

## SERVICES AGREEMENT

TO: Multi-Material Stewardship Western Inc., a not-for-profit agency incorporated under the *Non-profit Corporations Act, 1995* (Saskatchewan) ("**MMSW**")

By execution and delivery of this Agreement, the undersigned municipality or First Nation (the "**Local Government**") or regional waste authority (the "**Regional Waste Authority**") hereby offers to provide the Services upon and subject to the terms and conditions set forth in "Terms and Conditions" attached hereto as Schedule "A" (collectively with this cover page and the appendices to Schedule "A", this "**Agreement**"). Capitalized terms used but not otherwise defined on this face page shall have the meanings ascribed thereto in Schedule "A".

If you wish to enter into this Agreement, please complete and execute this cover page and deliver a fully executed copy of this Agreement to MMSW:

- a) if by email, to info@multimaterialsw.ca
- b) if by facsimile, to 306-546-0478

**If the party completing this Agreement is a Local Government, please complete Appendix 3. If the party executing this Agreement is a Regional Waste Authority, please include each Local Government that you are representing on Appendix 3.**

This Agreement shall be legally effective and binding upon MMSW and the Local Government or Regional Waste Authority upon delivery by MMSW of a fully executed copy of this Agreement to the Local Government or Regional Waste Authority at the email address or facsimile number set forth below.

_____ Name of Local Government or Regional Waste Authority	
_____ Address	
_____ Email Address	_____ Fax #
_____ Name of Authorized Signatory	_____ Title of Authorized Signatory
_____ Signature of Authorized Signatory	_____ Date

***To be completed by MMSW***

\_\_\_\_\_  
Payment Contract #

\_\_\_\_\_  
Reporting Contract #

**ACCEPTANCE:** MMSW hereby accepts the offer of the Local Government or Regional Waste Authority to provide the Services upon and subject to the terms and conditions set forth in “Terms and Conditions” attached hereto as Schedule “A”.

\_\_\_\_\_ (the “Effective Date”)

**MULTI-MATERIAL STEWARDSHIP WESTERN INC.**

By: \_\_\_\_\_  
Tamara Burns  
VP National Supply Chain

SAMPLE

## Schedule "A" Terms and Conditions

### WHEREAS:

- A. MMSW represents companies and organizations (the "**Stewards**") that supply products in packaging and paper to residents of Saskatchewan and who have joined MMSW as members to discharge their regulatory obligations;
- B. Pursuant to the *Household Packaging and Paper Stewardship Program Regulations* (the "**Regulations**"), enacted under authority of the *Environmental Management and Protection Act* (Saskatchewan), the Stewards have certain obligations with respect to the collection and recycling of packaging and paper in Saskatchewan;
- C. MMSW has developed the Waste Packaging and Paper Stewardship Plan (the "**Stewardship Plan**"), as revised by MMSW on September 24, 2015 and as may be further revised from time to time, in order to assist the Stewards with the discharge of their obligations under the Regulations;
- D. Whereas the Saskatchewan Ministry of Environment approved the Stewardship Plan on October 14, 2015; and
- E. In connection with the implementation of the Stewardship Plan, MMSW wishes to engage the Local Government or Regional Waste Authority to provide the Services upon and subject to the terms and conditions set out in this Agreement.

In consideration of the mutual covenants and obligations contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, MMSW and the Local Government or Regional Waste Authority agree as follows:

### SECTION 1: DEFINITIONS

1.1 Definitions. In this Agreement, the following terms will have the following meanings:

"**Agreement**" has the meaning set out on the cover page of this Agreement.

"**Applicable Law**" means any domestic or foreign law, rule, statute, subordinate legislation, regulation, by-law, order, ordinance, protocol, code, guideline, treaty, policy, notice, direction or judicial, arbitral, administrative, ministerial or departmental judgment, award, decree, treaty, directive, or other requirement or guideline published or in force at any time during the Term which applies to or is otherwise intended to govern or regulate any person (including any party), property, transaction, activity, event or other matter, including any rule, order, judgment, directive or other requirement or guideline issued by any governmental or regulatory authority.

"**Confidential Information**" means information of or relating to a party (the "**Disclosing Party**") and its business and affairs disclosed by or on behalf of the Disclosing Party to the other party (the "**Receiving Party**"), whether in oral, written, graphic, electronic or any other form or medium, which the Disclosing Party designates as confidential or should reasonably be considered to be confidential; provided, however, that "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.

**“Dispute”** has the meaning set out in Section 11.1 of this Agreement.

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

**“ICI Amount”** has the meaning set out in Section 6.2(b) of this Agreement.

**“Industrial, Commercial and Institutional”** means industrial facilities such as warehouses, distribution centres, manufacturing facilities; commercial facilities such as retail stores, offices, strip malls and vacation facilities, such as hotels, motels, cottages, cabins and rental, co-operative, fractional ownership, time-share or condominium accommodation associated with sports and leisure activities (e.g. ski resorts); and, institutional facilities such as schools, churches, community buildings, local government buildings, arenas, libraries, fire halls, police stations and residences at which medical care is provided, such as nursing homes, long-term care facilities and hospices.

**“MMSW”** has the meaning set out on the cover page of this Agreement.

**“MMSW Policies and Procedures”** means the “Collector and Processor Policies and Procedures” attached as Appendix B to the Stewardship Plan, as such policies and procedures may be updated by MMSW from time to time. For ease of reference, a copy of such policies and procedures is attached as Appendix 1 hereto.

**“Local Government”** has the meaning set out on the cover page of this Agreement.

**“Notice of Delegation”** has the meaning set out in Section 4.1 of this Agreement.

**“Post-Transition Phase 1”** has the meaning set out in the Stewardship Plan.

**“Post-Transition Phase 2”** has the meaning set out in the Stewardship Plan.

**“Regional Waste Authority”** has the meaning set out on the cover page of this Agreement.

**“Reports”** means the written reports and other information required to be delivered by the Local Government or Regional Waste Authority pursuant to and in accordance with the terms of this Agreement, including without limitation the reports specified under the heading “General Policies and Procedures for Collectors and Processors” in the MMSW Policies and Procedures.

**“Representatives”** has the meaning set out in Section 10.1 of this Agreement.

**“Regulations”** has the meaning set out on the first page of Schedule “A” of this Agreement.

**“Residential WPP”** means WPP collected from single-family dwellings inhabited year round or seasonally (excluding vacation facilities such as hotels, motels, cottages and cabins which are considered commercial operations) and multi-family dwellings including rental, cooperative, fractional ownership, time-share, condominium (excluding vacation facilities, such as rental, cooperative, fractional ownership, time-share, condominium accommodation associated with sports and leisure facilities (e.g. ski resorts) which are considered commercial operations) and seniors residences (excluding residences at which medical care is provided, such as nursing homes, long-term care facilities and hospices, which are considered institutions).

**“Services”** means the curbside, multi-family and depot collection of WPP within the Service Area, the operation of depots which accept and recycle WPP delivered by residents and any related activities required to be performed under this Agreement, including without limitation receiving, classifying, packing, storing, weighing, transporting and processing WPP pursuant to and in

accordance with the terms and conditions of this Agreement and delivering to MMSW all Reports required to be delivered to MMSW pursuant to and in accordance with the terms and conditions of this Agreement.

**“Service Area”** means each Local Government listed on Appendix 3.

**“Service Commencement Date”** means the Effective Date.

**“Service Provider”** means

- (a) if the Local Government or Regional Waste Authority has not appointed a Sub-Contractor, the Local Government or Regional Waste Authority; or
- (b) if the Local Government or Regional Waste Authority has appointed a Sub-Contractor, the Sub-Contractor.

**“Stewards”** has the meaning set out on the first page of Schedule “A” of this Agreement.

**“Stewardship Plan”** has the meaning set out on the first page of Schedule “A” of this Agreement.

**“Sub-Contractor”** means a waste management or utility company that provides the Services on behalf of the Local Government or Regional Waste Authority.

**“Term”** has the meaning set out in Section 3.1 of this Agreement.

**“Transition Period”** means the period commencing on January 1, 2015 and terminating on the commencement of Post-Transition Phase 1, as determined in accordance with the Stewardship Plan.

**“Work Product”** means the deliverables to be created or provided to MMSW by the Local Government or Regional Waste Authority, including any data, records and reports that have been prepared, created, written or recorded in performance of the Services or this Agreement.

**“WPP”** means waste packaging and paper, as defined in the Regulations and Stewardship Plan.

## **SECTION 2: REPRESENTATIONS AND WARRANTIES**

2.1 MMSW Representations and Warranties. MMSW represents and warrants to the Local Government or Regional Waste Authority that:

- (a) it has full power, authority and right to execute and deliver this Agreement and to perform its obligations under this Agreement in accordance with its terms; and
- (b) this Agreement has been validly executed by an authorized representative of MMSW and constitutes a valid and legally binding obligation of MMSW.

2.2 Local Government or Regional Waste Authority Representations and Warranties. The Local Government or Regional Waste Authority represents and warrants to MMSW that:

- (a) it has full power, authority and right to execute and deliver this Agreement and to perform its obligations under this Agreement in accordance with its terms;

- (b) this Agreement has been validly executed by an authorized representative of the Local Government or Regional Waste Authority and constitutes a valid and legally binding and enforceable obligation of the Local Government or Regional Waste Authority; and
- (c) in the case of a Regional Waste Authority, the Regional Waste Authority has the authority to enter into this Agreement and perform its obligations hereunder for and on behalf of the Local Governments listed on Appendix 3.

### **SECTION 3: TERM**

- 3.1 Duration. The Term of this Agreement will commence on the Effective Date and will continue until termination of this Agreement in accordance with its terms.
- 3.2 Termination for Convenience. Either party may, at any time and without cause, terminate this Agreement for convenience upon giving the other party thirty (30) days prior written notice (or such shorter amount of notice if agreed in writing).
- 3.3 Termination by MMSW. MMSW may terminate this Agreement by providing written notice of such termination, effective immediately or at such other time set out in the notice of termination, to the Local Government or Regional Waste Authority in the event that:
  - (a) the Local Government or Regional Waste Authority commits a material breach of this Agreement and does not cure such breach within thirty (30) days of receipt of notice thereof from MMSW;
  - (b) the Service Provider fails to provide all or a material portion of the Services for a consecutive period of more than fourteen (14) days; or
  - (c) the performance by the Service Provider of the Services creates a hazard to public health or safety or to the environment.
- 3.4 Termination by Local Government or Regional Waste Authority. The Local Government or Regional Waste Authority may terminate this Agreement:
  - (a) by providing written notice of such termination, effective immediately or at such other time set out in the notice of termination, to MMSW in the event that MMSW fails to pay undisputed fees as they become due to the Local Government or Regional Waste Authority and MMSW does not cure such non-payment within sixty (60) days of receipt of notice thereof from the Local Government or Regional Waste Authority; or
  - (b) by providing written notice of such termination, effective fourteen (14) days after delivery of such written notice or at such other time set out in the notice of termination, in the event that the Local Government or Regional Waste Authority disagrees with any adjustment to the payment made pursuant to Section 6.1 of this Agreement.
- 3.5 Change in Applicable Law. MMSW may terminate this Agreement by providing written notice of such termination, effective immediately or at such other time set out in the notice of termination, to the Local Government or Regional Waste Authority in the event there is a change to Applicable Law (including the Regulations), or any new plan (whether submitted

by MMSW or any other person) is approved under the Regulations, that has a material impact on the rights and obligations of the parties hereto or the performance of the Services.

#### **SECTION 4: SUB-CONTRACTOR**

- 4.1 Notwithstanding any other provision hereof, the Local Government or Regional Waste Authority shall be permitted to delegate its responsibility to perform the Services to a Sub-Contractor acceptable to MMSW, acting reasonably, by delivering to MMSW a duly completed and signed "Notice of Delegation" in the form attached hereto as Appendix 2 (the "**Notice of Delegation**"). MMSW shall confirm that the Sub-Contractor proposed by the Local Government or Regional Waste Authority is acceptable to MMSW by returning to the Local Government or Regional Waste Authority a counter-signed copy of such Notice of Delegation. The Notice of Delegation will specify whether the responsibilities delegated to the Sub-Contractor include the responsibility to deliver the Reports the Local Government or Regional Waste Authority is otherwise required to deliver to MMSW pursuant to the terms of this Agreement.
- 4.2 In the event that the Local Government or Regional Waste Authority delegates its responsibility to perform the Services to a Sub-Contractor pursuant to Section 4.1 of this Agreement:
- (a) the Local Government or Regional Waste Authority shall use reasonable best efforts (including through appropriate supervision and inspection) to cause the Sub-Contractor to perform its obligation hereunder in accordance with the terms hereof; and
  - (b) the Local Government or Regional Waste Authority shall remain primarily liable to MMSW for the performance or non-performance of the Services or any breach of this Agreement.

#### **SECTION 5: LOCAL GOVERNMENT OR REGIONAL WASTE AUTHORITY OBLIGATIONS**

- 5.1 Performance. Beginning on the Service Commencement Date, the Local Government or Regional Waste Authority will perform the Services and otherwise fulfill its obligations hereunder honestly and in good faith, exercising reasonable skill, care and diligence, in accordance with recognized professional and industry standards, practices and methods, in a timely manner and in accordance with the terms and conditions of this Agreement, having regard for the concerns, needs, and interests of residents and the environment.
- 5.2 Compliance with MMSW Policies and Procedures. The Local Government or Regional Waste Authority will comply at all times with the MMSW Policies and Procedures.
- 5.3 Compliance with Applicable Law. The Local Government or Regional Waste Authority will perform its obligations under this Agreement in a manner that complies with all Applicable Law (including, without limitation, holding all permits, certificates and licenses required by Applicable Law for the performance of the Services).
- 5.4 Spillage. The Local Government or Regional Waste Authority will use its best efforts not to spill or discharge any WPP, liquid waste or oil during the performance of the Services. Any spillage or discharge of WPP, liquid waste or oil that occurs during the performance of the Services will be immediately cleaned up and removed by the Local Government or Regional Waste Authority at its sole cost and expense. The Local Government or the Regional Waste Authority will keep accurate records of each material spillage or discharge of WPP, liquid

waste or oil and will make such records available to MMSW on request. The Local Government or Regional Waste Authority acknowledges and agrees that it is solely responsible for any violations of Applicable Law that may result from any spillage or discharge of WPP, liquid waste or oil.

- 5.5 Penalty. Without prejudice to its right to terminate this Agreement pursuant to Section 3.3 of this Agreement, MMSW may stop or withhold payment to the Local Government or Regional Waste Authority (or, if applicable, the Sub-Contractor) in the event that the Local Government or Regional Waste Authority fails to comply with the MMSW Policies and Procedures or any other term of this Agreement and fails to cure such non-compliance within thirty (30) days.

## SECTION 6: MMSW OBLIGATIONS

### 6.1 Payments for WPP.

- (a) For WPP collected during each calendar quarter during the Transition Period, MMSW will make payments to the Local Government or Regional Waste Authority (or, if applicable, the Sub-Contractor) determined in accordance with the methodology set forth in Table 4.2 of Section 4.4.3 of the Stewardship Plan. For convenience, Table 4.2 from Section 4.4.3 is attached in Appendix 4. For clarity, the payment per municipality calculated in accordance with step 5 of the aforementioned methodology is an annual payment, with the amount payable in respect of each calendar quarter during which the Local Government or Regional Waste Authority provides services to equal 25% of the then current annual payment. In the event that the Service Commencement Date occurs on a day other than the first day of a calendar quarter or this Agreement terminates on a day other than the last day of a calendar quarter, the payment for such quarter will be pro-rated on the basis of the number of days during such partial quarter. In the event the Service Commencement Date occurs on or after April 1 of a calendar year, no payments will be made for any previous quarter(s) of that year.

Each of the parties acknowledges and agrees that the amount of payments made pursuant to this Section 6.1(a) will be based on the number of households served in the Service Area ("**Serviced Households**") as set forth on Appendix 3. Appendix 3 will be updated on an annual basis commencing on January 1, 2017 on the basis of updated information regarding the number of Serviced Households provided to MMSW by the Local Government or Regional Waste Authority by no later than June 30 of the immediately preceding year. MMSW may from time to time request, and the Local Government or Regional Waste Authority will promptly provide upon such request, documentation to validate the number of Serviced Households in respect of which the Local Government or Regional Waste Authority is entitled to receive payment pursuant to this Section 6.1(a).

For the year beginning January 1, 2016, the payment per household, calculated in accordance with step 4 of the aforementioned methodology, will be **\$11.75**. MMSW will notify the Local Government or Regional Waste Authority of any change to the payment per household by no later than November 30 of each year, with the change to be effective as of January 1 of the immediately following year.

- (b) Payment for WPP collected during Post-Transition Phase 1 will be determined in accordance with Section 4.4.4 of the Stewardship Plan.



- (c) Payment for WPP collected during Post-Transition Phase 2 will be determined in accordance with Section 4.4.5 of the Stewardship Plan.
- (d) Payments to the Local Government or Regional Waste Authority (or, if applicable, the Sub-Contractor) pursuant to this Section 6.1 will be made within thirty (30) days following the end of each calendar quarter.

6.2 Tonnage Adjustments for Industrial, Commercial and Institutional WPP.

- (a) *Curbside Collection.* If the Service Provider collects Residential WPP and WPP from Industrial, Commercial and Institutional sources on the same route:
  - (i) the Local Government or Regional Waste Authority must provide complete and accurate information to MMSW with respect to the number of households and the number of Industrial, Commercial and Institutional locations serviced on such route; and
  - (ii) for the purpose of determining the total tonnes of Residential WPP collected, total tonnes of WPP collected will be reduced based on the number of Industrial, Commercial and Institutional locations serviced on such route as a percentage of the total households and the number of Industrial, Commercial and Institutional locations serviced on such route.
- (b) *Depots.* For purposes of determining the amount of Residential WPP collected, the parties shall assume that 20% of WPP collected at depots is from Industrial, Commercial and Institutional sources (the “**ICI Amount**”); provided, however, that MMSW may adjust the ICI Amount for a particular depot if it determines, acting reasonably, that the amount of WPP from Industrial, Commercial and Institutional sources collected at a particular depot is more or less than 20%. In addition, the Local Government or Regional Waste Authority may apply to have the ICI Amount for a particular depot adjusted if the Local Government or Regional Waste Authority:
  - (i) adopts policies consistent with Appendix C of the Stewardship Plan to ensure that WPP from Industrial, Commercial and Institutional sources is not collected at the applicable depot and provides supporting documentation to MMSW with respect to the implementation and enforcement of such policies; or
  - (ii) provides evidence in accordance with Appendix C of the Stewardship Plan that less than 20% of WPP collected at the applicable depot is from Industrial, Commercial and Institutional sources.

All decisions with respect to an application made pursuant to this Section shall be at the discretion of MMSW acting reasonably.

- 6.3 Fee Exclusion. No payments will be payable by MMSW to the Local Government or Regional Waste Authority (or, if applicable, the Sub-Contractor) except for payments for Residential WPP made pursuant to Section 6.1 of this Agreement. Without limiting the generality of the foregoing, no payments will be made for expenses, costs of travel, personnel, fuel, equipment, or facilities relating to the performance of Services or this Agreement.

- 6.4 Electronic Funds Transfer. MMSW will make payments to the Local Government or Regional Waste Authority via electronic funds transfer to a bank account specified by the Local Government or Regional Waste Authority in writing. If the Local Government or Regional Waste Authority has appointed a Sub-Contractor pursuant to Section 4.1 of this Agreement, the Notice of Delegation shall specify whether MMSW shall direct payments directly to the Sub-Contractor via electronic funds transfer to a bank account specified by the Sub-Contractor in writing.

## **SECTION 7: REPORTING AND AUDIT**

- 7.1 Record Keeping. During the Term and for three (3) years thereafter (or such longer period as may be required by Applicable Law) or the date all disputes or other matters relating to this Agreement are resolved, the Local Government or Regional Waste Authority will keep and maintain complete and accurate data, records, and documents in accordance with generally accepted accounting principles consistently applied to support and document all claims and amounts becoming payable to the Local Government or Regional Waste Authority by MMSW hereunder, and all data, records, and documents relating to the performance of the Services, and compliance with the Local Government or Regional Waste Authority obligations under this Agreement.
- 7.2 Reporting. In addition to complying with the reporting obligations set forth in the MMSW Policies and Procedures, the Local Government or Regional Waste Authority will provide to MMSW such reports or information with respect to performance of the Services as MMSW may reasonably request in order to monitor compliance by the Local Government or Regional Waste Authority with its obligations hereunder or to verify the amount of Residential WPP collected by the Service Provider. During Post-Transition Phase 2, the Local Government or Regional Waste Authority will provide to MMSW such emissions data as MMSW may reasonably require in order to comply with its obligation to track and measure greenhouse gas emissions associated with the collection and recycling of WPP by the Service Provider pursuant to Section 4.6.2 of the Stewardship Plan. If the Local Government or Regional Waste Authority has appointed a Sub-Contractor pursuant to Section 4.1 of this Agreement, the Local Government or Regional Waste Authority will ensure that the Sub-Contractor provides the Local Government or Regional Waste Authority with such information or data as it requires in order to comply with its obligations under this Section 7.2.
- 7.3 Audit.
- (a) During the Term, MMSW (or its audit representative) will have the right, upon reasonable prior written notice to the Local Government or Regional Waste Authority, to audit and inspect any site, vehicle or equipment used by the Service Provider to provide the Services and any data, records, documentation and other information of the Local Government or Regional Waste Authority (or, if applicable, the Sub-Contractor) relating to this Agreement or the performance of the Services hereunder, in each case in order to monitor compliance by the Local Government or Regional Waste Authority with its obligations hereunder or to verify the amount of Residential WPP collected by the Service Provider.
  - (b) Without limiting any other audit right, during the Term, MMSW (or its audit representative) may conduct composition studies, without notice, of any materials collected, transported, processed or otherwise handled under this Agreement at any stage of the Services and regardless of the location of such materials.

- (c) The Local Government or Regional Waste Authority will co-operate with and provide to MMSW (or its audit representative) such reasonable assistance as they require in order to exercise the audit rights set out in this Section 7.3. If the Local Government or Regional Waste Authority has appointed a Sub-Contractor pursuant to Section 4.1 of this Agreement, the Local Government or Regional Waste Authority will ensure that the Sub-Contractor provides MMSW (or its audit representative) such reasonable assistance as they require in order to exercise the audit rights set out in this Section 7.3.

## **SECTION 8: INDEMNITY**

- 8.1 Indemnity. The Local Government or Regional Waste Authority will indemnify and save harmless MMSW and its affiliates, and their respective directors, officers, contractors, employees, volunteers and agents, from and against any and all manner of actions or causes of action, damages, costs, losses or expenses of whatever kind which may directly or indirectly result or arise out of any act or omission of the Local Government or Regional Waste Authority, or any of its contractors, employees, volunteers and agents, in relation to this Agreement or the performance of the Services, including without limitation any loss of life, personal injury and/or damage to property or the environment in any way related to the performance or non-performance of the Services.

## **SECTION 9: PROPRIETARY RIGHTS**

- 9.1 Collected WPP. Except as otherwise agreed to by the parties in writing, all collected WPP will belong to the Local Government or Regional Waste Authority from the time of collection.
- 9.2 Work Product. Except as otherwise agreed to by the parties in writing, the Work Product, upon delivery to MMSW pursuant to and in accordance with this Agreement, will be owned by MMSW and may be used by MMSW for any purpose.

## **SECTION 10: CONFIDENTIALITY**

- 10.1 Confidentiality. The Receiving Party will: (i) take all measures reasonably required to maintain the confidentiality and security of the Confidential Information of the Disclosing Party; (ii) not use or reproduce Confidential Information for any purpose, other than as reasonably required to exercise or perform its rights or obligations under this Agreement; (iii) not disclose any Confidential Information other than to employees, agents or subcontractors of the Receiving Party (the “**Representatives**”) to the extent, and only to the extent, they have a need to know the Confidential Information in order for the Receiving Party to exercise its rights or perform its obligations under this Agreement; and (iv) be responsible for any breach of this Agreement by any of its Representatives.
- 10.2 Legal Requirement. Notwithstanding Section 10.1 of this Agreement, 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.

## **SECTION 11: DISPUTE RESOLUTION**

- 11.1 Disputes. Any dispute that touches upon the validity, construction, meaning, performance or effect of this Agreement or the rights or liabilities of the parties or any matter arising out of, or in connection with, this Agreement (a “**Dispute**”), between MMSW and the Local Government or Regional Waste Authority will be addressed as follows:

- (a) Senior representatives of the parties will attempt in good faith to resolve the Dispute within fifteen (15) days after the Dispute first arises or such longer period as the parties may otherwise agree.
- (b) If the Dispute is not resolved pursuant clause (a) within fifteen (15) days after the Dispute first arises, the parties will attempt in good faith to resolve the dispute with the assistance of a third party facilitator within a further fifteen (15) days or such longer period as the parties may otherwise agree. The third-party facilitator will be jointly selected by the parties acting reasonably.
- (c) If the Dispute is not resolved pursuant to clause (b) within such further fifteen (15) day period, either party may escalate the Dispute to non-binding third party mediation within a further sixty (60) days or such longer period as the parties may otherwise agree. The mediation will take place at a time and place mutually agreed by the parties and will be led by a third party mediator jointly selected by the parties acting reasonably. If the parties cannot agree upon a third party mediator, the third party mediator will be selected by MMSW in its sole discretion.
- (d) If the Dispute is not resolved pursuant to clause (c) within such further sixty (60) day period, the Dispute will be conclusively settled by means of private and confidential binding arbitration, to the exclusion of courts of law. The decision of the arbitrator will be final and binding on the parties and will not be subject to appeal on any grounds whatsoever, and will be enforceable against MMSW and the Local Government or Regional Waste Authority, as the case may be. The arbitration will take place at a time and place mutually agreed by the parties and will be led by an arbitrator jointly selected by the parties acting reasonably. If the parties cannot agree upon an arbitrator, the arbitrator will be determined pursuant to *The Arbitration Act, 1992* (Saskatchewan), as amended.

Notwithstanding anything to the contrary in this Section 11.1, either party may start litigation proceedings in a court of law at any time for an application for a temporary restraining order or other form of injunctive relief and each party hereby attorns to the non-exclusive jurisdiction of the courts of the Province of Saskatchewan for such a purpose.

## **SECTION 12: GENERAL PROVISIONS**

- 12.1 Assignment. This Agreement may not be assigned by either party in whole or in part, without the other party's prior written consent, except that MMSW may assign this Agreement without the Local Government or Regional Waste Authority's consent to a person with an approved plan under the Regulations, or who otherwise has obligations similar to those of MMSW or to a person as part of a corporate reorganization of MMSW. Any attempt, by a party to assign all or any part of this Agreement without prior written consent (where such consent is required) is void.
- 12.2 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such determination will not impair or affect the validity, legality or enforceability of the remaining provisions hereof, and each provision is hereby declared to be separate, severable and distinct. To the extent that any such provision is found to be invalid, illegal or unenforceable, the parties hereto will act in good faith to substitute for such provision, to the extent possible, a new provision with content and purpose as close as possible to the provision so determined to be invalid, illegal or unenforceable.

- 12.3 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the Province of Saskatchewan and the laws of Canada applicable therein without regard to conflicts of law that would apply a different body of law. The parties hereby irrevocably attorn to the non-exclusive jurisdiction of the courts of the Province of Saskatchewan for any legal proceedings arising out of this Agreement or the performance of the obligations hereunder.
- 12.4 Notices. All notices, requests or demands made pursuant to this Agreement will be made in writing, in the English language, and will be deemed duly given: (i) when delivered by hand; (ii) when sent by facsimile or e-mail; (iii) on the designated day of delivery, when delivered by express overnight courier with a reliable system for tracking delivery; or (iv) six (6) days after the day of mailing, when mailed by Canada Post, registered or certified mail, return receipt requested and postage prepaid. Notices, requests or demands shall be delivered to the Local Government or Regional Waste Authority in accordance with the information set forth on the cover page. Notices, requests or demands shall be delivered to MMSW at:
- Multi-Material Stewardship Western Inc.  
321 – 4<sup>th</sup> Avenue North (Lower Level), Saskatoon, Saskatchewan, S7K 2L8
- Attn: Director, Field Services
- Email: info@multimaterialsw.ca  
Fax: 1-866-260-0066
- 12.5 Waiver. A waiver of any provision of this Agreement will only be valid if provided in writing and will only be applicable to the specific incident and occurrence so waived. The failure by either party to insist upon the strict performance of this Agreement, or to exercise any right hereunder, will not act as a waiver of any right, promise or term, which will continue in full force and effect.
- 12.6 Amendment. This Agreement may only be amended by written agreement duly executed by authorized representatives of the parties (it being understood, for the avoidance of doubt, that the Stewardship Plan or the MMSW Policies and Procedures may be amended at any time by MMSW, subject to receipt of any required governmental approvals).
- 12.7 Entire Agreement. This Agreement will constitute the entire agreement between the parties with respect to the subject matter hereof and will replace all prior promises or understandings, oral or written. There is no representation, warranty, collateral term or condition or collateral agreement affecting this Agreement, other than as expressed in writing in this Agreement.
- 12.8 Counterparts. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original and all of which taken together will be deemed to constitute one and the same instrument. Delivery of an executed signature page to this Agreement by any party by electronic transmission will be as effective as delivery of a manually executed copy of the Agreement by such party.

\*\*\*

## Appendix 1— MMSW Policies and Procedures

### General Policies and Procedures for Collectors and Processors

A municipality receiving payments under the WPP Stewardship Plan or a municipality's designate<sup>1</sup> receiving payments under the WPP Stewardship Plan on behalf of a municipality shall report<sup>2</sup> to MMSW:

- The following information annually during the Transition Period and Post-Transition Phases 1 and 2:
  - The number of households receiving curbside and multi-family building collection service of waste packaging and paper (WPP) and the number of households without collection service but with access to depot collection service<sup>3</sup>;
  - The population of each collection service area;
  - The number of WPP material streams collected and the types of packaging and paper included in each stream collected from households receiving collection service and accepted from households receiving only depot collection service;
  - Frequency of collection service provided and type of set-out container used by residents; and
  - Locations of depots accepting residential WPP.
- The following information quarterly during the Transition Period and Post-Transition Phases 1 and 2:
  - Tonnes<sup>4</sup> of residential WPP collected from curbside and multi-family buildings and tonnes<sup>5</sup> of residential WPP received from residents at depots by stream for each collection service area;
  - The number of ICI stops on curbside and multi-family building collection routes;
  - Tonnes<sup>6</sup> of residential WPP shipped to recycling end-markets by type of packaging and type of paper and by recycling end-market<sup>7</sup>; and
  - Tonnes<sup>8</sup> of residential WPP rejected by recycling end-markets including the reason for the rejection.
  - Amount of revenue received for the residential WPP shipped to recycling end-markets by type of packaging and type of paper.

A Local Government receiving payments under the WPP Stewardship Plan or a Local Government's Sub-Contractor receiving payments under the WPP Stewardship Plan on behalf of a Local

---

<sup>1</sup> References to a municipality in this Appendix 1 include a reference to any Local Government. A municipality's designate is another person that operates a residential waste diversion program for waste packaging and paper on behalf of a municipality (including a Regional Waste Authority or a Sub-Contractor appointed by a municipality or Regional Waste Authority).

<sup>2</sup> All information reported by a municipality is subject to review by MMSW's accountant (in addition to the information described in Section 4.4.5 of the Stewardship Plan) if the municipality is selected as a representative municipality for the municipal group of which it is part.

<sup>3</sup> Access to depot collection services is based on defined drive distances for urban and for rural residents.

<sup>4</sup> Based on weigh scale tickets. Estimates and projections are not acceptable.

<sup>5</sup> Based on weigh scale tickets. Estimates and projections are not acceptable.

<sup>6</sup> Based on weigh scale tickets. Estimates and projections are not acceptable.

<sup>7</sup> Recycling end-market information will be considered confidential.

<sup>8</sup> Based on weigh scale tickets. Estimates and projections are not acceptable.

Government shall deliver WPP services in a manner that utilizes persons, bodies or other entities that provide employment and training to persons with disability and operate efficient and effective programs where this is deemed practical, effective, efficient and without risk to the persons involved, other staff or residents.

### **Policies and Procedures for Household Collection Services**

A municipality or a municipality's designate shall ensure that:

- Waste packaging and paper (WPP) is collected from residents.
- WPP collected from residents comprising
  - Packaging as defined in Clause 2(1)(e) of *The Household Packaging and Paper Stewardship Program Regulations* supplied by MMSW Members; and
  - Paper as defined in Clause 2(1)(f) of *The Household Packaging and Paper Stewardship Program Regulations* supplied by MMSW Members.
- Packaging that contains Hazardous Waste or Special Waste is not accepted in the WPP collection system.
- Residents are informed that items that are not packaging or paper are not accepted in the WPP collection system and collectors ensure that these items do not represent more than 3% of collected WPP.
- All collected residential WPP is accounted for under the WPP program and may not be directed for separate management outside of the WPP product management program.
- WPP is collected and stored in a manner that maximizes material quality and commodity revenue.
- WPP collection occurs on a regular schedule on the same day and as close to a consistent time as possible.
- Collection containers provided to residents provide sufficient volume to accommodate generation within the context of collection frequency and shall not limit participation and WPP capture.
- Limits are not placed on the volume of WPP accepted from residents, except in the case where the WPP is considered to be from ICI activities.
- Residents receive uninterrupted collection service with the exception of statutory holidays.
- Residents are regularly informed about how to participate in the collection service.
- WPP collection services are delivered in a manner that contributes to a positive view of WPP recycling and encourages continued participation by residents.
- Collection vehicles
  - Are maintained in a satisfactory condition and have appropriate safety markings in accordance with current statutes, rules and regulations.
  - Are operated in compliance with all rules of the road including weight-related laws and regulations, such as axle bridging and loading requirements.
  - Are operated in compliance with applicable federal, provincial, local government laws, statutes, rules, regulations or ordinances, including those of agencies having jurisdiction over any aspect of the collection of WPP.
  - Are permitted as required by local, provincial or federal governments or any other regulatory body required in order to collect WPP.
  - Are operated in compliance with all environmental standards and regulations including local government noise bylaws.

- Are operated in compliance with the Workers Compensation Act and all worker health and safety requirements and shall provide a safe working environment.
- Are operated with the following insurance coverage:
  - Automobile liability insurance coverage with a minimum combined single limit for bodily injury and property damage of \$5,000,000 per accident;
  - Commercial general liability insurance coverage with limits no less than \$5,000,000 each occurrence and \$5,000,000 general aggregate;
  - Workers Compensation coverage as required by the Workers Compensation Act; and
  - Pollution liability insurance with limits no less than \$3,000,000 each occurrence and \$3,000,000 annual aggregate.

### **Policies and Procedures for Depot Collection Services**

A municipality or a municipality's designate shall ensure:

- Waste packaging and paper (WPP) is accepted from residents.
- WPP accepted from residents comprising
  - Packaging as defined in Clause 2(1)(e) of *The Household Packaging and Paper Stewardship Program Regulations* supplied by MMSW Members; and
  - Paper as defined in Clause 2(1)(f) of *The Household Packaging and Paper Stewardship Program Regulations* supplied by MMSW Members.
- WPP accepted from industrial, commercial and institutional (ICI) generators is kept separate from residential WPP and is not included in tonnes of WPP reported under the product management program<sup>9</sup>.
- Packaging that contains Hazardous Waste or Special Waste is not accepted in the WPP collection system.
- Residents are informed that items that are not packaging or paper are not accepted in the WPP collection system and collectors ensure that these items do not represent more than 3% of collected WPP.
- All collected residential WPP is accounted for under the WPP program and may not be directed for separate management outside of the WPP product management program.
- WPP is collected and stored in a manner that maximizes material quality and commodity revenue.
- Limits are not placed on the volume of WPP accepted from residents, except in the case where the WPP is considered to be from ICI activities.
- Residents are regularly informed about how to utilize the depot collection service.
- WPP depot collection services are delivered in a manner that contributes to a positive view of WPP recycling and encourages continued participation by residents. Depots:
  - Are maintained in a satisfactory condition and have appropriate safety signage in accordance with current statutes, rules and regulations.
  - Are operated in compliance with applicable federal, provincial, local government laws, statutes, rules, regulations or ordinances, including those of agencies having jurisdiction over any aspect of the collection of WPP.
  - Are permitted as required by local, provincial or federal governments or any other regulatory body required in order to collect WPP.

---

<sup>9</sup> Quantities of WPP collected at depots will be monitored to identify atypical capture rates and, if identified, the amounts considered to be from sources other than MMSW Members will be deducted prior to calculating payments due.



- Are operated in compliance with all environmental standards and regulations including local government noise bylaws.
- Are operated in compliance with the Workers Compensation Act and all worker health and safety requirements and shall provide a safe working environment.
- Are operated with the following insurance coverage:
  - Commercial general liability insurance coverage with limits no less than \$5,000,000 each occurrence and \$5,000,000 general aggregate;
  - Workers Compensation coverage as required by the Workers Compensation Act; and
  - Pollution liability insurance with limits no less than \$3,000,000 each occurrence and \$3,000,000 annual aggregate.

### **Policies and Procedures for Processing Services**

A municipality or a municipality's designate shall ensure:

- All collected residential WPP is accounted for under the WPP program and WPP may not be directed for separate management outside of the WPP product management program.
- WPP is received and stored in a manner that maximizes material quality.
- WPP is processed and marketed in a timely, efficient and diligent manner.
- WPP is processed to meet recycling end-market specifications, maximize the quantity of WPP shipped to recycling end-markets and minimize the quantity of residue requiring disposal. The quantity directed to disposal does not represent more than 10% of collected WPP.
- WPP is marketed to recycling end-markets to maximize commodity revenue received.
- Non-WPP in WPP received and residues from processing WPP are disposed in a facility that is operated in compliance with applicable provincial, local government laws, statutes, rules, regulations or ordinances.
- WPP processing services are delivered in a manner that utilizes persons, bodies or other entities that provide employment and training to persons with disability and operate efficient and effective programs where this is determined to be practical, effective, efficient and without risk to the persons involved or other processing staff.
- Processing facilities
  - Are maintained in a satisfactory condition and have appropriate safety signage in accordance with current statutes, rules and regulations.
  - Are operated in compliance with applicable federal, provincial, local government laws, statutes, rules, regulations or ordinances, including those of agencies having jurisdiction over any aspect of the collection of WPP.
  - Are permitted as required by local, provincial or federal governments or any other regulatory body required in order to collect WPP.
  - Are operated in compliance with all environmental standards and regulations including local government noise bylaws.
  - Are operated in compliance with the Workers Compensation Act and all worker health and safety requirements and shall provide a safe working environment.
  - Are operated with the following insurance coverage:
    - Commercial general liability insurance coverage with limits no less than \$5,000,000 each occurrence and \$5,000,000 general aggregate;
    - Workers Compensation coverage as required by the Workers Compensation Act; and

- Pollution liability insurance with limits no less than \$3,000,000 each occurrence and \$3,000,000 annual aggregate.

SAMPLE

**Appendix 2 – Notice of Delegation**

**TO: MULTI-MATERIAL STEWARDSHIP WESTERN INC. (“MMSW”)**

---

Pursuant to Section 4.1 of the services agreement between MMSW and the undersigned to which this Appendix 2 is attached (the “Agreement”), the undersigned Local Government or Regional Waste Authority hereby provides written notice to MMSW that it proposes to delegate its responsibility to perform the Services to the Sub-Contractor specified below. Capitalized terms used but not defined in this Notice of Delegation shall have the meaning ascribed thereto in the Agreement.

Pursuant to the terms of the sub-contracting arrangements between the Local Government or Regional Waste Authority and the Sub-Contractor (*check each box that applies*):

- Sub-Contractor to **deliver Reports** directly to MMSW
  
- Sub-Contractor to **receive Payments** directly from MMSW

Name of Local Government or Regional Waste Authority	
Signature of Authorized Signatory	
Name and Title of Authorized Signatory	
Name of Sub-Contractor	
Address of Sub-Contractor	
Email Address of Sub-Contractor	Fax Number of Sub-Contractor
Date	

**Confirmed and agreed as of \_\_\_\_\_.**

**MULTI-MATERIAL STEWARDSHIP WESTERN INC.**

By: \_\_\_\_\_  
Tamara Burns  
VP National Supply Chain

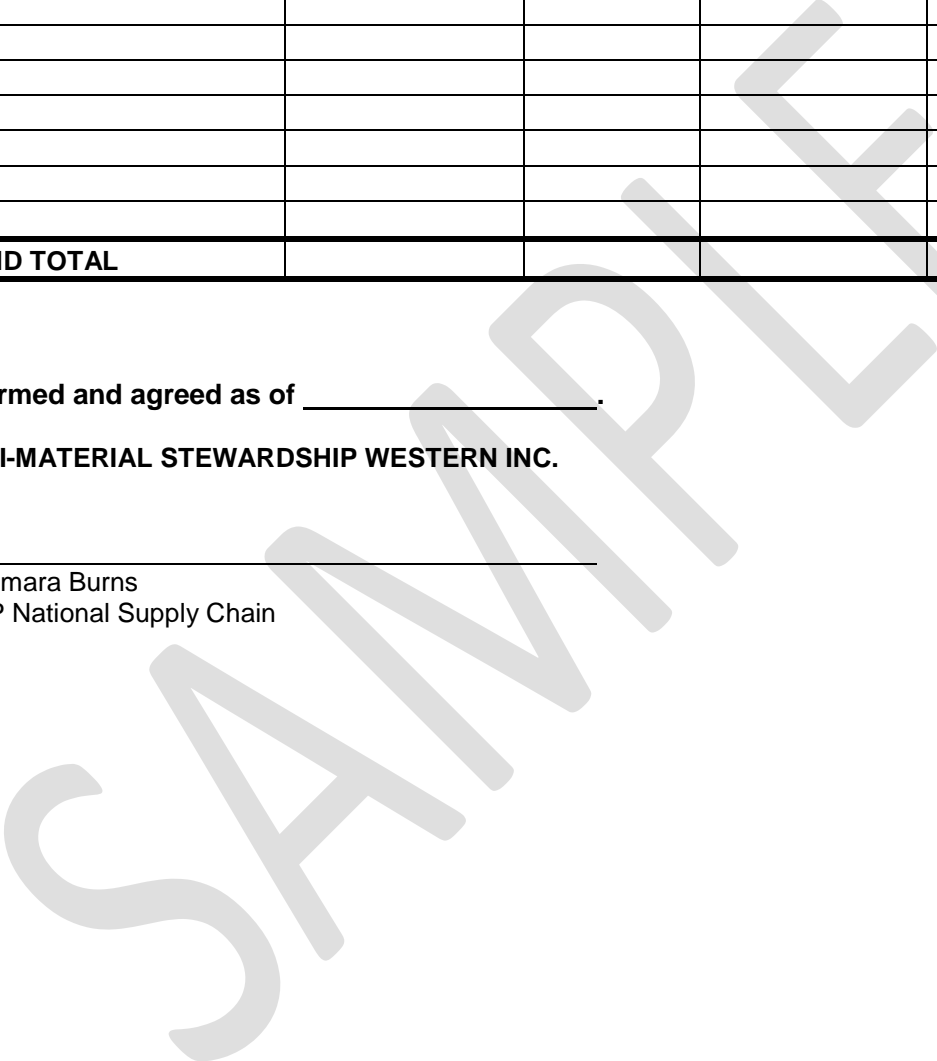


Local Government Name	(A) # of Households on Collection Routes	(B) # of ICI Locations Served	(C) # of Depot Only Households Served	[(A)+(C)] Total Number of Served Households
<b>GRAND TOTAL</b>				

Confirmed and agreed as of \_\_\_\_\_.

**MULTI-MATERIAL STEWARDSHIP WESTERN INC.**

By: \_\_\_\_\_  
 Tamara Burns  
 VP National Supply Chain



**Appendix 4 – Table 4.2: Methodology to Calculate Municipal Payments**

Step	Objective	Methodology	Output
1	Determine the paper and packaging supplied by MMSW Members that is available for collection from households	=	Paper and packaging supplied by MMSW Members that is available for collection from households per year <sup>10</sup>
2	Determine the portion of paper and packaging supplied by MMSW Members that is collected from households by municipalities <sup>11</sup>	Multiply the output of Step # 1 by 60% to represent the portion captured from households by municipalities <sup>12</sup>	Paper and packaging supplied by MMSW Members that is collected from households by municipalities
3	Determine the total amount available to SK municipalities	Multiply the output of Step # 2 (in tonnes) by the weighted average payment rate of \$140 per tonne	Total amount available to municipalities to manage paper and packaging supplied by MMSW Members that is collected from households
4	Determine payment per household to manage paper and packaging supplied by MMSW Members that is collected from households	Divide the output of Step # 3 by the number of households in SK <sup>13</sup>	Payment per household available to municipalities
5	Determine payment per municipalities registered with MMSW	Multiply the output of Step # 4 by the number of households served <sup>14</sup> in each municipalities registered with MMSW	Payment per municipalities (distributed to municipalities registered with MMSW in quarterly installments)

<sup>10</sup> Calculated each year by November 30.

<sup>11</sup> References to a municipality in this Appendix 4 include a reference to any Local Government.

<sup>12</sup> The 60% capture rate will be reviewed periodically.

<sup>13</sup> Based on the most recent Statistics Canada census data.

<sup>14</sup> Households receiving WPP curbside or multi-family building collection service by a municipality or households without collection service but with access to a depot accepting WPP operated by a municipality. Refer to Appendix D of the Stewardship Plan.