

2025-2026 Handling Commissions Review Process

Evidence & Position Statement of
Evan Southern

Alberta Beer Container Corporation (“ABCC”)

January 28, 2026

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1. Executive Summary

- 1 ABCC supports handling commissions that are arrived at using reliable and sound information. Leading up to and since the last full Handling Commission Review Process (“HCRP”) in 2019/2020, a number of policies that guide the HCRP have been reviewed and revised. These include:
 - The Depot Building Deemed Lease Rate Policy: Board Approved on November 7, 2018
 - Depot Building Size Cap Policy: Board Approved on November 7, 2018
 - Depot Manager Cost Determination Policy: Board Approved on November 7, 2018
 - Off-Site Collections Policy: Board Approved on November 7, 2018
 - Return Margin Methodology Policy: Board Approved on April 26, 2023
 - Time and Motion Policy: Board Approved on April 26, 2023
- 2 With the application of these policies, and with the exception of the recommended return margin, ABCC is not challenging the calculation of the Target System Total Operating Costs.
- 3 ABCC’s position, based on the expert evidence ABCC is submitting in these proceedings, is that the return margin rate recommended by the Return Margin expert in Concentric’s report¹ is too high as a result of limitations in their analysis. ABCC’s position is that the Revenue Requirement (Target System) must be reduced to reflect the application of a 5.07% pre-tax margin, as opposed to the recommended 5.93% pre-tax margin recommended by Concentric.
- 4 This results in a revised revenue requirement of \$136,956,802 instead of \$140,449,088.

2. ABCC as the Collection System Agent

- 5 The Alberta Beer Container Corporation (“ABCC”) is an Alberta corporation established by the manufacturers of beverage containers sold in Alberta as their collection system agent to run and operate the Common Collection System. This is required by Section 8 of the *Beverage Container Recycling Regulation*, AR 101\97, (“BCRR”) (see Tab 1).
- 6 The Collection Service Provider Operating Agreement (“CSP Operating Agreement”) is the agreement that exists between the BCMB and ABCC. This agreement, among other matters, confirms, as required by s. 8 of the BCRR, that ABCC is a satisfactory collection system agent. The date of the current CSP Operating Agreement is December 1, 2022 and is for a term of three years (see Tab 2).

¹ See The Appropriate Return Margin for the Bottle Depots by Concentric Energy Advisors, Doc. 14.2025.06.02, The Record, BCMB

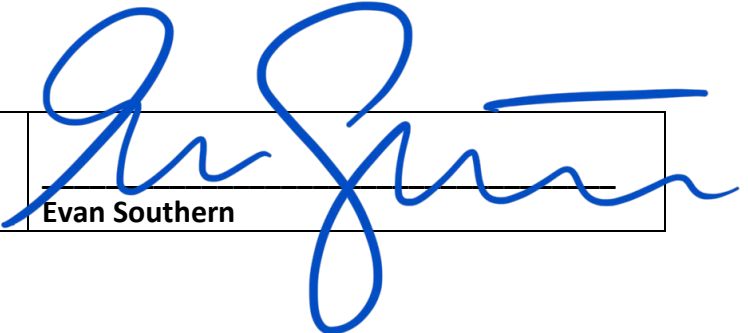
7 Pursuant to Section 4.5 of that agreement, ABCC is required to conduct its operations in a manner so as to fulfill its obligation to maintain and manage an amount of operating reserves sufficient to (a) adequately ensure adequate cash flow to fulfill its obligations to achieve operational and financial stability for the common collection system and (b) facilitate and stabilize the timing and frequency of changes to the container recycling fee to yield sufficient funds to support the ongoing operations of the common collection system and to minimize cross subsidization of recyclable materials, material streams and to ensure the fair, equitable and independent treatment of such material streams and to cover the collection system agents operating cash demands. Therefore, ABCC is required by both the CSA operating agreement and the BCRR to exist and to conduct its operations in a manner that provides for the financial stability and continuation of ABCC. These provisions and requirements are in place to ensure that ABCC does not default on its financial and operational obligations.

3. Return Margin

8 ABCC relies upon the expert evidence of Dr. Paul Calluzzo and Dr. Sean Cleary with respect to the appropriate return margin to apply to operating costs and deposits returned in these proceedings, being 5.07%.

4. Conclusion

9 ABCC's position is that the Revenue Requirement should be \$136,956,802.

	 Evan Southern
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TABS

- 1. Beverage Container Recycling Regulations**
- 2. CSA Operating Agreement**



Province of Alberta

ENVIRONMENTAL PROTECTION AND
ENHANCEMENT ACT

**BEVERAGE CONTAINER
RECYCLING REGULATION**

Alberta Regulation 101/1997

With amendments up to and including Alberta Regulation 99/2018

Office Consolidation

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*The year of first publication of the legal materials is to be completed.

Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

(Consolidated up to 99/2018)

ALBERTA REGULATION 101/97

Environmental Protection and Enhancement Act

BEVERAGE CONTAINER RECYCLING REGULATION

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Interpretation**1(1)** In this Regulation,

- (a) “Act” means the *Environmental Protection and Enhancement Act*;
- (b) “beverage” means any liquid that is a ready-to-serve drink and is not exempt from this Regulation;
- (c) “Board” means the Beverage Container Management Board;
- (d) “by-laws” means by-laws made under section 18;
- (e) “collection system agent” means the agent appointed under section 8;
- (f) “common collection system” means a container collection system that does not distinguish containers of similar size and material from each other based on the manufacturer of the container;
- (g) “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;
- (h) “depot” means a place operated as a business for the collection of empty containers;
- (i) “depot operator” means the owner or operator of a depot and includes a person acting or purporting to act on behalf of the owner or operator, but does not include a retailer;
- (j) “liquor” has the same meaning as in the *Gaming and Liquor Act*;
- (k) “manufacturer” means a person who manufactures a beverage and includes
 - (i) a person who carries on the business of filling containers with a beverage, and
 - (ii) a person who imports a beverage in a container into Alberta for the purpose of distribution or sale in Alberta;
- (l) “refillable container” means a container that is capable of being reused by a manufacturer without being remanufactured;

(m) “retailer” means a person who sells beverages in containers to consumers.

(2) For the purpose of this Regulation, the Alberta Gaming and Liquor Commission, or an agent acceptable to the Board, is deemed to be the manufacturer of liquor.

AR 101/97 s1;90/2001

Designation of containers

2 A container is designated as a designated material for the purposes of the Act and this Regulation.

Exemptions

3(1) Repealed AR 90/2001 s3.

(2) Repealed AR 177/2008 s2.

(3) Plastic and paper cups that are not sealed by a manufacturer are exempt from this Regulation.

AR 101/97 s3;90/2001;177/2008

Board established

4 The Beverage Container Management Board, being an incorporated body under the laws of Alberta, is hereby established as a management board within the meaning of section 175(jj) of the Act for the purpose of exercising the powers and carrying out the duties conferred or imposed on it pursuant to the Act, this Regulation and the by-laws in respect of regulated containers.

AR 101/97 s4;251/2001

Freedom of information and protection of privacy

4.1(1) The Board shall comply with the *Freedom of Information and Protection of Privacy Act* in the course of carrying out its powers, duties and functions under this Regulation.

(2) The Board shall designate a person to be responsible for freedom of information matters.

(3) If a request for access to information pursuant to the *Freedom of Information and Protection of Privacy Act* is made, the Board shall,

- (a) in the case of a request made directly to the Board, immediately direct the request to the Department’s Freedom of Information and Protection of Privacy Co-ordinator, and

- (b) in every case, comply with such directions regarding the request as may be provided by the Co-ordinator.
- (4) All records in the custody or under the control of the Board that are required in the carrying out of its powers, duties and functions under this Regulation are subject to
 - (a) the *Records Management Regulation* (AR 224/2001), or
 - (b) any regulation that replaces the *Records Management Regulation* (AR 224/2001).
- (5) All information and records created or maintained in the course of carrying out the powers, duties and functions under this Regulation become and remain the property of the Crown in right of Alberta.
- (6) The Board shall designate a person to be responsible for records management matters.

AR 68/99 s1;177/2008

Business plan and reports

- 5(1)** The Board shall
- (a) not less than 30 days before the start of each fiscal year provide to the Minister a business plan for the Board that indicates its goals for the coming fiscal year, and
 - (b) not more than 6 months after the end of each fiscal year provide to the Minister an annual report summarizing the activities of the Board and containing the audited financial statements of the Board for the fiscal year.
- (2)** The remuneration and benefits that are paid to
- (a) all members of the board of directors of the Board, and
 - (b) all management personnel who report directly to one or more of the members of the board of directors
- during the fiscal year must be reported in the financial statements or as a note or schedule to the financial statements.
- (3)** The remuneration and benefits must be reported
- (a) on an individual basis by name in the case of the persons referred to in subsection (2)(a), and
 - (b) on an aggregate basis in the case of the persons referred to in subsection (2)(b).

(4) The Minister is authorized to disclose personal information reported under this section, and this subsection constitutes an authorization for the purposes of section 40(1)(f) of the *Freedom of Information and Protection of Privacy Act*.

AR 101/97 s5;251/2001

Prohibitions re sale, distribution

6(1) No person shall sell or distribute or offer to sell or distribute or permit to be sold or distributed in Alberta any beverage in a container

- (a) that when empty cannot reasonably be identified as having contained the beverage manufactured by the manufacturer of that beverage, or
- (b) on which is written, stamped or in any way inscribed or to which is attached any label, cap or any other thing indicating
 - (i) that the container is not returnable, or
 - (ii) that no refund is payable with respect to the container.

(2) No manufacturer shall sell or distribute or offer to sell or distribute or permit to be sold or distributed in Alberta any beverage in a container unless the manufacturer has received written notice from the Board that the container is registered.

(3) No retailer shall sell or offer to sell any beverage in a container unless the container is registered.

Registration of containers

7 A manufacturer shall register a container with the Board in accordance with the by-laws.

Recovery of non-refillable containers

8(1) Manufacturers of beverages in non-refillable containers for sale or distribution in Alberta shall use and maintain a common collection system for the recovery and recycling of empty non-refillable registered containers from depots.

(2) The manufacturers shall appoint a collection system agent satisfactory to the Board to act on behalf of the manufacturers with respect to the operation of the common collection system.

(3) No manufacturer shall sell or distribute, offer to sell or distribute or permit to be sold or distributed in Alberta any

beverage in a non-refillable container unless the manufacturer uses the common collection system.

Recovery of refillable containers

9 A manufacturer of a beverage in a refillable container for sale or distribution in Alberta shall

- (a) provide a collection service capable of recovering the manufacturer's empty refillable registered containers from all depots and retailers accepting such containers, or
- (b) use the common collection system referred to in section 8 for the recovery of those containers.

Refunds by depot operators and retailers

10(1) When a person presents to a depot operator an empty registered container that is reasonably identifiable as having contained a beverage, the depot operator shall

- (a) accept the container, and
- (b) pay to the person a cash refund of not less than
 - (i) 10¢ for each container with a capacity of one litre or less, and
 - (ii) 25¢ for each container with a capacity greater than one litre.

(2) When a person presents to a retailer at the retailer's premises an empty refillable registered container that

- (a) is the same size or type of container as containers that are sold by the retailer,
- (b) is not exempt from this Regulation, and
- (c) is reasonably identifiable as having contained a beverage of the same brand as sold by the retailer,

the retailer may accept the container and, on accepting the container, shall pay to the person a cash refund of not less than the amount set out in subsection (1)(b) for the container.

(3) Notwithstanding subsections (1) and (2), the refund on a container is an amount equal to the manufacturer's deposit on the container if that deposit is greater than the applicable amount set out in subsection (1)(b).

(4) A retailer is exempt from paying a refund under this section for a container where

- (a) the beverage in the container is sold by the retailer for consumption on the retail premises, including any store, restaurant, cafeteria, hall or other place,
- (b) no deposit is charged by the retailer for the container, and
- (c) the beverage is consumed on the premises.

(5) A retailer is not required to accept under this section more than 24 refillable containers per person per day.

AR 101/97 s10;177/2008

No refund payable

11(1) No depot operator or retailer shall accept a container or provide a cash refund for a container that can reasonably be identified by the depot operator or retailer as having been transported into Alberta.

(2) No person shall return to a depot or retailer for a refund a container that the person knows or ought reasonably to know has been transported into Alberta.

(3) Subsections (1) and (2) do not apply to a container that has been transported into Alberta by a manufacturer for the purposes of selling a beverage in the container in Alberta.

(4) A retailer shall not accept or pay a cash refund for an empty non-refillable container.

Collection of containers

12(1) The collection system agent shall, in accordance with the by-laws, collect non-refillable registered containers from depots.

(2) A manufacturer shall, in accordance with the by-laws, collect or cause to be collected from a depot or retailer refillable registered containers that contained a beverage manufactured by that manufacturer.

Reimbursement of depot operators and retailers

13 A manufacturer or the collection system agent, as the case may be, on collecting containers from a depot or retailer pursuant to section 12, shall, in accordance with the by-laws,

- (a) reimburse the depot operator or retailer for each container collected from the depot operator or retailer in the

applicable amount set out in section 10(1)(b) for the container, and

- (b) pay a depot operator, in addition to the amount referred to in clause (a), a handling commission in an amount specified in the by-laws for containers collected from the depot operator and in respect of which refunds were paid by the depot operator.

Permit for depot

14(1) No person shall operate a depot unless that person holds a permit for that purpose issued by the Board in accordance with the by-laws and the permit is not under suspension.

(2) A permit holder shall comply with the terms and conditions to which the permit is subject.

Advertising of deposit

15 A retailer shall, in a manner that is acceptable to the Board, clearly advertise, in an open and conspicuous place in the retail premises and separate from the price of the container with contents, the amount of the deposit for each type of container sold by the retailer.

Re-use and recycling

16(1) A manufacturer of a beverage in a refillable container shall

- (a) re-use the container as a refillable container if the manufacturer considers the container to be suitable for re-use as a container, or
- (b) cause the container to be recycled by a method approved by the Board, if the manufacturer considers the container is not suitable for re-use as a container.

(2) The collection system agent shall cause non-refillable containers to be recycled by a method approved by the Board.

Information to Board

17(1) A depot operator, the collection system agent and a manufacturer shall, in accordance with the by-laws, provide or cause to provide to the Board information pertaining to the recovery of containers.

(2) Where the Board acquires information referred to in subsection (1) and the information relates to a trade secret, process or technique that the person providing the information keeps

confidential, the Board shall take all reasonable steps to ensure that the information is not used or released in a form or manner that is likely to undermine the confidentiality of the information.

(3) The collection system agent shall conduct the operations of the common collection system in a manner that protects the confidentiality of proprietary information of individual manufacturers.

By-laws

18(1) The Board shall make by-laws

- (a) prescribing the manner and frequency of container collections from depots and retailers by the collection system agent and manufacturers;
- (b) prescribing the manner and frequency of payments to depot operators and retailers by the collection system agent and manufacturers;
- (c) prescribing the handling commissions for the purposes of section 13(b);
- (d) establishing the criteria and procedures for changing the handling commissions referred to in section 13(b);
- (e) respecting the registration of containers, including, without limitation, the form and manner in which containers are registered and the fee, if any, that is payable on registration;
- (f) respecting all aspects related to permits for the operation of depots including, without limitation,
 - (i) the form and manner of application for a permit or a renewal of a permit,
 - (ii) the fee, if any, that is payable with an application,
 - (iii) the imposition of terms and conditions on a permit,
 - (iv) the transfer, amendment and renewal of permits, and
 - (v) the suspension and cancellation of permits;
- (g) respecting the operation and administration of depots;
- (h) respecting the keeping of records in respect of transactions in beverage containers.

(2) The Board may make by-laws

- (a) respecting the criteria for establishing the number of depots in all or any part of Alberta for the purpose of maintaining a viable container recovery system;
- (b) respecting any other matter related to the administration of the Act and this Regulation by the Board.

(3) The Board shall not make, amend or repeal a by-law under subsection (1) or (2)(a) except by a resolution passed by at least 2/3 of the members of the board of directors of the Board present and voting on the resolution.

AR 101/97 s18;177/2008

Offence

19 Any person who contravenes section 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 or 17(1) or section 8, 9(1) or (5), 10 or 11 of the *Beverage Container Management Board Administrative By-law* is guilty of an offence and liable,

- (a) in the case of an individual, to a fine of not more than \$50 000, or
- (b) in the case of a corporation, to a fine of not more than \$500 000.

Due diligence

20 No person shall be convicted of an offence referred to in section 19 if that person establishes on a balance of probabilities that he took all reasonable steps to prevent its commission.

Repeals

Repeal

21 The *Beverage Container Recycling Regulation* (AR 128/93) is repealed.

Expiry

Expiry

22 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be re-passed in its present or an amended form following a review, this Regulation expires on June 30, 2021.

AR 101/97 s22;169/2001;164/2006;199/2007;19/2008;177/2008;
106/2013;97/2015;104/2016;99/2018


Coming into Force

Coming into force

23 The Regulation comes into force on December 1, 1997.

AR 101/97 s23;166/97



Printed on Recycled Paper 

CSP OPERATING AGREEMENT

BEVERAGE CONTAINER MANAGEMENT BOARD

- and -

ALBERTA BEER CONTAINER CORPORATION

Effective Term: December 1, 2022, to November 30, 2025

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COLLECTION SERVICE PROVIDER OPERATING AGREEMENT

This Agreement made as of 1st day of December, 2022.

BETWEEN:

Beverage Container Management Board,
a society incorporated under the laws of Alberta
(the "BCMB")

- and -

Alberta Beer Container Corporation,
a corporation incorporated under the laws of Alberta
(the "ABCC")

The recitals of this Agreement are as follows:

- A. The BCMB regulates the beverage container system of Alberta pursuant to the Regulation;
- B. The Regulation provides that Manufacturers shall use a Collection Service Provider for recovery and recycling of empty refillable Containers from Depots and that Manufacturers shall appoint a Collection Service Provider;
- C. The Collection Service Provider (CSP) appointed to act on behalf of a Manufacturer must be satisfactory to the BCMB;
- D. The ABCC and the ABDA have entered into, and the BCMB has approved, a Service Agreement which outlines certain duties and obligations owed by the ABCC to Depots and owed by Depots to the ABCC in relation to the collection and payment of certain refillable containers;
- E. The By-laws require that an agreement be entered into between the BCMB and the ABCC with respect to the operation of the Collection Service;
- F. As required by the CSP By-law, the BCMB and the ABCC entered into an operating agreement dated as of September 30, 2019; and
- G. The BCMB and the ABCC wish to enter into this Agreement in accordance with the CSP By-law to evaluate the ABCC in relation to established performance standards.

ARTICLE 1 - INTERPRETATION

1.1 Definitions

Whenever used in this Agreement, the following words and terms shall mean:

- 1.1.1 "Act" means the *Environmental Protection and Enhancement Act* (Alberta).
- 1.1.2 "ABCC" means the Alberta Beer Container Corporation or its agents and subcontractor(s)
- 1.1.3 "ABDA" means the Alberta Bottle Depot Association.
- 1.1.4 "Agreement" means this Operating Agreement, including all schedules.
- 1.1.5 "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.
- 1.1.6 "By-laws" means by-laws made by the BCMB in accordance with the Regulation.
- 1.1.7 "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.
- 1.1.8 "Common Collection System" shall have the meaning ascribed to such term under BCMB's Collection Service Provider (CSP) By-law.
- 1.1.9 "Compliance Fee" means a charge levied by the BCMB to the ABCC for costs associated with monitoring deficiencies related to this Agreement not covered in other fees.
- 1.1.10 "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.
- 1.1.11 "Depot" means a place operated as a business for the collection of empty Containers.
- 1.1.12 "Manufacturer" means a person who manufactures a beverage and includes:
 - 1.1.12.1 a person who carries on the business of filling containers with a beverage;
 - 1.1.12.2 a person who imports a beverage in a container into Alberta for the purpose of distribution or sale in Alberta.
- 1.1.13 "Material Stream" means each category of container for which a specific handling commission is payable as identified in the By-laws.

- 1.1.14 "Permit Holder" means an individual or corporate entity named on a Permit.
- 1.1.15 "Processing Facilities" means the facilities used by the ABCC to conduct the business of collection and distribution of Containers.
- 1.1.16 "Regulation" means the Beverage Container Recycling Regulation, AR 101/97, as amended.
- 1.1.17 "Service Agreement" means an agreement entered into between the Alberta Bottle Depot Association and a Collection System Agent or Collection Service Provider, prescribing the manner and frequency of Container collections, the manner and frequency of payments and other matters related to the efficient operation of the beverage container system.

1.2 **References**

In this Agreement except where expressly otherwise provided or where the context otherwise requires:

- 1.2.1 words in the singular include the plural and vice versa and words importing any one of the masculine, feminine or neuter genders include the other genders;
- 1.2.2 a reference to a statute or regulation or a provision thereof means the statute or regulation or provision as amended or superseded from time to time;
- 1.2.3 unless otherwise provided a reference to dollars or amounts of money means lawful money of Canada; and
- 1.2.4 a reference to an article, section, subsection number or schedule shall, unless otherwise stated, be a reference to an article, section, subsection or schedule of this Agreement.

1.3 **Headings and Table of Contents**

This Agreement is provided with a table of contents and headings and is divided into sections and subsections for convenience of reference only and such shall not affect its construction or interpretation.

1.4 **Governing Law**

This Agreement shall be interpreted and governed by the laws in force in the Province of Alberta from time to time and any proceedings in respect of it shall be brought and carried on before the courts of the Province of Alberta and all parties attorn irrevocably to the exclusive jurisdiction of such courts.

1.5 **Meaning of Expressions**

"Herein", "hereof" or "hereunder" and similar expressions when used in a section shall be construed as referring to the whole Agreement and not that section only.

1.6 **Intent**

Recognizing that there is mutual benefit in having CSP performance standards, evaluating the ABCC against those performance standards and continually improving the efficiency and effectiveness of the

Common Collection System, and the level of service offered to Albertans through the beverage container system of Alberta as a whole, it is the intent of this Agreement to:

- 1.6.1 capture the individual roles and responsibilities of the BCMB and the ABCC with respect to the Common Collection System;
- 1.6.2 evaluate the ABCC against established performance standards; and
- 1.6.3 continuously review and improve performance standards for the ABCC.

1.7 Schedules

The following schedules are attached to and form part of this Agreement:

Schedule "A"	Fees
Schedule "B"	Reporting and Record Keeping
Schedule "C"	Evaluation against Performance Standards

ARTICLE 2 - NATURE OF RELATIONSHIP

2.1 Confirmation of the CSP

The BCMB hereby confirms that, as of the date of this Agreement, that Alberta Beer Container Corporation is satisfactory to the BCMB as the Collection Service Provider appointed by the Manufacturers.

2.2 No Partnership

Nothing in this Agreement or in the relationship of the ABCC and the BCMB shall be construed as in any sense creating a partnership among the parties or as giving to any party any of the rights or subjecting any party to any of the creditors of another party.

2.3 Confidentiality

Certain information within the System is critical to the competitive positions of Manufacturers and Permit Holders and must be kept confidential. Therefore:

- 2.3.1 where the BCMB acquires information referred to in section 17(1) of the Regulation and the information related to a trade secret, process or technique that the Permit Holder, the ABCC or Manufacturers otherwise keeps confidential, the BCMB shall take all reasonable steps to ensure that the information is not used or released in a form or manner that is likely to undermine the confidentiality of the information;
- 2.3.2 all financial information and information concerning Container volumes of individual Depots shall be kept confidential by the ABCC and the BCMB without the prior consent of the Permit Holder; and
- 2.3.3 The ABCC and the BCMB shall keep as confidential all trade secrets, processes or techniques that it learns as a result of its position within the Collection Service.

ARTICLE 3 - ROLE OF THE BCMB

3.1 Industry Governance

In conjunction with the powers and duties conferred or imposed upon it by the Regulation, the BCMB shall, without limiting the breadth of its activities and obligations outside of this Agreement:

- 3.1.1 establish By-laws in accordance with article 18 of the Regulation;
- 3.1.2 approve the Collection Service Provider appointed by Manufacturers if satisfactory to the BCMB;
- 3.1.3 maintain a registry of Containers;
- 3.1.4 monitor, inspect and evaluate the performance of the ABCC in accordance with the By-laws and this Agreement;
- 3.1.5 notify the ABCC of the issuance, cancellation or modification to permits issued to Permit Holders; and
- 3.1.6 work cooperatively and collaboratively with the ABCC to continuously review and improve performance standards for the ABCC.

ARTICLE 4 - ROLE OF THE ABCC

4.1 Regulatory Compliance

The ABCC shall:

- 4.1.1 appoint a Collection Service Provider;
- 4.1.2 submit a binding and valid agreement between the ABCC and the Manufacturers;
- 4.1.3 comply with the provisions of the Regulation, By-laws, this Agreement and the Service Agreement;
- 4.1.4 focus on continuously increasing return rates and recycling rates;
- 4.1.5 collect Containers from Depots in accordance with the Regulation, By-laws, Service Agreement and this Agreement;
- 4.1.6 on collecting Containers from a Depot, cause Containers to be reused or recycled in a manner approved by the BCMB;

- 4.1.7 in accordance with the Regulation and the By-laws, provide to the BCMB information pertaining to the sale and recovery of Containers subject to section 4.1.7;
- 4.1.8 remit Fees set out in Schedule “A”;
- 4.1.9 maintain records and comply with the reporting requirements set out in Schedule “B”;
- 4.1.10 operate the collection system in a manner that meets or exceeds the performance standards set out in Schedule “C”;
- 4.1.11 submit a Service Agreement, with the concurrence of the ABDA, in compliance with the By-laws and this Agreement;
- 4.1.12 maintain and manage an amount of operating reserve sufficient to ensure adequate cash flow to fulfill its obligations to achieve operational and financial stability for the Collection Service responsible for the recovery of Containers; and
- 4.1.13 amend the Service Agreement, with the concurrence of the ABDA, to incorporate new Material Streams registered with the BCMB or changes to existing Material Streams, or changes to the By-laws of the BCMB, as necessary.

4.2 Access to Processing Facilities

The ABCC shall:

- 4.2.1 allow the BCMB access to its processing facilities during normal operating hours; and
- 4.2.2 consider any request by the BCMB to post signage in its facilities, which signage may be posted at the ABCC’s discretion.

4.3 Payments

In compliance with its obligations under section 4.1 of this Agreement, the ABCC shall, reimburse and/or pay the Permit Holder such payments as may be necessary from time to time.

ARTICLE 5 - TERM

5.1 Terms and Termination

- 5.1.1 Except as otherwise provided in this Agreement, or as otherwise agreed by the ABCC and the BCMB in writing, the term of this Agreement shall commence on the effective date of this Agreement and shall continue until November 30, 2025.
- 5.1.2 If the BCMB rescinds the approval of the Collection Service Provider in accordance with the By-laws, this Agreement shall terminate on the effective date of such rescission.

5.2 **Industry Performance Standards and Evaluation**

5.2.1 During the term of this Agreement the BCMB shall evaluate the ABCC in accordance with the By-laws, the ABCC's contribution to the BCMB goals for the beverage container system of Alberta, the efficiency and effectiveness of the ABCC's operation of the Common Collection System and the ABCC's compliance with the Regulation, By-laws, Service Agreement and this Agreement. In particular, the ABCC shall be evaluated on the performance standards set out in Schedule "C" attached.

5.2.2 During the term of this Agreement, the ABCC and the BCMB may agree to improve performance standards and methods and criteria for evaluating the ABCC in relation to those performance standards.

5.3 **Agreement Renewal**

5.3.1 The ABCC and the BCMB shall negotiate in good faith an improved operating agreement to replace this Agreement 90 days prior to expiry.

ARTICLE 6 - DISPUTE RESOLUTION

6.1 **Procedure**

6.1.1 The ABCC and the BCMB shall use reasonable efforts to settle any and all disputes, differences, controversies, questions or claims arising out of or in any way related to this Agreement, or the negotiation, amendment, validity, interpretation, performance, existence, breach, violation or termination of this Agreement by following the steps outlined in this article 6:

6.1.1.1 The presidents of the ABCC and the BCMB shall work together to resolve all issues on a timely basis;

6.1.1.2 If the presidents are not able to agree upon a resolution within 30 days or such other time period as agreed upon by the presidents, the chair of each of the party's respective board of directors shall work to resolve the dispute; and

6.1.1.3 If the chairs are not able to agree upon a resolution within 30 days or such other time period as agreed upon by the chairs, and unless the parties otherwise agree to an alternative form of dispute resolution, the dispute will be determined by commencing the appropriate legal proceedings in the Court of King's Bench of Alberta.

ARTICLE 7 - GENERAL

7.1 Notices

All notices, amendments, consents, evaluations or other communications required or permitted by this Agreement shall be in writing and shall be sent by courier or other personal delivery or other electronic means and shall be directed to or addressed as follows:

If to the BCMB, to:

Beverage Container Management Board
#100, 8616 – 51st Avenue
Edmonton, Alberta T6E 6E6
Attention: President and Director, Operations

If to the ABCC, to:

Alberta Beer Container Corporation
c/o Brewers' Distributor Limited
12258 Coleraine Drive
Bolton, Ontario L7E 3A9
Attention: The President
Email: stewardship@bdl.ca

7.2 Entire Agreement

This Agreement constitutes the entire agreement between the ABCC and the BCMB relating to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether written or oral, of the parties, and there are no warranties, representations or other agreements among the parties in connection with the subject matter hereof except as specifically set forth herein.

7.3 Amendments

7.3.1 This Agreement may be altered or amended as follows:

7.3.1.1 By notice, either party may propose amendments to this Agreement.

7.3.1.2 Upon receipt of such notice, the ABCC and the BCMB shall negotiate in good faith toward an agreement regarding the proposed amendments, including any adjustments to other terms and conditions that arise directly or indirectly from the proposed amendments.

7.3.1.3 Upon agreement being reached by the parties, such amendment to this Agreement shall bind the parties to such amendment for the remainder of the existing term of this Agreement.

7.3.1.4 Any amendments to this Agreement formalized under this section 7.3 shall be incorporated into the renewal of this Agreement.

7.4 Remedies Not Exclusive

No remedy herein conferred upon any party is intended to be exclusive of any other remedy available to that party but each remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing by law or in equity or by statute.

7.5 Waiver

The waiver by any party of strict observance or performance of any term of this Agreement or of any breach of it on the part of any party shall not be held or deemed to be a waiver of any subsequent failure to observe or perform the same or any other term of this Agreement or of any breach thereof on the part of such party.

7.6 Severability

The determination that any provision of this Agreement is invalid or unenforceable shall not invalidate this Agreement, all of said provisions being inserted conditionally on their being considered legally valid, and this Agreement shall be construed and performed in all respects as if any invalid or unenforceable provisions are omitted provided the primary purpose of this Agreement is not thereby impeded.

7.7 Survival

Any sections of this Agreement, which expressly provide for, or by their nature require, survival after the expiration or termination of this Agreement, shall survive.

7.8 Enurement

This Agreement shall enure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.

7.9 Assignment

Except as expressly provided elsewhere in this Agreement, any rights or obligations of this Agreement are non-assignable by any party without the prior permission of the other party, such permission not to be unreasonably withheld.

7.10 **Time**

Time shall be of the essence in this Agreement.

ARTICLE 8 - EXECUTION

8.1 **Execution**

IN WITNESS WHEREOF the BCMB and the ABCC have executed this Agreement as of the day and year first above written.

Beverage Container Management Board

Per:  _____

Alberta Beer Container Corporation

Per:  _____

SCHEDULE "A"

FEES

1. BCMB Fee By-law

The ABCC shall, following the process outlined in the annual Stakeholder Notice from the BCMB, remit:

- 1.1 on behalf of each Manufacturer the sum identified in section 6.1 of the BCMB Fee By-law for each of its Containers sold in Alberta.

2. Compliance Fees

- 2.1 at the written request of the BCMB remit to the BCMB on behalf of a Depot permit holder any outstanding Compliance Fees imposed by the BCMB that remain unpaid; and
- 2.2 pay within 30 days of notice all Compliance Fees assessed against the ABCC and payable to the BCMB.

3. Additional Administrative Compliance Fees

The ABCC shall pay to the BCMB any fees as determined by the BCMB, acting reasonably, to address additional costs and expenses incurred by the BCMB that arise from the BCMB's efforts to monitor and evaluate the ABCC's compliance with the Regulation, the By-laws, the Service Agreement or this Agreement.

SCHEDULE "B"

RECORD KEEPING AND REPORTING

The ABCC shall keep or cause to be kept books, documents, records and accounts for the purpose of this Agreement, the Regulation and the By-laws. The BCMB may request any information it considers reasonably necessary for the administration of this Agreement and the Regulation from time to time.

The ABCC shall, in accordance with the frequency identified in the table below, provide the following reports and information to the BCMB for the purposes of this Agreement, the Regulation and the By-laws:

Ref #	Description	Monthly	Annually	Method Reported and Who Provided To
1.	ADMINISTRATION			
1.1.	Risk Management/Mitigation			
1.1.1.	Written self-disclosure of any breaches of confidentiality of information pertaining to depots;		Y	Annual CSP Self-Evaluation President, Director of Operations and Manager Analytics
1.1.2.	A written summary of the annual processes completed (review, mock exercise, etc.) to ensure the effectiveness and continuity of business in the event of an emergency or disaster; and		Y	Annual CSP Self-Evaluation President, Director of Operations and Manager Analytics
1.1.3.	A written summary of the annual mitigation strategy with regards to minimizing the risk of system fraud; and an evaluation of the effectiveness of the steps taken.		Y	Annual CSP Self-Evaluation

Ref #	Description	Monthly	Annually	Method Reported and Who Provided To
				President, Director of Operations and Manager Analytics
1.2.	Container Volumes and Sales			
1.2.1.	Aggregate number of Containers reported as sold by manufacturers and recovered from Depots and retailers in each Material Stream;	Y		Report sent monthly to Manager, Analytics
1.3.	Container Recovery			
1.3.1.	The ABCC shall provide the following information to the BCMB within 3 months of each fiscal year end:			
1.3.1.1.	Recovery Rate - The number of Containers reused and/or recycled or not recycled under the Regulation;		Y	Annual CSP Self-Evaluation President, Director of Operations and Manager Analytics
1.3.1.2.	Information regarding the disposition of Containers reused and/or recycled under the Regulation organized by Material Stream or the method of reuse and/or recycling of those Containers and including an explanation of the verification process.		Y	Annual CSP Self-Evaluation President, Director of Operations and Manager Analytics
1.3.2.	Annual confirmation that all contracts with third party recycling agents include the following contractual obligations:			
1.3.2.1.	the obligation to disclose recycling methodology and other particulars in respect of the disposition of materials and the provision of an appropriately verified reconciliation of the amount of material received, recycled and disposed of; and		Y	Annual CSP Self-Evaluation

Ref #	Description	Monthly	Annually	Method Reported and Who Provided To
				President, Director of Operations and Manager Analytics
1.3.2.2.	adequate security measures to prevent theft and/or duplicate credit for the same materials and to otherwise safeguard against fraudulent, illegal or other inappropriate behaviour that have a reasonable possibility of harming the integrity of the collection system.		Y	Annual CSP Self-Evaluation President, Director of Operations and Manager Analytics
1.4.	Manufacturer Reporting			
1.4.1.1.	Verification of reported sales of volumes into Alberta:			
1.4.1.2.	Verification by external auditors for Manufacturers whose total reported annual Beverage Container sales volumes are equal to or exceed 10 million Beverage Containers;		Y	Annual CSP Self-Evaluation President, Director of Operations and Manager Analytics
1.4.1.3.	Verification by external or internal auditors for Manufacturers whose total reported annual Beverage Container sales volumes are less than 10 million Beverage Containers but equal to or greater than 5 million Beverage Containers;		Y	Annual CSP Self-Evaluation President, Director of Operations and Manager Analytics

Ref #	Description	Monthly	Annually	Method Reported and Who Provided To
1.4.1.4.	Verification by external or internal auditors or the senior operating officer for Manufacturers whose total reported annual Beverage Container sales volumes are less than 5 million Beverage Containers;		Y	Annual CSP Self-Evaluation President, Director of Operations and Manager Analytics
1.4.2.	A letter from an ABCC representative to a BCMB representative to confirm the existence of any audit issues.		Y	Annual CSP Self-Evaluation President, Director of Operations and Manager Analytics
2.	OPERATIONS			
2.1.	Scheduling			
2.1.1.	Total number of pick-ups completed;		Y	Annual CSP Self-Evaluation President, Director of Operations and Manager Analytics
2.2.	Load Reconciliation & Payments			
2.2.1.	In relation to Payments as referenced in the Service Agreement:			
2.2.1.1.	number of payment transactions; and		Y	Annual CSP Self-Evaluation

Ref #	Description	Monthly	Annually	Method Reported and Who Provided To
				President, Director of Operations and Manager Analytics
2.2.1.2.	number of instances when the date of authorization of payment by the ABCC to its financial institution is more than 9 calendar days from the date carrier picks up shipment and notifies the ABCC.		Y	Annual CSP Self-Evaluation President, Director of Operations and Manager Analytics
3.	DATA COLLECTION AGENT REPORTS			
3.1.	On a monthly basis, the below reports are provided direct to the Data Collection Agent: <ul style="list-style-type: none"> • Return volume reports by Depot; • Return volume reports by shipment. 	Y		Monthly reporting direct to the DCA
3.2.	On an annual basis, the below reports are provided direct to the Data Collection Agent: <ul style="list-style-type: none"> • Sales data for the previous year; • Confirmation of the shipping container, standard units, standard dozens bag tie, and actual counts received over past year for each beverage container stream. 		Y	Annual reporting direct to the DCA

SCHEDULE "C"

EVALUATION AGAINST PERFORMANCE STANDARDS

The BCMB shall evaluate in accordance with the By-laws the ABCC's contribution to the BCMB goals for the beverage container system of Alberta as set out in the BCMB Business Plan, the efficiency and effectiveness of the ABCC's operation of their collection system and the ABCC's compliance with the Regulation, By-laws, Service Agreement and this Agreement.

1. Accountability

1.1 The ABCC operates their collection system in compliance with the Act, Regulation, By-laws and this Agreement and demonstrates a focus on:

1.1.1 collaboration and cooperation; and

1.1.2 participation in the Quality Monitoring System.

1.2 The ABCC is in compliance with to the terms of the Service Agreement and any other agreement between the ABCC and the ABDA, in particular:

1.2.1 scheduling and loading;

1.2.2 shipping supplies;

1.2.3 payments; and

1.2.4 confidentiality.

1.3 The ABCC is in compliance with to the terms of this Agreement and in particular:

1.3.1 causes Containers to be reused and/or recycled in a manner approved by the BCMB; and

1.3.2 submits a Service Agreement, with the concurrence of the ABDA, in compliance with the By-laws.

1.4 The ABCC maintains records sufficient to, without limitation, provide monthly, annual and term reporting on key performance metrics as outlined in Schedule B of this Agreement.

2. Performance Standards

2.1 Transportation

2.1.1 Standard: Depots are provided dependable carrier pick up

- 2.1.2 Measure: No-show. A “No Show” is characterized as a transportation carrier failing to show up without any communication from the ABCC to the Depot notifying them of the cancellation at least one hour prior to the scheduled pick-up time.
- 2.1.3 Compliance: Progressive enforcement action will be taken using the Compliance Framework
- 2.2 Shipping Containers
 - 2.2.1 Standard: Depots have adequate shipping supplies.
 - 2.2.2 Measure 1: Lack of supplies is demonstrated, and the ABCC fails to meet the standard when a Depot is required to close, or the Depot indicates that they need supplies urgently or else will be forced to close. The ABCC fails to meet the standard where the ABCC does not respond to the request before closure is within 24 hours as determined by dispute resolution.
 - 2.2.3 Measure 2: Lack of supplies is demonstrated, and the ABCC fails to meet the standard when a Depot is required to ship materials in incorrect shipping containers.
 - 2.2.4 Compliance: Progressive enforcement action will be taken using the Compliance Framework
- 2.3 Payment to Depot
 - 2.3.1 Standard: Depots get paid on time
 - 2.3.2 Measure: As defined within Service Agreement. The ABCC fails to meet the standard when payment to a Depot exceeds the agreed to maximum period.
 - 2.3.3 Compliance: Progressive enforcement action will be taken using the Compliance Framework
- 2.4 Operating Agreement
 - 2.4.1 Standard: The ABCC holds itself accountable to the performance and reporting requirements of this Agreement
 - 2.4.2 Measure: Performance against section 1 of this Schedule and Reporting against Schedule “B”
 - 2.4.3 Compliance: Compliance Framework
- 2.5 Use of QMS
 - 2.5.1 Standard: Depot Operator tickets are responded to and resolved in a timely manner. The ABCC is responsible to respond to QMS tickets and to achieve the below standards during ABCC operating hours during weekdays, Monday to

Friday. Statutory holidays are not included in the ABCC operating hours. The BCMB will identify in writing to the ABCC any emergent issues that occurred on weekends requiring ABCC attention for consideration of future resolution steps.

2.5.2 Measure: Response Time by QMS Service Level Agreements. The ABCC fails to meet the standard when response and resolution times exceed those agreed to.

2.5.3 Compliance: Based on monthly performance achieving the following standards:

A. 100% compliance on first response time

B. 95% compliance on resolution time for supplies tickets (24 hours)

C. 80% compliance on next response times for all other tickets (24 hours)

3. Compliance Framework

3.1 A failure of the ABCC to meet the standards set out in sections 2.1, 2.2, 2.3 and 2.4 of this Schedule will result in progressive enforcement actions.

3.1.1 Each infraction will be exclusive by depot and type.

3.1.2 There are three enforcement levels applicable to these sections.

3.1.3 Where the ABCC fails to meet a standard in these sections, the BCMB shall notify the ABCC of the failure in the monthly CSP Evaluation report .

3.1.4 The ABCC will be given 10 days to rectify the problem following which, where the ABCC fails to meet the standard a second time, the BCMB shall notify the ABCC of the failure in the monthly CSP Evaluation report and the ABCC shall pay a Compliance Fee.

3.1.5 The ABCC will be given a further 10 days to rectify the problem following which, where the ABCC fails a third time to meet the standard the ABCC shall pay a Compliance Fee and ABCC Senior Management shall attend a meeting with the BCMB.

3.1.6 The ABCC may submit a request in writing to the BCMB to move down a Level in the Compliance Framework by demonstrating that procedures have been corrected in order to prevent another failure to meet the standard.

3.1.7 The ABCC may not request to move down a Level of a Compliance Framework until three (3) months has passed from the date of the notification in the monthly CSP Evaluation from the BCMB. This is to provide the ABCC with time to rectify the issue and to trial the improvements.

3.1.8 The ABCC may only request to move down a Level of a Compliance Framework if in Level 2 or higher.

- 3.1.9 An written request to the BCMB will move the ABCC down one Level of a Compliance Framework at a time and must include a description of the improvements made to rectify the failure.
 - 3.1.10 After receipt of a written request, the BCMB will monitor the situation for a subsequent three-month period. Part of the monitoring may include a check-in with the Depot on the specific issue to confirm that it has been resolved on their side. The BCMB will also review the QMS.
 - 3.1.11 Where the ABCC fails to meet the same standard during the three-month monitoring period, the ABCC's written request will be void and they will move up a Level in the Compliance Framework. A new written request will have to be made after the issue has been resolved and after three-months has passed (as per 3.1.7 above).
 - 3.1.12 Once the three-month monitoring period has passed without issue, the BCMB will move the ABCC down a Level of the Compliance Framework.
 - 3.1.13 On a per Depot, per Framework basis, if the ABCC remains compliant with the applicable standards after six months at Level 1, then the BCMB would automatically move the ABCC out of the Compliance Framework without requiring submission of a written request.
- 3.2 Where the ABCC fails to meet a standard set out in section 2.5 the ABCC shall pay a Compliance Fee.

4. Compliance Fee

- 4.1 A Compliance Fee will be levied for each infraction identified within the compliance framework at level 2 and level 3.
- 4.2 A Compliance Fee will be levied for each failure to achieve the agreed performance standard outlined in section 2.5 of this Schedule.
- 4.3 The Compliance Fee is set in the Fee By-law.