

MASTER SERVICES AGREEMENT
for
SERVICES RELATED TO BLUE BOX MATERIAL
Number 2023-09-●

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

Between

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

And RLG Systems Canada Inc., a corporation incorporated under the laws of Ontario, having a place of business at 175 Bloor Street East, 9th Floor, South Tower, Toronto, Ontario M4W 3R8 (“RLG”)

RECITALS

WHEREAS, Circular Materials is a federal not-for-profit corporation having a place of business at 1 St. Clair Avenue West, Suite 700, Toronto ON M4V 1K6 (“CMO”) and administrator of the common collection system for Blue Box Material. CMO has contracted with RLG to perform work in connection with the collection of Blue Box Material, establishment and operation of Receiving Facilities and related services; and

WHEREAS, CMO and RLG jointly issued a Request for Proposals in connection with the establishment and operation of Receiving Facilities and related services; and

WHEREAS, in connection with the Request for Proposals, Contractor and RLG (each a “Party”, and collectively the “Parties”) jointly desire to enter into this MSA respecting the establishment and operation of Receiving Facilities and related services for Districts within the City of Toronto 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

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

“AODA” means the *Accessibility of Ontarians with Disabilities Act, 2005*, S. O. 2005, c. 11.

“APPLICABLE LAW” means any federal, provincial, municipal, local, domestic or foreign law, rule, statute, subordinate legislation, regulation, by-law, order, permit, 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 all legislation relating to privacy, confidentiality, security, and anti-spam in Canada (including (Canada) *Personal Information Protection and Electronic Documents Act* and applicable provincial privacy laws), 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 IN APPLICABLE LAW” means any of the following events occurring after the applicable Statement of Work Effective Date: (1) a change in, modification or repeal of an existing Applicable Law, or (2) an enactment, adoption, promulgation or making of a new Applicable Law, (3) a cancellation or non-renewal or other change in the conditions applicable to any Applicable Law, or (4) a change in the manner in which an Applicable Law is applied or in the application or interpretation thereof, but in any case a Change in Applicable Law shall not include a change, application, or interpretation that affects taxation of net income and/or net worth and similar amounts of any kind or nature for which the Contractor is responsible under the MSA or otherwise, taxes which are personal to the Contractor such as income taxes and taxes of like kind and any of the events provided for in paragraphs (1) to (4) which are known or ought reasonably to be known to the Contractor to have been enacted, adopted or approved prior to the applicable Statement of Work Effective Date, but which do not come into effect until after the applicable Statement of Work Effective Date.

“CHANGE NOTICE” has the meaning set out in Section 8.9(a) of this MSA.

“CHANGE ORDER” has the meaning set out in Section 8.9(f) of this MSA.

“COLLECTED MATERIAL” means loose, uncompacted material that has been collected from Eligible Sources or from Public Space Receptacles in a District that has not been subjected to preconditioning, and is comprised of Blue Box Material and non-Blue Box Material.

“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 non-performance of the Contractor’s obligations under this MSA, other than a Material Contractor Default.

“CONTRACTOR PROPRIETARY IP” means (i) all Intellectual Property Rights of the Contractor developed prior to execution of this MSA or unrelated to the Work, and (ii) all know-how, processes, procedures, methods and other Intellectual Property Rights developed by the Contractor and relating to or used in the performance of the Work, including the performance and operation of equipment, and techniques and methods and procedures for the purpose of improving receiving efficiency, whenever developed, and (iii) all Intellectual Property Rights to the extent such Intellectual Property Rights include modifications, enhancements, configurations, derivative works or interfaces of the Contractor’s Intellectual Property Rights referred to in subparagraphs (i) and (ii). Notwithstanding any other provision in the MSA, Contractor Proprietary IP shall not include know-how, processes, procedures, methods and other Intellectual Property Rights provided to the Contractor by RLG.

“CONTRACTOR’S RESPONSE TO THE RFP” means the Contractor’s response to the RFP attached as Schedule D.

“COST ESTIMATE” has the meaning set out in Section 8.9(b) of this MSA.

“DISTRICT” means any one of the district areas listed in the Statement of Work.

“DOCUMENTATION” has the meaning given to it in Section 8.12(a).

“EARLY TERMINATION FEES” means the cost listed in Table 1 of the Contractor’s response to the RFP, as included in the Statement of Work, prorated to the month end closest to the termination date.

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

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

“EQUIPMENT” means all vehicles, machinery and equipment used in completing the Work.

“INTELLECTUAL PROPERTY RIGHTS” means all intellectual property rights as recognized under any Applicable Law, including rights in and to patents, trade secrets, Confidential 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 may change or alter this MSA in such a manner that renders all or substantially all of the Work no longer required or necessary.

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

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

- (i) failing to commence Work on a Statement of Work District Service Commencement Date;

- (ii) deliberately disposing of any Collected Material that was received 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;
- (iii) declaring its inability to pay its debts as they generally become due;
- (iv) being judged or adjudicated to be bankrupt or insolvent;
- (v) becoming subject to, or requesting any benefits or exemptions relating to any provisions or enactments concerning bankruptcy or insolvency;
- (vi) deliberately falsifying data, or exhibiting a pattern of providing false or misleading data, in relation to any documentation provided to RLG under this MSA;
- (vii) deliberately failing to comply with this MSA in a manner that results in CMO or Producers becoming assessed as non-compliant with the Regulation; or
- (viii) abandoning all or substantially all of the Work for a period of seven (7) consecutive calendar days.

“PERFORMANCE SECURITY” has the meaning set out in Section 7.1(a) of this MSA.

“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.

“PROCUREMENT PROCESS” means the process, or processes, employed by RLG to select a contractor to supply services related to Blue Box Material, including sole sourcing, requests for expressions of interest, requests for qualifications and standing offers, requests for tenders or requests for proposals.

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

“PRODUCER RESPONSIBILITY ORGANIZATION” or “PRO” has the meaning set out in the Regulation.

“PUBLIC SPACE” has the meaning set out in the Regulation.

“PUBLIC SPACE RECEPTACLE” means a receptacle located in a Public Space for the collection of Blue Box Material.

“RECEIVING FACILITY” or “RF” means a facility at which Collected Material from Eligible Sources or from Public Space Receptacles is first received.

“RECEIVING FACILITY DATA” means all data or information pertaining to Equipment or Collected Material or RFs or other aspects of the Work or activities involving any of the foregoing that is expressly required to be delivered to RLG pursuant to this MSA. The Receiving Facility Data includes data and information in the Work Report for the Month and data and information required to be provided to RLG pursuant to Sections 3.4, 3.7 and 4.1 of Exhibit 1 of the Statement of Work for Receiving Facilities for Collected Material and Section 5.7 of this MSA.

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

“REQUEST FOR PROPOSAL” or “RFP” means the Request for Proposal Number 2023-09 Establishment and Operation of Receiving Facilities for City of Toronto Districts dated Wednesday, September 27, 2023, as amended.

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

“STATEMENT OF WORK DISTRICT SERVICE COMMENCEMENT DATE” means the applicable date on which the Work commences in a District.

“SUBCONTRACTOR” means a subcontractor or supplier retained by Contractor.

“THIRD PARTY” means a Person who is not an Indemnitee or a Contractor Indemnitee.

“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 or in respect of which Environment Canada issues a severe weather alert; and
- (ii) preclude the safe performance of the Work (including failure by Third Parties to restore road conditions for safe work following passage of the weather conditions themselves – e.g. delays to salting/plowing, removal of debris, etc.).

“VALUE ADDED TAXES” means such sum as shall be levied upon the Contract Price by the federal or any provincial government and is computed as a percentage of the Contract Price 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 changes to the Work which may be ordered by RLG pursuant to a Change Directive or agreed to by the Parties in accordance with this MSA, as provided herein.

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

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 RLG 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 are the following schedules (including exhibits to the Schedules):
 - (i) Schedule A – Statements of Work;
 - (ii) Schedule B – Supplier Code of Conduct;
 - (iii) Schedule C – RFP; and
 - (iv) Schedule D – Contractor’s Response to the RFP.
- (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 with respect to the Work. 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 made in accordance with the requirements of this MSA, including Change Orders;
 - (ii) Statements of Work;
 - (iii) Amendment to the other portions of this MSA (except the RFP and the Contractor's Response to the RFP) made in accordance with the requirement of this MSA, including Change Orders and Change Directives;
 - (iv) Other portions of this MSA (except the RFP and the Contractor's Response to the RFP);
 - (v) The RFP; and
 - (vi) The Contractor's Response to the RFP.
- (n) Except for Change Directives unilaterally signed by RLG or other written notices from RLG provided for in this MSA, no change or modification to this MSA shall be valid unless it is in writing and signed by the Contractor and RLG.

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 7.5 and 7.6, or as otherwise provided for in this MSA.
- (b) RLG and the Contractor may, by Change Order acceptable to each Party, 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 RLG and Contractor from time to time.
- (c) RLG 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 RLG's right to make a claim against Contractor or applicable Performance Security for the damages on account of such a breach, subject to the provisions of this MSA

ARTICLE 3 SCOPE OF WORK

3.1 Service Provision

- (a) The Contractor shall provide, at its own expense, 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 that gives rise to the requirement for the Contractor to change the Work or perform any work which is not Work the Contractor would otherwise be required to perform in order to comply with the MSA, the Parties shall renegotiate the provisions of this MSA, including the Statement of Work, using a Change Order pursuant to Section 8.9. 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. The Contractor or RLG, as applicable, shall be entitled to include in any Change Order associated with a Change in Applicable Law, and shall recover from RLG or RLG shall receive a credit, during the remaining term of the applicable Statement of Work, the net amount of any increased or decreased costs that are reasonably incurred by or on behalf of the Contractor, on account of capital, operations or maintenance, pertaining to the applicable change in the Work resulting directly from the relevant Change in Applicable Law for the remaining term of the applicable Statement of Work. Regarding any purported decreases in costs that may result in a credit for RLG, the following terms shall apply: (i) capital costs and other costs already incurred by the Contractor prior to the relevant Change in Applicable Law shall not be subject to reduction, (ii) the Change in Applicable Law must have a self-evident impact on the Contractor's costs, and (iii) unless condition (ii) has been satisfied, the Contractor shall not be required to produce evidence of a reduction in costs on demand, including financial records relating to labour costs or other expenditures related to the Work.
- (d) RLG is committed to diverting Blue Box Material from disposal and achieving efficiencies in the Work. To this end, RLG will continue to explore new methods and technologies and, as a proposed change in the Work, RLG may issue a Change Notice to the Contractor in respect of such new methods and technologies. If RLG chooses to proceed with such new methods and technologies RLG will issue a Change Order or Change Directive to the Contractor in accordance with Section 8.9.
- (e) The Contractor shall comply with the Supplier Code of Conduct attached as Schedule B.

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, and includes:
 - (i) rights to any fungible or non-fungible attributes attributable to the generation or creation of energy from sources recognized as renewable, or generated from otherwise wasted resources, directly or indirectly arising out of the production,

- use, sale, capture, flaring, burning, destruction, processing, conversion, utilization, fueling, storage or sequestration that now or hereafter qualifies for recognition under any domestic, international, or foreign emissions reduction or emissions program, scheme or organization or law or governmental authorization;
- (ii) any credits, benefits, offsets, reductions, rights, or indicia relating to the reduction, mitigation, or control of greenhouse gas emissions, including carbon dioxide, methane, nitrous oxide, hydro fluorocarbons, or any other gas, matter, or substance;
 - (iii) any and all rights relating to the performance of the Work as may be defined and awarded through applicable legislation or voluntary programs; and
 - (iv) all revenues, entitlements, benefits and other proceeds arising from or related to the foregoing.
- (b) Any Environmental Attributes resulting from the Work performed under this MSA shall be and remain the sole property of RLG 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, RLG 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.
- (c) The Contractor shall from time to time, upon written direction of RLG, take all such actions and do all such things necessary to effect the transfer and assignment to, or holding in trust for, RLG, all rights, title, and interest in all Environmental Attributes as set out in Section 3.2(b).
- (d) For greater certainty, Sections 3.2(a), (b) and (c) do not include or apply to any Environmental Attributes: (i) arising from activities and operations facilitated by the Contractor's investment prior to the Effective Date, (ii) not associated with the Work, or (iii) arising from other capital investments by the Contractor in the methods, technologies, or systems to which such Environmental Attributes are attributable. Ownership of such Environmental Attributes shall belong solely to the Contractor.
- (e) To the extent required, RLG grants Contractor the right to make public claims regarding its role in the delivery of the Work, the attendant achievement of regulatory targets under the Regulation and any associated Environmental Attributes thus created.

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 (collectively, "Lawful LD") during the term of this MSA (the "Lawful LD Period"), the Contractor shall, at the Contractor's cost and expense, during the Lawful LD Period:
- (i) use commercially reasonable efforts to continue performance of the Work pursuant to this MSA.
- (b) If there is 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"),

the Contractor shall make such arrangements and take all commercially reasonable actions as necessary, including:

- (i) the actions described in Section 3.3(a)(i); and
- (ii) pursuit of all legal remedies under Applicable Laws, such as the obtaining of cease and desist orders if necessary, to end such unlawful or illegal strike, lockout, work slowdown or other unlawful or illegal labour disruption or job action as soon as possible to ensure continuation of Contractor's performance of the Work, the specifics of which are agreed by the Parties.

In no event shall Contractor be entitled to any increase in any pricing set out in this MSA as a result of, in connection with or arising out of any action it takes in order to comply this Section 3.3(b). Where the Contractor is unable to continue performance of the Work by other means (e.g., pursuant to Section 5.5 or by use of subcontractors) and the Unlawful LD Period continues for more than fifteen (15) calendar days, RLG may terminate the applicable Statement of Work with no further obligations by either Party. In deciding whether to exercise its rights of termination, RLG will give consideration to the Contractor's negotiations to resolve the unlawful labour disruption.

- (c) Notwithstanding any provision in this MSA to the contrary, during the Lawful LD Period or the Unlawful LD Period, the Contractor will not charge RLG for the cost of, or any compensation for, any Work that is not performed.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES

4.1 Representations and Warranties

Contractor represents and warrants to and covenants with RLG 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;
- (c) it has and will, at its own expense, procure all permits, certificates and licenses required by Applicable Law for the performance of the Work;
- (d) it has not given and will not give commissions, payments, kickbacks, gifts, lavish or extensive entertainment, or other inducements of more than minimal value to any officer, director, employee, agent or representative of RLG in connection with this MSA and, to the best of its knowledge, no officer, director, employee, agent or representative of Contractor has given any such commissions, payments, kickbacks, gifts, entertainment or other inducements to any officer, director, employee, agent or representative of RLG;
- (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 RLG; 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 Contractor's Personnel

- (a) The Contractor shall provide a training program to ensure that its employees, agents, and Subcontractors are competent to perform the Work.
- (b) Without limiting Section 5.1(a), before allowing any Person (including, for clarity, any employee, agent or Subcontractor) to access any Collected Material that has been received during the performance of the Work, the Contractor will take commercially reasonable steps as needed, to ensure that such Person, with respect to the Collected Material or any portion or contents thereof, will not:
 - (i) scavenge;
 - (ii) take photographs, video recordings, or otherwise make copies of or record or retain any information derived from or relating to the Collected Material, except as may be required under the MSA or as otherwise permitted in writing by RLG;
 - (iii) access or use Collected Material for a purpose other than fulfilling Contractor's obligations under this MSA; or
 - (iv) otherwise compromise the confidentiality or security of any Collected Material containing Confidential Information, as described in Section 8.13 below.
- (c) The Contractor's employees, agents, and Subcontractors shall be required to be respectful, courteous, and shall perform all their duties under this MSA in a manner that promotes positive public relations and customer service excellence for the Contractor and RLG with the utmost regard for enhancing relations and maintaining a positive public image for RLG and the producers it represents.
- (d) The Contractor agrees that neither it, nor any of its employees, agents, or Subcontractors, shall solicit any gratuity nor accept any material gratuity for Work performed under this MSA.

5.2 Supervision

- (a) The Contractor will provide skilful and efficient supervisors and any necessary assistants to supervise the Work for the duration of this MSA.
- (b) The supervisors must thoroughly understand this MSA and be fully experienced in the Work being performed. The supervisors will represent and oversee the operation of this MSA and are authorized to accept any notice, consent, order, decision, or other communication on behalf of the Contractor.
- (c) The supervisors shall monitor daily the Work performed under this MSA and the applicable Statement of Work and will be responsible to address all customer complaints, spills and accidents that occur during the performance of this MSA. For clarity, customers include contractors delivering to the Receiving Facility and Producer Responsibility Organizations picking up from the Receiving Facility.

- (d) The Contractor shall, at its own expense, provide RLG with a cell phone number to contact supervisors on all days when Work is performed.
- (e) The Contractor shall equip each supervisor with a cellular telephone capable of taking photographs, sending and receiving email, and receiving calls from RLG via the cell phone number provided pursuant to Section 5.2(d).
- (f) When the Contractor observes that the Work is not being performed in compliance with this MSA, including a Statement of Work, and/or Applicable Law, the Contractor shall immediately notify RLG of the non-compliance and the corrective measures that will be taken to remedy the situation.

5.3 Workplace Safety and Insurance Board

At all times during this MSA, the Contractor agrees to maintain, and to ensure its Subcontractors maintain, its Workplace Safety Insurance Board (“WSIB”) account in good standing.

5.4 Health and Safety

- (a) The Contractor:
 - (i) shall comply with all Applicable Laws relating to the Work being provided, including the Occupational Health and Safety Act, R.S.O. 1990, c. O.1 (“OHSA”), as amended from time to time;
 - (ii) agrees that it is solely responsible for the control, direction, supervision and training of those employees employed by the Contractor to perform the Work, and shall be responsible for and take every reasonable precaution in the circumstances for the protection of all employees associated with the Work being performed; and
 - (iii) shall cooperate and participate in the reporting of safety events and the subsequent investigations of any events precipitated by the Contractor as a result of a breach by the Contractor of an Applicable Law or the negligence of the Contractor. The Contractor shall deal with all such events at the Contractor’s cost and shall not be entitled to be reimbursed therefor by RLG.
- (b) Within thirty (30) calendar days after the Effective Date and each Statement of Work Effective Date the Contractor shall submit a copy of the Contractor’s corporate health and safety program (the “Corporate Health and Safety Program”) and the Contractor represents and warrants that Contractor’s Corporate Health and Safety Program complies with Applicable Laws, including with the OHSA, and is consistent with, and complies with, the objectives and requirements of the Applicable Laws.
- (c) The Contractor shall maintain and comply with the Corporate Health and Safety Program during the performance of the Work.
- (d) The Contractor shall provide RLG with updates to the Contractor’s Corporate Health and Safety Program each time a document is amended.
- (e) The Contractor shall notify RLG of all accidents involving personal injury to the Contractor’s personnel or the public, or damage to any property resulting from the Work, to RLG within four (4) hours or as soon as reasonably practical after becoming aware of

the accident. The Contractor shall provide a report including accurate documentation of the accident to RLG within forty-eight (48) hours of the accident.

5.5 Contingency Plan

Except in the event of Force Majeure, in which case the provisions of Section 7.5 shall apply, if the Work is found by RLG, acting reasonably, not to be compliant with the material terms of this MSA, RLG may direct the Contractor, at the Contractor’s expense (unless such failure to be materially compliant is due to RLG’s breach of this Agreement, in which event it shall be at RLG’s cost), to:

- (a) prepare and present to RLG, for review and approval, acting reasonably, a contingency plan (“Contingency Plan”) as soon as practical, but not later than three (3) Business Days after the earlier of the Contractor becoming aware of, or RLG 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 RLG, acting reasonably, as soon as practical, but not later than within two (2) Business Days of RLG 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.

5.6 All Necessary Permits and Licenses

- (a) The Contractor shall obtain, and the Contractor shall ensure Subcontractors obtain, all permits, permissions, licences, and approvals required to perform the Work prior to each Statement of Work District Service Commencement Date, if applicable.
- (b) The Contractor shall provide RLG with copies of all permits, permissions, licenses, and approvals at the frequency indicated in the table included below.

Table 5.1: Permits, Permissions, Licences and Approvals

Permit, Licences, etc.	Timing of Presentation
Section 5.3: Valid WSIB Clearance Certificate, indicating the WSIB firm number, account number and that the account is in good standing	(a) Within fourteen (14) calendar days after the Effective Date. (b) Every sixty (60) calendar days (or upon receipt of a Clearance Certificate from WSIB) throughout the term of this MSA.
Section 8.4: Valid business licence	(a) Within fourteen (14) calendar days after the Effective Date. (b) On each anniversary of the Effective Date for the term of this MSA.
Section 8.7: Valid insurance certificate	(a) Within fourteen (14) calendar days after the Effective Date. (b) On each policy renewal date for the term of this MSA.

- (c) The Contractor shall notify RLG within five (5) Business Days if there is a change to, or immediately if there is a cancellation of, any permits, permissions, licences, or approvals required to perform the Work.

5.7 Record Keeping and Reporting Requirements

- (a) Through the performance of the Work the Contractor shall prepare, maintain, and deliver records required in accordance with the provisions of this MSA, including detailed reports of Collected Material received and transferred, and an annual emissions report. Such obligations shall apply to all Work, unless otherwise specified in this MSA.
- (b) RLG 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 5.7 shall relieve the Contractor from its obligation to execute the Work to completion in accordance with the requirements of this MSA.

5.8 Subcontractors

- (a) The Contractor may, subject to this Section 5.8, 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 may only employ a Subcontractor for the specific portion of the Work that RLG has approved the Subcontractor to perform in writing.
- (c) RLG may direct the Contractor to replace a Subcontractor where, at RLG's determination acting reasonably, the Subcontractor is found to be the cause of complaints and/or failing to deliver the Work and (1) the Contractor has not rectified the failure within three (3) Business Days of being notified by RLG of the complaints and/or failure or (2) the Subcontractor is the source of complaints or failures ten (10) times in any rolling two (2) calendar month period. All costs related to replacing a Subcontractor will be borne by the Contractor.
- (d) The Contractor shall, with respect to subcontracts between the Contractor and its Subcontractors incorporate insofar as they are applicable, the terms and conditions of this MSA, including any Statements of Work, into all subcontracts or agreements with Subcontractors.
- (e) The Contractor shall in all cases be fully responsible to RLG 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 RLG.
- (f) The Contractor shall pay all Subcontractors in accordance with the terms of their subcontracts and Contractor shall advise RLG in writing, with reasonable particulars, of any material disputes with a Subcontractor or any material default by any Subcontractor under such subcontracts.

- (g) In the subcontracting of any part of the Work in accordance with this MSA, the Contractor shall, unless otherwise authorized by RLG, take commercially reasonable steps to place subcontracts on terms that will enable the Contractor to terminate the same upon terms and conditions which are no more onerous to RLG than those provided for in Section 7.5 of this MSA, and generally the Contractor shall co-operate with RLG and do everything reasonably within its power to minimize the amount of RLG's obligations in the event of a termination under Section 7.5 of this MSA.

5.9 Access to the Work

- (a) Without limiting the generality of any other provision in this MSA, at all times requested by RLG during operating hours upon at least 48-hours notice, the Contractor shall, at no expense to RLG, provide RLG and its professional advisors, auditors and consultants, with access to the Work (including the staff performing the Work and the Equipment being used to perform the Work) to monitor, observe and inspect any Work (including the staff performing the Work and the Equipment being used to perform the Work) being performed provided that such access does not pose a health and safety risk to the Contractor's staff, or to RLG personnel and the Contractor shall, and shall cause the Subcontractors to, provide, and cooperate with RLG in providing, such access. The Contractor shall provide such 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 to the extent commercially practicable, provided that such access shall not disrupt the performance of the Work and all personnel having such access shall be subject to the Contractor's health and safety procedures and comply with the Contractor's other reasonable site rules, failing which the Contractor shall have the right to require removal of such personnel. Without limiting the generality of the foregoing, during such access, RLG 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 inspecting of the Contractor's Work or Equipment shall not disrupt the performance of the Work, and all personnel having such access shall be subject to the Contractor's health and safety procedures and comply with the Contractor's other reasonable site rules, failing which the Contractor shall have the right to require removal of such personnel.
- (b) RLG may arrange for the periodic audits of the Contractor's performance of the Work throughout the term of this MSA to assist RLG with verifying that the Contractor is performing all Work and is in compliance with this MSA. The Contractor shall co-operate with the auditor and shall provide all reasonable access to the Work. Such audits shall not disrupt the Contractor's performance of the Work. For clarity, access to and audit of Records (as opposed to access to the performance of the Work) is addressed under Section 8.6.
- (c) If any Work is found by RLG, acting reasonably, not to be in accordance with the material requirements of this MSA, the Contractor shall, at no expense to RLG, make good such defective Work.
- (d) This Section 5.9 is subject in all respects to Sections 8.12 and 8.13, it being acknowledged that RLG shall be entitled to use information obtained pursuant to this Section 5.9 solely for the administration of this MSA and/or for compliance with Applicable Law. The access rights pursuant to this Section 5.9 are subject to the execution by the applicable persons of customary non-disclosure agreements for the Contractor's benefit prior to engaging in any

such activities unless such persons are already bound by confidentiality obligations under the terms of their engagement with RLG.

- (e) Contractor and RLG may, if mutually agreed, adopt a confidentiality acknowledgment specifically in respect of the access and audit rights (in Section 8.6) under this Agreement that may be provided to RLG's employees and independent contractors (a copy of which acknowledgement would be provided to Contractor) prior to gaining access to the Receiving Facility or records, as the case may be.

ARTICLE 6 COMPENSATION

6.1 Canadian Funds

All amounts in this MSA are, and all amounts in Invoices from the Contractor to RLG and all payments to the Contractor by RLG shall be, in Canadian funds.

6.2 Invoicing, Payment and Documentation

- (a) RLG may issue a purchase order in respect of each Statement of Work. Any such purchase order shall be solely for the convenience of RLG and, notwithstanding any of the provisions set out in such purchase order, shall not create any binding obligations of either RLG 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, the Contractor may invoice RLG for the Contract Price of the Work performed during the calendar month related to such Work Report for the Month, in accordance with the following requirements:
 - (i) the Contractor shall submit to RLG a single, consolidated invoice and complete billing details (“Invoice”) to:

175 Bloor Street East, 9th Floor, South Tower, Toronto, ON M4W 3R8

Attention: **Catherine McCausland**
 - (ii) the format of the Invoice shall be subject to the review and acceptance by RLG; and
 - (iii) the amount applied for in the Invoice shall be the sum of the amounts the Contractor is permitted to invoice RLG for Work performed under the Statements of Work. For clarity, the Contractor may only include an amount in an Invoice for Work performed under a Statement of Work if such amount is payable pursuant to such Statement of Work and the Contractor may only submit one Invoice each calendar month under a Statement of Work unless otherwise mutually agreed.
- (c) The Contractor may not submit an Invoice until at least fourteen (14) calendar days after the end of the calendar month in which the Work addressed by the Invoice was performed.
- (d) For clarity, an Invoice may be deemed not to have been received by RLG, payment may be withheld by RLG, and RLG shall have no obligation to make any payments in respect of such Invoice until RLG has received all items required from the Contractor, pursuant to the provisions of this MSA, including the applicable Statements of Work, and the items are deemed acceptable to RLG, at its sole discretion acting reasonably. The items required include all reports related to the Work performed in the immediately prior calendar month to be provided by the Contractor in compliance with the requirements of this MSA, including Sections 4.1 and 5.1 of Exhibit 1 to a Statement of Work and acceptance of the Work Report for the Month.

- (e) Where RLG disputes the amount of an Invoice, RLG shall make payment of the undisputed amounts pursuant to Section 6.2(f) and issue a written notice to the Contractor describing the reasons for the disputed amount.
- (f) RLG shall make payment of undisputed amounts within thirty (30) calendar days from the date of receipt of an Invoice.
- (g) Price adjustments may be made pursuant to Section 6.4.
- (h) Any fines assessed against RLG by reason of breach or breaches of the OHSA by the Contractor and any service level failure credits determined pursuant to this MSA, including any Statements of Work, will entitle RLG to off-set any such damages, fines or service level failure credits against any monies RLG may, from time to time, owe the Contractor under this MSA.
- (i) The Contractor shall correct any billing errors which result in overpayment by RLG in a timely manner by issuing a credit against the Contract Price in the amount necessary to correct such error in the next Invoice, if any, or by issuing a refund to RLG within twenty (20) calendar days of becoming aware of such error.

6.3 Taxes

- (a) Except for the applicable Value Added Taxes payable by RLG 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. If RLG is required to pay any such applicable Value Added Taxes to any taxing jurisdiction, the Contractor will remit the amount of any such tax to RLG upon demand thereof.
- (b) The Contractor represents and warrants that, as of the Effective Date and continuing in force and effect for the term of this MSA, it is not a non-resident of Canada for the purposes of the *Income Tax Act* (Canada).

6.4 Price Adjustment

Price adjustments may be specified in a Statement of Work.

6.5 Monies Due to RLG

In the event there are any monies payable to RLG by the Contractor under the terms of this MSA, such monies shall be deducted from and retained by RLG from the amounts due to the Contractor or, if insufficient, may be recovered from the Contractor or the Contractor's surety, if any, pursuant to applicable Performance Security as a debt due to RLG.

6.6 Other Requirements

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

- (b) When payment is made to the Contractor, the Contractor shall promptly pay to every Subcontractor employed any amount properly due such Subcontractor on account of Work covered by this MSA and the applicable Statement of Work. RLG shall not be liable for, or be held to pay, any money to the Contractor except as provided above, and on making the complete payment aforesaid, RLG shall be released from all claim or liability to the Contractor for anything done, or furnished for, or relating to this MSA, or for any act or neglect of RLG relating to the Work, except a claim against RLG for the remainder, if any, of the amounts kept or retained as provided.

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 RLG, until payment of the unpaid amount. The interest shall be simple interest payable monthly at a rate of Prime plus one percent (1%) per annum.

6.8 Limited Liabilities

- (a) Subject to Section 6.8(b), the total cumulative liability of the Contractor to RLG 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 any Statement of Work Effective Date, such total cumulative liability shall include, without duplication, RLG's reasonable estimate of the Contract Price expected to be paid to the Contractor for the Work of the applicable Statements of Work during the first twelve (12) months after the corresponding Statement of Work 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;
 - (ii) indemnification by the Contractor in respect of any Losses and Claims pursuant to Section 7.3(a) made, brought, sustained or incurred by a Third Party;
 - (iii) any criminal, fraudulent, intentional breach or other wilful misconduct on the part of one of the Contractor Indemnitees;
 - (iv) a breach by the Contractor of its obligations under Section 8.13; and
 - (v) the Contractor's failure to withhold or remit when due to the applicable governmental authority all taxes for which it is liable in accordance with Applicable Law.
- (c) Subject to 6.8(d), the total cumulative liability of RLG 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 any Statement of Work Effective Date, such total cumulative liability shall include, without duplication, RLG's reasonable estimate of the Contract Price expected to be paid to the

Contractor for the Work of the applicable Statements of Work during the first twelve (12) months after the corresponding Statement of Work Effective Date (the “RLG Liability Threshold”).

- (d) The RLG Liability Threshold and Section 6.8(c) 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) indemnification by RLG in respect of any Losses and Claims pursuant to Section 7.3(c) made, brought, sustained or incurred by a Third Party (including any governmental authority), which for the avoidance of doubt includes any Losses and Claims under this MSA in respect of the Regulation or the (Ontario) *Resource Recovery and Circular Economy Act, 2016* to the extent the Contractor is not responsible for such Losses and Claims in accordance with this MSA;
 - (ii) any criminal, fraudulent, intentional breach or other wilful misconduct on the part of one of the Indemnitees;
 - (iii) a breach by RLG of its obligations under Section 3.1, Section 8.12 or Section 8.13;
 - (iv) Early Termination Fees; and
 - (v) amounts due and payable by RLG to the Contractor in accordance with this MSA, including amounts owing in respect of Change Orders (including to the extent amortized over the remaining Term).

ARTICLE 7 FAILURE TO PERFORM, REMEDIES AND TERMINATION

7.1 Performance Security

- (a) The Contractor, at its cost, shall maintain, for the entire term of this MSA, a single performance bond, letter of credit or certified cheque for each Statement of Work equal to the total of twenty-five per cent (25%) of the projected annual Contract Price for such Statement of Work (collectively, the “Performance Security”), for clarity, starting on the Effective Date.
- (b) If the Performance Security is in the form of a:
 - (i) performance bond it shall be issued by a duly licensed surety company authorized to transact a business of suretyship in the province of Ontario;
 - (ii) letter of credit it shall be issued by a Canadian chartered bank listed in Schedule I to the *Bank Act* (Canada); or
 - (iii) certified cheque it shall be issued by a Canadian chartered bank listed in Schedule I to the *Bank Act* (Canada).
- (c) The Contractor shall provide the Performance Security to RLG on signing the first Statement of Work.
- (d) The Performance Security shall be updated, as applicable, each time the projected annual Contract Price of a Statement of Work is altered by the Parties to ensure the Performance Security continues to comply with the requirements established in Section 7.1(a).
- (e) If the Performance Security is a certified cheque, then RLG may deposit such cheque in a bank account and use such funds pursuant to this MSA, including Section 7.1(h).
- (f) If the Performance Security is a letter of credit then the following shall apply: if the letter of credit has an expiry date prior to the end of the term of the applicable Statement of Work, the Contractor shall, at least thirty (30) calendar days prior to such expiry date, either cause the expiry date to be extended for the lesser of an additional twelve (12) months or until the end of the term of the applicable Statement of Work, or deliver to RLG a replacement Performance Security that is acceptable to RLG, in its reasonable discretion. If the Contractor fails to deliver such replacement Performance Security, RLG shall be entitled to exercise its rights against the full amount of the expiring letter of credit and hold the proceeds thereof (“Cash Collateral”) as replacement security for the Contractor’s liabilities and obligations under this MSA, in which event RLG shall hold the Cash Collateral in a bank account. If the Contractor subsequently delivers to RLG such replacement Performance Security, RLG shall immediately return to the Contractor the Cash Collateral including any interest earned on the Cash Collateral less any amount used by RLG pursuant to this MSA.
- (g) If RLG holds any Cash Collateral, the Contractor hereby grants a security interest in favour of RLG in such Cash Collateral as security for the Contractor’s liabilities and obligations under this MSA. To the extent permitted by Applicable Laws, the Contractor waives all rights to receive from RLG a copy of any financing statement, financing change statement or verification statement filed or issued, as the case may be, at any time in respect of such Cash Collateral.

- (h) Without limiting Section 7.1(f), RLG may, without prejudice to any other right or remedy hereunder, exercise its rights against the Performance Security and use such funds or use any Cash Collateral in connection with:
 - (i) any claims brought against, or losses suffered, sustained or incurred, by RLG as a result of a Material Contractor Default or Contractor Default by the Contractor under the MSA; and/or
 - (ii) RLG exercising its right to correct a Material Contractor Default or Contractor Default in accordance with this MSA.
- (i) Where the Performance Security is provided as multiple instruments listed in Section 7.1(b), including any combination thereof, the Performance Security shall comprise all such instruments individually and collectively, and any right of RLG to claim against the Performance Security may be exercised against any or all such instruments in RLG's sole discretion. For clarity, the Performance Security secures the Contractor's entirety of its obligations under this MSA and is not individually allocated to any particular Statement of Work, provided that RLG may not exercise its rights against Performance Security in excess of 100% of the projected annual aggregate Contract Price of the Statement(s) of Work that caused the exercise of such rights (except in the case of a breach of the MSA that does not arise from obligations under a particular Statement of Work, in which case the full Performance Security shall be available). For example, if the aggregate Performance Security under the MSA is \$25 million, and the projected Contract Price in respect of the Statement of Work causing RLG to exercise its rights against the Performance Security is \$3 million, RLG may not exercise such rights against Performance Security in excess of \$3 million in connection with such claim.
- (j) Subject to RLG exercising its right against the Performance Security or Cash Collateral pursuant to Section 7.1(h), upon the expiry of the term of the applicable Statement of Work, RLG shall, upon written request of the Contractor, return the applicable Performance Security then in its possession to the Contractor; or, in the event that RLG is holding Cash Collateral, RLG shall deliver the balance of the Cash Collateral (with any interest earned on the Cash Collateral) to the Contractor and release and discharge its security interest therein.

7.2 Time of the Essence and Service Level Failure Credits

- (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 RLG reserves the right to apply service level failure credits to the extent such failure is an Infraction under the applicable Statement of Work, or exercise any other right or remedy available to RLG hereunder.
- (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, RLG may provide the Contractor with written notice as a warning detailing the performance failure. Such written warning is without prejudice to the Contractor being assessed service level failure credits to the extent such failure is an Infraction, without prejudice to RLG's rights under Section 7.2(c).
- (c) If, at any time during the term of this MSA, RLG applies service level failure credits in accordance with this MSA in respect of an individual Statement of Work in excess of

\$50,000 during any rolling six (6) calendar month period, then in addition to the application of such service level failure credits and without prejudice to any other rights or remedies available to RLG hereunder, RLG may immediately terminate the applicable Statement of Work.

- (d) The application of service level failure credits under this MSA, including any Statements of Work, shall be the exclusive remedy of RLG in respect of any event or circumstance constituting an Infraction (subject to Section 7.2(c)), but shall be without prejudice to any other rights or remedies of RLG hereunder and RLG's ability to terminate this MSA pursuant to Section 7.2(c) of this MSA, and shall not relieve the Contractor of any other of its obligations under this MSA.

7.3 Responsibility for Damages/Indemnification

- (a) Without limiting the generality of any other provision of this MSA, the Contractor shall indemnify and hold harmless RLG, CMO and their respective officers, directors, employees, agents and representatives (collectively, the "Indemnitees") from and against any and all Losses and Claims brought against, suffered, sustained or incurred by the Indemnitees, directly or indirectly arising out of this MSA attributable, wholly or in part, to:
 - (i) any negligent acts or omissions, nuisance or wilful misconduct of the Contractor, its officers, agents, servants, employees, licensees or Subcontractors or in connection with any failure to comply with, or breach of, any of the Contractor's obligations under this MSA;
 - (ii) bodily injury, sickness, disease or death or damage to or destruction of tangible property as a result of activities of the Contractor, its officers, agents, servants, employees, licensees or Subcontractors under this MSA except to the extent such bodily injury, sickness, disease, death or damage is attributable to the negligence, wilful conduct or breach of this MSA by RLG;
 - (iii) 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* to the extent directly attributable to the breach of this MSA by the Contractor, its officers, agents, servants, employees, licensees or Subcontractors, except to the extent such assessment is attributable to the negligence, wilful misconduct or breach of this MSA by RLG;
 - (iv) 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* to the extent resulting from the breach of this MSA by the Contractor and the Subcontractors and their respective officers, agents, servants, employees, licensees or Subcontractors;
 - (v) any failure of the Contractor and the Subcontractors and their respective officers, agents, servants, employees, or licensees to comply with the (Ontario) *Occupational Health and Safety Act* (or the regulations thereunder);
 - (vi) any finding or declaration that an 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

- (vii) 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 as a result of activities of the Contractor, its officers, agents, servants, employees, licensees or Subcontractors under this MSA,

except, in each case, to the extent such Losses and Claims are attributable to any act, or omission, of any RLG Indemnitees. For certainty, Contractor shall not be liable to RLG, under this indemnity or otherwise, for any Losses and Claims arising as a result of 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*, which are not directly attributable to the gross negligence, wilful misconduct or fraud of Contractor, its officers, agents, servants, employees, licensees or subcontractors.

- (b) The Contractor acknowledges that RLG holds the benefit of any provision in this MSA, including under this Section 7.3, that is expressly intended to extend to include CMO, as a third party beneficiary, as trustee and agent for CMO. RLG shall be entitled to enforce the rights of CMO, as a third party beneficiary, under such provisions.
- (c) RLG shall indemnify and hold harmless the Contractor and its respective officers, directors, employees, agents and representatives (collectively, the “Contractor Indemnitees”) from and against any and all Losses and Claims brought against, suffered, sustained or incurred by the Contractor Indemnitees, arising out of this MSA to the extent attributable to any negligent acts or omissions of RLG, or CMO or any of their respective officers, agents, servants, employees or licensees or any failure to comply with, or breach of, any of RLG’s or CMO’s obligations under this MSA.
- (d) Notwithstanding any other provision in this MSA, except for the matters provided for in Sections 6.8(b) or 6.8(d), as applicable, any losses covered by insurance and the application of service level failure credits, RLG shall not be liable to the Contractor Indemnitees and Contractor shall not be liable to the Indemnitees for consequential, indirect, incidental, special, exemplary, punitive or aggravated damages or diminution in value (including loss of profits or revenues unless comprising direct damages) arising from or relating to the MSA.

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 RLG or the Contractor (other than a lack of funds or other financial reason) including the following:
 - (i) Unusually Severe Adverse Weather Conditions;

- (ii) Fire, explosion, flood, earthquake, natural disaster, civil disturbances, riots, war, rebellion, sabotage, epidemic or pandemic and atomic or nuclear incidents;
 - (iii) Shutdown resulting from investigation by governmental authorities (provided such shutdown or investigation is not as a result of the acts or omissions of the Party claiming a Force Majeure Event or anyone for whom it is responsible);
 - (iv) Court or governmental order (provided such order is not as a result of the acts or omissions of the Party claiming a Force Majeure Event or anyone for whom it is responsible); and
 - (v) subject to Section 3.3, unlawful labour disputes.
- (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) 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;
 - (iii) the quantity of Collected Material received differs from the Contractor's expectations unless caused by a Force Majeure Event;
 - (iv) 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;
 - (v) 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
 - (vi) 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.
- (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 RLG 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 for a period of ten (10) consecutive Business Days, then either Party shall forthwith notify the other in writing and for the duration of the Force Majeure Event:
- (i) either Party may perform, or engage others to perform, the obligations under this MSA that are impacted by the Force Majeure Event; and/or

- (ii) RLG may 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.

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) In the event that due to a major Force Majeure Event or otherwise, and the Contractor has been unable to perform, or engage others to perform, the obligations under this MSA that are impacted by the Force Majeure Event for a consecutive period of ninety (90) days (including in respect of a labour disruption), then either Party may terminate the applicable Statement of Work as soon as reasonably practicable in writing and without any further obligations or payments being made (other than amounts due and owing for Work performed up to the date of termination).
- (g) The Contractor or RLG shall not be deemed to be in breach of this MSA (and no service level failure credits or liquidated damages shall apply) where its failure to perform or its delay in performing any obligation results from a Force Majeure Event. For clarity, and notwithstanding any other provision in this MSA, the Contractor shall be solely responsible for maintaining all Work in all circumstances that are not Force Majeure Events.

7.5 Termination

- (a) Any termination of this MSA or termination of the Contractor's right to perform the Work (or any part thereof) by RLG shall be without prejudice to any other rights or remedies RLG may have, subject to the terms of this MSA.
- (b) RLG may terminate:
 - (i) this MSA or any Statement of Work, without cause at any time, upon twenty-four (24) months' written notice being provided to the Contractor;
 - (ii) a Statement of Work, notwithstanding any other Section of this MSA, if there is a Legislative Change to the *Resource Recovery and Circular Economy Act* or the Regulation that gives rise to the Work under that Statement of Work no longer being required or necessary, immediately, upon written notice being provided to the Contractor;
 - (iii) this MSA, if there is a Material Contractor Default, immediately, upon written notice being provided to the Contractor; and
 - (iv) a Statement of Work, if there is a Contractor Default in respect of that Statement of Work (other than in relation to an event or circumstance to which service level failure credits apply) and the Contractor has failed to cure such Contractor Default within twenty (20) Business Days after receipt of notice of such Contractor Default (provided that, if such failure cannot be fully cured within such period, RLG may not terminate if the Contractor has commenced to cure and is diligently pursuing a full cure of such Contractor Default during such further cure period not to exceed twenty (20) Business Days), or within the time specified in a Contingency Plan approved by RLG in accordance with Section 5.5, or within such other time as mutually agreed between the Parties, immediately, upon written notice being provided to the Contractor.

For certainty, the cure period referred to in Section 7.5(b)(iv) shall not commence until following expiry of the time period referred to in Section 5.5(b), if applicable.

- (c) If RLG terminates this MSA or any Statement of Work as noted above, RLG is entitled to:
- (i) Take possession immediately of all the Collected Material and finish the Work by whatever means RLG may deem appropriate under the circumstances, including all actions necessary to ensure the Work continues to be performed and Persons with obligations under the Regulation are in compliance with those obligations;
 - (ii) Except in respect of Section 7.5(b)(i) or 7.6(b)(ii), withhold any further payments to the Contractor until the completion of the Work; and
 - (iii) Except in respect of Section 7.5(b)(i) or 7.6(b)(ii), recover from the Contractor, any loss, damage, and expense incurred by RLG by reason of the Contractor's default which may be deducted from any monies due, or becoming due, to the Contractor.

In the event of any termination, the Contractor shall cooperate and work with RLG, and any Person identified by RLG, to ensure a smooth and orderly transition.

- (d) For clarity, if RLG or the Contractor, as the case may be, terminates this MSA or any Statement of Work without cause pursuant to Section 7.5(b)(i), Section 7.5(e)(i) or because of a Legislative Change as described in Section 7.5(b)(ii), then, subject to the other provisions of this MSA, RLG shall only be required to pay the Contractor for (i) the Work performed prior to the date of termination, less any amounts already paid for Work performed, plus, where the termination is by RLG, (ii) the Early Termination Fees in respect of that Statement of Work.
- (e) Without prejudice to any other right or remedy the Contractor may have under this MSA (including without limitation to recover from RLG the balance of Change Order costs on account of incurred capital costs attributable to the remaining Term that remain unpaid, and Early Termination Fees to the extent applicable), the Contractor may terminate this MSA, or any Statements of Work, as follows:
- (i) without cause at any time, upon twenty-four (24) months' written notice being provided to RLG;
 - (ii) for non-payment of amounts due and payable under this MSA, if RLG has failed to cure such non-payment within ten (10) Business Days after receipt of a notice of non-payment, the Contractor may terminate this MSA with thirty (30) Business Days' notice, provided that after the third instance of non-payment and notice, such cure period shall be shortened to five (5) Business Days; and
 - (iii) for breach of RLG's use or confidentiality obligations under Sections 8.12 or 8.13 of this MSA, if RLG has failed to cure such breach within ten (10) Business Days after receipt of a notice of such breach (if the breach is not curable there shall not be a cure period), the Contractor may terminate this MSA with thirty (30) Business Days' notice.

7.6 Remedies

- (a) The rights and remedies of RLG 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, except as otherwise provided herein in respect of service level failure credits.
- (b) The exercise of any remedy provided by this MSA does not relieve the Contractor or its sureties from any liability remaining under this MSA.
- (c) Without prejudice to any other right or remedy RLG may have under this MSA, if the Contractor fails to cure a Contractor Default within the cure periods referred to in Section 7.5(b)(iv), or within the time specified in a Contingency Plan approved by RLG in accordance with Section 5.5, or within such other time as mutually agreed between the Parties, then, RLG may, at the cost of the Contractor, take such steps as it considers reasonably necessary to remedy the Contractor Default.
- (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.
- (e) Each Party shall use commercially reasonable efforts to mitigate and otherwise minimize damages in exercising its rights and remedies as set forth in any provision of this MSA.

7.7 Disputes

- (a) Contractor and RLG shall make all reasonable efforts in good faith to resolve any dispute by amicable negotiations and agree to provide, without prejudice, open and timely disclosure of relevant facts, information, and documents to facilitate these negotiations. The Parties will work to resolve any disputes within thirty (30) days from the date the dispute notice was issued. During any dispute period, unless related to a failure by RLG to pay required fees beyond any applicable cure period, Contractor will continue to perform the Work and RLG will continue to compensate Contractor for the Work.
- (b) If there is a dispute between RLG 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;
 - (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 RLG and the Contractor. The mediator will be appointed jointly by the Parties;

- (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; and
- (c) Contractor shall be conclusively deemed to have accepted any decision of RLG required by or given pursuant to this MSA and to have expressly waived and released RLG from any claims in respect of the particular matter dealt with in such decision unless, within ten (10) Business Days after receipt of such decision, Contractor provides written notice to RLG containing the particulars of the matter in dispute.

7.8 Arbitration

- (a) As provided for in Section 7.7(b)(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) RLG 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) 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. For avoidance of doubt, the Contractor shall be solely responsible for complying with all federal, provincial and municipal laws, regulations, policies and procedures governing the performance of the Work, as may be amended and replaced from time to time.
- (b) Prior to the Statement of Work Effective Date, the Contractor shall obtain and pay for all permits, permissions, licences, and approvals required to perform the Work. The Contractor shall obtain at its own expense, and shall remain in compliance with during the term of this MSA, all licences, permissions, approvals and permits required to perform the Work, and shall provide, at the request of RLG, proof of all licences, approvals and permits required by governmental authorities, having jurisdiction over the Work. Further, the Contractor shall comply with all orders that may be issued by governmental authorities.

8.3 Assignment

This MSA enures to the benefit of and is binding upon the Contractor and RLG and their successors and permitted assigns. The Contractor shall not assign, transfer, 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 RLG, which will not be unreasonably withheld, subject to RLG considering any factors or criteria determined by RLG, acting reasonably, including financial capacity, capabilities, qualifications and experience performing work similar to the Work, and Contractor will provide such information regarding potential assignees upon RLG's request, and at no cost to RLG. The Contractor may assign the benefits of this MSA, in whole or in part, and any right to payment or monies under this MSA to a lender or lenders as continuing collateral security for obligations owed to it or them without consent of RLG, provided that no such assignment shall release the Contractor from any of its obligations under this MSA. For certainty, a change of control of the Contractor shall be deemed not to be an assignment of this MSA.

8.4 Business License

The Contractor shall be solely responsible for obtaining a business licence, at its own cost, for the Work under this MSA.

8.5 Contractor to Make Examinations

- (a) 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 RLG because of any of the estimates, statements or interpretations made by any officer or agent of RLG that may be erroneous.

- (b) With the exception of Force Majeure events or as otherwise provided in this MSA, the Contractor assumes the risk of all conditions, foreseen and unforeseen, and agrees to continue to provide the Work without additional compensation under whatever circumstances may develop other than as provided herein.

8.6 Access to Records

- (a) The Contractor shall maintain full and complete books and records, as applicable to the Work, in each case in accordance with the Regulation (collectively, the “Records”) that at any reasonable time during business hours with no less than two (2) Business Days’ notice shall be open for inspection and copying for any reasonable purpose by RLG or CMO. In addition, the Contractor shall maintain in its reporting records and billing records pertaining to this MSA that are prepared in accordance with Generally Accepted Accounting Principles (GAAP) reflecting the Work. The Records shall include such reporting records and billing records and all records, invoices, and payments under this MSA, as adjusted for additional and deleted services provided under this MSA. No more than one time per calendar year, in addition to (i) any access required for compliance under the Regulation or by the Resource Productivity and Recovery Authority, or (ii) any audits reasonably required by RLG if an audit in the prior 24-months has identified material discrepancies, RLG 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 during business hours, upon two (2) Business Days notice. For clarity, RLG is not entitled to review the Contractor’s financial records relating to its labour costs or other expenditures related to the Work under the MSA or any Statement of Work; or related to Contractor’s ownership or leasehold interest in the real property of the Receiving Facility and any lease terms and conditions related thereto.
- (b) The Contractor shall make available copies of certified weigh scale records for Collected Material received or transferred under this MSA on request within two (2) Business Days of the request by RLG. 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 8.6, for the lesser of seven (7) years following the creation of the applicable record and five (5) years following the term of the applicable Statement of Work.
- (d) The inspection and audit rights pursuant to this Section 8.6 are specific to employees and independent contractors of RLG and to third party audit firms engaged by RLG and is subject to the execution by such persons of customary non-disclosure agreements for the Contractor’s benefit prior to engaging in any review or audit unless such persons are already bound by confidentiality obligations under the terms of their engagement with RLG.

8.7 Insurance

- (a) Without limiting the obligations of the Contractor in this MSA, 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 RLG and CMO 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 incident on forms meeting statutory requirements covering all owned, rented and leased vehicles used in the execution of this MSA;
 - (iii) Limited Pollution liability insurance under the Commercial General Liability policy (on a claims made or occurrence 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, personal 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) "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 and the Equipment contained therein and all other property owned by the Contractor or by others located therein including equipment, furniture and fixtures, which shall not allow subrogation claims by the insurer against RLG or CMO.
- (b) The Contractor shall not commence work until original certificates including, but not necessarily limited to, the additional insureds endorsement, evidencing the insurance requirements of the Contractor, have been filed and accepted by RLG.
- (c) Any deductibles or self-insured retentions must be declared to and accepted by RLG. In the event the deductibles or self-insured retentions are not acceptable to RLG, RLG reserves the right to negotiate with the Contractor for changes in coverage deductibles or self-insured retentions; or alternatively, require the Contractor to provide evidence of other security guaranteeing payment of losses and related investigations, claim administration and defense expenses. For clarity, the Contractor shall pay all deductibles incurred during the term of this MSA at its own expense.
- (d) The Commercial General Liability policy is to contain, or be endorsed to contain, the following provisions for Automobile Liability, Commercial General Liability, and Contractor's Pollution Liability coverage:

- (i) The Contractor's insurance coverage shall be the primary insurance with respect to RLG, CMO and their respective officers, directors, employees, agents and representatives. Any insurance, self-insurance, or insurance pool coverage maintained by RLG or CMO 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 RLG and CMO in writing at least thirty (30) calendar days prior to the effective date of cancellation or expiry. 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 RLG. RLG reserves the right to request such higher limits of insurance or other types of policies appropriate to the Work as RLG may reasonably require. Where a request for such higher limits results in an increase to the Contractor's cost of insurance, RLG will issue a Change Notice to address the increase.
- (e) If the Contractor fails to provide or maintain insurance as required herein or elsewhere in this MSA, then RLG shall have the right but not the obligation to provide and maintain such insurance and give evidence thereof to the Contractor. RLG's cost thereof shall be payable by the Contractor to RLG on demand and RLG may recover this amount in accordance with Section 6.5.
- (f) The Contractor shall cause all Subcontractors to obtain and maintain the same insurance requirements as stated herein for the Contractor.

8.8 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, except for a Change Directive.
- (b) No Party shall have any obligation with respect to changes to this MSA or 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, except for a Change Directive.

8.9 Change Management

- (a) RLG shall be entitled, in its reasonable discretion, to propose changes, alterations and/or amendments within the scope of Work of the MSA. If RLG deems it prudent to require a change in the Work, RLG shall notify the Contractor of the proposed change in the Work in writing ("Change Notice").
- (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 RLG within a period of thirty (30) days (or such period as is commercially practicable) 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, including any requirements of this MSA that would apply to the change in the Work and for which there could be a breach if the change in the Work was implemented;
 - (iii) Any amendment that may be required to be made to the terms and/or conditions of this MSA; and
 - (iv) Any potential or actual change in the Contractor's costs.
- (d) The pricing proposal associated with a Cost Estimate shall set out the net cost to Contractor to implement the Change Notice, and will include the following costs, to the extent applicable:
 - (i) capital, operating, construction and maintenance costs,
 - (ii) Contractor's interest costs (cost of borrowing) over the Term,
 - (iii) any losses directly attributable to the implementation of the Change Order that are reasonable and reasonably quantified including lost net revenue or margin,
 - (iv) retired asset costs,
 - (v) adjustments for inflation, and
 - (vi) Contractor's margin on account of Contractor's profit and overhead in respect of the Change Order, which will be established as follows: 15% return on any capital investments and 15% mark-up on any net increase in operating costs (which, for certainty, is intended to capture all costs not categorized as capital investments), including interest costs, without duplication. There shall be no other mark ups.
- (e) As soon as practicable after RLG 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 commercially reasonable 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 RLG, acting reasonably.
- (f) If the Contractor does not intend to use its own resources to implement any change in the Work, subject to prior written approval of RLG not to be unreasonably withheld or delayed, the Contractor may subcontract the required resources with the objective of ensuring that it obtains commercially reasonable value for money when procuring any Work, services, supplies, materials, or equipment required in relation to the change in the Work.

- (g) If the Parties agree to the Cost Estimate and Change Notice, as may be modified, amended or altered by the Parties, RLG shall deliver documentation for and the Parties shall use commercially reasonable efforts to agree to 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 RLG 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 or RLG has issued a Change Directive. The MSA will continue without modification or termination in the event RLG and Contractor cannot mutually agree on a Cost Estimate or Change Notice at their sole discretion. If RLG and the Contractor do not agree on any proposed adjustment associated with a Change Notice, the Parties shall address the disagreement pursuant to Section 7.7. RLG and Contractor shall negotiate changes under this Section 8.9 in good faith.
- (h) Unless the Parties agree to a different implementation timeframe, in writing, the Parties shall use commercially reasonable efforts to implement any Change Order within fifteen (15) Business Days after the Change Order is signed by both Parties.
- (i) Where a Change Notice directly or indirectly results in a net savings, the adjustment to the fees may be a reduction. The Parties agree that in determining “net savings” resulting from a Change Notice, the considerations shall include any increased costs of operations of Contractor, including where such impact is with respect to operations which are not directly related to the applicable change.
- (j) 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 RLG in writing. The Contractor, in proposing a change in the Work, agrees to provide RLG with the following information and details in writing:
- A description of the proposed change in the Work in sufficient detail, to enable RLG 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);
 - Identify an appropriate timeframe for the implementation of the change in Work; and
 - Any other information RLG may request, acting reasonably.
- (ii) RLG 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 reduction or increase 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 RLG 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 RLG is exposed.
- (iii) If RLG 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, including an appropriate timeframe for the implementation of the change in the Work. Where RLG accepts the Contractor's change proposal RLG shall notify the Contractor in a timely manner.
- (iv) If RLG rejects the Contractor's change proposal, RLG shall provide written reasons outlining the basis upon which the change in Work is not accepted by RLG.
- (v) Unless RLG 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 and accepted by RLG that directly or indirectly results in a net savings, the adjustment to the fees may be a reduction. The Parties agree that in determining "net savings" resulting from such a change in the Work, the considerations shall include any increased costs of operations of Contractor, including where such impact is with respect to operations which are not directly related to the applicable change.
- (k) Except as specifically confirmed in writing by RLG in accordance with this Section 8.9, all Work shall remain unaltered and shall be performed in accordance with the terms and conditions of this MSA.
- (l) Change Directive:
- (i) If RLG requires the Contractor to proceed with a change in the Work in response to a Change in Applicable Law that requires immediate changes to the Work to avoid penalties, notices of violation or other enforcement actions, prior to RLG and the Contractor agreeing upon the related adjustment in this MSA, RLG may in good faith issue a written instruction authorizing and directing the Contractor to proceed with such change and setting out the basis for not pursuing such changes through a Change Order ("Change Directive").
- (ii) If RLG issues a Change Notice pursuant to Section 8.9(a), and the Contractor does not respond pursuant to Section 8.9(b), RLG may at any time prior to receipt of Contractor's response pursuant to Section 8.9(b) issue a Change Directive pursuant to this Section 8.9(l) for such changes by providing notice to the Contractor that the Change Notice shall be deemed to be a Change Directive, provided that RLG

shall notify the Contractor five (5) days in advance of issuing such a Change Directive.

- (iii) Upon receipt of a Change Directive, the Contractor shall proceed promptly with performance of the change in the Work and the Contractor shall be paid the agreed costs resulting from the change in the Work.
- (iv) The Contractor shall promptly provide RLG with an estimate of the costs contemplated in the Change Directive in accordance with the Cost Estimate process, as well as the impact on the Work schedule, if applicable, but in no event later than fifteen (15) Business Days after receipt of the Change Directive. If the Contractor, acting reasonably, requires more time to provide such estimate and impact, it may say so and provide a date when such estimate and impact will be provided. Unless otherwise agreed to in writing by the Parties, the Contractor shall provide such estimate and impact within twenty (20) Business Days after the receipt of a Change Directive. RLG shall respond promptly to the Contractor's submission of such estimate and impact no later than ten (10) Business Days after the date of such submission. Thereafter, each Party shall respond promptly to the other Party's last submission, but in no event later than ten (10) Business Days after the date of such last submission.
- (v) If RLG and the Contractor do not agree on any proposed adjustment associated with a Change Directive, the Parties shall address the disagreement pursuant to Section 7.
- (vi) If at any time after the start of the Work directed by a Change Directive, RLG and the Contractor reach agreement on the costs and/or any other amendment to this MSA required to accommodate the change, such agreement shall be recorded in a Change Order.
- (vii) Where a Change Directive is issued that requires Contractor to incur capital expenditures of greater than \$50,000, Contractor shall not be required to make such expenditures until the Parties have agreed to a Change Order.

8.10 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 and which would typically be performed by a contractor performing work similar to the Work in the relevant location, 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 RLG in writing and shall not perform the Work impacted by such inconsistency or conflict until it receives instructions from RLG.

8.11 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 RLG, in writing, of such occurrence and of the nature of the relevant problem or condition in sufficient detail to permit RLG to understand the nature and scope thereof. In any event, the Contractor shall provide such written progress reports to RLG as reasonably requested by RLG but not less frequently than monthly unless otherwise agreed to in writing by RLG.

8.12 Data Ownership and Usage Rights

- (a) Subject to Section 8.12(b) of this MSA, all Receiving Facility Data and other materials submitted by the Contractor under this MSA (including any Intellectual Property Rights residing therein) (collectively, “Documentation”) are the property of RLG or such other entity as identified by RLG.
- (b) RLG acknowledges and agrees that any Documentation or Receiving Facility Data, regardless of whether the property of RLG pursuant to Section 8.12(a), may be a record for which the Contractor may have record retention and record destruction obligations required by Applicable Laws. Where such requirements imposed on the Contractor conflict with requirements that RLG may have with respect to the same Documentation or Receiving Facility Data, the Contractor shall not be considered to be breaching this MSA, and the Parties will cooperate fully in resolving the matter.
- (c) Contractor shall only use and copy the Documentation and Receiving Facility Data as is necessary to perform the Work in accordance with this MSA and for its own internal purposes (with the exception of any Personal Information (defined under Section 8.13(a) below), which will at all times be handled strictly in accordance with Section 8.13(e)). The issue or availability of the Documentation or Receiving Facility Data does not confer a licence or grant of any Intellectual Property Rights for any other purposes.
- (d) Title to and all property right, title and interest in the Documentation and Receiving Facility Data, shall transfer and is hereby assigned to RLG free and clear of all encumbrances upon RLG 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 RLG shall have full ownership of all personal property rights and Intellectual Property Rights in any and all Documentation and Receiving Facility Data in accordance with the terms of this MSA. The Contractor shall, if so requested, at any time or times, execute such documents and perform such acts as may be required to fully and effectively assure RLG, or any third party, the rights referred to in this Section 8.12(e).
- (f) The Contractor hereby waives all rights, including any and all moral rights, in and to the Documentation and Receiving Facility Data and shall obtain such waivers from all applicable personnel of the Contractor. The Contractor shall endeavour to obtain from all of the subcontractors and personnel of the Contractor the rights and waivers necessary to transfer the ownership of the Documentation and Receiving Facility Data to RLG.
- (g) The Contractor acknowledges and agrees that RLG shall be entitled to use and otherwise exploit the Documentation and Receiving Facility Data without restriction.
- (h) Notwithstanding any other provision of this Section 8.12, the Contractor shall not relinquish any of the Contractor Proprietary IP as a result of the Work provided under this MSA or the delivery of any Documentation. Any Documentation submitted by the

Contractor under this MSA shall not be required to include Contractor Proprietary IP unless necessary for RLG to administer this MSA and/or comply with Applicable Laws. Without limiting Section 8.13, the Contractor grants RLG the limited right to use Contractor Proprietary IP during the Term and following the Term (not to exceed five years) only to the extent required to administer this MSA (including, as applicable, preparation and use of the Work Report for the Month) and to the extent required to comply with Applicable Laws. Except for the limited right provided in the foregoing sentence, nothing in this MSA grants to RLG any right, title or interest in and to the Contractor Proprietary IP and all Contractor Proprietary IP shall be exclusively owned by the Contractor.

8.13 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. Notwithstanding the foregoing, except with respect to any information about an identifiable individual (including information that could, alone or in combination with other information, identify an individual) (“Personal Information”), 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.
- (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) only collect, use, disclose, store, retain, copy or reproduce Confidential Information for the purpose of exercising or performing its rights or obligations under this MSA;
 - (iii) not disclose any Confidential Information other than to employees, authorized agents, affiliates, or subcontractors of the Receiving Party (collectively, “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 at a comparable level to what is required under Applicable Laws and this MSA and, for greater certainty, if the Receiving Party is RLG, not disclose any Confidential Information that is Contractor Proprietary IP to Producers or other receivers of Collected Material; 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. However, the Parties may retain one (1) copy of the MSA and any Statements of Work under the MSA solely for their internal purposes, provided that the confidentiality obligations of the Receiving Party under this MSA shall continue to apply in respect of such documents retained by the Receiving Party.
- (e) Without limitation to this Section 8.13, the Parties acknowledge that the nature of the Work is not intended to grant Contractor direct access to Personal Information. In the event that Contractor has access to any Personal Information (with the exception of business contact information of RLG and its representatives), any such access would be incidental. To the extent that Contractor has incidental access to Personal Information, Contractor will ensure that such Personal Information will: (i) not be used or disclosed for any purpose; (ii) be handled in accordance with Applicable Laws relating to privacy, confidentiality, security, and anti-spam; and (iii) otherwise be treated as Confidential Information in accordance with the provisions of this Section 8.13.
- (f) Each Party agrees and acknowledges that any violation of this Section 8.13 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 8.13 or the continuation of any such breach, without the necessity of proving actual damages or posting any bond or other security.

8.14 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.

8.15 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 7.3 (Responsibility for Damages/Indemnification), Section 7.5 (Termination), Section 8.12 (Data Ownership and Usage Rights) and Section 8.13 (Confidentiality Covenant).

8.16 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.

8.17 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, RLG 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 RLG will provide the Contractor with written notice of such proposed revisions as soon as reasonably practicable. Such revision shall not take effect unless and until the Parties have executed a Change Order, if any, related to such Communications. RLG 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.

8.18 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. RLG 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.

8.19 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 twenty-four (24) hours after confirmation of email transmission.

To RLG:

RLG
175 Bloor Street East, 9th Floor, South Tower
Toronto, ON M4W 3R8
Attention: Catherine McCausland
Email: Catherine.McCausland@rev-log.com
To Contractor:

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

ARTICLE 9 MSA SCHEDULES

9.1 MSA Schedules

Attached to and forming an integral part of this MSA are the following Schedules:

- (a) Schedule A – Statements of Work;
- (b) Schedule B – Supplier Code of Conduct;
- (c) Schedule C – RFP; and
- (d) Schedule D – Contractor’s Response to RFP.

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.

[Contractor]

By: _____
Name:
Title:

By: _____
Name:
Title:

We have authority to bind the Contractor.

RLG Systems Canada Inc.

By: _____
Name:
Title:

By: _____
Name:
Title:

We have authority to bind RLG.