

May 1, 2013

**MAJOR APPLIANCE RECYCLING ROUNDTABLE (“MARR”)
AGENCY APPOINTMENT AGREEMENT
IN RESPECT OF THE BRITISH COLUMBIA MAJOR APPLIANCES STEWARDSHIP PLAN**

Your appointment of MARR as your agent to fulfill your obligations under the British Columbia Recycling Regulation and MARR’s agreement to accept that appointment are subject to the terms and conditions of this Agreement. This is a legal contract between you and MARR. Please read the entire Agreement carefully before agreeing to appoint MARR as your agent.

THIS AGREEMENT ESTABLISHES THE TERMS AND CONDITIONS UNDER WHICH MARR AGREES TO ACT AS YOUR AGENT. BY SIGNING THIS AGREEMENT TO APPOINT MARR AS YOUR AGENT YOU ARE ACCEPTING ALL OF THE TERMS OF THIS AGREEMENT.

This Agency Appointment Agreement (the “**Agreement**”) is entered into as of the Appointment Date,

Between:

MAJOR APPLIANCE RECYCLING ROUNDTABLE (“MARR”)

a federal not for profit corporation having its head office at:

105 West 3rd Avenue
Vancouver, BC
V5Y 1E6
Canada

And:

(the “PARTICIPANT”)

an entity having an office at the address set out in its on-line registration to become a participant of MARR

WHEREAS:

- A. The government of British Columbia has enacted The Recycling Regulation under the authority of the *Environmental Management Act* (the “**Regulation**”), pursuant to which producers (as so defined in the Regulation) have been mandated to develop and manage a program to address the recycling of the Program Products (as defined below) at the end of their useful life (a “**Stewardship Plan**”).
- B. Section 2(2) of the Regulation permits producers to appoint an agent to develop, submit for approval and operate such a Stewardship Plan, on their behalf.

- C. MARR has developed such a Stewardship Plan (the “**Plan**” as defined below), and the Plan has been approved by the Regulator (as defined below) in accordance with Part 2 of the Regulation.
- D. MARR will implement and operate the Plan in accordance with the Regulation.
- E. The Participant wishes to appoint MARR as its agent for the purposes of carrying out its duties under the Regulation in respect of the Plan, and MARR is prepared to act as the agent of the Participant in carrying out those duties, all upon and subject to the terms and conditions of this Agreement.

In consideration of the mutual promises contained in this Agreement and other good and valuable consideration, the receipt of which is hereby acknowledged by each party hereto, the parties agree as follows:

1. Definitions and Interpretation

- 1.1 Definitions – In addition to any terms or phrases defined elsewhere in this Agreement, unless the context otherwise specifies or requires, for the purposes of this Agreement, including the Schedules hereto, capitalized terms used in this Agreement shall have the respective meanings attributed to them as follows:

“**APFs**” means administrative program fees or any similar fees or charges established by MARR and that are payable to MARR by the Participant to cover the costs of implementing and operating the Plan in respect of the Program Products for which there is an obligation under the Regulation and which are or become the subject of the Plan.

“**Appointment Date**” means the date on which the Participant completed the MARR on-line registration system, subject to the on-line registration of the Participant being accepted and approved by MARR.

“**By-Laws**” means the by-laws of MARR from time to time in effect, as the same may be modified, amended or replaced from time to time by MARR, provided that MARR provides the Participant with ninety (90) days written notice (enclosing a copy of the revised By-Laws) prior to such modification, amendment or replacement coming into effect.

“**Confidential Information**” means information received by or made available to MARR, its agents or personnel that: (i) is not generally known in the industry in which the Participant is engaged; (ii) is “personal information” within the meaning of the *Personal Information Protection and Electronic Documents Act* (Canada), as amended from time to time, and any other applicable law now in force or that may in the future come into force governing the collection, use, disclosure and protection of personal information applicable to either party or to any information collected, used or disclosed in the course of the Participant’s participation under the terms of this Agreement; (iii) all information, know how, trade secrets, ideas, technology or data concerning or related to the Program Products or the Participant that would logically be considered confidential and/or proprietary; (iv) would do the Participant harm if divulged; or (v) is

marked “Confidential” or “Proprietary”, and shall include all reporting documentation provided by the Participant in accordance with this Agreement. Confidential Information shall not include information that the recipient can establish: i) was or becomes generally available to the public through no act or failure to act by the recipient; ii) was already known by the recipient at the time of receipt as evidenced by its competent written records in existence at the time of disclosure; iii) was provided to the recipient by a third party not bound by an obligation of confidentiality, as a matter of right and without restriction on disclosure; or iv) was independently developed by the recipient without access to the disclosing party's Confidential Information, as evidenced by the receiving party's written records in existence at the time of disclosure.

“Participant” means the entity set out in the Participant’s on-line registration which is legally obligated to comply with the Regulation and has the same meaning in this Agreement as the term “Producer” as defined in the Regulation, or, the entity set out in the Participant’s on-line registration which has agreed to perform the Producer’s obligations under the Regulation, including complying with the terms of this Agreement.

“Plan” means the Stewardship Plan for the Program Products as approved by the Regulator, as the same may be modified, amended or replaced from time to time in accordance with Section 3.2 and Section 6.2 hereof, a copy of which is posted on the MARR website.

“Program Products” means those products that fall within the definition of “Product” in the Regulation and that are the subject of the Plan as defined in the Plan, and as set out on the MARR website, as may be modified, amended or replaced from time to time.

“Regulator” means the person or persons authorized under the Regulation to approve the Plan or any amended plan and to oversee the operation of the Plan in accordance with the Regulation.

“Rules and Policies” means all of the rules and policies established by MARR and in effect at the relevant time, as the same may be modified, amended or replaced from time to time in accordance with Section 6.5 hereof.

1.2 **Rules of Interpretation** – In this Agreement the following rules shall apply to the interpretation thereof: words denoting the singular include the plural and vice versa and words denoting any gender include all genders; the words “include”, “includes” and “including” and other similar words and expressions shall in all cases be deemed to be followed by the words “without limitation”; 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; 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; unless otherwise specifically noted herein, all dollar amounts are expressed in Canadian currency; the division of this Agreement into separate Articles, Sections, subsections and Schedules and the insertion of

headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement; and except as otherwise specifically defined or provided for in this Agreement, words or abbreviations which have well known or trade meanings are used in accordance with their recognized meanings.

2. MARR Participation and Agency Appointment

- 2.1 Participation in MARR – Upon completion of the MARR on-line registration, including the ‘check-the-box’ acceptance of the terms and conditions of this Agreement, the Participant has applied to become a participant of MARR. Such application is subject to acceptance by MARR. Upon notification to the Participant of acceptance of such application, the Participant shall be deemed to be a participant of MARR as of and from the Appointment Date.
- 2.2 Appointment as Agent – The Participant hereby appoints MARR as its agent for the purposes of carrying out its duties under the Regulation in respect of the Plan during the Term, and, in particular and without limitation, to implement and operate the Plan for the Program Products for and on behalf of the Participant.
- 2.3 MARR Acknowledgement – MARR hereby acknowledges and agrees that its authority as agent for the Participant is limited solely to carrying out the Participant’s duties under the Regulation in accordance with the Plan, and that MARR has no further or additional authority to act as agent for the Participant in any other capacity, nor make any representations and warranties, commitments, obligations, or covenants on behalf of the Participant beyond those specified in the Plan and this Agreement.

3. Compliance with Rules and Implementation of Plan

- 3.1 Compliance – The Participant covenants and agrees at all times during the Term to abide by the terms and conditions of this Agreement, the By-Laws and the Rules and Policies.
- 3.2 Amendments to Plan – The Participant acknowledges and agrees that MARR may change, update, replace, restate or otherwise amend the Plan from time to time, subject to any approval required under the Regulation. If MARR determines to amend the Plan in any manner, MARR shall strive to provide the Participant with not less than 90 (ninety) days prior written notice of such amendment coming into effect.
- 3.3 Applicable Products – Notwithstanding anything to the contrary in this Agreement, MARR’s obligations hereunder shall not extend to any products manufactured, sold, distributed or otherwise handled by the Participant that do not meet the definition of Program Products as determined by MARR from time to time, or where the size, composition or other material characteristics of any of the Participant’s products have not been set out as acceptable and approved by MARR in writing in advance.

- 3.4 Third Party Contractors – Subject to Section 3.5, the Participant acknowledges that MARR may use third party contractors to fulfill the Participant’s obligations under the Regulation in respect of the Plan.
- 3.5 Approval of Third Party Contractors- (i) MARR shall in all cases remain responsible for fulfilling its obligations under this Agreement and Participant’s obligations under the Regulation in respect of the Plan; (ii) MARR shall be responsible for ensuring that all third party contractors retained comply with all provisions of this Agreement, including, without limitation, the confidentiality provisions in Section 4 of this Agreement; (iii) MARR shall post the names of third party contractors engaged to provide program management and/or auditing services on MARR’s website [or provide written notice to the Participant when third party contractors are engaged by MARR]; and (iii) Upon request, where conflicts of interest between the Participant and the third party exist, the Participant may request MARR to replace third party contractors engaged under this Agreement and MARR shall cooperate with the Participant to find mutually-agreeable replacement third party contractors.

4. Confidentiality Obligations

- 4.1 The parties agree: i) to hold the Confidential Information in confidence by using the same degree of care to safeguard such Confidential Information as it uses to protect its own information of like character, but in no event less than a reasonable degree of care; ii) to limit disclosure of the Confidential Information to its employees, agents or third party subcontractors having a need to know the Confidential Information for the purposes of this Agreement; iii) subject to the audit rights set out in Section 7, not to directly or indirectly disclose any Confidential Information to any third party unless and only to the extent required by any judicial or governmental request, requirement or order; provided that the recipient will take reasonable steps to give the disclosing party sufficient prior notice in order to contest such request, requirement or order by notifying the disclosing party of such request; iv) to use the Confidential Information solely and exclusively in accordance with the terms of this Agreement; v) not remove or obscure proprietary rights notices that appear on Confidential Information and copies thereof; and vi) advise the disclosing party promptly in writing of any unauthorized disclosure or use of Confidential Information.
- 4.2 MARR shall cause its agents, third party subcontractors and employees to whom it may be permitted to disclose or provide any such Confidential Information to comply with the provisions of this Section 4.
- 4.3 Upon termination of this Agreement, each party shall return or destroy all Confidential Information as directed by the disclosing party, provided however, that each party shall be permitted to retain such Confidential Information as required by applicable law, solely for as long as such Confidential Information is required to be retained pursuant to such applicable law.

- 4.4 The parties acknowledge and agree that one of the purposes of the Participant appointing MARR as its agent is to fulfill the Participant's compliance obligations under the Regulation in respect of the Plan. Notwithstanding the foregoing provisions of this Article 4, MARR is permitted to identify: (i) to the relevant governmental authority, the name of the Participant and if the Participant is in good standing or is in arrears of the remittance of any APFs under the Plan, only and exclusively to the extent required in order for MARR to comply with the Regulation; and (ii) to other participants for whom MARR acts as agent, the name of the Participant.
- 4.5 Subject to disclosure of information in accordance with this Agreement, the By-Laws and the Rules and Policies, the Participant's appointment of MARR as its agent shall not provide the Participant with access to, or any right in or to, any Confidential Information of any other participant for whom MARR acts as agent.
- 4.6 The provisions of this Section 4 shall survive and remain in full force and effect following any termination or expiry of this Agreement.

5. Covenants of the Participant

- 5.1 Payment of APFs – The Participant shall pay to MARR within the next calendar month following the reporting period all APFs applicable on the sale or distribution of Program Products by the Participant as are necessary to give effect to the Plan in respect of the Participant's Program Products and for which the Participant has obligations under the Regulation, and/or for any Program Products for which the Participant has agreed to assume another Participant's obligation to remit APFs to MARR. Such APFs shall be determined by MARR from time to time in accordance with the By-Laws, the Plan and the Rules and Policies. Where a Participant has entered into an agreement to have another participant remit the required APF payments to MARR on their behalf, MARR will waive the Participant's obligation to remit APFs on any Program Products where the Participant can provide documentary evidence satisfactory to MARR that another Participant has agreed to remit the required APFs on their behalf. In no circumstances shall an agreement between one Participant to pay the APF obligation of another Participant be deemed to nullify or vacate any Participant's obligations under the Regulation.
- 5.2 Overdue Payments – Subject to Section 5.2, the Participant agrees that any overdue APFs owing by the Participant to MARR shall be treated by MARR as a debt owing to MARR. MARR reserves the right to apply interest and/or administrative fees for overdue payments in accordance with the Rules and Policies. If such overdue APFs are not paid within ninety (90) days of the Participant's receipt of written notice issued by MARR to the Participant following any default in payment, MARR may terminate this Agreement in accordance with Article 8.

- 5.3 Financial Security – If the Participant is or becomes in arrears with regards to the payment of any APFs under this Agreement, MARR may require the Participant to provide financial security in a form that is acceptable to MARR, all in accordance with any applicable Rules and Policies.
- 5.4 Reporting – The Participant agrees to provide to MARR all reports and other information from time to time as are requested by MARR in order to comply with the Regulation, in accordance with the Rules and Policies, and to do so within the time frames set out in the Rules and Policies. Without limitation, the Participant acknowledges that such reports will include reporting on the sales of the Participant’s applicable Program Products in British Columbia and the sales of any Program Products for which the Participant has agreed to remit APFs of behalf of another Participant.
- 5.5 Legal Compliance – With respect to the Agreement, the Participant agrees to act in full compliance with all applicable laws, including the *Competition Act* (Canada).

6. Covenants of MARR

- 6.1 Acting as Agent – MARR agrees to act as the Participant’s agent for the purposes of carrying out the Participant’s duties under the Regulation in respect of the Plan during the Term.
- 6.2 Amendment of Plan – MARR agrees to provide to the Participant a copy of all proposed amendments to the Plan (i) in advance of submission for approval by the MARR Board of Directors and/or the Regulator and (ii) in accordance with Section 3.2 hereof.
- 6.3 Implementation of Plan – MARR agrees to:
- (a) implement and operate the Plan as submitted and approved by the Regulator and in accordance with the Regulation;
 - (b) ensure that the Plan continues to be in good standing with the Regulator and that any requirements of the Regulator in respect of the Plan are adhered to; and
 - (c) submit any additional information or material to the Regulator to which the Regulator is entitled and which the Regulator requests and considers relevant.
- 6.4 Reporting – MARR agrees to provide the Regulator with an annual report on the performance of the Plan as required under the Regulation in a form and incorporating such content as set out in Section 8 of the Regulation and that the Board of Directors of MARR may from time to time approve. MARR will provide Participant with a copy of each annual report to review in advance of submission to the Regulator.
- 6.5 MARR Rules and Policies – MARR shall strive to provide not less than 90 (ninety)

days prior written notice to the Participant of any amendment or change to any Rules and Policies prior to the date such amendment will go into effect, including of any new or additional Rules or Policies. In addition, MARR shall strive to provide not less than 90 (ninety) days prior written notice to the Participant of any change to the APFs to be charged to the Participant under this Agreement prior to the date such amendment will go into effect.

- 6.6 Notice of Regulatory Issues – MARR agrees to provide prompt written notice to the Participant (a) in the event that the approval from the Regulator in respect of the Plan is suspended or cancelled, together with the stated reasons for the suspension or cancellation, to the extent MARR is or becomes aware thereof, or (b) of any hearing or similar meeting that is anticipated or pending, of which MARR is or becomes aware, in connection with a suspension or cancellation of the Regulator’s approval of the Plan.
- 6.7 MARR agrees to operate in full compliance with all applicable laws, including the *Competition Act* (Canada).

7. Audit by MARR

- 7.1 Audit Right – The Participant agrees that MARR may from time to time but not more than once annually (provided the audit does not disclose significant issues which would require additional auditing), at its sole cost, audit and inspect the records of the Participant only with respect to the sale, supply, distribution and importing of Program Products in the province of British Columbia (the “**Records**”) in order to verify the accuracy of the remittances of APFs by the Participant to MARR under this Agreement and the Rules and Policies (each an “**Audit**”). MARR may use a third-party designated by MARR to perform such Audit on the condition that such third-party designee is bound by the confidentiality obligation in Section 4 hereof or as otherwise directed by the Purchaser.
- 7.2 Cooperation of Participant – If MARR provides written notification to the Participant that it intends to conduct such an Audit (which notice shall include the name of the third-party designee), the Participant shall use commercially reasonable efforts to make available or cause to be made available to MARR, or the third-party designee, within ten (10) days following a request therefor and during regular business hours a time and date mutually agreed to between the parties, any and all information and material as may be reasonably requested by MARR, or the third-party designee, for its purposes and otherwise give such cooperation as may be required by MARR, or the third-party designee, including providing access to all Records and any other information in respect of transactions relating to the Program Products. The Participant shall have the right to observe and be informed in respect of all Audit activities conducted by MARR, or any third-party designee, hereunder.

- 7.3 Notification of Results – Within sixty (60) days of completion of any Audit or inspection under this Article 7, MARR shall provide to the Participant a summary report of the results of such Audit or inspection.
- 7.4 Under-Payment – If any Audit discloses that the Participant has under-paid APFs to MARR, such under-payment and the Participant shall be subject to the applicable Rules and Policies. Without in any way limiting the foregoing, in such event, where the amount of the under-payment, for any period, exceeds the greater of either (i) two percent (2%) of the Participant's total APF payment obligations or (ii) five hundred dollars (\$500), then on the written request of MARR, the Participant shall pay to MARR within thirty (30) days of such written request, the additional APFs due. MARR reserves the right to apply interest and/or administrative fees for under-payments in accordance with the Rules and Policies.
- 7.5 Over-Payment – If any Audit discloses that the Participant has over-paid APFs to MARR, such over-payment shall be subject to the applicable Rules and Policies. Without in any way limiting the foregoing, in such event, MARR shall reimburse the Participant within thirty (30) days of notifying the Participant of such over-payment and no longer than ninety (90) days following the completion of the relevant Audit. If MARR fails to reimburse the Participant within the earlier of thirty (30) days of providing written notice to the Participant of its over-payment or ninety (90) days following the completion of the relevant Audit, the Participant may offset the amounts over-paid against any future APFs payment or other amounts owing to MARR under this Agreement.
- 7.6 Refund Request – In addition, where a Participant provides information to MARR that satisfies MARR, acting reasonably, that the Participant has over-paid APFs to MARR, MARR shall either confirm the over-payment in writing (thus satisfying the notice requirement and triggering the reimbursement obligation set out in Article 7.5) or, within thirty (30) days of receiving such information from the Participant, initiate an Audit pursuant to this Article 7.
- 7.7 No Waiver – Any inspection, Audit or review by MARR, or its third-party designee, pursuant to this Article 7 shall not relieve the Participant of any of its obligations to fulfil or comply with the terms of this Agreement. The performance by or on behalf of MARR of any inspection, Audit or review hereunder is no assurance that the Participant has complied with the provisions hereof which compliance shall remain the sole responsibility of the Participant. The failure of MARR to conduct any inspection, Audit or review hereunder shall not constitute a waiver of any of the rights of MARR under this Agreement.

8. Term and Termination

- 8.1 Term – This Agreement shall commence on the Appointment Date, shall have no set expiry date and shall remain in full force and effect until terminated in accordance with this Article 8 (the “**Term**”).

- 8.2 Termination on Notice –The Participant may terminate this Agreement without cause upon not less than sixty (60) days prior written notice to MARR.
- 8.3 Termination for Default – If a party (the “**Defaulting Party**”) materially breaches any term or condition of this Agreement, the other party may deliver written notice of the breach to the Defaulting Party. In the event such material breach is not cured within thirty (30) days of such notice, the party having delivered such notice may immediately terminate this Agreement on further notice to the Defaulting Party to that effect, provided that Participant may immediately terminate this Agreement upon receipt of notice under Section 6.6(a) that the Plan has been cancelled.
- 8.4 Termination for Insolvency – This Agreement will terminate automatically if: (i) a party (in this Section 8.4, the “**Insolvent Party**”) makes an assignment for the benefit of its creditors, consents to the appointment of a receiver for all or substantially all of the property of the Insolvent Party, files a petition in bankruptcy or for a reorganization under the appropriate bankruptcy legislation, or is adjudicated bankrupt or insolvent; or (ii) if a court order is entered, without the consent of the Insolvent Party, appointing a receiver or trustee for all or substantially all of the property of the Insolvent Party, or approving a petition or for a reorganization pursuant to the appropriate bankruptcy legislation or for any other judicial modification or alteration of the rights of creditors of the Insolvent Party.
- 8.5 Effect of Termination –In the event of termination of this Agreement, for whatever reason, MARR reserves the right to notify the Regulator that MARR has ceased to act as the Participant’s agent for the purposes of complying with the Regulation in respect of the Plan.
- 8.6 Survival – The provisions of Article 4 shall survive termination of this Agreement for whatever reason. The provisions in Article 7 shall survive for one (1) year following termination of this Agreement for whatever reason.

9. General Provisions

- 9.1 Notices – All notices or other communications required or permitted under this Agreement shall be in writing and shall be delivered in person, by prepaid courier service, by e-mail or by facsimile to the addresses or facsimile number as follows:

To MARR at: Major Appliance Recycling Roundtable
105 West 3rd Avenue
Vancouver, BC
V5Y 1E6
Canada

To the Participant at: the contact details provided by the Participant in the MARR online registration system

If personally delivered or delivered via pre-paid courier, a notice will be deemed to have been given and received on the date of actual delivery and, if by facsimile or e-mail, a notice will be deemed to have been given and received on the date sent if sent during normal business hours on a business day and otherwise on the next business day.

Either party may at any time and from time to time notify the other party in accordance with this Section 9.1 of a change of address, facsimile number or e-mail address, to which all notices will be given to it thereafter until further notice in accordance with this Section 9.1.

- 9.2 Assignment – This Agreement is assignable by MARR without the consent of the Participant to any corporate entity incorporated for the purpose of carrying out the Plan in replacement of or succession to MARR or another stewardship plan for the Program Products as approved by the Regulator, provided that MARR provides ninety (90) days prior written notice to the Participant prior to such assignment. Except as provided above, neither this Agreement nor the rights or obligations of either party are assignable, except with the prior written consent of the other party, which consent cannot be unreasonably withheld or delayed.
- 9.3 Enurement – This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.
- 9.4 Entire Agreement – This Agreement and schedules attached hereto constitute the entire agreement between the parties regarding the subject matter hereof. It is understood and agreed that there are no agreements, conditions, warranties, terms, representations or arrangements, oral or written, statutory or otherwise, other than those contained herein, and that all prior conversations, understandings, arrangements, statements, communications or agreements, oral or written, with respect to this Agreement are hereby superseded.
- 9.5 Amendment – Unless otherwise set out in this Agreement, no change, amendment or supplement to any provision of this Agreement shall be binding unless it is agreed upon by both parties.
- 9.6 Waiver – Any waiver by a party or any failure on a party's part to exercise any of its rights in respect of this Agreement shall be limited to the particular instance and shall not extend to any other instance or matter in this Agreement or in any way otherwise affect the rights or remedies of such party.
- 9.7 Further Assurances – The parties agree to execute and deliver all such other and additional instruments or documents and to do all such other acts and things as may be reasonably necessary to give full effect to this Agreement.

By clicking the phrase "Yes, Continue, I have read and accept the Agency

Appointment Agreement” on the MARR on-line registration process, you agree: (1) that you have read the terms and conditions of the Agency Appointment Agreement; (2) you understand the terms and conditions of the Agency Appointment Agreement; (3) you intend to form a legally binding contract; (4) a printout of the terms and conditions of the Agency Appointment Agreement will constitute a “writing” under any applicable law or regulation; and (5) you agree to abide by all the terms and conditions of the Agency Appointment Agreement.