, all rights, title, and interest in all Environmental Attributes associated with the Work during the term of this MSA, and Contractor shall do all acts necessary to effect the foregoing.
- (b) For greater certainty, Section 3.2(a) does not include or apply to any Environmental Attributes arising from activities and operations facilitated by the Contractor's investment prior to the MSA Effective Date or not associated with the Work. Ownership of such Environmental Attributes shall belong solely to the Contractor.

3.3 Labour Disruption

- (a) If there is a lawful or legal strike, lockout, or work slowdown or other lawful or legal labour disruption or job action during the term of this MSA (the "Lawful LD Period"), the Contractor shall, during the Lawful LD Period, conditional on the municipal council's approval of the Contractor's overall labour disruption contingency plan if council approval is required, make best efforts to:

- (i) Encourage Eligible Sources who do not receive collection services because of the Lawful LD, to separate and retain their Blue Box Material and not place such Blue Box Material out for collection during the Lawful LD Period.
 - (ii) Provide continued collection of Blue Box Material from Eligible Sources that currently receive collection from Subcontractors contracted by the Contractor and to have those Subcontractors deliver Blue Box Material collected from those Eligible Sources to third party receivers designated by CMO where the provision of such continued services will not, in the Contractor's sole discretion, adversely affect the Contractor's labour negotiations.
- (b) If the Contractor's employees engage in an unlawful or illegal strike, lockout, or work slowdown or other unlawful or illegal labour disruption or job action during the term of this MSA (the "Unlawful LD Period") that remains unresolved for a period of 30 calendar days, CMO may deem a Material Contractor Default to have occurred.
- (c) Notwithstanding any provision in the MSA to the contrary, during the LD Period, the Contractor will not invoice CMO for the cost of collecting the Blue Box Material from Eligible Sources that do not receive collection services pursuant to this MSA.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES

4.1 Representations and Warranties

Contractor represents and warrants to and covenants with CMO that:

- (a) 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 MSA;
- (b) it has full power, authority, and right to execute and deliver this MSA, to make the representations, warranties, and covenants set out herein, and to perform its obligations under this MSA in accordance with its terms. This MSA has been validly executed by an authorized representative of Contractor, and constitutes a valid and legally binding and enforceable obligation of Contractor and the execution and delivery of this MSA and the consummation of the matters contemplated by this MSA have been duly authorized by all necessary corporate and other actions on the part of the Contractor;
- (c) if applicable, it has consulted with any lower tier municipalities in which the Work will be delivered or members of the Contractor, as the case may be, and obtained any necessary authorization from such lower tier municipalities or members of the Contractor, as the case may be;
- (d) it has and will, at its own expense, procure all permits, certificates and licenses required by Applicable Law for the performance of the Work;
- (e) as of the Effective Date, and throughout the term of this MSA, the Contractor has no exclusivity arrangements with any Subcontractor that obligates the Contractor to utilize that Subcontractor in the performance of the Work except for those disclosed in writing to CMO; and
- (f) in performing its obligations under this MSA, the Contractor shall exercise the standard of care, skill, judgment and diligence that would normally be provided by an experienced and prudent contractor supplying similar services and work.

ARTICLE 5 CONTRACTOR MANAGEMENT

5.1 Record Keeping and Reporting Requirements

- (a) Through the performance of the Work the Contractor shall prepare, maintain and deliver records generated in accordance with the provisions of this MSA, including an annual fuel emissions report. Such obligations shall apply to all Work, unless otherwise specified in this MSA.
- (b) CMO may at any time, and from time to time, waive the requirement to include any particular item in any report in connection with the Work or may reduce the frequency of any report, but in such event shall have the right to reinstate any item and increase the frequency of reporting to the times provided in this MSA.
- (c) For clarity, nothing in this Section 5.1 shall relieve the Contractor from its obligation to execute the Work to completion in accordance with the requirements of this MSA.

Deleted: detailed reports of Blue Box Material collected, delivered and received, and any required

5.2 Subcontractors

- (a) The Contractor may, subject to this Section 5.2, subcontract portions of the Work to Subcontractors. The Contractor shall, and shall cause the Subcontractors to, perform the Work in accordance with the provisions of this MSA.
- (b) The Contractor shall, with respect to subcontracts between the Contractor and its Subcontractors, provide CMO, upon request, with a copy of subcontracts entered into between the Contractor and its Subcontractors, and all applicable amendments and changes, redacted to prevent disclosure of commercial information.
- (c) The Contractor shall in all cases be fully responsible to CMO for all of its obligations under this MSA that are subcontracted to a Subcontractor and for all acts and omissions of all Subcontractors even if such Subcontractor was preselected or approved by CMO.

5.3 Access to the Work

- (a) Without limiting the generality of any other provision in this MSA, at all times requested by CMO or the Manager during operating hours upon at least 48-hours notice, the Contractor shall, at no expense to CMO or the Manager, provide CMO, the Manager and their respective professional advisors, auditors and consultants, and any Person authorized by CMO or the Manager with access to the Work (including the staff performing the Work and the Equipment being used to perform the Work) to monitor, observe and review any Work (including the staff performing the Work and the Equipment being used to perform the Work) being performed, provided that such access is not a health and safety risk to the Contractor's staff, or to CMO's or the Manager's respective personnel, and the Contractor shall, and shall cause the Subcontractors to, provide, and cooperate with CMO or the Manager in providing, such access. The Contractor shall provide access to such Work (including the staff performing the Work and the Equipment being used to perform the Work) whenever and wherever it is in progress and the Contractor shall provide sufficient, safe and proper facilities in respect of such access. Without limiting the generality of the foregoing, during such access, CMO or the Manager may monitor the Work (including the staff performing the Work and the Equipment being used to perform the Work) provided that such monitoring, observing or reviewing of the Contractor's Work or Equipment shall not cause unreasonable delays to the Contractor's performance of the Work.

- (b) If any Work is found by CMO or the Manager, acting reasonably, not to be in accordance with the requirements of this MSA, the Contractor shall, at no expense to CMO or the Manager, make good such defective Work.
- (c) CMO, and other parties identified by CMO, shall be entitled to use information obtained pursuant to this Section 5.3 for the administration of this MSA and any internal purposes.

5.4 Contingency Plan

In the event of a Contractor Default or a Material Contractor Default, CMO may direct the Contractor, at the Contractor's expense, to:

- (a) prepare and present to CMO, for review and approval, a contingency plan ("Contingency Plan") as soon as practical, but not later than five (5) Business Days after the earlier of the Contractor becoming aware of, or CMO notifying the Contractor of, Work that is not compliant with the terms of this MSA. Such Contingency Plan shall demonstrate how the Contractor shall address the non-compliant Work and prevent similar non-compliant Work in the future; and
- (b) commence the implementation of the Contingency Plan approved by CMO as soon as practical, but not later than within two (2) Business Days of CMO approving the Contingency Plan; and
- (c) otherwise take all measures necessary to address the Work that is not compliant with the terms of this MSA.

ARTICLE 6 COMPENSATION

6.1 Canadian Funds

All amounts in this MSA are in Canadian funds.

6.2 Documentation and Payment

- (a) CMO may issue a purchase order in respect of each Statement of Work. Any such purchase order shall be solely for the convenience of CMO and, notwithstanding any of the provisions set out in such purchase order, shall not create any binding obligations of either CMO or the Contractor or in any way be deemed to supersede or amend this MSA or any Statement of Work or be considered to form part of this MSA or any Statement of Work.
- (b) ~~Subject to Section 6.2(c), after there is a Work Report for the Month in respect of a calendar month, CMO shall pay the Contract Price of the Work performed, in accordance with the requirements of the MSA and each applicable Statement of Work, during the calendar month related to such Work Report for the Month, within thirty (30) calendar days of the date the Work Report for the Month is agreed upon by the Contractor and CMO.~~
- (c) ~~CMO shall not pay the Contract Price of the Work performed during a calendar month until at least forty-five (45) calendar days after the last day of such calendar month.~~
- (d) ~~For clarity, CMO shall have no obligation to make any payments in respect of a calendar month until CMO has received all items required from the Contractor in respect of such calendar month, including the Work Report for the Month, pursuant to the provisions of this MSA, including the applicable Statements of Work, and the items are deemed acceptable to CMO, acting reasonably.~~
- (e) ~~Where the Contractor disputes the amount of a payment, the Contractor shall issue a written notice to CMO describing the reasons for the disputed amount.~~
- (f) Price adjustments may be made pursuant to Section 6.4.
- (g) The Contractor shall inform CMO of any payment errors that result in overpayment by CMO in a timely manner by issuing a written notice informing CMO of the credit necessary to correct such error in the next payment or, if the overpayment is in respect of the last payment, by issuing a refund to CMO within thirty (30) calendar days.

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Deleted: the start of each calendar month, the Contractor shall have submitted all monthly reports to be provided by the Contractor pursuant to this MSA, including Statements of

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[insert CMO address]
Attention: [insert CMO contact name]
The Work Reports for the Month shall comply

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For clarity, the Work Reports

Deleted: shall be deemed not to have been received by CMO, payment shall be withheld by CMO, and

Deleted: <#>For each calendar month during the SoW Term, CMO shall pay the Contractor the Contract Price for the Work performed in accordance with the requirements of the MSA, during the immediately prior calendar month, calculated in accordance with each applicable Statement of Work, as the case may be, provided the Contractor has submitted the Work Reports for the calendar month to CMO in respect of such immediately prior calendar month. For clarity, CMO may disagree with, and dispute, the content of the Work Reports for the Month.¶

6.3 Taxes

- (a) Except for the applicable Value Added Taxes payable by CMO pursuant to any Statements of Work, all taxes, including any sales, use, excise and similar value added taxes, however denominated or measured, imposed upon the price or compensation under this MSA or any Statements of Work, or upon the Work provided hereunder or thereunder, or based on or measured by gross receipts or net income, or measured by wages, salaries or other remuneration of the Contractor's employees, will be solely the responsibility of the Contractor. The Contractor will deposit, or cause to be deposited, in a timely manner with the appropriate taxing authorities all amounts required to be withheld.

- (b) The Contractor is a registrant within the meaning of Part IX of the Excise Tax Act and shall provide CMO with its harmonized sales tax (“HST”) number.

6.4 Price Adjustment

Price adjustments may be specified in a Statement of Work.

6.5 Monies Due to CMO

In the event there are any monies payable to CMO by the Contractor under the terms of this MSA, CMO shall invoice the Contractor for such amounts and the Contractor shall pay such amounts to CMO in accordance with such invoice.

6.6 Other Requirements

The Contractor is not eligible for any payment until after the performance of Work under a Statement of Work.

6.7 Interest

The Contractor shall be entitled to interest upon any amounts owing for more than thirty (30) calendar days on account of delay in payment by CMO, until payment of the unpaid amount. The interest shall be simple interest payable monthly at a rate of one percent (1%) per annum plus Prime.

6.8 Limited Liabilities

- (a) Subject to Section 6.8(b), the total cumulative liability of the Contractor to CMO for all Losses and Claims of any kind with respect to this MSA, whether based on tort, negligence, contract, warranty, strict liability or otherwise shall be the total amount of the Contract Price paid to the Contractor for the Work, provided that in the first twelve (12) months after the Effective Date, such total cumulative liability shall be the greater of (i) the total amount of the Contract Price paid to the Contractor for the Work and (ii) CMO’s reasonable estimate of the Contract Price expected to be paid to the Contractor for the Work during the first twelve (12) months after the Effective Date (the “Contractor Liability Threshold”).
- (b) The Contractor Liability Threshold and Section 6.8(a) shall not apply to any Losses and Claims arising out of, or in consequence of, any one or more of the following for which there shall be no limit of liability:
- (i) all costs to complete the Work, in accordance with this MSA, including the applicable Statements of Work, that are in excess of Contract Price; and
 - (ii) indemnification by the Contractor as set out in Section 7.2(a).
- (c) Subject to 6.8(d), the total cumulative liability of CMO to the Contractor for all Losses and Claims of any kind with respect to this MSA, whether based on tort, negligence, contract, warranty, strict liability or otherwise shall be the total amount of the Contract Price paid to the Contractor for the Work, provided that in the first twelve (12) months after the Effective Date, such total cumulative liability shall be the greater of (i) the total amount of the Contract Price paid to the Contractor for the Work and (ii) CMO’s reasonable estimate of the Contract Price expected to be paid to the Contractor for the Work during the first twelve (12) months after the Effective Date (the “CMO Liability Threshold”).

- (d) The CMO Liability Threshold and Section 6.8(c) shall not apply to any Losses and Claims arising out of, or in consequence of, indemnification by CMO as set out in Section 7.2(b) for which there shall be no limit of liability.

ARTICLE 7 FAILURE TO PERFORM, REMEDIES AND TERMINATION

7.1 Time of the Essence

- (a) Time shall be of the essence for the performance of the Contractor's obligations under this MSA, including the performance and completion of the Work. The Work shall be delivered within the time promised, failing which CMO reserves the right to terminate this MSA, or portion thereof including one or more Statements of Work, in accordance with Section 7.5 without penalty or prejudice to any other right to remedy available to CMO.
- (b) In a case that the Contractor fails to perform the Work in accordance with the terms, conditions and specifications of this MSA, including any Statements of Work, CMO may give the Contractor notice as a written warning detailing the performance failure.

7.2 Responsibility for Damages/Indemnification

- (a) Contractor Indemnity
 - (i) The Contractor shall indemnify and hold harmless CMO, the Manager and their respective officers, directors, employees, agents and representatives (collectively, the "CMO Indemnitees") from and against any and all Losses and Claims brought against, suffered, sustained or incurred by the CMO Indemnitees, directly or indirectly arising out of this MSA attributable, wholly or in part, to:
 - (A) bodily injury, sickness, disease or death or to damage to or destruction of tangible property occurring in or on the premises or any part thereof and as a result of activities under this MSA;
 - (B) any negligent acts or omissions by, or willful misconduct of, the Contractor, its officers, agents, servants, employees, licensees or subcontractors, including failing to exercise the standard of care, skill judgment and diligence required pursuant to Section 4.1(f);
 - (C) failure to comply with, or breach of, any of the Contractor's obligations under this MSA;
 - (D) damages caused by the Contractor, its officers, agents, servants, employees, licensees or subcontractors, or arising from the execution of the Work, or by reason of the existence or location or condition of Work or any materials, plan or Equipment used thereof or therein, or which may happen by reason of the failure of the Contractor, its officers, agents, servants, employees, licensees or subcontractors to do or perform any or all of the several acts or things required to be done by them under this MSA;
 - (E) any assessment (including compliance orders and administrative penalties) or allegations of non-compliance under the Regulation or the (Ontario) *Resource Recovery and Circular Economy Act, 2016* directly attributable, in whole or in part, to the acts or omissions of the Contractor, its officers, agents, servants, employees, licensees or subcontractors, except to the extent such assessment is attributable to the negligence, willful misconduct or breach of this MSA by CMO;

- (F) any failure or delay by CMO to submit any required report or other information to the registry, as defined in the (Ontario) *Resource Recovery and Circular Economy Act, 2016* resulting from the acts or omissions of the Contractor, its officers, agents, servants, employees, licensees or subcontractors;
 - (G) any failure of the Contractor, its officers, agents, servants, employees, licensees or subcontractors to comply with the (Ontario) *Occupational Health and Safety Act* (or the regulations thereunder);
 - (H) any finding or declaration that a CMO Indemnitee is an “employer” for the purposes of the (Ontario) *Occupational Health and Safety Act* in connection with a breach of the (Ontario) *Occupational Health and Safety Act* (or the regulations thereunder) by the Contractor, its officers, agents, servants, employees, licensees or subcontractors in connection with the Work; or
 - (I) any fines, penalties or orders of any kind that may be levied or made in connection therewith pursuant to the (Ontario) *Environmental Protection Act*, the *Ontario Water Resources Act*, the (Ontario) *Dangerous Goods Transportation Act* or other similar Applicable Law, whether federal or provincial, due to the presence of, or exposure to, or release of (including any spill discharge, escape, emission, leak, deposit, dispersion, or migration into the environment) any hazardous materials, contaminants or pollutants in, into or through the natural environment in relation to the Work.
- (ii) Without limiting the generality of any other provision in this MSA, the Contractor shall indemnify and hold the CMO Indemnitees harmless from and against any and all Losses and Claims brought against, suffered, sustained or incurred by the CMO Indemnitees attributable to, wholly or in part, any acts or omissions either in negligence or nuisance whether wilful or otherwise by the Contractor, its officers, agents, servants, employees, licensees or subcontractors.
 - (iii) Notwithstanding any other provision in this MSA, indemnification by the Contractor pursuant to this Section 7.2(a) shall include claims, demands, actions, suits and other proceeding by Persons against the CMO Indemnitees for consequential, indirect, incidental, special, exemplary, punitive or aggravated damages, loss profits or revenues or diminution in value.
 - (iv) The Contractor acknowledges that CMO holds the benefit of any provision in this MSA, including under this Section 7.2(a), that is expressly intended to extend to include the Manager, as a third party beneficiary, as trustee and agent for the Manager. CMO shall be entitled to enforce the rights of the Manager, as a third party beneficiary, under such provisions.

(b) CMO Indemnity

CMO shall indemnify and hold harmless the Contractor, and its respective elected officials, officers, directors, employees, agents and representatives (the "Contractor Indemnitees") from and against any and all Losses or Claims brought against, suffered, sustained or incurred by the Contractor Indemnitees, directly or indirectly arising out of this MSA attributable, wholly or in part, to any negligent acts or omissions by, or willful misconduct

of, CMO, its officers, agents, servants, employees, licensees or contractors (other than the Contractor).

7.3 COVID-19

- (a) The Contractor's duties shall include managing the effects of the Current Pandemic Conditions on the performance of the Work and performing the Work in compliance with the Current Pandemic Conditions.
- (b) The costs, expenses and time of performing the Work in compliance with the Current Pandemic Conditions have been considered in setting the Contract Price and the schedule for completion of the Work and, notwithstanding any other provision in this MSA, shall not be the basis for an increase in the Contract Price or an extension of the schedule for completion of the Work.

7.4 Force Majeure

- (a) Subject to Section 7.4(b), "Force Majeure Event" means any event or circumstance beyond the reasonable control of either CMO or the Contractor (other than a lack of funds or other financial reason) including the following:
 - (i) Unusually Severe Adverse Weather Conditions; and
 - (ii) riots, war, rebellion, sabotage and atomic or nuclear incidents.
- (b) A Force Majeure Event shall not include the following events or circumstances:
 - (i) weather conditions that are not Unusually Severe Adverse Weather Conditions;
 - (ii) an electricity system outage, unless the electricity system outage affects an entire Eligible Community and persists for at least forty-eight (48) hours and is caused by a Force Majeure Event;
 - (iii) unavailability of, or delays in delivery or breakage of, or shortage of, Equipment or materials, unless such unavailability, delays, breakage or shortage are caused by a Force Majeure Event;
 - (iv) the quantity of Blue Box Material collected or received differs from the Contractor's expectations;
 - (v) delay or other failure arising out of the nature of the Work to be done, or from any normal difficulties that may be encountered in the performance of the Work, having regard to the nature thereof;
 - (vi) if and to the extent the Party seeking to invoke the Force Majeure Event has caused the applicable Force Majeure Event by its (and, in the case of the Contractor, Subcontractor's) fault or negligence; or
 - (vii) if and to the extent the Party seeking to invoke the Force Majeure Event has failed to use reasonable efforts to prevent or remedy the Force Majeure Event, so far as possible and within a reasonable time period.

- (c) Circumstances relating to the COVID-19 pandemic shall not be regarded as a Force Majeure Event, unless circumstances arising in connection with the COVID-19 pandemic change materially from Current Pandemic Conditions in a manner that causes a new failure or delay in a Party's fulfillment or performance of any term of this MSA that would otherwise constitute a Force Majeure Event.
- (d) A Party that experiences a Force Majeure Event shall use all commercially reasonable efforts to end the Force Majeure Event, ensure the effects of the Force Majeure Event are minimized and resume full performance under this MSA.
- (e) In the event that either CMO or the Contractor shall be unable to fulfil, or shall be delayed, or shall be prevented from the fulfilment of, its obligation under this MSA by reason of a Force Majeure Event, then either Party shall forthwith notify the other in writing and CMO shall:
 - (i) terminate this MSA or any affected Statements of Work as soon as reasonably practicable in writing and without any further payments being made;
 - (ii) perform, or engage others to perform, the obligations under this MSA that are impacted by the Force Majeure Event; and/ or
 - (iii) authorize the Contractor to continue the performance of this MSA in writing with such adjustments and/or amendments as required by the existence of the Force Majeure Event and as agreed upon by both Parties acting reasonably. If the Parties cannot agree upon the adjustments and/or amendments, it is agreed by the Parties that this MSA shall be immediately terminated with no further obligations by either Party.

For clarity, the Contractor shall not be entitled to be paid for obligations under this MSA that it does not perform as a result of a Force Majeure Event.

- (f) For the purposes of clarification and notwithstanding any other provision in this MSA, the Contractor shall be solely responsible for maintaining all Work, including collection services, as applicable, in all circumstances that are not Force Majeure Events, in compliance with the requirements of this MSA.

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7.5 MSA Termination

- (a) Any termination of this MSA or termination of the Contractor's right to perform the Work (or any part thereof) by CMO shall be without prejudice to any other rights or remedies CMO may have.
- (b) Without prejudice to any other right or remedy CMO may have under this MSA, CMO may terminate this MSA, or any Statements of Work, or terminate the Contractor's right to perform the Work (or any part thereof) as follows:
 - (i) notwithstanding any other section of this MSA, if there is a Legislative Change, immediately, upon written notice being provided to the Contractor;
 - (ii) if there is a Material Contractor Default, immediately, upon written notice being provided to the Contractor;

- (iii) if there is a Contractor Default and the Contractor has failed to cure such Contractor Default within fifteen (15) Business Days after receipt of notice of such Contractor Default, or within the time specified in a Contingency Plan approved by CMO in accordance with Section 5.4, or within such other time as mutually agreed between the Parties, immediately, upon written notice being provided to the Contractor; and
 - (iv) if the Parties cannot agree upon a Change Order, immediately, upon written notice being provided to the Contractor. Without limiting the generality of the foregoing, CMO may exercise the right of termination provided for in this Section 7.5(b)(iv), if the Parties cannot agree upon a Change Order in respect of (i) a Communications pursuant to Section 8.16 or (ii) a change, alteration and/or amendment to the Work to be implemented after December 31, 2025.
- (c) If CMO terminates this MSA or any Statement of Work as noted above, CMO is entitled to:
- (i) Take possession immediately of all the Blue Box Material;
 - (ii) Withhold any further payments to the Contractor until the completion of the Work; and
 - (iii) Recover from the Contractor, any loss, damage, and expense incurred by CMO by reason of the Contractor's default under Sections 7.5(b)(ii) or 7.5(b)(iii), which may be deducted from any monies due, or becoming due, to the Contractor.
- (d) For clarity, if CMO terminates this MSA or any Statement of Work because of a Legislative Change or pursuant to Section 7.5(b)(iv), then, subject to the other provisions of this MSA, CMO shall only be required to pay the Contractor for the Work performed prior to the date of termination, less any amounts already paid for Work performed, and not for lost profits.

7.6 Remedies

- (a) The rights and remedies of CMO as set forth in any provision of this MSA, including Section 7.5, shall not be exclusive and are in addition to any other rights or remedies provided by law or in equity or otherwise.
- (b) The exercise of any remedy provided by this MSA does not relieve the Contractor from any liability remaining under this MSA.
- (c) CMO may take such steps as it considers necessary to remedy any breach of contract and any damages or expenditures thereby incurred by CMO plus a reasonable allowance for overhead may be collected by deduction or set-off pursuant to Section 7.5(b).
- (d) No waiver of any right or obligation of either Party hereto shall be effective unless in writing, specifying such waiver, and executed by the Party against whom such waiver is sought to be enforced. Except as otherwise set forth in this MSA, no failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this MSA shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege. A waiver by either Party of any of its rights under this MSA on any occasion shall not be a bar to the exercise of the same right on any subsequent occasion or of any other right at any time.

7.7 Disputes

- (a) If there is a dispute between CMO and the Contractor as to their respective rights and obligations, the Parties shall use the following dispute resolution procedures to resolve such dispute:
 - (i) The Parties shall attempt to resolve the dispute through informal discussions with the assistance of the Manager;
 - (ii) If, after a period of ten (10) Business Days, either Party believes the dispute will not be resolved through informal discussion, the dispute shall be referred by the Parties to non-binding mediation whereby the fees and expenses of the mediator will be divided equally (i.e., 50/50) between CMO and the Contractor. The mediator will be appointed jointly by the Parties; and
 - (iii) If the Parties are unable to resolve the dispute within a period of thirty (30) calendar days after the first mediation session, the dispute shall be resolved through binding arbitration in accordance with Section 7.8.

7.8 Arbitration

- (a) As provided for in Section 7.7(a)(iii), disputes shall be resolved through binding arbitration in accordance with the Arbitration Act, 1991, S.O. 1991, c.17 (“Arbitration Act”), as amended from time to time.
- (b) CMO and the Contractor shall agree on an arbitrator within ten (10) Business Days after either Party receives notice from the other Party. If the Parties fail to agree, either Party may apply to a court of competent jurisdiction for the appointment of an arbitrator in accordance with the Arbitrations Act, as amended.
- (c) No one shall be named or act as an arbitrator who is interested in any way financially in this MSA or in the business affairs of either Party or has been directly or indirectly involved to settle the matter.
- (d) The arbitrator is not authorized to make any decision inconsistent with this MSA or any Statement of Work, nor shall the arbitrator modify or amend any of this MSA terms.
- (e) The Parties agree that the award made by the Arbitrator shall be final and binding and shall in all respect be kept and observed.
- (f) The arbitrator, or arbitral tribunal, will apportion the costs of the arbitration to the Parties.
- (g) The Contractor shall be deemed to abandon the matter if no arbitrator has been appointed within six (6) months of CMO’s receipt of the notice specified in Section 7.8(b).
- (h) No matter may be submitted to arbitration except in accordance with the above provisions.

7.9 Choice of Forum

Any legal suit, action, litigation, or proceeding of any kind whatsoever in any way arising out of, from or relating to this MSA shall be instituted in the courts of the City of Toronto, Ontario, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, litigation or proceeding. Service of process, summons, notice, or other document by mail or personal service to such

Party's address set forth herein shall be effective service of process for any suit, action, litigation or other proceeding brought in any such court. Each Party agrees that a final judgment in any such suit, action, litigation, or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. The Parties irrevocably and unconditionally waive any objection to the venue of any action or proceeding in such courts and irrevocably waive and agree not to plead or claim in any such court that any such action or proceeding brought in any such court has been brought in an inconvenient forum.

ARTICLE 8 STANDARD CONDITIONS

8.1 Governing Laws

This MSA will be interpreted and governed by the laws of the Province of Ontario.

8.2 Compliance with Laws and Permits

- (a) The Contractor shall comply in all material respects with Applicable Laws and shall perform and complete the Work, and cause the Work to be performed and completed, in accordance with and in compliance with all Applicable Laws, including all Applicable Laws related to the environment and health and safety. If there is a conflict between the standards required by Applicable Laws, then Contractor shall perform and complete the Work in compliance with the higher or more rigorous standard.
- (b) The Contractor shall obtain, and shall ensure Subcontractors obtain, all permits, permissions, licences, and approvals required to perform the Work.

8.3 Assignment

This MSA enures to the benefit of and is binding upon the Contractor and CMO and their successors and permitted assigns. The Contractor shall not assign, transfer (including a change in control of Contractor), convey or otherwise dispose of this MSA, including any rights or obligations under this MSA, or its power to execute such MSA, without the prior written consent of CMO.

8.4 Contractor to Make Examinations

The Contractor has made its own examination, investigation, and research regarding proper methods of providing the Work and all conditions affecting the Work under this MSA, and the labour, equipment and materials needed thereon, and the quantity of the work to be performed. The Contractor agrees that it has satisfied itself based on its own investigation and research regarding all such conditions, that its conclusion to enter into this MSA was based upon such investigation and research, and that it shall make no claim against CMO because of any of the estimates, statements or interpretations made by any officer or agent of CMO that may be erroneous.

8.5 Access to Records

- (a) The Contractor shall maintain in its designated local office full and complete operations, customer, financial and service accounts, books and records, as applicable to the Work, including records related to arranging, establishing or operating a collection system and records related to arranging, establishing or operating a promotion and education program, in each case in accordance with the Regulation (collectively, the "Records") that at any reasonable time shall be open for inspection and copying for any reasonable purpose by CMO or the Manager. In addition, the Contractor shall maintain in its head office reporting records and billing records pertaining to this MSA that are prepared in accordance with Generally Accepted Accounting Principles (GAAP). The Records shall include such reporting records and billing records and all records and payments under this MSA, as adjusted for additional and deleted services provided under this MSA. CMO or the Manager shall be allowed access to the Records for audit (including, as applicable to the Work, for an audit of practices and procedures implemented in respect of Part VI of the Regulation in accordance with Section 67 of the Regulation) and review purposes.

- (b) The Contractor shall make available copies of certified weigh scale records for Blue Box Materials collected under this MSA on request within two (2) Business Days of the request by CMO or the Manager. The weigh scale records may be requested for any period during the term of this MSA.
- (c) All records related to this MSA, including the Records, shall be maintained, and access granted pursuant to this Section 8.5, throughout the term of this MSA and for at least five (5) years thereafter.

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8.6 Insurance

- (a) The Contractor shall at its own expense obtain and maintain for the term of this MSA:
 - (i) Commercial general liability insurance on an occurrence basis for an amount not less than five million (\$5,000,000) dollars per each occurrence, five million (\$5,000,000) dollars general aggregate and a two million (\$2,000,000) dollars products-completed operations aggregate limit. The policy shall include CMO and the Manager as additional insureds with respect to the Contractor's operations, acts and omissions relating to its obligations under this MSA, such policy to include non-owned automobile liability, bodily injury, property damage, contractual liability, owners and contractors protective, products and completed operations, contingent employers liability, cross liability and severability of interest clauses;
 - (ii) Automobile liability insurance for an amount not less than five million (\$5,000,000) dollars per occurrence on forms meeting statutory requirements covering all owned, non-owned, operated, hired, and leased vehicles used in the execution of this MSA. The policy shall be endorsed to provide contractual liability coverage;
 - (iii) Environmental impairment liability insurance, (on a claims made or occurrence made basis), covering the work and services described in this MSA including coverage for loss or claims arising from contamination to third party property damage, bodily injury, cleanup costs and legal defense during the execution of this MSA. Such policy shall provide coverage for an amount not less than two million (\$2,000,000) dollars and shall remain in force for twelve (12) months following completion of work; and
 - (iv) For all Statements of Work involving depots, "all risks" property insurance in amounts sufficient to fully cover, on a replacement cost basis without deduction for depreciation, any building in which the Work is being performed (including all Depots applicable to such Statement of Work) and the Equipment contained therein and all other property owned by the Contractor or by others located therein including equipment, furniture and fixtures.
- (b) The Contractor shall not commence work until documentation evidencing the insurance requirements of the Contractor, have been filed and accepted by CMO. The documentation shall be certificates of insurance if purchased from a third party or evidence of self-insurance if applicable.
- (c) The Commercial General Liability policy is to contain, or be endorsed to contain, the following provisions:

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- (i) The Contractor's insurance coverage shall be the primary insurance with respect to CMO, the Manager and their respective officers, directors, employees, agents and representatives. Any insurance, self-insurance, or insurance pool coverage maintained by CMO or the Manager shall be more than the Contractor's insurance and shall not contribute with it;
 - (ii) Coverage shall state that the Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability; and
 - (iii) Policies for the above must be kept continuous throughout the term of this MSA. If any of the above policies are being cancelled, the Contractor shall notify CMO and the Manager in writing at least thirty (30) calendar days prior to the effective date of cancellation. The Contractor shall provide proof of renewal or replacement of any other policies of insurance, on or before the expiry date, at the request of the CMO or Manager. CMO reserves the right to request such higher limits of insurance or other types of policies appropriate to the Work as CMO may reasonably require.
- (d) All coverages for Subcontractors shall be subject to the same insurance requirements as stated herein for the Contractor.

8.7 Changes to MSA

- (a) Changes to this MSA, including any Statement of Work, may only be made in writing signed by duly authorized representatives of both Parties.
- (b) No Party shall have any obligation with respect to the implementation of a Change Order unless or until the Parties have reached agreement in writing and the Parties have entered into a Statement of Work in respect of such change.

8.8 Change Management

- (a) CMO shall be entitled to propose changes, alterations and/or amendments to the Work including removing all or a portion of the Work under any Statements of Work. If CMO deems it prudent to require a change in the Work, CMO shall notify the Contractor of the proposed change in the Work in writing ("Change Notice"). Without limiting the foregoing, CMO may issue a Change Notice using the Manager.
- (b) A Change Notice shall describe the change in the Work in sufficient detail to enable the Contractor to calculate and provide a change in cost estimate (the "Cost Estimate"), if any. The Contractor agrees that the Cost Estimate shall be provided in writing to CMO within a period of fifteen (15) Business Days or other timeline agreed to with CMO in writing from the date of receipt of the Change Notice.
- (c) The Cost Estimate shall include but is not limited to the following as it relates to the change in Work:
 - (i) A comment on whether relief from compliance with Contractor's obligations under this MSA is required;
 - (ii) Any impact on Contractor's ability to meet its obligations and the terms and conditions set out in this MSA;

- (iii) Any amendment that may be required to be made to the terms and/or conditions of this MSA; and
 - (iv) Any change in the Contractor's costs.
- (d) As soon as practicable after CMO receives the Cost Estimate, the Parties shall act in good faith to resolve the issues set out in the Cost Estimate and Change Notice, including providing evidence that the Contractor has used best efforts, such as (where practicable) the use of competitive quotes with its subcontractors to minimize any increase in costs and maximize any reduction in costs, demonstrating that any expenditure to be incurred or avoided has been determined in a cost effective manner, and any other evidence deemed appropriate by the Contractor and CMO, acting reasonably.
- (e) If the Contractor does not intend to use its own resources to implement any change in the Work, subject to prior written approval of CMO, the Contractor may subcontract the required resources with the objective of ensuring that it obtains best value for money when procuring any Work, services, supplies, materials, or equipment required in relation to the change in the Work.
- (f) If the Parties agree to the Cost Estimate and Change Notice, as may be modified, amended or altered by the Parties, the Parties shall document the applicable changes to the Statement of Work ("Change Order") in respect of such modified, amended or altered Cost Estimate and Change Notice within five (5) Business Days after the Contractor receives confirmation from CMO that such Cost Estimate and Change Notice are accepted. For clarity, the Cost Estimate and Change Notice shall not be implemented, unless and until, the Parties have entered into a Change Order in respect of such Cost Estimate and Change Notice.
- (g) Any change in the Work that causes, or is expected to cause, the Contractor's costs or any subcontractor's costs to decrease shall be treated as a benefit to the Contractor with the expectation and understanding that CMO will also realize a proportional financial benefit in an amount to be negotiated in good faith between the Parties. If such an understanding cannot be reached, the Parties agree to resolve the difference through the dispute resolution provisions set out in this MSA.
- (h) Contractor's Proposed Change in the Work:
- (i) If the Contractor seeks to propose a change in the Work in accordance with an express entitlement in this MSA, it must notify CMO in writing. The Contractor, in proposing a change in the Work, agrees to provide CMO with the following information and details in writing:
 - A description of the proposed change in the Work in sufficient detail, to enable CMO to evaluate it in full;
 - Reasons in support of the Contractor's proposed change in Work;
 - Set out the details and implications of the change in the Work, including any anticipated change in the costs of providing the Work by the Contractor;
 - Indicate whether a variation to the Contract Price is proposed (and, if so, provide a detailed Cost Estimate of such proposed change); and

- Identify an appropriate timeframe for the implementation of the change in Work.
- (ii) CMO agrees that it shall, in a timely manner, and in any event no later than fifteen (15) Business Days, evaluate the Contractor's proposed change in the Work, considering all relevant issues, including whether:
- A change in the Contract Price will occur;
 - The change affects the quality of the Work or the likelihood of successful delivery of the amended Work;
 - The change will interfere with any relationship of CMO with third parties;
 - The financial strength of the Contractor is sufficient to perform the change; and
 - The change materially affects the risks or costs to which CMO is exposed.
- (iii) If CMO accepts the Contractor's proposed change in the Work, the change in the Work shall be set out in a Change Order documenting all changes to the scope of Work and/or terms and conditions of this MSA. Where CMO accepts the Contractor's change proposal CMO shall notify the Contractor in a timely manner.
- (iv) If CMO rejects the Contractor's change proposal, CMO shall provide written reasons outlining the basis upon which the change in Work is not accepted by CMO.
- (v) Unless CMO specifically agrees to an increase in the Contract Price in writing, there shall be no increase in price because of a change in the Work proposed by the Contractor.
- (vi) Any change in the Work proposed by the Contractor that causes or that is expected to cause the Contractor's costs or any subcontractor's costs to decrease shall be treated as a benefit with expectation that CMO will also realize a proportional financial benefit in an amount to be negotiated in good faith between the Parties. The Parties agree to take all reasonable steps to negotiate the proportional financial benefit in good faith, failing which the Parties agree to resolve the difference through the dispute resolution provisions set out in this MSA.
- (i) Except as specifically confirmed in writing by the Parties in accordance with this Section 8.8, all Work shall remain unaltered and shall be performed in accordance with the terms and conditions of this MSA.

8.9 Conflicts and Omissions

- (a) Neither Party to this MSA shall take advantage of any apparent error or omission in this MSA or any Statement of Work. Any Work not herein specified which is necessary for the proper performance and completion of any Work contemplated, which may be implied as included in this MSA, shall be done by the Contractor as if such Work had been specified and shall not be construed as a variation of the Work.

- (b) If the Contractor discovers any provision in this MSA which is contrary to, or inconsistent with any Applicable Law, the Contractor shall forthwith report the inconsistency or conflict to CMO in writing and shall not perform the Work impacted by such inconsistency or conflict until it receives instructions from CMO.

8.10 Duty to Notify

If the Contractor becomes aware of any problem and/or condition which may adversely affect the performance of the Work, or the ability of the Contractor to conform with any requirements for the term of this MSA, then the Contractor shall promptly, and in no event more than two (2) Business Days after becoming aware of same, notify CMO, in writing, of such occurrence and of the nature of the relevant problem or condition in sufficient detail to permit CMO to understand the nature and scope thereof. In any event, the Contractor will provide such written progress reports to CMO as reasonably requested by CMO but not less frequently than monthly unless otherwise agreed to in writing by CMO.

8.11 Intellectual Property

- (a) Subject to Section 8.11(b) or 8.11(c) of this MSA, all Collection Data (including any Intellectual Property Rights residing therein) obtained by or made available to the Contractor in connection with this MSA (collectively, "Documentation") are the property of CMO or such other entity as identified by CMO, and the Contractor shall use such Documentation only as is necessary to perform the Work in accordance with this MSA or as necessary for internal operational, planning, or policy purposes and abiding by any regulatory requirements.
- (b) Notwithstanding any other provisions in Section 8.11, the Documentation that is subject to disclosure obligations or requirements to safeguard personal information for privacy purposes under the Freedom of Information and Protection of Privacy Act, the Municipal Freedom of Information and Protection of Privacy Act, an administrative or court order, and Documentation the content of which was ordinarily disclosed by the Contractor to the public in the normal course of its operations before the Effective Date, does not become part of the property of CMO pursuant to Section 8.11. Where the Contractor is complying with any of the Applicable Laws indicated in this Section 8.11(b), the Contractor shall not be considered to be breaching this MSA.
- (c) CMO acknowledges and agrees that any Documentation, regardless of whether the property of CMO pursuant to Section 8.11(a), may be a record for which the Contractor may have record retention and record destruction obligations pursuant to Applicable Law. Where such requirements imposed on the Contractor conflict with requirements that CMO may have with respect to the same Documentation, the Contractor shall not be considered to be breaching this MSA, and the parties will cooperate fully in resolving the matter.
- (d) Title to and all property right, title and interest in the Documentation and all Intellectual Property Rights in the Work, including all Intellectual Property Rights and personal property rights in or to the foregoing, shall transfer and are hereby assigned to CMO free and clear of all encumbrances upon CMO making any payment in accordance with this MSA which is attributable, either in whole or in part, to the relevant Work.
- (e) The Contractor acknowledges and agrees that CMO shall have full ownership of all personal property rights and Intellectual Property Rights in any and all Documentation and all Intellectual Property Rights in the Work in accordance with the terms of this MSA.

- (f) The Contractor hereby waives all rights, including any and all moral rights, in and to the Work and Documentation and shall obtain such waivers from all applicable personnel of the Contractor. Where applicable, the Contractor shall endeavor to obtain from all of the subcontractors and personnel of the Contractor the rights and waivers necessary to transfer the ownership of the Work and Documentation (including any Intellectual Property Rights therein or related thereto) to CMO.
- (g) Subject to the terms and conditions of this MSA, the Contractor acknowledges and agrees that CMO shall be entitled to fully exploit the Work and Documentation without restriction, and CMO acknowledges and agrees that the Contractor shall be entitled to use the Documentation in accordance with the Contractor's obligations under Applicable Law as set out in Section 8.11(b) and 8.11(c). To the extent the Contractor owns or possesses any Intellectual Property Rights required for full exploitation of the Work or Documentation, the Contractor hereby grants to CMO a worldwide, exclusive, royalty-free, fully paid-up, transferable (to successors and assigns, including as a result of the acquisition of all or substantially all of the shares or assets of CMO, or if required by law), license under such Intellectual Property Rights to fully exploit the Work and Documentation. The Contractor shall enable CMO to fully exploit the Work and Documentation and any component thereof and to enjoy the full exercise of the rights conferred under this Section 8.11, including by, at CMO's request, making available or delivering to CMO where feasible as determined by the Contractor such technology (including software and data) in the Contractor's possession, custody or control as is required for CMO to exploit the Work and Documentation.

8.12 Confidentiality Covenant

- (a) Confidential Information means information of or relating to a party (the "Disclosing Party") that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure and has or will come into the possession or knowledge of the other party (the "Receiving Party") whether such information is or has been conveyed verbally or in written or other tangible form, and whether such information is acquired directly or indirectly such as in the course of discussions or other investigations by the Receiving Party. Without limiting the foregoing, Confidential Information includes all technical, financial and business information, ideas, concepts or know-how, or relating to Work performance and Work delivery and the terms of this MSA. 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 hereof by the Receiving Party; provided that the foregoing exceptions will not apply with respect to any personal information that is subject to privacy laws ("Confidential Information").
- (b) The Receiving Party shall:
 - (i) take all measures reasonably required to maintain the confidentiality and security of the Confidential Information of the Disclosing Party;
 - (ii) not use or reproduce Confidential Information for any purpose, other than as reasonably required to exercise or perform its rights or obligations under this MSA;
 - (iii) not disclose any Confidential Information other than to employees, agents or subcontractors of the Receiving Party ("Representatives") to the extent, and only to the extent, they have a need to know the Confidential Information in order for

Receiving Party to exercise its rights or perform its obligations under this MSA and who are bound by a legal obligation to protect the received Confidential Information from unauthorized use or disclosure; and

- (iv) be responsible for any breach of this MSA by any of its Representatives.
- (c) Notwithstanding the above, 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.
- (d) Upon expiry or termination of this MSA, 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.
- (e) Contractor will not access, collect, use, disclose, dispose of or otherwise handle information of or about individuals that is subject to Applicable Laws relating to privacy ("Privacy Laws") in the performance of its obligations under this MSA, except: (i) to the extent necessary to perform the Work; (ii) in accordance with all Privacy Laws; and (iii) in a manner that enables CMO to comply with all Privacy Laws, including that the Contractor will obtain appropriate consents from the applicable individuals to allow Contractor and CMO to exercise their rights and to perform their obligations under this MSA as they relate to such information. Unless prohibited by Applicable Law, Contractor will immediately notify CMO of any demand, or request by a third party (including any government or a regulatory authority) for the disclosure of any information of CMO which is subject to Privacy Laws, and, to the maximum extent permitted by Applicable Law, will oppose, seek judicial relief of and appeal any such demand or request. Contractor will immediately notify CMO if Contractor becomes aware that Contractor has failed to comply with Privacy Laws in connection with of this MSA.
- (f) Each Party agrees and acknowledges that any violation of this Section 8.12 may cause irreparable injury to the other Party and that, in addition to any other remedies that may be available (in law, in equity or otherwise), the injured Party shall be entitled to seek an injunction, specific performance or other equitable relief against the threatened breach of this Section 8.11(a) or the continuation of any such breach, without the necessity of proving actual damages or posting any bond or other security.

8.13 Severability

- (a) If, for any reason, any part, term, or provision of this MSA is held by a court of the Province of Ontario to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if this MSA did not contain the particular provision held to be invalid.
- (b) If it should appear that any provision hereof conflicts with any statutory provision of the Province of Ontario or Government of Canada, said provision, which may conflict therewith, shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provisions.

8.14 Survival

All provisions of this MSA which expressly or by their nature survive the expiry or termination of this MSA shall survive the expiry or termination of this MSA, including the following: Section 6.8 (Limited Liabilities), Section 7.2 (Responsibility for Damages/Indemnification), Section 7.5 (MSA Termination), Section 8.11 (Intellectual Property) and Section 8.11(a) (Confidentiality Covenant).

8.15 Further Assurances

Each Party shall, at its expense, do, execute and deliver, or cause to be done, executed and delivered, such further acts and documents as the other Party may reasonably request from time to time for the purpose of giving effect to this MSA or carrying out the intention or facilitating the performance of the terms of this MSA.

8.16 Revisions to this MSA

Except as otherwise expressly stated in this MSA, no amendment, supplement, modification or waiver or termination of this MSA and, unless otherwise specified, no consent or approval by any Party, is binding unless executed in writing and signed by an authorized representative of each Party. Notwithstanding the foregoing, CMO may propose any revisions to this MSA necessary to comply with amendments to the Regulation or other notices, interpretations, rulings, directives or other communications issued pursuant to the Regulation (collectively, "Communications"), and CMO will provide the Contractor with written notice of such proposed revisions as soon as reasonably practicable. Such revision shall automatically have effect from the date of the Change Order, if any, related to such Communications. CMO shall make commercially reasonable efforts to consider and respond to reasonable written feedback related to such revisions received from the Contractor within thirty (30) calendar days of receiving such feedback.

8.17 Counterparts

This MSA may be executed in counterparts, each of which shall be deemed an original and which, taken together, shall constitute one and the same instrument. Each counterpart of this MSA may be executed by electronic signature. CMO and the Contractor shall execute and deliver such further and other documents and do and perform such further and other acts or things as may be necessary or desirable to give full effect to this MSA.

8.18 Notice

Unless expressly stated otherwise, any notice, request, consent, claim, demand, waiver or other communication required or permitted to be given in connection with this MSA must be given in writing and will be given by hand or sent by courier or emailed, in each case addressed as follows, and will be deemed to have been received on the day of receipt if by hand or courier, or if given by email three (3) Business Days after confirmation of email transmission.

To CMO:

[CMO]
[Address Line 1]
[Address Line 2]
Attention: ●

Email: ●

With a copy to Manager:

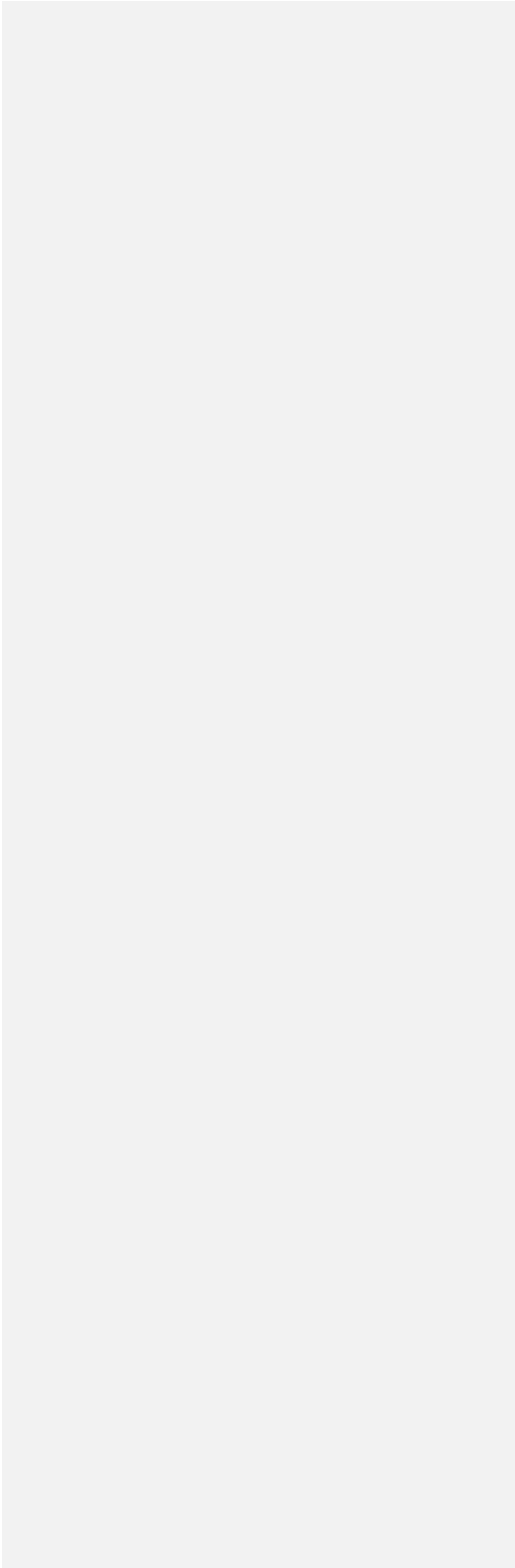
[Manager]
[Address Line 1]
[Address Line 2]
Attention: ●

Email: ●

To Contractor:

[Contractor]
[Address Line 1]
[Address Line 2]
Attention: ●

Email: ●



ARTICLE 9 MSA SCHEDULE

9.1 MSA Schedule

Attached to and forming an integral part of this MSA is Schedule A – Statements of Work.

IN WITNESS WHEREOF, the terms and conditions of this Master Services Agreement are acknowledged and agreed to by the Parties as of the date first listed above.

Deleted: Statement of Work

[Contractor]

By: _____

Name:

Title:

By: _____

Name:

Title:

We have authority to bind the Contractor.

[CMO]

By: _____

Name:

Title:

Deleted: By:

... [1]

We have authority to bind CMO.

