



# Membership Agreement

Make every drop counts

(Version of July 01, 2012 - including schedule 1 of January 01, 2022)

**MEMBERSHIP AGREEMENT:**

**BETWEEN :**     **SOCIÉTÉ DE GESTION DES HUILES USAGÉES**, a company constituted under Part III of the *Companies Act*, having its principal place of business at 248 Boul. Fréchette, Suite 204, Chambly QC J3L 2Z5, represented by \_\_\_\_\_, its General Manager, duly authorized to act herein;

(hereinafter called “**SOGHU**”)

**AND :**           \_\_\_\_\_ a legal person duly constituted under the \_\_\_\_\_ [or a partnership or duly constituted entity] having its principal place of business at \_\_\_\_\_, represented herein by \_\_\_\_\_, its \_\_\_\_\_, duly authorized to act herein as he/she so declares;

(hereinafter called the “**Member**”)

**PREAMBLE**

**THE PARTIES DECLARE AS FOLLOWS:**

**WHEREAS** SOGHU has been constituted and recognized by RECYC-QUÉBEC to represent its members that are subject to the new Regulation and for the purposes of implementing and managing a Product recovery and reclamation system within the territory of the Province of Quebec, in accordance with this new Regulation;

**WHEREAS** SOGHU manages new products for the same purposes, namely used antifreezes and their containers of 50 liters or less and aerosol brake cleaners, and may decide to offer such management to its Members for other products, as determined from time to time by its Board of Directors;

**WHEREAS** the Member is a Brand Owner or First Supplier or User in Quebec (as those expressions are defined herein); and

**WHEREAS** the Member wishes to join SOGHU for the purposes of satisfying the requirements of the Regulation (as defined herein)

Initials : \_\_\_\_\_

## THE PARTIES AGREE AS FOLLOWS:

### 1. Definitions

The following words mean or define:

- (i) **Act:** means the *Environment Quality Act* (R.S.Q. c. Q-2), as amended or replaced and the regulations made thereunder;
- (ii) **Agreement:** means the Agreement entered between RECYC-QUÉBEC and SOGHU, recognizing SOGHU as a body authorized to implement and manage a Product recovery and reclamation system on behalf of its Members for the purposes of the applicable legislation and regulations;
- (iii) **Brand Owner:** means any enterprise that markets a Product or Products under a trademark of which it is the owner or user;
- (iv) **Container:** means a container with a capacity of 50 liters or less, made of plastic or other material, including aerosol containers, as described in the Regulation;
- (v) **Environmental Handling Charge:** means the contribution paid to SOGHU by its Members, as established by SOGHU;
- (vi) **Environmental Handling Charges Schedule:** means the amounts of Environmental Handling Charges that must be paid quarterly on the Products, and all conditions pertaining thereto, the whole as described in Schedule 1 hereof, which Schedule may be amended from time to time, as stipulated in the Membership Agreement;
- (vii) **Filter:** means the oil filters, antifreeze filters and diesel filters and the filters for oil heating systems and oil storage tanks, and any other filter, as described in the Regulation or in a Product Addendum;
- (viii) **First Supplier in Quebec:** means a person or business marketing one or more Products as defined in the Regulation;
- (ix) **Lubricating Oil:** means an oil of mineral, synthetic or vegetable origin, and any other oil as designated in the Regulation or in a *Product Addendum*;
- (x) **Mandatory Contributor:** means an entity which, although not subject to the Regulation, is a member of SOGHU, both in its own name and on behalf of the enterprises that it represents - including municipalities - which must be registered with SOGHU, reports the quantities of products described in the Agreement that are offered on the Quebec market, and pays the System-related fees on behalf of the enterprises and municipalities that are subject to the Regulation;
- (xi) **Member:** means any company even those represented by a mandatory contributor or having a place or residence in Quebec, in the terms of article 4 of the Regulation, is a member of the SOGHU as per its internal regulations:
  - puts on the market an aimed Product under a commercial brand, a name or distinctive sign to which they have ownership.

- puts on the market an aimed product under a commercial brand, a name or distinctive sign that they use
- is responsible for the conception of an aimed product put on the market under a commercial brand, name or distinctive sign;
- acts as a first supplier of an aimed product, whether it is an importer or not, in the case described in the third paragraph of the article 2 of the Regulation;
- for its own usage, acquires outside of Quebec or manufactures aimed product (including any type of acquisition or manufacturing of aimed product by a municipality);
- Is a member of a grouping of enterprises of a same chain, franchise or banner that puts on the Quebec market aimed products under a same commercial brand, name or sign or acts as first supplier;
- puts on the Quebec market, in one of the cases described above, a component

- (xii) **Minister and Department:** means, as the case may be, the Minister of Sustainable Development, Environment and Parks of Quebec or the Ministère du Développement durable, de l'Environnement et des Parcs du Québec, or any other successor Minister or Department;
- (xiii) **Membership Agreement:** means this Membership Agreement entered into between the Member and SOGHU, including any Product Addendum or other addendum or schedule made in accordance with the terms and conditions of the Membership Agreement;
- (xiv) **Products:** means all the products put on the market in Quebec, acquired and made by the members and aimed in the article 48 of the Regulation as well as by the agreement ;
- (xv) **Product Addendum:** means a supplemental agreement whereby SOGHU and a Member identify any other Product that they agree to include in the Membership Agreement and any applicable conditions, as the case may be, (subsequent to the signing of this Agreement);
- (xvi) **Regulation:** means the *Regulation respecting the recovery and reclamation of products by enterprises*, and its modifications R.R.Q., Q-2, r.40.1

## **2. Obligations of SOGHU**

- 2.1 SOGHU undertakes to implement and manage a Product recovery and reclamation system, a sustainable development plan and any other program, plan or measure in compliance with the Act, the Regulation or any other applicable legislation and regulations, working with collectors who are duly registered with SOGHU.
- 2.2 SOGHU undertakes to implement and manage a recovery and reclamation system for any other Product, as determined by the Regulation and/or its Board of Directors in respect of which a Member has signed the Membership Agreement or a *Product Addendum* with SOGHU.
- 2.3 SOGHU undertakes to implement and manage an information, awareness and education program for users and consumers about the Products, in compliance with the Regulation.
- 2.4 Except as provided herein, SOGHU undertakes not to disclose any confidential document or information received from Members. SOGHU may, however, transmit any document or information to RECYC-QUÉBEC or to the Minister or to people authorized by the Department, or when such transmission is required by any legislation or by a judicial or quasi-judicial authority.

## **3. Obligations of the Member**

- 3.1 Unless otherwise authorized by SOGHU, the Member agrees to transmit to SOGHU electronically, within thirty (30) days of the end of each quarter of the year, the detailed quantities for each Product it markets in the Province of Quebec, as required by SOGHU in the course of each of these periods.
- 3.2 In consideration of its membership in SOGHU, the Member agrees to remit the following amounts to SOGHU:
  - a) membership fees in the amount of \$200 (plus applicable taxes) as they may be set or amended from time to time by the Board of Directors of SOGHU;
  - b) the Environmental Handling Charges (plus applicable taxes), based on the volume of Products sold or supplied or imported for its use by the Member in the Province of Quebec, as determined by SOGHU in Schedule 1 hereof and amended from time to time. SOGHU will send the Member ninety (90) days' written notice of any amendment to Schedule 1 hereof with respect to the Environmental Handling Charges.
  - c) any other charge and interest that SOGHU may bill to the Member under this Membership Agreement.
- 3.3 The Environmental Handling Charges are to be paid by the Member and received by SOGHU on a calendar year quarterly basis within thirty (30) days of the end of the quarter, unless otherwise authorized by SOGHU.

- 3.4 When a Member sells to enterprises subject to the Regulation which have opted to deploy their own recovery and reclamation systems instead of joining SOGHU (e.g. Canadian Tire and Safety Kleen (oil)), the Member must bear in mind that, according to the Regulation:
- a) such enterprises are responsible for the Products they purchase from out-of-province Members, since they become the first importers;
  - b) should one such enterprise purchase in Quebec from a Member, the Member who sells the product will remain responsible for it and will have to comply with all requirements of this Agreement including that of paying the Environmental Handling Charges to SOGHU. The enterprises may not take responsibility for such Products.
- 3.5 In the event that the Member omits or fails to pay the amounts due hereunder when due, the Member will have to pay the charges and interest on the arrears as determined in Schedule 1 hereof respecting the Environmental Handling Charges, in accordance with paragraph 3.2(c).
- 3.6 In the event that a Member's total Environmental Handling Charge during the calendar year for which an Environmental Handling Charge is payable to SOGHU is \$2,000.00 or less, and no arrears are due to SOGHU, in subsequent years, the Member may pay the Environmental Handling Charge in a single payment to SOGHU, provided the Member has given prior notice to SOGHU of its intention to do so. Such prior notice must be received by SOGHU no later than March 31 following the year when the amount of the Environmental Handling Charges paid was less than \$2,000.00. The Member must pay the Environmental Handling Charge in a single payment within thirty (30) days after the end of the applicable calendar year.
- 3.7 If the Member did not honor its recovery and reclamation obligations as set out in the Regulation before joining SOGHU, the Member agrees to remit to SOGHU within thirty (30) days of signing this Agreement and/or any *Product Addendum*, the Environmental Handling Charges on all Products sold or supplied since the effective date of the *Regulation respecting recovery and recycling of used oils, oil or fluid containers and used filters*, Order-in-Council R.R.Q., Q-2, r. 42 and the *Regulation respecting the recovery and reclamation of products by enterprises*, Order-in-Council R.Q., Q-2, r 40.1, and the date when the Member becomes a Member of SOGHU with respect to such Product(s). However, the calculation of such payment will be retroactive for no longer than seven (7) years from the date of the first written contact between SOGHU and the potential Member with respect to such Product(s).
- 3.8 Upon signing this Agreement the Member agrees to submit to SOGHU, by email to [soghu@soghu.ca](mailto:soghu@soghu.ca) in an EXCEL file, its name, address, telephone and fax numbers and email address, its enterprise number, the name and contact information of its representative, the list of Product brands and the quantities estimated for each product type it markets annually in Quebec (oil, antifreeze, Containers, Filters, aerosol lubricant and brake cleaner) (see Schedule 2), and any other information required by SOGHU in its sole discretion, in order to comply with the Regulation, as the case may be. Mandatory contributors must also submit the name, by email to [soghu@soghu.ca](mailto:soghu@soghu.ca) in an EXCEL file, address,

Initials : \_\_\_\_\_

telephone and fax numbers and email address, enterprise number and name and contact information of the representative of any enterprises subject to the Regulation for which they are mandatory contributors to SOGHU. Such information will be transmitted to RECYC-QUÉBEC or any other successor body, government corporation, government department or government authority if required under the terms of the Regulation, the Act or any other applicable legislation or regulations.

- 3.9 Despite the foregoing conditions concerning the transmission of data on the quantities for each Product marketed by Members in the Province of Quebec and the total capacity of Containers used for the Products and the data on the payment of the Environmental Handling Charge, SOGHU and the Member acknowledge and agree that no data transmission and no Environmental Handling Charge will be required when a Member sells a Product to another Member in good standing for marketing in Quebec, or when the Product is sold and shipped out of Quebec for use outside of Quebec, provided the Member observes the following conditions:
- a) Members who are parties to such a Product sale between them must agree in writing on which Member will be responsible for transmitting data and paying the Environmental Handling Charge to SOGHU when the Product is marketed or intended to be marketed in Quebec, (the choice being up to the downstream Member, since the regulatory obligation is incumbent on the upstream Member), with the Members acknowledging that in the absence of proof of such agreement, SOGHU is entitled, at its sole discretion, to require transmission of the data and to collect the applicable Environmental Handling Charge from any Member who has marketed the Product in Quebec, or any other Member who is a party to such sale of the Product (see the model agreement between Members at [www.soghu.com](http://www.soghu.com), Member section, dropdown pdf); and
  - b) When the Product which is the object of such sale in Quebec is to be used in another province that has a similar regulatory Product recovery and reclamation program, the Member making such sale must ensure that its agreement with the purchaser of the Product provides for data transmission and payment of any Environmental Handling Charge to the appropriate management body, as applicable.
- 3.10 SOGHU manages its funds in such a way that a separate accounting is maintained for the revenues and expenses for each Product category. SOGHU's objective is to use the Environmental Handling Charges disbursed *for each product* to fund compliance with the Act and the applicable Regulation, including its recovery, collection, recycling and reclamation and its proportional share of SOGHU's administration and program costs. However, the Member acknowledges that SOGHU, while maintaining a separate accounting, may use the Environmental Handling Charges generated by one Product to temporarily fund the recovery and reclamation of another Product to the extent authorized by its Board of Directors, in the best interests of SOGHU and of all of its Members and for protection of the environment.

3.11 SOGHU must also set up a reserve fund equivalent to one year of operations. The said fund is to be constituted gradually over the years from accumulated surpluses while the system is being implemented and developed.

#### **4. Funding of the Costs**

4.1 The Member acknowledges and agrees that the amounts collected by SOGHU from its Members will be used to fund all costs, programs, creation of a Reserve Fund and a Green Fund, and activities set up by SOGHU, in particular:

- a) information, awareness and education campaigns;
- b) subsidies payable to Collection Points and/or collectors;
- c) subsidies payable for reclamation of the Products, research and development;
- d) SOGHU's management fees and any other SOGHU administration fees covered by this Membership Agreement and any financial contribution, tax or duty imposed by a government authority;
- e) SOGHU's annual financial contribution to RECYC-QUÉBEC or to any other successor body, government corporation, government department or government authority; and
- f) any other plan or program provided for by the Regulation.

#### **5. Audit**

5.1 The Member agrees to keep complete, accurate and up-to-date books and records of all the operations and information required under the terms of the Regulation regarding Products and payment of the Environmental Handling Charges, for ten (10) years or any other time period provided in the Regulation and any applicable legislation.

5.2 The Member agrees that, in order to meet the requirements of the Regulation regarding auditing of the information required by the Regulation, SOGHU and/or RECYC-QUÉBEC, or any other body, government corporation, government department or government authority having jurisdiction, their auditors or other duly authorized representatives, shall have full access, during normal business hours, to the place of business and to the books and records of the Member or to the place where the books and records of the Member are kept and to any other document or information required to complete the audits required by the Regulation and the Certification Agreement, and the Member also agrees that SOGHU or the government authority shall have the right to take a copy of such documents at the Member's expense, for the duration of the Agreement, and for two (2) years following the termination, resiliation or cancellation of the Membership Agreement or of any renewal thereof, as the case may be.

5.3 Subject to subsection 5.2, audits are to be conducted at SOGHU's expense, unless significant errors or omissions (representing 10% or more of any amount paid or any information given by the Member) are demonstrated to SOGHU's



satisfaction following such audits, in which case the Member will have to immediately pay the following amounts to SOGHU, to which all applicable taxes will be added:

- a) the Environmental Handling Charges due;
- b) the audit expenses (if the error or omission is over 10%);
- c) administration charges over and above the audit expenses, as the case may be, corresponding to 20% of the Environmental Handling Charges due; and
- d) in cases where the Member delays the settlement of amounts due to SOGHU to the calendar year following the audit, administration charges and interest will be charged to the Member.

## 6. **Term of the Agreement**

- 6.1 The Member agrees that upon signing the Membership Agreement and paying the membership fees, it will become a Member of SOGHU in good standing, in compliance with the Regulation and the terms and conditions of the Agreement.
- 6.2 If the Member gives SOGHU written notice of its intention to withdraw, the Member's withdrawal will take effect at the end of the last day of the 3<sup>rd</sup> full month after receipt of the notice. Upon receipt of the notice of withdrawal, SOGHU may request an audit of the Member's books and records.
- 6.3 The Member agrees that SOGHU will send a list of the enterprises which have signed a Membership Agreement with SOGHU, or which have withdrawn from SOGHU, to RECYC-QUÉBEC or any other successor body, government corporation or government authority having jurisdiction. Such body, government corporation or government authority may transmit the said information to the Minister, if applicable, in accordance with the Act.
- 6.4 SOGHU has the right to terminate the Membership Agreement unilaterally in the event of the Member's bankruptcy or insolvency, or if the Member fails to pay the Environmental Handling Charge for two (2) consecutive quarters, or in the event of a material or repeated breach of its obligations hereunder.

## 7. **Posting and Internalization**

- 7.1 In compliance with applicable legislation and the Regulation, the Member undertakes to obey the provisions of the *Consumer Protection Act* (R.S.Q. c. P-40.1) with regard to the posting of the selling price of the Products it markets and the rules respecting the internalization of the Environmental Handling Charge, as set out in the Regulation (see SCHEDULE 3) or in legislation or some other regulation, and to so inform the retailers who offer its Products to consumers.

## 8. Amendments

- 8.1 The Membership Agreement and any *Product Addendum* attached thereto may be changed or amended in whole or in part, with the sole consent of the directors of SOGHU. Any change or amendment will come into effect following a 90-day notice to the Members. To remain in effect, however, all amendments will have to be ratified at the next general meeting of the Members, duly called. In the event that such amendments are not ratified at that meeting they will cease to be in effect, but only as of the date of the general meeting of the Members.

## 9. Final Provisions

- 9.1 The Membership Agreement binds the Parties and their successors, heirs, legatees, assigns and other respective legal representatives and their beneficiaries.
- 9.2 The Member may not in any way assign, encumber, alienate or subcontract, in whole or in part, the rights and obligations resulting from the Membership Agreement for a purpose not specifically set out in the Membership Agreement without the written consent of SOGHU. In the event of an assignment the Member will remain liable for the obligations incumbent upon it under the terms of the Membership Agreement, jointly and severally with any assignee, even in the event of bankruptcy or insolvency of the assignee. All documents transmitted by the Member to SOGHU will be submitted for information, review and audit purposes.
- 9.3 All the rights described herein are cumulative and not alternative. Members cannot be discharged from their obligations under the terms of the Membership Agreement by the fact that SOGHU remains silent or delays the exercise of a right or remedy granted to it under the Membership Agreement; such silence or delay is never to be interpreted against SOGHU as an exemption or waiver of the full exercise of its rights and remedies, provided the legal prescription period for the exercise of any such right has not expired.
- 9.4 The preamble and any document appended to the Membership Agreement form an integral part thereof.
- 9.5 Any contested claim arising from the Membership Agreement, any disagreement with regard to its performance, including its nullification or termination, and any dispute arising from a problem of interpretation of the Membership Agreement is to be submitted to arbitration, to the exclusion of the law courts.
- 9.6 The Parties hereto agree that, subject to any written agreement to the contrary between the parties providing for a dispute resolution process, the provisions currently in effect of the *Code of Civil Procedure* (R.S.Q. c. C-25) will govern any arbitration held hereunder.
- 9.7 Any notice required under the Membership Agreement will be sufficient if it is in writing and sent by a method of communication which allows the sending party to prove that the said notice was actually delivered to the addressee party at the address indicated at the beginning of the Agreement or at any other address which the latter may make known in accordance with this section.

9.8 The Membership Agreement, its interpretation, performance, application, validity and effects shall be subject to the applicable laws in effect in the Province of Quebec and in Canada, which govern all of the provisions it contains in whole or in part.

9.9 Any provision of the Membership Agreement not in accordance with the legislation shall be deemed null and void to the extent that it is prohibited by any law. The same applies for all clauses subordinated or related to such provision to the extent that their applicability depends on the said provision.

**10. Langage**

**10.1 Le texte français est le seul ayant valeur juridique. The French text is the only legal version.**

**THE MEMBER :**

**SOCIÉTÉ DE GESTION DES HUILES USAGÉES  
(SOGHU) :**

\_\_\_\_\_  
(print company name)

Signature :

Signature :

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(print representative's name)

\_\_\_\_\_  
(print representative's name)

\_\_\_\_\_  
(print representative's title)

**General Manager**

\_\_\_\_\_  
(print representative's title )

Date :

\_\_\_\_\_

Date :

\_\_\_\_\_

**SCHEDULE 1 (approved by the Board on October 18, 2021)**

**This schedule I includes the modifications of January 01, 2022 and cancels and replaces any previous schedule I issued**

**Schedule of Environmental Handling Charges**

**Amounts of Environmental Handling Charges**

- a) \$0.05 per liter for lubricating oils
- b) \$0.15 per liter of capacity of oil containers of 50 liters or less
- c) \$0.35 per aerosol container
- d) \$0.30 per filter of less than 8 inches or 203 mm, and \$0.80 per filter of 8 inches or 203 mm or more
- e) \$0.30 per sump type automatic transmission filter, regardless of size
- f) \$0.10 per liter of mixed antifreeze
- g) \$0.16 per liter of concentrated antifreeze
- h) \$0.08 per liter of capacity of antifreeze containers of 50 liters or less
- i) \$0.35 per liter of capacity oil containers of 50 liters or less non-metal or non-HDPE

**Remittances of Environmental Handling Charges on the Electronic Form at [www.soghu.com](http://www.soghu.com)**

- 1) The Member must pay the Environmental Handling Charges to SOGHU every quarter, using the electronic form at [www.soghu.com](http://www.soghu.com), Member section, on the following dates:
  - a) January to March by April 30
  - b) April to June by July 30
  - c) July to September by October 30
  - d) October to December by January 30

- 2) The Environmental Handling Charges must be sent to SOGHU at 248 Boul. Fréchette, Suite 204, Chambly QC J3L 2Z5
  - a) by cheque payable to Société de gestion des huiles usagées or
  - b) by electronic transfer from the Member's account to Société de gestion des huiles usagées (details available from SOGHU)
  
- 3) Remittance forms and the amounts remitted are to be kept strictly confidential.

Administration charges and interest will apply as follows on late payments:

- a) First level of administration charges – \$100.00 will be charged for any reminder letter sent to the late payers after the 30<sup>th</sup> day when the Environmental Handling Charge is due.
- b) Second level of administration charges – \$200.00 will be added to the first level amount and included in the notification letter to be sent 10 business days after the reminder letter.
- c) Third level – \$625.00 will be added to the first and second level amounts and included in the notice to institute proceedings in Small Claims Court (up to its maximum amount) or more, if necessary. Interest of 1% per month will be charged on the late amount of Environmental Handling Charges, which is equivalent to 12.68% interest compounded annually.

## **SCHEDULE 2**

You will find at [www.soghu.com](http://www.soghu.com) in the member section the EXCEL file that must be completed and returned to the SOGHU at [soghu@soghu.ca](mailto:soghu@soghu.ca) with your Membership Agreement. This file is named “**Schedule 2 of the Membership Agreement (July 1<sup>st</sup>, 2012 version)**” and is in compliance with all the information required in Article 3.8 of this Agreement.

Initials : \_\_\_\_\_

### **SCHEDULE 3**

**Translation of the letter signed by the MDDEP and RECYC-QUÉBEC, the original version is in the ANNEXE 3 of the French version of the Membership Agreement (July 1<sup>st</sup>, 2012 version) Le texte français est le seul ayant valeur juridique. The French text is the only legal version.**

Québec

September 14, 2012

Ms Nathalie St-Pierre  
Vice President, Quebec  
Retail Council of Canada  
6455 Jean-Talon east, Suite 402  
Montreal QC H1S 3E8

Dear Madam,

Further to your letter of August 28 and the various communications or meetings that have taken place between our organizations over the past few months, we wish to reiterate certain details about the applicable provisions for internalization and visibility of the costs related to recovery and reclamation of products governed by the Regulation respecting the recovery and reclamation of products by enterprises (EPR Regulation).

The information below also takes the *Consumer Protection Act (CPA)* and the Regulation respecting the application of the Consumer Protection Act into account, based on information obtained from M<sup>re</sup> André Allard, Director of Legal Affairs of the Office de la protection du consommateur (OPC). We also wish to inform you that the OPC and the Ministère du Développement durable, de l'Environnement et des Parcs share the same vision on these issues.

Section 7 of the EPR Regulation stipulates that the costs related to the recovery and reclamation of a product must be internalized in the price asked for the product as soon as it is put on the market. The notion of internalization is part of a sustainable development approach aimed at incorporating a product's post-consumption management costs into its price on the same basis as the costs of production, transportation, marketing, etc. Breaking down a price to highlight an isolated element is therefore incompatible with internalizing the costs.

Édifce Marie-Guyart, 30<sup>th</sup> floor  
675 René-Lévesque Blvd. east  
Quebec City QC G1R 5V7  
Telephone: 418 521-3860  
Fax: 418 643-9990  
Email: [brigitte.portelance@mddep.gouv.qc.ca](mailto:brigitte.portelance@mddep.gouv.qc.ca)  
Internet: [www.mddep.gouv.qc.ca](http://www.mddep.gouv.qc.ca)

141 President Kennedy Ave., 8<sup>th</sup> floor  
Montreal QC H2X 1Y4  
Telephone: 514 352-5002  
Fax: 514 873-6542  
Email: [g.bureau@recyc-quebec.gouv.qc.ca](mailto:g.bureau@recyc-quebec.gouv.qc.ca)  
Internet: [www.recyc-quebec](http://www.recyc-quebec)

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That being said, however, section 7 of the EPR Regulation allows the internalized costs to be made visible. The notion of visibility is different from the notion of breakdown, because its aim is inform customers that the price asked for a product **includes** a cost for recovery and reclamation at the end of its life cycle. Such visibility does not come from adding up values to obtain a total price; it consists of information with regard to the indicated price. Visibility can therefore take the form of information in relation to a posted price in a store, in a circular, on product packaging, on the documentation accompanying the product, etc., provided the information is written **inclusively**. Appropriate posting on a label could amount to the indication of a price internalizing the recovery and reclamation costs, followed by an asterisk and a footnote saying, for example, “including the recovery costs of \$0.XX”. The footnote would have to be written in smaller characters than those used for the price, to comply with the CPA.

Because this form of visibility was introduced into the EPR Regulation in order to satisfy the industry’s arguments that it would help bring consumers on board with the recovery and reclamations programs, it would make more sense to use terminology that ensures a better understanding and awareness than “écofrais” (eco fees). The expression “coût (ou frais de recuperation)” (recovery cost (or charge)) would certainly be more appropriate.

We would also like to remind you that only the enterprises subject to the EPR Regulation (brand holders and first suppliers in Quebec) may decide to make recovery and reclamation costs visible. Retailers may only show these costs on an invoice or notice or in a circular if they have been made visible by the enterprise higher up in the distribution chain in Quebec. The display methods must also allow enough flexibility to respond to different situations and be monitored carefully to avoid adding such costs to the price of a product that already includes them or one that is not supposed to include them. In case of doubt, retailers should refrain from making recovery and reclamation costs visible.

When it comes to applying the provisions of the EPR Regulation as they relate to those of the CPA and its regulations, it is important to keep in mind that all these provisions coexist and must be included insofar as each one applies. Although all the provisions are compatible, they are not equivalent. A display method may comply with the CPA, but go against the internalization and visibility rules of the EPR Regulation. Section 224 of the CPA is meant to be a neutral provision, which does not prevent another regulation from imposing something specific.

The inclusive visibility rules governed by the EPR Regulation will also contribute to compliance with the provisions of section 227.1 of the CPA, which prohibits misleading representations that could lead consumers to believe that a duty, such as a tax, is payable under a statute. These inclusive visibility rules also favour better compliance with section 91.4 of the Regulation respecting the application of the Consumer Protection Act, when applicable, which requires that the receipt contain the price of each purchased item next to its description.

...3



Please inform your members of their obligation to comply with the provisions of the EPR Regulation as soon as possible.

In order to ensure that everyone interprets these concepts properly, we are sending a copy of this letter to the organizations responsible for the recovery programs and the Conseil québécois du commerce de détail.

Yours very truly,

Brigitte Portelance  
Assistant Deputy Minister, Direction générale  
des services à la gestion et au milieu terrestre

Ministère du Développement durable, de  
l'Environnement et des Parcs

Ginette Bureau  
President and Chief Executive Officer

Société québécoise de récupération et  
de recyclage

c.c. M<sup>re</sup> André Allard, Office de protection du consommateur  
Ms Françoise Paquet, Conseil québécois du commerce en détail  
Mr. Gilles Godard, Société de gestion des huiles usagées  
Mr. Bertrand Goudreault, Éco-Peintures  
Mr. Richard E. Ranger, Association des producteurs responsables  
Mr. Joe Zenobio, Rechargeable Battery Recycling Corporation of Canada  
Ms Dominique Lévesque, Association du recyclage des produits électroniques /  
Electronic Products Recycling Association

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**PRODUCT ADDENDUM (subsequent to the signing of the Membership Agreement on “Product recovery and reclamation by enterprises”)**

Product Addendum made at \_\_\_\_\_ on \_\_\_\_\_, \_\_\_\_\_.

**BETWEEN :**     **SOCIÉTÉ DE GESTION DES HUILES USAGÉES**, a company constituted under Part III of the *Companies Act*, having its principal place of business at 248 Boul. Fréchette, Suite 204, Chambly QC J3L 2Z5, represented by \_\_\_\_\_, its General Manager, duly authorized to act herein;

(hereinafter called “**SOGHU**”)

**AND :**           \_\_\_\_\_ a legal person duly constituted under the \_\_\_\_\_ [or a partnership or constituted entity] having its principal place of business at \_\_\_\_\_, Québec, represented herein by \_\_\_\_\_, its \_\_\_\_\_, duly authorized to act herein as he/she so declares;

(hereinafter called the “**Member**”)

**WHEREAS** SOGHU has been constituted and recognized by RECYC-QUÉBEC for the purposes of implementing and managing a Product recovery and reclamation system within the territory of the Province of Quebec;

**WHEREAS** the Member has already made a Membership Agreement with SOGHU dated \_\_\_\_\_, (the “**Membership Agreement**”), which is still in effect;

**WHEREAS** SOGHU is willing and able to offer its Members the recovery and reclamation of Products other than those already set out in the Membership Agreement;

**WHEREAS** the Member is a Brand Owner or First Supplier in Quebec (as those expressions are defined herein) and wishes SOGHU to assume the management of a recovery and reclamation system similar to the one set out in the Membership Agreement for other Products;

Initials : \_\_\_\_\_

**THE PARTIES AGREE AS FOLLOWS:**

1. **Addition of a Product:** The definition of the word “*Product*” in section 1 of the Membership Agreement is amended to include the following Product or Products:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2. **Terms and Conditions:** Subject to any special condition set out in this *Product Addendum* that is specifically contrary to one of the conditions of the Membership Agreement, the terms and conditions of the Membership Agreement apply in their entirety to the Products designated in Section 1 above as if they had been so designated when the Membership Agreement was made.
3. **Special Conditions (if applicable):**  
\_\_\_\_\_  
\_\_\_\_\_
4. **Coming into Effect:** For the purposes of the Product identified in section 1 of this *Product Addendum*, the date set out in this *Product Addendum* is deemed to be the date the Member joined SOGHU, and the rights and obligations of the parties with respect to such Product will apply as of the coming into effect of the amendment to the Regulation, in accordance with the provisions of subsection 3.6 of the Membership Agreement.
5. **Langage:** Le texte français est le seul ayant valeur juridique. The French text is the only legal version.

**IN WITNESS WHEREOF, THE PARTIES HAVE SIGNED THIS PRODUCT ADDENDUM AS FOLLOWS:**

**SOCIÉTÉ DE GESTION DES HUILES USAGÉES**

**Per:**

\_\_\_\_\_, General Manager

**Date:**

\_\_\_\_\_

**THE MEMBER**, per its representative(s) fully authorized for this purpose:

<b>Signature:</b>	_____	<b>Signature:</b>	_____
<b>Name and title:</b>	_____	<b>Name and title:</b>	_____
<b>Date:</b>	_____	<b>Date:</b>	_____

Initials : \_\_\_\_\_