

**AMENDING AGREEMENT**

**NEW MUNICIPAL HAZARDOUS OR SPECIAL WASTES SERVICES AGREEMENT**

**WHEREAS:**

1. Stewardship Ontario and The Corporation Of The City Of London entered into an agreement concerning municipal hazardous or special wastes dated July 1, 2011 (the "Agreement");
2. The parties wish to make certain amendments to the Agreement as set out herein.

**THE PARTIES THEREFORE AGREE AS FOLLOWS:**

- 1 The Agreement is hereby amended effective January 27, 2012 as set out in Schedule "A" hereto.
- 2 Any section marked as "Intentionally Deleted" in the Agreement remains "Intentionally Deleted" and is not replaced by or amended anything in Schedule "A".
- 3 All other provisions of the Agreement remain unamended and in full force and affect.

**IN WITNESS WHEREOF** the parties have signed this AMENDING AGREEMENT as of January 27, 2012.

**STEWARDSHIP ONTARIO**

by: \_\_\_\_\_

Name: Gemma Zecchini

Title: Chief Executive Officer

**THE CORPORATION OF THE CITY OF LONDON**

by: \_\_\_\_\_

Name:

Title:

by: \_\_\_\_\_

Name:

Title:

**SCHEDULE "A"**

**AMENDED NEW MUNICIPAL HAZARDOUS OR SPECIAL WASTE SERVICES AGREEMENT**

**THIS AGREEMENT** is made as of the 27<sup>th</sup> day of January, 2012.

BETWEEN:

**STEWARDSHIP ONTARIO ("SO")**

- and -

**THE CORPORATION OF THE CITY OF LONDON ("MUNICIPALITY")**

**collectively, the "Parties"**

**1.0 Definitions and Interpretation**

1.2 In this Agreement:

- (x) **"Diversion Report"** means invoices, MHSW material tonnage reports, or other such documents as may reasonably be required by SO from time to time for the validation of Claims Submissions.

**3.0 Price and Payment**

3.1 Price

- (a) MHSW Services – Depot. As described in Schedule "A" hereto, SO will pay for MHSW Services provided by the Municipality as follows:
  - (ii) SO will pay the Municipality SO's proportionate share (weight of Obligated MHSW as a proportion of total weight of transported MHSW) of the Post-Collection Services transportation costs for the Commingled Materials to a maximum of the Current Price as defined in Section 3.6 of this Agreement. The proportionate share will be based on the most recent Lab Pack Audit conducted by or on behalf of by an authorized representative of SO.
  - (iii) SO will pay the Municipality SO's proportionate share (by weight) of the Post-Collection Services transportation and end processing costs for the Non-Commingled Materials until December 31, 2011. Transportation weight will be determined by the most recent Lab Pack Audit conducted by or on behalf of by an authorized representative of SO. End processing costs will be based on actual weight. Municipality acknowledges that effective January 1, 2012 payment for Post-Collection Services for Non-Commingled MHSW collected at

Depots will be paid directly to Service Providers by SO, and the Municipality will endeavour to facilitate such transition as reasonably requested by SO.

- (b) MHSW Services - Event. As described in Schedule "A" hereto, SO will pay for MHSW Services provided by the Municipality as follows:
  - (i) SO will pay the Municipality an amount per tonne as set out in Schedule "C" for the Collection Services and Post-Collection Services for each of the agreed upon Events specified in Schedule "B". The actual weight of the Obligated MHSW as determined by the Service Provider providing the Post-Collection Services will be used.
- (c) MHSW Services – Event (and transportation to Depot). As described in Schedule "A" hereto, SO will pay for MHSW Services provided by the Municipality as follows:
  - (i) SO will pay the Municipality an amount per tonne as set out in Schedule "C" for the Collection Services and transportation of Obligated MHSW to a Depot for each of the agreed upon Events specified in Schedule "B". The actual weight of the Obligated MHSW as determined by the Service Provider providing the Post-Collection Services will be used.

### 3.2 Payment

- (a) MHSW Services – Depot.
  - (i) To receive payment for Depot Collection Services, the Municipality must upload a monthly Claims Submission via the SO Portal and send SO a copy of the shipping manifest(s). The Claims Submission is to be submitted by Municipality to SO within thirty (30) days of the end of each calendar month. SO will validate the Claims Submission with the manifest(s) received from Municipality within thirty (30) days of receipt and, once the claim is found to be correct and accurate, SO shall issue the Municipality a purchase order against which the Municipality will invoice SO within sixty (60) days of receipt. SO will pay invoices received from the Municipality pursuant to this Agreement within thirty (30) days of the date of receipt of the invoice by SO.
  - (ii) To receive payment for Depot Post-Collection Services for the Commingled Materials, the Municipality must upload a Claims Submission via the SO Portal and send SO a copy of the shipping manifest(s) and Diversion Report(s) from the End Processor with respect to the Commingled Materials. The Claims Submission is to be submitted by Municipality to SO within thirty (30) days of Municipality receiving the related Diversion Report(s) but no later than the end of the following calendar quarter. SO will validate the Claims Submission with the manifest(s) and Diversion Report(s) received from Municipality within thirty (30) days of receipt and, once the claim is found to be correct and accurate, SO shall issue the Municipality a purchase order against which the Municipality will invoice SO within sixty (60) days of receipt. SO will pay invoices received from the Municipality pursuant to this Agreement within thirty (30) days of the date of receipt of the invoice by SO.

- (iii) To receive payment for Depot Post-Collection Services up to December 31, 2011 for the Non-Commingled Materials, the Municipality must upload a Claims Submission via the SO Portal and send SO a copy of the shipping manifest(s) and Diversion Report(s) from the End Processor with respect to the Non-Commingled Materials. The Claims Submission is to be submitted by Municipality to SO within thirty (30) days of Municipality receiving the related Diversion Report(s) but no later than the end of the following calendar quarter. SO will validate the Claims Submission with the manifest(s) and Diversion Report(s) received from Municipality within thirty (30) days of receipt and, once the claim is found to be correct and accurate, SO shall issue the Municipality a purchase order against which the Municipality will invoice SO within sixty (60) days of receipt. SO will pay invoices received from the Municipality pursuant to this Agreement within thirty (30) days of the date of receipt of the invoice by SO.

(b) MHSW Services - Event.

- (i) To receive payment for Event Collection Services and Post-Collection Services, the Municipality must upload a Claims Submission via the SO Portal and send SO a copy of the shipping manifest(s) and Diversion Report(s) from the End Processor with respect to the Obligated MHSW. The Claims Submission is to be submitted by Municipality to SO within thirty (30) days of Municipality receiving the related Diversion Report(s) but no later than the end of the following calendar quarter. SO will validate the Claims Submission with the Diversion Report(s) received from Municipality within thirty (30) days of receipt and, once the claim is found to be correct and accurate, SO shall issue the Municipality a purchase order against which the Municipality will invoice SO within sixty (60) days of receipt. SO will pay invoices received from the Municipality pursuant to this Agreement within thirty (30) days of the date of receipt of the invoice by SO.

(c) MHSW Services – Event (and transportation to Depot).

- (i) To receive payment for Event Collection Services and transportation of Obligated MHSW to a Depot, the Municipality must upload a Claims Submission via the SO Portal and send SO a copy of the shipping manifest(s) with respect to the Obligated MHSW. The Claims Submission is to be submitted by Municipality to SO within thirty (30) days of Municipality receiving the related manifest(s) but no later than the end of the following calendar quarter. SO will validate the Claims Submission with the manifest(s) received from Municipality within thirty (30) days of receipt and, once the claim is found to be correct and accurate, SO shall issue the Municipality a purchase order against which the Municipality will invoice SO within sixty (60) days of receipt. SO will pay invoices received from the Municipality pursuant to this Agreement within thirty (30) days of the date of receipt of the invoice by SO.

### 3.5 Late Submission Penalties

- (a) SO may apply a penalty of five (5%) per cent per month to Claims Submissions which are not submitted to SO within the time periods set out in section 3.2(a)(ii) and (iii), (b) and (c).

For section 3.2(a)(i) SO may apply a penalty of five (5%) per cent per month to Claims Submissions which are not submitted to SO by the end of the following calendar quarter.

(c) A table containing Claim Submission, Purchase Order and invoice payment deadlines and penalties for late submissions for the period of January 2012 to December 2012 has been included in Schedule "F".

3.6 The Municipality shall not submit a Claim Submission to SO for Post-Collection Services, and SO shall not pay for Post-Collection Services, at a price higher than the price in effect as of December 31, 2011 or subsequently approved by SO (the "Current Price"), without the Municipality first obtaining prior written approval from SO. The Municipality shall request in writing to SO approval for a price change, providing the number of bids, the accepted bid prices, the lowest bid prices (keeping the name of the bidder confidential if required), and any changes to the current prices for such Post-Collection Services.

For greater certainty, payments made subject to section 3.2(a)(ii) shall not exceed the Current Price.

#### **4.0 Term**

4.1 The initial term of this Agreement will be for a period commencing on July 1, 2011 and unless otherwise extended or terminated earlier in accordance with the provisions of this Agreement shall continue for eighteen (18) months ending on December 31, 2012 (the "Initial Term").

4.2 At the expiry of the Initial Term this Agreement will automatically renew for successive renewal terms (each a "Renewal Term") of twelve (12) months each unless written notice of termination is provided by either party to the other party at least ninety (90) days prior to the expiry of the Initial Term or the then current Renewal Term, as applicable. The Initial Term and if applicable, any Renewal Terms, are referred to as the "Term" of this Agreement.

4.3 At least one hundred and fifty (150) days prior to the expiration of the Initial Term or the then current Renewal Term (as applicable) SO will invite representatives from the Regional Public Works Commissioners of Ontario, the Association of Municipalities of Ontario, and the Municipal Waste Association (the "Member Associations") to meeting(s) hosted by SO with the purpose of discussing possible changes to the Collection Accessibility Schedules and Payment for Collection Services as set out in Schedule "B" and Schedule "C" respectively. SO's position on changes to Schedule "B" and Schedule "C" following the foregoing meeting(s) will be communicated to the Municipality within one hundred and twenty (120) days of the expiration of the Initial Term or the then current Renewal Term (as applicable).

For clarity, this provision does not preclude any party to this agreement from raising for discussion any issue covered by this agreement during the course of these meetings.

**5.0 Title and Compliance with Laws**

- 5.1 Title to all Obligated MHSW collected by Municipality at Events and Depots will belong to SO from the time of collection, and whether the Obligated MHSW is transported to the End Processor by the Municipality's Service Providers or SO's Service Providers. Any contract entered into between Municipality and an End Processor for Obligated MHSW must provide that title transfers to the End Processor in accordance with the Processor Standards in Schedule "E", as amended from time to time. Notwithstanding the foregoing, if the Municipality operates a reuse program for any Obligated MHSW, title to the Obligated MHSW being reused shall transfer to municipality one (1) second prior to being given to the person or entity requesting it for reuse purposes.

**6.0 SO Policies, Standards and Guidelines**

- 6.1 SO may develop or propose amendments, from time to time, to policies, standards and guidelines relative to the provision of MHSW Services. SO will endeavour to provide the Member Associations sufficient time to comment on the proposed amendments for the purposes of reaching consensus in support of implementing the proposed amendments, and for clarifying potential impacts to the Municipality.
- 6.2 At the time of entering into this Agreement, the SO policies, standards and guidelines relevant to the provision of the MHSW Services herein are referenced in Schedule "E".
- 6.3 Municipality will use best efforts to comply with and will require that any of its contractors supplying MHSW Services use best efforts to comply with, the provisions of all such policies, standards and guidelines as they pertain to the provision of the MHSW Services. SO will communicate any new or amended such policies, standards and guidelines to Municipality via email and will post copies of such new or amended policies, standards and guidelines on SO's website as they are developed.
- 6.4 Municipality may provide written notice within thirty (30) days of receiving such communication that it does not wish to comply with a new or amended policy, standard or guideline, and in the event that the Municipality provides such written notice either Party may exercise the termination provisions of 19.4(b).

**13.0 Amendment and Waivers**

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

**19.0 Termination**

- 19.2 On the date of termination neither party shall have any obligations, financial or otherwise, hereunder save and except for matters and payment obligations arising prior to the date of termination.
- 19.3 Either Party may terminate this Agreement for any reason whatsoever save and except for matters arising from sections 19.1 & 19.4, without cause, cost or penalty, save and

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

- 19.4 Either Party may terminate this agreement immediately upon written notice to the other Party, except as expressly stated, if:
- (a) Either Party assigns or subcontracts any of its rights or obligations under this Agreement or any part thereof except as expressly provided for herein; or
  - (c) the Municipality fails to keep the terms of this Agreement confidential as per section 26.1, in such instances only SO may terminate this agreement; or

## **20.0 Survival**

- 20.1 Articles 8, 19.2 and 26 of this Agreement will survive termination or expiry and continue in full force and effect.

## **26.0 Confidentiality**

- 26.1 Subject to any legal requirements, including those included in the *Municipal Act, 2001* and the *Municipal Freedom of Information and Protection of Privacy Act* ("MFIPPA"), Municipality will at all times treat Schedule "C" and the financial terms contained therein as private and confidential information. Notwithstanding the foregoing, Municipality may provide Schedule "C" and the financial terms contained therein to the Member Associations solely for the purpose of discussion with SO as set out in section 4.3 of this Agreement.

To the extent permitted under MFIPPA, Municipality will inform SO of any request made of Municipality under MFIPPA for any records related to this Agreement that may reveal a trade secret or scientific, technical, commercial, financial or labour relations information supplied in confidence by SO to Municipality so that SO will have an opportunity to make representations to Municipality with respect to the proposed disclosure.

## **28.0 Schedules**

- 28.1 Schedules "A" through "F" are attached hereto and incorporated in and form part of this Agreement.

### **Schedules**

Within Schedule "E", the following replaces only the section Commingled Materials. All other sections in Schedule "E" remain unamended.

### **Commingled Materials**

- Fertilizers, and the containers in which they are contained,
- Pesticides, and the containers in which they are contained,
- Solvents, and the containers in which they are contained, and
- Aerosols, as defined under Paints & Coatings, Pesticides and Solvents,

that are Obligated MHSW;

**SCHEDULE "F" – DUE DATES AND PENALTIES**

**Depot Collection Services for January to December 2012**

Claim Submission For (Month)	Claim Submission Due Date	Purchase Order Due Date <sup>1</sup>	Invoice Due Date <sup>2</sup>	Payment Due Date <sup>3</sup>	Penalties For Late Submission of Claim Submissions <sup>4</sup>															
					Q1 2012			Q2 2012			Q3 2012			Q4 2012			Q1 2013			Q2 2013
					Jan 2012	Feb 2012	Mar 2012	Apr 2012	May 2012	Jun 2012	Jul 2012	Aug 2012	Sep 2012	Oct 2012	Nov 2012	Dec 2012	Jan 2013	Feb 2013	Mar 2013	Apr 2013
January 2012	1-Mar-12	31-Mar-12	30-May-12	29-Jun-12	0%	0%	0%	0%	0%	0%	5%	10%	15%	20%	25%	30%	35%	40%	45%	100%
February 2012	30-Mar-12	29-Apr-12	28-Jun-12	28-Jul-12	n/a	0%	0%	0%	0%	0%	5%	10%	15%	20%	25%	30%	35%	40%	45%	100%
March 2012	30-Apr-12	30-May-12	29-Jul-12	28-Aug-12	n/a	n/a	0%	0%	0%	0%	5%	10%	15%	20%	25%	30%	35%	40%	45%	100%
April 2012	30-May-12	29-Jun-12	28-Aug-12	27-Sep-12	n/a	n/a	n/a	0%	0%	0%	0%	0%	0%	5%	10%	15%	20%	25%	30%	100%
May 2012	30-Jun-12	30-Jul-12	28-Sep-12	28-Oct-12	n/a	n/a	n/a	n/a	0%	0%	0%	0%	0%	5%	10%	15%	20%	25%	30%	100%
June 2012	30-Jul-12	29-Aug-12	28-Oct-12	27-Nov-12	n/a	n/a	n/a	n/a	n/a	0%	0%	0%	0%	5%	10%	15%	20%	25%	30%	100%
July 2012	30-Aug-12	29-Sep-12	28-Nov-12	28-Dec-12	n/a	n/a	n/a	n/a	n/a	n/a	0%	0%	0%	0%	0%	0%	5%	10%	15%	100%
August 2012	30-Sep-12	30-Oct-12	29-Dec-12	28-Jan-13	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0%	0%	0%	0%	0%	5%	10%	15%	100%
September 2012	30-Oct-12	29-Nov-12	28-Jan-13	27-Feb-13	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0%	0%	0%	0%	5%	10%	15%	100%
October 2012	30-Nov-12	30-Dec-12	28-Feb-13	30-Mar-13	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0%	0%	0%	0%	0%	0%	100%
November 2012	30-Dec-12	29-Jan-13	30-Mar-13	29-Apr-13	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0%	0%	0%	0%	0%	100%
December 2012	30-Jan-13	1-Mar-13	30-Apr-13	30-May-13	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0%	0%	0%	0%	100%

1. Dates in this chart assume the Claim Submission is correct and accurate and is received by SO on the Claim Submission due date. Actual purchase order due dates will be 30 days after receipt of the Claim Submission by SO provided it is correct and accurate.
2. Dates in this chart assume the Purchase Order is received by the Municipality on the Purchase Order due date. Actual invoice due dates will be 60 days after the purchase order is received by the Municipality.
3. Dates in this chart assume the Invoice is received by SO on the invoice due date. Actual payment due dates will be 30 days after receipt of the invoice by SO.
4. Penalties listed in percent for any given month are the total penalty that may be applied against a Claim Submission submitted during that month and are not cumulative with penalties stated in prior months for the same Claim Submission.



**Depot Post-Collection Services and Event Collection Services for January to December 2012**

Claim Submission For (Month)	Claim Submission Due Date	Purchase Order Due Date <sup>1</sup>	Invoice Due Date	Payment Due Date	Penalties For Late Submission of Claim Submissions <sup>2</sup>															
					Q1 2012			Q2 2012			Q3 2012			Q4 2012			Q1 2013			Q2 2013
					Jan 2012	Feb 2012	Mar 2012	Apr 2012	May 2012	Jun 2012	Jul 2012	Aug 2012	Sep 2012	Oct 2012	Nov 2012	Dec 2012	Jan 2013	Feb 2013	Mar 2013	Apr 2013
January 2012	30 days after Municipality receives the related Diversion Report(s)	30 days after SO receives the Claim Submission.	60 days after Municipality receives the purchase order.	30 days after SO receives the invoice.	0%	0%	0%	0%	0%	0%	5%	10%	15%	20%	25%	30%	35%	40%	45%	100%
February 2012					n/a	0%	0%	0%	0%	0%	5%	10%	15%	20%	25%	30%	35%	40%	45%	100%
March 2012					n/a	n/a	0%	0%	0%	5%	10%	15%	20%	25%	30%	35%	40%	45%	100%	
April 2012					n/a	n/a	n/a	0%	0%	0%	0%	0%	5%	10%	15%	20%	25%	30%	100%	
May 2012					n/a	n/a	n/a	n/a	0%	0%	0%	0%	5%	10%	15%	20%	25%	30%	100%	
June 2012					n/a	n/a	n/a	n/a	n/a	0%	0%	0%	5%	10%	15%	20%	25%	30%	100%	
July 2012					n/a	n/a	n/a	n/a	n/a	n/a	0%	0%	0%	0%	0%	5%	10%	15%	100%	
August 2012					n/a	n/a	n/a	n/a	n/a	n/a	n/a	0%	0%	0%	0%	0%	5%	10%	15%	100%
September 2012					n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0%	0%	0%	0%	5%	10%	15%	100%
October 2012					n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0%	0%	0%	0%	0%	0%	100%
November 2012					n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0%	0%	0%	0%	0%	100%
December 2012					n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0%	0%	0%	0%	100%

1. Purchase order due dates will be 30 days after receipt of the Claim Submission by SO provided it is correct and accurate.

2. Penalties listed in percent for any given month are the total penalty that may be applied against a Claim Submission submitted during that month and are not cumulative with penalties stated in prior months for the same Claim Submission.