



Membership Agreement

Nova Scotia

Make every drop count

(Nova Scotia January 2020)

MEMBERSHIP AGREEMENT:

BETWEEN : **SOCIÉTÉ DE GESTION DES HUILES USAGÉES de l'Atlantique – Atlantic USED OIL MANAGEMENT ASSOCIATION**, a company constituted under Part I of the *Companies Act*, having its principal place of business at 277 Main Street, Second Floor, Fredericton, New Brunswick, represented by Jean Duchesneau, its General Manager, duly authorized to act herein;

(hereinafter called “UOMA NS”)

AND : _____ a legal person
duly

constituted under the _____ [or a partnership
or unconstituted 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 UOMA NS has been constituted and recognized by the Nova Scotia Environment to represent its Members that are subject to the new Regulation and for the purposes of implementing and managing an Oil & Glycol Product Stewardship Plan within the territory of the Province of Nova Scotia, in accordance with this new Regulation;

WHEREAS the Member is a Brand Owner in Nova Scotia (as defined herein); and

WHEREAS the Member wishes to join UOMA NS 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 Nova Scotia Environment Act (O.I.C. 2019 – 29) dated February 6, 2019 as amended or replaced and the regulations made thereunder;
- (ii) **Approval** means the Approval entered between Nova Scotia Environment and UOMA NS, recognizing UOMA NS as a body authorized to implement and manage a Product Stewardship Plan on behalf of its Members for the purposes of the applicable legislation and regulations;
- (iii) **Brand Owner:**
 - a person who is the owner or licensee of the intellectual property rights to oil, glycol, oil filters or product containers sold, offered for sale or otherwise distributed in or into the Province,
 - a manufacturer or distributor of oil, glycol, oil filters or product containers sold, offered for sale or otherwise distributed in or into the Province,
 - for oil, glycol, oil filters or product containers imported into the Province, the first person to sell or offer for sale the oil, glycol, oil filters or product containers in the Province;
- (iv) **Collection Facility** means an establishment or facility registered with UOMA NS to receive the used products described in the Regulation at no cost;
- (v) **Collector** means an enterprise registered with UOMA NS to pick up the products governed by the Regulation from Generators or Collection Facilities and deliver them to a Processor registered with UOMA NS;
- (vi) **Environmental Handling Charge** means the contribution paid to UOMA NS by its Members, as established by UOMA NS;
- (vii) **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;
- (viii) **Filter** “oil filter” means
 - a spin-on style or element style fluid filter that is used in hydraulic, transmission or internal combustion engine applications,
 - an oil filter, a diesel fuel filter, a storage tank fuel filter and a household furnace oil filter other than a gasoline filter;

Initials: _____

- (ix) **Generator** means the user of lubricating oils, filters, glycols (antifreezes), oil, glycol (antifreeze) and diesel exhaust fluid containers of 50 litres or less (including cleaners for automotive parts and lubricant aerosol containers) in the normal course of business or as a private consumer;
- (x) **Glycol** means ethylene or propylene glycol used or intended for use as a vehicle or commercial engine coolant, but does not include any of the following:
- plumbing antifreeze,
 - windshield washer antifreeze,
 - lock de-icer and antifreeze,
 - gasoline and diesel fuel antifreeze;
- (xi) **Mandatory Contributor** means an entity which, although not subject to the Regulation, is a Member of UOMA NS , both in its own name and on behalf of the enterprises that it represents which must be registered with UOMA NS , reports the quantities of products described in the Approval that are offered on the Nova Scotia market, and pays the System-related fees on behalf of the enterprises and municipalities that are subject to the Regulation;
- (xii) **Member:**
- a person who is the owner or licensee of the intellectual property rights to oil, glycol, oil filters or product containers sold, offered for sale or otherwise distributed in or into the Province,
 - a manufacturer or distributor of oil, glycol, oil filters or product containers sold, offered for sale or otherwise distributed in or into the Province,
 - for oil, glycol, oil filters or product containers imported into the Province, the first person to sell or offer for sale the oil, glycol, oil filter or product containers in the Province;
- (xiii) **Membership Agreement** means this Membership Agreement entered into between the Member and UOMA NS, including any Product Addendum or other addendum or schedule made in accordance with the terms and conditions of the Membership Agreement;
- (xiv) **Minister and Department** means, as the case may be, the Minister of Environment of the Department of Nova Scotia Environment, or any other success or Minister or Department;
- (xv) **Oil means :**
- petroleum or synthetic derived crankcase oil, engine oil and gear oil, and hydraulic fluid, transmission fluid and heat transfer fluid, or
 - fluid used for lubricating purposes in machinery or equipment;

- (xvi) **Processor** means a business registered with UOMA NS to reclaim products governed by the Regulation;
- (xvii) **Products** means all the products put on the market in Nova Scotia, acquired and made by the Members and mentioned in the Nova Scotia *Environment Act* ((O.I.C. 2019-29) – Oil, Oil Filters, Glycol and product containers) as well as by the Approval;
- (xviii) **Product Addendum** means a supplemental agreement whereby UOMA NS 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);
- (xix) **Product container** means a container with a capacity of 50 L or less manufactured for the purpose of holding glycol, oil or diesel exhaust fluid, and includes an aerosol container used to hold a cleaner for automotive parts;
- (xx) **Regulation** means the Regulation as cited as the *Solid Waste-Resource Management Regulations made under Section 102 – Environment Act (O.I.C. 2019-29)*;
- (xxi) **Supplier** means a person who, in the course of doing business, supplies the Products; and
- (xxii) **UOMA** means Atlantic Used Oil Management Association a body created to implement and manage the Nova Scotia Oil and Glycol Stewardship Plan in accordance with applicable legislation and regulations called in the Members' Manual UOMA NS.

2. Obligations of UOMA NS

- 2.1 UOMA NS undertakes to implement and manage an Oil & Glycol Product Stewardship 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 UOMA NS.
- 2.2 UOMA NS 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 UOMA NS.
- 2.3 UOMA NS 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, UOMA NS undertakes not to disclose any confidential document or information received from Members. UOMA NS may, however, transmit any document or information to the Minister or to people authorized by the

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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 UOMA NS the Member agrees to transmit to UOMA NS 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 Nova Scotia, as required by UOMA NS in the course of each of these periods.
- 3.2 In consideration of its membership in UOMA NS the Member agrees to remit the following amounts to UOMA NS:
- 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 UOMA NS;
 - 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 Nova Scotia, as determined by UOMA NS in Schedule 1 hereof and amended from time to time. UOMA NS 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 UOMA NS 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 UOMA NS on a calendar year quarterly basis within thirty (30) days of the end of the quarter, unless otherwise authorized by UOMA NS.
- 3.4 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).
- 3.5 In the event that a Member's total Environmental Handling Charge during the calendar year for which an Environmental Handling Charge is payable to UOMA NS is \$2,000.00 or less, and no arrears are due to UOMA NS, in subsequent years, the Member may pay the Environmental Handling Charge in a single payment to UOMA NS, provided the Member has given prior notice to UOMA NS of its intention to do so. Such prior notice must be received by UOMA NS 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.
- 3.6 If the Member did not honor its recovery and reclamation obligations as set out in the Regulation before joining UOMA NS, the Member agrees to remit to UOMA NS 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 (Solid Waste-Resource Management Regulations*

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– *Environment Act respecting recovery and recycling of used oils, oil or fluid containers and used filters*, under Section 102 – Environment Act (O.I.C. 2019-29)) filed February 6, 2019, and/or the date when the Member becomes a Member of UOMA NS 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 UOMA NS and the potential Member with respect to such Product(s).

3.7 Despite the foregoing conditions concerning the transmission of data on the quantities for each Product marketed by Members in the Province of Nova Scotia and the total capacity of Containers used for the Products and the data on the payment of the Environmental Handling Charge, UOMA NS 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 Nova Scotia, or when the Product is sold and shipped out of Nova Scotia for use outside of Nova Scotia, 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 UOMA NS when the Product is marketed or intended to be marketed in Nova Scotia, (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, UOMA NS 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 Nova Scotia, or any other Member who is a party to such sale of the Product (see the model agreement between Members at www.uoma-atlantic.com, Nova Scotia Member section, dropdown pdf); and
- b) when the Product which is the object of such sale in Nova Scotia 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.

3.8 UOMA NS manages its funds in such a way that a separate accounting is maintained for the revenues and expenses for each Product category. UOMA NS'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 UOMA NS's administration and program costs. However, the Member acknowledges that UOMA NS, while maintaining a separate accounting, may use the Environmental Handling Charges generated by one Product to fund the recovery and reclamation of another Product to the extent authorized by its Board of Directors, in the best interests of UOMA NS and of all of its Members and for protection of the environment.

3.9 UOMA NS 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 UOMA NS from its Members will be used to fund all costs, programs, creation of a Reserve Fund and activities set up by UOMA NS, in particular:

- a) information, awareness and education campaigns;
- b) subsidies payable to Collection Facilities and/or Collectors and/or Processors;
- c) subsidies payable for reclamation of the Products, research and development;
- d) UOMA NS's management fees and any other UOMA NS administration fees covered by this Membership Agreement and any financial contribution, tax or duty imposed by a government authority; and
- e) any other plan or program provided for by the Regulation.

5. Compliance review:

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 seven (7) 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 the compliance review of the information required by the Regulation, UOMA NS and/or the Nova Scotia Environment, 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 compliance review required by the By-Laws, and the Member also agrees that UOMA NS 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, compliance reviews are to be conducted at UOMA NS'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 UOMA NS's satisfaction following such compliance review, in which case the Member will

have to immediately pay the following amounts to UOMA NS, to which all applicable taxes will be added:

- a) the Environmental Handling Charges due;
- b) the compliance review expenses (if the error or omission is over 10%);
- c) administration charges over and above the compliance review 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 UOMA NS to the calendar year following the compliance review, 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 UOMA NS, in good standing, in compliance with the Regulation and the terms and conditions of the Agreement.
- 6.2 If the Member gives UOMA NS written notice of its intention to withdraw, the Member's withdrawal will take effect at the end of the last day of the 3rd full month after receipt of the notice. Upon receipt of the notice of withdrawal, UOMA NS, may request a compliance review of the Member's books and records.
- 6.3 The Member agrees that UOMA NS will send a list of the enterprises which have signed a Membership Agreement with UOMA NS, or which have withdrawn from UOMA NS, to the Nova Scotia Environment 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 UOMA NS, 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**

In order to harmonize UOMA Atlantic's program practices with the Province of New Brunswick, Prince Edward Island and Newfoundland & Labrador, we recommend that no retailer, brand owner or wholesaler shall charge a consumer, or make visible on a consumer's receipt of sale, a separate fee with respect to the costs associated with implementing or operating an oil and glycol stewardship program.

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 UOMA NS. 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 UOMA NS. 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 UOMA NS will be submitted for information, review and verification 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 UOMA NS 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 UOMA NS 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 Nova Scotia *Arbitration Act.*, R.S., c. 19, s. 1. 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 or electronic 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 Nova Scotia 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.

THE MEMBER:

(print company name)

Signature :

(print representative's name)

(print representative's title)

Date : _____

**SOCIÉTÉ DE GESTION DES HUILES USAGÉES
de l'Atlantique – Atlantic USED OIL
MANAGEMENT ASSOCIATION**

(UOMA NS):

Signature :

Jean Duchesneau
(print representative's name)

General Manager
(print representative's title)

Date : _____

Initials: _____

SCHEDULE 1

Schedule of Environmental Handling Charges

Amounts of Environmental Handling Charges

- a) \$0.04 per liter for lubricating oils
- b) \$0.12 per liter of capacity of oil containers of 50 liters or less
- c) \$0.25 per aerosol container
- d) \$0.50 per filter of less than 8 inches or 203 mm, and \$1.00 per filter of 8 inches or 203 mm or more
- e) \$0.50 per sump type automatic transmission filter, regardless of size
- f) \$0.10 per liter of mixed antifreeze
- g) \$0.18 per liter of concentrated antifreeze
- h) \$0.10 per liter of capacity of antifreeze containers of 50 liters or less
- i) \$0.20 per liter of capacity of non-Metal or non-HDPE oil containers and antifreeze (glycol) containers of 50 liters or less
- j) \$0.10 per liter of capacity of diesel exhaust fluid containers of 50 liters or less

Remittances of Environmental Handling Charges on the Electronic Form at www.uoma-atlantic.com

- 1) The Member must pay the Environmental Handling Charges to UOMA NS every quarter, using the electronic form at www.uoma-atlantic.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

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2) The Member must send to UOMA NS their Environmental Handling Charges as indicated on the electronic form, in the Member section of the website at www.uoma-atlantic.com.

- a) by cheque payable to UOMA NS
- b) by electronic transfer from the Member's account to Société de gestion des huiles usagées de l'Atlantique / Atlantic used oil management association (details available from UOMA NS)

NOTE: Please indicate for which province

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 30th 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.

**PRODUCT ADDENDUM (subsequent to the signing of the Membership Agreement on
“Waste Management Regulations – Environmental Protection Act”)**

Product Addendum made at _____ on _____, _____.

BETWEEN : **SOCIÉTÉ DE GESTION DES HUILES USAGÉES de l’Atlantique – Atlantic USED OIL MANAGEMENT ASSOCIATION**, a company constituted under Part I of the *Companies Act*, having its principal place of business at 277, Main Street, Second Floor, Fredericton, New Brunswick, represented by Jean Duchesneau, its General Manager, duly authorized to act herein;

(hereinafter called «UOMA NS»)

AND : _____ a legal person duly constituted under the _____ [or a partnership or unconstituted 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**”)

WHEREAS UOMA NS has been constituted and recognized by the Nova Scotia Environment to represent its members that are subject to the new Regulation and for the purposes of implementing and managing an Oil & Glycol Product Stewardship Plan within the territory of the Province of Nova Scotia, in accordance with this new Regulation;

WHEREAS the Member has already made a Membership Agreement with UOMA NS dated _____, (the “**Membership Agreement**”), which is still in effect;

WHEREAS UOMA NS 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 in Nova Scotia (as defined in the Membership Agreement); and wishes UOMA NS 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 UOMA NS, 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.

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

UOMA NS

Per:

Jean Duchesneau, General Manager

Date:

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

Signature: _____

Signature: _____

Name and title: _____

Name and title: _____

Date: _____

Date: _____

Initials: _____