



ANNEXURE A

APPOINTMENT OF SCHEME COORDINATOR

In my capacity of Minister for the Environment (Minister), I appoint WA Return Recycle Renew Ltd ACN 629 983 615 (Coordinator) to the office of Coordinator of the Scheme under section 47X of the *Waste Avoidance and Resource Recovery Act 2007* (WA) (Act). The conditions imposed on this appointment under section 47Y of the Act are set out below.

1. Definitions

1.1 In these conditions:

- (a) **Act** means the *Waste Avoidance and Resource Recovery Act 2007* (WA), and any regulations made under it, as amended from time to time;
- (b) **Appointed Day** means the day fixed by the Minister by order published in the Gazette to be the appointed day for the purpose of section 47M of the Act;
- (c) **Confidentiality Plan** consists of the confidentiality systems and processes set out in the Coordinator's response to the Request for Proposal which will govern the handling by the Coordinator of any confidential, commercial and/or sensitive information of Scheme Participants;
- (d) **Minimum Network Standards** means the Minimum Network Standards prepared by the CEO pursuant to the Act.
- (e) **Privacy and Information Security Plan** means a plan which sets out the actions which the Coordinator and its subcontractors will take to protect information collected from third parties under the Scheme.
- (f) **Records** means records and information of any kind, including originals and copies of all accounts, financial statements, books, files, reports, records, correspondence, documents and other materials created for, or relating to, or used in connection with the relevant Scheme Agreement, whether or not containing confidential information, and however such records and information are held, stored or recorded;
- (g) **Remote Communities and Aboriginal Communities Engagement Plan** means a plan which sets out how the Coordinator will enable access and participation of remote communities and Aboriginal communities in the Scheme; and
- (h) **Request for Proposal** means the request for proposal number DWER 102418 issued by the Department of Water and Environmental Regulation.

- 1.2 Any term defined in the Act or the Interpretation Act 1984 (Interpretation Act) shall have the definition given in the Act or Interpretation Act (as applicable) except where otherwise specified.
- 1.3 If there is any inconsistency between these conditions and the requirements of the Act, the Act will prevail to the extent of the inconsistency.

2. Term of Appointment

- 2.1 The appointment shall commence on the date on which this notice of appointment is given to WA Return Recycle Renew Ltd.
- 2.2 The term of appointment concludes 7 years after the Appointed Day. The Minister may extend this appointment at the Minister's absolute discretion.

3. Implementation of Plans

- 3.1 The Coordinator must implement the following plans submitted in response to the Request for Proposal:

- (a) Network Improvement Plan;
- (b) Fraud Protection Plan;
- (c) Dispute Resolution Framework;
- (d) Public Education and Awareness Plan;
- (e) Social Enterprise Engagement Plan; and
- (f) Plan for maintaining an up-to-date register of approved containers for the CDS.

- 3.2 The Coordinator must implement the Collection Network Procurement Strategy dated 20 June 2019.

- 3.3 The Coordinator must prepare a draft Remote Communities and Aboriginal Communities Engagement Plan and give it to the Minister within 10 business days of the commencement of the Coordinator's appointment.

- 3.4 The Minister may, by written notice —

- (a) approve the draft Remote Communities and Aboriginal Communities Engagement Plan; or
- (b) direct the Coordinator to, within the period specified in the notice:
 - (i) take specified steps in relation to the draft Remote Communities and Aboriginal Communities Engagement Plan or make specified modifications to the plan; and

- (ii) submit a revised plan.
- 3.5 The Coordinator must comply with a direction under condition 3.4(b) as soon as is practicable and in any event within the period specified in the notice.
- 3.6 The Coordinator must implement the Remote Communities and Aboriginal Communities Engagement Plan approved by the Minister.
- 3.7 The Coordinator must prepare a draft Privacy and Information Security Plan and give it to the Minister within 90 business days of the commencement of the Coordinator's appointment.
- 3.8 The Minister may, by written notice —
 - (a) approve the draft Privacy and Information Security Plan; or
 - (b) direct the Coordinator to, within the period specified in the notice:
 - (i) take specified steps in relation to the draft Privacy and Information Security Plan or make specified modifications to the plan; and
 - (ii) submit a revised plan.
- 3.9 The Coordinator must comply with a direction under condition 3.8(b) as soon as is practicable and in any event within the period specified in the notice.
- 3.10 The Coordinator must implement the Privacy and Information Security Plan approved by the Minister.

4. Revisions to Plans

- 4.1 Any of the plans referred to in condition 3 above may be revised by the Coordinator with the approval of the Minister, and must be revised by the Coordinator at the request of the Minister.
- 4.2 On the request of the Minister, the Coordinator must submit a revised version of any of the plans listed in condition 3 above to address any issues raised or make any changes requested by the Minister by the date specified in the request.
- 4.3 Once the Coordinator has received notice that the Minister has approved a revised plan, the Coordinator must implement the revised plan.

5. Non-compliance

- 5.1 Where there has been a non-compliance or it is reasonably foreseeable that there will be future non-compliance by the Coordinator with respect to:

- (a) any of the plans referred to in conditions 3 and 4 that will or are likely to have an impact on the Scheme; or
 - (b) any of these conditions of appointment; or
 - (c) the requirement to achieve the performance targets stated in the Act,
- the Coordinator must notify the Minister within 5 business days of becoming aware of the non-compliance or future non-compliance and provide reasons for the non-compliance or future non-compliance.

5.2 Within a further 5 business days from the giving of the notice referred to in condition 5.1, the Coordinator must give the Minister a further notice which:

- (a) sets out any impact on the Scheme that has resulted or may result from the non-compliance or future non-compliance; and
- (b) describes the Coordinator's plans to rectify any such impact on the Scheme and the Coordinator's plans to prevent any future reoccurrence of the non-compliance.

6. Scheme Agreements

6.1 Within 10 business days of the commencement of the Coordinator's appointment, the Coordinator must submit the standard terms of the following Scheme Agreements to the CEO for approval:

- (a) Supply agreement;
- (b) Refund point agreement;
- (c) Material recovery agreement; and
- (d) Export rebate agreement.

6.2 The standard terms of each of the Scheme Agreements must include a term which requires each party to a Scheme Agreement to allow the Auditor General, or an authorised representative of the Auditor General, to have access to and examine each party's Records concerning the Scheme Agreement.

6.3 The Coordinator must use the relevant standard terms approved by the CEO when entering into any of the Scheme Agreements listed in condition 6.1 above.

6.4 The Coordinator may submit a revised version of the standard terms of a Scheme Agreement to the CEO for approval.

6.5 Each Scheme Agreement must include a provision authorising the Coordinator to vary the terms in accordance with any lawful requirement of the Minister from time to time.

- 6.6 Following approval of a revised Scheme Agreement, the Coordinator must use the revised version of the standard terms for that Scheme Agreement.

7. Engagement of subcontractors

- 7.1 Within 10 business days of the commencement of the Coordinator's appointment:
- (a) if there are standard terms in respect of the agreement between the Coordinator and the processing providers, the Coordinator must submit a copy of the proposed standard terms to the CEO; and
 - (b) if there are standard terms in respect of the agreement between the Coordinator and the logistics providers, the Coordinator must submit a copy of the proposed standard terms to the CEO; and
 - (c) the Coordinator must submit a copy of the terms of the agreement between the Coordinator and COEX Services together with any benchmarking that the Coordinator has undertaken in relation to the Coordinator's contractual relationship with COEX Services.
- 7.2 The Coordinator must ensure that terms of all agreements including the agreements listed in condition 7.1 above are:
- (a) consistent with any relevant requirement under the Act or these conditions;
 - (b) reasonable; and
 - (c) consistent with an arm's length transaction.
- 7.3 The Coordinator must give notice to the CEO of any changes to the standard terms (if any) of the agreements referred to in conditions 7.1(a) and 7.1(b), or any changes to the terms of the agreement referred to in condition 7.1(c), within 10 business days of any changes being made.
- 7.4 Each agreement including the agreements listed in condition 7.1 above must include a provision authorising the Coordinator to vary the terms in accordance with any lawful requirement of the Minister from time to time.
- 7.5 Each agreement including the agreements listed in condition 7.1 above must include a provision which requires each party to the agreement to allow the Auditor General, or an authorised representative of the Auditor General, to have access to and examine each party's Records concerning the agreement.

8. Executive Officers

The Coordinator must ensure that each person appointed or employed by it as an executive officer is an eligible individual and continues to be an eligible individual for the duration of their appointment or employment.

9. Constitution

The Coordinator must immediately notify and provide a fresh copy of its constitution to the Minister if the constitution is amended or a new constitution is adopted.

10. Independent directors

10.1 Subject to condition 10.2, the Coordinator must, prior to the appointment of any director who is required under section 47V(3) of the Act to be independent of the waste or beverage industry (each an **Independent Director**), provide the Minister a statement confirming the independence of that director.

10.2 Where the Independent Director is a director of the Coordinator at the commencement date of the Coordinator's appointment under condition 2.1, the statement referred to in condition 10.1 is to be provided within 10 business days of the commencement of the Coordinator's appointment.

11. Confidentiality

11.1 The Coordinator must ensure that at all times it has suitable arrangements in place to protect the confidentiality of information obtained in its capacity as Coordinator.

11.2 The Coordinator must comply with the Confidentiality Plan.

11.3 The Coordinator must ensure that each of the directors of the Coordinator, the chief executive officer of the Coordinator, and all persons who report directly to the chief executive officer of the Coordinator, have signed a confidentiality deed, or have executed an agreement which includes confidentiality provisions, to protect the confidential information of Scheme Participants and prevent information from being used for any other purpose than implementing the Scheme.

11.4 Any confidentiality deeds or provisions referred to in condition 11.3 above must expressly state that the deed or provision does not interfere with, or in any way limit:

- (a) the CEO's access to information under section 47ZK of the Act; or
- (b) disclosure if required by a Court or law or as required by order or direction of a government agency, Auditor General, State or Federal minister or the Western Australian Parliament or any committee or sub-committee thereof.

11.5 The Confidentiality Plan may be revised with the approval of the Minister, and must be revised at the request of the Minister.

11.6 Once the Coordinator has received notice that the Minister has approved a revised Confidentiality Plan, the Coordinator must implement the revised Confidentiality Plan.

12. False or Misleading Information

- 12.1 The Coordinator must provide written notice to the Minister if the Coordinator has provided false or misleading information to the Minister, CEO or the public and to the extent possible, detail the true and correct information.
- 12.2 The notice referred to in condition 12.1 above must be provided within 5 business days of the Coordinator becoming aware that false or misleading information has been provided by it or on its behalf.
- 12.3 Within a further 5 business days from the giving of the notice in condition 12.2, the Coordinator must give the Minister a further notice which:
 - (a) sets out any consequences that have resulted or may result from the provision of the false or misleading information that are known to the Coordinator; and
 - (b) describes the Coordinator's plans to rectify any such consequences.

13. Refund Points

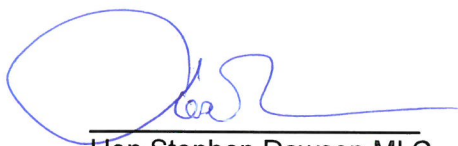
- 13.1 The Coordinator must achieve at least 75% of the refund point targets stated in the Minimum Networks Standards for each region from the Appointed Day.
- 13.2 The Coordinator must include an up-to-date list of the location of each refund point on its website and publish the initial such list:
 - (a) subject to the Coordinator being given at least 35 days prior notice of the Appointed Day, at least 30 days prior to the Appointed Day; and
 - (b) otherwise, as soon as practicable after being given notice of the Appointed Day.

14. Government Loan

The Coordinator must repay any loan it receives from the State Government for the purpose of establishment of the Scheme in accordance with the terms of the loan agreement for that loan.

15. Review of Scheme Costs

- 15.1 On the request of the Minister, the Coordinator must carry out a review of the amount per container to be paid under any of the Scheme Agreements specified in condition 6.1 and report to the Minister on any proposed changes to such amounts.
- 15.2 Where the Coordinator has reviewed and made changes to any amount per container to be paid under any supply agreement, the Coordinator must notify the Minister prior to announcing the change.

A handwritten signature in blue ink, consisting of a large loop followed by a series of connected strokes.

Hon Stephen Dawson MLC
Minister for Environment

14/7/19

Date