

**Product Care Association of Canada - Municipality Hazardous and Special Products Materials
Services Agreement**

THIS AGREEMENT is made as of the 18th day of March, 2025.

BETWEEN:

**PRODUCT CARE ASSOCIATION OF CANADA
("Product Care")**

- and -

**CORPORATION OF THE TOWN OF ESPANOLA
("Municipality")**

collectively, the "Parties"

WHEREAS:

- A.** Product Care operates extended producer responsibility programs in Canada on behalf of its industry members, pursuant to applicable regulations.
- B.** Product Care operates Ontario program(s) pursuant to the Hazardous and Special Products ("HSP") Regulation, O. Reg. 449/21 issued under the Ontario Resource Recovery and Circular Economy Act (RRCEA) for which Product Care is registered as a Producer Responsibility Organization (PRO) with Resource Productivity and Recovery Authority (RPPRA).
- C.** This agreement succeeds and replaces the current Product Care – Municipal Industry Stewardship Plan (ISP) Materials Services Agreement between the Parties, dated October 1, 2021 (the "ISP Agreement") as of the Effective Date.
- D.** The Parties wish to enter into this Agreement, which describes the terms and conditions under which the Municipality will provide or arrange for certain collection and post-collection services to Product Care for the HSP material categories specified herein.

NOW THEREFORE, in consideration of the mutual promises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1.0 Definitions and Interpretation

1.1. Terms beginning with capital letters and used herein without definition shall have the meanings given to them in either the *Resource Recovery and Circular Economy Act, 2016* (Ontario) or the *Municipal Act, 2001* (Ontario), as the case may be unless otherwise specified.

1.2. In this Agreement:

- (a) **“Agreement”** means this Agreement and includes all appendices, schedules and amendments thereto;
- (b) **“Business Day”** means Monday through Friday, excluding statutory holidays and any other day that the Government of Ontario or, if the Municipality is an upper-tier, single-tier municipality or territorial district, that the Municipality has elected to be closed for business. The Parties acknowledge that the Municipality may operate Collection Services outside of a “Business Day” and that this definition of “Business Day” is not intended to constrain the operating hours of the Municipality’s Collection Services;
- (c) **“Claims Submission(s)”** means submission to Product Care of data required to validate a claim for payment;
- (d) **“Collection Activities”** means all the activities agreed upon under this Agreement, including those conducted at Collection Events, Collection Sites, Toxic Taxi and PaintShare operated by or on behalf of the Municipality, for the purpose of receiving, classifying, packing, storing and transferring HSP Materials onto transportation vehicles, including the manifesting of HSP Materials, as applicable, prior to transportation away from the Collection Event or Collection Site;
- (e) **“Collection Event(s)”** means a service operated by or on behalf of the Municipality for the collection of HSP Materials in accordance with the requirements for collection events under the HSP Regulation, subject to change pursuant to the provisions of this Agreement;
- (f) **“Collection Services”** means the service types set out in section 2.2 and detailed in Appendix A;
- (g) **“Collection Services Guidelines and Standards”** means the compendium of information provided in Schedule “B” which describes minimum procedures for the safe handling of HSP Materials, including collection site requirements and procedures developed to assist the Municipality in managing the collection, storage and packaging of HSP Materials in a way that will minimize of the risk of personal injury and harm to the environment and which may be updated by Product Care from time to time pursuant to section 8.4 of this Agreement. A copy of the Collection Service Guidelines and Standards are also available on Product Care’s website at [Product Care Ontario Program Operational Standards - Product Care Recycling](#);
- (h) **“Collection Site(s)”** means the Municipality’s locations and facilities participating under this Agreement in the collection of HSP Materials, in accordance with the requirements for collection sites under the HSP Regulation, subject to change pursuant to the provisions of this Agreement;
- (i) **“Commingled Materials”** the HSP Materials and Non-Program Materials of similar characteristics and/or chemistries, as referenced in Schedule “B”, that can be safely packed together in the same collection container for transportation in accordance with the

Transportation of Dangerous Goods Regulation and any other applicable Legal Requirements;

- (j) **“CPI”** means the Consumer Price Index, as specified in Schedule “A”;
- (k) **“Effective Date”** means January 1, 2025 for the HSP Program;
- (l) **“Generator”** means the final user who generates the HSP Material waste;
- (m) **“Hauler”** means a Service Provider registered with RPRA and approved by Product Care for the transportation of HSP Materials in accordance with the requirements of the HSP Regulation;
- (n) **“Hazardous and Special Products” or “HSP”** has the meaning as set out in the HSP Regulation;
- (o) **“HSP Material(s)”** means end-of-life HSP designated by the Parties, as set out in section 2.1, for the purposes of this Agreement;
- (p) **“HSP Program”** means all activities that Product Care conducts as a PRO under the HSP Regulation including the collection and management system for HSP Materials;
- (q) **“HSP Regulation”** means the Ontario Hazardous and Special Products Regulation O. Reg. 449/21 made under the Resource Recovery and Circular Economy Act, 2016 as amended;
- (r) **“Lab Pack Factors”** means the proportion of HSP Materials for each category of Commingled Materials, as determined by the Lab Pack Audit pursuant to section 6;
- (s) **“Member Associations”** means the Regional Public Works Commissioners of Ontario, the Association of Municipalities of Ontario, and the Municipal Waste Association;
- (t) **“Non-Commingled Materials”** means the HSP Materials listed in Schedule “B” that must be and are packed separately for transportation as per the Packing Standards;
- (u) **“Non-Program Materials”** means any material other than HSP Materials;
- (v) **“Packing Standards”** means the Waste Packing Protocols listed in Schedule “B”;
- (w) **“Paints and Coatings”** has the meaning as set out in the HSP Regulation;
- (x) **“PaintShare”** means the service of making available and giving away free leftover Paints and Coatings in accordance with Product Care Collection Services Guidelines and Standards;
- (y) **“Pesticides”** has the meaning as set out in the HSP Regulation;
- (z) **“Post-Collection Services”** means the transportation of HSP Materials from Collection Events and Collection Sites, and the consolidation, sorting, weighing, processing, recycling, and safe disposal of waste and other post-collection waste management activities;
- (aa) **“Processor”** means a Service Provider registered with RPRA and approved by Product Care for the processing of HSP Materials in accordance with the requirements of the HSP Regulation;
- (bb) **“Product Care Portal”** means Product Care’s online system for uploading Claims Submissions;
- (cc) **“Producer Responsibility Organization” or “PRO”** has the meaning as set out in the HSP Regulation;

- (dd) **“Program Services”** means Collection Services and/or Post-Collection Services for HSP Materials;
- (ee) **“Service Provider”** means the Municipality, and/or a commercial party including Haulers and/or Processors that provide Program Services to Product Care or the Municipality as the case may be;
- (ff) **“Solvents”** has the meaning set out in the HSP Regulation;
- (gg) **“Supporting Documentation”** means invoices, bills of lading, manifests, or other such documents as may reasonably be required by Product Care for the validation of Claims Submissions; and
- (hh) **“Toxic Taxi”** means a direct pickup collection service for HSP Materials provided by the Municipality to households or businesses which is returned by the Municipality to a Collection Site.

2.0 HSP Materials and Collection Services

- 2.1. The Municipality will provide Collection Services to Product Care for the HSP Materials marked with an “X” below:

HSP Materials included in this Agreement are marked with an “X”	HSP Materials*	HSP Regulation Category
X	Paints and Coatings	B
X	Pesticides	B
X	Solvents	B

*includes aerosols of each of the HSP Materials subject to any container capacity limitations set out in the Regulation

- 2.2. The Municipality will provide the Collection Service types marked with an “X” below pursuant to this Agreement, for the HSP Materials, as further detailed in Appendix A:
- ☐ Collection Site
 - ☒ Collection Event
 - ☐ Toxic Taxi
 - ☐ PaintShare
- 2.3. Product Care appoints each of the Collection Services listed in Appendix A as an authorized service for of HSP Materials as set out in Appendix A.
- 2.4. In recognition of the consideration provided hereunder by Product Care to the Municipality, the Municipality hereby agrees to contract exclusively with Product Care (and not any other party) for the collection of HSP Materials during the Term of this Agreement at the Collection Services listed in Appendix A.
- 2.5. Either Party must give at least 90 days’ notice to remove a HSP Material collected at a Collection Service or to remove a Collection Service from Appendix A. The addition of a HSP Material to be collected at any Collection Service or the addition of any Collection Service to Appendix A requires mutual written approval.

- 2.6. Municipality will give written notice, via email, to Product Care at least two (2) business days prior to amending the Collection Services information relating to site names, operating hours, addresses and contact information outlined in Appendix A or information provided to Product Care pursuant to section 2.7 of this Agreement. Such amendments will be incorporated into this Agreement as an amendment.
- 2.7. Municipality will submit Collection Event details (e.g. specific location, date, time etc.) to Product Care for approval by April 30 of the calendar year in which the Collection Events will be held, utilizing the form provided by Product Care. Once approved by Product Care, which approval shall not be unreasonably withheld, the updated Collection Events information will be deemed to be incorporated into this Agreement as an amendment.
- 2.8. Product Care will provide to RPRA, in accordance with obligations under RRCEA Regulations, the information contained in Appendix A or any additional information required by RPRA for the purposes of compliance with regulatory requirements.
- 2.9. The Municipality is responsible for packing Commingled Materials and Non-Commingled Materials in accordance with Packing Standards set out in Schedule "B".
- 2.10. The Municipality will not charge Generators for HSP Materials received from them at Collection Services.

3.0 Post-Collection Services

- 3.1. Subject to subsection 3.3, the Municipality shall utilize Service Providers, authorized by Product Care, for Post-Collection Services of HSP Materials.
- 3.2. Subject to subsection 3.3, the Municipality shall ensure that any Service Provider providing Post-Collection Services is registered with RPRA for the HSP Materials.
- 3.3. Upon ninety (90) days written notice, Product Care can require that the Post-Collection Services for HSP Materials be performed by a Service Provider selected by, contracted with, and paid by Product Care.
- 3.4. The Municipality may accept Non-Program Materials at Collection Services; however, the Municipality acknowledges and agrees that Non-Program Materials collected or accepted by the Municipality are the sole and exclusive responsibility of the Municipality.

4.0 Price and Payment

- 4.1. The fees payable by Product Care to the Municipality as of the Effective Date pursuant to this Agreement are set forth in the Schedule A to this Agreement, subject to CPI adjustment, as set out in Schedule A.
- 4.2. Where the fees payable are based on weight, as set out in Schedule A, weights shall be based on the net scaled weights of the HSP Materials as determined by the Service Provider providing the Post-Collection Services. In the case of Commingled Materials, Lab Pack Factors will be applied to the net scaled weights to determine the weights of HSP Materials.
- 4.3. The Municipality agrees to accept payment by electronic funds transfer and will provide its bank account information to Product Care for this purpose. Payments shall be made in accordance with the terms set forth in the Schedule A.

- 4.4. The Municipality will provide any Supporting Documentation reasonably requested by Product Care to verify the accuracy of the Claims Submissions.
- 4.5. Post-Collection Services for Non-Commingled HSP Materials collected at Collection Sites will be paid directly to Service Providers by Product Care.
- 4.6. The Municipality shall provide thirty (30) days notice in writing to Product Care for a price change for Commingled Material Post-Collection Service for Collection Sites, providing evidence to Product Care of the price change, such as an invoice or schedule of contractual rates between the Municipality and the Service Provider. The Municipality shall follow its purchasing bylaw, if applicable, and conduct competitive bidding as appropriate and required.
- 4.7. Product Care has no obligation to pay and Municipality forfeits the right to payment for any Claim Submission for Program Services including associated Collection Services payments provided in a calendar year which is not received by Product Care within three (3) months of the end of that calendar year.

5.0 Term

- 5.1. The term of the Agreement commenced or will commence on the Effective Date and, unless otherwise extended or terminated earlier in accordance with the provisions of this Agreement, shall end on December 31, 2026 (the “Initial Term”).
- 5.2. At the expiry of the Initial Term, this Agreement will automatically renew for successive renewal terms (each a “Renewal Term”) of twelve (12) months unless written notice of termination is provided by either Party to the other Party at least ninety (90) days prior to the expiry of the Initial Term or the then current Renewal Term, as applicable. The Initial Term and if applicable, any Renewal Terms, are referred to as the “Term” of this Agreement.

6.0 Lab Pack Audit for Commingled Material

- 6.1. Product Care will arrange a lab pack study (the “Lab Pack Audit”) conducted annually by a qualified third party, with optional observation by representatives of the Member Associations at their discretion, that follows a methodology designed by Product Care with input from Member Associations to achieve a high level of statistical confidence, the results of which, after providing an opportunity for representatives of the Member Associations to review them in confidence, are used to determine the Lab Pack Factors of each Commingled Material to be paid by Product Care as set out in this Agreement;
- 6.2. Thirty (30) days prior to the end of the calendar year, Product Care will invite representatives from the Member Associations to a meeting hosted by Product Care with the purpose of sharing the Lab Pack Audit results and any changes to the resulting Lab Pack Factors to be applied in the following calendar year.

7.0 Title to HSP Materials

- 7.1. To the extent permitted by applicable laws, the Party with physical possession of the HSP Materials shall have and retain title to the HSP Materials for the duration for which they are in the physical possession of the HSP Materials until such time as they are transferred to the physical possession of another Party or Service Provider. Any contract the Party may enter into with a Service Provider who is not party to this Agreement shall include a requirement with respect to

the acknowledgement by the Service Provider that the Service Provider shall have title to any HSP Materials while in the physical possession of that Service Provider. Notwithstanding who has the title of the HSP Materials and to the extent it is within the reasonable control of the Municipality, the Municipality transfers the exclusive right to Product Care to claim the Collection Services and/or the weight of recovered resources of the HSP Materials collected at Collection Services, insofar as the right to claim the Collection Services and/or the weight of recovered resources are required to fulfill Product Care's PRO responsibilities under the HSP Regulation for the HSP Materials.

8.0 Product Care Policies, Standards and Guidelines

- 8.1. The Collection Service Guidelines and Standards is set out in Schedule "B" of this Agreement.
- 8.2. The Municipality will use best efforts to comply with and will require that any of its Service Providers supplying Program Services use best efforts to comply with, the provisions of all such policies, standards and guidelines as they pertain to the provision of the Program Services.
- 8.3. Product Care may develop or propose amendments to, from time to time, policies, standards and guidelines relative to the provision of Program Services. Product Care will endeavour to provide sufficient time for review and comment on the proposed amendments.
- 8.4. Product Care will communicate any new or amended policies, standards and guidelines to the Municipality 60 days prior to implementing via the email address in section 16 and will post copies of such new or amended policies, standards and guidelines on Product Care's website.
- 8.5. The Municipality may provide written notice within thirty (30) days of receiving such communication that it does not wish to comply with a new or amended policy, standard or guideline, and in the event that the Municipality provides such written notice either Party may exercise the termination provisions under section 25.4(a).

9.0 Promotion and Education

- 9.1. Product Care shall be responsible for promotion and education activities for the HSP Program at its sole discretion and at its own expense.
- 9.2. Product Care shall not make use of its association with the Municipality or use the Municipality's name, including the use of the Municipality's logo or other identifiable insignia, for advertising, promotional, or technical purposes or otherwise except with the prior written consent of the Municipality or as provided in this Agreement.
- 9.3. Product Care may post Collection Services information and a link to the Municipality's website on the Product Care's website.
- 9.4. The Municipality may post the Collection Services, the Product Care Recycling logo and a link to <http://www.productcare.org/> and other necessary information on its waste management/recycling webpage at no cost to Product Care.
- 9.5. The Municipality will not charge Product Care for any promotion or education activities unless Product Care has agreed to such charges in advance in writing.
- 9.6. The Municipality must submit and will require its Service Providers to submit to Product Care draft copies of all publications using Product Care's name, trademarks and logos for advance approval in writing, which Product Care may withhold for any reason.
- 9.7. The Municipality will not engage in and will require its Service Providers to not engage in any

activity that may cause or be perceived to cause harm to Product Care or any brand owned by Product Care, such as Product Care Recycling.

10.0 Indemnity and Insurance

- 10.1. The Municipality shall indemnify, defend and save harmless Product Care, and its employees, directors, governors, officers, agents, subcontractors and affiliates (collectively, the “Product Care Indemnitees”) from and against any and all liabilities, damages, losses, liens, charges, claims, demands, payments, suits, causes of action, proceedings, actions, recoveries and judgments, including without limitation all expenses and reasonable legal fees incurred in connection therewith as well as all costs incurred by Product Care and/or any third parties in carrying out remediation activities (collectively “Claims”), which arise out of, result from or relate to:
 - (a) the Municipality’s ownership and/or operation of the Collection Services;
 - (b) any action or omission of the Municipality, its users, invitees, employees, subcontractors or agents, in connection with the Municipality’s ownership and/or operation of the Collection Services, and handling of HSP Materials and Non-Program Materials; or
 - (c) any breach by the Municipality of the terms, conditions, requirements, representations and warranties of this Agreement.
- 10.2. The Municipality hereby releases the Product Care Indemnitees from and against any and all Claims which the Municipality may at any time have against the Product Care Indemnitees in respect of this Agreement and the rights granted hereunder, except to the extent the same has resulted from the negligence or wilful misconduct of the Product Care Indemnitees.
- 10.3. Product Care shall indemnify, defend and save harmless the Municipality, its council members, directors, officers, contractors, employees and agents (collectively, the “Municipality Indemnitees”) from and against any and all liabilities, damages, losses, liens, charges, claims, demands, payments, suits, causes of action, proceedings, actions, recoveries and judgments, including without limitation all expenses and reasonable legal fees incurred in connection therewith as well as all costs incurred by the Municipality and/or any third parties in carrying out remediation activities (collectively “Claims”), which arise out of, result from or relate to:
 - (a) any action or omission of the Product Care, its users, invitees, employees, subcontractors or agents, in connection with the Municipality’s ownership and/or operation of the Collection Services, and handling of HSP Materials and Non-Program Materials; or
 - (b) any breach by Product Care of the terms, conditions, requirements, representations and warranties of this Agreement.
- 10.4. Product Care hereby releases the Municipality Indemnitees from and against any and all Claims which Product Care may at any time have against the Municipality Indemnitees in respect of this Agreement and the rights granted hereunder, except to the extent the same has resulted from the negligence or wilful misconduct of the Municipality Indemnitees.
- 10.5. The Parties hereby agree and acknowledge that Product Care has no responsibility whatsoever towards the Municipality for remediation of contaminants at the Collection Services or with respect to any migrating contaminants from the Collection Services, or to the Collection Services, be it before the Term, during the Term or after this Agreement terminates or expires.

- 10.6. Unless the Municipality self-insures, the Municipality will, during the term of the Agreement, maintain at its expense and/or require any Service Provider engaged by the Municipality to provide services on behalf of the Municipality pursuant to this Agreement to maintain at either the Municipality's or Service Provider's expense adequate insurance for its obligations under this Agreement, including the insurance coverage set out below:
- (a) comprehensive general liability coverage of a minimum of \$5,000,000 per occurrence, \$5,000,000 general liability; and
 - (b) any other normal insurances sufficient to carry out its obligations under this Agreement, (collectively, the "Insurance").
- 10.7. The Municipality shall include Product Care as an additional insured in the Insurance, unless otherwise confirmed by Product Care in writing.
- 10.8. If Product Care is added as an additional insured, the Municipality shall supply Product Care with a certificate of insurance evidencing Product Care as additional insured on an annual basis.
- 10.9. If the Municipality wholly self-insures, the Municipality will deliver a letter stating such self-insurance to Product Care upon the execution date of this Agreement, and annually upon each automatic renewal of this Agreement.
- 10.10. Product Care shall:
- (a) include the Municipality as an additional insured on policies of insurance maintained by Product Care for environmental impairment liability and comprehensive general liability, but only in respect to liability arising from the negligence of Product Care at the Collection Services and subject to the obligations of the Municipality set out in Section 10.0; and
 - (b) require the insurers to give to the Municipality not less than 60 days' prior written notice of any cancellation or other termination thereof, or any change which restricts or reduces the coverage provided to the Municipality thereby.
- 10.11. The Municipality shall be responsible for and shall maintain in good standing coverage as required under the Occupational Health and Safety Act and associated regulations.

11.0 Covenants of Product Care

- 11.1. Product Care covenants, represents and warrants to Municipality that:
- (a) Product Care is a non-profit corporation validly existing under the laws of Canada;
 - (b) Product Care has the corporate power, capacity and authority to enter into and complete this Agreement;
 - (c) Product Care shall obtain at its own expense, any permits and licences which may be required for the performance of its obligations hereunder; and
 - (d) the execution and delivery of this Agreement has been validly authorized by all necessary corporate action by Product Care.
- 11.2. Product Care, in performing its obligations under the Agreement including any Program Services under this Agreement, shall comply and ensure that all Service Providers contracted by Product Care comply, at all times, with all applicable local, provincial and federal laws, regulations, statutes, bylaws, authorizations, rules, policies, protocols, standards, codes of practice and other governmental authority requirements.

12.0 Covenants of Municipality

12.1. The Municipality covenants, represents and warrants to Product Care that:

- (a) the Municipality is an incorporated and/or an otherwise validly constituted entity in good standing and qualified to carry on business in the province where the Collection Services are located, and has the corporate or other power, capacity and authority to carry on its business and to enter into and complete this Agreement;
- (b) the licenses, permits, and any other authorizations required of Municipality or any of the Collection Services are, and shall be, in good standing during the term of this Agreement, including any that are specified in the Schedules;
- (c) the Municipality shall promptly provide written notice to Product Care if it receives any notice regarding any non-compliance or possible non-compliance with any Legal Requirements. On request from Product Care, the Municipality shall attend a meeting with Product Care to discuss such notice, actions taken and to be taken to address the notice, and any further risks of non-compliance of any Legal Requirements;
- (d) there are no pending or threatened actions, proceedings, investigations, prosecutions, or claims in respect of the Municipality or the Collection Services that relate to the presence of Contaminants at or released from the Collection Services or any other environmental matters relating to the Collection Services;
- (e) the Municipality shall perform its obligations under this Agreement in a safe and efficient manner and in compliance with all Legal Requirements and contractual terms applicable to, or in any way connected with or related to, the performance of its obligations under this Agreement;
- (f) Collection Service personnel are qualified and trained to perform the obligations of the Municipality under and in accordance with this Agreement;
- (g) Collection Service equipment is in good, working order;
- (h) other than representing (in the manner provided in this Agreement) that it is a Product Care authorized Collection Service(s) during the Term, the Municipality shall not state, claim or represent that it is owned or in any way related to Product Care; and
- (i) the Municipality acknowledges that it is an independent contractor supplying services to Product Care, and that it is not a subcontractor of Product Care, and that the Collector shall be responsible for and shall maintain in good standing coverage as required under the Occupational Health and Safety Act and associated regulations.
- (j) the Collection Service(s) is/are free of any pollutants, contaminants, deleterious substances, toxic substances or hazardous waste (collectively "Contaminants"), except in amounts that are permissible under the Legal Requirements, subject to any exceptions set forth in the Schedules to this Agreement;
- (k) there are no Contaminants being released onto the Collection Service(s) from adjacent properties or from the Collection Service(s) to adjacent properties, subject to any exceptions set forth in the Schedules to this Agreement;

12.2. The Municipality shall comply at all times, with all local, provincial and federal laws, regulations, statutes, bylaws, authorizations, rules, policies, protocols, standards, codes of practice and other governmental authority requirements applicable to the Collection Services, the operations of the Collection Services and the Municipality's activities, as amended from time to time in performing the Program Services under this Agreement, including Certificates of Approval and/or

Environmental Compliance Approvals, the requirements for Collection Services to qualify under the HSP Regulation, and the processing and disposal requirements of the collected HSP Materials under the HSP Regulation (collectively the “Legal Requirements”). The Municipality shall ensure that all Service Providers contracted by the Municipality to provide any Program Services comply with the Legal Requirements as required.

13.0 Audit

- 13.1. Product Care (or a third-party acting on Product Care’s behalf) has the right, at its sole expense, to inspect and/or audit Municipality’s facilities and records in relation to the Program Services pursuant to this Agreement, upon prior written notice of at least ten (10) business days, which notice shall contain in reasonable detail the records or facilities Product Care wishes to review, including but not limited to:
- a. information relating to or required to verify invoices or Claim Submissions paid or payable to Municipality hereunder,
 - a. the protection of Confidential Information,
 - b. the compliance with the terms of this Agreement, or
 - c. information relating to or required to verify Collection Activities of HSP Materials, tracking, and exclusive allocation of Collection Services or credits to Product Care’s program.

14.0 Record Keeping

- 14.1. Municipality will maintain all Supporting Documentation, data, records, documents, and any other information relating to the Program Services pursuant to this Agreement for the longer of: (i) five years; and (ii) the amount of time required by law.

15.0 Assignment

- 15.1. The Municipality shall provide Product Care with at least ninety (90) days notice if any of its rights or obligations under this Agreement are subcontracted or assigned to any other party.

16.0 Notices

Any notice, request, demand or other instrument or communication herein provide, permitted or required to be given by either Product Care or the Municipality, will be in writing and sufficiently given if delivered personally, by e-mail, or if sent by registered mail to the following respective address hereinafter set out, namely:

Notices to Product Care will be delivered to:

President
Product Care Association of Canada
420-2238 Yukon Street,
Vancouver, BC, V5Y 3P2
Email: contact@productcare.org

Notices to the Municipality will be delivered to:

Manager of Environmental Services and Special Projects
CORPORATION OF THE TOWN OF ESPANOLA
100 Tudhope St., Espanola, ON, Canada, P5E 1S6
jyusko@espanola.ca

Any such notice if delivered personally, by e-mail or by other electronic means will be conclusively deemed to have been given on the day of personal delivery or the transmission of e-mail or other tested and agreed upon electronic communication (and if after 5 p.m. E.T. the next following Business Day), or if mailed as aforesaid, will be conclusively deemed to have been received on the fifth (5th) business day following the day on which such notice is mailed as aforesaid (except during a postal strike in which case such notice shall be delivered via courier). Either Party may, at any time, give written notice to the other of any change of address (postal and/or email) of the Party giving such notice and from and after the giving of such notice the address therein specified shall (in the absence of knowledge to the contrary) be deemed to be the address of such Party for the giving of notices thereafter.

17.0 No Partnership or Joint Venture

- 17.1. This Agreement does not create and will not in any circumstances create or be deemed to create a partnership or joint venture between the parties. For all purposes Municipality is an independent contractor.

18.0 Severability

- 18.1. 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.

19.0 Amendment and Waivers

- 19.1. No amendment or waiver of any provision of this Agreement will be binding on any party unless consented to in writing by such party. No waiver of any provision of this Agreement will constitute a waiver of any other provision, and no waiver will constitute a continuing waiver unless otherwise provided.

20.0 Further Acts

- 20.1. Each party will execute all such documents and do all such other acts and things as may be necessary or desirable from time to time in order effectively to carry out the provisions of this Agreement and will not to take any action, or omit to take any action, that would constitute a breach of this Agreement.

21.0 No Third Party Beneficiaries

- 21.1. No person or entity which is not a party hereto will have any rights or obligations pursuant

to this Agreement or be permitted to place any reliance on anything in this Agreement or on the continuation of this Agreement.

22.0 Counterparts and Facsimile

- 22.1. This Agreement may be executed in counterparts, and may be transmitted by facsimile or secure electronic document (PDF) each of which will constitute an original and all of which taken together will constitute one and the same instrument.

23.0 Force Majeure

- 23.1. In the event that either party hereto is delayed or hindered in the performance of any act required herein by reason of Acts of God, riots, insurrection, war or other reasons of a like nature not the fault of such party (an "Event of Force Majeure"), then the performance of such act will be excused for the period of the delay and the period for performance of any such act will be extended for a period equivalent to the period of such delay. The party whose performance of this Agreement is or may reasonably be expected to be affected by an Event of Force Majeure will promptly notify the other party of the existence of such circumstances and will use its best efforts to resume and complete performance. Whenever a party is reasonably certain that such an Event of Force Majeure is likely to occur, it will notify and consult with the other party as soon as practicable. All time periods for the performance of obligations hereunder will be extended by a period corresponding to the time period of any delay caused by the occurrence of an Event of Force Majeure.

24.0 Dispute Resolution

- 24.1. The parties to this Agreement agree to the following steps to address any issues arising in regard to the interpretation or application of the Agreement:
- (a) discussion between manager of Product Care and the Municipality;
 - (b) If necessary, escalation of discussion to Product Care senior staff;
 - (c) If necessary, escalation of discussion to Product Care board; and
 - (d) If necessary, undertaking legal proceedings including the option of mediation or binding arbitration with the consent of the parties.

25.0 Termination

- 25.1. If, in the reasonable opinion of either party, there has been a breach of this Agreement by the other party (the "defaulting party"), the Municipality or Product Care (the "party giving notice") may give the defaulting party written notice to remedy the breach or default within sixty (60) days, failing which the Agreement may be terminated. In the event that the remedy of such breach reasonably requires more than sixty (60) days, the defaulting party will so advise the party giving notice forthwith and provide a revised timetable for remedying the breach. The party giving notice will notify the defaulting party in writing as to whether the revised timeline is acceptable and, if it is, the revised timeline to remedy such breach will apply.
- 25.2. Subject to section 26, on the date of termination neither party shall have any obligations, financial or otherwise, hereunder save and except for matters and payment obligations arising prior to the date of termination.
- 25.3. Either Party may terminate this Agreement for any reason whatsoever save and except for matters arising from sections 25.1 & 25.4, without cause, cost or penalty, save and except for

matters arising prior to termination, upon providing the other Party with ninety (90) days prior written notice of its intention to terminate this Agreement.

- 25.4. Either Party may terminate this agreement immediately upon written notice to the other Party, except as expressly stated, if:
- (a) the Municipality provides written notice that it will not comply with any new or amended policies, standards and guidelines developed by Product Care as per section 8.5;
 - (b) Product Care ceases operations as a PRO for HSP Materials; or
 - (c) the other party becomes bankrupt or insolvent or if it takes any measures under the Bankruptcy and Insolvency Act or any other similar legislation, or if the other party discontinues its business for any reason.

26.0 Survival

- 26.1. Sections 10.1, 10.2, 10.3, 10.4, 10.5, 25.2 and 31 of this Agreement will survive termination or expiry and continue in full force and effect.

27.0 Entire Agreement

- 27.1. This Agreement constitutes the entire agreement between the parties with respect to all of the matters herein and supersedes and replaces all previous agreements, whether oral or written, concerning the same or similar subject matter.

28.0 Headings for Convenience Only

- 28.1. The division of this Agreement into articles and sections is for convenience of reference only and will not affect the interpretation or construction of this Agreement.

29.0 Governing Law

- 29.1. This Agreement will be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein and each of the parties hereto agrees irrevocably to conform to the non-exclusive jurisdiction of the Courts of such Province.

30.0 Legislation References

- 30.1. Any reference in this Agreement to any law, by-law, rule, regulation, order or act of any government, governmental body or other regulatory body will be construed as a reference thereto as amended or re-enacted from time to time or as a reference to any successor thereto.

31.0 Confidentiality

- 31.1. Subject to any legal requirements, including those included in the *Municipal Act, 2001* and the *Municipal Freedom of Information and Protection of Privacy Act* ("MFIPPA"), the Municipality will at all times treat Schedule "A" and the financial terms contained therein as private and confidential information.

To the extent permitted under MFIPPA, the Municipality will inform Product Care of any request made of Municipality under MFIPPA for any records related to this Agreement that may reveal a trade secret or scientific, technical, commercial, financial or labour relations information supplied in confidence by Product Care to Municipality so that Product Care will have an

opportunity to make representations to Municipality with respect to the proposed disclosure.

32.0 Rights and Remedies

- 32.1. The rights, remedies and privileges in this Agreement given to the Parties:
- (a) are cumulative and any one or more may be exercised;
 - (b) are without prejudice to and are in addition to and apply notwithstanding any other provisions in this Agreement; and
 - (c) are not dependent or conditional upon, or in any way lessened, restricted or affected by any other provisions of this Agreement.

33.0 Independent Legal Advice

- 33.1. Each Party acknowledges that it has read and understands the terms and conditions of this Agreement and acknowledges and agrees that it has had the opportunity to seek, and was not prevented or discouraged by any other Party from seeking, any independent legal advice which it considered necessary before the execution and delivery of this Agreement and that, if it did not avail itself of that opportunity before signing this Agreement, it did so voluntarily without any undue pressure, and agrees that its failure to obtain independent legal advice will not be used by it as a defence to the enforcement of its obligations under this Agreement.

34.0 Enurement

- 34.1. This Agreement shall bind and benefit each of the Parties, including their respective successors and permitted assigns.

35.0 Appendices and Schedules

- 35.1. Appendix "A" and Schedules "A" and "B" are attached hereto and incorporated in and form part of this Agreement.

36.0 Time

- 36.1. Time is of the essence to this Agreement.

37.0 Language

37.1. The parties have agreed to draft this Agreement in English. Les parties ont consenti à rédiger ce contrat en langue anglaise.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date first set out above.

PRODUCT CARE ASSOCIATION OF CANADA

by: _____

Brian Bastien, President

CORPORATION OF THE TOWN OF ESPANOLA

by: _____

Name: _____

Title: _____