



Processors Agreement

Making every drop counts

Version of July 1st, 2012

PROCESSORS 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 1101 Boul. Brassard, Suite 214, Chambly QC J3L 5R4, represented by Jean Duchesneau, its General Manager, duly authorized to act herein;

(hereinafter called "**SOGHU**")

AND:

(print complete legal entity name)

having its principal place of business at:

(address)

herein represented by:

(print name)

(print title)

duly authorized to act herein, as he/she so declares:

(hereinafter called the "**Processor**")

PREAMBLE

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 has set up a process for selection and registration of the Processors who will reclaim SOGHU Products;

WHEREAS the Processor wishes to register with SOGHU so that it can participate in the reclamation system for SOGHU Products within the territory of the Province of Quebec;

Initials: _____

page 2

THE PARTIES AGREE AS FOLLOWS:

1. Definitions

The following words and expressions mean or define:

- (i) **Act** means the *Environment Quality Act* (R.S.Q. c. Q-2) and the regulations made thereunder;
- (ii) **Antifreeze** means coolants and antifreeze used in vehicles, machinery or motorized equipment, except vegetable-based coolants and antifreeze or coolants and antifreeze used for aircraft deicing, as described in Section 48 of the Regulation;
- (iii) **Antifreeze container** means a container that holds 50 litres or less, after use, made of plastic or any other material, as described in Section 48(5) of the Regulation;
- (iv) **Applicant** means any Processor who wants to register with SOGHU, does whatever is necessary, and submits all documents and information required for that purpose;
- (v) **Brand Holder** means any enterprise that markets lubricating oils, antifreeze or filters under a trademark it owns or uses;
- (vi) **Certification Agreement** means the Certification 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;
- (vii) **Collection Facility** means an establishment or facility registered with SOGHU that allows the public to bring in SOGHU Products governed by the Regulation at no cost;
- (viii) **Collector** means a business registered with SOGHU, to pick up the products governed by the Regulation from Generators or Collection Facilities and deliver them to a Processor registered with SOGHU;
- (ix) **Collectors and Processors Manual** means the manual supplied by SOGHU to Collectors and Processors which describes the product management system set up by SOGHU and the details of the systems and procedures that relate to their businesses, as amended from time to time by SOGHU;
- (x) **Eligible Product** means the products described and aimed in Section 48 of the Regulation;
- (xi) **Filter** means any oil filter, antifreeze filter or diesel filter and any filter for oil heating systems and oil storage tanks, as described in Section 48(3) of the Regulation;
- (xii) **Generator** means the user of the SOGHU Products in the normal course of business or as a private consumer;

Initials: _____

page 3

- (xiii) **Minister** means the Minister of Sustainable Development, Environment and Parks of Quebec;
- (xiv) **Oil container** means a container that holds 50 litres or less, after use, made of plastic or any other material, including aerosol lubricant and brake cleaner containers, as described in Section 48(2) of the Regulation;
- (xv) **Processor** means a business registered with SOGHU to reclaim products governed by the Regulation;
- (xvi) **Processors Agreement or this Agreement** means this Agreement entered into between the Processor and SOGHU;
- (xvii) **Reclamation** means an activity for reuse, recycling, including biological treatment, any other operation whereby residual materials are processed for use as substitutes for raw materials, and energy recovery recognized by the MDDEP, or any other activity authorized by the MDDEP that involves cleaning, decontaminating or declassifying products as hazardous residual materials. Bulking, shredding and bundling are not considered reclamation activities;
- (xviii) **Regulation:** means the *Regulation respecting the recovery and reclamation of products by enterprises*, and its modifications R.R.Q., Q-2, r.40.;
- (xix) **Residue** means a portion of a product which remains after primary use and the product becomes a SOGHU Product;
- (xx) **Return Incentives** means the financial contribution disbursed by SOGHU to certain registered Processors for reclamation of plastic oil and antifreeze containers (cleaning for reuse, shredding, decontamination, reducing the plastic into pellets for transformation into finished goods, etc.) in recognition of the fact that this activity is not yet profitable;
- (xxi) **SOGHU Product** means used oils, used oil or fluid containers of 50 litres or less, used antifreeze and used antifreeze containers of 50 litres or less, aerosol containers used brake cleaners and used filters within the territory of the Province of Quebec in accordance with the Regulation;
- (xxii) **Used Aerosol** means aerosol lubricant and brake cleaner containers, as described in Section 48 of the Regulation;
- (xxiii) **Used oil** means mineral, synthetic or vegetable oil, as described in Section 48(1) of the Regulation.

2. Conditions of Registration and Maintenance of Registration

- 2.1. Applicants must send the Registration Application Form (available on SOGHU's website at www.soghu.com in the Processors section), together with the documents required on the form and all other documents or information that SOGHU might reasonably request.

Initials: _____

page 4

- 2.2. All registrations end on December 31 of each year. They must therefore be renewed by January 1, as per the conditions specified on the Processor Registration Renewal Form (available on SOGHU's website at www.soghu.com in the Processors section), and all other documents or information that SOGHU might reasonably request. The said Registration Renewals automatically renew the previously signed Processors Agreement.
- 2.3. The Processor and its respective activities and facilities must be in compliance at all times with the applicable laws and regulations, in particular with regard to management of the products and their traceability, risk management and the safety of their operations, as well as training and information for the employees and executives responsible for or the people assigned to such activities.
- 2.4. The Processor must promptly send SOGHU a copy of any notice of infraction, investigation, complaint or other request from a government or other authority relating to any order, statement of offence, pecuniary administrative penalty or notice of non-compliance with any regulation or legislation, especially any environmental legislation or regulation governing its SOGHU-related activities.
- 2.5. The Processor agrees not to use the SOGHU logo or any other designation prescribed as such by SOGHU in any form of communication without written authorization by SOGHU describing the terms and conditions of such use. However, the Processor may mention that it is registered with SOGHU. If authorized to use SOGHU's name, the Processor undertakes to specify that it is doing so as a partner and not as an associate.

3. Obligations of the Processor

3.1.a) Used Oils

- i) The Processor agrees that it is responsible for checking the volume and quality of the used oils received from the Collector.
- ii) The Processor has to take samples and submit all loads of used oils for analysis to measure the bottom sediments and water, then it has to submit the results to SOGHU with the signed receiving document.

The Processor agrees that all samples must be representative of the total load received, using one of the methods approved by the Ministère du Développement durable, de l'Environnement et des Parcs ("MDDEP"), and that all of the analyses performed must comply with Schedule 6 of the Regulation respecting hazardous materials for Quebec or its equivalent outside Quebec.

However, if the Processor accepts the Collector's analyses, SOGHU will also accept them and the Processor will then be relieved of its responsibility to do the analyses described above.

Initials: _____

page 5

Note: it is wrong to take samples and analyze the receiving tank after delivery; the quantity of open water must be subtracted from the volume received before samples are taken to measure the bottom sediment and water content.

If the reclamation activity is not the end use or does not result in the creation of a new product, the person or business that will use the product and the purpose of that use must be known. The Processor will be responsible for proving such transactions on a quarterly basis by producing confirmation of delivery to such person or business.

- iii) The Processor must provide SOGHU with an Annual Statement showing the total volume reclaimed, including the quantities received from Collectors registered with and recognized by SOGHU, as well as the total quantities reported by SOGHU and the inventories at the beginning and end of the year, etc. (form available on SOGHU's website at www.soghu.com in the Processors section)

3.1.b) Used Antifreeze

- i) The Processor agrees that it is responsible for checking the volume and quality of the used antifreeze received from the Collector.

The Processor has to take samples and submit all loads of used antifreeze for analysis to measure the percentage of antifreeze and water, then it has to submit the results to SOGHU with the signed receiving document. The Processor agrees that all samples must be representative of the total load received.

- ii) The Processor agrees to hold harmless and indemnify SOGHU and its employees and agents against all liability and all claims and suits relating to the reclaimed products or their use.
- iii) The Processor must confirm the quality of the reclaimed antifreeze to SOGHU in accordance with one of the following methods:
 - a) Conductivity (below 1,000)
 - b) ASTM D7713
 - c) ASTM E1177
 - d) Other tests approved by SOGHU

Note: if the reclamation activity is not the end use or does not result in the creation of a new product, the person or

Initials: _____

page 6

business that will use the product and the purpose of that use must be known. The Processor will be responsible for proving such transactions on a quarterly basis by producing confirmation of delivery to such person or business.

- iv) The Processor must provide SOGHU with an Annual Statement showing the total volume reclaimed, including the quantities received from Collectors registered with and recognized by SOGHU, as well as the total quantities reported by SOGHU and the inventories at the beginning and end of the year, etc. (form available on SOGHU's website at www.soghu.com in the Processors section)

3.1.c) Used Filters

- i) The Processor agrees that it is responsible for checking the total weight of the container and/or the number of full or partly filled barrels or bins and for weighing all incoming loads and supplying a scale ticket to the Collector, not including the weight of the containers. **The Processor must also make sure the products have been recovered for SOGHU. If a load contains SOGHU Products and non-SOGHU products, there have to be separate weighings.**
- ii) The Processor must deduct the weight of the waste received and note the corrected weight on its bill of lading, giving a copy to the Collector.

Note: if the reclamation activity is not the end use or does not result in the creation of a new product, the person or business that will use the product and the purpose of that use must be known. The Processor will be responsible for proving such transactions on a quarterly basis by producing confirmation of delivery to such person or business.

- iii) The Processor must provide SOGHU with an Annual Statement showing the total volume reclaimed, including the quantities received from Collectors registered with and recognized by SOGHU, as well as the total quantities reported by SOGHU and the inventories at the beginning and end of the year, etc. (form available on SOGHU's website at www.soghu.com in the Processors section).

3.1.d) Used Oil and Antifreeze Containers (including used aerosol lubricant and brake cleaner containers)

- i) The Processor agrees that it is responsible for checking the total weight of the containers recovered and the degree of contamination. **The Processor must also make sure the products have been recovered for SOGHU. If a load**

Initials: _____

page 7

contains SOGHU Products and non-SOGHU products, there have to be separate weighings.

- ii) The Processor must weigh all incoming loads and supply a scale ticket to the Collector. The Processor must deduct the weight of the waste received and note the corrected weight on its bill of lading, giving a copy to the Collector.
- iii) The Processor is required to assist SOGHU's field auditor in characterizing plastic containers and aerosols.

Note: if the reclamation activity is not the end use or does not result in the creation of a new product, the person or business that will use the product and the purpose of that use must be known. The Processor will be responsible for proving such transactions on a quarterly basis by producing confirmation of delivery to such person or business. Bulking, shredding and bundling are not considered reclamation activities.

- iv) The Processor must provide SOGHU with an Annual Statement showing the TOTAL volume reclaimed, including the quantities received from Collectors registered with and recognized by SOGHU, as well as the total quantities reported by SOGHU and the inventories at the beginning and end of the year, etc. (form available on SOGHU's website at www.soghu.com in the Processors section)

4. General Payment Information

- 4.1 The Processor acknowledges and agrees that it is responsible for keeping proper documentation for the purposes of preparing invoices to be sent to SOGHU and for the purposes of obtaining the Reclamation Incentive.
- 4.2 The Processor agrees to send SOGHU any invoice for payment of the Return Incentives for used plastic containers with the "Used Plastic CONTAINER Processor Return Incentives Claim Form" (available on SOGHU's website at www.soghu.com in the Processors section), and all of the information or documents indicated therein.
- 4.3 The Processor agrees to submit monthly statements with each claim describing:
 - (a) the quantity of used plastic oil and antifreeze containers received from SOGHU registered Collectors and recovered for the SOGHU program (separate weighings);
 - (b) the current inventories of used plastic oil and antifreeze containers (quarterly);

Initials: _____

page 8

- (c) the amount of sales and payments of plastic containers reduced into plastic pellets or products for transformation into finished goods or the equivalent (quarterly);
 - (d) in the case of reuse, production reports, purchase reports of covers and the inventory of containers and covers, the amount of sales, and any other documents SOGHU deems necessary.
- 4.4 SOGHU undertakes to pay the Return Incentives within thirty (30) days of receipt of the “Used Plastic CONTAINER Processor Return Incentives Claim Form” (available on SOGHU’s website at www.soghu.com in the Processors section), duly completed with all the required vouchers attached.

5. Obligations of SOGHU

- 5.1. SOGHU undertakes to disburse to the Processor the Reclamation Incentives corresponding to the quantities of used plastic oil containers that have been reused, reduced to pellets or products for transformation into finished goods or the equivalent, based on the amount set out in Schedule I hereof.
- 5.2. Except as stipulated herein, SOGHU undertakes not to disclose any confidential document or information received from the Processor, in compliance with the *Act respecting access to documents held by public bodies and the protection of personal information* (R.S.Q. c. A-2.1). However, SOGHU may transmit any document or information to RECYC-QUÉBEC – including the information included in its annual report and its business plan – or to the Minister or to any authorized person at the Ministère du Développement durable, de l’Environnement et des Parcs, or when such transmission is required by law or by any judicial or quasi-judicial authority. RECYC-QUÉBEC has committed itself to SOGHU for the same obligations under the terms of the Certification Agreement.
- 5.3. SOGHU will send the Processor ninety (90) days’ written notice of any amendment to Schedule I about the Reclamation Incentives, unless such amendments clearly benefit the Processors.

6. Term of the Agreement

- 6.1. This Agreement has a term of one (1) year as of the date it is signed by SOGHU, or until the Processor registration renewal date on or before January 1 after the Agreement is signed.
- 6.2. In the event that the Processor gives SOGHU written notice of its intention to terminate this Agreement, it shall be deemed cancelled within sixty (60) days of the date of receipt of the notice. Upon receipt of the notice, SOGHU may request an audit of the Processor’s books and records.
- 6.3. The Processor hereby acknowledges and agrees that SOGHU may suspend or revoke the Processor’s registration if the Processor contravenes the law or the applicable regulations or the instruments set out below in subsection 7.3 and in this Agreement, or upon any false, misleading or inaccurate representation made, in particular in the application for registration or in a claim form for the

Initials: _____

page 9

purposes of payment of the Reclamation Incentives by SOGHU. The Processor also acknowledges and agrees that SOGHU may suspend or revoke the Processor's registration certificate if (a) the Processor retires from business, (b) the Processor requests revocation of its registration certificate with SOGHU, (c) the Processor becomes bankrupt or insolvent, or (d) there are significant or repeated breaches of the Processor's obligations under the terms hereof or those outlined in the Collectors and Processors Manual.

- 6.4. The Processor agrees to surrender its registration certificate promptly to SOGHU if the Processor's registration is revoked or suspended. The Processor agrees not to participate in SOGHU's programs or carry on a business under the banner of such programs if it is not registered or if its registration is suspended or revoked.

7. General Conditions

- 7.1. The Processor hereby confirms that all information transmitted to SOGHU is true and accurate, and undertakes to supply SOGHU with any change thereto promptly or upon renewal of its Agreement. The Processor also undertakes that any document or information to be transmitted to SOGHU in the future will be in conformity and accurate.
- 7.2. The Processor agrees to indemnify and hold harmless SOGHU, its officers, employees and its agents or mandataries against all liability of any nature whatsoever relating to its operations, costs, expenses, claims and suits, including judicial and extra-judicial fees, as well as reasonable attorney fees and other expenses, that may result from any false, misleading or inaccurate or untrue statement provided by the Processor.
- 7.3. The Processor acknowledges SOGHU's authority to adopt, amend or withdraw regulations, programs, policies and procedures, and agrees to be bound by this Agreement, by the Collectors and Processors Manual, and by SOGHU's bylaws, programs, policies and procedures and to honour the obligations contained therein.
- 7.4. Without restricting the obligations prescribed in Section 8 hereof, the Processor agrees to provide SOGHU with any particulars, certificate of insurance, document, receipt, registration or other information required for the purposes of its registration or a claim for Reclamation Incentives that SOGHU may reasonably request.
- 7.5. The Processor agrees that SOGHU will create and maintain a database of Processors registered with SOGHU, which may be consulted by RECYC-QUÉBEC, and the information it contains may be transmitted to the Minister and published in the *Gazette officielle du Québec*, in accordance with the Act.
- 7.6. In the event that a registration is granted and/or a payment is made by SOGHU and the information provided by the Processor is false, misleading or inaccurate, it is understood that such registration or payment was made without right or in error. Any such registration will therefore be null and void and any such payment must be promptly reimbursed to SOGHU upon discovery of the misstatement or error.

Initials: _____

page 10

7.7. SOGHU retains the right, in its sole discretion, to withhold any payment or registration application until it obtains verification or information it deems sufficient from the Processor.

8. Audit

8.1. The Processor acknowledges and agrees to keep for at least six (6) years complete, accurate and up-to-date books and records of all transactions and information required under the terms herein and the Regulation with regard to the reclaimed materials and the Reclamation Incentives.

8.2. The Processor acknowledges and agrees that, in order to meet the requirements of the Regulation and this Agreement in relation to the audit of information required by the Regulation, SOGHU and RECYC-QUÉBEC, their auditors, inspectors or other duly authorized representatives shall have full access during normal business hours to the place of business and the books and records of the Processor or to the place where the Processor's books and records are kept and to any other document or information required in order to complete the audits required by the Regulation and the Certification Agreement, and have the right to take a copy of those documents at the Processor's expense throughout the term of this Agreement and for a period of six (6) years following the termination or cancellation of this Agreement or any renewal thereof, as the case may be. Accordingly, the Processor agrees to keep all its books and records and all other documents required for the purposes hereof in the same province in which it registered with SOGHU.

8.3. Such audits are to be conducted at SOGHU's expense, unless considerable errors (over 10%) of any amount paid by and/or any data supplied by the Processor are discovered following the audit, in which case the Processor must immediately disburse the following amounts to SOGHU, together with all applicable taxes:

- a) the amount of the incentives overpaid;
- b) the audit expenses; and
- c) administrative expenses over and above the audit expenses, as the case may be, equal to 20% of the overpaid incentive amounts.

9. Environmental Audit

9.1 The Processor acknowledges and agrees that it has the responsibility to attach to its application for registration as Processor a letter of environmental compliance attesting that it had its operations and its management of the products – in particular all the points of subsection 9.3 – audited by an independent third party certified for such purpose by a body accredited by the Standards Council of Canada or any other independent body recognized for the purposes of the Regulation.

9.2 The Processor acknowledges and agrees that it must provide for an environmental audit every three years at a time to be agreed with SOGHU, in order to submit a new letter of compliance to SOGHU.

Initials: _____

page 11

- 9.3 The Processor agrees to keep for at least six (6) years complete, accurate and up-to-date books and records of all operations and information required under the terms of this Agreement and of the Regulation respecting:
- a) environmental performance and, as the case may be, adjustments to be made to correct problems;
 - b) management of the risks and operational safety and safe treatment of products or residual materials or other items;
 - c) employee training and information;
- any measures allowing maintenance of the services for management of products and services during the term of this Agreement; the Collector will be able to repair any damage that may be caused to the environment, in terms of warranties or insurance; and
- e) any other item that can ensure compliance of its activities with the SOGHU program.
- 9.4 Such audits are to be conducted at the Processor's expense.
- 9.5 The Processor acknowledges and agrees that it is responsible for ensuring that every one of its subcontractors complies with the requirements of environmental audits, including all the requirements of this section 9, **and that a letter of environmental compliance attesting thereto be delivered to SOGHU.**

10. Final Provisions

- 10.1 The Parties herein and their respective successors, heirs and legatees, assigns, and other legal representatives and their beneficiaries, agree to be bound by the provisions hereof and those of the Collectors and Processors Manual, and to honour the obligations incumbent upon them.
- 10.2 The Processor may in no way assign, encumber, alienate or subcontract, in whole or in part, the rights and obligations resulting from this Agreement for a purpose not specifically stipulated in the Agreement, without the prior written consent of SOGHU. In the event of any assignment, the Processor will remain liable for the obligations incumbent upon it under the terms of this Agreement, jointly and severally with any assignee, even in the event of bankruptcy or insolvency of the assignee. All documents transmitted by the Processor to SOGHU will be submitted for information, review and audit purposes.
- 10.3 All of the rights described herein are cumulative and non-exclusive. The Processor cannot be released from its obligations under the terms of this Agreement by the fact that SOGHU remains silent or delays the exercise of a right or remedy granted to it under this 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 such rights or remedies has not expired.
- 10.4 The preamble, the Collectors and Processors Manual and any document appended to this Agreement and any form to be completed (available on

Initials: _____

page 12

SOGHU's website at www.soghu.com in the Processors section) form an integral part hereof.

- 10.5 Any contested claim arising from the application for this Agreement, any dispute with regard to its performance, including its cancellation or revocation, and any dispute arising from a problem of interpretation of this Agreement shall be submitted to arbitration, to the exclusion of the law courts.
- 10.6 The Parties hereto agree that the provisions of the *Code of Civil Procedure* (R.S.Q. c. C-25) currently in effect will govern any arbitration held hereunder. The parties agree that the said arbitration is to be held in the City of Montreal before one arbitrator who will be chosen jointly by the parties within 10 days of the claim, failing which the arbitrator is to be appointed by a judge, on the motion of one of the parties, pursuant to the provisions of the *Code of Civil Procedure*.
- 10.7 Any notice required under this 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 that the latter may make known in accordance with this section.
- 10.8 This Agreement may be amended in whole or in part, only on SOGHU's initiative. Subject to the Processor's right to terminate this Agreement, any amendment thus made will take effect only on the date stipulated in the written notice communicated to the Processors in accordance with this Agreement.
- 10.9 The Agreement and its interpretation, performance, application, validity and effects are 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.
- 10.10 Any provision of this Agreement not in compliance with the legislation shall be deemed to have no effect 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.

Initials: _____

page 13

11. Language

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

THE PROCESSOR:

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

(print company name)

Signature:

Signature:

(print signatory's name)

Jean Duchesneau

(signatory's title)

Directeur général

Date:

Date:

Initials: _____

page 14

APPENDIX I

Processor Incentives

\$0.30 per kilogram for the processing of used oil and antifreeze plastic containers in recognition of the fact that this activity is not yet profitable (cleaning for reuse, decontaminating, shredding and transforming into pellets for the creation of a finished product). The Processor must supply proof of delivery to the final Processor. Under no circumstance is shredding alone to be considered a Processing activity.)

Initials: _____

page 15