

## AMENDED AND RESTATED PROGRAM AGREEMENT

### Preamble

**THIS AGREEMENT** made in duplicate is effective as of this 24<sup>th</sup> day of February, 2010.

**BETWEEN:**

**WASTE DIVERSION ONTARIO,**  
a corporation without share capital  
incorporated by the *Waste Diversion Act, 2002*

(hereinafter referred to as "Waste Diversion Ontario")

- and -

**ONTARIO ELECTRONIC STEWARDSHIP,**  
a corporation without share capital continued under  
the *Waste Diversion Act, 2002*

(hereinafter referred to as "Ontario Electronic Stewardship")

**WHEREAS** according to Subsection 25 (3) of the *Act*, a waste diversion program developed under this *Act* must include an agreement between Waste Diversion Ontario and the industry funding organization that the program is developed in cooperation with, governing the role of the industry funding organization in the implementation and operation of the program and governing the exercise of the industry funding organization's powers under the *Act*;

**AND WHEREAS** Waste Diversion Ontario has caused Ontario Electronic Stewardship as the industry funding organization to be established under Section 24 of the *Act* for the purposes of developing and implementing a waste diversion program for designated Waste Electrical and Electronic Equipment under the *Act*;

**AND WHEREAS** Ontario Electronic Stewardship has been designated by Ontario Regulation 393/04 as amended by Ontario Regulation 245/08 as the industry funding organization for Waste Electrical and Electronic Equipment;

**AND WHEREAS** the parties hereto entered into a Program Agreement dated as of the 19<sup>th</sup> day of March, 2008 with respect to Phase 1 WEEE (as herein defined) and wish to amend and restate such Program Agreement in order to provide for the implementation of the waste diversion program with respect to Phase 2 WEEE (as herein defined) and to amend certain other provisions of such Program Agreement;

**NOW THEREFORE** in consideration of the premises and mutual agreements contained herein and subject to the terms and conditions hereinafter set forth, the parties covenant and agree as follows:

### 1.0 Purpose of the Agreement

1.1 The purpose of this Agreement between Waste Diversion Ontario and Ontario Electronic Stewardship is to:

- (a) Define the roles and responsibilities of the two parties;

- (b) Set out the operating relationships between the two parties; and
- (c) Ensure openness and transparency to serve the public interest.

## 2.0 Definitions and Interpretation

2.1 Terms beginning with capital letters and used herein without definition shall have the meanings given to them in the Act, unless otherwise specified.

2.2 When used in this Agreement, the following words and expressions have the following meanings:

- (a) "**Act**" means the *Waste Diversion Act, 2002*, S.O. 2002, c. 6, as it may be amended from time to time;
- (b) "**Agreement**" means this Program Agreement which is entered into pursuant to Section 25 (3) of the *Act* and includes all attached schedules and any amendments thereto;
- (c) "**Business Day**" means any working day, Monday to Friday inclusive, excluding statutory and other holidays, namely: New Year's Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day, Boxing Day and any other day which the Government of Ontario has elected to be closed for business;
- (d) "**Documentation**" means, for purposes of Section 9 of this Agreement, correspondence, documentation whether paper or electronic pertaining to public consultation during development of the Waste Electrical and Electronic Equipment Program Plan, minutes of meetings of the Board of Directors and subcommittees, internal reports, consultants' reports, agendas and other information and data obtained, created or maintained by Ontario Electronic Stewardship;
- (e) "**Final Program Request Letter**" means the letter dated June 12, 2007 from the Minister issued to Waste Diversion Ontario following submission of the Waste Electrical and Electronic Equipment Study dated July 20, 2005;
- (f) "**FIPPA**" means the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended;
- (g) "**Funds**" means monies received by Ontario Electronic Stewardship as described in Subsection 32(3) of the *Act*;
- (h) "**Minister**" means the Minister of the Environment, Province of Ontario;
- (i) "**Operating Agreement**" means the Operating Agreement entered into between Waste Diversion Ontario and the Minister;
- (j) "**Phase 1 WEEE**" means all of the items referred to in paragraph 14(a) of the Addendum to the Final Program Request Letter;

- (k) **"Phase 2 WEEE"** means all of the items referred to paragraph 14(b) of the Addendum to the Final Program Request Letter;
- (l) **"Stewards"** means the persons or classes of persons designated under the Waste Electrical and Electronic Equipment Program Plan rules as responsible for paying fees to Ontario Electronic Stewardship;
- (m) **"Steward"** means any member of the class of "Stewards";
- (n) **"Waste Diversion Program"** means a program referred to in Sections 23 and 25 of the *Act*.
- (o) **"Waste Electrical and Electronic Equipment"** means waste materials defined by Ontario Regulation 393/04 as amended by Ontario Regulation 245/08;
- (p) **"Waste Electrical and Electronic Equipment Program Plan"** means the Waste Diversion Program (as amended) encompassing both Phase 1 WEEE and Phase 2 WEEE submitted by Waste Diversion Ontario to the Minister for approval, of which this Agreement forms a part.

2.3 In this Agreement,

- (a) Words denoting the singular include the plural and vice versa and words denoting any gender include all genders;
- (b) The word "including" or "includes" shall mean "including [or includes] without limitation";
- (c) Any reference to a statute shall mean the statute in force as at the date hereof, together with all regulations promulgated thereunder, as the same may be amended, re-enacted, consolidated and/or replaced, from time to time, and any successor statute thereto, unless otherwise expressly provided;
- (d) When calculating the period of time within which or following which any act is to be done or step taken, the date which is the reference day in calculating such period shall be excluded; if the last day of such period is not a Business Day, the period shall end on the next Business Day;
- (e) All dollar amounts are expressed in Canadian dollars;
- (f) Any tender of notices or documents under this Agreement shall be made upon the relevant party at the address set out in Section 13;
- (g) The division of this Agreement into separate sections and subsections, and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement; and
- (h) Except as specifically defined or provided for in this Agreement, words and abbreviations which have well known or trade meanings are used in accordance with their recognized meanings.

2.4 The parties acknowledge that the recitals to this Agreement are true and correct.

### **3.0 Term of Agreement and Amendment**

3.1 The term of this Agreement shall commence upon the date of approval of the Waste Electrical and Electronic Equipment Program Plan (as amended to include Phase 2 WEEE) by the Minister and shall remain in effect until five (5) years after that date and for successive periods of five (5) years each thereafter unless terminated earlier in accordance with Section 17 of this Agreement or amended in accordance with Subsection 3.5.

3.2 Any changes to the terms of this Agreement shall be by written amendment signed by both parties. No changes shall be effective or shall be carried out in the absence of such an amendment.

3.3 The parties agree to conduct a review of the performance and implementation of this Agreement not later than two (2) years following the date of commencement of the term of this Agreement and every two (2) years thereafter. As part of such review, each of the parties may suggest any appropriate amendments to the terms of this Agreement.

3.4 Notwithstanding Subsection 3.3, the parties agree that Waste Diversion Ontario and Ontario Electronic Stewardship shall be able to suggest appropriate amendments to the terms of this Agreement to the Minister at any time.

3.5 No material change may be made to the Waste Electrical and Electronic Equipment Program Plan or to the terms of this Agreement without the written approval of the Minister as set out in Section 27 of the *Act*. Material changes include but are not limited to the following:

- (a) Definition of Waste Electrical and Electronic Equipment in the approved Waste Electrical and Electronic Equipment Program Plan.
- (b) Definition of Stewards - Meaning the persons or classes of persons designated under the Waste Electrical and Electronic Equipment Program Plan Rules for Stewards (2009) as responsible for paying fees to Ontario Electronic Stewardship.
- (c) Change in the methodology for calculating fees as outlined in the approved Waste Electrical and Electronic Equipment Program Plan.

### **4.0 Roles of the Parties**

4.1 Waste Diversion Ontario represents and warrants that it has approved the Waste Electrical and Electronic Equipment Program Plan. Waste Diversion Ontario:

- (a) Will ensure that the terms and conditions of this Agreement are carried out in a responsible, complete and thorough manner, and on a timely basis;
- (b) Will provide estimates to Ontario Electronic Stewardship from time to time of the following: (i) the costs incurred or expected to be incurred by Waste Diversion Ontario in respect of developing, implementing and operating the Waste Diversion Program in respect of Waste Electrical and Electronic Equipment; (ii) a reasonable

share of the other costs incurred or expected to be incurred by Waste Diversion Ontario in carrying out its responsibilities under the *Act*; (iii) and a reasonable share of the costs incurred or expected to be incurred by the Ministry in administering the *Act*, all of which are to be charged to Ontario Electronic Stewardship under Section 32 of the *Act*;

- (c) Will invoice Ontario Electronic Stewardship for the costs referred to in paragraph 4.1(b) commencing at the end of the first quarter following the date upon which the Waste Electrical and Electronic Equipment Program Plan commences following designation of Ontario Electronic Stewardship by the regulations made under the *Act* as the industry funding organization for the Waste Electrical and Electronic Equipment Program Plan (such costs to include costs identified in paragraph 4.1(b) incurred prior to the date upon which Ontario Electronic Stewardship is so designated);
- (d) Will implement the programs, policies and procedures identified as the responsibility of Waste Diversion Ontario in the Waste Electrical and Electronic Equipment Program Plan approved by the Minister;
- (e) Will give written notice to Ontario Electronic Stewardship if, in the opinion of Waste Diversion Ontario, Ontario Electronic Stewardship has failed to comply with the terms of the Waste Electrical and Electronic Equipment Program Plan, the Final Program Request Letter or the *Act* and advise Ontario Electronic Stewardship of the action required to remedy such non-compliance; and
- (f) Will implement relevant activities and functions as outlined in the Operating Agreement with the Minister.

#### 4.2 Ontario Electronic Stewardship:

- (a) Will, following approval by the Minister, implement the Waste Electrical and Electronic Equipment Program Plan;
- (b) Will honour invoices from Waste Diversion Ontario for amounts set out in Section 4.1 with payment within 30 days;
- (c) Will consult with Waste Diversion Ontario from time to time during the implementation of the Waste Electrical and Electronic Equipment Program Plan as reasonably required by Waste Diversion Ontario;
- (d) Will make commercially reasonable efforts to implement any policies established by the Minister pursuant to Section 7 of the *Act*;
- (e) Will comply with the terms of the Waste Electrical and Electronic Equipment Program Plan, the Final Program Request Letter and the *Act* (including the preparation of an annual report pursuant to Section 33 of the *Act*);
- (f) Will, subject to the resolution of any dispute pursuant to the provisions of Section 16 hereof, make commercially reasonable efforts to implement any actions required by Waste Diversion Ontario pursuant to paragraph 4.1(e) above to bring Ontario Electronic Stewardship into compliance with the terms of the Waste

Electrical and Electronic Equipment Program Plan, the Final Program Request Letter and the Act; and

- (g) Will adopt and maintain a Code of Conduct for its directors, officers and committee members that is satisfactory to Waste Diversion Ontario, acting reasonably, and amend its by-laws as required to enable Ontario Electronic Stewardship to carry out the terms of the Waste Electrical and Electronic and Equipment Program Plan, the Final Program Request Letter or the Act, provided that any amendments to the composition of the Board of Directors of Ontario Electronic Stewardship shall be subject to an appropriate regulation made by the Minister and to the approval of Ontario Electronic Stewardship.

## **5.0 Fees And Business Plans**

- 5.1 Ontario Electronic Stewardship has adopted the Rules for Stewards with respect to Payment of Fees set out in Schedule A hereto, which have been approved by Waste Diversion Ontario. Any amendments to the Rules set out in Schedule A hereto and any new Rules shall be subject to the prior written approval of Waste Diversion Ontario. Any new and/or amended Rules shall be initialled by representatives of each of the parties to signify their approval thereof and such new and/or amended Rules shall thereafter be appended to Schedule A of this Agreement and incorporated herein for all purposes.
- 5.2 At such time as Ontario Electronic Stewardship proposes to amend the Rules with respect to the payment of fees by Stewards:
  - (a) Ontario Electronic Stewardship shall prepare a draft business plan outlining its proposed activities and objectives for the period in respect of which such fees are to be established and shall present such business plan to Waste Diversion Ontario for review and comment; and
  - (b) Following any such review and comments, Ontario Electronic Stewardship shall consult with Stewards concerning any amendment to the Rules with respect to the payment of fees by Stewards. Prior to formal approval of any such Rules by Waste Diversion Ontario, Ontario Electronic Stewardship shall, if deemed necessary as a result of such consultation, prepare a revised business plan outlining its activities and objectives for the period in respect of which such fees are to be established and submit it to Waste Diversion Ontario.

## **6.0 Transparency**

- 6.1 Ontario Electronic Stewardship will maintain an Internet website accessible by the public and will post every rule made pursuant to the Act on its website. Subject to confidentiality or proprietary considerations, and provided that information is available in electronic format, Ontario Electronic Stewardship's website is to include information on, or contain the appropriate electronic links to, the Waste Electrical and Electronic Equipment Program Plan and Ontario Electronic Stewardship's annual report pursuant to Section 33 of the Act. Ontario Electronic Stewardship will provide a copy of a rule to every person who requests a copy and may charge the person a reasonable fee for such copy.

## 7.0 Information Sharing

- 7.1 Subject to confidentiality and proprietary considerations and requirements, Ontario Electronic Stewardship shall provide data and information obtained in the course of developing, implementing and operating the Waste Electrical and Electronic Equipment Program Plan to Waste Diversion Ontario upon request. The parties acknowledge and agree that data and information which might be confidential or proprietary in relation to one Steward may cease to be proprietary or confidential if aggregated with data and information relating to more than one Steward, provided that after such aggregation it will not be possible to identify individual Stewards within the aggregated information. Information to be shared shall include, without limitation, comments received from Stewards with respect to the Waste Electrical and Electronic Equipment Program Plan. The parties have agreed upon the information sharing protocol set out in Schedule B hereto to implement the provisions of this Subsection 7.1.
- 7.2 Ontario Electronic Stewardship acknowledges that information provided by Waste Diversion Ontario to the Minister is under the control of the Minister within the meaning of FIPPA. Waste Diversion Ontario shall retain full control over all other information obtained, created or maintained by Waste Diversion Ontario.
- 7.3 Any data or materials provided by Ontario Electronic Stewardship to Waste Diversion Ontario which are confidential and are to remain confidential shall be clearly marked as confidential. In the event that the Minister receives a request under the FIPPA relating to the disclosure of any such confidential information which has been provided by Waste Diversion Ontario to the Minister and provides notice thereof to Waste Diversion Ontario, Waste Diversion Ontario agrees to provide Ontario Electronic Stewardship with notice to that effect. Notwithstanding the foregoing, Ontario Electronic Stewardship acknowledges that the Minister is bound by FIPPA and may be required by order of a court or tribunal to disclose confidential information provided by Ontario Electronic Stewardship to Waste Diversion Ontario which has in turn been provided by Waste Diversion Ontario to the Minister.
- 7.4 Each of the parties agrees to hold data and information received from the other which are marked confidential in confidence, unless:
- (a) Such party is required to disclose such data or information by applicable law or by the order of any court or tribunal of competent jurisdiction; provided that the party required to disclose shall provide as much advance notice as possible to the other party of such requirement;
  - (b) Such data or information have become generally available to the public without breach of this Agreement;
  - (c) Such data or information were developed independently by the recipient without the use of such confidential data or information or were lawfully received from another source having the right to furnish such data or information; or
  - (d) Such data or information were previously known to the recipient free of any restriction as evidenced by documentation in the recipient's possession.

## **8.0 Stakeholder and Public Consultation**

8.1 Waste Diversion Ontario may require Ontario Electronic Stewardship to provide opportunities for consultation with stakeholders, including the public, who may be affected by any proposed material changes to the Waste Electrical and Electronic Equipment Program Plan. Such consultation is to be open, accessible and responsive to concerns expressed.

## **9.0 Ontario Electronic Stewardship Responsibility for Documentation and Audit**

9.1 Ontario Electronic Stewardship shall be responsible for maintaining Documentation in carrying out its responsibilities under this agreement, in a responsible and complete manner. Documentation may be maintained in paper or electronic format, as permitted by applicable law.

9.2 Without limiting the generality of the foregoing, the Board of Directors of Ontario Electronic Stewardship shall maintain the following:

(a) All Documentation relating to its consultation activities, comments and responses received and a review of whether and how comments and responses were addressed; and

(b) All Documentation relating to the Funds.

9.3 The receipt and disbursement of the Funds will be reflected in the audited financial statements of Ontario Electronic Stewardship. The audited financial statements are to be prepared in accordance with generally accepted accounting principles and accompanied by the auditor's report thereon.

9.4 Ontario Electronic Stewardship agrees to implement and maintain measures to protect the security and integrity of the Documentation and to protect the Documentation against loss, alteration and destruction.

## **10.0 Complaints and Inquiries Handling**

10.1 Waste Diversion Ontario shall be responsible for handling all complaints and inquiries it receives in the following manner:

(a) Waste Diversion Ontario will be responsible for determining if the complaint and/or inquiry is related to:

i) its responsibilities as set out under the *Act* or as set out in this Agreement;

ii) any other action of Waste Diversion Ontario; or

iii) Ontario Electronic Stewardship;

(b) If the complaint/inquiry is related to Waste Diversion Ontario's responsibilities as set out under the *Act* or as set out in this Agreement, or to any other action of Waste Diversion Ontario, Waste Diversion Ontario will be responsible for addressing the complaint or responding to the inquiry;

- (c) If the complaint/inquiry is related to Ontario Electronic Stewardship, Waste Diversion Ontario shall forward the complaint/inquiry to Ontario Electronic Stewardship asking it to address the complaint or respond to the inquiry (in accordance with any applicable dispute resolution mechanism) and report to Waste Diversion Ontario within one calendar month and every calendar month thereafter until the dispute is resolved;
- (d) In the event that Waste Diversion Ontario receives complaints/inquiries pertaining to enforcement issues, Waste Diversion Ontario will forward such complaints/inquiries to the Ministry; and
- (e) With respect to any other complaint or inquiry, Waste Diversion Ontario will be responsible for forwarding the complaint or inquiry to the appropriate person.

#### **11.0 Insurance**

- 11.1 Ontario Electronic Stewardship shall put into effect and maintain throughout the term of this Agreement all the necessary and appropriate insurance for a prudent not-for-profit corporation.
- 11.2 Without limitation to the generality of the foregoing, Ontario Electronic Stewardship shall obtain and maintain directors and officers liability insurance in amounts which are customary for a prudent not-for-profit corporation.

#### **12.0 Assignment**

- 12.1 Ontario Electronic Stewardship shall not assign any of its rights or obligations under this Agreement or any part thereof without the prior written consent of Waste Diversion Ontario and the Minister.
- 12.2 Ontario Electronic Stewardship shall not subcontract any of its rights or obligations under this Agreement or any part thereof without the prior written consent of Waste Diversion Ontario.

#### **13.0 Notices**

- 13.1 All notices to or upon the respective parties hereto shall be in writing and shall be delivered to the party to which such notice is required to be given under this Agreement at the respective address set out below by personal delivery, facsimile with confirmation of transmission, pre-paid registered post or electronically by email. All notices shall be deemed to have been duly given:
  - (a) one (1) Business Day after such notice is received by the other party when delivered by personal delivery, by facsimile or by email; or
  - (b) five (5) Business Days after posting by prepaid registered post. In the event of a postal disruption, notices must be given by acknowledged email, personal delivery or by a signed back facsimile and all notices delivered within one (1) week prior to the postal disruption must be confirmed by a signed back facsimile to be effective.

Notices to Waste Diversion Ontario shall be delivered to:

Waste Diversion Ontario  
4711 Yonge Street, Suite 1102  
Toronto, Ontario M2N 6K8  
**Attention: Executive Director**

Facsimile: 416-226-1368  
Email: glendagies@wdo.ca

Notices to Ontario Electronic Stewardship shall be delivered to:

Ontario Electronic Stewardship  
885 Don Mills Road, #301  
North York, Ontario M3C 1V9  
**Attention: Executive Director**

Facsimile: 416-510-8403  
Email: chochu@ontarioelectronicstewardship.ca

13.2 Either party may, by written notice delivered to the other party, designate a new address or facsimile number for these notices.

#### **14.0 Waiver**

14.1 No term, condition or provision hereof shall be or be deemed to have been waived by Waste Diversion Ontario by reason of any act, forbearance, indulgence, omission, or event. Only an express written waiver by Waste Diversion Ontario shall be binding and each such waiver shall be conclusively deemed to be limited to the circumstances, right or remedy therein specified.

#### **15.0 Severability**

15.1 In the event that any provision of this Agreement or any part of such provision shall be determined to be invalid, unlawful or unenforceable to any extent, such provision or part thereof shall be severed from the remaining terms and conditions of this Agreement which shall continue to be valid and enforceable to the fullest extent permitted by law.

#### **16.0 Dispute Resolution**

16.1 Ontario Electronic Stewardship shall include a dispute resolution mechanism in all contracts to which Ontario Electronic Stewardship is a party with the exception of contracts for goods and services in the ordinary course of business.

16.2 If any dispute arises between Ontario Electronic Stewardship and Waste Diversion Ontario as to their respective rights and obligations under this Agreement or the interpretation of the Waste Electrical and Electronic Equipment Program Plan by Waste Diversion Ontario, the parties shall use the following dispute resolution procedures (modified if necessary pursuant to Subsection 17.3 below) to resolve such disputes:

- (a) The parties shall attempt to resolve disputes in the spirit of mutual cooperation through discussions and negotiations between the designated representatives of

the parties within thirty (30) days of the date upon which written notice of the dispute was first given by one party to the other or as otherwise agreed upon;

- (b) If the parties are unable to resolve the dispute in the manner aforesaid, either party shall have the right, on notice in writing to the other, to require that such dispute be submitted to the Executive Director of Waste Diversion Ontario and the CEO of Ontario Electronic Stewardship for discussion and resolution within thirty (30) days of the date of the notice requiring such dispute to be submitted to them or as otherwise agreed upon;
- (c) In the event that the Executive Director of Waste Diversion Ontario and the CEO of Ontario Electronic Stewardship are unable to resolve such dispute, either party shall have the right, on notice in writing to the other, to require that such dispute be submitted to the Chair of the Board of Directors of Waste Diversion Ontario and the Chair of the Board of Directors of Ontario Electronic Stewardship for discussion and resolution within thirty (30) days of the date of the notice requiring such dispute to be submitted to them or as otherwise agreed upon;
- (d) If the Chair of the Board of Directors of Waste Diversion Ontario and the Chair of the Board of Directors of Ontario Electronic Stewardship are unable to resolve the dispute, either party shall have the right to refer the matter to binding arbitration in accordance with the provisions of the *Arbitration Act, 1991*, S.O. 1991, c. 17, as amended. Each party shall bear the cost of its own counsel and witnesses but the costs of the arbitration including the fees of the arbitrator(s), the cost of court reporters and transcripts and the cost of the arbitration facility shall be borne equally by the parties. The arbitration shall take place in Toronto, Ontario, Canada, before a single arbitrator to be chosen jointly by the parties. If the parties cannot agree on the choice of an arbitrator within thirty (30) days of the notice requiring such dispute to be submitted to arbitration, then the parties will each select an arbitrator who in turn will select a third arbitrator as soon as reasonably practicable following such thirty (30) day period and, subject to the agreement of the parties, such third arbitrator may act as the sole arbitrator of the dispute and the first two so appointed shall be deemed to have resigned; and
- (e) The parties may determine the procedure to be followed by the arbitrator(s) in conducting the proceedings, or may request the arbitrator(s) to do so. The arbitrator(s) shall issue a written award within thirty (30) days of completion of the hearing.

16.3 Notwithstanding the provisions of Subsection 16.2, if such dispute relates to the costs recoverable by Waste Diversion Ontario (on its own behalf or on behalf of the Ministry) from Ontario Electronic Stewardship, to any invoice issued by Waste Diversion Ontario to Ontario Electronic Stewardship in respect of such costs or to any other issue which, in the reasonable opinion of Waste Diversion Ontario, pertains to the calculation of or responsibility for costs in relation to the Waste Electrical and Electronic Equipment Program Plan, the following provisions shall apply:

- (a) The parties shall attempt to resolve such dispute in the spirit of mutual co-operation through discussions and negotiations between the designated representatives of the parties within fifteen (15) days of the date upon which written notice of the dispute was first given by one party to the other or as otherwise agreed upon;

- (b) If the parties are unable to resolve the dispute in the manner aforesaid, either party shall have the right, on notice in writing to the other, to require that such dispute be submitted to the respective auditors of the parties for discussion and resolution within fifteen (15) days of the date of the notice requiring such dispute to be submitted to them or as otherwise agreed upon;
- (c) In the event that the respective auditors of the parties are unable to resolve such dispute within such further fifteen (15) day period, such auditors shall, upon the request in writing of either party, select a third independent auditor as soon as possible to act as an arbitrator and to resolve such dispute in accordance with the provisions of the *Arbitration Act*, 1991, S.O. 1991, c. 17, as amended. In the event that the respective auditors of the parties are unable to agree upon the selection of an independent auditor to serve as arbitrator within five (5) days of the date of the written request by either party, Waste Diversion Ontario shall propose three (3) independent auditors to Ontario Electronic Stewardship and Ontario Electronic Stewardship shall, within two (2) days of receipt of such list, select one of such auditors to serve as the arbitrator;
- (d) The auditor chosen as arbitrator shall make a final decision within fifteen (15) days of its appointment or such longer period as the parties may agree upon; and
- (e) If any such dispute with respect to an invoice has not been finally resolved prior to the due date of such invoice, Ontario Electronic Stewardship shall pay the undisputed amount immediately to Waste Diversion Ontario and shall pay the disputed amount into a solicitor's trust account to be held pending the conclusion of the dispute resolution procedure. The disputed amount shall be disbursed by the solicitor in accordance with the results of the dispute resolution procedure. Each party agrees to continue performing its obligations under the Agreement pending the resolution of any dispute with respect to an invoice.

16.4 Ontario Electronic Stewardship will develop a dispute resolution procedure providing for the resolution of any dispute between Ontario Electronic Stewardship and a person with respect to the person's obligations under Section 31 of the Act or the person's obligations under the rules made by Ontario Electronic Stewardship under Section 30 of the Act, such dispute resolution procedure to be satisfactory in all respects to Waste Diversion Ontario.

16.5 Ontario Electronic Stewardship agrees to submit any dispute with respect to payments or in-kind contributions to be made to service providers under the Waste Electrical and Electronic Equipment Program Plan for resolution in accordance with the dispute resolution procedure adopted by Waste Diversion Ontario for this purpose, as amended from time to time. Waste Diversion Ontario agrees to consult with Ontario Electronic Stewardship upon request, but without obligation, with respect to the terms of such dispute resolution procedure.

## **17.0 Termination**

17.1 If, in the reasonable opinion of Waste Diversion Ontario, there has been a breach of this Agreement by Ontario Electronic Stewardship, Waste Diversion Ontario may terminate this Agreement if Ontario Electronic Stewardship fails to remedy such breach within ninety (90) Business Days following written notice from Waste Diversion Ontario

outlining the breach in reasonable detail. In the event that the remedy of such breach by Ontario Electronic Stewardship reasonably requires more than ninety (90) Business Days, Ontario Electronic Stewardship shall so advise Waste Diversion Ontario without delay and provide a revised time line to remedy such breach. Waste Diversion Ontario shall notify Ontario Electronic Stewardship in writing as to whether the revised time line is acceptable and, if it is, the revised time line to remedy such breach will apply. Notwithstanding the foregoing, with respect to a breach of Section 12, Waste Diversion Ontario may terminate this Agreement immediately if Ontario Electronic Stewardship has not given written notice to Waste Diversion Ontario that it disputes such breach within ten (10) days of the notice of breach from Waste Diversion Ontario.

17.2 Notwithstanding Subsection 17.1, Waste Diversion Ontario may terminate this Agreement immediately upon written notice to Ontario Electronic Stewardship if:

- (a) Ontario Electronic Stewardship makes a voluntary assignment or a proposal under the *Bankruptcy and Insolvency Act* or a petition or any other proceeding shall be filed, instituted or commenced with respect to Ontario Electronic Stewardship under any bankruptcy, insolvency, debt restructuring, reorganization, liquidation, winding-up or similar law now or hereafter in effect, unless such proceedings are commenced by a party other than Ontario Electronic Stewardship and are being diligently contested by Ontario Electronic Stewardship and are stayed within 30 days from the date of notice of such proceedings being received by Ontario Electronic Stewardship;
- (b) A receiver or trustee is appointed for any part of the assets of Ontario Electronic Stewardship; or
- (c) Ontario Electronic Stewardship ceases for any reason whatsoever to be the designated industry funding organization for the Waste Electrical and Electronic Equipment Program Plan or the Waste Electrical and Electronic Equipment Program Plan is terminated for any reason whatsoever.

17.3 The parties acknowledge and agree that any determination by Waste Diversion Ontario that Ontario Electronic Stewardship is in breach of this Agreement as set out in a written notice given pursuant to Subsection 17.1 above is subject to the dispute resolution provisions of this Agreement but termination of this Agreement pursuant to Subsection 17.2 above is not subject to the dispute resolution provisions of this Agreement. If Ontario Electronic Stewardship disputes the right of Waste Diversion Ontario to terminate this Agreement pursuant to Subsection 17.1, Ontario Electronic Stewardship shall be required to give written notice of the dispute to Waste Diversion Ontario within ten (10) days of receiving written notice of breach from Waste Diversion Ontario and, if the parties have not resolved the dispute pursuant to paragraphs 16.2(a) – (c) above within twenty (20) days thereafter, the parties shall, at the option of Ontario Electronic Stewardship, proceed to arbitration pursuant to paragraph 16.2(d) above and the arbitrator shall be directed to deliver a written decision within ninety (90) Business Days of the written notice of breach. If Ontario Electronic Stewardship has required arbitration of the issue, a notice given pursuant to Subsection 17.1 shall be effective ninety (90) Business Days thereafter unless the arbitrator has issued a written decision nullifying such notice on or before that date (without prejudice to any rights of Waste Diversion Ontario to appeal such decision on any basis provided for in the *Arbitration Act*, 1991, S.O. 1991, c. 17, as amended).

## **18.0 Agreement Binding**

18.1 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective permitted successors and assigns.

## **19.0 Entire Agreement**

19.1 This Agreement embodies the entire Agreement between the parties with regard to the operation of Ontario Electronic Stewardship and the implementation of the Waste Electrical and Electronic Equipment Program Plan and supersedes any prior understanding or agreement, collateral, oral or otherwise, with respect to such subject matters existing between the parties at the date of execution of this Agreement. The Program Agreement dated March 19, 2008 between the parties is terminated, without prejudice to any action taken by the parties thereunder.

## **20.0 Public Announcements**

20.1 Neither Waste Diversion Ontario nor Ontario Electronic Stewardship shall make any press release or other formal public announcement which refers to the role of the other in the development and implementation of the Waste Electrical and Electronic Equipment Program Plan without first consulting the other concerning the contents of such proposed press release or public announcement. The parties agree that prior consultation shall not be required in respect of routine communications or other general information provided by either of the parties to the public with respect to the implementation of the Waste Electrical and Electronic Equipment Program Plan.

## **21.0 Governing Law**

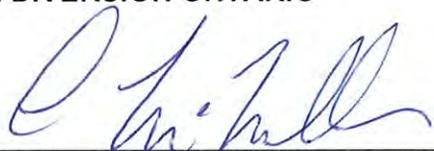
21.1 This Agreement shall be construed and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and the parties hereby agree that any dispute arising out of or in relation to this Agreement shall be determined in Ontario.

21.2 Ontario Electronic Stewardship agrees that it shall, and shall use reasonable commercial efforts to require its officers, directors and staff to, comply with all laws, ordinances, rules and regulations which apply to the operation of Ontario Electronic Stewardship, any activities of Ontario Electronic Stewardship and the responsibilities of Ontario Electronic Stewardship under the *Act*.

## 22.0 Signatures

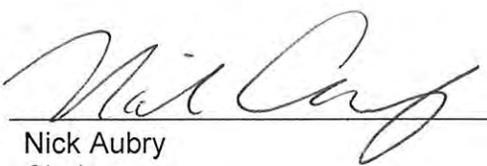
**IN WITNESS WHEREOF** the parties hereto have executed this Agreement as of the date stated in the Preamble to this Agreement.

### WASTE DIVERSION ONTARIO

Per:   
\_\_\_\_\_  
Clodhna McMullin  
Chair

I have authority to bind Waste  
Diversion Ontario

### ONTARIO ELECTRONIC STEWARDSHIP

Per:   
\_\_\_\_\_  
Nick Aubry  
Chair

I have authority to bind Ontario  
Electronic Stewardship

## RULES FOR STEWARDS WITH RESPECT TO PAYMENT OF EEE FEES

### 1) Interpretation

In these Rules, the following terms shall have the following meanings. Capitalized terms which are not otherwise defined will have the meaning given to them in the *Waste Diversion Act, 2002*:

**Affiliate** means an affiliated body corporate, determined as follows:

(1) one body corporate shall be deemed to be affiliated with another body corporate if, but only if, one of them is the subsidiary of the other or both are subsidiaries of the same body corporate or each of them is controlled by the same person;

(2) a body corporate shall be deemed to be controlled by another person or by two or more bodies corporate if, but only if,

(a) voting securities of the first-mentioned body corporate carrying more than 50 per cent of the votes for the election of directors are held, other than by way of security only, by or for the benefit of such other person or by or for the benefit of such other bodies corporate; and

(b) the votes carried by such securities are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned body corporate; and

(3) a body corporate shall be deemed to be a subsidiary of another body corporate if, but only if,

(a) it is controlled by,  
that other, or  
that other and one or more bodies corporate each of which is controlled by that other, or  
two or more bodies corporate each of which is controlled by that other; or

(b) it is a subsidiary of a body corporate that is that other's subsidiary;

**Brand Owner** means, with respect to Branded EEE, during any time in a Data Period:

(a) a Person Resident in Ontario who is the registered owner of the Brand, or

(b) a Person Resident in Ontario who is a licensee of the Brand, or

(c) a Person Resident in Ontario, who owns the intellectual property rights to the Brand, or

(d) a Person Resident in Ontario, who is the licensee, in respect of the intellectual property rights of the Brand;

where "licensee" includes a Person who packages EEE which bear a Brand, other than a packager, producer, Manufacturer or filler of Private Label Goods, and includes any Person whose corporate name or business name registration contains the Brand;

**Brand** means a trademark, official mark, trade name or distinguishing guise, within the meaning of the *Trade-marks Act (Canada)*, whether or not registered pursuant thereto;

**Branded** means a Brand is attached to or otherwise associated with EEE;

**Business Day** means a day which is not a Saturday, Sunday or statutory holiday in the province of Ontario;

**Commencement Date** means:

(a) April 1, 2009 with respect to all EEE which appears for the first time in Appendix A – Table 1;

(b) April 1, 2010 with respect to all EEE which appears for the first time in Appendix A – Table 2;

(c) December 1, 2010 with respect to all EEE which appears for the first time in Appendix A – Table 3;

**Commercial Connection**, for the purposes of these Rules, means that a Person derives a direct economic benefit when the particular EEE is Supplied in Ontario;

**Data Period** means each calendar month following an applicable Commencement Date, provided that the Data Period for a month in which an applicable Commencement Date occurred shall begin on the Commencement Date and end on the last day of the same calendar month;

**Deadline Date** means the date by which Steward's Fees must be paid and Steward's Reports must be filed with respect to a Data Period, in accordance with Rule 5;

**EEE** means electrical and electronic equipment which are Supplied in Ontario that result in the generation of WEEE, being all goods and products set out in the relevant Table of Appendix A in effect from time to time,

**EEE Category** means the EEE material category or sub-category to which an item of EEE is assigned for reporting purposes in Appendix A to the Rules;

**Filed** means electronically submitted to OES at an address identified to the Stewards electronically, with confirmation of transmission;

**First Importer** means a Person Resident in Ontario who is not a Brand Owner for a specific EEE that imports such EEE into Ontario, and includes a Person Resident in Ontario who is the first to take title or delivery or possession to such EEE, upon or after arrival in Ontario from elsewhere during the Data Period; and for the purposes of this definition, a Franchisee is not a First Importer of EEE if the Franchisor for such EEE is Resident in Ontario. A Person who takes delivery/possession of EEE for the sole purpose of storing it or transporting it to another Person (and who does not take title to such EEE) is not the First Importer of the EEE;

**Franchisor, Franchisee and Franchise System** have the meaning ascribed thereto under the *Arthur Wishart Act (Franchise Disclosure), 2000*, as amended from time to time;

**Interest Rate** means the prime rate published by the Scotiabank as at the close of business on the first day of each month plus three percent;

**Manufacturer/Assembler** means a Person, other than a Refurbisher, who uses or combines Branded or Unbranded components with or without value added, and performs additional processing or work to create EEE;

**OES** means Ontario Electronic Stewardship;

**OES Website** means <http://www.ontarioelectronicstewardship.ca/>;

**Person** includes an individual, partnership, joint venture, sole proprietorship, company or corporation, government (whether national, federal, provincial, state, municipal, city, county or otherwise and including any instrumentality, division, body, department, board or agency of any of them), trust, trustee, executor, administrator or any other kind of legal personal representatives, unincorporated organization, association, institution, entity, however designated; and words importing “persons” have similar meanings;

**Private Label Goods** means goods manufactured by a third party on behalf of and bearing the brand or trademark of a Brand Owner which are Supplied by such Brand Owner;

**Program Plan** means the Final Revised (Phase 1 and 2) Waste Electrical and Electronic Equipment (WEEE) Program Plan, July 10, 2009, as amended;

**Published Address** means an address in Ontario appearing in a current telephone directory or a recognized current published business directory;

**Reconciliation Fees** means the Steward’s Fees payable to OES in accordance with Rule 4(2);

**Refurbisher** means a Person who carries out internal testing, troubleshooting disassembly or physical modification to WEEE, part removal and replacement or repair of non-functioning or obsolete parts (not including consumable items such as batteries, toners, fuses, etc.) for the purpose of product or part repair and/or redistribution and Supplies such product for distribution in Ontario;

**Resident in Ontario** means either of the following: (i) having a published address in Ontario; or (ii) having a permanent establishment in Ontario within the meaning of Section 4 of the *Corporations Tax Act (Ontario)*, as set out in Appendix C;

**Rules** means these Rules, and includes additional Rules or amendments to these Rules from time to time, as published on the OES Website;

**Self-Managed Program** means a program managed by a Steward and approved by OES under which the Steward operates its own collection and recycling program with respect to a particular class or classes of WEEE;

**Steward** means a Person designated as such under Rule 2; and “Stewards” means more than one Steward;

**Steward’s Fees** means the fees calculated in accordance with the methodology set out in Appendix B and set out in a table of Steward’s Fees posted on the OES Website in effect at the relevant time, which are payable to OES pursuant to Rule 4(1);

**Steward’s Report** means a report prepared by a Steward and filed with OES describing the aggregate amount of EEE Supplied to a Person resident in Ontario in each Data Period by the Steward or its Franchisees and/or Affiliates, containing the information set out in the

current version of the Steward's Report form posted on the OES website at [www.ontarioelectronicstewardship.ca /Rules](http://www.ontarioelectronicstewardship.ca/Rules), as amended from time to time;

**Supplied** means:

- (i) sold or otherwise transferred (whether by transfer of possession or title);
- (ii) leased;
- (iii) donated;
- (iv) disposed of;
- (v) used; or
- (vi) otherwise made available or distributed

for use in the Province of Ontario, and includes an import of EEE for a purpose set out in Rule 2(2)(b); **Supply** and **Supplies** have similar meanings.

**Unbranded** means a Brand is not attached to or otherwise associated with EEE; and

**WEEE** means waste electrical and electronic equipment, being any waste EEE that is defined in Ontario Regulation 393/04.

## 2) Designation of Stewards

For the purposes of determining which Person shall be designated as a Steward for any designated EEE or particular class or group of EEE, the following provisions shall apply, in the order in which they are set out. If two or more Persons are designated as a Steward pursuant to the following, the earlier provision shall prevail.

(1) A Brand Owner is designated as a Steward with respect to all EEE Supplied:

- (a) for which it is the Brand Owner in each Data Period; and
- (b) to which it has a Commercial Connection.

(2) A First Importer is designated as a Steward with respect to all EEE:

- (a) Supplied in each Data Period of which it is the First Importer; or
- (b) of which it is the First Importer in the Data Period for use by it or its Affiliate in the Province of Ontario.

(3) A Franchisor is designated as a Steward with respect to all EEE Supplied within the relevant Franchise System in the Data Period.

(4) If there are two Brand Owners for the same EEE in the same Data Period, the Brand Owner more directly connected to the production of the EEE shall be designated as the Steward.

(5) If there is Unbranded EEE in the Data Period, and if the Manufacturer/Assembler is Resident in Ontario, the Manufacturer/Assembler of such EEE shall be designated as the Steward for such EEE; otherwise the First Importer shall be designated as the Steward for such EEE.

- (6) A Person who receives a Supply of EEE for personal consumption and not for a business or commercial use is not a Steward.

### 3) **Steward's Report**

- (1) Every Steward shall file its first Steward's Report with OES by the later of:
  - (a) 31 days after the applicable Commencement Date; and
  - (b) 91 days after such Steward is notified of the existence of these Rules and how to obtain a copy of them.
- (2) The first Steward's Report(s) shall cover the period from the applicable Commencement Date to the end of the most recent Data Period.
- (3) If, as a result of the definition of "Supply", there is more than one Supply of an individual item of EEE, only the first Supply must be reported in a Steward's Report.
- (4) Stewards may amend a Steward's Report with the consent of OES to correct information in the Steward's Report that is in error or to replace data previously reported.
- (5) Once it has filed its first Steward's Report, an EEE Steward shall file a Steward's Report with respect to each Data Period within the time specified in Rule 5.
- (6) Notwithstanding the above OES may require a Steward to file a Steward's Report by sending a written request to the Steward.

### 4) **Fees Payable**

- (1) Stewards shall pay Steward's Fees to OES with respect to each Data Period, within the time specified in Rule 5. The Steward's Fees payable shall be calculated by OES in accordance with the methodology set out in Appendix B and set out in a table of Steward's Fees posted on the OES Website. Stewards shall calculate the amount of Steward's Fees payable in respect of any Data Period by multiplying the number of units of EEE supplied in each EEE Category included in the Steward's Report for such Data Period by the Steward's Fee applicable to such EEE Category set out in such table.
- (2) If applicable, Stewards shall pay annual Reconciliation Fees calculated by OES in accordance with the methodology set out in Appendix B and set out in a table of Reconciliation Fees posted on the OES Website. Reconciliation Fees are in addition to the Steward's Fees under Rule 4(1) and shall be payable to OES within the time specified in Rule 5.
- (3) If OES determines that a Steward has paid more Steward's Fees in a fiscal year than is required by these Rules, OES will at its sole option:
  - (a) apply the excess amount as a credit against Steward's Fees payable by or on behalf of the Steward no later than June 30 in the calendar year that is two years following the calendar year in respect of which the amount was determined, and

(b) pay any amount not applied as a credit under subclause (a) to or for the credit of the Steward no later than June 30 in the calendar year that is two years following the calendar year in respect of which the amount was determined; and

(c) if the Steward ceases to be designated as a Steward, pay or credit the amount to or on behalf of the Steward no later than June 30 in the calendar year following the calendar year in which the Steward ceases to be a Steward.

- (4) Notwithstanding that a Steward may not have received the notice described in Rule 3(1)(b), it is responsible for payment of Steward's Fees for all EEE for which it is a Steward from and after the applicable Commencement Date to the date on which it receives such notice.
- (5) Steward's Fees and Reconciliation Fees are exclusive of HST. If applicable, Stewards shall remit HST to OES with each remittance of Steward's Fees or Reconciliation Fees.
- (6) A Person described in any provision of Rule 2 who acquires EEE from a person also described in Rule 2 (the "**provider**") must ensure that the provider has an OES identification number. The OES number will be posted on the OES website. If a valid OES identification number is not given, the Person to whom a provider Supplies EEE will then be a Steward, and will be subject to filing a Steward's Report and paying Steward's Fees to the extent that the provider does not.
- (7) Nothing in these Rules shall prevent the distribution of residual funds, whether or not comprised of any amounts determined under section 4(3) above, to the Resource Productivity and Recovery Authority consistent with a Wind-Up Plan approved under section 14 of the *Waste Diversion Transition Act, 2016*.

## 5) **Schedule of Payment and Reporting**

For each Data Period, Stewards shall file Steward's Reports and pay Steward's Fees and applicable Reconciliation Fees with respect to the EEE Supplied in such Data Period, no later than the last business day of the month following such Data Period (the "Deadline Date").

Payment and reporting schedule will be monthly. A steward may be eligible for a quarterly or annual remittance depending on their annual EHF remittance level. Eligibility levels will be established by OES.

## 6) **Self-Managed Programs**

- (1) A Steward who operates a Self-Managed Program under agreement with OES shall file Steward's Reports for EEE included in such Self-Managed Program in accordance with the terms and conditions of such agreement;
- (2) A Steward who operates a Self-Managed Program under an agreement with OES is exempt from payment of the Steward's Fees under Rule 4 and shall pay fees to OES in accordance with the terms and conditions of such agreement;

## 7) **Voluntary Stewards**

Where there is no Steward for a particular EEE Supplied in Ontario, a Person who is not Resident in Ontario may enter into an agreement with OES to be a voluntary Steward and

file a Steward's Report and pay Steward's Fees in respect of such EEE.

#### **8) Penalties, Interest and Back Fees**

- (1) Stewards who fail to pay Steward's Fees with respect to any Data Period before the Deadline Date or to pay the Reconciliation Fees on or before their due date shall pay a penalty equal to 10% of the unpaid Steward's Fees or Reconciliation Fees.
- (2) If the amounts reported in a Steward's Report are inaccurate, any deficiency in Steward's Fees paid resulting from such inaccuracies shall be immediately due and payable from the date of the filing of the correcting Steward's Report, and, if not paid within 30 days, the Steward shall pay a penalty equal to 10% of such Steward Fee deficiency.
- (3) Interest on the amounts payable under Rules 8(1) and 8(2) shall accrue from the respective Deadline Date or due date for the Reconciliation Fees at the Interest Rate. In addition, a Steward in default shall pay all collection costs, including all proper and reasonable legal fees, incurred by OES, whether or not an action has been commenced. If an audit under Rule 9 reveals that a Steward has under-reported the amount of Steward's Fees due by more than 10% in any Data Period, in addition to any other sums payable, the Steward shall pay the costs of such audit, as reasonably determined by OES.
- (4) OES may waive all or part of any penalty, interest or charges otherwise payable under this Rule 8.

#### **9) Record Provision and Retention**

- (1) Upon request from OES, Stewards shall promptly provide data used by Stewards in the preparation of the Steward's Report, including calculation methodology, product data, audit reports, list of Brands reported and list of Brands excluded from report, and allocation percentages.
- (2) A Steward shall retain records or, on receipt of written request, provide records at an address in the Province of Ontario to substantiate and verify the amount set out in its Steward's Report for a period of not less than five years from the date of the Steward's Report to which they relate. A Steward shall grant access to OES upon its request to examine its books and records to enable OES to audit and inspect such records respecting a Steward's Report up to five years after the date of receipt of such Steward's Report by OES.

#### **10) Dispute Resolution**

If any dispute arises between a Steward and OES as to the amount of EEE that is required to be included in a Steward's Report:

- (1) The parties shall attempt to resolve the dispute through designated representatives from each of OES and the Steward within 30 days after written notice of the dispute was first given, or as otherwise agreed upon.
- (2) If the parties are unable to resolve the dispute within the above period, the Steward and OES shall, within 30 days thereafter, jointly select an arbitrator to arbitrate the dispute. If the Steward does not nominate an arbitrator within the 30 day period, OES shall nominate the arbitrator. The arbitration shall be conducted in accordance with the *Arbitration Act, 1991*, as amended from time to time.

- (3) OES may from time to time establish a panel of approved arbitrators for the purposes of this Rule, whose names will be published on the OES website. The arbitrator shall be chosen from this panel, unless OES and the Steward mutually agree otherwise.
- (4) The arbitrator shall render a written decision on the dispute within 14 days after the arbitration hearing or submission. The decision of the arbitrator shall be final and binding on the parties and shall not be subject to appeal on any grounds whatsoever, and shall be enforceable against OES and the Steward, as the case may be, immediately on the issue of such decision to the parties to the dispute.
- (5) Non-payment of Stewards Fees or the requirement for a Steward to file a Steward's Report shall not be items subject to arbitration.

#### **11) Interpretive Memoranda**

OES may publish on its website binding and non-binding interpretive memoranda on these Rules and how it proposes to administer them.

#### **12) Publishing of Names**

- (1) OES will provide all Stewards with an identification number.
- (2) The names and identification numbers of Stewards filing Steward's Reports will be posted on the OES website.
- (3) OES may post a list on its website of all Brands reported in Steward's Reports from time to time.
- (4) OES may publish on its website the name of any Person who may appear to be a Steward Resident in Ontario, but which it has determined upon investigation is not Resident in Ontario.

#### **13) Notice**

Any notice, request or other communication from OES to a Steward which is required or may be given under these Rules may be delivered or transmitted by means of electronic communication, personal service or by prepaid first class postage to the Steward at a Published Address in Ontario and shall be deemed to have been received on the third day after posting and on the first day after the date of electronic transmission, in each case which is a Business Day.

#### **14) Effective Date**

This version of the Rules as amended shall be effective June 23, 2021.

#### **15) Amendments to Rules**

These Rules and any forms, fee schedules or other matters provided for or referred to in them may be amended, removed or replaced by OES from time to time, subject to any required contractual or regulatory approvals. The version of these Rules and the Stewards Fees in effect at the time of a particular Supply shall continue to apply to all EEE which are

the subject of such Supply, notwithstanding any subsequent amendments to these Rules or any document posted on the OES website pursuant to them.



---

Chair  
Resource Productivity and Recovery Authority



---

Deloitte Restructuring Inc., solely in  
its capacity as Court-Appointed  
Liquidator of Ontario Electronic Stewardship

## Appendix A – Table 1

### EEE Material Definitions

#### Appendix A – Table 1 -EEE Material Definitions April 1, 2009 - March 31, 2010

Appendix A – Table 1 EEE Material Definitions April 1, 2009 – March 31, 2010		
Material Definitions	Inclusions	Exclusions
<p><b>Desktop Computers</b> – A desktop computer or computer terminal that requires a standard AC power plug for its primary source of power.</p>	<p>Includes products commonly referred to as</p> <ul style="list-style-type: none"> <li>• Desktops</li> <li>• Computers</li> <li>• Computer terminals</li> <li>• Desktops acting as servers</li> <li>• Thin Clients</li> <li>• Microcomputers</li> <li>• Minicomputers</li> </ul>	<ul style="list-style-type: none"> <li>• Computer terminals that are embedded into non-Phase 1 products</li> <li>• Portable computers identified in Phase 2 (e.g. PDA's)</li> <li>• Products classified as Computer Peripherals under this Plan</li> </ul>
<p><b>Portable Computers</b> – A computer that contains a Central Processing Unit (CPU) and that can operate through self-contained battery.</p>	<p>Includes products commonly called</p> <ul style="list-style-type: none"> <li>• Laptops</li> <li>• Notebooks</li> <li>• Notepads</li> <li>• Tablet PC</li> </ul>	<ul style="list-style-type: none"> <li>• Portable computers identified in Phase 2 such as Personal Digital Assistant (PDA's)</li> <li>• Other handheld devices</li> </ul>
<p><b>Computer Peripherals</b> – Standalone disk drives, optical drives, computer mouse and keyboards.</p>	<p>Includes replacement computer components, and those Supplied as standalone products.</p> <ul style="list-style-type: none"> <li>• CD-ROM, DVD, HD-DVD, and BluRay drives</li> <li>• Disk Drives</li> <li>• Computer Mouse</li> <li>• Computer Keyboard</li> </ul>	<ul style="list-style-type: none"> <li>• Speakers, cameras, microphones and other non-Phase 1 products</li> <li>• Internal components contained within the original desktop or portable computer at the time of supply</li> </ul>
<p><b>Monitors</b> – A device that displays video image and does not have an embedded television tuner. The video images are displayed using a variety of technologies including Cathode Ray Tube (CRT), Liquid Crystal Display (LCD), and Plasma.</p>	<ul style="list-style-type: none"> <li>• Computer monitors</li> <li>• Professional display monitors</li> <li>• Closed circuit monitor screens</li> </ul>	<ul style="list-style-type: none"> <li>• Displays that are embedded into non-Phase 1 product, where the monitor is not the primary product.</li> </ul>
<p><b>Televisions</b> – A device that displays video image and has an embedded television tuner. The video images are displayed using a variety of technologies including Cathode Ray Tube (CRT), Liquid Crystal Display (LCD), Plasma, and Rear-Projection.</p>	<ul style="list-style-type: none"> <li>• Televisions</li> <li>• Dual television and computer monitors</li> </ul>	<ul style="list-style-type: none"> <li>• Monitors</li> <li>• Televisions that are embedded into non-Phase 1 products where the television is not the primary product (e.g. televisions within refrigerators)</li> </ul>
<p><b>Printing Devices</b> – Printing devices that are designed to reside on a work surface and includes various printing technologies, including laser and LED, ink jet, dot matrix, thermal, dye sublimation, etc. and “multi-function” or “all in one” devices that perform different tasks such as copy, scan, fax, and print.</p>	<p>Standalone</p> <ul style="list-style-type: none"> <li>• Desktop printers</li> <li>• Portable PC-free photo printers</li> <li>• Camera dock printers</li> <li>• Desktop label, barcode, and card printers</li> <li>• Desktop fax machines</li> </ul>	<ul style="list-style-type: none"> <li>• Printing devices listed in Phase 2 including: <ul style="list-style-type: none"> <li>– Floor standing printers</li> <li>– Point of sale (POS) receipt printers</li> <li>– Handheld printers such as calculators with printing capabilities or label makers</li> </ul> </li> <li>• Printing devices that are embedded into non-Phase 1 products, where the printer is not primary product.</li> </ul>

**Appendix A Table 2 - EEE Material Definitions April 1, 2010 – November 30, 2010**

Appendix A – Table 2: EEE Material Definitions April 1, 2010 – November 30, 2010				
EEE Material Category for Reporting Purposes		Phase 1 and 2 Materials Definition	Includes	Excludes
Category	Sub-Category			
Display Devices	Less than or equal to 29" Screen	A device that displays an image, using a variety of technologies including CRT, LCD, plasma and rear-projection.	<ul style="list-style-type: none"> <li>• Computer monitors</li> <li>• Professional display monitors</li> <li>• Closed circuit monitor screens</li> <li>• Televisions</li> <li>• Dual television and computer monitors</li> <li>• All-in-One (AIO) computers: a display device with an embedded computer</li> </ul>	<ul style="list-style-type: none"> <li>• Displays that are embedded into non-Phase 1 and 2 products where the display is not the primary function of the product</li> </ul>
	Greater than 29" Screen			
Desktop Computers		Desktop models refer to those computers that are designed to be utilized on a work surface and require standard alternating current (AC) power plug for a primary source of power.	<ul style="list-style-type: none"> <li>• Desktops</li> <li>• Computers</li> <li>• Computer terminals</li> <li>• Desktops acting as servers</li> <li>• Thin clients</li> <li>• Microcomputers</li> <li>• Minicomputers</li> </ul>	<ul style="list-style-type: none"> <li>• Computer terminals that are embedded into non-Phase 1 and 2 products</li> <li>• Portable computers</li> <li>• Products classified as Computer Peripherals under this Plan</li> <li>• All-in-One (AIO) computers: a display device with an embedded computer</li> <li>• Rack-mounted or floor standing servers</li> </ul>
Portable Computers		Portable models refer to a portable computer that contains a Central Processing Unit (CPU) and than can operate using a self-contained battery or using an external AC/DC adaptor.	<ul style="list-style-type: none"> <li>• Laptops</li> <li>• Notebooks</li> <li>• Notepads</li> <li>• Tablet PCs</li> <li>• Mini notebooks</li> <li>• NetBooks</li> </ul>	<ul style="list-style-type: none"> <li>• Computer terminals that are embedded into non-Phase 1 and 2 products</li> <li>• Personal handheld computers (included in Image, Audio and Video category)</li> <li>• Personal digital assistance (PDAs) (cell-enabled included in Cellular Devices category; non-cell-enabled included in Personal/Portable Image, Audio and Video Devices category)</li> <li>• Products classified as Computer Peripherals under this Plan</li> <li>• Other handheld electronic devices</li> </ul>

<p><b>Computer Peripherals</b></p>	<p>Computer peripherals refers to external, as well as integrated modems, disk drives, optical drives, computer mouse and keyboards that are added, or attached, to a computer in order to expand its functionality.</p> <p>A modem refers to a devices that encodes digital computer signals into analog/analogue telephone signals and vice versa and allows computers to communicate over a phone line or cable connection.</p>	<ul style="list-style-type: none"> <li>• Replacement computer component and standalone products that are sold to the end user</li> <li>• CD-ROM, DVD, HD-DVD and BluRay drives</li> <li>• Floppy-disk drives</li> <li>• Computer mouse</li> <li>• Computer keyboards</li> <li>• Wired cable, DSL, and ADSL modems</li> <li>• Wireless modems</li> </ul>	<ul style="list-style-type: none"> <li>• Computer peripherals that are supplied as replacement parts under a warranty and non-warranty service repair arrangement</li> <li>• Internal components contained within the original desktop or portable computer at the time of supply</li> <li>• Components that are supplied as replacement parts under a warranty</li> <li>• Components for non-warranty service repair arrangements</li> <li>• Speakers, cameras, microphone and other non-Phase 1 and 2 products</li> <li>• Internal components contained within the original desktop or portable computer at the time of supply</li> <li>• Routers</li> <li>• Network hubs</li> <li>• Satellite networking devices</li> <li>• Telephony devices (i.e. VoIP devices)</li> </ul>
------------------------------------	--	---	---

**Appendix A – Table 2: EEE Material Definitions April 1, 2010 – November 30, 2010**

EEE Material Category for Reporting Purposes		Phase 1 and 2 Materials Definition	Includes	Excludes
Category	Sub-Category			
<p><b>Printing, Copying and Multi-Function Devices</b></p>	<p><b>Desktop and Portable Printing, Copying and Multi-Function Devices</b></p>	<p>Printing, copying and multi-function devices, utilizing all printing technologies, designed to be handheld or to reside on a work surface and that can print on media with dimensions up to 48" wide.</p> <p>Copiers and/or multi-function devices classified as Segment 1 or Segment 2. Copier and/or multi-function devices that are designed to reside on a work surface that are not classified as Segment 1 or Segment 2.</p> <p>Includes models that are able to utilize an optional floor-stand.</p>	<ul style="list-style-type: none"> <li>• Desktop or portable computer scanners</li> <li>• Desktop printers</li> <li>• Portable PC-free photo printers</li> <li>• Camera dock printers</li> <li>• Desktop label, barcode, card printers</li> <li>• Desktop fax machines</li> <li>• Desktop multi-function or "all-in-one" devices</li> <li>• Point of Sale (POS) receipt printers</li> <li>• Handheld printers such as calculators with printing capabilities or label makers</li> <li>• Desktop copiers or copy &amp; print devices</li> <li>• Typewriters powered by AC power plug or by internal battery unit</li> </ul>	<ul style="list-style-type: none"> <li>• Printing devices that are embedded into non-Phase 1 and 2 products, where the printing devices are not the primary product</li> <li>• Non-electronic typewriters</li> <li>• Printing devices capable of printing on media with dimensions greater than 48" wide</li> </ul>
	<p><b>Floor-Standing Printing Devices</b></p>	<p>Printing devices, utilizing all printing technologies that are floor-standing models and that can print on media with dimensions up to 48" wide.</p>	<ul style="list-style-type: none"> <li>• Floor-standing office printers</li> <li>• Floor-standing graphics printers</li> <li>• Floor-standing wide-format printers</li> </ul>	<ul style="list-style-type: none"> <li>• Floor-standing printing devices capable of performing additional non-printing functions such as copying or faxing</li> <li>• Printing devices that are embedded into non-Phase 1 and 2 products, where the printing device is not the primary product</li> <li>• Newspaper and industrial printing devices</li> <li>• Printing devices capable of printing on media with dimensions greater than 48" wide</li> <li>• Models which are able to utilize an optional floor-stand</li> </ul>

	<p><b>Floor- Standing Copying Devices</b></p>	<p>Copier and/or multi-function devices classified as Segment 3, Segment 4 or Segment 5. Copier and/or multi-function devices that are floor-standing models that are not classified as Segment 3, Segment 4 or Segment 5.</p>	<ul style="list-style-type: none"> <li>• Floor-standing multi-function or “all-in-one” devices that perform different tasks such as copy, scan, fax, print</li> <li>• Floor-standing photocopiers</li> <li>• Floor-standing copy and print devices</li> <li>• Floor-standing wide-format copiers and/or multi-function devices</li> </ul>	<ul style="list-style-type: none"> <li>• Floor-standing devices that only perform printing functions</li> <li>• Newspaper and industrial copying and/or multi-function devices</li> <li>• Copying and/or multi-function devices capable of printing on media with dimensions greater than 48” wide</li> <li>• Models which are able to utilize an optional floor-stand</li> </ul>
--	---	--	---	---

**Appendix A – Table 2: EEE Material Definitions April 1, 2010 – November 30, 2010**

EEE Material Category for Reporting Purposes		Phase 1 and 2 Materials Definition	Includes	Excludes
Category	Sub-Category			
<b>Telephones and Telephone Answering Machines</b>		<p>A telecommunication device with a handset or headset that is used for the transmission of sound (most commonly speech) between two or more locations using a variety of technologies including wire-line telephones and Voice over Internet Protocol (VoIP).</p> <p>Also includes telephone answering machines that are installed alongside, or incorporated within a wire-line telephone.</p>	<ul style="list-style-type: none"> <li>• Wire line telephones including rotary and touch-tone technologies</li> <li>• Cordless telephones requiring an electrical base station/handset cradle for battery charging and wire-line network connection</li> <li>• VoIP phones</li> <li>• Answering machines that utilize cassette-based or digital recording technologies</li> <li>• Accessory handsets packaged with a telephone in a single OEM package under a single SKU are subject to one fee</li> </ul>	<ul style="list-style-type: none"> <li>• Telecommunication equipment developed for embedded use in motor vehicles of any type</li> <li>• Commercial-grade “pay phones”</li> <li>• Voicemail/answering machine devices that utilize a centralized networked system</li> <li>• Telephone accessories including headsets and hands-free accessories</li> </ul>
<b>Cellular Devices and Pagers</b>		<p>A handheld communication device that utilizes cellular networks to transmit voice or data signals. Includes cell-enabled Personal Digital Assistants (PDAs).</p>	<ul style="list-style-type: none"> <li>• Cellular phones</li> <li>• Cellular phones offering camera, video recording and/or audio functions</li> <li>• Smart phones (cell-enabled)</li> <li>• Palmtop computers (cell-enabled)</li> <li>• Cell-enabled PDAs utilizing touch-screen technology</li> <li>• Cell-enabled handheld devices</li> <li>• Pagers</li> </ul>	<ul style="list-style-type: none"> <li>• Satellite phones</li> <li>• Wireless devices that do not utilize cellular networks to operate</li> <li>• Non-cell-enabled PDAs (Included in Personal/Portable Image, Audio, and Video Devices category)</li> </ul>

**Appendix A – Table 2: EEE Material Definitions April 1, 2010 – November 30, 2010**

EEE Material Category for Reporting Purposes		Phase 1 and 2 Materials Definition	Includes	Excludes
Category	Sub-Category			
<b>Image, Audio and Video Devices</b>	<b>Personal/ Portable</b>	<p>Personal and/or portable devices that can transmit, record and/or playback an image, audio or video using a variety of technologies including mechanical, optical and digital technologies.</p> <p>Personal and/or portable peripheral audio devices that enable audio playback.</p>	<ul style="list-style-type: none"> <li>• Audio cassette players and/or recorders</li> <li>• Combination cassette recorders and players</li> <li>• CD players and/or recorders</li> <li>• Digital Video Disk (DVD) players and recorder</li> <li>• MP3 and other portable music players</li> </ul>	<ul style="list-style-type: none"> <li>• CD-writing drives contained within, or replacements parts for Desktop and Portable Computers</li> <li>• DVD-writing drives contained within, or replacement parts for Desktop and Portable Computers</li> <li>• Non-audio optical disk-players</li> <li>• Optical disk drives included in the Computer Peripherals materials category</li> <li>• Webcams embedded in Desktop Computers and Portable Computers</li> <li>• Cameras embedded in devices for which the primary function is not to record an image/ video</li> <li>• Cell-enabled PDAs</li> <li>• Devices for which the primary design and function are for video-gaming purposes (As designated in Section 5 of O. Reg. 393/04)</li> <li>• Global Positioning Systems (GPS) for both portable and aftermarket vehicle installation</li> <li>• Home/ Non-Portable video-gaming devices</li> <li>• Satellite, Cable, and Digital transmitters and receivers</li> <li>• Headphones and ear-buds</li> </ul>
	<b>Home/Non-Portable</b>	<p>Home and/or non-portable devices that can transmit, record and/or playback an image, audio or video using a variety of technologies including mechanical, optical and digital technologies.</p> <p>Home and/or non-portable peripheral audio devices that enable audio playback.</p>	<ul style="list-style-type: none"> <li>• Other Digital Audio Players/ Recorders (DAP)</li> <li>• Video cassette players (VCRs) and/or video projectors</li> <li>• Analog and digital video cameras and recorders</li> <li>• Turntables (Record Players and gramophones)</li> <li>• AM/FM Radios</li> <li>• Digital and non-digital cameras, including webcams</li> <li>• Digital picture frames</li> <li>• Digital projectors</li> <li>• Home stereo amplifiers</li> <li>• Speaker systems, including computer speakers</li> <li>• Home stereo systems</li> <li>• Handheld personal computers</li> <li>• Devices commonly called Ultra Mobile PCs (UMPC) that utilize a touch-sensitive screen between 4" and 7", and that can operate the same software as a standard computer (i.e. Windows)</li> <li>• PDAs that are not communication-enabled or cellular compatible</li> <li>• Portable and personal audio/video players supplied with accessories or bundled in a single OEM package under a single SKU are subject to one fee</li> <li>• Includes audio and video equipment sold as a package/bundle that are used in non-residential locations</li> </ul>	
	<b>Home Theatre in a Box (HTB)</b>	<p>Bundled combinations or devices that can transmit, record and/or playback an image, audio or video using a variety of technologies.</p>	<ul style="list-style-type: none"> <li>• Home theatre image, audio and video equipment sold as a package/bundle with a single point-of-sale SKU. Includes peripheral audio devices.</li> <li>• Includes audio and video equipment sold as a package/bundle that are used in non-residential locations.</li> </ul>	<ul style="list-style-type: none"> <li>• Home theatre image, audio and video equipment sold as a package/ bundle with more than a single point-of-sale SKU (report separately).</li> <li>• Home theatre bundles that include televisions</li> </ul>
	<b>Aftermarket Vehicle</b>	<p>Audio and video devices for installation in motor vehicles aftermarket.</p>	<ul style="list-style-type: none"> <li>• Vehicle speakers</li> <li>• Vehicle radios</li> <li>• Vehicle CD players</li> <li>• Vehicle DVD/Blu-Ray players</li> </ul>	<ul style="list-style-type: none"> <li>• Audio and video equipment embedded in original equipment manufacturer (OEM) supplied motor vehicles of any type</li> </ul>

**Appendix A – Table 3: EEE Material Definitions December 1, 2010 – July 31, 2011**

Appendix A – Table 3: EEE Material Definitions December 1, 2010 – July 31, 2011				
EEE Material Category for Reporting Purposes		Phase 1 and 2 Materials Definition	Includes	Excludes
Category	Sub-Category			
Display Devices	Less than or equal to 29" Screen	A device that displays an image, using a variety of technologies including CRT, LCD, plasma and rear-projection.	<ul style="list-style-type: none"> <li>• Computer monitors</li> <li>• Professional display monitors</li> <li>• Closed circuit monitor screens</li> <li>• Televisions</li> <li>• Dual television and computer monitors</li> <li>• All-in-One (AIO) computers: a display device with an embedded computer</li> </ul>	<ul style="list-style-type: none"> <li>• Displays that are embedded into non-Phase 1 and 2 products where the display is not the primary function of the product</li> <li>• Display devices that are less than 10"</li> </ul>
	Greater than 29" Screen			
Desktop Computers		Desktop models refer to those computers that are designed to be utilized on a work surface and require standard alternating current (AC) power plug for a primary source of power.	<ul style="list-style-type: none"> <li>• Desktops</li> <li>• Computers</li> <li>• Computer terminals</li> <li>• Desktops acting as servers</li> <li>• Thin clients</li> <li>• Microcomputers</li> <li>• Minicomputers</li> </ul>	<ul style="list-style-type: none"> <li>• Computer terminals that are embedded into non-Phase 1 and 2 products</li> <li>• Portable computers</li> <li>• Products classified as Computer Peripherals under this Plan</li> <li>• All-in-One (AIO) computers: a display device with an embedded computer</li> <li>• Rack-mounted or floor standing servers</li> </ul>
Portable Computers		Portable models refer to a portable computer that contains a Central Processing Unit (CPU) and than can operate using a self-contained battery or using an external AC/DC adaptor.	<ul style="list-style-type: none"> <li>• Laptops</li> <li>• Notebooks</li> <li>• Notepads</li> <li>• Tablet PCs</li> <li>• Mini notebooks</li> <li>• NetBooks</li> <li>• Devices commonly called Ultra Mobile PCs (UMPC) that utilize a touch-sensitive screen and that can operate the same software as a standard computer (i.e. Windows)</li> </ul>	<ul style="list-style-type: none"> <li>• Computer terminals that are embedded into non-Phase 1 and 2 products</li> <li>• Personal handheld computers (included in Image, Audio and Video category)</li> <li>• Personal digital assistance (PDAs) (cell-enabled included in Cellular Devices category; non-cell-enabled included in Personal/Portable Image, Audio and Video Devices category)</li> <li>• Products classified as Computer Peripherals under this Plan</li> <li>• Other handheld electronic devices</li> </ul>
Computer Peripherals		<p>Computer peripherals refers to external, as well as integrated modems, disk drives, optical drives, computer mouse and keyboards that are added, or attached, to a computer in order to expand its functionality.</p> <p>A modem refers to a devices that encodes digital computer signals into analog/analogue telephone signals and vice versa and allows computers to communicate over a phone line or cable connection.</p>	<ul style="list-style-type: none"> <li>• Replacement computer component and standalone products that are sold to the end user</li> <li>• CD-ROM, DVD, HD-DVD and BluRay drives</li> <li>• Floppy-disk drives</li> <li>• Computer mouse</li> <li>• Computer keyboards</li> <li>• Wired cable, DSL, and ADSL modems</li> <li>• Wireless modems</li> </ul>	<ul style="list-style-type: none"> <li>• Computer peripherals that are supplied as replacement parts under a warranty and non-warranty service repair arrangement</li> <li>• Internal components contained within the original desktop or portable computer at the time of supply</li> <li>• Components that are supplied as replacement parts under a warranty</li> <li>• Components for non-warranty service repair arrangements</li> <li>• Speakers, cameras, microphone and other non-Phase 1 and 2 products</li> <li>• Internal components contained within the original desktop or portable computer at the time of supply</li> <li>• Routers and Network hubs</li> <li>• Satellite networking devices</li> <li>• Telephony devices (i.e. VoIP devices)</li> </ul>

**Appendix A – Table 3: EEE Material Definitions December 1, 2010 – July 31, 2011**

EEE Material Category for Reporting Purposes		Phase 1 and 2 Materials Definition	Includes	Excludes
Category	Sub-Category			
Printing, Copying and Multi-Function Devices	Desktop Printing, Copying and Multi-Function Devices	<p>Printing, copying and multi-function devices, utilizing all printing technologies, designed to be handheld or to reside on a work surface and that can print on media with dimensions up to 48" wide.</p> <p>Copiers and/or multi-function devices classified as Segment 1 or Segment 2. Copier and/or multi-function devices that are designed to reside on a work surface that are not classified as Segment 1 or Segment 2.</p> <p>Includes models that are able to utilize an optional floor-stand.</p>	<ul style="list-style-type: none"> <li>• Desktop computer scanners</li> <li>• Desktop printers</li> <li>• Desktop PC-free photo printers</li> <li>• Camera dock printers</li> <li>• Desktop fax machines</li> <li>• Desktop multi-function or "all-in-one" devices</li> <li>• Desktop copiers or copy &amp; print devices</li> <li>• Typewriters powered by AC power plug or by internal battery unit</li> </ul>	<ul style="list-style-type: none"> <li>• Printing devices that are embedded into non-Phase 1 and 2 products, where the printing devices are not the primary product</li> <li>• Non-electronic typewriters</li> <li>• Printing devices capable of printing on media with dimensions greater than 48" wide</li> </ul>
	Floor-Standing Printing Devices	<p>Printing devices, utilizing all printing technologies that are floor-standing models and that can print on media with dimensions up to 48" wide.</p>	<ul style="list-style-type: none"> <li>• Floor-standing office printers</li> <li>• Floor-standing graphics printers</li> <li>• Floor-standing wide-format printers</li> </ul>	<ul style="list-style-type: none"> <li>• Floor-standing printing devices capable of performing additional non-printing functions such as copying or faxing</li> <li>• Printing devices that are embedded into non-Phase 1 and 2 products, where the printing device is not the primary product</li> <li>• Newspaper and industrial printing devices</li> <li>• Printing devices capable of printing on media with dimensions greater than 48" wide</li> <li>• Models which are able to utilize an optional floor-stand</li> </ul>
	Floor-Standing Copying Devices	<p>Copier and/or multi-function devices classified as Segment 3, Segment 4 or Segment 5. Copier and/or multi-function devices that are floor-standing models that are not classified as Segment 3, Segment 4 or Segment 5.</p>	<ul style="list-style-type: none"> <li>• Floor-standing multi-function or "all-in-one" devices that perform different tasks such as copy, scan, fax, print</li> <li>• Floor-standing photocopiers</li> <li>• Floor-standing copy and print devices</li> <li>• Floor-standing wide-format copiers and/or multi-function devices</li> </ul>	<ul style="list-style-type: none"> <li>• Floor-standing devices that only perform printing functions</li> <li>• Newspaper and industrial copying and/or multi-function devices</li> <li>• Copying and/or multi-function devices capable of printing on media with dimensions greater than 48" wide</li> <li>• Models which are able to utilize an optional floor-stand</li> </ul>
	Telephones and Telephone Answering Machines	<p>A telecommunication device with a handset or headset that is used for the transmission of sound (most commonly speech) between two or more locations using a variety of technologies including wire-line telephones and Voice over Internet Protocol (VoIP).</p> <p>Also includes telephone answering machines that are installed alongside, or incorporated within a wire-line telephone.</p>	<ul style="list-style-type: none"> <li>• Wire line telephones including rotary and touch-tone technologies</li> <li>• Cordless telephones requiring an electrical base station/handset cradle for battery charging and wire-line network connection</li> <li>• VoIP phones</li> <li>• Answering machines that utilize cassette-based or digital recording technologies</li> </ul> <p>Accessory handsets packaged with a telephone in a single OEM package under a single SKU are subject to one fee</p>	<ul style="list-style-type: none"> <li>• Telecommunication equipment developed for embedded use in motor vehicles of any type</li> <li>• Commercial-grade "pay phones"</li> <li>• Voicemail/answering machine devices that utilize a centralized networked system</li> </ul> <p>Telephone accessories including headsets and hands-free accessories</p>

**Appendix A – Table 3: EEE Material Definitions December 1, 2010 – July 31, 2011**

EEE Material Category for Reporting Purposes		Phase 1 and 2 Materials Definition	Includes	Excludes
Category	Sub-Category			
<b>Cellular Devices and Pagers</b>		A handheld communication device that utilizes cellular networks to transmit voice or data signals. Includes cell-enabled Personal Digital Assistants (PDAs).	<ul style="list-style-type: none"> <li>• Cellular phones</li> <li>• Cellular phones offering camera, video recording and/or audio functions</li> <li>• Smart phones (cell-enabled)</li> <li>• Palmtop computers (cell-enabled)</li> <li>• Cell-enabled PDAs utilizing touch-screen technology</li> <li>• Cell-enabled handheld devices</li> <li>• Pagers</li> </ul>	<ul style="list-style-type: none"> <li>• Satellite phones</li> <li>• Wireless devices that do not utilize cellular networks to operate</li> <li>• Non-cell-enabled PDAs (Included in Personal/Portable Image, Audio, and Video Devices category)</li> </ul>

<b>Image, Audio and Video Devices</b>	<b>Personal/ Portable</b>	<p>Personal and/or portable devices that can transmit, record and/or playback an image, audio or video using a variety of technologies including mechanical, optical and digital technologies.</p> <p>Personal and/or portable peripheral audio devices that enable audio playback.</p>	<ul style="list-style-type: none"> <li>• A portable device that is used primarily for personal use, that operates on battery power or is powered directly from the device it is connected to (i.e. computer),</li> <li>• Point of Sale (POS) receipt printers</li> <li>• Portable computer scanners</li> <li>• Portable PC-free photo printers</li> <li>• Handheld printers such as calculators with printing capabilities or label makers</li> <li>• Desktop label, barcode, card printers</li> <li>• Portable audio cassette players and/or recorders</li> <li>• Portable combination cassette recorders and players</li> <li>• Portable CD players and/or recorders</li> <li>• Portable Digital Video Disk (DVD) players and recorder</li> <li>• MP3 and other portable music players</li> <li>• Other Portable Digital Audio Players/ Recorders (DAP)</li> <li>• Analog and digital video cameras and recorders</li> <li>• Portable AM/FM Radios</li> <li>• Clock radios</li> <li>• Compact docking speakers including computer speakers,</li> <li>• Digital and non-digital cameras</li> <li>• Webcams</li> <li>• Digital picture frames</li> <li>• Handheld personal computers</li> <li>• Portable display devices under 10"</li> <li>• PDAs that are not communication-enabled or cellular compatible</li> <li>• Portable and personal audio/video players supplied with accessories or bundled in a single OEM package under a single SKU are subject to one fee</li> </ul>	<ul style="list-style-type: none"> <li>• CD-writing drives contained within, or replacements parts for Desktop and Portable Computers</li> <li>• DVD-writing drives contained within, or replacement parts for Desktop and Portable Computers</li> <li>• Non-audio optical disk-players</li> <li>• Optical disk drives included in the Computer Peripherals materials category</li> <li>• Webcams embedded in Desktop Computers and Portable Computers</li> <li>• Cameras embedded in devices for which the primary function is not to record an image/ video</li> <li>• Cell-enabled PDAs</li> <li>• Devices for which the primary design and function are for video-gaming purposes (As designated in Section 5 of O. Reg. 393/04)</li> <li>• Global Positioning Systems (GPS) for both portable and aftermarket vehicle installation</li> <li>• Home/ Non-Portable video-gaming devices</li> <li>• Headphones and ear-buds</li> </ul>

<b>Appendix A – Table 3: EEE Material Definitions December 1, 2010 – July 31, 2011</b>				
<b>EEE Material Category for Reporting Purposes</b>		<b>Phase 1 and 2 Materials Definition</b>	<b>Includes</b>	<b>Excludes</b>
<b>Category</b>	<b>Sub-Category</b>			
	<b>Home/Non-Portable</b>	Home and/or non-portable devices that can transmit, record and/or playback an image, audio or video using a variety of technologies including mechanical, optical and digital technologies.	<ul style="list-style-type: none"> <li>• Non portable AM/FM Radios</li> <li>• Video cassette players (VCRs) and/or video projectors</li> <li>• Turntables (Record Players and gramophones)</li> <li>• Non-portable Digital Video Disk (DVD) players and recorder, audio cassette players and/or</li> </ul>	<ul style="list-style-type: none"> <li>• CD-writing drives contained within, or replacements parts for Desktop and Portable Computers</li> <li>• Satellite, Cable, and Digital transmitters and receivers</li> <li>• Home/ Non-Portable video-gaming devices</li> <li>• Global Positioning Systems (GPS) for</li> </ul>

<b>Image, Audio and Video Devices</b>		Home and/or non-portable peripheral audio devices that enable audio playback.	<p>recorders</p> <ul style="list-style-type: none"> <li>• Non-portable combination cassette recorders and players</li> <li>• Other non-portable Digital Audio Players/ Recorders (DAP)</li> <li>• Non portable CD players and/or recorders</li> <li>• Digital projectors</li> <li>• Home stereo amplifiers</li> <li>• Home stereo systems</li> <li>• Speaker systems, connected to a home audio or stereo system</li> <li>• Includes audio and video equipment sold as a package/bundle that are used in non-residential locations</li> </ul>	<p>both portable and aftermarket vehicle installation</p> <ul style="list-style-type: none"> <li>• Devices for which the primary design and function are for video-gaming purposes (As designated in Section 5 of O. Reg. 393/04)</li> <li>• DVD-writing drives contained within, or replacement parts for Desktop and Portable Computers</li> <li>• Non-audio optical disk-players. Optical disk drives included in the Computer Peripherals</li> </ul>
	<b>Home Theatre in a Box (HTB)</b>	Bundled combinations or devices that can transmit, record and/or playback an image, audio or video using a variety of technologies.	<ul style="list-style-type: none"> <li>• Home theatre image, audio and video equipment sold as a package/bundle with a single point-of-sale SKU. Includes peripheral audio devices.</li> <li>• Includes audio and video equipment sold as a package/bundle that are used in non-residential locations.</li> </ul>	<ul style="list-style-type: none"> <li>• Home theatre image, audio and video equipment sold as a package/ bundle with more than a single point-of-sale SKU (report separately).</li> <li>• Home theatre bundles that include televisions</li> </ul>
	<b>Aftermarket Vehicle</b>	Audio and video devices for installation in motor vehicles aftermarket.	<ul style="list-style-type: none"> <li>• Vehicle speakers</li> <li>• Vehicle radios</li> <li>• Vehicle CD players</li> <li>• Vehicle DVD/Blu-Ray players</li> </ul>	<ul style="list-style-type: none"> <li>• Audio and video equipment embedded in original equipment manufacturer (OEM) supplied motor vehicles of any type</li> </ul>

## Appendix A – Table 4: EEE Material Definitions

The definitions in this table are general descriptions, and should be used together with the complete list of Inclusions and Exclusions for each Sub-Category Type on the OES website. The list of Inclusions and Exclusions is continually updated by OES.

Please see <http://www.ontarioelectronicstewardship.ca/program/electronics-gallery> for the current list. This list remains in effect from August 1, 2011 until further notice.

Appendix A – Table 4: EEE Material Definitions		
EEE Material Category for Reporting Purposes		Phase 1 and 2 Materials Definition
Category	Sub-Category	
<b>Display Devices</b>	<b>less than or equal to 29" Screen</b>	A device that displays an image, using a variety of technologies including CRT, LCD, plasma and rear-projection.
	<b>Greater than 29" Screen</b>	
<b>Desktop Computers</b>		Desktop models refer to those computers that are designed to be utilized on a work surface and require standard alternating current (AC) power plug for a primary source of power.
<b>Portable Computers</b>		Portable models refer to a portable computer that contains a Central Processing Unit (CPU) and than can operate using a self-contained battery or using an external AC/DC adaptor.
<b>Computer Peripherals</b>		Computer peripherals refers to external, as well as integrated modems, disk drives, optical drives, computer mouse and keyboards that are added, or attached, to a computer in order to expand its functionality. A modem refers to a devices that encodes digital computer signals into analog/analogue telephone signals and vice versa and allows computers to communicate over a phone line or cable connection.
<b>Printing, Copying and Multi-Function Devices</b>	<b>Desktop Printing, Copying and Multi-Function Devices</b>	Printing, copying and multi-function devices, utilizing all printing technologies, designed to be handheld or to reside on a work surface and that can print on media with dimensions up to 48" wide.  Copiers and/or multi-function devices classified as Segment 1 or Segment 2. Copier and/or multi-function devices that are designed to reside on a work surface that are not classified as Segment 1 or Segment 2.  Includes models that are able to utilize an optional floor-stand.
	<b>Floor-Standing Printing Devices</b>	Printing devices, utilizing all printing technologies that are floor-standing models and that can print on media with dimensions up to 48" wide.
	<b>Floor-Standing Copying Devices</b>	Copier and/or multi-function devices classified as Segment 3, Segment 4 or Segment 5. Copier and/or multi-function devices that are floor-standing models that are not classified as Segment 3, Segment 4 or Segment 5.
<b>Telephones and Telephone Answering Machines</b>		A telecommunication device with a handset or headset that is used for the transmission of sound (most commonly speech) between two or more locations using a variety of technologies including wire-line telephones and Voice over Internet Protocol (VoIP).

**Appendix A – Table 4: EEE Material Definitions**

<b>EEE Material Category for Reporting Purposes</b>		
<b>Category</b>	<b>Sub-Category</b>	<b>Phase 1 and 2 Materials Definition</b>
		Also includes telephone answering machines that are installed alongside, or incorporated within a wire-line telephone.
<b>Cellular Devices and Pagers</b>		A handheld communication device that utilizes cellular networks to transmit voice or data signals. Includes cell-enabled Personal Digital Assistants (PDAs).
<b>Image, Audio and Video Devices</b>	<b>Personal/ Portable</b>	<p>Personal and/or portable devices that can transmit, record and/or playback an image, audio or video using a variety of technologies including mechanical, optical and digital technologies.</p> <p>Personal and/or portable peripheral audio devices that enable audio playback.</p>
	<b>Home/Non-Portable</b>	<p>Home and/or non-portable devices that can transmit, record and/or playback an image, audio or video using a variety of technologies including mechanical, optical and digital technologies.</p> <p>Home and/or non-portable peripheral audio devices that enable audio playback.</p>
	<b>Home Theatre in a Box (HTB)</b>	Bundled combinations or devices that can transmit, record and/or playback an image, audio or video using a variety of technologies.
	<b>Aftermarket Vehicle</b>	Audio and video devices for installation in motor vehicles aftermarket.

## Appendix B

### Methodology for Calculation of Stewards Fees and Reconciliation Fees

1. Definitions:

- (a) “base fee period” means a period beginning on a date between February 1 and September 1 of each year. The base fee period start and end dates in each year will be determined by OES and communicated with appropriate notice to the stewards involved.
- (b) “cost reference period” means the calendar year preceding the calendar year in which the base fee period begins.

2. Calculation of Steward's Fees:

OES shall determine the Steward's Fees which will be in effect for each base fee period in the following manner:

- (1)
  - (a) determine the actual cost of operating the Program in the cost reference period;
  - (b) determine the portion of such cost attributable to each EEE Category in the cost reference period;
  - (c) determine the cost per unit of EEE in each EEE Category by dividing the amount in Section 2(1)(b) by the number of units of EEE Supplied in such EEE Category in the cost reference period;
  - (d) determine an appropriate per unit amount, as required, on account of an operating reserve for each EEE Category
- (2)
  - (a) determine the amount, if any, of EEE Category deficits as at December 31, 2012;
  - (b) divide the amount determined in Section 2(2)(a) by 5;
  - (c) determine the cost per unit for each relevant EEE Category by dividing the amount in Section 2(2)(b) by the number of units of EEE supplied in such EEE Category in the cost reference period
- (3) calculate the per unit Steward's Fee as the aggregate of the amount determined in Sections 2(1) and 2(2).

3. Calculation of Reconciliation Fee

Effective for base fee periods commencing May 1, 2014 and each base fee period thereafter, OES shall determine the Reconciliation Fee, if any, by EEE Category, to be paid in respect of each cost reference period in the following manner:

- (a) determine the revenue earned in the cost reference period;
- (b) determine the actual cost of operating the Program in the cost reference period;
- (c) subtract the amount determined under Section 3(b) from the amount determined under 3(a);
- (d) if the amount arrived at under Section 3(c) is zero or positive, the Reconciliation Fee is zero and any amount so determined shall be applied as an addition to the operating reserve and in accordance with the Program Plan;
- (e) if the amount arrived at under section 3(c) is negative, the Reconciliation Fee is the amount determined by dividing the amount in 3(c) by the number of units supplied in the cost reference period.

## Appendix C

### Extract from *Corporations Tax Act (Ontario)*

#### Permanent establishment

4. (1) In this Act,

“permanent establishment” includes branches, mines, oil wells, farms, timberlands, factories, workshops, warehouses, offices, agencies and other fixed places of business.

#### Idem

(2) Where a corporation carries on business through an employee or agent who has general authority to contract for the corporation or who has a stock of merchandise owned by the corporation from which the employee or agent regularly fills orders which the employee or agent receives, such employee or agent shall be deemed to operate a permanent establishment of the corporation.

#### Idem

(3) The fact that a corporation has business dealings through a commission agent, broker or other independent agent shall not of itself be deemed to mean that the corporation has a permanent establishment.

#### Idem

(4) The fact that a corporation has a subsidiary controlled corporation in a place or a subsidiary controlled corporation engaged in a trade or business in a place shall not of itself be deemed to mean that the first-mentioned corporation is operating a permanent establishment in that place.

#### Idem

(5) An insurance corporation is deemed to have a permanent establishment in each jurisdiction in which the corporation is registered or licensed to do business.

#### Idem

(6) The fact that a corporation maintains an office solely for the purchase of merchandise shall not of itself be deemed to mean that the corporation has a permanent establishment in that office.

#### Idem

(7) Where a corporation, otherwise having a permanent establishment in Canada, owns land in a province or territory of Canada, such land is a permanent establishment.

**Idem**

(8) The fact that a non-resident corporation in a taxation year produced, grew, mined, created, manufactured, fabricated, improved, packed, preserved or constructed in whole or in part anything in Canada, whether or not the corporation exported that thing without selling it prior to exportation, shall of itself, for the purposes of this Act, be deemed to mean that the corporation maintained a permanent establishment at any place where the corporation did any of those things in the taxation year.

**Idem**

(9) The use of substantial machinery or equipment in a particular place at any time in a taxation year of a corporation constitutes a permanent establishment of such corporation in that place for the taxation year.

**Idem**

(10) Where a corporation has no fixed place of business, it has a permanent establishment in the principal place in which the corporation's business is conducted.

**Idem**

(11) Where a corporation does not otherwise have a permanent establishment in Canada, it has a permanent establishment in the place designated in its charter or by-laws as being its head office or registered office.

**Idem**

(12) If the liability of a corporation for tax under the *Income Tax Act* (Canada) is determined with reference to a tax treaty, convention or agreement with another country, the corporation does not have a permanent establishment in Ontario for the purposes of this Act if it does not have such an establishment for the purposes of the tax treaty, convention or agreement.

**Same**

(13) Subsection (12) applies with respect to taxation years ending after June 17, 2002.