1. INTERPRETATION

1.1 This By-law is made pursuant to section 18(1) of the Regulation.

1.2 Unless the context otherwise requires, the *Interpretation Act* (Alberta) and the *Environmental Protection and Enhancement Act* (Alberta), as amended, apply to this By-law.

1.3 Words importing persons include individuals, bodies, corporate, partnerships, trusts and unincorporated associations.

1.4 The headings used throughout this By-law are inserted for reference purposes only and are not to be considered or taken into account in construing the terms or provisions of any article of thisBy-law nor to be deemed in any way to qualify, modify or explain the effect of any such terms or provisions.

2. DEFINITIONS

2.1 In this By-Law:

2.1.1 "ABDA" means the Alberta Bottle Depot Association.

2.1.2 "Arbitration Hearing" means a hearing before an Arbitration Panel in accordance with the procedures set out in Part 12 of this By-law.

2.1.3 "Arbitration Panel" means a three-person panel meeting the criteria set out in Schedule "C" to this By-law and appointed by the Board to arbitrate Handling Commissions

2.1.4 "BCMB" means the Beverage Container Management Board. The BCMB is a management board within the meaning of the Environmental Protection and Enhancement Act (Alberta) whose mandate is to regulate and enhance a leading beverage container system that protects Alberta's environment;

2.1.5 "Board" means the Board of Directors of the BCMB;

2.1.6 "Board Hearing" means a hearing before the Board in accordance with the procedures set out in part 12 of this By-law;

2.1.7 "Board Meeting" means the meeting of the Board held in accordance with section 11.1;

2.1.8 "By-laws" means by-laws made by the Board in accordance with the Regulation;

2.1.9 Class D Depot" means a Depot that has been issued a Permit to operate a Class "D" Depot in Alberta.

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2.1.10 "Collection Service Provider" or "CSP" means a Manufacturer that collects empty refillable Registered Containers that contained a beverage manufactured by that Manufacturer or a person contracted by a Manufacturer to collect empty refillable Registered Containers that contained a beverage manufactured by that Manufacturer.

2.1.11 "Collection System Agent" or "CSA" means the collection system agent appointed by Manufacturers and approved by the BCMB in accordance with the Regulation andBy-laws.

2.1.12 "Container" means a bottle, can, plastic cup or paperboard carton or a package made of metal, plastic, paper, glass or other material, or a combination of them, that contains or has contained a beverage.

2.1.13 "Container Stream Cost Allocation" means the allocation of the Revenue Requirement to each of the Material Stream identified in the Handling Commission Review.

2.1.14 "Data Collection Agent" or "DCA" means the person appointed by the BCMB for the purpose of collecting and analyzing information about the beverage containersystem in Alberta and reporting on that information;

2.1.15 "DCA Annual Update Report" means the report or reports prepared by the Data Collection Agent for the purpose of determining whether an adjustment will be made to the Handling Commissions between Handling Commission Reviews

2.1.16 "DCA HCR Report" means the report or reports prepared by the Data Collection Agent for the purpose of a Handling Commission Review.

2.1.17 "Deposit Refund" means a refund provided by a Depot to a person returning an empty Registered Container to the Depot in accordance with the Regulation and includes a cash refund or any equivalent method of refund agreed to by the person receiving the refund.

2.1.18 "Depot" means a place operated as a business for the collection of empty Containers.

2.1.19 "Facilitated Negotiations" means the negotiations between the Interested Parties with the assistance of a Facilitator in accordance with these Rules in an effort to reach an agreement setting Handling Commissions.

2.1.20 "Facilitator" means a person meeting the criteria set out in Schedule "B" to this By-law and appointed by the Board to facilitate the negotiations between the Interested Parties during a Handling Commission Review;

2.1.21 "Facilitator's Report" means the Report described in rule 2.29;

2.1.22 "Handling Commission" means the amount payable for each container collected from

a Depot in accordance with section 13(b) of the Regulation;

2.1.23 Handling Commission Review" means a review of Handling Commission amounts directed by the Board pursuant to section 7.1 of this By-law.

2.1.24 "Interested Parties" means those parties directly affected by a Handling Commission Review and includes any or all of the Manufacturers and their respective associations and any or all of the Depots and their respective associations, the Collection System Agent, any Collection Service Provider and such other parties as may be specifically determined to be Interested Parties by the Board or an Arbitration Panel;

2.1.25 "Interim Handling Commission" means an interim handling commission pursuant to Part 6 of this By-law

2.1.26 "Manufacturer" means a person who manufactures a beverage and includes:

2.1.26.1 a person who carries on the business of filling containers with a beverage; and

2.1.26.2 a person who imports a beverage in a container into Alberta for the purpose of distribution or sale in Alberta;

2.1.27 "Material Stream" means each category of Container for which a specific handling commission is payable as identified in the By-law

2.1.28 "Proceedings" means any proceedings under this By-law and includes Facilitated Negotiations, the Board Meeting, the Board Hearing and the Arbitration Hearing;

2.1.29 "Regulation" means the *Beverage Container Recycling Regulation* AR 101/97, as amended

2.1.30 "Revenue Requirement" means the amount of money that all Depots as a group must collect through Handling Commissions in a given period of time in order to recover prudently incurred costs, expenses and taxes and to earn a fair return;

2.1.31 "Uniform Code of Accounts" or "UCA" means the series of forms identified as such and provided to each Depot by the Data Collection Agent for the purpose ofcollecting financial and operational data on an annual basis.

2.2 Unless otherwise indicated, terms that are defined in the Regulation have the same meaning when they are used in this By-law.

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3. HANDLING COMMISSIONS

3.1 The Handling Commission payable for containers returned to Depots for the purposes of section 13(b) of the Regulation, effective July 1, 2021 to December 31, 2021 shall be:

	Material Stream	Handling Commission Effective July 1, 2021 to December 31, 2021
(a)	Aluminum 0-1 litre – per container	3.120 ¢
(b)	Bag in Box Over 1 Litre – per container	40.103 ¢
(c)	Bi Metal 0 - 1 Litre – per container	7.955 ¢
(d)	Bi Metal Over 1 Litre – per container	16.867 ¢
(e)	Specialty Containers– per container	3,149.000 ¢
(f)	Drink Pouch 0 - 1 Litre – per container	6.923 ¢
(g)	Gable Top 0 -1 Litre – per container	6.564 ¢
(h)	Gable Top Over 1 Litre – per container	12.619 ¢
(i)	Glass 0 - 1 Litre – per container	7.449 ¢
(j)	Glass Over 1 Litre – per container	14.850 ¢
(k)	HDPE Plastics Natural Over 1 Litre – per container	14.663 ¢
(l)	Industry Standard Bottles Refillable – per container	6.276 ¢
(m)	Liquor and Wine Ceramics – per container	139.101 ¢
(n)	Molson Coors MGD Refillable 355 ml – per container	6.848 ¢
(o)	Moosehead Refillable – per container	8.260 ¢
(p)	Other Plastics 0-1 Litre – per container	4.971 ¢
(q)	Other Plastics over 1 Litre – per container	14.041 ¢
(r)	PET 0 - 1 Litre (Clear & Light Blue Tint) – per container	4.187 ¢
(s)	PET Over 1 Litre (Clear & Light Blue Tint) – per container	12.035 ¢
(t)	Plastic one-way Keg Over 1 Litre – per container	170.401 ¢

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(u)	Sleemans Refillable – per container	6.738 ¢
(v)	Steam Whistle Refillable - per container	7.812 ¢
(w)	Tetra Brik 0 - 1 Litre – per container	4.936 ¢
(x)	Tetra Brik Over 1 Litre – per container	15.120 ¢

4. PURPOSE OF HANDLING COMMISSIONS

4.1 Purposes for which Handling Commissions are to be calculated include:

4.1.1 to provide sufficient funds to enable Depots as a group to recover prudently-incurred costs, expenses and taxes and to earn a fair return;

4.1.2 to maintain a viable Depot industry;

4.1.3 to minimize the net cost of handling commissions on Manufacturers and end-use consumers and any cross-subsidization between different container streams;

4.1.4 to share the benefits from more efficient handling or processing technologies implemented through the co-operation of Manufacturers and Depots, or from significant additions of new registered containers or from significant increases in volumes of certain types of existing containers equitably between the Manufacturers and the Depots;

4.1.5 to support the accessibility of Albertans to Depots in rural areas;

4.1.6 to recognize that cost per container is higher for Depots that process lower container volumes than for depots that process higher container volumes; and

4.1.7 to maximize beverage container return rates.

4.2 The BCMB shall set a single Handling Commission for each Material Stream.

4.3 In addition to the Handling Commission set for each Material Stream, every Depot other than a Class D Depot shall be paid a Handling Commission of 1.5 cents for each of the first 1.5 million containers shipped to the CSA by that Depot in every calendar year commencing January 1, 2022, excepting refillable containers and regardless of whether there is a change in effective control of the Depot or a change of Permit Holder at the Depot location.

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5. CHANGES TO HANDLING COMMISSIONS

5.1 The BCMB may only set or change a Handling Commission in accordance with this By-law.

5.2 The BCMB may set an interim Handling Commission for a new container stream in accordance with this By-Law.

5.3 Other than interim Handling Commissions, Handling Commissions may only be set or changed by motion of the Board carried by a majority of 2/3 of the Directors following a procedure set out in this By-law, unless otherwise agreed by all potential Interested Parties.

5.4 The Board may refer the setting of Handling Commissions to an Arbitration Panel in accordance with this By-law.

6. INTERIM HANDLING COMMISSIONS

6.1 The following procedure applies to setting an Interim Handling Commission for a new container stream:

6.1.1 Following a request to the BCMB from a Manufacturer for a new container stream, the BCMB shall request that the Data Collection Agent collect relevant information from Manufacturers, Depots, the Collection System Agent and Collection Service Providers as applicable with respect to the new container stream. The Data Collection Agent shall obtain the necessary information in a confidential manner protecting the proprietary information of the Manufacturers and the Depots;

6.1.2 The BCMB shall request that the Data Collection Agent provide a report recommending an Interim Handling Commission;

6.1.3 Where the Data Collection Agent is of the opinion that it is appropriate for an Interim Handling Commission to be set without a Handling Commission Review the Data Collection Agent shall provide a report setting out the basis for that opinion and recommending an Interim Handling Commission;

6.1.4 Where the Data Collection Agent is of the opinion that a Handling Commission Review is required, the Data Collection Agent shall provide a report setting out the basis for that opinion;

6.1.5 Where the Data Collection Agent provides a report recommending an Interim Handling Commission to the BCMB, the BCMB shall provide a copy of that report to the Manufacturer who has requested the new container stream and to the Alberta Bottle Depot Association, the Collection System Agent and any affected Collection Service Providers, who may provide comments to the BCMB with respect to the report; and

6.1.6 An Interim Handling Commission may be set by the BCMB based on the report from the Data Collection Agent and any comments received with respect to the report.

6.2 The Interim Handling Commission shall apply to the new container stream effective immediately and shall remain in effect until the next Handling Commission Review unless the Board sets a new Interim Handling Commission.

6.3 If any party directly affected by the interim Handling Commission is not satisfied with the Interim Handling Commission, that party may apply to the Board to request that the Board review the Interim Handling Commission.

6.4 If no party applies to the Board for a review of the Interim Handling Commission, the Board shall be informed of the Interim Handling Commission at the next regularly scheduled Board Meeting.

7. HANDLING COMMISSION REVIEWS

7.1 The Board shall initiate a Handling Commission Review in any of the following circumstances:

7.1.1 Three years have passed since the last Handling Commission Review, unless all Interested Parties to that Handling Commission Review have unanimously agreed to postpone the next Handling Commission Review additional periods of time in accordance with Part 13 of this By-law;

7.1.2 Six years have passed since the last Handling Commission Review.

7.2 The Board may initiate a Handling Commission Review if there has been a systemic change to the beverage container system that in the opinion of the Board warrants a Handling Commission Review.

7.3 For the purposes of section 7.2, a change in the average cost per container that is more than +/- 5% from the average cost per container established in accordance with the last Handling Commission Review may be considered evidence of a systemic change to the beverage container system.

7.4 The Board shall not direct a Handling Commission Review more than once within a 12-month period.

7.5 The Board shall adjust Handling Commissions on an annual basis between Handling Commission Reviews in accordance with Part 13 of this By-law.

7.6 In conducting a Handling Commission Review, the Board must seek input from Manufacturers and Depots regarding Handling Commission amounts through fair process, negotiation and use of sound information having regard to the principles of natural justice. The procedures for gathering sound information for negotiations and submissions respecting Handling Commissions shall be determined by the Board.

7.7 The procedure to be followed during a Handling Commission Review is as set out in this By-law and in the Rules of Practice and Procedure attached as Schedule "A" to this By-law.

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8. SPECIFIC CONSIDERATIONS IN CALCULATING HANDLING COMMISSIONS

Timing

8.1 To the extent possible and practicable, Handling Commissions are to be adjusted to reflect the forecast costs and return volumes anticipated during the period the Handling Commissions are to be in effect.

Depot Building Size Cap

8.2 The maximum building size of any Depot to be taken into account for the purpose of calculating the Revenue Requirement shall be calculated by the Data Collection Agent based on the Depot Building Size Cap Policy

Deemed Lease Rate

8.3 For the purpose of determining the Revenue Requirement, all Depot buildings shall be deemed to have been leased at a rate to be determined through the Handling Commission Review.

Rate Structure

8.4 Handling Commissions shall be determined using a variable rate structure with no fixed rate component.

Return Margin Methodology

8.5 For the purpose of determining the Revenue Requirement, fair return shall be determined in accordance with the Return Margin Methodology Policy that has been approved by the Board.

Income Tax Calculation

8.6 For the purpose of determining the Revenue Requirement, income tax expense shall be calculated for each individual Depot separately rather than for all Depots collectively.

9. COMMENCEMENT OF HANDLING COMMISSION REVIEW

9.1 A Handling Commission Review is commenced by a resolution of the Board directing a Handling Commission Review.

9.2 After the Board resolution directing a Handling Commission Review, the Board shall:

9.2.1 Select a target date for the adoption and implementation of the new Handling Commissions (the "Target Date");

9.2.2 Select the last day of the 12-month period ("Cut-Off Date") to be used by the Data Collection Agent for the purposes of collecting information through the Uniform

Code of Accounts submitted on behalf of each Depot; and

9.2.3 Identify the existing report or reports to be used by the Data Collection Agent for the purposes of the Data Collection Agent Report, if any, or identify the reports to be obtained by the Data Collection Agent for the purposes of the Data Collection Agent Report.

9.3 After the resolution of the Board directing a Handling Commission Review, the Board shall request that the BCMB:

9.3.1 Provide notice of the Handling Commission Review to the Interested Parties as defined in section 2.1.23 and to any other parties who the BCMB considers may be affected by the outcome of the Handling Commission Review and who may wish to be designated as Interested Parties;

9.3.2 Recommend to the Board the additional parties, if any, to be designated as Interested Parties under section 2.1.23 for the purposes of the Handling Commission Review;

9.3.3 Direct the Data Collection Agent to prepare the Data Collection Agent Report for the purpose of assisting the Board in setting Handling Commissions and to obtain any reports identified under section 9.2.3 or that may be required by the Data Collection Agent in the preparation of the Data Collection Agent Report. The Data Collection Agent Report shall include:

9.3.3.1 the relevant data collected by the Data Collection Agent from the Uniform Code of Accounts, organized and analyzed as appropriate;

9.3.3.2 where the data collected by the Data Collection Agent from the Uniform Code of Accounts has been adjusted, an explanation as to how and why that data has been adjusted;

9.3.3.3 the Data Collection Agent's opinion as to the appropriate Revenue Requirements and Container Stream Cost Allocation for the 12-month period up to and including the Target Date;

9.3.3.4 the basis for the Data Collection Agent's opinion with respect to the Revenue Requirement and Container Stream Cost Allocation including any facts, assumptions or third-party reports or opinions relied upon and copies of any written reports relied upon;

9.3.3.5 confirmation that the Data Collection Agent has applied the relevant BCMB Handling Commission policies and where applicable, explanations as to the manner in which the BCMB Handling Commission policies have been applied;

9.3.4 Appoint a Facilitator; and

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9.3.5 Establish general time frames for the steps in the Handling Commission Review.

9.4 The Board shall designate any additional Interested Parties for the purposes of the Handling Commission Review.

10. FACILITATED NEGOTIATIONS

10.1 The Facilitator may direct that the Interested Parties enter into Facilitated Negotiations at any time after the Facilitator is appointed.

10.2 The Facilitated Negotiations are terminated:

10.2.1 when an agreement is reached by the Interested Parties on all issues; or

10.2.2 when the Facilitator concludes that continuing the negotiations is unlikely to result in an agreement or any further agreement and the Facilitator has prepared a list of outstanding issues in accordance with the Handling Commission Review Rules of Practice and Procedure attached as Schedule "A;"or

10.2.3 when the Board directs the termination of a Facilitator and the Board determines it is appropriate to terminate the Facilitated Negotiations rather than appointing a new Facilitator; or

10.2.4 when 6 months have passed from the date of the receipt by the Board of the Data Collection Agent's Report, unless otherwise directed by the Board.

11. BOARD MEETING TO CONSIDER AGREEMENTS OR PROCESS

Timing

11.1 A meeting of the Board shall be called for a date no less than 15 days and no more than 60 days from the date of the receipt of the Facilitator's Report.

Purpose

11.2 The purpose of the Board Meeting is for the Board to consider whether to approve any agreement that has been reached by the Interested Parties and if necessary, to consider and determine the process to be followed for the setting of Handling Commissions or the process for determining the outstanding issues between the Interested Parties

Information before the Board

11.3 The record for the purposes of the Board Meeting shall be the record created by the BCMB up to the termination of the Facilitated Negotiations and any other information contained in the Facilitator's Report.

11.4 All Interested Parties, the BCMB and the Data Collection Agent shall be invited to attend the Board

Meeting. The Interested Parties and the BCMB may be represented by counsel at the Board Meeting.

11.5 The Interested Parties shall have the opportunity to submit materials to the BCMB to be provided to the Board prior to the Board Meeting. Those materials are to be provided to the BCMB and circulated to the Board and the Interested Parties in accordance with deadlines set by the BCMB, but in any event no less than 7 days before the Board Meeting. The Interested Parties may make oral submissions before the Board. Unless otherwise directed by the Board, these oral submissions shall be no longer than one half hour each, and all oral submissions shall not exceed one day. The Board may ask questions of the Interested Parties, the Data Collection Agent andthe BCMB.

11.6 The Board may not consider an issue raised by an Interested Party in its materials or submissions that is not contained in the written submissions that were provided to the Facilitator in the course of the Facilitated Negotiations, unless the Board orders otherwise and unless the other Interested Parties and the Data Collection Agent have a reasonable opportunity to address the issue.

Where Agreement Reached on Handling Commissions

11.7 Where an agreement on Handling Commissions has been reached in the Facilitated Negotiations, the following resolution shall be put to the Board at the Board Meeting:

11.7.1 That the agreement was the result of fair negotiations and the Handling Commissions agreed to by the Interested Parties are fair and reasonable and consistent with the public interest, the mandate of the BCMB, and the applicable legislation and BCMB by-laws; and

11.7.2 That the Handling Commissions set forth in the memorandum of agreement arising from the Facilitated Negotiations are adopted as amendments to section 3.1 of this By-law, effective on the date specified in the memorandum of agreement (the "Handling Commission Resolution").

11.8 If the Handling Commission Resolution receives a 2/3 majority vote of the Board, the Handling Commissions set forth in the memorandum of agreement shall be effective as of the date set out in the Facilitator's Report.

11.9 If the Handling Commission Resolution does not receive a 2/3 majority vote of the Board, the Board shall then proceed to consider and determine the process to be followed for the setting of Handling Commissions.

Where Partial Agreement Reached on Handling Commissions

11.10 Where an agreement has been reached on any issue relevant to the setting of Handling Commissions, but there has been no agreement reached by the Interested Parties on all of the Handling Commissions, the following resolution shall be put to the Board at the Board Meeting:

11.10.1 That the agreement with respect to the issue was the result of fair negotiations and the agreement by the Interested Parties is fair and reasonable and consistent with

the Public Interest, the mandate of the BCMB, and the applicable legislation and BCMB by-laws; and

11.10.2 That the agreement is to be adopted as part of the findings of the Board or of the Arbitration Panel in any Board Hearing or Arbitration Hearing and the material in the Facilitator's Report in support of the agreement shall form part of the record before the Board or the Arbitration Panel. [The "Partial Agreement Resolution"].

11.11 If the Partial Agreement Resolution receives a 2/3 majority vote of the Board:

11.11.1 the agreement is to be adopted as part of the findings of the Board or of the Arbitration Panel in any Hearing by the Board or by the Arbitration Panel and the material in the Facilitator's Report in support of the agreement shall form part of the record before the Board or the Arbitration Panel; and

11.11.2 The Board shall then proceed to consider and determine the process to be followed for the determination of the outstanding issues between the Interested Parties.

11.12 If the Partial Agreement Resolution does not receive a 2/3 majority vote of the Board, the Board shall then proceed to consider and determine the process to be followed for the setting of Handling Commissions.

Where no Agreement has been reached in relation to Handling Commissions

11.13 Where no agreement was reached by the Interested Parties during the Facilitated Negotiations, the Board shall proceed to consider and determine the process to be followed for the setting of Handling Commissions.

Process to be followed for the Setting of Handling Commissions or Outstanding Issues between the Interested Parties

11.14 Where the Board is to consider and determine the process to be followed for the setting of Handling Commissions or for the determination of the outstanding issues between the Interested Parties, the Board shall decide whether the process is to involve a Board Hearing in the first instance or whether the process is to involve an Arbitration Hearing in the first instance.

11.15 The decision of the Board that the process is to involve a Board Hearing must be passed by a Resolution that receives a 3/4 majority vote of the Board, failing which the process to be followed is an Arbitration Hearing.

12. HEARING BEFORE ARBITRATION PANEL OR BOARD

12.1 If the Board determines that the process to be followed is an Arbitration Hearing, the Board shall appoint an Arbitration Panel

12.2 The Interested Parties for the purposes of the Arbitration Hearing or Board Hearing shall be the

same as the Interested Parties who participated in the Facilitated Negotiation, however, each Member of the BCMB representing the General Membership Sector as defined in the bylaws of the BCMB may apply to the Arbitration Panel or to the Board for a person or organization to be accepted as an Interested Party to the arbitration for the purposes of making submissions. Such person or persons or organization or organizations may be added as an Interested Party or Interested Parties in the discretion of the Arbitration Panel or the Board and upon such conditions as the Arbitration Panel or Board may provide.

12.3 The procedure set out in Schedule "A" shall be followed in any Arbitration Hearing and any Board Hearing and shall be interpreted as such, with reference to the Board being substituted for reference to the Arbitration Panel as required.

12.4 If the Board proceeds to a hearing before the Board, and if the Board cannot reach a 2/3 majority decision with respect to any of the matters referred to it for that purpose, the Board shall refer all the matters before the Board to an Arbitration Hearing.

12.5 An Arbitration Hearing pursuant to section 12.4 of this By-law shall proceed as a hearing de novo with respect to all matters that were before the Board, on the basis of the record established during the Facilitated Negotiations, and in accordance with the procedure set out in Schedule "A".

12.6 An award of an Arbitration Panel with respect to Handling Commissions shall be final and binding upon the Board and the Board shall pass a resolution approving the Handling Commissions determined by Arbitration.

13. ANNUAL ADJUSTMENT

13.1 Following the completion of a Handling Commission Review, the DCA shall provide the BCMB with the DCA Annual Update Report on an annual basis for each of the following two years, no later than November 15 of each year.

13.2 The BCMB shall distribute the DCA Annual Update Report to all Interested Parties who participated in the previous Handling Commission Review.

13.3 The Interested Parties may provide comments to the BCMB within a period of 7 days from the date of delivery of the DCA Annual Update Report with respect to any clerical or typographical errors or errors of calculation, which comments will be provided by the BCMB to the Data Collection Agent.

13.4 If, after making any changes for any calculation errors, the DCA Annual Update Report prepared by the Data Collection Agent determines the average Handling Commission which, when compared to the average Handling Commission currently in effect, differ in amount by more than +/- 0.3 of 1% , the Board shall approve the updated Handling Commissions effective as of May 1 of the year following the DCA Annual Update Report to remain in effect until new Handling Commissions are approved in accordance with this By-law.

13.5 The methodology to determine the difference between the average Handling Commission calculated using updated data and the average Handling Commission currently in effect will involve the following:

13.5.1 The Data Collection Agent shall collect data from Depots through the UCA as adjusted per the Handling Commission Rate Setting Policy;

13.5.2 The data will be introduced into the Revenue Requirement as identified in the DCA HCR Report with all other variables unchanged;

13.5.3 The Data Collection Agent will use the Time and Motion Report from the previous Handling Commission Review as the basis to allocate the Revenue Requirement to Material Streams;

13.5.4 The Data Collection Agent will calculate both the average Handling Commission for the DCA Annual Update Report and the average Handling Commission currently in effect by dividing the Revenue Requirement by the reported volume of containers for that period;

13.5.5 The difference of the average Handling Commission associated with the DCA Annual Update Report and the average Handling Commission currently in effect will determine if the average Handling Commission has changed more than +/-0.3 of 1%.

13.6 If, after following the methodology in section 13.5 and if after making any changes for any calculation errors, the DCA Annual Update Report prepared by the Data Collection Agent determines the average Handling Commission which, when compared to the average Handling Commission currently in effect, does not differ in amount by more than +/- 0.3 of 1% no adjustment shall be made to the existing Handling Commissions.

13.7 Within 30 days of receipt of the second DCA Annual Update Report following a Handling Commission Review, the Interested Parties provided with that report shall advise the BCMB whether they agree to extend the time for the next Handling Commission Review for a further two-year period.

13.8 In the event that the Interested Parties unanimously agree to a two-year extension period in accordance with section 13.7, the procedure set out in sections 13.1 to 13.7 shall apply to that two year extension period, and to any following two year extension periods unanimously agreedto by the Interested Parties in accordance with those sections, but the Interested Parties cannot agree to more than two such two year extension periods.

13.9 In each DCA Annual Update Report, the DCA shall determine the annual average cost per container and compare that amount to the annual average cost per container determined during the last Handling Commission Review. If the difference between the annual average cost per container in

the DCA Annual Update Report and the annual average cost per container determined during the last Handling Commission Review is +/- 5%, the Board shall be advised for the purpose of determining whether or not a Handling Commission Review is required.

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SCHEDULE "A"

HANDLING COMMISSION REVIEW RULES OF PRACTICE AND PROCEDURE

1. RULES OF GENERAL APPLICATION

1.1 Interested Parties may attend and participate in a Handling Commission Review and may be represented by counsel at the Handling Commission Review.

1.2 The Board, the Facilitator and the Arbitration Panel may make orders with respect to the procedure and practices that apply to the Handling Commission Review. Every Interested Party shall comply with all applicable procedural orders.

1.3 The Board, the Facilitator and the Arbitration Panel may dispense with, vary or supplement all or any part of these Rules including rules relating to time limits if it is satisfied that it is just and reasonable in all of the circumstances and is in accordance with the requirements of procedural fairness.

1.4 If an Interested Party fails to comply with a procedural order by the Board, the Facilitator or the Arbitration Panel, the Board, the Facilitator or the Arbitration Panel may take any measure it considers appropriate including any one or more of the following:

1.4.1 give directions to the non-complying Interested Party to rectify the failure;

1.4.2 dismiss evidence or other documents made or submitted by the non-complying Interested Party;

1.4.3 continue the Board Meeting or Board Hearing or Arbitration Hearing and make a determination on the evidence before it;

1.4.4 impose conditions on the non-complying Interested Party; and

1.4.5 direct that the non-complying Interested Party pay costs to an Interested Party or Interested Parties.

1.5 Proceedings other than the Board Hearing and the Arbitration Hearing shall be open only to the BCMB and its counsel, the Interested Parties and their counsel and the Data Collection Agent. Any other person will require the express consent of all the Interested Parties and the BCMB to be present.

1.6 The Arbitration Act applies to an Arbitration conducted in accordance with these rules, except if there is a conflict between these rules and the Arbitration Act, in which case these rules prevail.

1.7 Reference to "days" in these rules means business days and non-business days unless otherwise provided.

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Filing and Service of Documents

1.8 The Facilitator, the Interested Parties, the BCMB and the Data Collection Agent shall file all documents and any other material with the BCMB in acceptable electronic form.

1.9 The filing of any document or material with the person designated by the BCMB for that purpose shall constitute filing with the BCMB, the Board, the Facilitator or the Arbitration Panel for the purposes of these rules.

1.10 Interested Parties shall serve copies of documents and any other material filed by them with the BCMB on the other Interested Parties and the Data Collection Agent and may do so by hand delivery, mail, courier, electronic delivery or facsimile.

Record

1.11 The BCMB shall be responsible for organizing and maintaining the record and all exhibits in the Handling Commission Review process, including the filings and documents from the Data Collection Agent, the BCMB and Interested Parties prior to, during and after the Facilitated Negotiations, Board Meeting, Board Hearing or Arbitration Hearing.

1.12 The BCMB shall provide an index of the documents comprising the record and exhibits to all Interested Parties, the Data Collection Agent, the Facilitator, the Board and the Arbitration Panel and shall make available on request, a copy of all written statements and other filed documents and materials to the Interested Parties, the Data Collection Agent, the Facilitator, the Board and the Arbitration Panel as appropriate prior to, during and after the Facilitated Negotiations, Board Meeting, Board Hearing and Arbitration Hearing.

Motions

1.13 If a matter arises in a Handling Commission Review that requires a decision or ruling of the Board or the Arbitration Panel, an Interested Party may bring the matter before the Board or the Arbitration Panel by filing a motion.

1.14 Unless otherwise directed by the Board or the Arbitration Panel, a motion must be in writing, be signed by the authorized representative of the Interested Party, and contain a concise statement of the facts, the decision or ruling sought and the grounds for the motion.

1.15 An Interested Party filing a motion shall serve a copy of it on the other Interested Parties.

1.16 An Interested Party who wishes to respond to a motion shall file and serve a response on all Interested Parties, within the time limits directed by the Board or the Arbitration Panel.

2. FACILITATED NEGOTIATIONS

2.1 After the Facilitator is appointed and prior to receipt of the Data Collection Agent Report, the Facilitator may meet with the Interested Parties and may set timelines for and assist in the exchange of written material between the Interested Parties and the Data Collection Agent in

relation to any of the reports obtained by the Data Collection Agent as directed under section 9.2.3 of this By-law and filed by the Data Collection Agent prior to the filing of the Data Collection Agent Report.

2.2 Upon the filing of the Data Collection Agent Report the Facilitator shall hold a preliminary meeting with the Interested Parties and the Data Collection Agent to identify the issues related to the setting of Handling Commissions that are to be negotiated, to establish dates for the exchange of information, and to schedule meeting dates for the Facilitated Negotiations.

2.3 The BCMB and its counsel are entitled to attend any meeting between the Facilitator and the Interested Parties to observe and provide assistance where required.

2.4 Any dates scheduled by the Facilitator for the purposes of the Facilitated Negotiations are to fall within the general time frames established by the BCMB in accordance with section 9.3.5 of this By-law.

Role of the Facilitator

2.5 The Facilitator shall:

2.5.1 assist the Interested Parties in determining the issues to be negotiated;

2.5.2 oversee the Facilitated Negotiations, including the exchange of written material in accordance with these rules;

2.5.3 endeavor to foster an environment of cooperation and trust among the Interested Parties;

2.5.4 provide all Interested Parties with an opportunity to express their views on those issues that affect them;

2.5.5 assess the progress being made in the Facilitated Negotiations and whether further progress is likely to occur;

2.5.6 if an agreement is reached on all or some of the issues in dispute, prepare a memorandum of agreement on those issues which is acceptable to the Interested Parties; and

2.5.7 if no agreement is reached on some or all of the issues in dispute, prepare a list of the outstanding issues between the Interested Parties which is acceptable to the Interested Parties and which contains a description of each outstanding issue, the position of each of the Interested Parties with respect to each of the outstanding issues and an explanation for the basis for the position of each of the Interested Parties.

2.6 Where the Interested Parties have reached an agreement on an issue that differs from the recommendation contained in the Data Collection Agent Report, the memorandum of agreement

must include an explanation for the difference and any calculation associated with that agreement.

2.7 The Facilitator shall be and remain at all times impartial, neutral and independent from the parties and is not a compellable witness in any subsequent proceedings related to Handling Commissions.

2.8 The Board may direct the BCMB to terminate the appointment of a Facilitator during the course of the Facilitated Negotiations.

Role of the Data Collection Agent in the Facilitated Negotiations

2.9 All information collected by the Data Collection Agent for the purposes of a Handling Commission Review is to be subject to confidentiality guidelines established by the Board. All information shall be reported in aggregate form only and all raw data shall be treated as strictly confidential by the Data Collection Agent, and shall not be published, circulated or distributed by the Data Collection Agent unless the parties providing the information provide consent.

2.10 The Data Collection Agent may attend the Facilitated Negotiations to provide information and assistance to the Facilitator and Interested Parties as appropriate. The participation of the Data Collection Agent in the Facilitated Negotiations does not preclude the Data Collection Agent from appearing before the Board or the Arbitration Panel in the Proceedings or in any subsequent proceedings related to Handling Commissions.

2.11 The Data Collection Agent shall be and remain at all times impartial, neutral and independent from the Interested Parties.

Role of BCMB Management in the Facilitated Negotiations

2.12 The BCMB and its counsel are entitled to attend the Facilitated Negotiations.

2.13 The role of the BCMB is to make relevant information available to the Facilitator and theInterested Parties and to ensure that the Facilitated Negotiations are carried out in a fair mannerwith meaningful participation by the Interested Parties.

2.14 The BCMB shall be and remain at all times impartial, neutral and independent from the Interested Parties.

Written Statements and Other Material

2.15 As directed by the Facilitator, each of the Interested Parties shall file with the BCMB and providea written statement to the Facilitator respecting the position of that Interested Party on the issues that are the subject of the Facilitated Negotiations.

2.16 Written statements shall contain all documents, data, studies, expert reports or other written materials upon which the Interested Party intends to rely in the Facilitated Negotiations, at the Board Meeting and in any subsequent Board Hearing or Arbitration Hearing.

2.17 Each Interested Party may provide written statements in rebuttal to the written statements of another Interested Party.

2.18 With the consent of all of the Interested Parties and at the direction of the Facilitator, the Data Collection Agent may file with the BCMB and provide a written statement clarifying matters raised by the Interested Parties that were not addressed in the Data Collection Agent's Report.

2.19 With the consent of all of the Interested Parties and at the direction of the Facilitator, the BCMB may file documentation containing factual information relevant to the issues being negotiated in the Facilitated Negotiations, material regarding the jurisdiction of the BCMB and copies of BCMB policies, procedures and guidelines which have been approved by the Board.

2.20 Prior to the conclusion of the Facilitated Negotiations, the Facilitator may request that the Interested Parties provide a written statement containing their proposed Handling Commissions.

2.21 Prior to the conclusion of the Facilitated Negotiations, the Facilitator may request that the Interested Parties provide a list of outstanding issues upon which they have been unable to reach an agreement which contains a description of each outstanding issue, the position of each of the Interested Parties with respect to each of the outstanding issues and an explanation of the basis for the position of each of the Interested Parties.

Information Request

2.22 An Interested Party may request the Data Collection Agent provide information necessary to clarify the Data Collection Agent Report or to simplify the issues or to otherwise permit a full and satisfactory understanding of a matter in issue in the Handling Commission.

2.23 An Interested Party may request another Interested Party to provide information necessary to clarify any written statement filed by such other Interested Party or to simplify the issues or to otherwise permit a full and satisfactory understanding of a matter in issue in the Handling Commission Review.

2.24 A request for information in accordance with rule 2.23 or 2.23:

2.24.1 shall be in writing;

2.24.2 shall be filed with the BCMB and directed to the Data Collection Agent or to the Interested Party from whom a response is sought;

2.24.3 shall contain specific questions requesting clarification about the evidence, documents or other material in the possession of the Data Collection Agent or the Interested Party and which is relevant to the matters in issue in the Handling Commission Review; and

2.24.4 shall be filed and served no later than 14 days after the Data Collection Agent's report or written statement has been filed, unless a different timeline is established under rule 2.4 or is otherwise directed by the Facilitator.

Response to Information Request

2.25 The Data Collection Agent or an Interested Party who is served with an information request in accordance with rules 2.22 or 2.23 shall provide a response with respect to each question either;

2.25.1 providing a full and adequate response; or

2.25.2 objecting to the question and setting out the basis for the objection; or

2.25.3 where the Data Collection Agent or the Interested Party contends that the information necessary to provide a response is not available, setting out of the reasons for the unavailability of the information, and providing any alternative available information that the Data Collection Agent or Interested Party considers might be of assistance.

2.26 The response to an information request shall be filed and served no later than 21 days after the information request is filed, unless a different timeline is established under rule 2.4 of these Rules or is otherwise directed by the Facilitator.

Expert consultation

2.27 During the course of the Facilitated Negotiations, and with the consent of the Data Collection Agent and the Interested Parties, the Facilitator may arrange for the Data Collection Agent, experts retained by the Data Collection Agent and experts retained by the Interested Parties to consult on a without prejudice basis in an effort to reach agreement on matters of expert opinion.

2.28 Subject to any agreement reached between the Data Collection Agent, the Interested Parties and their counsel, all matters that form part of the consultations between the Data Collection Agent and the experts are entirely without prejudice to the position of all parties, and no evidence as to what took place during the consultations is admissible in any subsequent proceedings relating to the Handling Commission.

Facilitator's Report

2.29 Upon the termination of the Facilitated Negotiations, the Facilitator shall provide a report to the Board, which report shall contain the following information:

2.29.1 the Data Collection Agent Report;

2.29.2 any Information Requests and Responses to Information Requests;

2.29.3 any written statements and rebuttal statements of the Interested Parties;

2.29.4 any written statement from the Data Collection Agent in accordance with rule 2.18;

2.29.5 any material filed by BCMB Management in accordance with rule 2.19;

2.29.6 any other material that has been filed during the course of the Facilitated Negotiations as part of the record in accordance with rules 1.11 and 1.12;

2.29.7 any memoranda of agreement prepared by the Facilitator setting out the agreement reached on an issue by the Interested Parties;

2.29.8 where an agreement has been reached on an issue relevant to the setting of Handling Commissions, the material in support of the agreement that has been reached, including explanations and calculations as appropriate, but only such material, explanations or calculations as are agreed to and approved by the Interested Parties;

2.29.9 where an agreement has been reached on all of the Handling Commissions, the Handling Commissions that have been agreed to with respect to each of the material streams referenced in the By-law;

2.29.10 where an agreement has been reached on all of the Handling Commissions, materialin support of the Handling Commissions that have been agreed to, including explanations or calculations as appropriate, but only such material, explanations and calculations as are agreed to and approved by the Interested Parties;

2.29.11 Where an agreement has been reached on any issue or on all of the Handling Commissions, an explanation from each of the Interested Parties or from all of the Interested Parties jointly as to why, in their opinion, the agreement is in accordance with the Public Interest, the mandate of the BCMB and this By-law.

2.29.12 Where an agreement has been reached on any issue or on all of the Handling Commissions, a statement from each of the Interested Parties that they are satisfied with the fairness of the process by which the agreement was reached;

2.29.13 Where an agreement has been reached on any issue or on all of the Handling Commissions, a statement from the BCMB and a statement from the Facilitator stating either that they are satisfied with the fairness of the process by which the agreement was reached or that they or either of them did not have sufficient involvement in the process by which the agreement was reached to state that they are satisfied with the fairness of the process by which the agreement was reached; and

2.29.14 Where an agreement has not been reached on all of the Handling, a list of the outstanding issues between the Interested Parties prepared by the Facilitator in accordance with rule 2.5.7.

2.30 The Facilitator, the Interested Parties, counsel for the Interested Parties, the BCMB, counsel for the BCMB and the Data Collection Agent shall treat as confidential:

2.30.1 all documents and other information produced for, or arising in relation to the Facilitated Negotiations, other than the documents and information referred to in rule 2.29; and

2.30.2 all admissions, concessions, offers and related discussions in the course of the Facilitated Negotiations;

2.30.3 and no documents or other information or evidence with respect to the Facilitated Negotiations other than the documents and information referred to in rule 2.29 are admissible in any subsequent proceedings related to the setting of Handling Commissions.

2.31 All discussions between the Interested Parties, counsel for the Interested Parties, the BCMB Management, counsel for the BCMB, the Data Collection Agent and the Facilitator including any bargaining positions, admissions or concessions are entirely without prejudice to the position of any of those parties, and no evidence as to what took place during the Facilitated Negotiations is admissible in any subsequent proceedings relating to the Handling Commission Review.

3. HEARING PROCEDURE BEFORE THE ARBITRATION PANEL OR BOARD

Pre-Hearing Conference

3.1 The Arbitration Panel shall hold a pre-hearing conference in order to:

3.1.1 identify the issues in dispute in the Arbitration where the issues have not been identified by the Board;

3.1.2 determine whether any additional written material may be submitted other than the material contained in the report from the Facilitator, notwithstanding Rule 4.30;

3.1.3 establish any timelines that may be required;

3.1.4 set a hearing date; and

3.1.5 consider any other matter that will aid in the efficient and expeditious disposition of the Arbitration.

3.2 The Arbitration Panel may convene additional pre-hearing conferences as required from time to time.

Hearing Evidence

3.3 The evidence before the Arbitration Panel at the hearing shall consist of the materials contained in the report from the Facilitator, any additional material directed by the Arbitration Panel at a pre-hearing conference, the oral evidence of the Data Collection Agent, the oral evidence presented on behalf of the Interested Parties and the oral submissions of the Interested Parties.

3.4 Notwithstanding rule 3.3, the Arbitration Panel may allow the introduction of new evidence if the Arbitration Panel determines that the inclusion of that evidence will not prejudice any Interested Party and the new evidence is relevant and of assistance to the Arbitration Panel in reaching its decision.

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3.5 The Arbitration Panel may make any direction necessary to facilitate the expeditious and efficient hearing of the arbitration.

3.6 The oral evidence presented on behalf of the Interested Parties may include evidence from the expert whose expert opinion was contained in the written statements and rebuttal statements provided in the course of the Facilitated Negotiations, but unless otherwise allowed by the Arbitration Panel, such expert shall not provide additional opinion evidence not contained in those written statements and rebuttal statements.

3.7 The Arbitration Panel may, in its discretion, limit the time allowed for presentation of evidence.

Dispensing with Oral Hearing

3.8 The Arbitration Panel, with the agreement of the Interested Parties, may dispense with the holding of a hearing and may conduct the Arbitration on the basis of written material submitted by each Interested Party. In that case, reference to the "hearing date" in these Rules shall be thedate on which all documents are to be submitted by the Interested Parties.

Conduct of the Hearing

3.9 The Arbitration Panel may administer oaths, affirmations and declarations.

3.10 The Arbitration Panel is not bound by the rules of evidence or any other law applicable to judicial proceedings and has power to determine:

3.10.1 the admissibility, relevance and weight of any evidence; and

3.10.2 the manner in which evidence is to be admitted;

however, nothing is admissible before the Arbitration Panel that would be subject to privilege.

3.11 Any fact that is to be proved by the oral or written evidence of a witness shall be proved on oath or affirmation or by solemn declaration.

3.12 All oral evidence is to be taken in the presence of the Arbitration Panel and the Interested Parties or their counsel, unless an Interested Party or their counsel is absent by default or has waived his or her right to be present.

3.13 An Interested Party may require that any witness whose evidence is received other than orally be made available for cross-examination at an oral hearing.

3.14 The Arbitration Panel may ask that evidence be called by the BCMB in relation to matters specifically identified by the Arbitration Panel.

3.15 The Arbitration Panel may ask questions of any witnesses and of the BCMB and the Data Collection Agent if the Arbitration Panel considers the answers to those questions to be reasonably necessary

to disclose fully and fairly all matters relevant to the issues, provided that the Arbitration Panel does not prevent an Interested Party from presenting its case.

3.16 The Arbitration Panel may request that the Data Collection Agent address any matter for clarification, including matters that arise in the evidence or testimony of Interested Parties which relate to data or evidence brought forward by the Data Collection Agent, or any new matter that arises and which was not dealt with in the Data Collection Agent's Report.

3.17 Except in the course of examination or cross examination, there shall be no communication between any counsel and a witness under examination or cross-examination from the time that the witness has been sworn or affirmed until that witness has been excused except with leave of the Arbitration Panel or with the consent of all Interested Parties.

3.18 BCMB counsel may participate in the Arbitration and in particular, may:

3.19 present the evidence of the Data Collection Agent;

3.19.1 at the request of the Arbitration Panel, present evidence from the BCMB;

3.19.2 provide clarification, background information and assistance with jurisdictional issues; and

3.19.3 with leave of the Arbitration Panel, call additional witnesses where reasonably required for the full and fair disclosure of all matters relevant to the issues in the proceeding.

3.20 The Arbitration Panel shall give the Interested Parties the opportunity to submit argument, either orally or in writing or both.

3.20.1 The proceedings before the Arbitration Panel shall be voice recorded until the Arbitration Panel commences deliberations.

3.21 If any Interested Party wishes to obtain a recording or transcription of the proceedings before the Arbitration Panel, the Interested Party may, at its own cost, receive such recording or transcription through the BCMB.

Adjournment

3.22 In order to avoid prejudice to any party participating in the Arbitration, the Arbitration Panel may:

3.22.1 grant an adjournment; and

3.22.2 impose other terms as the Arbitration Panel deems appropriate.

Close of Hearing

3.23 The Arbitration Panel shall close the hearing when:

3.23.1 the Interested Parties advise they have no further evidence to give or submissions to make; or

3.23.2 the Arbitration Panel considers further hearings to be unnecessary or inappropriate.

3.24 The Arbitration Panel may reopen hearings if it considers it appropriate to do so.

Deliberations

3.25 All deliberations of the Arbitration Panel shall be in confidence and the matter and substance thereof shall remain confidential.

3.26 During its deliberations, the Arbitration Panel may request information or calculations from the Data Collection Agent. Where new facts or issues arise from these requests that may affect the Arbitration Panel's decision, the Arbitration Panel shall provide full disclosure to the Interested Parties and the BCMB regarding the new facts or issues and give the Interested Parties the opportunity to make representations with respect to the new facts or issues orally or in writing.

4. DECISION OF THE ARBITRATION PANEL OR BOARD

4.1 The Arbitration Panel shall make its award in writing and give reasons for the award. Where the decision is not unanimous, a decision and reasons may also be provided by the minority.

4.2 After preparing its reasons regarding the matters at issue before the Arbitration Panel, the Arbitration Panel shall provide the reasons to the Interested Parties, the BCMB and the Data Collection Agent for review, prior to delivering its final award to the Board.

4.3 Interested Parties, the BCMB and the Data Collection Agent may provide comments to the Arbitration Panel within a period of 14 days from the date of delivery of the reasons to them as to any clerical or typographical errors, errors of calculation, or similar or other errors made in anyof the Arbitration Panel's reasons.

4.4 The Arbitration Panel may correct typographical errors, errors of calculation and similar or other errors made in its reasons.

4.5 All awards of the Arbitration Panel shall be made by the Arbitration Panel and provided to the BCMB no later than 25 days after the last day of the hearing. The BCMB shall forward the award to the Interested Parties promptly after receipt.

4.6 Where the Arbitration Panel is setting Handling Commissions, the Award shall state a final and binding Handling Commission for all containers.

4.7 Awards of the Arbitration Panel setting Handling Commissions must utilize the form attached hereto as Schedule "D."

4.8 Where the Arbitration Panel is determining the outstanding issues between the InterestedParties, the Award shall provide a determination with respect to each of the outstanding issues. The Award

shall direct that the Data Collection Agent calculate Handling Commissions using these determinations together with any agreement reached by the Interested Parties and approved by the Board in accordance with section 11.11 of this By-law.

4.9 The Data Collection Agent shall provide its calculations and the resulting Handling Commissions prepared in accordance with rule 4.8 to the Arbitration Panel, the Interested Parties, and the BCMB for review.

4.10 The Interested Parties may provide comments to the Arbitration Panel regarding the calculations and resulting Handling Commissions prepared in accordance with rule 4.8 within a period of 14 days from the date of delivery of them to the Arbitration Panel and the Arbitration Panel may resolve any disputes between the Interested Parties by way of a supplemental Award after following a process established by the Arbitration Panel for that purpose.

5. COSTS

5.1 In this section of the By-law, "Costs" means the direct costs or expenses associated with the Handling Commission Review and includes:

5.1.1 remuneration to the Facilitator;

5.1.2 remuneration for members of the Arbitration Panel and the Board;

5.1.3 the expenses of the Facilitator;

5.1.4 the expenses of the Arbitration Panel and the Board;

5.1.5 the expenses related to the Facilitated Negotiations and Board Hearing and Arbitration Hearing including the cost of the venue for the Facilitated Negotiations and the Hearings; and

5.1.6 the cost of the Interested Parties in participating in the Handling CommissionReview, aside from any regulatory costs that have been taken into account by the Board or the Arbitration Panel for the purpose of determining Handling Commissions.

5.2 Unless otherwise directed by the Arbitration Panel, each Interested Party shall be responsible for its own costs of participating in the Handling Commission.

5.3 The Arbitration Panel may direct that an Interested Party pay Costs to another Interested Party or Interested Parties or to the BCMB if the Arbitration Panel considers such a direction to be fair and reasonable.

5.4 In determining whether Costs should be directed to be paid by an Interested Party, and the amount of those Costs, the Arbitration Panel may consider the conduct of the Interested Party in the Handling Commission Review, including the following conduct:

5.4.1 whether the Interested Party engaged in conduct that unnecessarily lengthened the

proceedings or that resulted in unnecessary costs to the other Interested Parties or the BCMB;

5.4.2 whether the Interested Party failed to comply with a direction of the Facilitator or the Arbitration Panel; or

5.4.3 whether the Interested Party failed to comply with these Rules.

5.5 Where the Arbitration Panel directs costs to be paid, it shall provide written reasons.

5.6 Where the Arbitration Panel directs costs to be paid, the direction may be appealed to the Board and may be overturned, varied or confirmed by a majority vote of 2/3 of the Board.

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SCHEDULE "B"

Facilitator Selection Criteria

The following criteria should be used to assess the suitability of individual candidates to act as Facilitator:

1. Candidates should preferably be residents of the Province of Alberta.

2. Candidates will be of the age of majority.

3. Individual candidates should demonstrate a familiarity with and commitment to the purposes and principles espoused in the Environmental Protection and Enhancement Act.

4. Individual candidates should display a high degree of personal integrity, be held in high regard in their professional community and should possess leadership abilities such that confidence would be placed in their decisions.

5. Individual candidates should demonstrate a record of commitment to purposes and projects which further the public interest.

6. Individual candidates should be familiar with fields of study and practice relevant to alternative dispute resolution or to the application of the rules of natural justice in administrative tribunal settings.

7. Candidates must possess an understanding of rate-setting methods used in another regulated industry.

8. Candidates must have the ability to dedicate sufficient time, on a priority basis, to the work required by the BCMB of the Facilitator.

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SCHEDULE "C"

Arbitration Panel Selection Criteria

The following criteria should be used to assess the suitability of individual candidates for membership on the Arbitration Panel:

1. Candidates should preferably be residents of the Province of Alberta.

2. Candidates will be of the age of majority.

3. Individual candidates should demonstrate a familiarity with and commitment to the purposes and principles espoused in the Environmental Protection and Enhancement Act.

4. Individual candidates should display a high degree of personal integrity, be held in high regard in their professional community and should possess leadership abilities such that confidence would be placed in their decisions.

5. Individual candidates should demonstrate a record of commitment to purposes and projects which further the public interest.

6. Individual candidates should be familiar with fields of study or practice relevant to alternative dispute resolution and to the application of the rules of natural justice in administrative tribunal settings.

7. At least one member of the Arbitration Panel must possess an understanding of rate setting methods used in another regulated industry.

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SCHEDULE "D"

Determination/ Decision for the Settling of Handling Commissions

1. The Arbitration Panel/ Board is authorized to set the handling commission rates payable by Manufacturers or a Collection System Agent to a Depot for the purposes of section 13(b) of the Beverage Container Recycling Regulation (Alberta).

2. **(If not applicable, delete this paragraph)** The issues to be determined by the Arbitration Panel/Board were limited to the following:

3. **(if not applicable, delete this paragraph)** The decision of the Arbitration Panel/Board on the issues stated in paragraph #2 is/are as follows:

4. In accordance with the Handling Commission Review Rules of Practice and Procedure, the Arbitration Panel sets the handling commission rates for the period commencing _____ for each Material Stream.

5. The reasons of the Panel/Board are attached.

Signed and submitted to the BCMB this_____day of_____, _____.

_____
Name:

_____
Name:

_____
Name:

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