



Processors Agreement

Making every drop count

Amended and restated as of January 2007

PROCESSORS AGREEMENT:

BETWEEN: **SOCIÉTÉ DE GESTION DES HUILES USAGÉES**, a company constituted under Part III of the *Companies Act*, having its principal place of business at 1101, boul. Brassard, Suite 214, Chambly (Québec) J3L 5R4, represented by Mr. Gilles Goddard, its General Manager, duly authorized to act herein;

(hereinafter called "**SOGHU**")

AND: _____,
(print complete legal entity name)

having its principal place of business at:

(print full address)

herein represented by:

(print name)

(print title)

duly authorized to act herein;
(hereinafter called "**Processor**")

PREAMBLE

WHEREAS SOGHU was constituted for the purposes of implementing a recovery and reclamation system for used oils, oil or fluid containers and used oil filters within the territory of the Province of Québec;

WHEREAS SOGHU has established a process for selection and registration of the Processors who will process the used oils, used oil or fluid containers and used oil filters and;

WHEREAS the Processor wishes to be registered with SOGHU so that it can participate in the reclamation system for used oils, used oil or fluid containers and used oil filters within the territory of the Province of Québec.

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THE PARTIES AGREE AS FOLLOWS:

1. **Definitions**

The following words and terms shall be interpreted, unless there is an implicit or explicit exception in the text, according to the definitions ascribed to them hereinafter:

- (i) **Act** means the *Environment Quality Act* (R.S.Q., c. Q-2) and the Regulations adopted therein;
- (ii) **Applicant** means any Processor wishing to register with SOGHU and which takes the necessary steps and forwards the necessary documents and information;
- (iii) **Brand Owner** means any business which markets lubricating oils and/or filters under a trademark it owns or uses;
- (iv) **Certification Agreement** means the agreement entered into between RECYC-QUÉBEC and SOGHU, recognizing SOGHU as an organization authorized to implement a recovery and reclamation system, as described in Section 14 of the Regulation;
- (v) **Collection Facility** means an establishment or a facility registered with SOGHU to receive from the public, at no cost to them, used oil products governed by the Regulation;
- (vi) **Collector** means a business registered with SOGHU, to pick up the products governed by the Regulation from Generators or Collection Facilities and deliver them to a Processor registered with SOGHU;
- (vii) **Collectors and Processors Manual** means the manual supplied by SOGHU to the Collectors and Processors, which describes the product management system established by SOGHU and the details of the systems and procedures relating to their business, occasionally modified by SOGHU;
- (viii) **Eligible product** means the products described in Sections 2, 3 and 4 of the Regulation;
- (ix) **Filter** means oil filters, antifreeze filters and diesel filters, and filters for heating systems using light heating oil and for oil storage tanks, as described in Section 4 of the Regulation;
- (x) **Generator** means the user of the lubricating oils, containers and filters in the normal course of its business or as a private consumer;
- (xi) **Lubricating oil** means a mineral, synthetic or vegetable based oil, as described in Section 2 of the Regulation;
- (xii) **Material associated with used oils** means lubricating oils, oil filters and oil containers after their primary use;

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- (xiii) **Minister** means - the ministre du Développement durable, de l'Environnement et des Parcs du Québec;
- (xiv) **Oil container** means a container that holds 50 litres or less, made of plastic or another material, including aerosol containers, as described in Section 3 of the Regulation;
- (xv) **Processing** means an activity involving the transformation of materials for reuse, reuse for energy recovery recognized by the MDDEP, or an activity authorised by the MDDEP involving cleaning, decontaminating, or declassifying materials as waste. Bulking, shredding and bundling are not considered processing activities.
- (xvi) **Processing Incentive (herein called PI)** means the financial contribution disbursed by SOGHU to certain registered Processors for processing activities (cleaning for reuse, shredding, decontaminating, reducing the plastic into pellets for transformation into finished goods, also called final processing) of used oil plastic containers in recognition that this activity is not yet profitable;
- (xvii) **Processor** means a business registered with SOGHU, to reclaim products governed by the Regulation;
- (xviii) **Processors Agreement** means this Agreement entered into between the Processor and SOGHU;
- (xix) **Regulation** means the Regulation respecting recovery and reclamation of used oils, oil or fluid containers and used filters, Order-in-Council 166-2004, March 10, 2004, published in the "Gazette officielle du Québec" on March 24, 2004 and amended on August 11, 2004, as amended from time to time;
- (xx) **Residue** means a portion of a product which remains after the primary use and becomes a material associated with used oils;
- (xxi) **SOGHU** means Société de gestion des huiles usagées, a company approved by RECYC-QUÉBEC to create and implement the recovery and reclamation system, as described in Section 14 of the Regulation.

2. Conditions of Registration and Maintenance of Registration

2.1 The Applicant shall forward the Registration Application Form (available on SOGHU's website at www.soghu.com in the Processors section), along with the necessary documents as outlined on the form and, within reason, all other documents or information requested by SOGHU.

2.2 All registrations end on March 31 of each year. They must be renewed by April 1, as per the conditions specified on the Processor Registration Renewal Form (available on SOGHU's website at www.soghu.com in the Processors section), along with the necessary documents as outlined on the form and, within reason, all other documents or information requested by SOGHU. The Renewal registration automatically renews the previously signed Processors Agreement.

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- 2.3 The Processor and its respective activities and facilities shall be in compliance at all times with the applicable laws and regulations.
- 2.4 The Processor shall promptly supply SOGHU with written notice of any infraction, or investigation notice, ordinance, complaint or other request from a government or other authority regarding any order, penalty or notice of non-compliance with any environmental regulation or legislation as it relates to SOGHU, along with a copy of the notice pertaining thereto.
- 2.5 The Processor agrees never to use the SOGHU logo or any other such moniker belonging to SOGHU in any form of communication. The Processor has the right at all times to advertise his registration with SOGHU. It is imperative that the Processor mention SOGHU as a partner and not as an associate.

3. Processor's Obligations

- 3.1 a) Used Oil
- i) The Processor agrees that it is its responsibility to check the volume and quality of the used oils received from the Collector.
 - ii) The Processor shall take samples and test all loads of used oils to measure the bottom sediments and the water, and then submit the results to SOGHU, accompanied by the signed receiving document.

The Processor agrees that all of the samples shall be representative of the total load received by using one of the methods approved by the ministère du Développement durable, de l'Environnement et des Parcs ("MDDEP"), and that all of the analyses performed shall conform to Schedule 6 of the Dangerous Goods Regulation or its equivalent outside Québec.

Unless, in the case where the Processor accepts the Collector's analyses, SOGHU will also accept them and the Processor is then relieved of its responsibility to provide the analyses as described above.

Note: It is unacceptable to take samples and run analyses from the receiving reservoir after delivery. The quantity of water must be subtracted from the volume received prior to taking samples to measure the bottom sediment and the water content.

- iii) The Processor must provide SOGHU with an Annual Statement indicating the total volume of processed, including all volumes received from Collectors registered with SOGHU, as well as the total inventory at the beginning and end of the year, etc. (form available on SOGHU's website at www.soghu.com in the Processors section)

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b) Used Filters

- i) The Processor agrees that it is its responsibility to check the total weight of the container and/or the number of full or partly filled barrels or bins and to weigh all the incoming loads and provide a scale ticket to the Collector.
- ii) The Processor shall deduct the weight of the waste received and note the corrected weight in the Collector's Recycle Docket.

Note: In the case where the processing activities are not considered final processing or the creation of a new product, the final processing company and its intentions for the product must be known. The Processor is responsible for proving these transactions by providing supporting delivery receipts to these companies.

- iii) The Processor must provide SOGHU with an Annual Statement indicating the total volume of processed, including all volumes received from Collectors registered with SOGHU, as well as the total inventory at the beginning and end of the year, etc. (form available on SOGHU's website at www.soghu.com in the Processors section).

c) Used Oil Containers

- i) The Processor agrees that it is its responsibility to check the total weight of the containers recovered and the degree of contamination. **The Processor shall also ensure that the materials were recovered for the SOGHU program.**
- ii) The Processor shall weigh all the incoming loads and provide the Collector with a scale card. The Processor shall deduct the weight of the waste received and note the corrected weight in the Collector's Recycle Docket or in the summary register.
- iii) The Processor must use the corrected weight for its PI invoices to SOGHU.

Note: In the case where the processing activities are not considered final processing or the creation of a new product, the final processing company and its intentions for the product must be known. The Processor is responsible for proving these transactions by providing supporting delivery receipts to these companies. Bulking, shredding and bundling are not considered final processing activities.

- iv) The Processor must provide SOGHU with an Annual Statement indicating the total volume of processed, including all volumes received from Collectors registered with SOGHU, as well as the total inventory at the beginning and end of the year, etc. (form

available on SOGHU's website at www.soghu.com in the Processors section),

4. **General Payment Information**

- 4.1 The Processor agrees that it is his responsibility to conserve all necessary documentation for the purposes of preparing invoices to SOGHU and for the purposes of obtaining processing PIs.
- 4.2 The Processor agrees to supply SOGHU with any invoice for payment of the used plastic oil containers Processor PIs with the form named "Plastic CONTAINER Processor Incentive Claim Form" (available on SOGHU's website at www.soghu.com in the Processors section), and all of the information or documents indicated therein.
- 4.3 The Processor agrees to submit a monthly statement describing:
 - a) the quantity of used oil containers received from SOGHU registered Collectors and received for the SOGHU program;
 - b) the current inventories of material associated with the used plastic oil containers;
 - c) the amount of sales and payments of plastic pellets or finished plastic goods or in products ready for transformation into a finished product or the equivalent;
 - d) in the case of reuse, the production reports, the purchase of covers and the inventory of containers and covers, the amount of sales, and any other documents deemed necessary by SOGHU.
- 4.4 SOGHU undertakes to pay the Processor Incentives within thirty (30) days of receipt of the form named "Plastic CONTAINER Processor Return Incentives Claim Form" (available on SOGHU's website at www.soghu.com in the Processors section), duly completed with all of the required vouchers attached.

5. **Obligations of SOGHU**

- 5.1 SOGHU undertakes to disburse processing PIs to the Processor which correspond to the quantities of reused used plastic oil containers, those reduced to pellets or a product for transformation into finished goods or the equivalent, according to the amount established in Schedule I hereof.
- 5.2 Except as stipulated herein, SOGHU undertakes not to disclose any confidential document or information received from the Processor, in accordance with the Act respecting access to documents held by public bodies and the protection of personal information (R.S.Q., c. A-2.1). However, SOGHU may transmit any document or information to RECYC-QUÉBEC, in particular the information included in its annual report and its business plan, or to the minister or to any persons authorized at the ministère du Développement durable, de l'Environnement et des Parcs, or when such information is required by law or by

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any judicial or quasi-judicial authority. RECYC-QUÉBEC, under the terms of the Certification Agreement, has committed itself to SOGHU for the same obligations.

- 5.3 SOGHU shall forward to the Processor ninety (90) days' written notice of any modification to Schedule I regarding the Processor PIs unless the modification(s) clearly benefits the Processor(s).

6. **Terms of the Agreement**

- 6.1 The Processor agrees that this Agreement shall remain in effect for a maximum of one (1) year or once already signed, until the Processor registration renewal date on or before March 31st.

- 6.2 In the event that the Processor gives SOGHU written notice of its intention to terminate this Agreement, it shall be deemed cancelled within sixty (60) days of the date of receipt of the notice. Upon receipt of the notice, SOGHU shall request an audit of the Processor's books and records.

- 6.3 The Processor hereby acknowledges and accepts that SOGHU may suspend or revoke the registration of the Processor if the Processor contravenes the law or the applicable regulations or any items outlined below in paragraph 7.3 or anywhere herein, or upon any misrepresentation, or false or misleading statement made, in particular in the application for registration or in a claim form for the purposes of PI payments by SOGHU. The Processor also acknowledges and accepts that SOGHU may suspend or revoke the registration of the Processor if (a) the Processor withdraws from business, (b) the Processor rescinds its registration with SOGHU, (c) in the event of bankruptcy or insolvency of a Processor, or (d) in the event of significant or repeated violations of the Processor's obligations under the terms hereof or those outlined in the Manual for Collectors and Processors.

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

7. **General Conditions**

- 7.1 The Processor hereby confirms that all information forwarded to SOGHU is true and accurate and undertakes to promptly supply SOGHU with any change thereto. The Processor also accepts that any document or information to be forwarded to SOGHU in the future shall be true and accurate.

- 7.2 The Processor agrees to indemnify and hold harmless, SOGHU, its officers, employees and its agents or representatives in respect to all liabilities regarding costs, expenses, claims and suits, including both judicial and extra-judicial fees, as well as reasonable attorney fees, that may result from any false, inaccurate or untrue statement or misinformation supplied by the Processor.

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- 7.3 The Processor acknowledges SOGHU's authority to adopt, modify or do away with regulations, programs, policies and procedures, and accepts to be bound by SOGHU's Manual for Collectors and Processors, regulations, programs, policies and procedures and to honour their obligations.
- 7.4 Without restricting the obligations prescribed in Section 8 herein, the Processor accepts to supply SOGHU with any document, receipt, notes or any other information within reason, at SOGHU's request, for the purposes of its registration or invoice for PIs.
- 7.5 The Processor agrees that SOGHU will establish and maintain a database of Processors registered with SOGHU, which may be consulted by RECYC-QUÉBEC, and the information therein may be forwarded to the Minister and published in the "Gazette officielle du Québec", in accordance with the Act.
- 7.6 In the event that a registration is granted and/or a payment made by SOGHU and the registration certificate of the Processor turns out to be false and/or the information supplied therein is false or inaccurate, then it shall be understood that the registration was granted in error and/or that the payment was made in error. In such a case, the registration is null and void and any payment shall be promptly reimbursed to SOGHU upon discovery of the false statement or error by either SOGHU or by the Processor.
- 7.7 SOGHU retains the right, at its sole discretion, to withhold any payment or registration application until it obtains verification or information it deems sufficient from the Processor.
- 8. Audit**
- 8.1 The Processor agrees to retain complete, accurate and up-to-date books and records of all transactions and information required under the terms herein and the Regulation regarding the processed materials and PIs.
- 8.2 The Processor agrees that SOGHU and RECYC-QUÉBEC, their auditors or other duly authorized representatives shall, in order to meet the requirements of the Regulation and those herein, regarding the audit of information required by the Regulation, have full access during normal business hours to the place of business and the books and records of the Processor or to the place where the books and records of the Processor are kept and to any other document or information required in order to complete the audits required by the Regulation and the Certification Agreement and have the right to take a copy of these documents at the expense of the Processor throughout the term of the Agreement, and for a period of two (2) years following the termination or the cancellation of this Agreement or any renewal thereof, as the case may be. Accordingly, the Processor agrees to preserve and retain all books and records and all other documents required thereof in the same province in which he registered with SOGHU.
- 8.3 This audit shall be conducted at SOGHU's expense, unless considerable errors (over 10%) of any amount paid by and/or any data supplied by the Processor are

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discovered following this audit, in which case, the Processor shall immediately disburse the following amounts to SOGHU, along with all applicable taxes:

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

9. Final Provisions

- 9.1 The Parties herein and their respective successors, heirs, assignees having just cause, and other legal representatives and their beneficiaries, accept to be bound by the provisions hereof and those of the Manual for Collectors and Processors and to honour the obligations incumbent upon them.
- 9.2 The Processor may not assign, alienate, charge or subcontract, in whole or in part, the rights and obligations resulting from this Agreement, in any manner, for a purpose not specifically stipulated in the Agreement, without the prior written consent of SOGHU. Notwithstanding any assignment, the Processor shall remain liable for the obligations incumbent upon it under the terms of this Agreement, severally with any assignee, even in the event of bankruptcy or insolvency of the assignee. All the documents transmitted by the Processor to SOGHU shall be submitted for information, review and audit purposes.
- 9.3 All of the rights mentioned herein are cumulative and non-exclusive. The Processor shall not be discharged from its obligations under the terms of this Agreement by the fact that SOGHU remains silent or delays the exercise of a right or remedy granted to it under this Agreement, which shall never be interpreted against SOGHU as an exemption from or a waiver of the full performance of its rights and remedies, as long as the legal exercise of such a right or remedy has not expired.
- 9.4 The preamble, the Manual for Collectors and Processors and all documents appended to this Agreement and all forms to be completed (available on SOGHU's website at www.soghu.com in the Processors section) are considered an integral component hereof.
- 9.5 Any contested claim arising from the application for this Agreement, any dispute concerning its governance, including its nullification or cancellation, and any dispute arising from a problem of interpretation of this Agreement shall be submitted to arbitration to the exclusion of the courts.
- 9.6 The Parties hereto agree that the provisions of the Code of Civil Procedure (R.S.Q., c. C-25) currently in force shall govern any arbitration held hereunder. The parties agree that said arbitration shall be held in the city of Montréal before one arbitrator who shall be agreed upon by the parties within 10 days of the claim, failing which the choice of the arbitrator shall be determined by a judge, on

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the motion of one of the parties, pursuant to the provisions of the Code of civil procedure.

- 9.7 Any notice required under this Agreement shall be sufficient if it is recorded in writing and sent by a mode of communication which allows the sending Party to prove that the said notice was actually delivered to the addressed Party at the address indicated at the beginning of the Agreement or at any other address that the latter may make known in accordance with this section.
- 9.8 This Agreement may be modified or amended in whole or in part, by mutual agreement between the Parties. As the case may be, any change or modification thus made shall take effect only on the day it is recorded in writing, duly signed and executed by the Parties, and appended to this Agreement, with the exception of Schedules I and II herein, which may be amended unilaterally by SOGHU.
- 9.9 The Agreement and its interpretation, governance, application, validity and affects are subject to the applicable laws in force in the province of Québec and in Canada, which govern all of the provisions it contains in whole or in part.
- 9.10 Any provision of this Agreement not in compliance with the laws shall be deemed to have no affect as long as they are prohibited by law. The same principle applies for all subordinate clauses related to such a provision and to the extent that their applicability depends on the said provision.

THE PROCESSOR:

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

(print company name)

Signature :

Signature :

(print representative's name)

(print representative's name)

(print representative's title)

(print representative's title)

(date)

(date)

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APPENDIX I

Processor Incentives

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

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