

Export Rebate Agreement

WA Return Recycle Renew Ltd

and

#[*Party 2 name]#

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Table of contents

1.	Definitions and interpretation clauses	6
1.1	Definitions	6
1.2	Interpretation	12
1.3	Business Day	13
2.	Commencement Date	14
3.	Term	14
4.	Key obligations	14
4.1	Fraud	14
4.2	Compliance	14
5.	Principal's obligations	14
6.	Adjustments	15
6.1	Overpayments	15
6.2	Underpayments	15
6.3	Acknowledgment	15
7.	Claimant Obligations	16
7.1	Export Rebate Protocol	16
7.2	Cooperation	16
8.	Declaration	16
9.	Records and Auditing	16
10.	Information Sharing	17
11.	Variations	17
11.1	Review Procedure	17
11.2	Variation Order	18
11.3	Acknowledgement by Claimant	18
11.4	Amendment by deed	18
12.	Claimant data	18

13.	Government information	19
14.	Auditor General access to Records	19
15.	Modern Slavery	20
15.1	Definitions	20
15.2	Claimant warranties	20
15.3	Claimant policies and procedures	20
15.4	Prohibition	20
15.5	Reporting Obligations	21
16.	Scheme Changes	21
16.1	Amendments to Deed	21
16.2	Further acts and documents	22
16.3	No compensation	22
17.	Payment	22
17.1	Payments by the Claimant	22
17.2	Payments by the Principal	22
18.	GST	22
18.1	Preliminary	22
18.2	GST exclusive	22
18.3	Liability to pay GST	22
18.4	Tax invoice	23
18.5	Adjustment event	23
18.6	Reimbursement of expenses	23
18.7	Non merger	23
19.	Termination	23
19.1	Termination by Principal	23
19.2	Termination by the Claimant	24
19.3	Claimant's entitlements after termination	24
19.4	Survival	24
20.	Disputes	24
20.1	Notice of Dispute	24
20.2	Executive Negotiation	25

20.3	Proceedings	25
20.4	Continuation of obligations	25
20.5	Urgent interlocutory relief	25
21.	Confidentiality and publicity	25
21.1	Confidentiality and Confidential Material	25
21.2	Exceptions to confidentiality	26
21.3	Publicity and branding	27
21.4	Rights of other Exporters	27
22.	Notices	27
22.1	Requirements	27
22.2	How a Notice must be given	27
22.3	When Notices considered given and received	28
22.4	Time of delivery and receipt	28
22.5	General	28
23.	General	28
23.1	Assignment	28
23.2	Novation to new entity	29
23.3	Duty	29
23.4	Preparation of Deed	29
23.5	Inconsistent provisions	29
23.6	Corporate power and authority	30
23.7	Waiver	30
23.8	Severance	30
23.9	Governing law and jurisdiction	30
23.10	Further assurances	30
23.11	No reliance	31
23.12	Entire agreement	31
23.13	Counterparts	31
23.14	Relationship of parties	31
23.15	Exercise of rights	31
23.16	Remedies cumulative	31
23.17	Clauses that survive termination	31
23.18	Priority of Deed components	32

Schedule 1	Particulars	33
Schedule 2	Payments Schedule	34
Annexure - Statutory Declaration		38
Schedule 3	Export Rebate Protocol pursuant to Regulations	43
Schedule 4	Common Disputes Procedure	44
Signing page		56

Export Rebate Agreement

Date

Parties

WA Return Recycle Renew Ltd ACN 629 983 615
of Unit 2, 1 Centro Avenue, Subiaco, Western Australia

(Principal)

#[*Party 2 name]# [ABN / ACN] #[Insert ABN/ACN]#
of **#[*Party 2 address]#**

(Claimant)

Recitals

- A. A beverage container deposit scheme has been established pursuant to Part 5A of the Act (Scheme) for the purposes of reducing the volume of waste and promoting the recovery, reuse and recycling of empty beverage containers in Western Australia.
- B. The Scheme will be delivered by the Principal as the Coordinator under the Act and the contractor under the Coordinator Agreement.
- C. The Principal has entered into Supply Agreements with First Responsible Suppliers pursuant to which First Responsible Suppliers will pay a Supply Amount to the Principal in respect of Beverage Products.
- D. The Claimant is or will be an Exporter of Beverage Products.
- E. The Parties enter into this Deed in accordance with section 47P(3) of the Act to set out the terms upon which the Claimant will be entitled to claim for, the Principal will make, payments in relation to Scheme Containers used for Beverage Products that are Exported by the Claimant.

This deed witnesses that in consideration of, among other things, the mutual promises contained in this deed the parties agree as follows:

1. Definitions and interpretation clauses

1.1 Definitions

In this deed:

- Act** means the *Waste Avoidance and Resource Recovery Act 2007* (WA).
- Approval** means any licence, permit, consent, approval, determination, certificate or other requirement:
- (a) of any Regulatory Authority having any jurisdiction in connection with implementation of the Scheme; or
 - (b) under any other applicable Statutory Requirement, which must be obtained or satisfied for the purposes of performance of the parties' respective obligations under this Deed.
- Associate** means, in respect of a party, any employee, officer, agent, or subcontractor of that party, but in respect of:
- (a) the Principal – excludes the State, the other Scheme Participants and the Claimant; and
 - (b) the Claimant – excludes the Principal.
- Beverage Product** has the meaning given to that term under section 47C(1) of the Act.
- Business Day** means a day that is not a Saturday, Sunday, or public holiday and on which banks are open for business generally in Perth, Western Australia.
- Change in Law** means a change in a Statutory Requirement of the State or a State Policy after the Effective Date which:
- (a) specifically and only affects the Principal, the Scheme or the Scheme Participants; and
 - (b) causes the Principal to incur more or less costs than otherwise would have been incurred in respect of carrying out its obligations under the Act, this Deed or the Coordinator Agreement.
- Claim** means any claim, notice, demand, action, proceeding or litigation and includes any claim for the payment of money or relief from performance whether the claim, notice, demand, action, proceeding or litigation:
- (a) is in any way in connection with this Deed or either party's conduct before this Deed, including any direction of the Principal's Representative;
 - (b) is in any way in connection with implementation of the Scheme; or

	<ul style="list-style-type: none"> (c) otherwise arises at law or in equity including: <ul style="list-style-type: none"> (i) by statute; (ii) in tort for negligence or otherwise, including negligent misrepresentation; or (iii) for restitution.
Claimant IP	has the meaning given in clause 12(a).
Common Dispute	has the same meaning as in the Common Dispute Procedure.
Common Dispute Procedure	means the process for resolving Common Disputes as set out in Schedule 4.
Confidential Material	<ul style="list-style-type: none"> (a) in relation to a party, means any data and other commercially sensitive information provided by that party to the other party in relation to the Scheme or arising out of, or in connection with, this Deed; and (b) in relation to an Exporter, means any data and other commercially sensitive information provided by that Exporter to a party in the course of or in connection with any meeting between the Principal and Exporters as contemplated by clause 11.1(c).
Coordinator	has the meaning given to that term in section 47C(1) of the Act.
Coordinator Agreement	means the deed entered into between the State and the Principal in connection with the appointment of the Principal as the Coordinator under the Act.
Corresponding Law	has the meaning given to that term in section 47C(1) of the Act.
Deed	means this deed, including all schedules, annexures and appendices.
Dispute	has the meaning given in clause 20.1(a).
Effective Date	has the meaning given to that term in clause 2.
Executive Negotiators	<p>in respect of a Party:</p> <ul style="list-style-type: none"> (c) means the person stated as the Executive Negotiator of that Party in Item 2 of the Particulars or such other person as is notified in writing by that Party to the other Party as its Executive Negotiator from time to time; or (d) an individual nominated in writing by a person referred to in paragraph (a) of this definition.
Export	has the meaning given to that term in section 47P(2) of the Act.
Exporter	has the meaning given to that term in section 47C(1) of the Act.
Exporter ID Number	has the meaning given in clause 5(a).

Export Rebate Agreement	has the meaning given to that term in section 47P(3) of the Act.
Export Rebate Protocol	<p>(a) the most recently published export rebate protocol within the meaning of regulation 4Y(1) of the <i>Waste Avoidance and Resource Recovery (Container Deposit Scheme) Regulations 2019</i> (if any), and which, as at the Effective Date, is set out in Schedule 3; and</p> <p>(b) otherwise, means the Export Rebate Protocol set out in Schedule 3.</p>
Export Sale Statement	means a statement in relation to Export Sales provided by the Exporter to the Principal pursuant to the Payments Schedule and the Export Rebate Protocol.
Financial Year	<p>means each twelve month period ending 30 June, except that</p> <p>(a) the first Financial Year is the period starting on the Effective Date and ending on the next occurring 30 June; and</p> <p>(b) the last Financial Year is the period starting on the last 1 July of the Term and ending when the Term ends.</p>
First Responsible Supplier	has the meaning given to that term in section 47D of the Act.
GST	means the tax payable on taxable supplies under the GST Legislation, and includes an amount that a party is notionally liable to pay as GST under the GST Legislation.
GST Legislation	means <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth) and any related act imposing such tax or legislation that is enacted to validate, recapture or recoup such tax.
Insolvency Event	<p>means:</p> <p>(a) a person informs the other party in writing, or its creditors generally, that the person is insolvent or is unable to proceed with this Deed for financial reasons;</p> <p>(b) execution is levied against a person by a creditor;</p> <p>(c) in relation to an individual person or a partnership, the person:</p> <p>(i) commits an act of bankruptcy;</p> <p>(ii) has a bankruptcy petition presented against him or her or presents his or her own petition;</p> <p>(iii) is made bankrupt;</p> <p>(iv) makes a proposal for a scheme of arrangement or a composition; or</p> <p>(v) has a deed of assignment or deed of arrangement made, accepts a composition, is required to present a debtor's petition, or has a</p>

sequestration order made, under Part X of the *Bankruptcy Act 1966* (Cth); or

- (d) in relation to a corporation, any one of the following:
- (i) notice is given of a meeting of creditors with a view to the corporation entering into a deed of company arrangement;
 - (ii) the corporation entering a deed of company arrangement with creditors;
 - (iii) a controller, administrator, receiver, receiver and manager, provisional liquidator or liquidator is appointed to the corporation;
 - (iv) an application is made to a court for the winding up of the corporation and not stayed within 10 Business Days, other than for the purposes of solvent reconstruction or amalgamation;
 - (v) a winding up order is made in respect of the corporation, other than for the purposes of solvent reconstruction or amalgamation;
 - (vi) the corporation resolves by special resolution that it be wound up voluntarily, other than for a members' voluntary winding-up or for the purposes of solvent reconstruction or amalgamation; or
 - (vii) a mortgagee of any property of the corporation takes possession of that property.

Intellectual Property

means:

- (a) all copyright and analogous rights;
- (b) all rights in relation to inventions (including patent rights), plant varieties, registered and unregistered trademarks (including service marks), designs (whether or not registrable), confidential information (including trade secrets and know-how), circuit layouts and all other rights resulting from intellectual activity in the industrial, scientific or artistic fields; and
- (c) all rights to register, rights in applications for the registration of and rights to extend or renew the registration of any of the foregoing,

whether created before, on or after the Effective Date and whether existing in Australia or otherwise.

Loss

means losses, liabilities, claims, proceedings, actions, demands, damages, costs, charges, expenses or diminution in value, however arising, and whether present or future, fixed or unascertained, actual or contingent.

Material Type

means:

- (a) each of the following 10 types of materials:

- (i) aluminium;
 - (ii) amber glass;
 - (iii) clear polyethylene terephthalate (PET);
 - (iv) coloured (non-white) PET;
 - (v) flint (clear) glass;
 - (vi) green glass;
 - (vii) high-density polyethylene (HDPE);
 - (viii) liquid paper board;
 - (ix) steel; and
 - (x) white PET; and
- (b) collectively, all materials other than those described in paragraph (a) of this definition and which, for the purpose of this definition, are deemed to all be of a single material type known as "Other",
- or as otherwise notified by the Principal.

Minister	means the minister who is responsible under Western Australian law for administering Part 5A of the Act.
Notice of Dispute	has the meaning given in clause 20.1(b).
Particulars	means Schedule 1 to this Deed.
Payments Schedule	means the payments schedule set out in Schedule 2.
Principal's Representative	means the individual specified in Item 1 of the Particulars or such other person as is notified in writing by the Principal to the Claimant as the Principal's Representative for the purposes of this Deed.
Regulation	means a regulation made under Part 5A of the Act.
Regulatory Authority	<p>means:</p> <ul style="list-style-type: none"> (a) any government or a governmental, quasi-governmental or judicial entity or authority (including the department or agency responsible under Western Australian law for the relevant provisions of the Act); (b) a stock exchange; and (c) any other authority, agency, commission, regulator, ministry, department, instrument, tribunal (including any pricing body), enterprise, delegated authority or similar entity, <p>whether of Australia or elsewhere that has powers or jurisdiction under any law over a party or any act relating to this Deed.</p>
Review Procedure	means a review of this Deed conducted in accordance with clause 11.1.

Scheme	has the meaning given to that term in the 'Recitals' section of this Deed.
Scheme Change	has the meaning given in clause 16.1(a).
Scheme Change Notice	has the meaning given in clause 16.1(a).
Scheme Commencement Date	means the date on which the Scheme commences under the Act.
Scheme Container	has the meaning given to that term in section 47P(1) of the Act.
Scheme Contributor	means each of: <ul style="list-style-type: none"> (a) a Supplier that has executed a Supply Agreement; and (b) a Scheme Exporter, as the context requires.
Scheme Exporter	means a person who is an Exporter and has entered into an Export Rebate Agreement with the Principal and includes the Claimant.
Scheme Objectives	mean the objects outlined in section 47A of the Act.
Scheme Participant	means: <ul style="list-style-type: none"> (c) the Principal; (d) a Supplier; and (e) a Scheme Exporter, as the context requires.
State	means the Crown in right of the State of Western Australia, including the Minister within the meaning of the Act.
State Policy	means each policy, guideline, code, standard, circular directive, practice specification or procedure or direction (including any direction issued by the Minister under the Act and any document prepared by the CEO (as defined in the Act)) which applies in connection with the Scheme and which affects implementation of the Scheme, which: <ul style="list-style-type: none"> (a) is notified to the Principal; (b) is publicly available or otherwise available to the Principal; or (c) the Principal is expressly required by the terms of this Deed, by law or by direction of the Minister or the State, to comply with, as may be amended or updated from time to time.
Statutory Requirements	means: <ul style="list-style-type: none"> (a) the Act and Regulations;

- (b) any law applicable to implementation and operation of the Scheme, or the Claimant's obligations under this Deed, including Acts, ordinances, regulations, by-laws, orders and other subordinate legislation;
- (c) Approvals (including any condition or requirement under them) applicable to implementation and operation of the Scheme, the provision of the Services and/or the Claimant's obligations under this Deed; and
- (d) fees and charges payable in connection with the foregoing.

Supplier	means a person that has entered into a Supply Agreement with the Principal.
Supply Agreement	has the meaning given to that term in section 47C(1) of the Act.
Tax Invoice	has the same meaning as in the GST Legislation.
Term	has the meaning given in clause 3.
Variation	means a variation, amendment or modification of this Deed in accordance with clause 11.
Variation Order	has the meaning given in clause 11.2.

1.2 Interpretation

In this deed unless a contrary intention is expressed:

- (a) headings and italicised, highlighted or bold type do not affect the interpretation of this deed;
- (b) the singular includes the plural and the plural includes the singular;
- (c) a gender includes all other genders;
- (d) other parts of speech and grammatical forms of a word or phrase defined in this deed have a corresponding meaning;
- (e) a reference to a 'person' includes any individual, firm, company, partnership, joint venture, an unincorporated body or association, trust, corporation or other body corporate and any Regulatory Authority (whether or not having a separate legal personality);
- (f) a reference to any thing (including any right) includes a part of that thing, but nothing in this clause 1.2(f) implies that performance of part of an obligation constitutes performance of the obligation;
- (g) a reference to a clause, party, annexure, exhibit or schedule is a reference to a clause of, and a party, annexure, exhibit and schedule to, this deed and a reference to this deed includes any clause, annexure, exhibit and schedule;
- (h) a reference to a document (including this deed) includes all amendments or supplements to, or replacements or novations of, that document;

- (i) a reference to a party to any document includes that party's successors and permitted assigns;
- (j) a reference to time is to Perth, Western Australia time;
- (k) a reference to any legislation includes all delegated legislation made under it and includes all amendments, consolidations, replacements or re-enactments of any of them, from time to time;
- (l) a reference to an agreement other than this deed includes an undertaking, deed, agreement or legally enforceable arrangement or understanding whether or not in writing;
- (m) a reference to a document includes any agreement or contract in writing, or any certificate, notice, deed, instrument or other document of any kind;
- (n) a promise, agreement, representation or warranty by two or more persons who comprise a party binds them jointly and severally;
- (o) a provision of this deed may not be construed adversely to a party solely on the ground that the party (or that party's representative) was responsible for the preparation of this deed or the preparation or proposal of that provision;
- (p) a reference to a body, other than a party to this deed (including an institute, association or authority), whether statutory or not, which ceases to exist or whose powers or functions are transferred to another body, is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
- (q) the words 'include', 'including', 'for example', 'such as' or any form of those words or similar expressions in this deed do not limit what else is included and must be construed as if they are followed by the words 'without limitation', unless there is express wording to the contrary;
- (r) a reference to a day is to the period of time commencing at midnight and ending 24 hours later;
- (s) if a period of time is specified and dates from a day or the day of an act, event or circumstance, that period is to be determined exclusive of that day;
- (t) if an act or event must occur or be performed on or by a specified day and occurs or is performed after 5.00 pm on that day, it is taken to have occurred or been done on the next day; and
- (u) a reference to '\$', 'A\$', 'AUD', 'dollars' or 'Dollars' is a reference to the lawful currency of the Commonwealth of Australia.

1.3 **Business Day**

If anything under this deed is required to be done by or on a day that is not a Business Day that thing must be done by or on the next Business Day.

2. Commencement Date

This Deed takes effect and comes into force on the date on which this Deed is executed by all parties to this Deed or, if not executed on the same date, the date on which the last of the parties executes this Deed (**Effective Date**).

3. Term

This Deed commences on the Effective Date and continues until terminated in accordance with this Deed or the Scheme is otherwise no longer in force (**Term**).

4. Key obligations

4.1 Fraud

- (a) Each of the Parties must not:
 - (i) in connection with this Deed; or
 - (ii) in purported compliance with any requirement imposed by or under Part 5A of the Act or under any Regulation,

provide any information that the party knows is false or misleading in a material particular.
- (b) The Principal and the Claimant must take all reasonable steps to minimise and prevent fraud in connection with the Scheme.
- (c) The Claimant acknowledges and agrees that the rights, powers and remedies of the Principal in relation to any breach of this clause 4.1 are in addition to any penalties that may apply under the Act or Regulations in relation to the breach.

4.2 Compliance

- (a) The Principal and the Claimant must comply with all applicable Statutory Requirements and this Deed.
- (b) The Claimant must give notice in writing to the Principal's Representative, together with relevant particulars, promptly after becoming aware of any suspected contravention or contraventions of any applicable Statutory Requirement by a Scheme Contributor (including itself) or any other person.

5. Principal's obligations

- (a) As soon as practicable after execution of this Deed, the Principal must provide the Claimant with a unique identifier number for the purposes of this Deed (**Exporter ID Number**).

- (b) The Principal must comply with the obligations imposed on the Principal under the Payments Schedule and the Export Rebate Protocol.

6. Adjustments

6.1 Overpayments

- (a) The Claimant must pay the Principal any amount of overpayment the Principal reasonably determines (whether as a result of an audit, investigation or otherwise) has been made to the Claimant by the Principal pursuant to the Payments Schedule and the Export Rebate Protocol.
- (b) Any amount payable under clause 6.1(a) is a debt due and payable by the Claimant to the Principal for which the Principal will issue the Claimant with an invoice for repayment on 14 day payment terms. The Principal may, at its discretion, deduct this debt from any amounts which are to be paid to the Claimant pursuant to the Payments Schedule and the Export Rebate Protocol.

6.2 Underpayments

- (a) The Principal must pay the Claimant any amount of underpayment the Principal reasonably determines (whether as a result of an audit, investigation or otherwise) has been made to the Principal by the Claimant pursuant to the Payments Schedule and the Export Rebate Protocol.
- (b) If not otherwise accounted for by way of an adjustment under clause 2.2(a)(ii) of the Payments Schedule, any amount payable under clause 6.2(a):
 - (i) is a debt due and payable by the Principal to the Claimant; and
 - (ii) must be paid by the Principal to the Claimant by the 15th calendar day (or nearest Business Day) of the month following the month in which the Principal makes a determination under clause 6.2(a).

6.3 Acknowledgment

- (a) The Claimant agrees that confirmation or payment by the Principal of any amount relating to the Payments Schedule or the Export Rebate Protocol:
 - (i) does not constitute approval of any information provided by the Claimant to the Principal in relation to the Payments Schedule or the Export Rebate Protocol;
 - (ii) does not constitute approval of the Claimant's compliance with the Payments Schedule or the Export Rebate Protocol or this Deed; and
 - (iii) does not prevent the Principal from subsequently making a determination that an overpayment or underpayment has been made to the Claimant pursuant to the Payments Schedule or the Export Rebate Protocol.

7. Claimant Obligations

7.1 Payment Schedule and Export Rebate Protocol

The Claimant must comply with obligations imposed on Exporters under the Payments Schedule and the Export Rebate Protocol.

7.2 Cooperation

The Claimant must at all times cooperate with the Principal and the other Scheme Participants in respect of fraud, or possible fraud, in connection with the Scheme.

8. Declaration

No later than the date which is 40 Business Days after the end of each Financial Year in respect of which the Claimant has made claims in relation to Export Sales pursuant to the Payments Schedule and the Export Rebate Protocol, the Claimant must prepare and deliver to the Principal a statutory declaration that accords with any requirements as to that declaration (including as to form and the identity of the person making the declaration) set out in the Payments Schedule or the Export Rebate Protocol.

9. Records and Auditing

- (a) The Principal may at any time audit, or engage an independent auditor to audit (including a real-time audit of any applicable electronic systems for deliveries, supply chain logistics, payments, collections and verification) and review data provided by the Claimant under this Deed, including Export Sale Statements and declarations (and any relevant or related supporting information) to determine if:
- (i) the information provided by the Claimant is true and correct; and
 - (ii) the Claimant is complying with:
 - (A) the Act and the Regulations; and
 - (B) the terms of this Deed.
- (b) The Claimant must:
- (i) for the purposes of any performance audit as contemplated by the Act or any other review or audit under this Deed, including under clause 9(a), give the Principal and any auditor engaged by or on behalf of the Principal access (at all reasonable times) to any areas where that Claimant's business is being carried out
 - (ii) provide all reasonable assistance to the Principal and any auditor engaged by or on behalf of the Principal in connection with any performance audit as contemplated by the Act or any other review or audit under this Deed, including under clause 9(a);

- (iii) keep appropriate and sufficient electronic records of all Export Sales and all Export Sale Statements for a minimum of 7 years; and
- (iv) provide a declaration by the means and in the form set out by the Principal within 10 Business Days of the notification by the Principal of a proposed audit for the period audited (or to be audited), which until the Principal specifies otherwise, must be in the form set out in the Annexure to the Payments Schedule and executed by a director or officer of the Claimant who has responsibility for Export Sales.

10. Information Sharing

The Claimant agrees that the Principal may share any information provided by the Claimant in relation to this Deed with:

- (a) the State, its agencies, instrumentalities and authorities;
- (b) the government of any jurisdiction in which a Corresponding Law is in force, its agencies, instrumentalities and authorities;
- (c) the Principal's agents, subcontractors and professional advisers; and
- (d) the occupant of a position equivalent to the Principal in any jurisdiction in which a Corresponding Law is in force,

and that these entities may share any information so provided with one another.

11. Variations

11.1 Review Procedure

- (a) **(Review Proposal)** During the Term:
 - (i) the Claimant may, at any time but no more frequently than once in every 12-month period; and
 - (ii) the Principal may, at its discretion, at any time,

issue a notice to the other party setting out a proposal for a Variation (**Review Proposal**). The Claimant acknowledges that the Principal may also issue similar notices to other Exporters at the same or similar time.
- (b) **(Discussion Review Proposal)** As soon as practicable after a Review Proposal is issued, the parties must meet in good faith (whether in person or remotely and at a time and method directed by the Principal acting reasonably, having regard to the fact that the meeting may be attended by one or more other Exporters in accordance with clause 11.1(c)) and work together to consider the Review Proposal, and must each use their reasonable endeavours to agree any:
 - (i) timeframe for implementation of any Variation; and
 - (ii) amendment to the terms of this Deed.

- (c) **(Other Exporters)** The Principal may invite one or more other Exporters to any meeting between the Principal and the Claimant (including any meeting under clause 11.1(b)).
- (d) **(Direction by the Principal)** Following a meeting or meetings under clause 11.1(b):
 - (i) the party that issued the Review Proposal may withdraw it; or
 - (ii) the Principal may issue a Variation Order that, in the Principal's reasonable opinion, takes into account the best interests of the Scheme.

11.2 Variation Order

- (a) Subject to the Principal first conducting a review in accordance with the Review Procedure, the Principal may direct the Claimant to carry out a Variation by issuing a written document titled "Variation Order" setting out a proposed Variation to any applicable provision of this Deed, which will take effect from the date specified in the Variation Order (a **Variation Order**).
- (b) Both parties must comply with any Variation Order issued in accordance with this Deed and any Variation will be binding on the parties as if it was included in this Deed.

11.3 Acknowledgement by Claimant

The Claimant acknowledges that:

- (a) in addition to this Deed, the Principal has entered into Export Rebate Agreements with other Exporters;
- (b) all Export Rebate Agreements must be consistent to protect the Principal's legitimate interest in ensuring the Scheme Objectives are achieved; and
- (c) the Principal is not required to agree to any Variation proposed by the Claimant and may reject any such proposed variation in the Principal's absolute discretion.

11.4 Amendment by deed

Other than as expressly set out elsewhere in this Deed, this Deed may be amended only by another deed executed by all the parties.

12. Claimant data

- (a) The Intellectual Property in all data, documents, information, records or other material of any kind and in any form or medium prepared by the Claimant which the Claimant is required to provide to the Principal under this Deed (**Claimant IP**) will remain vested in the Claimant.
- (b) The Claimant grants the Principal an irrevocable, royalty free, non-exclusive, licence to use the Intellectual Property in the Claimant IP for the purposes of the Principal carrying out its functions and obligations in connection with the Scheme in accordance with the Act, the Regulations, the Coordinator Agreement, the Scheme Agreements and this Deed:
 - (i) during the Term; and

- (ii) in accordance with any provision of this Deed that survives the termination or expiry of this Deed,

and for no other purposes.

- (c) The Principal may transfer, or grant a sublicense in respect of, the licence referred to in clause 12(b) to the State.

13. Government information

The Claimant acknowledges and agrees that:

- (a) if requested by the State, the Principal may provide a copy of this Deed, and any information relating to this Deed, to the State;
- (b) the Principal has obligations under the Statutory Requirements arising from its role as the Coordinator under the Act;
- (c) payments made by the Claimant under, and any information produced by or given to the Claimant in connection with, this Deed may be disclosed by the Principal to members of the public, the State, another Regulatory Authority or an Associate of the Principal in accordance with applicable Statutory Requirements; and
- (d) where the Principal has disclosed information in accordance with this clause 13 the Claimant irrevocably releases and discharges the Principal and the State from any Claim arising from such disclosure; and
- (e) pursuant to section 47ZZC of the Act, an authorised person, as defined in that section, may require the Claimant to provide information or produce material in accordance with that section.

14. Auditor General access to Records

- (a) The Claimant must allow the Auditor General, or an authorised representative of the Auditor General, to have access to and examine the Claimant's Records concerning this Deed.
- (b) The Claimant acknowledges and agrees that the Auditor General, or an authorised representative of the Auditor General, may require access to and examine the Principal's Records concerning this Deed.
- (c) In this clause 14 and clause 21.2(a):
 - (i) **Auditor General** means the person holding the office of Auditor General for Western Australia continued by section 6 of the *Auditor General Act 2006*; and
 - (ii) **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 this Deed, whether or not containing confidential information, and however such records and information are held, stored or recorded.

15. Modern Slavery

15.1 Definitions

In this clause 15:

Commonwealth Act means *Modern Slavery Act 2018* (Cth); and

Modern Slavery means:

- (a) any activity, practice or conduct that would constitute an offence in relation to slavery, forced labour, involuntary servitude, debt bondage, human trafficking, and other slavery-like exploitation as prohibited or defined as a modern slavery offence under all applicable anti-slavery and human trafficking laws, statutes and codes from time to time in force including, but not limited to the *Criminal Code Act 1995* (Cth) (specifically Schedule 1 Divisions 270 and 271), the *Modern Slavery Act 2018* (NSW) (specifically section 5(1) and Schedule 2) and the Commonwealth Act; and
- (b) any conditions or practices similar to those prohibited under the legislation referred to in paragraph (a) of this definition.

15.2 Claimant warranties

The Claimant represents, warrants and undertakes:

- (a) that no form of Modern Slavery is used in the Claimant's business or by its directors, officers, employees, agents, representatives, contractors or subcontractors;
- (b) to comply with all applicable employment and work health and safety laws;
- (c) to comply with all applicable statutory requirements relating to Modern Slavery, including but not limited to any imposed by the Commonwealth Act;
- (d) to comply with all applicable Modern Slavery reporting requirements, including but not limited to any imposed by the Commonwealth Act;
- (e) to include, in each of its contracts with its subcontractors and/or suppliers, anti-slavery provisions that are at least as onerous as those set out in this clause 15; and
- (f) to notify to the Principal promptly upon becoming aware of any incident, complaint or allegation that the Claimant, or any entity in its supply chain, has engaged in Modern Slavery.

15.3 Claimant policies and procedures

Throughout the Term, the Claimant must have and implement its own policies and procedures that are designed to ensure compliance with the warranties contained in clause 15.2.

15.4 Prohibition

The Claimant must not engage in Modern Slavery.

15.5 Reporting Obligations

- (a) At the request of the Principal, the Claimant must:
 - (i) confirm in writing that it has complied with its undertakings under this clause 15 and must provide such evidence of such compliance as is reasonably requested by the Principal; and
 - (ii) provide such information as the Principal reasonably requires in order for the Principal to comply with any statutory reporting obligations relating to matters the subject of the warranties contained in clause 15.2.
- (b) Upon becoming aware of any actual, reasonably suspected or anticipated breach of this clause 15, the Claimant must immediately provide written notice of the breach, giving full details of such breach, to the Principal.

16. Scheme Changes

16.1 Amendments to Deed

- (a) If:
 - (i) there is any Change in Law, including where a direction has been issued by the Minister in accordance with section 47ZP(1) of the Act; or
 - (ii) the Minister amends the Principal's appointment as the Scheme Coordinator under the Act; or
 - (iii) the Coordinator Agreement is amended,

(**Scheme Change**), the Principal may, by giving no less than 20 Business Days' notice in writing to the Claimant (**Scheme Change Notice**), amend the terms of this Deed to address that Scheme Change.
- (b) The Claimant may provide the Principal with a written submission in response to the Scheme Change Notice within 10 Business Days of receiving the Scheme Change Notice (**Claimant Response**).
- (c) The Principal:
 - (i) must review and consider any Claimant Response provided in accordance with clause 16.1(b); and
 - (ii) may (in its sole discretion) amend the Scheme Change Notice in response to any Claimant Response provided in accordance with clause 16.1(b).
- (d) The Claimant acknowledges and agrees that with effect from the date specified in the Scheme Change Notice the terms of this Deed are amended as set out in the Scheme Change Notice, as might be amended in accordance with clause 16.1(c).
- (e) Any amendment to this Deed under this clause 16 is not subject to the Principal first conducting a review in accordance with the Review Procedure with respect to that amendment.

16.2 Further acts and documents

The Claimant must promptly do all further acts and execute and deliver all further documents (in form and content reasonably required by the Principal) required by law or reasonably requested by the Principal to give effect to the amendment referred to in clause 16.1.

16.3 No compensation

The Claimant is not entitled to any compensation from the Principal or the State as a result of any amendment to this Deed under this clause 16.

17. Payment

17.1 Payments by the Claimant

- (a) The Claimant must pay the Principal all amounts it is required to pay at the times at which it is required to pay them in accordance with this Deed.
- (b) The Claimant must make all payments under this Deed to the Principal's nominated bank account, as set out in the Particulars, or as notified in writing by the Principal from time to time.

17.2 Payments by the Principal

- (a) The Principal must pay the Claimant all amounts it is required to pay at the times at which it is required to pay them in accordance with this Deed.
- (b) The Principal must make payment to the Claimant's nominated bank account, as set out in the Particulars, or as notified by the Claimant from time to time.

18. GST

18.1 Preliminary

Unless otherwise defined in clause 1.1, words or expressions used in this clause that are defined in the GST Legislation have the same meaning given to them in that Act.

18.2 GST exclusive

Unless otherwise stated, any amount specified in this Deed as the consideration payable for any taxable supply does not include any GST payable in respect of that supply.

18.3 Liability to pay GST

If a party makes a taxable supply under this Deed (**Supplier**), then the recipient of the taxable supply (**Recipient**) must also pay, in addition to the consideration for that supply, the amount of GST payable in respect of the taxable supply at the time the consideration for the taxable supply is payable.

18.4 Tax invoice

Notwithstanding the foregoing, the Recipient is not obliged under this Deed to pay the amount of any GST payable until the Supplier provides it with a valid Tax Invoice for the taxable supply.

18.5 Adjustment event

If an adjustment event arises in relation to a taxable supply made by a Supplier under this Deed, the amount paid or payable by the Recipient pursuant to clause 18.3 will be amended to reflect this and a payment will be made by the Recipient to the Supplier or vice versa as the case may be.

18.6 Reimbursement of expenses

If a third party makes a taxable supply and this Deed requires a party to this Deed (**the payer**) to pay for, reimburse or contribute to (**pay**) any expense or liability incurred by the other party to that third party for that taxable supply, the amount the payer must pay will be the amount of the expense or liability plus the amount of any GST payable in respect thereof but reduced by the amount of any input tax credit to which the other party is entitled in respect of the expense or liability.

18.7 Non merger

This clause does not merge on completion and will continue to apply after expiration or termination of this Deed.

19. Termination

19.1 Termination by Principal

Subject to any provision of the *Corporations Act 2001* (Cth) or any related subordinate legislation that may prevent or restrict the exercise of a right of termination or other right under this Deed, if:

- (a) an Insolvency Event occurs in respect of the Claimant;
- (b) the Claimant breaches clause 4.2 or provides a false statutory declaration under this Deed;
- (c) the Claimant fails to pay when due any amount payable by the Claimant under this Deed and fails to remedy that default within 20 Business Days of being provided a written notice of the default by the Principal;
- (d) the Claimant fails to comply with its obligations under this Deed and fails to remedy the default within 20 Business Days of being provided a written notice of default by the Principal; or
- (e) the Claimant contravenes the Act or the Regulations,

the Principal may terminate this Deed by written notice to that Claimant.

19.2 Termination by the Claimant

The Claimant may terminate this Deed by giving the Principal 20 Business Days' notice in writing.

19.3 Claimant's entitlements after termination

Without limiting any rights it may have under any other term of this Deed that have accrued prior to the termination, the Claimant is not entitled to any compensation from the Principal or the State as a result of the termination of this Deed for any reason.

19.4 Survival

Clause 19.3 will survive the termination or expiration of this Deed.

20. Disputes

20.1 Notice of Dispute

- (a) Except where this Deed has been terminated, or the dispute or difference concerns whether the Deed has been validly terminated, if a dispute or difference arises between the Principal and the Claimant in respect of any fact, matter or thing arising out of, or in any way in connection with, this Deed (**Dispute**) the parties must follow the procedure in this clause 20.
- (b) Where a Dispute arises, the party raising the Dispute must give a notice in writing to the other party specifying:
 - (i) the Dispute;
 - (ii) whether the party considers the Dispute is a Common Dispute;
 - (iii) particulars of the party's reasons for being dissatisfied; and
 - (iv) the position which the party believes is correct,**(Notice of Dispute).**
- (c) If a Dispute the subject of a Notice of Dispute involves a Common Dispute, the Principal may, by giving written notice to the Claimant, require the Dispute to be resolved in accordance with the Common Dispute Procedure (**Notice of Common Dispute**).
- (d) If a Notice of Common Dispute is issued:
 - (i) the Common Dispute must be resolved in accordance with the Common Dispute Procedure; and
 - (ii) the dispute resolution process under this clause 20 will be permanently stayed.
- (e) For the avoidance of doubt until such time as a Notice of Common Dispute has been issued the dispute resolution process under this clause 20 will continue to apply in respect of the Dispute.

20.2 Executive Negotiation

- (a) The Executive Negotiators must within:
 - (i) 10 Business Days of service of a Notice of Dispute; or
 - (ii) such longer period of time as the Executive Negotiators may agree in writing, meet and undertake genuine and good faith negotiations with a view to resolving the Dispute.
- (b) The Executive Negotiators must have authority to agree to a resolution of the Dispute.
- (c) The meeting will be held in any one of the following forums, as reasonably determined by the Principal:
 - (i) by phone (including by teleconference);
 - (ii) by videoconference; or
 - (iii) in person (at a place reasonably nominated by the Principal).
- (d) The joint decision (if any) of the Executive Negotiators will be reduced to writing and will be contractually binding on the parties.

20.3 Proceedings

If a Dispute remains unresolved (in whole or in part) within 20 Business Days after service of the Notice of Dispute, or such longer period of time as the Executive Negotiators may agree in writing, then either party may by giving notice to the other party proceed to legal proceedings in respect of those parts of the Dispute which remain unresolved.

20.4 Continuation of obligations

Despite the existence of a Dispute, the parties must continue to comply with their respective obligations under this Deed.

20.5 Urgent interlocutory relief

Nothing in this clause 20 prevents a party from seeking urgent injunctive or interlocutory relief.

21. Confidentiality and publicity

21.1 Confidentiality and Confidential Material

Each party acknowledges and agrees, and covenants and undertakes in favour of each other Exporter that, subject to clause 21.2:

- (a) the Confidential Material of the other party is and will remain confidential to the other party;
- (b) the Confidential Material of an Exporter is and will remain confidential to that Exporter;

- (c) it has not disclosed and will not at any time, without the other party's prior written consent, disclose the contents of Deed or the other party's Confidential Material to any third party;
- (d) it has not disclosed and will not at any time, without the Exporter's written consent, disclose that Exporter's Confidential Material to any third party; and
- (e) it will not, and will ensure that its Associates do not, at any time, use or reproduce or permit or allow any other person to use or reproduce this Deed or the other party's Confidential Material, or the Exporter's Confidential Material, other than for the purposes of this Deed, including to carry out its obligations pursuant to this Deed.

21.2 Exceptions to confidentiality

- (a) It will not be a breach of clause 21.1:
 - (i) if, in response to a request from the State, a party discloses a copy of this Deed or any relevant information relating to this Deed, to the State or representatives of the State acting in relation to such request, as contemplated by clause 13(a);
 - (ii) if the Principal discloses the Claimant's Confidential Material or another Exporter's Confidential Material in an aggregated format that does not identify or attribute that Confidential Material as belonging to the Claimant or other Exporter (as applicable);
 - (iii) if a party (**Disclosing Party**) discloses the other party's or an Exporter's Confidential Information or this Deed:
 - (A) to an Associate of the Disclosing Party who has previously agreed to keep, and to ensure that its employees keep, that Confidential Information or the contents of this Deed (as applicable) confidential;
 - (B) in order to comply with its obligations under the Act, the Regulations, or any other applicable law or legally binding order of any court, government, semi-government authority or administrative or judicial body or the applicable rules of any stock exchange; or
 - (C) to the Auditor General, or an authorised representative of the Auditor General, as part of the Records of the Disclosing Party, as contemplated by clause 14.
- (b) Clause 21.1 does not apply:
 - (i) to a party's Confidential Material or a provision of this Deed that is in the public domain through no act, neglect or default of the other party (**Other Party**) or its Associates (the onus of proving which will be on the Other Party); or
 - (ii) to Confidential Material of the other party or a provision of this Deed that the other party has notified the Other Party in writing that the other party no longer requires the Other Party to maintain as confidential; or
 - (iii) to the use or disclosure of an Exporter's Confidential Material by a party if:
 - (A) that Confidential Material is in the public domain through no act, neglect or default of the party (the onus of proving which will be on that party); or

- (B) the Exporter has notified the party in writing that the Exporter no longer requires the party to maintain that Confidential Material as confidential..
- (c) Nothing in this clause 21.2 will excuse any prior breach of clauses 21.1 and the other party's rights and remedies in respect of any prior breach are expressly preserved.
- (d) The Claimant acknowledges that the State may have certain rights and obligations under freedom of information legislation (including the *Freedom of Information Act 1992* (WA)), and that these rights and obligations may impact on the parties' rights and obligations under this Deed.

21.3 Publicity and branding

Without limiting any other obligation contained in this clause 21, the Claimant must:

- (a) at all times comply with any reasonable protocols or procedures notified by the Principal relating to confidentiality, branding, and/or advertising in connection with or relating to the Scheme or the Principal; and
- (b) as soon as practicable after it becomes aware of any non-compliance with the obligations contained in this clause 21 (either by it or another person), notify the Principal of the non-compliance, and take such reasonable action as is directed by the Principal in respect of any such non-compliance.

21.4 Rights of other Exporters

The covenants and undertakings in this clause 21 in favour of other Exporters are intended to confer a benefit directly on other Exporters and are intended to be, and are, directly enforceable by other Exporters and this Deed operates as a deed poll in favour of other Exporters.

22. Notices

22.1 Requirements

All notices, requests, demands, consents, approvals, or other communications under this Deed (**Notice**) to, by or from a party must be:

- (a) in writing;
- (b) in English or accompanied by a certified translation into English;
- (c) addressed to a party in accordance with its details set out in the Particulars or as otherwise specified by that party by Notice (**Notified Contact Details**); and
- (d) signed by the sending party or a person duly authorised by the sending party or, if a Notice is sent by email (if applicable), sent by the sending party.

22.2 How a Notice must be given

In addition to any other method of giving Notices permitted by statute, a Notice must be:

- (a) delivered personally;

- (b) sent by regular post if sent within Australia;
- (c) sent by airmail if sent to a place outside Australia;
- (d) sent by airmail if sent from a place outside Australia; or
- (e) sent by email.

22.3 When Notices considered given and received

Subject to clause 22.4, a Notice takes effect when received (or such later time as specified in it) and a Notice is regarded as being given by the sending party and received by the receiving party:

- (a) if delivered by hand to the address set out in the Notified Contact Details, when delivered to that address;
- (b) if sent from a place within Australia by regular post to the address set out in the Notified Contact Details which is an address that is within Australia, at 9.00 am on the sixth Business Day after the date of posting;
- (c) if sent from a place within Australia by airmail to the address set out in the Notified Contact Details which is an address outside Australia, at 9.00 am on the tenth Business Day after the date of posting;
- (d) if sent from a place outside Australia by airmail to the address set out in the Notified Contact Details which is an address that is within or outside Australia, at 9.00 am on the twelfth Business Day after the date of posting;
- (e) if sent by email to the email address set out in the Notified Contact Details, when the email (including any attachment) is sent to the receiving party at that email address, unless the sending party receives a notification of delivery failure within 24 hours of the email being sent.

22.4 Time of delivery and receipt

If pursuant to clause 22.3 a Notice would be regarded as given and received on a day that is not a Business Day or after 5.00 pm on a Business Day, then the Notice will be deemed as given and received at 9.00 am on the next Business Day.

22.5 General

A party may change its contact details as set out in the Particulars by giving a Notice to each other party.

23. General

23.1 Assignment

- (a) The Principal may assign, charge, create a security interest over, encumber or otherwise deal with any of its rights or obligations under this Deed without the consent of the Claimant.

- (b) The Claimant cannot assign, novate, charge, create a security interest over, encumber or otherwise deal with any of its rights or obligations under this Deed, or attempt or purport to do so, without the prior written consent of the Principal. The consent of the Principal may be withheld in its absolute discretion without giving any reason for doing so.

23.2 Novation to new entity

Where:

- (a) the Principal's appointment as the Coordinator under the Act ends for any reason;
- (b) another entity is or is to be appointed as the Coordinator under the Act (**Successor Scheme Coordinator**);
- (c) the Regulations do not provide that this Deed is automatically assigned to, and assumed by, that incoming Coordinator upon the Principal's appointment as the Coordinator for the Scheme under the Act coming to an end; and
- (d) the State requires that this Deed be novated to the Successor Scheme Coordinator or the State (**Incoming Party**),

the parties must enter into a novation agreement with the Incoming Party such that, with effect on the date of novation, this Deed is terminated and the Incoming Party and the Claimant become parties to a new contract on the same terms as this Deed for the balance of the Term.

23.3 Duty

The Claimant:

- (a) must pay all stamp duties and any related fines and penalties in respect of this Deed, the performance of this Deed and each transaction effected by or made under this Deed;
- (b) must indemnify the Principal against any Loss suffered or incurred by it arising out of, or in connection with that Claimant's failure to comply with clause 23.3(a); and
- (c) is authorised to apply for and retain the proceeds of any refund due in respect of stamp duty paid by the Claimant under this clause 23.3.

23.4 Preparation of Deed

Unless otherwise expressly provided in this Deed, each party must pay its own costs and expenses in connection with negotiating, preparing, executing and performing this Deed.

23.5 Inconsistent provisions

- (a) The parties acknowledge the effect of section 47ZZA of the Act on the validity of the provisions of this Deed.
- (b) To the extent a provision of this Deed is found to be prohibited or unenforceable (whether due to the operation of section 47ZZA of the Act or otherwise), the parties agree:

- (i) that the remaining provisions of this Deed are not invalidated; and
- (ii) to engage in good faith negotiations to address and overcome the consequences of the provision being found to be prohibited or unenforceable (including by making any necessary amendments to this Deed),

23.6 Corporate power and authority

Each party represents and warrants to the others that it has full power to enter into and perform its obligations under this Deed and that when executed it will constitute legal, valid and binding obligations in accordance with its terms.

23.7 Waiver

- (a) A waiver of a right, remedy or power must be in writing and signed by the party giving the waiver.
- (b) A party does not waive a right, remedy or power if it delays in exercising, fails to exercise or only partially exercises that right, remedy or power.
- (c) A waiver given by a party in accordance with clause 23.7(a):
 - (i) is only effective in relation to the particular obligation or breach in respect of which it is given and is not to be construed as a waiver of that obligation or breach on any other occasion; and
 - (ii) does not preclude that party from enforcing or exercising any other right, remedy or power under this deed nor is it to be construed as a waiver of any other obligation or breach.

23.8 Severance

If a provision in this deed is wholly or partly void, illegal or unenforceable in any relevant jurisdiction that provision or part must, to that extent, be treated as deleted from this deed for the purposes of that jurisdiction. This does not affect the validity or enforceability of the remainder of the provision or any other provision of this deed.

23.9 Governing law and jurisdiction

- (a) This deed is governed by and is to be construed under the laws in force in Western Australia.
- (b) Each party submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in Western Australia and courts of appeal from them in respect of any proceedings arising out of or in connection with this deed. Each party irrevocably waives any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

23.10 Further assurances

Each party must, at its own expense, do all things and execute all further documents necessary to give full effect to this deed and the transactions contemplated by it.

23.11 No reliance

No party has relied on any statement by any other party which has not been expressly included in this deed.

23.12 Entire agreement

This deed states all of the express terms of the agreement between the parties in respect of its subject matter. It supersedes all prior discussions, negotiations, understandings and agreements in respect of its subject matter.

23.13 Counterparts

- (a) This deed may be executed in any number of counterparts, each signed by one or more parties. Each counterpart when so executed is deemed to be an original and all such counterparts taken together constitute one document.
- (b) A party that has executed a counterpart of this deed may exchange that counterpart with another party by emailing it to the other party or the other party's legal representative and, if that other party requests it, promptly delivering that executed counterpart by hand or post to the other party or the other party's legal representative. However, the validity of this Deed is not affected if the party who has emailed the counterpart delays in delivering or does not deliver it by hand or by post.

23.14 Relationship of parties

- (a) The parties are not, and are not to be taken, by reason of anything in this Deed to be in a partnership, joint venture, employment or fiduciary relationship.
- (b) Nothing in this deed gives a party authority to bind any other party in any way.

23.15 Exercise of rights

- (a) Unless expressly required by the terms of this Deed, a party is not required to act reasonably in giving or withholding any consent or approval or exercising any other right, power, authority, discretion or remedy, under or in connection with this deed.
- (b) A party may (without any requirement to act reasonably) impose conditions on the grant by it of any consent or approval, or any waiver of any right, power, authority, discretion or remedy, under or in connection with this deed. Any conditions must be complied with by the party relying on the consent, approval or waiver.

23.16 Remedies cumulative

Except as provided in this deed and permitted by law, the rights, powers and remedies provided in this deed are cumulative with and not exclusive of the rights, powers or remedies provided by law independently of this deed.

23.17 Clauses that survive termination

- (a) Without limiting or impacting upon the continued operation of any clause which is expressed to, or as a matter of construction is intended to, survive the termination or

expiry of this Deed, this clause 23.17 survive the termination or expiry of this deed for any reason.

- (b) Each indemnity contained in this deed is a continuing obligation, independent from the other obligations of the parties and survives the termination or expiry of this deed. It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity under this deed.

23.18 Priority of Deed components

- (a) If there is any inconsistency between various components of this Deed, the order of precedence of those component parts is as follows:

Ranking	Document
1.	this Deed, excluding schedules
2.	schedules to this Deed

with the higher ranked components prevailing over the lower ranked components, to the extent of any inconsistency between them.

- (b) If there is any inconsistency between the Payments Schedule and the Export Rebate Protocol, the Export Rebate Protocol will prevail to the extent of the inconsistency.

Schedule 1 Particulars

Item		
Item 1	Principal's Representative: (Clause 1.1)	Name: [*] Address: [*] Email: [*]
Item 2	Executive Negotiators: (Clause 1.1)	Principal: Tim Cusack, Chief Executive Officer, WA Return Recycle Renew Ltd Claimant: [*]
Item 3	Bank Account Details: Principal (Clause 17.1)	Name of Account: WA Return Recycle Renew Ltd Branch Name: [*] Account Number: [*] BSB Number: [*]
Item 4	Notice Details: Principal (Clause 22.1(c))	Name: WA Return Recycle Renew Ltd Address: [*] Email: [*] For the attention of: [*]
Item 5	Notices Details: Claimant (Clause 22.1(c))	Name: [*] Address: [*] Email: [*] For the attention of: [*]

Schedule 2 Payments Schedule

1. How to make a payment claim for Exported Containers

- (a) The Exporter may make a payment claim by submitting an Export Sale Statement in accordance with this Payments Schedule.
- (b) Export Sale Statements must include the Exporter's Exporter ID Number and be provided electronically via the Principal's online portal in accordance with instructions given by the Principal from time to time.
- (c) Exporters should note the information required includes a breakdown of the number of beverage products by container material type by State in each month. It also requires the Exporter to be able to identify the Supplier who was the First Responsible Supplier in Western Australia of each of the Beverage Products that it is Exporting, using the Supplier's unique Scheme ID Number, issued to the Supplier by the Principal and provided to the Exporter by the Supplier. It is therefore important that Exporters require their suppliers to provide this information with each transfer of goods.
- (d) Export Sale Statements can be used to claim for exports in the two operating months prior to submission of the Export Sale Statement. The Scheme will not pay in respect of Exports that were made three or more months prior to lodgement of an Export Sale Statement.
- (e) The Exports the subject of a claim:
 - (i) must have been the subject of a contribution paid by a Supplier to the Principal in relation to the Scheme;
 - (ii) will not be further sold to a person within the State;
 - (iii) must not have been included in any other Export Sale Statement submitted to the Principal by any person; and
 - (iv) must not have been sold in Western Australia prior to the Scheme Commencement Date.
- (f) If, in the reasonable opinion of the Principal, an Exporter has engaged in fraudulent conduct in relation to this Payments Schedule, the Principal may decline to accept claims from the Exporter.
- (g) **The lodgement deadline each month for Export Sale Statements is the 15th day (or nearest Business Day) of the month.**

For example, to claim exports made in March 2021 the deadline is Friday 14th of May 2021, being the nearest Business Day to the 15th of the month two months after the operating month.

2. Invoicing and Payment

2.1 Exporter Invoice and Payment Timing

- (a) If the Exporter gives an Export Sale Statement in accordance with this Payments Schedule, the Principal will, by the 1st day (or following Business Day) of the calendar month following the lodgement deadline that was met, prepare an invoice on behalf of the Exporter in respect of that Export Sale Statement (Exporter Invoice).
- (b) The Principal must pay the Exporter the amount set out as then payable in the Exporter Invoice by the 15th calendar day (or nearest Business Day) of the month following the receipt of the Export Sale Statement.
- (c) For examples, if the Export Sale Statement was provided between:
- 16 May 2021 and 14 June 2021 inclusive:
 - the invoice will be prepared on 1 July 2021 (the first Business Day of July) and
 - paid by 15 July 2021.
 - 15 June 2021 and 15 July 2021 inclusive:
 - the invoice will be prepared on 1 August 2021 and
 - paid by 15 August 2021.

2.2 Adjustments by the Principal

- (a) The Principal may, at any time, adjust the amount payable under an Exporter Invoice:
- (i) after the Principal has assessed the validity of claims made in the Export Sale Statement; and
 - (ii) to account for any previous overpayment or underpayment identified as a result of an audit.
- (b) Confirmation or payment by the Principal of any amount relating to Exporter Invoice:
- (i) does not constitute approval of the information contained in the relevant Export Sale Statement;
 - (ii) does not constitute approval of the Exporter's compliance with this Payments Schedule or this Deed; and
 - (iii) does not prevent the Principal from requiring a further adjustment to the amount confirmed or paid, to ensure that actual amounts finally paid to the Exporter are the amounts required to be paid in accordance with this Payments Schedule and this Deed, taking into account any relevant actual information not available at the time that the calculation or payment of amounts was made.

2.3 Right of set-off

The Principal may deduct from any amounts which may or are to be paid to the Exporter by
Error! Unknown document property name.

the Principal any debt or moneys due or owing from the Exporter to the Principal.

3. Completing the annual Statutory Declaration

- (a) The Deed requires completion of a Statutory Declaration within 40 Business Days of the end of each financial year by the means, in the form and with the signatory of a category set out in this Payments Schedule.
- (b) The Statutory Declaration must be in the form annexed to this Payments Schedule, or as otherwise required in order to comply with the requirements for a statutory declaration set out in section 12 of the *Oaths, Affidavits and Statutory Declaration*
- (c)
- (d) s Act 2005 (WA), declaring:
 - that each Export Sale Statement provided by that Exporter in respect of the previous financial year was true and correct or specifying the extent to which any Export Sale Statement was not true and correct; and
 - the number of Export Sales by that Exporter in the previous financial year:
 - in aggregate in respect of Western Australia; and
 - in aggregate for each Scheme Container Material Type.
- (e) The Statutory Declaration must be executed by a director or officer of the Exporter who has responsibility for Export Sales.
- (f) An original executed copy of the Statutory Declaration must be provided to the Principal.

4. Consequence of fraud

In addition to potential consequences generally under law, the penalty under the Scheme for fraud may include:

- (a) A requirement to repay previous overpayments;
- (b) Extinguishment of the opportunity to make payment claims; and
- (c) Other potential financial penalties as may be prescribed by the Act and Regulations.

5. Record keeping

- (a) Under this Deed, Exporters must provide the Principal with the ability to inspect and audit the Exporter's records. The purpose of this is to ensure Scheme integrity and minimise potential for fraudulent claims against the Scheme.
- (b) In order to verify Export Sale Statements, Exporters must keep records that can be used to prove that Beverage Products were exported, including for example shipping

documents or purchase and sale invoices that in combination can be used to verify all of the information that is required to be provided in the payment claim statements.

- (c) For the purpose of the Scheme, records need to be kept for a minimum of 7 years.

Annexure - Statutory Declaration

Western Australia

Oaths, Affidavits and Statutory Declarations Act 2005

Statutory Declaration

I, **[Insert declarant's name]** of **[Insert declarant's address]**, **[Insert declarant's occupation]**, sincerely declare as follows:

- 1 I am a director/authorised officer of **[Insert name]**, ABN **[Insert ABN]** (Exporter).
- 2 The Exporter entered into the Export Rebate Agreement with WA Return Recycle Renew Ltd ACN 629 983 615 (**Principal**) on **[Insert date]** (the **Export Rebate Agreement**). Capitalised terms in this declaration have the meaning given in the Export Rebate Agreement.
- 3 The Export Sale Statements attached to this declaration as Annexure A are true and correct.
- 4 The number of Export Sales claimed by the Exporter in Western Australia in the previous financial year:
 - (a) in aggregate in respect of Western Australia; and
 - (b) in aggregate for each Scheme Container Material Type,
 is as follows:

No.	Material Type	Aggregate number Exported												Total
		Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	
1.	Aluminium													
2.	Amber glass													
3.	Clear polyethylene terephthalate (PET)													

4.	Coloured (non-white) PET																		
5.	Flint (clear) glass																		
6.	Green glass																		
7.	High-density polyethylene (HDPE)																		
8.	Liquid paper board																		
9.	Steel																		
10.	White PET																		
11.	Other																		
	Total																		
Aggregate for WA																			

(c) in aggregate according to the country, State or Territory to which the Export Sales were made by the Exporter as follows:

	Aggregate number Exported	
--	----------------------------------	--

Country, State or Territory exported to	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	Total
ACT													
New South Wales													
Northern Territory													
South Australia													
Tasmania													
Victoria													
Western Australia													
Other Country (please specify)													
Total													

- 5 To the best of my knowledge and belief, each Scheme Container referred to in paragraph 4 above:
- (a) has been the subject of a contribution paid by a Supplier to the Principal in relation to the Scheme or is the subject of a prior written exemption provided by the Principal;
 - (b) will not be further sold to a person within Western Australia; and
 - (c) has not been included in more than one Export Sale Statement by the Exporter.
- 6 [insert any other matter prescribed by the State or which is otherwise required by the Act or the Regulations from time to time (as notified in writing by the Principal to the Exporters)].

This declaration is true and I know that it is an offence to make a declaration knowing that it is false in a material particular.

This declaration is made under the *Oaths, Affidavits and Statutory Declarations Act 2005* at **[Insert place]**, on **[Insert date]** by -

Signature of **DEPONENT**

In the presence of –

Signature of Authorised Witness

Print full name of Authorised Witness

Qualification to be an Authorised Witness

Annexure

This is "Annexure A" referred to in the statutory declaration of **[Declarant's name as in statutory declaration]** of **[Declarant's address as in statutory declaration]** made before me this day of 20...

.....
Signature of person before whom the declaration is made

Schedule 3 Export Rebate Protocol

[FINAL VERSION FROM THE STATE TO BE INSERTED]

Schedule 4 Common Disputes Procedure

1. Definitions and interpretation clauses

1.1 Definitions

In this Procedure:

Act	means the <i>Waste Avoidance and Resource Recovery Act 2007</i> (WA).
Agreement	the deed of which this Procedure forms a part.
Business Day	means a day that is not a Saturday, Sunday, or recognised public holiday in Perth, Western Australia.
Common Dispute	means a dispute or an issue which involves a question of law (including a question of contract interpretation) or a question of fact, that is of general application or importance to the Principal and one or more Scheme Contributors.
Counterparty	means the party to the Agreement other than the Principal.
Dispute Party	has the meaning given in clause 3.1(b).
Exporter	has the meaning given to that term under section 47C(1) of the Act.
Export Rebate Agreement	has the meaning given to that term under section 47C(1) of the Act.
Issue Resolution Board	means a board established by the Principal under clause 5.
Member	means a member of the Issue Resolution Board.
Notice of Common Dispute	means a Notice of Common Dispute given under a Scheme Agreement or a notice deemed to be a Notice of Common Dispute pursuant to clause 3.1(a).
Principal	means WA Return Recycle Renew Ltd ACN 629 983 615.
Procedure	means this Schedule 4.
Related Scheme Contributor	means each party notified by the Principal in accordance with clause 3.2(a).
Scheme	means the beverage container refund scheme established under Part 5A of the Act.

- Scheme Agreement** means:
- (a) a Supply Agreement; and
 - (b) an Export Rebate Agreement,
- as the context requires, and includes the Agreement.
- Scheme Contributor** means each of:
- (a) a Supplier that has entered into a Supply Agreement; and
 - (b) a Scheme Exporter,
- as the context requires, whether such agreement is entered into before or after the date of the Agreement, and includes the Counterparty.
- Scheme Exporter** means an Exporter that has entered into an Export Rebate Agreement, and includes the Claimant.

1.2 Interpretation

Clause 1.2 of the Agreement applies to this Procedure as though set out here in full, except that references to "this Agreement" should be read as "this Procedure".

2. Status of this Procedure

- (c) The parties acknowledge that each Scheme Contributor must comply with the terms of the Procedure under and in accordance with the Scheme Contributor's respective Scheme Agreement.
- (d) The Counterparty acknowledges that the obligations of that party under this Procedure owed to Scheme Contributors are in favour of each Scheme Contributor, are directly enforceable by each Scheme Contributor and this Procedure operates as a deed poll in favour of each Scheme Contributor, such that each Scheme Contributor may enforce the terms of this Procedure against the Counterparty as if:
 - (i) this Procedure was a separate deed; and
 - (ii) each Scheme Contributor was a party to, and had signed, sealed and delivered, that deed.
- (e) Each party acknowledges that its obligations under this Procedure are irrevocable.

3. Common Disputes

3.1 Notice of Common Dispute

- (a) If a dispute or difference arises in respect of any fact, matter or thing arising out of, or in any way in connection with, this Procedure (**CDP Dispute**), the CDP Dispute is deemed to be a Common Dispute and the Principal may issue a written notice to the Scheme Contributors in respect of the CDP Dispute, which notice will be deemed to be a Notice of Common Dispute for the purposes of this Procedure.
- (b) If a Notice of Common Dispute has been issued under a Scheme Agreement or clause 3.1(a), the parties to the Common Dispute are the Principal and the relevant Scheme Contributors to whom the Notice of Common Dispute was issued (each a **Dispute Party**).
- (c) The Principal must, at the same time as giving a Notice of Common Dispute to a Scheme Contributor, give the Scheme Contributor notice of:
 - (i) each other Scheme Contributor to whom the Notice of Common Dispute has been given; and
 - (ii) the Notified Contact Details of each other such Scheme Contributor for the purposes of clause 6 of this Procedure.

3.2 Related Scheme Contributor

- (a) The Principal must notify all Scheme Contributors (with a copy to each Dispute Party) within 10 Business Days of the Notice of Common Dispute being issued.
- (b) Each notice given by the Principal under this clause 3.2 must clearly identify each of the Related Scheme Contributor to allow each Dispute Party to be able to comply with clause 4.4. The Related Scheme Contributors are not parties to the Common Dispute.

4. Common Dispute resolution procedure

4.1 Operation of clause

- (a) Subject to clause 4.1(b), compliance with this clause 4 is a condition precedent to any entitlement to claim relief or remedy (whether by way of proceedings in a court or otherwise) in respect of a Common Dispute.
- (b) Nothing in this clause 4.1 prevents a party seeking urgent injunctive or declaratory relief from a court in connection with the Common Dispute.
- (c) The Principal and each Scheme Contributor's obligations under their respective Scheme Agreements will continue despite the existence of a Common Dispute.

4.2 Negotiations in good faith

Within 5 Business Days of a Notice of Common Dispute being issued, a senior representative from each Dispute Party must meet and use all reasonable endeavours, acting in good faith, to resolve the Common Dispute.

4.3 Referral to the Issue Resolution Board

If the Common Dispute is not resolved within 20 Business Days after the issue of the Notice of Common Dispute, the Principal must refer the Common Dispute to an Issue Resolution Board.

5. Issue Resolution Board

5.1 Issue Resolution Board

- (a) In relation to each Common Dispute required to be referred to an Issue Resolution Board under this Procedure, the Principal must, within 30 Business Days of the expiration of the 20 Business Day period referred to in that clause, establish an Issue Resolution Board comprising members as follows:
 - (i) a chairperson; and
 - (ii) 2 other members,
 (each a **Member**) appointed in accordance with clause 5.1(b).
- (b) The Principal must:
 - (i) request that the Chair for the time being of the Resolution Institute (**Chair**) appoint the chairperson and Members;
 - (ii) at the time a request is made under clause 5.1(b)(i), advise the Chair of the skills, qualifications and experience required of the Member or Members to be appointed having regard to the nature of the Common Disputes; and
 - (iii) promptly engage the person or persons appointed by the Chair as a Member, provided that they have the appropriate skills, qualifications and experience to determine Common Disputes.
- (c) If a Member appointed under this clause 5.1:
 - (i) is unavailable;
 - (ii) declines to act as a Member;
 - (iii) does not respond within 10 Business Days to a referral under clause 4.3;

- (iv) breaches the terms of their engagement with the Principal, including in relation to the matters referred to under clause 5.2 and 5.3; or
 - (v) is removed from that position by the Principal pursuant to clause 5.3(b),
- that Member's appointment will immediately terminate and a new Member must be appointed in accordance with clause 5.1(b).
- (d) The Principal must publish notification of the appointment and termination of appointment of each Member under this 5.1 on the Principal's website.
 - (e) If a Common Dispute is referred to an Issue Resolution Board under clause 4.3, the Issue Resolution Board will be deemed to have received such reference on the date when it is received by the chairperson of the Issue Resolution Board.

5.2 Issue Resolution Board duties

- (a) The terms of each Member's engagement with the Principal will provide that:
 - (i) each Member must consider fairly and impartially, and act in good faith in trying to resolve, each Common Dispute referred to the Issue Resolution Board;
 - (ii) each Member must carry out their obligations as a Member:
 - (A) honestly and independently;
 - (B) with due care and diligence; and
 - (C) in compliance with this Procedure and any relevant Scheme Agreement.
- (b) The Members will be deemed to be not acting as arbitrators, and may reach a decision from their own knowledge and expertise.

5.3 Conflict of Interest

- (a) The terms of each Member's engagement with the Principal must provide that, during the term of appointment as a Member, the Member must notify the Principal if they become aware of any circumstance that might reasonably be considered to affect their capacity to act independently, impartially and without bias.
- (b) The Principal must within 5 Business Days of a notification referred to under clause 5.3(a) remove the Member if it reasonably believes that the circumstances notified are such that Member should be replaced.
- (c) Except where the Issue Resolution Board is determining a Common Dispute, an individual who is an employee of the Principal may be appointed as a Member.

- (d) For the avoidance of doubt, an individual's engagement by the Principal to act as a Member are not circumstances to which clauses 5.3(a) and 5.3(b) apply.

5.4 **Liability and Indemnity**

- (a) The parties acknowledge that a Member is not liable to any party to this Procedure or any Scheme Contributor for any act or omission done as a Member in good faith and with due care and diligence.
- (b) For the purpose of this clause 5.4 the parties agree that a Member's act or omission will have been done in good faith and with due care and diligence unless no reasonable person in the position of the Member would have so acted or made such an omission.

5.5 **Confidentiality**

The parties acknowledge that the terms of each Member's engagement with the Principal will provide that, in relation to all confidential information disclosed to the Issue Resolution Board, each Member must:

- (a) keep that information confidential;
- (b) not disclose that information except if compelled by law;
- (c) not use that information for a purpose other than the resolution of the Common Dispute; and
- (d) be bound by this obligation of confidentiality whether or not such confidential information is or later comes to be in the public domain.

5.6 **Issue Resolution Board process**

The Dispute Parties must comply with the rules for the Issue Resolution Board decision process set out in the Appendix to this Procedure in respect of any Common Dispute referred to the Issue Resolution Board pursuant to clause 4.3.

5.7 **Involvement of Related Scheme Contributors**

- (a) Communications provided to the Issue Resolution Board or a Dispute Party must be provided to the Related Scheme Contributors.
- (b) The Principal must provide a copy of each communication received from the Issue Resolution Board (including the Issue Resolution Board's decision), to the Related Scheme Contributors within 1 Business Day of receipt of the communication.
- (c) The Dispute Party must provide each relevant Related Scheme Contributor with access to drafts of the submissions and evidence (including expert opinions) that it proposes to submit in the Issue Resolution Board determination, at least 20 Business Days before the Dispute Party is due to make its submission.

- (d) The Related Scheme Contributors may comment on the draft submissions, however any comments must be provided to the Dispute Party at least 10 Business Days before the Dispute Party is due to make its submission in the Issue Resolution Board determination.
- (e) The Dispute Party must consider and take account of any comments provided in accordance with clause 5.7(d), in the preparation of its submissions.
- (f) The Dispute Party must:
 - (i) provide the relevant Related Scheme Contributors with a draft of any proposed offer to settle the Common Dispute not less than 10 Business Days prior to submitting that proposed offer to the Principal; and
 - (ii) not settle, waive or compromise the Common Dispute without the prior written consent of all of the relevant Related Scheme Contributors.
- (g) If it appears to the Issue Resolution Board, or on application by a Dispute Party, that the Dispute Party is not able adequately to represent the interests of the relevant Related Scheme Contributors, the Issue Resolution Board may make such directions as it thinks fit concerning the substitution of one of the Related Scheme Contributors for the Dispute Party, and make such other orders as it thinks fit. In this case, thereafter references to the Dispute Party in relation to the Common Dispute will be references to the substitute party.

5.8 Costs of the Issue Resolution Board

Each Dispute Party will, in respect of the Common Dispute referred to the Issue Resolution Board:

- (a) bear its own costs; and
- (b) pay an equal share of the Members' reasonable costs.

5.9 Notice of dissatisfaction

- (a) Subject to clause 5.9(b), if a Dispute Party is dissatisfied with the Issue Resolution Board's determination or the Issue Resolution Board fails to give its determination within the time required it may give notice of its dissatisfaction by providing it to the other Dispute Parties (**Notice of Dissatisfaction**).
- (b) A Dispute Party must not give a Notice of Dissatisfaction if more than 20 Business Days have passed after:
 - (i) the date of the issue of the notice by the Issue Resolution Board of its determination; or
 - (ii) if the Issue Resolution Board fails to give its determination within the time required, the period within which the Issue Resolution Board was required to give its determination

(as applicable).

- (c) A Notice of Dissatisfaction issued under this clause 5.9 must:
- (i) state that it is given under this clause 5.9; and
 - (ii) set out the matter in dispute and the reason(s) for dissatisfaction.
- (d) If the Dispute Party or a Related Scheme Contributor considers that a Notice of Dissatisfaction should be issued, then it must provide notice to the Related Scheme Contributors and the Dispute Party (as applicable) of that fact and its reasons for holding that view within 15 Business Days after:
- (i) the date of Issue Resolution Board's determination; or
 - (ii) if the Issue Resolution Board fails to give its determination within the time required, the period within which the Issue Resolution Board was required to give its determination

(as applicable).

- (e) Where a Related Scheme Contributor provides a notice under clause 5.9(d), the Dispute Party must take that notice into account when deciding whether or not to give a Notice of Dissatisfaction.
- (f) If a Common Dispute has not been resolved (in whole or in part) within 85 Business Days of the Principal issuing a Notice of Common Dispute (irrespective of whether the other provisions of this Procedure have been complied with), any party may commence legal proceedings.

5.10 Binding Nature of a Common Dispute

If:

- (a) the Issue Resolution Board has given a determination as to that Common Dispute; and
- (b) no Notice of Dissatisfaction has been properly given under and in accordance with clause 5.9,

then the Principal and each Scheme Contributor unequivocally and unreservedly agrees that:

- (c) the determination of the Issue Resolution Board will be final and binding on each Dispute Party, the Principal and the Related Scheme Contributors (each a **Notified Party**) on receipt, who must give effect to it;
- (d) it will be bound by any settlement or determination of the subject matter of that Common Dispute to the extent that it touches upon or concerns any right, remedy, benefit or entitlement in a Scheme Agreement to which they are a party;

- (e) any determination by an Issue Resolution Board in relation to that Common Dispute will be binding on all Notified Parties without the need for a separate appointment or determination under this Procedure to the extent that such determination is binding on the parties to this Procedure; and
- (f) the Notified Parties agree to accept in full and final resolution of all and any entitlement, privilege, benefit or liability, which they may have arising out of or in connection with this Procedure or any Scheme Agreement in respect of the Common Dispute, which has been determined in respect of the Common Dispute in accordance with this Procedure.

5.11 Time for Compliance

Any remedy or benefit to which a party to this Procedure is entitled pursuant to clause 5.10 must be paid or granted by the relevant party by the later of:

- (a) 20 Business Days of the binding settlement or determination of such entitlement under this Procedure; or
- (b) the date such remedy or benefit must be paid or granted by the party responsible for paying or granting it under any provision of this Procedure as determined by an Issue Resolution Board or a court.

6. Notices

6.1 Requirements

All notices, requests, demands, consents, approvals, or other communications under this Procedure (**Notice**) to, by or from a party must be:

- (a) in writing;
- (b) in English or accompanied by a certified translation into English;
- (c) addressed to a party in accordance with its details set out in Schedule 1 or as otherwise specified by that party by Notice (**Notified Contact Details**); and
- (d) signed by the sending party or a person duly authorised by the sending party or, if a Notice is sent by email (if applicable), sent by the sending party.

6.2 How a Notice must be given

In addition to any other method of giving Notices permitted by statute, a Notice must be:

- (a) delivered personally;
- (b) sent by regular post if sent within Australia;
- (c) sent by airmail if sent to a place outside Australia;

- (d) sent by airmail if sent from a place outside Australia; or
- (e) sent by email.

6.3 When Notices considered given and received

Subject to clause 6.2, a Notice takes effect when received (or such later time as specified in it) and a Notice is deemed to have been given by the sending party and received by the receiving party:

- (a) if delivered by hand to the address set out in the Notified Contact Details, when delivered to that address;
- (b) if sent from a place within Australia by regular post to the address set out in the Notified Contact Details which is an address that is within Australia, at 9.00 am on the sixth Business Day after the date of posting;
- (c) if sent from a place within Australia by airmail to the address set out in the Notified Contact Details which is an address outside Australia, at 9.00 am on the tenth Business Day after the date of posting;
- (d) if sent from a place outside Australia by airmail to the address set out in the Notified Contact Details which is an address that is within or outside Australia, at 9.00 am on the twelfth Business Day after the date of posting;
- (e) if sent by email to the email address set out in the Notified Contact Details, when the email (including any attachment) is sent to the receiving party at that email address, unless the sending party receives a notification of delivery failure within 24 hours of the email being sent.

6.4 Time of delivery and receipt

If pursuant to clause 6.3 a Notice would be regarded as given and received on a day that is not a Business Day or after 5.00 pm on a Business Day, then the Notice will be deemed as given and received at 9.00 am on the next Business Day.

7. General

7.1 Acknowledgment of operation of Procedure

Each party agrees that the provisions of this Procedure apply to a Common Dispute the subject of a Notice of Common Dispute whether or not that party participates in the dispute resolution procedure under this Procedure.

Appendix - for the Issue Resolution Board decision process

1. Written submissions

- (a) Within 5 Business Days after the referral of a Common Dispute to the Issue Resolution Board under clause 4.3, or such other time as the Issue Resolution Board may consider reasonable in the circumstances, each party must give to each other party and the Issue Resolution Board a written submission in support of that party's contentions.
- (b) If the Issue Resolution Board considers it appropriate, a party may reply in writing to the submissions of another party within the time allowed by the Issue Resolution Board.
- (c) If the Issue Resolution Board decides further information or documentation is required for the determination of the Common Dispute, the Issue Resolution Board may direct one or more parties to provide such further submissions, information or documents as the Issue Resolution Board may require.
- (d) The Issue Resolution Board must disclose to all parties all submissions, further submissions, information and documents received.

2. Conference

- (a) Any party may, in writing, request the Issue Resolution Board to call a conference of the parties.
- (b) At least 5 Business Days before the conference, the Issue Resolution Board must inform the parties in writing of the date, venue and agenda for the conference.
- (c) The parties must appear at the conference and may make submissions on the subject matter of the conference.

3. Decision

- (a) As soon as possible after receipt of the submissions or after any conference and, in any event not later than 25 Business Days after referral of a Common Dispute to the Issue Resolution Board under clause 4.3 (or such other period as the parties may agree), the Issue Resolution Board must:
 - (i) determine the Common Dispute between the parties by unanimous agreement between the Members; and
 - (ii) notify the parties of that decision in accordance with clause 6. The Issue Resolution Board must issue the notices to all parties on the same Business Day.
- (b) The decision of the Issue Resolution Board must:

- (i) be in writing stating the Issue Resolution Board's decision and giving reasons; and
 - (ii) be made on the basis of the submissions (if any) of the parties, the conference (if any), and the Issue Resolution Board's own expertise.
- (c) If the Issue Resolution Board's decision contains a clerical mistake, an error arising from an accidental slip or omission, a material miscalculation of figures, a material mistake in the description of any person, matter or thing, or a defect in form, the Issue Resolution Board must correct the decision.

4. General

The failure of a party to comply with any requirement of this Appendix will not terminate or discontinue the Common Dispute resolution process.

Signing page

Executed as a deed

Executed by WA Return Recycle Renew Ltd ACN 629 983 615 in accordance with section 127(1) of the *Corporations Act 2001* (Cth) by:

Signature of Director

Signature of Director/Company Secretary

Full name (print)

Full name (print)

Executed by #[*Party 2 name]# #[*Party 2 ACN]# in accordance with section 127(1) of the *Corporations Act 2001* (Cth) by:

Signature of Director

Signature of Director/Company Secretary

Full name (print)

Full name (print)