

Container Exchange (QLD) Limited
Level 13, 295 Ann Street
Brisbane QLD 4000

30 May 2025

Mr Robert Molhoek MP

Chair
Health, Environment and Innovation Committee
Queensland Parliament

By email: HEIC@parliament.qld.gov.au

Dear Mr Molhoek

Re: Public hearing questions taken on notice on Wednesday 21 May 2025

Thank you for the opportunity to speak at the public hearing, for the Inquiry into Improving Queensland's container refund scheme, on Wednesday 21 May 2025. Container Exchange (COEX) is pleased to provide responses to the questions taken on notice:

1. Can COEX please provide a copy of the standard form contracts used with operators in the CRS?
2. Do the standard form contracts include restraint of trade clauses?
3. Can COEX please provide a copy of the complete dispute resolution policy and process, including both the internal process and explanation of external referral?
4. When was the 'Speak Up' policy implemented?
5. Can COEX please provide a copy of the 'Speak Up' policy and explain how it fits within the internal dispute resolution process?
6. Can you advise the Committee when the operator forums in Brisbane and Townsville are taking place and provide relevant information on how the Committee might attend?
7. Can you please provide examples of the State level planning exemptions?
8. Can you please provide a copy of the PRO conditions of appointment?

COEX notes that additional questions may be submitted by the Committee which were unable to be tabled at the hearing. We remain committed to working closely with the Committee to continue delivering environmental, social and economic benefits for all Queenslanders.

Yours sincerely



Natalie Roach
Chief Executive Officer
Container Exchange (QLD) Limited

Encl: Questions on Notice

Attachments:

1. Container Collection Agreement
2. Speak Up Policy
3. Legal Advice – RVM Planning Challenges
4. PRO Conditions of Appointment and Obligations

Questions on Notice

1. Can COEX please provide a copy of the standard form contracts used with operators in the CRS?

The Container Collection Agreement (contract) is attached (**Attachment 1**).

2. Do the standard form contracts include restraint of trade clauses?

The standard form contract does not include a restraint of trade clause.

3. Can COEX please provide a copy of the complete dispute resolution policy and process, including both the internal process and explanation of external referral?

Section 23 of the Container Collection Agreement (CCA) outlines the Dispute Resolution Process and the Common Dispute Resolution Process (pages 56-58 of **Attachment 1**).

4. When was the 'Speak Up' policy implemented?

COEX implemented a Whistleblower policy in 2019. The policy was renamed as the 'Speak Up' policy in August 2022. This policy has been continually reviewed to ensure it meets legislative requirements.

5. Can COEX please provide a copy of the 'Speak Up' policy and explain how it fits within the internal dispute resolution process?

A copy of the "Speak Up" policy is attached at **Attachment 2**.

It is noted that potential misconduct as defined in the 'Speak Up' policy is different to that of personal work-related grievances which are grievances related to an individual's employment that have implications for someone personally (such as a disagreement between employees or a decision about promotion).

Anyone who speaks up according to the 'Speak Up' policy will be protected as required by the appropriate legislation and as otherwise described in the policy.

6. Can you advise the Committee when the operator forums in Brisbane and Townsville are taking place and provide relevant information on how the Committee might attend?

COEX thanks the Committee Chair and Secretariat for their attendance at the Brisbane operator forum on Monday 26 May. The Townsville forum will take place on Tuesday 3 June.

7. Can you please provide examples of the State level planning exemptions?

Correspondence was provided to the Department in December 2024 in reference to planning exemptions in other States. COEX engaged Corrs Chambers Westgarth (CCW) to provide independent legal advice (**Attachment 3**) on planning frameworks across Australia for reverse vending machines (RVM).

An extract from this advice is noted here:

Frameworks in other states

New South Wales

- The *Environmental Planning and Assessment Regulations 2021 (NSW)* authorise exempt development under each of the exempt development codes in the [*State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 \(NSW\)*](#) (Codes SEPP).
- The Codes SEPP provides an "Exempt Development Code", under Part 2. Subdivision 12 relates to "container recycling equipment" and provides that the erection on land/of a mobile reverse vending machine is development that may be carried out without obtaining development consent from a relevant authority, as long as the development standards in s2.24 are met.

Victoria

- Under the *Planning and Environment Act 1987* (Vic), [Victoria Planning Provisions \(VPP\)](#) may allow planning schemes to exempt classes of land, use or development from requiring a permit under.
- On 13 November 2023, the VPP were amended to include provisions supporting the facilitation of container deposit scheme infrastructure.
- Any requirements to obtain a permit for works related to an automated collection point or a container deposit scheme centre do not apply if certain standards are met, as outlined in clause 52.13 of the VPP.
- Whilst not explicitly listed as an example, a RVM would fall within the scope of an ‘automated collection point’.

Western Australia

- The *Planning and Development Act 2005* (WA) allows the Minister to make regulations prescribing provisions that deal with carrying out the objects of local planning schemes.
- The *Planning and Development (Local Planning Schemes) Regulations 2015* (WA), provide that development approval of local government is not required for the use of premises as a drop-off refund point if:
 - the premises are otherwise used as a shop; or
 - the premises are not in a residential zone and the use of the premises as a drop-off refund point is an incidental use of the premises.
- A ‘drop-off refund point’ must be located in a building. Therefore, this exemption applies to RVMs, as long as they are located within a shop and are incidental of the premises.
- Large reverse vending machines—that are not ‘drop-off refund points’ as defined above—may require development applications to address impacts on nearby sensitive land uses.
- In September 2020, the WA government published a position statement on container deposit scheme (CDS) infrastructure. The statement encourages local governments to adopt a local planning policy to ensure that specified CDS development and works are exempt, with particular consideration to be given to exempting collection cages and large reverse vending machines within supermarket and shopping centre car parks. A model local planning policy is included in the position statement for councils to adopt, which includes exemptions for large reverse vending machines.

Recommendations:

- CCW identified three mechanisms for reforming Queensland’s planning framework to better facilitate the rollout of RVMs:
 - Identifying a Material Change of Use for an RVM as a “minor change of use”.
 - Identifying—via schedule 6 of the Regulations—that a local planning instrument may not categorise development for an RVM as assessable development.
 - Identifying—via schedule 7 of the Regulations—that development for an RVM is categorised as accepted development and does not require a development permit.
- Based on the context above—and taking into account existing practice in other jurisdictions—Corrs’ advice was: “We would recommend seeking exemptions for RVMs to be implemented via schedule 7 of the Regulations. This will provide the greatest degree of certainty and is commensurate with the low impact nature of RVMs.”
- CCW’s advice included the following example of how Schedule 7 of the Regulations can potentially be amended to categorise RVMs as accepted development:
 - (i) Insert a new section 16 to Schedule 7 to read as follows:
“16 Development for particular reverse vending machines
Development for a container refund point that is a reverse vending machine that complies with the requirements in Schedule 5A.”

- (ii) Insert the following new definitions, which aligns with the definitions in Part 3B of Chapter 4 of the *Waste Reduction and Recycling Act 2011 (Qld)*:

*“**Container** has the meaning given to the term under section 99M of the Waste Reduction and Recycling Act 2011 (Qld) or any written direction given by the State from time to time.*

Container Refund Point means -

(a) a facility or other place:

- (i) at which empty containers may be returned in exchange for the payment of refund amounts; and
- (ii) that may be operated on a permanent, temporary or mobile basis; and

(b) includes a reverse vending machine.

Refund Amount means the amount prescribed by section 30 of the *Waste Reduction and Recycling Regulation 2023 (Qld)* as the refund amount.

Reverse Vending Machine means a device for collecting empty containers that-

(a) if the device recognises a container placed in the device as a container for which a refund amount is payable under the scheme by, for example, scanning the container’s barcode-

- (i) accepts the container; and
- (ii) dispenses the refund amount for the container in a way stated on or near the machine; or

(b) otherwise, refuses to accept the container.

Scheme means the beverage container refund scheme pursuant to Part 3B of Chapter 4 of the *Waste Reduction and Recycling Act 2011 (Qld)*.”

- (iii) Insert a new Schedule 5A that details the requirements that an RVM must comply with in order to be accepted development i.e. specific dimensions.

8. Can you please provide a copy of the PRO conditions of appointment?

The current PRO conditions of appointment and obligations are provided in **Attachment 4**. In its April 2025 Audit conducted by KPMG, COEX satisfied all criteria tested.

11 November 2024

Privileged and confidential

Containers for Change - planning exemptions for reverse vending machines

Question

We are asked to advise on potential options for exempting reverse vending machines (**RVMs**) from planning approval requirements.

Our advice is structured as follows—

- (a) **Question 1:** In what circumstances may an RVM require planning approval?
- (b) **Question 2:** What options are available to exempt RVMs from planning approval requirements?
- (c) **Question 3:** What is our recommended approach?

(Terms used in this advice are defined in Annexure 1.)

Answer

In summary, our advice is as follows—

- (a) **Question 1:** Depending on the circumstances, and the characteristics of the RVM, an RVM may require a development permit for one or more of an MCU, BW, or an ROL. Notably, the extent of planning approval requirements will vary across the State depending on local government planning scheme requirements.
 - (b) **Question 2:** As detailed in our advice, the available mechanisms, each operating to varying extents, would be:
 - (a) identifying an MCU for an RVM as a “**minor change of use**”;
 - (b) identifying, via **schedule 6 of the Planning Reg**, development for an RVM that a local categorising instrument (eg planning scheme) may not categorise as assessable development; or
 - (c) identifying, via **schedule 7 of the Planning Reg**, development for an RVM that is categorised as accepted development (not requiring a development permit).
 - (c) **Question 3:** We would recommend seeking for exemptions for RVMs to be implemented via **schedule 7 of the Planning Reg**. This will provide the greatest degree of certainty, and is commensurate with the low impact nature of RVMs. Our advice includes an example of how this could potentially be achieved.
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What this advice covers

This advice focuses on the following issues:

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Question 1: In what circumstances may an RVM require planning approval?

Depending on the circumstances, and the characteristics of the RVM, an RVM may require a development permit for one or more of an MCU, BW, or an ROL. Notably, the extent of planning approval requirements will vary across the State depending on local government planning scheme requirements.

Overview

- 1 Under the *Planning Act*, it is generally an offence to carry out “assessable development” unless all necessary development permits are in effect.¹ We have addressed below:
 - (a) when may an RVM constitute “development”; and
 - (b) when may such development constitute “assessable development”, requiring a development permit.
- 2 There are five distinct types of “development” under the *Planning Act*:
 - (a) **Material change of use of premises (MCU):** an MCU is any of the following:
 - (i) a new use commencing on premises;
 - (ii) an material increase in intensity or scale of an existing use; or
 - (iii) an abandoned use being re-established on premises;
 - (b) **Building work (BW):** BW involves works to build, alter, demolish, etc a building or structure;
 - (c) **Plumbing or drainage work (PDW):** PDW involves works for installing, changing, disconnecting, etc plumbing or drainage infrastructure;²

¹ See *Planning Act*, section 163.

² See *Planning Act*, schedule 2, definitions of “drainage work” and “plumbing work” and *Plumbing and Drainage Act 2002* (Qld).

- (d) **Operational work (OPW):** OPW is as any work (other than BW or PDW) that materially affects premises or use of premises (eg excavation); and
 - (e) **Reconfiguring a lot (ROL):** in summary, an ROL arises where land is:
 - (i) subdivided, amalgamated, or subject to a boundary realignment;
 - (ii) subject to a new easement; or
 - (iii) divided into parts by agreement providing for separate disposal or occupation, subject to exclusions (eg it excludes leases for a term, including renewal options, of 10 years or less).³
- 3 Due to the five distinct types of “development”, a single project or facility may involve multiple aspects of development, each of which may, if categorised as “assessable development” (discussed below) require a separate development permit (though multiple development permits are often contained in a single approval document).
- 4 An RVM will not involve OPW or PDW. However, as explained below, each of the other types of development is potentially relevant.

MCU

- 5 As noted at paragraph 2(a) above, an MCU is any of the following:
- (a) a new use commencing on premises;
 - (b) a material increase in intensity or scale of an existing use; or
 - (c) a abandoned use being re-established (not relevant here).

Limb (a) - a new use commencing on premises

- 6 This limb of MCU would clearly be relevant if an RVM was being established on vacant premises, or on premises used for an entirely unrelated purpose.
- 7 However, as explained below, in many circumstances the application of this limb will be complicated by the *Planning Act*'s concept of an “ancillary use”. Under the *Planning Act*, a use of land is defined to include any “ancillary use”.⁴ A use will be “ancillary” to another (primary) use if it:
- (a) is **subordinate** to the primary use;
 - (b) is located on the **same premises** as the primary use; and
 - (c) has a **functional relationship** with the primary use.⁵
- 8 Often, an RVM will be able to be confidently established in reliance upon the above. For example, if an RVM is installed in a shopping centre, we consider that each of the above elements for an ancillary use would clearly be satisfied.
- 9 However, because these elements do involve questions of fact and degree, there may also be circumstances where the legal position is less clear. For

³ *Planning Act*, schedule 2.

⁴ *Planning Act*, schedule 2, definition of “use”.

⁵ See *Planning Bill 2015*, Explanatory Notes, page 230; *Witmack Industrial Pty Ltd v Toowoomba Regional Council* [2015] QPELR 432.

example, while there is a clear functional relationship with a shopping centre (being a diverse, intensive use, which includes activities that may generate containers able to be used in the RVM), there are other uses where the functional relationship may be more tenuous (eg a sporting club or school). Further, the status of RVMs as “subordinate” will depend upon their number and scale – for example, if multiple RVMs, or very large RVMs, are installed, this may be perceived as an independent quasi-industrial use, rather than something subordinate to the primary use.

- 10 From a practical perspective, our key observation in relation to the above is that while the concept of “ancillary use” will **often** mean that there is no MCU, the potential for disagreement as to the scope of that concept means that it does not provide certainty for a future rollout of RVMs.

Limb (b) - a material increase in intensity or scale of an existing use

- 11 This limb of MCU inherently involves questions of fact and degree. It is concerned with both the “hard” impacts of development (eg noise and traffic generation), as well as how that development relates to relevant planning instruments (eg questions of planned character).⁶
- 12 Apart from the subjectivity involved in judging what is “material”, reliance on this limb is further complicated by the fact that the baseline will depend upon the nature of any existing use. For example, installing an RVM outside a large supermarket is unlikely to involve any material increase in intensity or scale. However, installing an RVM outside a local “corner store” may well do so, if it has the effect of significantly increasing traffic.
- 13 Therefore, as above, we do not consider that reliance on this limb provides sufficient certainty for a future rollout of RVMs.

BW

- 14 The construction or installation of an RVM will constitute building work. An RVM will generally be a structure (eg a small, standalone RVM), but may constitute a building if it is larger (eg a bank of RVMs connected to a shed/shipping container).

ROL

- 15 The physical construction or installation of an RVM will not involve an ROL.
- 16 However, an ROL would arise if the RVM was leased for a period of 10 years or more. This is because, as noted at paragraph 2(e)(iii) above, the definition of “ROL” only excludes leases for a term (including renewal options) not exceeding 10 years. Conversely, a lease for a term (including renewal options) exceeding 10 years **is** an ROL.

⁶ See *Martin v Whitsunday Shire Council* [2001] QPELR 348; *Herston Kelvin Grove Action Group Inc v Brisbane City Council* [2001] QPELR 382; *Maroochy Shire Council v Barnes* [2001] QPELR 475; *Gorrie v Mackay City Council* [2003] QPELR 328

When may an RVM constitute “assessable development”?

- 17 Development (relevantly, an MCU, BW or ROL) will require a development permit if it is categorised as assessable development by a “categorising instrument”, being either a regulation (eg the *Planning Reg*) or a local categorising instrument (eg a planning scheme).⁷
- 18 For the purposes of this advice, it is neither necessary nor feasible to attempt to exhaustively identify every potential circumstance in which development for an RVM might be categorised as assessable development. For present purposes, we make the following key observations—
- (a) Schedule 10 of the *Planning Reg* sets out various circumstances in which development is categorised as assessable development. For example, any development on a Queensland heritage place (whether an MCU, BW, or otherwise) is generally categorised as assessable development.⁸
 - (b) If an RVM constitutes an **MCU**, whether or not that MCU constitutes assessable development will largely depend upon local planning schemes. This will vary throughout the State.
 - (c) In relation to **BW**, the *Planning Act* and *Building Act* operate in tandem.
 - (i) All BW is assessable development by default,⁹ unless an exemption applies under the *Building Act*. For the purposes of the *Building Act*, an RVM will be either a “class 10” building or structure” (a non-habitable structure).¹⁰
 - (ii) The extent of possible building approval requirements will depend upon the size and dimensions of the RVM.¹¹ In most circumstances, we would expect that no building approval would be required. For example, a small standalone RVM will be a class 10b structure, and will be accepted development (requiring no building approval) if it is no more than 3m above natural ground level.¹² A larger bank of RVMs (eg connected to a shed/shipping container structure) will be a class 10a building, in which case, in order to be accepted development, it must: be within with certain size requirements (see footnote);¹³ and comply with any other relevant technical requirements identified under the *Building Act*.¹⁴

⁷ See *Planning Act*, section 43(1).

⁸ See *Planning Reg*, schedule 10, section 15.

⁹ See *Planning Reg*, schedule 9, item 1; *Building Act*, section 20.

¹⁰ See *Building Act*, schedule 2, definition of “class”; see also v.

¹¹ See *Building Reg*, schedules 1 and 2.

¹² See *Building Reg*, schedule 2, item 1.

¹³ The requirements are set out in schedule 1, item 13(2) of the *Building Reg*, being:

- (a) the plan area of the class 10 building or structure is no more than 10m²; and
- (b) the class 10 building or structure has, above its natural ground surface—
 - (i) a height of no more than 2.4m; and
 - (ii) if the class 10 building or structure is not a rainwater tank—a mean height of no more than 2.1m, worked out by dividing its total elevational area facing a boundary by its horizontal length facing the boundary; and
- (c) any side of the class 10 building or structure is no longer than 5m.

¹⁴ See *Building Reg*, section 4(2); see also *Building Act*, section 21(5).

- (iii) Generally, local government planning schemes cannot regulate building work to the extent regulated under the *Building Act*.¹⁵ However, there is some uncertainty as to the limits and scope of this prohibition. For example, planning schemes do sometimes regulate character and amenity aspects of BW, even if that BW is otherwise regulated under the *Building Act*.
 - (d) In relation to an **ROL**, this may be regulated by local planning schemes, but more relevantly is generally categorised as assessable development by schedule 10, section 21 of the *Planning Reg*.
- 19 In summary, if an RVM constitutes an MCU, BW or an ROL, it may constitute assessable development, and require a development permit, under any, or a combination of, the *Planning Reg* (including via the *Building Act*) and local planning schemes.

Question 2:
What options
are available to
exempt RVMs
from planning
approval
requirements?

As detailed in our advice, the available mechanisms, each operating to varying extents, would be:

- (a) identifying an MCU for an RVM as a “minor change of use”;
- (b) identifying, via schedule 6 of the *Planning Reg*, development for an RVM that a local categorising instrument (eg planning scheme) may not categorise as assessable development; or
- (c) identifying, via schedule 7 of the *Planning Reg*, development for an RVM that is categorised as accepted development (not requiring a development permit).

Overview

- 20 Within the current legislative framework, there are three main mechanisms by which RVMs could be exempted from (to varying extents) some or all planning approval requirements, namely:
- (a) identification as a “**minor change of use**”;
 - (b) identification in **schedule 6 of the *Planning Reg***, as development that a local categorising instrument (eg planning scheme) may not categorise as assessable development; or
 - (c) categorisation as accepted development in **schedule 7 of the *Planning Reg***.

“minor change of use”

- 21 The *Planning Act* allows a regulation to prescribe a “minor change of use” that is excluded from the definition of MCU (ie a material change of use). Effectively, this means that development which is prescribed as a minor change of use is excluded from constituting an MCU.
- 22 This is the mechanism that was previously used to facilitate the initial rollout of the CRS. The *Planning (Container Refund Scheme) Amendment*

¹⁵ See *Planning Act*, section 8(5); *Building Act*, section 31(3).

Regulation 2018 (Qld) amended the *Planning Reg* to insert new provisions detailing (at length) when particular changes of use for certain CRS facilities would be a “minor change of use”.¹⁶ We note for completeness that those provisions expired on 1 May 2019,¹⁷ as they were only intended to be a temporary relaxation.¹⁸

- 23 Because this mechanism is limited to an MCU, it would not assist in avoiding approval requirements circumstances in which an RVM may constitute BW or an ROL that is assessable development. While, in practice, we expect that avoiding an assessable MCU is likely to be the primary concern in relation to planning approval requirements, this limitation does mean that the minor change of use mechanism is not “comprehensive”.

Schedule 6 of the *Planning Reg*

- 24 Schedule 6 of the *Planning Reg* identifies development that a local categorising instrument, such as a planning scheme, cannot categorise as assessable development.¹⁹
- 25 This would prevent planning schemes from regulating any aspect of development (ie whether MCU, ROL or BW) for RVMs. However, this would not affect any requirements for development permits under the *Planning Reg* (including building approvals under the *Building Act*).

Schedule 7 of the *Planning Reg*

- 26 Schedule 7 of the *Planning Reg* identifies development that is expressly categorised as “accepted development”, which does not require a development permit.²⁰ Subject to one qualification below, this would provided the broadest and most comprehensive level of exemption, avoiding any development permit requirements.
- 27 The qualification to the above is while many of the assessable development triggers do expressly state that they do not apply to development identified in schedule 7 (eg the trigger for building work in schedule 9 states “*Building work under the Building Act is assessable development, unless the building work is accepted development under schedule 7.*”), some do not (eg there is no equivalent exclusion for development on a Queensland heritage place under schedule 10, section 14).
- 28 Therefore, some of the assessment triggers in schedule 10 would remain potentially applicable. However, as per the example above (Queensland heritage places), these generally relate to specific circumstances where there is an overriding basis for requiring planning assessment. For completeness, we have summarised below the broad subject matter of each part within

¹⁶ A copy of the *Planning (Container Refund Scheme) Amendment Regulation 2018* (Qld) is available at <https://www.legislation.qld.gov.au/view/pdf/asmade/sl-2018-0146>.

¹⁷ See *Planning (Container Refund Scheme) Amendment Regulation 2018* (Qld), section 17B.

¹⁸ See <https://www.legislation.qld.gov.au/view/pdf/published.exp/sl-2018-0146> at page 2.

¹⁹ See *Planning Act*, section 43; *Planning Reg*, section 16.

²⁰ See *Planning Act*, section 44(4); *Planning Reg*, section 17.

schedule 10, to assist in identifying circumstances in which assessment triggers (or prohibitions) under the *Planning Reg* may apply:

- (a) Part 1 – Airport land;
- (b) Part 2A – Caboolture West interim structure plan;
- (c) Part 3 – Clearing native vegetation;
- (d) Part 4 – Contaminated land;
- (e) Part 5 – Environmentally relevant activities;
- (f) Part 6 – Fisheries;
- (g) Part 7 – Hazardous chemical facilities;
- (h) Part 8 – Heritage places;
- (i) Part 9 – Infrastructure-related referrals;
- (j) Part 10 – Koala habitat in SEQ region;
- (k) Part 11 – Noise sensitive place on noise attenuation land;
- (l) Part 12 – Operational work for reconfiguring a lot;
- (m) Part 13 – Ports;
- (n) Part 14 – Reconfiguring a lot under the *Land Title Act 1994* (Qld);
- (o) Part 15 – SEQ development areas and SEQ major enterprise and industrial areas;
- (p) Part 16 – SEQ regional landscape and rural production area and SEQ rural living area;
- (q) Part 16A – Southport Spit;
- (r) Part 16B – SEQ northern inter-urban break;
- (s) Part 17 – Tidal works or work in coastal management district;
- (t) Part 18 – Urban design;
- (u) Part 19 – Water-related development;
- (v) Part 20 – Wetland protection area; and
- (w) Part 21 – Wind farms.

Question 3:
What is our recommended approach?

We would recommend seeking for exemptions for RVMs to be implemented via schedule 7 of the *Planning Reg*. This will provide the greatest degree of certainty, and is commensurate with the low impact nature of RVMs. Our advice includes an example of how this could potentially be achieved.

²⁹ As context for our advice below, we have, as instructed, undertaken a high-level review of the legal position in other Australian States. Our review is set out in Annexure 2. In summary, while varied planning regimes in each State mean that there is no specific uniform approach, most States do provide at least some extent of planning exemptions for CRS facilities, including RVMs. While South Australia does not provide for any exemptions, this may be explained by the fact that South Australia's container refund scheme is the most mature, and therefore there is less need to facilitate network expansion. For present purposes, as a broad comment, given the exemptions generally

available in other jurisdictions, reinstating some extent of exemptions in Queensland would be consistent with the approach in other States.

- 30 Each of the options identified in our answer to Question 2 is lawful and effective, and would be an improvement on the current position. The choice between those various options is ultimately a policy question as to how broadly, or narrowly, it is desired to exempt RVMs from planning approval requirements.
- 31 From a legal perspective, schedule 7 would be preferable, as it provides the most certainty. The relevant item, or items, in schedule 7 could be crafted and targeted to ensure that the exemptions were only available in appropriate circumstances. For example, we anticipate that some of the aspects of the former *Planning (Container Refund Scheme) Amendment Regulation 2018* provisions may be able to be adapted (eg requirements to comply with any existing development conditions).²¹
- 32 We anticipate, as a matter of initial impression, that any use of schedule 7 (or schedule 6) may be perceived as being inconsistent with the previous use of the “minor change of use” mechanism. However, an important distinction is that the *Planning (Container Refund Scheme) Amendment Regulation 2018* (Qld) was directed to a broader, and potentially more intensive, range of CRS facilities.²² Here, in contrast, the further exemptions would be targeted to RVMs, which are a specific and lower impact class of CRS facilities.
- 33 From a practical perspective, we would also observe that, in the years since the CRS scheme was first established, there is now a relatively greater level of understanding of how RVMs operate. Therefore, from a regulatory standpoint, the nature and potential impacts of RVMs are now better understood than they were in 2018.
- 34 As a matter of drafting, a range of potential approaches could be adopted to introduce a new exemption into schedule 7. For illustration purposes, one potential approach would be:
 - (a) inserting a new item 16 reading:

“16 Development for particular reverse vending machines

Development for a container refund point that is a reverse vending machine that complies with the requirements in schedule 5A.”

- (b) inserting new definitions of “container refund point” and “reverse vending machine” by reference to section 99K of the *Waste Act*; and
- (c) inserting a new schedule 5A that details the requirements that an RVM must comply with in order to be accepted development (we suggest schedule 5A because it is one of the, now omitted, former schedules previously used for the 2018 exemptions).

²¹ See, eg, *Planning (Container Refund Scheme) Amendment Regulation 2018*, section 4, new section 2(e)(i).

²² See *Planning (Container Refund Scheme) Amendment Regulation 2018*, definitions of “container refund depot” and “container refund drop off”.

- 35 A practical benefit of this drafting approach is that schedule 5A (or however numbered) could then be a convenient single point of reference for RVM operators to understand the applicable requirements.
- 36 We note for completeness that none of the options identified in our answer to Question 2 would assist in relation to a scenario in which the RVM contravenes an existing development approval condition (eg if installing an RVM in a shopping centre carpark results in a breach of conditions requiring a specified number of car parks). In order to address that potential issue, it would be necessary to amend the *Planning Act* itself. This was also a live consideration at the time of the earlier *Planning Reg* exemptions, and no such legislative amendment was made. We are not aware of any instance of existing development approval conditions being used to stymie RVMs, which may suggest either that the issue is unlikely to arise, or that regulators have adopted a pragmatic approach.

Reliance

- 37 This advice is for the benefit of the addressee. It is not to be disclosed to any other person without our prior written consent, nor relied upon by any other person for any purpose.

**Please call to
discuss any
aspects of this
advice**

Michael Leong
Partner

[REDACTED]
[REDACTED]

Samuel Volling
Special Counsel

[REDACTED]
[REDACTED]

Annexure 1

Defined terms

Terms used in this advice

Terms used but not defined in this advice have the meaning given under the *Planning Act* (including under the *Planning Reg*).

- 1 **CRS** means Containers for Change, being the container refund scheme established under chapter 4, part 3B of the *Waste Act*.
- 2 **Building Act** means the *Building Act 1975* (Qld).
- 3 **Building Reg** means the *Building Regulation 2021* (Qld).
- 4 **BW** means development that is building work.
- 5 **MCU** means development that is a material change of use.
- 6 **OPW** means development that is operational work.
- 7 **PDW** means development that is plumbing or drainage work.
- 8 **Planning Act** means the *Planning Act 2016* (Qld).
- 9 **Planning Reg** means the *Planning Regulation 2017* (Qld).
- 10 **ROL** means development that is reconfiguring a lot.
- 11 **RVM** has the meaning given in section 99K of the *Waste Act*, being “a device for collecting empty containers that—
 - (a) if the device recognises a container placed in the device as a container for which a refund amount is payable under the scheme by, for example, scanning the container’s barcode—
 - (i) accepts the container; and
 - (ii) dispenses the refund amount for the container in a way stated on or near the machine; or
 - (b) otherwise—refuses to accept the container.”
- 12 **Waste Act** means the *Waste Reduction and Recycling Act 2011* (Qld).

Annexure 2

Review of other Australian States

Jurisdiction	Status
NSW	- The Environmental Planning and Assessment Regulations 2021 (NSW) Sch 2, s 5 authorises that exempt development²³ may be carried out under each of the exempt development codes in the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (NSW) (Codes SEPP).²⁴ - The Codes SEPP provides an “Exempt Development Code”, under Part 2. Subdivision 12 relates to “container recycling equipment” and provides that the erection on land / of a mobile reverse vending machine is development that may be carried out without obtaining development consent from a relevant authority, as long as the development standards in s 2.24 are met.
Victoria	- Under s 4A(2) of the Planning and Environment Act 1987 (Vic), Victoria Planning Provisions (VPP) may contain any matter which may be included in a planning scheme under s 6, with s 6(ka) relevantly allowing planning schemes to exempt classes of land, use or development from requiring a permit under s 96(1)(2). - On 13 November 2023, the VPP²⁵ were amended via Amendment No. VC227 to include provisions supporting the facilitation of container deposit scheme infrastructure under the Victorian Governments. - Any requirements to obtain a permit for works related to an automated collection point or a container deposit scheme centre do not apply if certain standards are met, as outlined in clause 52.13 of the VPP. - Whilst not explicitly listed as an example, a reverse vending machine would fall within the scope of an ‘automated collection point’.²⁶
Western Australia	The Planning and Development Act 2005 (WA) allows the Minister to make regulations prescribing provisions that deal with carrying out the objects of local planning schemes, per s 256.

²³ ‘Exempt development’ is defined in s 1.6 of the [Environmental Planning and Assessment Act 1979 \(NSW\)](#) as not requiring development consent, environmental impact assessment, State significant infrastructure approval, or Building and subdivision certification.

²⁴ The Codes SEPP is enabled by the [Environmental Planning and Assessment Act 1979 \(NSW\)](#) (EPA Act NSW).

²⁵ The VPP is a State-wide mandatory template / framework for all local planning schemes to follow, enabled by the [Planning and Environment Act 1987 \(Vic\)](#).

²⁶ See clause 73.03, an automated collection point is defined to mean “A building with a gross floor area of no more than 100 square metres, used as an automated collection point as defined in the Circular Economy (Waste Reduction and Recycling) Act 2021.”

- The [Planning and Development \(Local Planning Schemes\) Regulations 2015 \(WA\)](#), s 61(2)(e) provide:
Development approval of the local government is not required for the use of premises as a drop-off refund point if —
 - (i) *the premises are otherwise used as a shop; or*
 - (ii) *the premises are not in a residential zone and the use of the premises as a drop-off refund point is an incidental use of the premises.*
- A 'drop-off refund point' must be located in a building.²⁷
- 'Refund point' has the meaning given in s 47C of the [Waste Avoidance and Resource Recovery Act 2007 \(WA\)](#) – and further, s 3A of the [Waste Avoidance and Resource Recovery \(Container Deposit Scheme\) Regulations 2019 \(WA\)](#) provides:
"for the purposes of the definition of refund point in section 47C(1) of the Waste Avoidance and Resource Recovery Act 2007, a reverse vending machine is prescribed to be a refund point."
- Therefore, this exemption applies to reverse vending machines, as long as it is located within a shop and an incidental of the premises.
- Large reverse vending machines, that are relevantly not 'drop-off refund points' as defined above, may require development applications to address impacts on nearby sensitive land uses.²⁸

South
Australia

- Under s 69(1) of the [Environment Protection Act 1993 \(SA\)](#) a person must not operate a collection depot without the approval of the Environment Protection Authority. The definition of 'collection depot' in the EP Act includes a reverse vending machine.
- The approval of the Authority is required in addition to the general requirement for development approval under the [Planning, Development and Infrastructure Act 2016 \(SA\)](#).
- There will soon be changes to South Australia's legislation around collection depots. Proposed reforms are seen in the [draft Environment Protection \(Beverage Container Deposit Scheme\) Amendment Bill 2024 \(SA\)](#). The expected changes are not anticipated to amend the requirements for approval.²⁹

²⁷ See [Planning and Development \(Local Planning Schemes\) Regulations 2015 \(WA\)](#), clause 1.

²⁸ In September 2020, the WA government published a position statement on container deposit scheme (CDS) infrastructure. The statement encourages local governments to adopt a local planning policy to ensure that specified CDS development and works are exempt, with particular consideration to be given to exempting collection cages and large reverse vending machines within supermarket and shopping centre car parks. A model local planning policy is included in the position statement for councils to adopt, which includes exemptions for large reverse vending machines.

²⁹ See a summary of the impact on collection depot operators [here](#).

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| Tasmania | <ul style="list-style-type: none">• A new, single State-wide planning scheme is progressively being rolled out through the Tasmanian Planning Scheme (TPS). The TPS is likely to include exemptions for container refund machines, based on Planning Directive No. 9 (PD No. 9),³⁰ which currently applies to interim planning schemes.• PD No. 9 “Container Refund Scheme - Exemptions and Special Provisions” provides that container refund points are exempt from requiring a permit, provided the corresponding requirements in Table 4.1 are met.• The Container Refund Scheme Act 2022 (Tas) (the Act) defines “container refund points” as:<ul style="list-style-type: none"><i>“(a) a facility, or premises, where an empty approved container may be deposited in exchange for the payment of the refund amount;</i><i>(b) a container refund machine;</i><i>(c) a facility, premises or machine, or a class of facilities, premises or machines, that is or are prescribed as a container refund point.”</i>• A “container refund machine” is further defined as:<ul style="list-style-type: none"><i>“a machine, or other device, that is –</i><ul style="list-style-type: none"><i>(a) designed or manufactured to pay the refund amount when an approved container is inserted in, or otherwise deposited at, the machine or device; or</i><i>(b) is prescribed as a container refund machine for the purposes of this Act”.</i>• These definitions are likely to include reverse vending machines, which therefore would be exempted from planning permits per PD No. 9.• The Act establishes the model for a container refund scheme in Tasmania, but, the scheme itself has not yet commenced. |
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³⁰ PD No. 9 was issued by the Minister for Planning under s 13(1)(a) of the former provisions of the [Land Use Planning and Approvals Act 1993 \(Tas\)](#) and came into effect on 24 January 2024.

1. Purpose and Scope

Container Exchange (Qld) Limited (COEX) is committed to conducting business honestly, with integrity, and in accordance with its values and standards of expected behaviour. The purpose of this Policy is to encourage a culture of transparency, trust and compliance within both:

COEX

The Containers for Change
Scheme (**Scheme**)

People who Speak Up in relation to COEX may qualify for certain protections under legislation, such as confidentiality and protection from detriment. COEX seeks to encourage reporting about the Scheme, and therefore applies protections to all persons who Speak Up, both in relation to COEX and the Scheme. How you can Speak Up, and the protections that COEX provides, are described in this Policy.

The Board, in consultation with the Leadership Team, has approved this Policy in order to:

- encourage people to Speak Up if they become aware of Potential Misconduct;
- help deter wrongdoing, in line with COEX's risk management and governance framework;
- explain how to Speak Up and what protections a discloser will receive;
- support COEX's values;
- outline COEX's processes for responding to Speak Up reports; and
- promote a workplace environment in which everyone feels safe, supported and encouraged to Speak Up.

A failure to Speak Up exposes COEX and the Scheme to additional risks and will undermine our culture and values.

The Board and Leadership Team will not tolerate anyone being discouraged from Speaking Up or being subject to detriment because they want to Speak Up or they have done so. Disciplinary action, up to and including termination of employment or engagement, may be imposed on any COEX person shown to have disadvantaged, victimised or otherwise caused detriment to a person because they want to Speak Up, or have done so.

2. Definitions

Defined term	Meaning
COEX	Container Exchange (Qld) Limited, the organisation responsible for implementing and operating Queensland's Container Refund Scheme, Containers for Change
Employee Assistance Program (EAP)	Access the EAP at: • [REDACTED]; or • [REDACTED]
Personal Work-related Grievance	Grievances about something in relation to your current or former employment or engagement that have implications for you personally (such as a disagreement between you and another employee or a decision about your promotion)
Potential Misconduct	• Any suspected or actual misconduct or improper state of affairs or circumstances in relation to COEX or the Scheme • This will include conduct in relation to an employee or officer of COEX • Potential misconduct also means a breach of law or information that indicates a danger to the public or to the financial system
Recipient	• COEX has engaged an external, independent hotline service • COEX encourages you Speak Up to this service at: ➤ [REDACTED] or [REDACTED] • Alternatively, COEX encourages you to Speak Up to a Speak Up Coordinator
Scheme	Beverage container refund scheme prescribed by the <i>Waste Reduction and Recycling Act 2011</i> (Qld)

Defined term	Meaning
Speak Up Coordinators	In relation to reports about COEX: • Speak Up Officer/s; or • CFO & EGM Corporate Services In relation to reports about the Scheme: • Network Leads; and/or • Operations Manager
Speak Up Officer	• The designated officer for receiving Speak Up reports is Patricia Cabrera • If Patricia Cabrera is unavailable or the report involves her, Beth Westmore is authorised to receive Speak Up reports
Speak Up/Speaking Up	Telling an appropriate person in a position of influence if you have reasonable grounds to suspect that Potential Misconduct has occurred or is occurring in relation to COEX or the Scheme

3. Policy

3.1 What is Speaking Up?

Speaking Up means telling an appropriate person in a position of influence (examples of these people, called Recipients, are provided in section 3.5 below) if you have reasonable grounds to suspect that Potential Misconduct has occurred or is occurring in relation to COEX.

Anyone who Speaks Up according to this Policy will be protected as described in this Policy. If you are an eligible whistleblower and you report Potential Misconduct about COEX to an eligible Recipient, you will qualify for legal protections. Further information is at Schedule 1.

Anyone with information about Potential Misconduct is encouraged to report that information to a Recipient (i.e. to Speak Up). If in doubt, Speak Up.

3.2 What is Potential Misconduct?

Potential Misconduct is any suspected or actual misconduct or improper state of affairs or circumstances in relation to COEX or the Scheme. This will include conduct in relation to an employee or officer of COEX.

Potential Misconduct also means a breach of law or information that indicates a danger to the public or to the financial system.

You should Speak Up even if you are unsure if something is Potential Misconduct.

Potential Misconduct does **not** generally include **Personal Work-related Grievances**.

Personal Work-related Grievances are grievances about something in relation to your current or former employment or engagement that have implications for you personally (such as a disagreement between you and another employee or a decision about your promotion).

Generally, these grievances should be raised via COEX's Grievance Policy to allow those issues to be resolved most effectively.

Examples of Potential Misconduct include, but are not limited to:

- breach of laws or regulations;
- breach of COEX's Code of Conduct and/or policies, standards or codes;
- criminal activity;
- conduct endangering health and safety, or causing damage to the environment;
- dishonest, unethical or corrupt behaviour, including soliciting, accepting or offering a bribe, facilitation payments or other such benefits;
- conflicts of interest;
- information that indicates a danger to the public or to the financial system;
- anti-competitive behaviour;
- financial fraud or mismanagement;
- modern slavery practices;
- victimisation;
- manipulation and/or falsification of COEX's financial records;
- insider trading;
- breach of trade sanctions or other trade controls;
- tax-related misconduct;
- unauthorised use of COEX's confidential information;
- conduct likely to damage COEX's financial position or reputation;
- any attempt to defraud the Scheme, such as intentionally trying to pass off ineligible or previously processed containers as eligible containers, or manipulation of reporting or financial data to meet performance targets; and
- deliberate concealment of the above.

Potential wrongdoing does not generally include Personal Work-related Grievances. Personal Work-related Grievances are grievances relating to your employment that have implications for you personally (such as a disagreement between you and another employee). Generally, these grievances should be raised via your leader or your People & Culture contact to allow those issues to be resolved most effectively. Notwithstanding the above, they may be covered by this Policy in certain situations. For example, a grievance may be covered by this Policy if it:

- relates to detriment that has been suffered or is threatened because an individual has raised a concern about suspected Potential Misconduct;
- relates to both a Personal Work-related Grievance and Potential Misconduct; or
- relates to concerns that COEX has breached employment or other laws punishable by imprisonment for a period of 12 months or more, engaged in conduct that represents a danger to the public, or information that suggests misconduct beyond the discloser's personal circumstances.

In some cases, Personal Work-related Grievances may qualify for legal protection. See Schedule 1 for details.

3.3 Who can Speak Up?

Anyone with information about Potential Misconduct about COEX or the Scheme is encouraged to Speak Up. This includes:

- all of COEX's current and past employees, volunteers, officers, contractors, suppliers (including employees of suppliers) and associates, as well as these people's dependants (or their spouse's dependants) and their relatives; and
- Scheme participants or persons otherwise involved in or using the Scheme.

The above persons may also be protected by whistleblowing laws. Please see Schedule 1 for more information.

3.4 Responsibility of people covered by this Policy

All COEX people covered by this Policy are in a position of trust and must encourage reporting under this Policy and adhere to appropriate standards of ethical behaviour, including compliance with COEX's policies, applicable laws and regulations. Each COEX person covered by this Policy is expected to make every effort to protect the interests of COEX, including taking action to prevent the occurrence of inappropriate practices and/or behaviour.

3.5 Who should I tell?

Speaking Up about COEX

COEX has engaged an external, independent hotline service to help manage Speak Up reports about COEX. If you wish to Speak Up about COEX, COEX encourages you to Speak Up to this service at:



Alternatively, COEX encourages you to Speak Up to one of the following internal Recipients:

- The Speak Up Officer.
- The CFO & EGM Corporate Services.

While we encourage you to Speak Up to one of the Recipients listed above, there are certain other people to whom you can report and still receive the legal protections described in section 3.10 below, who are listed in Schedule 1.

Speaking Up about the Scheme

If you wish to Speak Up about the Scheme, COEX encourages you to Speak Up to:

- COEX Network Leads; or
- the COEX Operations Manager.

Speaking Up about either COEX or the Scheme

The role of Recipients is to ensure that the information is heard by COEX and proper follow-up occurs, as well as to ensure that you feel supported and protected. You can make your report to the Recipients by using any method you prefer (including by email, letter, telephone or in person).

People must not discourage any individual from Speaking Up and to do so will itself breach this Policy. If any person is told not to raise or pursue a concern, even by their manager or a person in authority, they are encouraged to make a further disclosure to a different Recipient.

If you wish to seek additional information before Speaking Up, you can contact the Speak Up Officer or the General Manager Corporate Services.

3.6 What information should I provide?

You should provide as much information as possible, including details of the Potential Misconduct, people involved, dates, locations and if any more evidence may exist.

You are encouraged to feel supported and safe in providing information and to consent to the limited sharing of your identity. This will assist COEX to protect and support you in relation to your disclosure and facilitate COEX in investigating, reporting and taking action arising as a result of your disclosure.

Please be aware that if you do not consent to the limited sharing of your identity as needed, this may limit COEX's ability to progress your disclosure and take any action in respect of your disclosure.

What if the information is incorrect?

When Speaking Up, you will be expected to have reasonable grounds to believe the information you are disclosing is true, but you will still be protected under this Policy even if the information turns out to be incorrect. However, you obviously must not make a report that you know is not true or is misleading.

Where it is found that a COEX employee has knowingly made a false report, this will be considered a serious matter that may result in disciplinary action, up to and including termination of employment or engagement.

3.7 Can I make an anonymous report?

You can make an anonymous report if you do not want to reveal your identity.

COEX encourages the reporting of Potential Misconduct, however, we appreciate that Speaking Up can be difficult.

We encourage you to provide your name because it will make it easier to address your report. However, you are not required to do so and may choose to remain anonymous when making a disclosure, over the course of any investigation and after any investigation is finalised.

If you do not provide your name, COEX will address your report as best as possible in the circumstances. COEX will assess the content and merit of your disclosure in the same way as if you had revealed your identity. However, an investigation may not be possible unless sufficient information is provided and it may make it difficult to offer you the same level of practical support if we do not know your identity. You will still be entitled to protections under the law, as applicable (see Schedule 1).

If you do provide your name, it will only be disclosed if you provide your consent, or in exceptional circumstances where the disclosure is allowed or required by law (e.g. in dealings with a regulator). Details of how your identity will be protected are described in section 3.10 below. If you have concerns about this, you can discuss this with the Recipient.

3.8 How will COEX respond to a report?

All reports made under this Policy will be received and treated sensitively and seriously, and will be dealt with promptly, fairly and objectively. COEX will apply the protections described at section 3.10 when responding to or investigating disclosures.

Speak Up Coordinators

Subject to confidentiality requirements, all Speak Up reports will be provided to:

- In relation to reports about COEX, the Speak Up Coordinators:
 - Speak Up Officer; and/or
 - CFO & EGM Corporate Services.
- In relation to reports about the Scheme:
 - Network Leads; and/or
 - Operations Manager.

The Speak Up Coordinators are responsible for managing the response to the report. On receipt of the report, the Speak Up Coordinators will consider the report and:

- consider whether you may be subject to any risk of detriment and, if so, take available steps to address this risk; and
- consider what actions ought to be taken to address the report, for example, whether an investigation is appropriate and, if so, whether an external investigator ought to be appointed.

Where appropriate, the Speak Up Coordinators may also refer the report to an alternative process for addressing the report. For example, if the report relates to a Personal Work-related Grievance for a COEX person, the Speak Up Coordinators may refer the report to be considered in accordance with the Grievance Policy.

Conflicts of interest

Where the report relates to one of the Speak Up Coordinators, the report will not be referred to that Speak Up Coordinator, and that Speak Up Coordinator will not be involved in responding to the report. If a report relates to both Speak Up Coordinators, the report will be referred to an appropriate person for managing the response to the report.

COEX will not involve a person referred to in a report in relation to any decisions relating to responding to that report.

COEX's approach to reports

COEX's response to a report will vary depending on the nature of the report and the amount of information provided. Your report may be addressed and resolved informally (such as assisting employees to change their behaviour) or through formal investigation.

If appropriate, disclosers will be told how COEX has decided to respond to their disclosure, including whether an investigation will be conducted. This may not occur until after an investigation has been concluded. However, it may not always be appropriate to provide disclosers with this information, and may not be possible unless contact details are provided when Speaking Up.

Where COEX investigates a report

While Speaking Up does not guarantee a formal investigation, all reports will be properly assessed and considered by COEX and a decision made as to whether they should be formally investigated or otherwise internally resolved. Any investigations commenced will be conducted in a timely manner and will be fair and independent from any persons to whom the report relates, and individuals Speaking Up. Timeframes will vary depending on the particular investigation.

Investigations will generally be overseen (but not undertaken) by one of the Speak Up Coordinators, subject to any potential conflicts of interest or concerns. Other people, including employees or external advisers, may also be asked to assist or run the investigation.

All employees and contractors will be expected to cooperate fully with any investigations.

Unless there are confidentiality or other reasons not to do so, persons to whom a disclosure relates will be provided with details of the report that involves them at an appropriate time (to the extent permitted by law) and be given an opportunity to respond.

3.9 What happens after an investigation?

The results of any investigation will be recorded in writing in a formal internal report that will be confidential and is the property of COEX. The outcome of any investigation will be reported to the Audit & Risk Committee in accordance with section 4 below.

The formal report recording the results of an investigation will not be provided to a discloser or any other person subject to or implicated in an investigation.

Where an investigation identifies a breach of COEX's internal policies or procedures, appropriate disciplinary action may be taken. This may include, but is not limited to, terminating or suspending the employment or engagement of a person(s) involved in any misconduct.

3.10 What protection exists if I Speak Up under this Policy?

COEX is committed to protecting people who Speak Up under this Policy. This section outlines COEX's Policy on protecting those who Speak Up. The law also contains protections for disclosers, which are summarised in Schedule 1.

COEX will seek to protect persons who Speak Up in relation to the Scheme to the extent it is able. However, COEX does not have the same level of control over third parties that it has over its own conduct or that of COEX people, and may be limited in what protection it can provide people who Speak Up from third parties, such as Scheme participants. If you do experience detriment from a third party from Speaking Up, we encourage you to report this as set out in this Policy.

Protecting your identity

COEX will look to protect the identity of people who Speak Up. Your identity (and any information COEX has because of your report that someone could likely use to work out your identity) will only be disclosed if:

- you give your consent to COEX to disclose that information;
- the disclosure is allowed or required by law (for example, the disclosure by COEX to a lawyer in order to get legal advice); or
- in the case of information likely to identify you, it is reasonably necessary to disclose the information for the purposes of an investigation, but all reasonable steps are taken to prevent someone from working out your identity.

Subject to your consent, measures which COEX may adopt to protect your identity may include some or all of the following, as appropriate in the circumstances:

- Restricting the number of people who will be made aware of your identity (subject to your consent) or information that is likely to lead to your identification to people that are directly involved in handling and investigating a disclosure.
- Removing identifying information when we pass your concern on to be investigated or escalated to the Board.
- Keeping all our records of disclosures locked down with limited access only. All paper and electronic documents and other materials relating to disclosures will be stored securely. Email correspondence where sensitive information is captured, i.e. relating to the identity of a disclosure, will be encrypted.
- Titling correspondence relating to the disclosure and subsequent investigation and steps as 'Private and Confidential'.

- Where appropriate, making references to you by way of a pseudonym or in a gender-neutral context in any subsequent memos or reports.
- Where possible and appropriate, consulting with you to help identify the aspects of your disclosure that could inadvertently identify you.
- Reminding each person who is involved in handling and investigating a disclosure about the confidentiality requirements, including the consequences of an unauthorised disclosure.

If your report qualifies for legal protection as set out in Schedule 1, your identity and information that is likely to lead to another person identifying you has the benefit of these protections at law. If a person makes an unauthorised disclosure of your identity, the person may breach the law and you may be able to seek legal recourse. In some circumstances, this may also be a criminal offence.

Protecting you from detriment

No person may victimise or cause detriment to someone else (or threaten to do so) because of a belief that person has, will or could Speak Up. Examples of detriment include discrimination, harassment, intimidation, retaliation, causing physical or psychological harm, damaging property, varying an employee's role or duties, or demoting or dismissing the person.

If your report qualifies for legal protection as set out in Schedule 1, you are legally protected from detriment for making the report. If a person causes detriment or victimises you, or threatens to do so, the person may breach the law and you may be able to seek legal recourse. In some circumstances, this may also be a criminal offence. For the avoidance of doubt, you will not have immunity for any misconduct you have engaged in that is revealed in a disclosure.

You should tell a Recipient listed in section 3.5 if there has been, or you are concerned about, detrimental conduct towards you or someone else. Preferably, this should be the Recipient to whom you made your initial disclosure, but can be to any Recipient. COEX will treat this very seriously.

Any COEX person involved in detrimental conduct may be subject to disciplinary action, including (but not limited to) termination of employment or engagement. In some circumstances, this may also be a criminal offence. COEX may refer any person that has engaged in victimising conduct to law enforcement authorities for further investigation.

Other protections available

COEX is committed to making sure that you are treated fairly and do not suffer detriment because you Speak Up. The protections offered will depend on things such as the Potential Misconduct and people involved. Protections may include the following, in COEX's discretion and as appropriate in the circumstances:

- Monitoring and managing the behaviour of other employees.

Speak Up Policy

- Relocating employees (which may include the people alleged to have been involved in the Potential Misconduct) to a different division, group or office.
- Offering you a leave of absence or flexible workplace arrangements while a matter is investigated.
- A discloser who is a current or former employee may access COEX's Employee Assistance Program and may also request additional support from COEX (such as counselling or other support services).
- Rectifying any detriment that you have suffered.

In addition, COEX may appoint a Speak Up Officer to support and help protect you. The Speak Up Officer will be your point of contact. They can arrange additional support for you where needed and can escalate any concerns you have with how your report is being dealt with. COEX can only appoint a Speak Up Officer where you have agreed to share your identity with the Speak Up Officer.

COEX will look for ways to support all people who Speak Up, but it will of course not be able to provide non-employees with the same type and level of support that it provides to employees. Where certain support cannot be applied to non-employees (for example, because COEX cannot itself offer flexible working arrangements to a supplier), COEX will still seek to offer as much support as practicable.

Further information regarding the protections afforded under Australian law to persons who Speak Up is available at Schedule 1.

4. Reporting

To ensure transparency, the CEO and Chair of the Audit & Risk Committee (or where it is not appropriate to involve one of those persons in relation to the particular report, the Chair of the Board or Chair of the People & Culture Committee) will be notified of reports, subject to confidentiality requirements.

Regular reports with details of disclosure will be submitted to the Audit & Risk Committee. The Audit & Risk Committee will report to the Board as appropriate.

The content of these reports may include the number of disclosures received, a summary of the types of incidents identified and any recommendations on how to prevent such incidents in the future. Subject to your consent, where the protections in this Policy apply, no information will be given regarding the identity of the discloser or information that is likely to lead to the identity of the discloser.

5. Availability and training

All directors, officers and employees will be made aware of this Policy during induction, periodic communications and the intranet (where applicable). Any significant changes to the Policy will be communicated to directors, officers and employees.

The Speak Up Officer will provide training to potential Recipients annually on how to receive, handle and manage disclosures.

Training will also be provided to COEX staff annually to aid their understanding of the legislation and what to do with a disclosure and other types of conduct or fraud related issues.

A copy of this Policy will also be available on COEX's intranet for internal employees.

6. Review of this Policy

This Policy will be reviewed every two years to ensure it remains consistent with all relevant legislative requirements, as well as any changes to the nature of the organisation.

7. Further information

Any questions about this Policy or Speaking Up can be referred to the Speak Up Officer or the CFO & EGM Corporate Services. Questions can be asked at any time, including before or after you have made a report under this Policy.

This Policy does not form part of the terms of employment of COEX people and may be amended from time to time. To the extent that this Policy requires an employee to do or refrain from doing any act, it constitutes a direction from COEX with which all employees must comply.

8. Breaches of this Policy

Breaches of this Policy will be considered a serious matter that may result in disciplinary action, up to and including termination of employment or engagement. In some circumstances, this may also be a criminal offence.

9. Associated documents

- Code of Conduct Policy
- Conflict of Interest Policy
- Grievance Policy
- Grievance Procedure
- Schedule 1 – Protections provided by law

10. Document history

Description	Version no.	Document Owner	Document Approver	Approval date	Review date
Speak Up Policy	1	GM CS	Board	25/08/2022	

Speak Up Policy

Description	Version no.	Document Owner	Document Approver	Approval date	Review date
Speak Up Policy	2	GM CS	Board	22/03/2023	
Speak Up Policy	3	CFO & EGM CS	Board	24/10/2024	02/03/2025

Schedule 1 – Protections provided by law

Additional legislative protections

Under Australian law, including the *Corporations Act 2001* (Cth) (Act), legislative protections for Speaking Up are available to certain persons (including current and former employees, volunteers, officers, contractors, suppliers, employees of suppliers, and associates, as well as these people's relatives and dependants – together, **Eligible Persons**) who make a 'protected disclosure' to certain people.

You are encouraged to Speak Up under this Policy. However, the law offers protections in other cases (for example, you can report Potential Misconduct to people other than Recipients). If you make a 'protected disclosure' under the law that does not comply with the Speak Up Policy, you will still be entitled to the legal protections. A disclosure can qualify for protection under the Act even if it is made anonymously or turns out to be incorrect.

Please contact a Recipient if you would like more information about legal protections.

Protected disclosures

To be a 'protected disclosure' qualifying for protection under the Act, the disclosure must relate to a 'disclosable matter' and be made to an 'eligible recipient' under the Act. It is important to note that disclosable matters must relate to COEX, a related body corporate of COEX, or an officer or employee of COEX or a related body corporate. Not all reports relating to the Scheme will meet this requirement. A matter that is disclosed under this Policy, but which does not meet these criteria, will not qualify for protection under the Act. Examples of this information and Recipients are outlined in the following table:

Information reported or disclosed	Recipient of disclosed information
General disclosable matters	Recipients for any general disclosable matters
- Information about actual or suspected misconduct, or an improper state of affairs or circumstances in relation to COEX or a related body corporate - Information that COEX or a related body corporate, or any officer or employee of COEX or a related body corporate, has engaged in conduct that: ➤ contravenes or constitutes an offence against certain legislation (e.g. the Act); or ➤ represents a danger to the public or the	- A person authorised by COEX to receive protected disclosures, i.e. Recipients under this Policy (see section 3.5) - An officer or senior manager of COEX or a related body corporate - An auditor, or a member of an audit team conducting an audit, of COEX or a related body corporate - An actuary of COEX or a related body corporate - ASIC, APRA or another Commonwealth body

Speak Up Policy

Information reported or disclosed	Recipient of disclosed information
financial system; or ➤ constitutes an offence against any law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more Note that Personal Work-related Grievances are not protected disclosures under the law, except as noted below	prescribed by regulation • A legal practitioner for the purposes of obtaining legal advice or legal representation (even if the legal practitioner concludes the disclosure does not relate to a disclosable matter) • Journalists or parliamentarians, under certain circumstances allowing emergency and public interest disclosures. It is important for you to understand the criteria for making a public interest or emergency disclosure before doing so. Please contact the General Manager Corporate Services if you would like more information about emergency and public interest disclosures
Tax-related disclosable matters	Recipients for any tax-related disclosable matters
Information about misconduct, or an improper state of affairs or circumstances, in relation to the tax affairs of COEX or an associate, which the employee considers may assist the Recipient to perform functions or duties in relation to the tax affairs of COEX or an associate	• A person authorised by COEX to receive reports of tax-related disclosable matters • An auditor, or a member of an audit team conducting an audit, of COEX • A registered tax agent or BAS agent who provides tax services or BAS services to COEX • A director, secretary or senior manager of COEX • An employee or officer of COEX who has functions or duties that relate to the tax affairs of COEX • A legal practitioner for the purpose of obtaining legal advice or legal representation
Further tax-related information	Recipients for any further tax-related information
Information that may assist the Commissioner of Taxation to perform his or her functions or duties under a taxation law in relation to COEX or an associate	• Commissioner of Taxation • A legal practitioner for the purpose of obtaining legal advice or legal representation

Personal Work-related Grievances

Legal protection for disclosures about solely personal employment related matters is only available under the law in limited circumstances. A disclosure of a Personal Work-related Grievance will remain protected if, in summary:

- it concerns detriment to you because you have or may be considering Speaking Up; or
- it is made to a legal practitioner for the purposes of obtaining legal advice or legal representation in relation to the operation of the law about whistleblowers.

Under the law, a grievance is **not** a Personal Work-related Grievance if it:

- has significant implications for an entity regulated under the law that do not relate to the discloser;
- concerns conduct, or alleged conduct, in contravention of specified corporate and financial services laws, or that constitutes an offence punishable by 12 months or more imprisonment under any other Commonwealth laws;
- concerns conduct or alleged conduct that represents a danger to the public or financial system; or
- concerns conduct or alleged conduct prescribed by the regulations.

Specific protections and remedies

Additional legislative protections may also be available, including (but not limited to):

- compensation for loss, damage or injury suffered as a result of detrimental conduct;
- an injunction to prevent, stop or remedy the effects of the detrimental conduct;
- an order requiring an apology for engaging in the detrimental conduct;
- if the detrimental conduct wholly or partly resulted in the termination of an employee's employment, reinstatement of their position;
- exemplary damages; and
- any other order the court thinks appropriate.

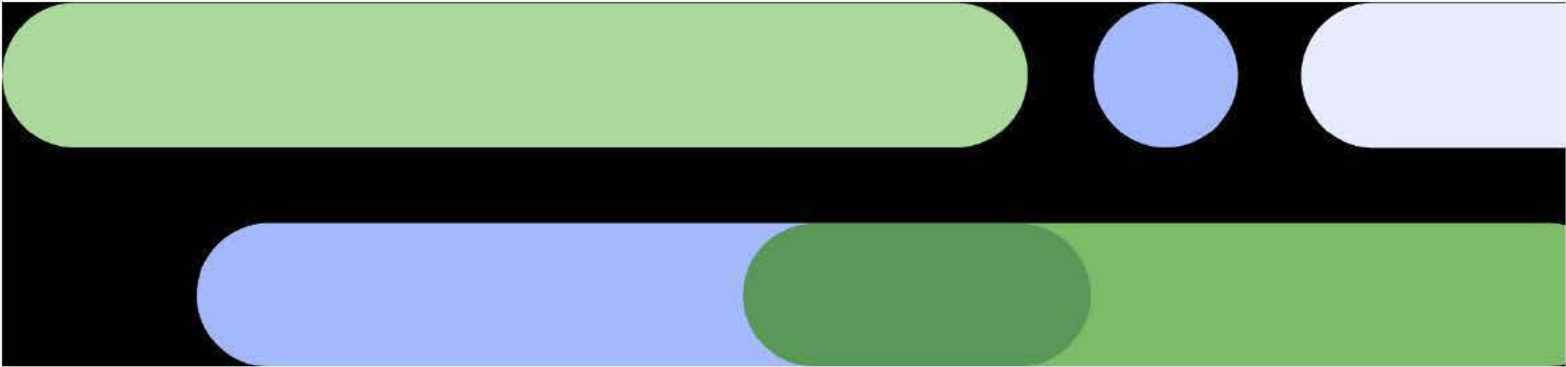
You are also protected from the following in relation to a protected disclosure you make:

- Civil liability (e.g. any legal action against you for breach of an employment contract, duty of confidentiality or another contractual obligation).
- Criminal liability (e.g. attempted prosecution of you for unlawfully releasing information, or other use of the disclosure against you in a prosecution (other than for making a false disclosure)).

Speak Up Policy

- Administrative liability (e.g. disciplinary action for making the disclosure).

However, you will not have immunity for any misconduct you have engaged in that is revealed in a disclosure.



Container Collection Agreement

Container Exchange (QLD) Limited

and

[Insert Operator]

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Reference Schedule

Item		
1	Effective Date (clauses 1.1 and 2.1)	#[The date on which the last party signs this Agreement]# OR #[Specify later date if required]# #DELETE THE OPTION THAT DOES NOT APPLY#
2	Parent Guarantor(s) (clause 1.1)	Only required if the Operator has 10 or more Operator Refund Points [*]
3	Executive Negotiators (clause 1.1)	PRO: The Chief Executive Officer (or such other person notified to the Operator in writing by the PRO from time to time) Operator: [*]
4	Bank Account Details: Operator (clause 10.1)	Name of Account: [*] Branch Name: [*] Account Number: [*] BSB Number: [*]
5	Notices (clause 24.14)	PRO Address: Level 13, 295 Ann Street, Brisbane QLD 4000 Email: notices@containerexchange.com.au Attention: Container Exchange Notices Team Operator Address: [*] Email: [*] Attention: [*]
6	Operator Refund Points	See list below.

Operator Refund Points

Item	Operator Refund Point (clause 1.1)	Operating Region (clause 1.1)	Operator Refund Point Type (clause 1.1)	Minimum Operating Hours (and collection frequency in the case of Drop-Off Refund Points, Mobile Refund Points or RVMS) (clause 1.1)	Trading Hours (clause 1.1)	Logistics Services collection hours (section 25(f)(i)(l) of the Services Specification)	Mobilisation Completion Date (clauses 1.1 and 9.3)	Operator Refund Point Expiry Date (clause 1.1)
1.	[Refund Point Address]	[Refund Point Operating Region]	["Over the Counter Refund Point", "Drop-Off Refund Point", "RVM", "RVM Depot" or "Mobile Refund Point"]	[Specify the minimum times when the Operator Refund Point is required to be open to the public. The PRO's expectation is that the Operator Refund Point will be open on all Business Days, except for public holidays at the location of the Operator Refund Point] [For Drop-Off Refund Points or RVMS specify the frequency the Drop-Off Refund Point or RVM will be serviced and emptied]	[Specify the times which the Operator Refund Point will be open to the public. These hours may exceed the Minimum Operating Hours, but must be no less than the Minimum Operating Hours]	[This section to be completed to reflect the Logistics Services collection hours that are allowed under the Operator's Approval conditions Eg: #[7am to 7pm]# or #[24 hours, 7 days per week]]	[*]	[This date must be on or before the Agreement Expiry Date. Insert the words "Agreement Expiry Date" here, unless an earlier date applies]

#[Insert further rows if Operator has multiple Operator Refund Points – delete this note once complete]#

Parties

- 1 **Container Exchange (QLD) Limited** (ACN 622 570 209) of Level 13, 295 Ann Street, Brisbane QLD 4000 (the **PRO**).
- 2 **[Insert Operator Entity Name]** (ABN [insert ABN]) of [insert registered address of Operator] (the **Operator**).

Recitals

- A The Queensland Government, through the Queensland Department of Environment and Science (previously the Department of Environment and Heritage Protection), has established a beverage container refund scheme pursuant to Part 3B of Chapter 4 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 Queensland.
- B The Scheme will be delivered by the PRO, as the Product Responsibility Organisation under the Act.
- C The PRO and the Operator are entering into this Agreement in accordance with section 99Z of the Act.
- D The Operator has agreed to provide the Services in accordance with this Agreement.

It is agreed as follows.

1 Definitions and Interpretation

1.1 Definitions

Capitalised terms used in this Agreement and not defined in it have the meaning given to those terms in the Act.

The following definitions apply unless the context requires otherwise.

Act means the *Waste Reduction and Recycling Act 2011* (Qld).

Advisor means any third party the PRO engages to provide advice or services in connection with this Agreement.

Agreement means this Container Collection Agreement, including any Variation, Variation Order, schedules, annexures and appendices.

Agreement Expiry Date means the date that is 5 years from the Effective Date, unless extended in accordance with clause 2.3, in which case the Agreement Expiry Date shall be the extended date.

Approval means any licence, permit, consent, approval, determination, certificate or other requirement:

- (a) of any Regulatory Authority having any jurisdiction in connection with the 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 Agreement, and includes all applicable development consents and environmental approvals.

Associate means, in respect of a party, any employee, officer, agent, or subcontractor of that party who is involved in providing the Services, but in respect of:

- (a) the PRO - excludes the State, the other Scheme Participants and the Operator; and
- (b) the Operator - excludes the PRO.

Authorised User means Personnel of the Operator that have been granted access to use the IT Platform by the PRO.

Australian Consumer Law has the meaning given to that term in Schedule 9.

Authority Notices has the meaning given to that term in clause 3.2(a)(iii).

Bulk Claim Arrangement has the meaning given to that term in section 99T(4) of the Act.

Bulk Quantity has the meaning given to that term in regulation 20 of the Regulations.

Business Day means a day that is not a Saturday, Sunday, or recognised public holiday in Brisbane.

Calculations has the meaning given to that term in clause 5.1(b).

Change in Law means a change in a Statutory Requirement of the State of Queensland or a State Policy which:

- (a) affects the PRO, the Scheme or the Scheme Participants; and
- (b) causes the PRO or the Operator to incur more or less costs than otherwise would have been incurred in respect of carrying out its obligations under the Act.

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 Agreement or either party's conduct before this Agreement, including any direction of the PRO;
- (b) is in any way in connection with implementation of the Scheme; or
- (c) otherwise arises at law or in equity including:
 - (i) by statute;
 - (ii) in tort for negligence or otherwise, including negligent misrepresentation; or
 - (iii) for restitution.

Codes and Standards means all relevant Australian industry codes and standards, including any codes and standards that come into effect after the date of this Agreement.

Collection Infrastructure means the equipment provided to the Operator by the Collection Infrastructure Provider to facilitate the collection of Containers at the Operator Refund Point, and includes the Shipping Units.

Collection Infrastructure Provider means the owner of the Collection Infrastructure.

Common Dispute means a dispute 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 PRO, the Operator and one or more other Scheme Participants.

Community Collection Infrastructure means the transportable equipment (including a trailer or cage) for use by social enterprises, not-for-profit organisations and other community groups, for the purpose of collecting Containers and returning them to an Operator Refund Point to claim a Refund Amount.

Confidential Material means:

- (a) this Agreement; and
- (b) any data and other commercially sensitive information provided by either party to the other party in relation to the Scheme or arising out of, or in connection with, this Agreement including any Manual or Policy.

Container has the meaning given to that term under section 99M of the Act or any written direction given by the State from time to time, but excludes an Excluded Container.

Container Collection Agreement has the meaning given to that term under section 99ZA of the Act.

Container Collection Services has the meaning given to that term under section 1 of the Services Specification.

Container Exchange Interface means the web portal or interface to be used by the Operator or as directed by the PRO.

Container Recipient means the person notified by the PRO to the Operator in writing as the 'Container Recipient' on or about the Effective Date, as may be amended by written notice from the PRO to the Operator from time to time.

Container Recovery Agreement has the meaning given to that term under section 99Q of the Act.

Control has the meaning given to that term in the Corporations Act.

Corporations Act means the *Corporations Act 2001* (Cth).

Counting Method means the method of counting Containers set out in writing by the Operator.

Customer means any person who presents a Container whether in person or via a third party that is processed through an Operator Refund Point.

Customer Hold Member Number means a member number created by the PRO to hold and administer Refund Amounts pursuant to clauses 4.3(e) and 4.5(a)(i).

Customer Services has the meaning given to that term under section 1 of the Services Specification.

Default Interest Rate means the 90 day bank bill swap reference rate (Average Bid) as published in the Australian Financial Review, plus 200 basis points.

Default Notice means a written notice that identifies an Event of Default by the Operator or a PRO Default (as relevant) and the requirements and a reasonable timeframe to remedy the Event of Default or PRO Default (as relevant).

Dispute means a dispute between the PRO and the Operator in respect of any fact, matter or thing arising out of, or in any way in connection with, this Agreement.

Dissatisfaction Notice means a notice issued by the Operator either under clause 5.3(e) or clause 7.1(f).

Drop-Off Refund Point means a Refund Point at which Customers can deposit Containers with the Refund Amount payable for those Containers being processed and paid by the Operator at a later time following the collection and counting of the Containers by the Operator.

Effective Date has the meaning given to that term in clause 2.1.

Electronic Signature means a digital signature or a visual representation of a person's handwritten signature or mark, which is placed on a physical or electronic copy of this Agreement by electronic or mechanical means, and electronically signed has a corresponding meaning.

Emergency Management Plan means the written plan and procedures detailing the emergency arrangements for an Operator Refund Point, including preparedness, prevention and response activities, emergency roles, responsibilities, strategies, and systems, as prepared by the Operator.

Environment, Health and Safety Services has the meaning given to that term under section 1 of the Services Specification.

Environmental Management Plan means the written plan and procedures detailing the environmental arrangements for an Operator Refund Point, including how environmental risks and opportunities are addressed and compliance obligations fulfilled, as prepared by the Operator.

Environmental Management Report means a report that meets the requirements set out in section 4.3(f)(i)(B) of the Services Specification or otherwise as reasonably advised in writing by the PRO to the Operator.

Event of Default means any of the following events:

- (a) the Operator breaches a material obligation or requirement or covenant under this Agreement or the Act or the Regulation or a Statutory Requirement or Approval or a Manual or a Policy or a reasonable direction of the PRO;
- (b) the Operator engages in Inappropriate Conduct;
- (c) the Operator, an Associate, or any Personnel, performs obligations under this Agreement or otherwise acts in a manner in undertaking its obligations, that:
 - (i) is unsafe;
 - (ii) endangers or may endanger public health or safety;
 - (iii) undermines or may undermine the integrity of the Scheme;
 - (iv) adversely affects or may adversely affect the PRO or its brand, goodwill or reputation; or
 - (v) places the PRO or may place the PRO in breach of any Statutory Requirement or other obligation of the PRO;
- (d) the Operator identifies, or ought reasonably to have identified, Modern Slavery practices in its supply chains or operations of the Operator and fails to take all reasonable steps to address or remove the practices;
- (e) where the Operator is a company, the company becomes deregistered by the Australian Securities and Investment Commission;
- (f) the Operator or a Related Entity of the Operator is in breach of a material obligation under a Related Agreement;
- (g) the Operator abandons an Operator Refund Point or repudiates this Agreement.

Excluded Container means any container that is not a Container, including any of the following:

- (a) a container that is not registered for the purposes of the Scheme;
- (b) a container that does not display a Refund Marking;
- (c) a container for which a Refund Amount or Recovery Amount, or equivalent amount has previously been paid by or through:
 - (i) a Scheme Participant; or
 - (ii) the PRO;

- in Queensland or in another jurisdiction;
- (d) a Recycled Container;
 - (e) a container that has been disposed of to landfill;
 - (f) a container that has never been filled with a beverage;
 - (g) a container that has been filled with a beverage, but has not been sold for consumption;
 - (h) a container that is not whole, or substantially whole;
 - (i) containers that are not whole, loose individual containers;
 - (j) a container that the Operator reasonably believes, or ought reasonably know, meets any of the criteria in any of paragraphs (a) – (i) above;
 - (k) a container in respect of which the Operator is unable to reasonably ensure that none of the criteria in any of paragraphs (a) – (i) above, apply;
 - (l) a container that is specifically excluded pursuant to section 99S(3) of the Act; or
 - (m) a container specified as excluded or ineligible in any written directions given by the PRO or the State from time to time.

Executive Negotiators means the persons stated in the Reference Schedule or another a person nominated by a party and notified in writing to the other party.

Expiry Notice has the meaning give to that term in clause 2.3(a).

Extension Notice has the meaning given to that term in clause 2.3(a).

Fee means fee payable by the PRO to the Operator for the Operational Services in accordance with the terms of this Agreement, including clause 10 and the Payments Schedule.

Feedback has the meaning given to that term in clause 16.6.

Force Majeure Event means acts of God, fire, storm, flood, earthquake, explosion, accident, acts of the public enemy, war, rebellion, insurrection, sabotage, epidemic, pandemic, quarantine restrictions, health directive issued by a Regulatory Authority, interruption or failure of electricity services and industrial action (except industrial action which only affects the Operator).

Good Industry Practice means, in relation to any activity, the exercise of that degree of skill, care, diligence, prudence, methods, practices, processes, workmanship and use of material and equipment, that would be reasonably exercised by a skilled and experienced person who:

- (a) is engaged in the carrying out of activities of the same nature and extent as the Services by reference to proper and prudent practices recognised in Australia;
- (b) knows the facts that were known, or should reasonably have been known, to the person performing the activity at that time;
- (c) complies with all applicable Statutory Requirements;
- (d) complies with all applicable Codes and Standards; and
- (e) acts to the standards and in the manner required by clause 4.1(a)(v).

Grievance Reporting means a process where individuals are able to raise a complaint or grievance with the Operator, including with respect to Modern Slavery practices, for their review and action.

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 *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any related Act imposing such tax or legislation that is enacted to validate, recapture or recoup such tax.

Handling Fee is the fee per Container for providing the Operational Services as set out in the Services Specification, which is payable in accordance with the Payments Schedule.

Handling Fee Payment has the meaning given to that term in section 1.3 of the Payments Schedule.

HVNL means all applicable laws relating to the use of heavy vehicles, including the *Heavy Vehicle National Law Act 2012* (Qld) and any regulations made under it and all relevant Codes and Standards.

Inappropriate Conduct means:

- (a) making a statement, whether oral or in writing, if the person knows, or is reckless as to whether, the statement is misleading, false or deceptive, and
- (b) conduct that is misleading or deceptive or likely to mislead or deceive.

Infrastructure Dispute Procedure means the procedure for resolving disputes of the kind referred to in clauses 8.12(d) and 8.12(e) as set out in a Policy published by the PRO and provided to the Operator by the PRO.

Infringement Notice means all notices, correspondence and any other relevant documents concerning an infringement, prosecution, investigation, enforceable undertaking or other direction by a Regulatory Authority, in respect of an actual or suspected breach of any law.

Insolvency Event means:

- (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 Agreement for financial reasons;
- (b) execution is levied against a person by a creditor;
- (c) in relation to an individual person or a partnership, the person:
 - (i) commits an act of bankruptcy;
 - (ii) has a bankruptcy petition presented against him or her or presents his or her own petition;
 - (iii) is made bankrupt;
 - (iv) makes a proposal for a scheme of arrangement or a composition; or
 - (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 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.

Internal Logistics Services means the transportation services provided by the Operator to transport empty Containers from one or more Drop-Off Refund Points, Mobile Refund Points or other collection points to an Operator Refund Point being either an Over the Counter Refund Point or RVM Depot.

Intervening Event means any of:

- (a) a Force Majeure Event;
- (b) an incident in respect of the IT Platform which prevents the Operator from performing a critical business function (an **IT Incident**);
- (c) a Change in Law; or
- (d) a breach of this Agreement by the PRO,

but only to the extent that it prevents the Operator from performing the Services.

Intervening Event Notice has the meaning given to that term in clause 18.1.

IT Equipment means the hardware equipment to be provided by the Operator as set out in a Manual.

IT Platform means the software environment and application software licensed to the Operator by the PRO under this Agreement, which includes the functionality described in Schedule 3 and the POS System.

Logistics Services means the transportation of empty Containers by a Logistics Services Provider from one or more Over the Counter Refund Points or RVM Depots, to a Processing Facility.

Logistics Services Provider means the transport company providing the Logistics Services.

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.

Major Operator means an Operator that is required to operate a total of 10 or more Operator Refund Points under this Agreement and any other Container Collection Agreements between the PRO and the Operator or a Related Entity.

Manufacturer has the meaning given to that term under section 99O of the Act.

Manual means any manual relating to the Scheme and the operating procedures for an Operator Refund Point that is provided to the Operator by the PRO from time to time during the Term.

Material Recovery Agreement has the meaning given to that term under section 99ZF of the Act.

Material Recovery Facility has the meaning given to that term under section 99ZE of the Act.

Material Recovery Facility Operator means the operator of a Material Recovery Facility.

Material Type means the following 8 types of materials: Glass, Clear polyethylene terephthalate (**PET**), Coloured PET, high-density polyethylene, Aluminium, Steel, Liquid Paper Board and Other Materials.

Media and Branding Policy means the media and branding policy provided to the Operator by the PRO as updated by the PRO from time to time.

Member Number means a unique identifier number assigned to a Customer through the IT Platform which is used to facilitate the payment of Refund Amounts to either the Customer or a third party at the Customer's direction.

Minister means the minister who is responsible under Queensland law for administering the relevant provisions of the Act.

Minimum Operating Hours means the minimum operating hours for each Operator Refund Point as defined in the Reference Schedule.

Mobile Refund Point means a temporary mobile Operator Refund Point (for example, a ute or trailer with a cage on it parked in a location for a limited time) at which Customers can return Containers for a Refund Amount.

Mobilisation Activities means all activities reasonably necessary to enable the Operator to be able to commence and undertake the Operational Services in accordance with this Agreement by the Operations Commencement Date, including the activities set out in the approved Mobilisation Plan and the achievement of the Mobilisation Service Outcomes.

Mobilisation Completion Date means, for each Operator Refund Point, the date specified as such for that Operator Refund Point in the Reference Schedule, unless extended in accordance with clause 9.3(c), in which case the Mobilisation Completion Date for the Operator Refund Point will be the extended date.

Mobilisation Period means, for each Operator Refund Point, the period from the Effective Date to the Mobilisation Completion Date for that Operator Refund Point.

Mobilisation Plan means the document of that name to be prepared, amended and updated in accordance with clause 9.2.

Mobilisation Report means the fortnightly report to be prepared and submitted by the Operator to the PRO in accordance with clause 9.4.

Mobilisation Service Outcomes means the outcomes as defined in Schedule 2.

Modern Slavery has the meaning given to that term in the *Modern Slavery Act 2018* (Cth).

New Service means a new service, program or initiative that is proposed by the PRO subject to clause 6, to be trialled or implemented by the Operator or Refund Point Operators to increase redemption of Containers, participation in the Scheme or operational efficiencies in the Scheme.

For the avoidance of doubt, this excludes a Scheme Change or any new service, program, initiative or amendment that is initiated in response to a Scheme Change.

Notice of Common Dispute has the meaning given to that term in clause 23.3.

Notice of Dispute means a notice in writing issued by one party to this Agreement to the other party to this Agreement, which specifies the nature of the Dispute and the outcome sought by the issuing party in respect of the Dispute.

Operating Conditions means the framework of common and specific conditions applicable to Refund Points where no formal planning or environmental approval is required under any applicable Statutory Requirement, as provided to the Operator at the commencement of the Mobilisation Period and as updated by the PRO from time to time.

Operating Region means the regions defined in Schedule 6.

Operating Week means each seven day week commencing 00:00 Monday to 23:59 Sunday after the Effective Date, except for the first Operating Week which will commence at 00:00 on the Effective Date.

Operational Services means the services detailed in the Services Specification.

Operations Commencement Date means, for each Operator Refund Point, the day immediately following the Mobilisation Completion Date for that Operator Refund Point.

Operations Period means, for each Operator Refund Point, the period from the Operations Commencement Date for that Operator Refund Point to the Operator Refund Point Expiry Date, unless terminated earlier in accordance with this Agreement.

Operator-Generated Material has the meaning given to it in clause 16.5(a).

Operator Invoice has the meaning given to it in clause 10.4.

Operator Invoice Date means the date that is four Business Days after the submission of a valid Payment Claim under clause 10.4.

Operator Loading Equipment means the equipment procured by the Operator (at the Operator's cost) including:

- (a) a forklift; and
- (b) any other equipment that may be reasonably designated by the PRO,

to load and unload Shipping Units from or onto vehicles of Logistics Services Providers.

Operator Owned Infrastructure means the equipment procured by the Operator (at the Operator's cost) to facilitate any overflow or low volume collection of Containers at the Operator Refund Point.

Operator Refund Point means each Refund Point as listed in the Reference Schedule.

Operator Refund Point Expiry Date means the date of expiry for an Operator Refund Point as set out in the Reference Schedule.

Operator Refund Point Type means the type of each Operator Refund Point to be operated under this Agreement, being one or more of an Over the Counter Refund Point, Drop-Off Refund Point, Mobile Refund Point, RVM Depot or RVM.

Other Materials means any other material type that Containers may be made of prescribed by the Act, Regulation, the State or the PRO.

Other Negotiators means a person nominated on behalf of a Scheme Participant affected by a Common Dispute (other than the Operator) and notified in writing to the other parties to the Common Dispute, to negotiate on behalf of the Scheme Participant.

Other Service Provider means any contractor (at any tier) of the PRO, including all service providers and subcontractors providing Logistics Services or Processing Services in connection with the Scheme but excluding:

- (a) the Operator and its Subcontractors; and
- (b) any other service provider to the PRO that the PRO determines (in its sole discretion) is excluded from this definition from time to time.

Over the Counter Refund Point means any Refund Point that is not an RVM, an RVM Depot, a Drop-Off Refund Point or a Mobile Refund Point.

Parent Company Guarantee means the guarantee to be provided by each Parent Guarantor in respect of the obligations of the Operator under this Agreement, in the form contained in Schedule 8.

Parent Guarantor means each person named as such in the Reference Schedule.

Payment Claim means the claim for payment which complies with the requirements set out in section 2.1 of the Payments Schedule.

Payment Direction means a direction to pay authorising the PRO to process and make payment of the Refund Amount either to a Customer or another Member Number at the Customer's direction on behalf of the Operator.

Payments Schedule means Schedule 4, as amended from time to time in accordance with this Agreement.

Personal Information has the meaning given to that term in the *Privacy Act 1988* (Cth).

Personnel means any person who is an officer, employee, contractor (or subcontractor of a contractor) or agent of the Operator who is involved in providing the Services.

Policy means any policy or practice statement published by the PRO that is provided to the Operator by the PRO from time to time during the Term.

POS System means the point of sale software provided by the PRO that all Refund Points (other than RVMs) are required to use to accurately record transactions and submit relevant reporting and declarations to the PRO, the functionality of which is described in Schedule 3.

Privacy Laws means all Commonwealth or State or Territory laws applicable to the PRO or the Operator that deal with Personal Information, sensitive information, health information, surveillance, security or direct marketing and includes the *Privacy Act 1988* (Cth).

PRO Default means a failure by the PRO to:

- (a) make a payment of an undisputed amount which is payable to the Operator in accordance with this Agreement within 5 Business Days of such payment being due;
- (b) rectify an issue with, or provide access to, the IT Platform which prevents the Operator from performing a critical business function for more than 5 consecutive Business Days, unless:
 - (i) a third party provider that is outside of the control of the PRO, a Scheme Participant or the Operator (including its Associates) caused the failure (whether by act or omission, directly or indirectly); or
 - (ii) a suspension in accordance with clauses 18.5 or 19 of this Agreement applies;
- (c) use its best endeavours to procure the grant to the Operator of a non-exclusive, royalty free, non-transferable, non-sub-licensable licence to use the Trade Marks;

- (d) ensure that the Operator is provided with sufficient Collection Infrastructure in accordance with the PRO's obligations under clause 8.11(a) unless a third party fails to provide the Collection Infrastructure to the Operator.

PRO Equipment means any densifying, crushing or compacting equipment supplied to the Operator by the PRO for use at an Operator Refund Point and in accordance with any direction of the PRO to the Operator.

PRO IT Equipment means the hardware equipment provided by the PRO for the Operator to use (if any).

PRO Personnel means any person who is an officer, employee, contractor (or subcontractor of a contractor) or agent of the PRO or an Associate of the PRO.

Processing Facility means the premises from which a Processing Service Provider carries out the services under a Processing Services Agreement.

Processing Services Agreement means any agreement entered into by the PRO for the provision of Processing Services in connection with the Scheme.

Processing Service Provider means a service provider who has entered into a Processing Services Agreement or any other party that provides recycling and other waste processing services.

Processing Services means the verification and processing of Containers in preparation for sale to a recycler.

Product Responsibility Organisation has the meaning given to that term under the Act.

Purpose has the meaning given to that term in clause 1.3.

Quarter means a 3 calendar month period commencing on 1 January, 1 April, 1 July or 1 October.

Recovery Amount has the meaning given to that term in section 99ZG of the Act and is GST-inclusive.

Recycled Containers means containers that have been, or are determined in the PRO's discretion to have been, recycled before they are accepted by the Operator, including a container that to the knowledge of the Operator (or that the Operator should reasonably have known) has been sourced from a Material Recovery Facility or a Processing Facility.

Reference Schedule means the reference schedule at the front of this Agreement.

Refund Amount has the meaning given to that term in section 99K of the Act and is GST-inclusive.

Refund Declaration has the meaning given to that term in section 99T(2) of the Act.

Refund Marking has the meaning given to that term in section 99K of the Act.

Refund Point has the meaning given to the term 'container refund point' in section 99K of the Act.

Refund Point Operator means the operator of a Refund Point, and includes the Operator.

Regulation means any regulation made under Part 3B of Chapter 4 of the Act.

Regulatory Authority means:

- (a) any local, state or federal government or a governmental, quasi-governmental or judicial entity or authority (including the department or agency responsible under Queensland 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, whether of Australia or elsewhere that has powers or jurisdiction under any law over a party or any act relating to this Agreement.

Related Entity has the meaning given to that term in section 9 of the Corporations Act.

Related Agreement means any agreement (other than this Agreement) between the PRO and the Operator or between the PRO and a Related Entity of the Operator.

Reverse Vending Machine has the meaning given to that term in section 99K of the Act, and **RVM** has the same meaning.

RVM Depot means a depot containing more than one RVM and that is identified as an RVM Depot in the Reference Schedule.

Review Procedure means a review of this Agreement conducted in accordance with clause 5.1.

Review Proposal has the meaning given to that term in clause 5.1(a).

Scheme has the meaning given to that term in the 'Recitals' section of this Agreement.

Scheme Change has the meaning given to that term in clause 7.1(a).

Scheme Change Notice has the meaning given to that term in clause 7.1(a).

Scheme Commencement Date means the date on which the Scheme commenced under the Act.

Scheme Data means any data, information or Personal Information accessible to the Operator (or any third parties who have access to such Scheme Data through the Operator) and which relates in any way to the Scheme or a Scheme Participant. For clarity, Scheme Data includes data stored or held on, or which transfers through, the IT Platform.

Scheme Objectives mean the objects outlined in section 99H of the Act.

Scheme Participant means:

- (a) the PRO;
- (b) a Collection Infrastructure Provider;
- (c) a Manufacturer that has entered into a Container Recovery Agreement with the PRO;
- (d) a Material Recovery Facility Operator that has entered into a Material Recovery Agreement with the PRO;
- (e) a Refund Point Operator that has entered into a Container Collection Agreement with the PRO; and
- (f) any Other Service Provider,

as the context requires.

Security Interest has the meaning given to that term in the *Personal Property Securities Act 2009* (Cth).

Service Delivery Level Failure means the contravention of a Service Delivery Level Measure by the Operator in a given period.

Service Delivery Level Measures means those measures set out in the column headed 'Service Delivery Level Measure' in the Service Delivery Level Table.

Service Delivery Level Regime means the regime set out in Schedule 7.

Service Delivery Level Table means the table set out in section 2 of Schedule 7.

Services means the Mobilisation Activities and the Operational Services.

Services Specification means Schedule 1, as amended from time to time in accordance with this Agreement.

Shipping Unit means the equipment provided to the Operator by the Processing Service Provider designated by the PRO in accordance with clause 8.11.

State means the Crown in right of the State of Queensland.

State Policy means any policy, guideline, standard, circular directive, practice specification or procedure or direction (including any direction issued by the Minister under the Act) which applies in connection with the Scheme and which affects implementation of the Scheme, which:

- (a) is notified to the PRO;
- (b) is publicly available or otherwise available to the PRO; or
- (c) the PRO is expressly required by the terms of this Agreement, 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:

- (a) any law applicable to implementation and operation of the Scheme, the provision of the Services or the Operator's obligations under this Agreement, including Acts, ordinances, regulations, by-laws, orders and other subordinate legislation, including those in relation to workplace health and safety and the HVNL;
- (b) Approvals (including any condition or requirement under them), applicable to implementation and operation of the Scheme, the provision of the Services or the Operator's obligations under this Agreement; and
- (c) fees and charges payable in connection with the foregoing.

Subcontractor means a person who is a contractor, subcontractor or supplier to, or agent of, the Operator (at any tier) in relation to this Agreement or the supply or performance of the Services.

Term means the term of this Agreement, commencing on the Effective Date and terminating on the Agreement Expiry Date, unless terminated earlier in accordance with this Agreement.

Trade Mark means any trade mark registered by, or licensed to, the PRO in connection with the Scheme, as may be amended from time to time and notified by the PRO to the Operator in writing.

Trading Hours means the minimum trading hours for each Operator Refund Point as defined in the Reference Schedule which must be no less than the Minimum Operating Hours.

Transport Management System means the PRO's in-house supply chain management system as it relates to transportation operations and may be a part of an enterprise resource planning system.

Unfair Contract Terms Qualification means the qualification in clause 1.4.

Variation means a variation, amendment or modification of this Agreement in accordance with clause 5.

Variation Order has the meaning given to that term in clause 5.3.

Verification Policy means the Scheme audit and verification methodology as determined by the PRO and notified to the Operator and as may be amended from time to time.

Voucher means a card or voucher (in hard copy or electronic form) that is redeemable for goods, services or cash and includes credits or loyalty program points that may be exchanged for goods or services at a retailer.

Wilful Misconduct means an act or failure to act by the relevant party that was intended to cause, was in deliberate disregard of, or deliberate indifference to, harmful consequences, excluding any innocent act, omission, mistake or error of judgment.

Workplace Health and Safety Report means a report that meets the requirements set out in section 4.3(f)(i)(A) of the Services Specification.

1.2 Interpretation

- (a) Headings are for convenience only and do not affect interpretation.
- (b) Mentioning anything after includes, including, for example, or similar expressions, does not limit what else might be included.
- (c) Nothing in this Agreement is to be interpreted against a party solely on the ground that the party put forward this Agreement or a relevant part of it.
- (d) The following rules apply unless the context requires otherwise.
 - (i) The singular includes the plural, and the converse also applies.
 - (ii) A gender includes all genders.
 - (iii) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
 - (iv) A reference to a person includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity.
 - (v) A reference to a clause, Schedule or Appendix is a reference to a clause of, or Schedule or Appendix to, this Agreement.
 - (vi) A reference to an agreement or document (including a reference to this Agreement) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this Agreement or that other agreement or document.
 - (vii) A reference to writing includes any method of representing or reproducing words, figures, drawings or symbols in a visible and tangible form.
 - (viii) A reference to a party to this Agreement or another agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).
 - (ix) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
 - (x) A reference to conduct includes an omission, statement or undertaking, whether or not in writing.
 - (xi) A reference to an *agreement* includes any undertaking, deed, agreement and legally enforceable arrangement, whether or not in writing, and a reference to a *document* includes an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind.
 - (xii) A reference to *dollars* or \$ is to Australian currency.

- (xiii) A reference to a *right* or *obligation* of any two or more people constituting a single party confers that right, or imposes that obligation, as the case may be, on each of them severally and each two or more of them jointly. A reference to that party is a reference to each of those people separately (so that, for example, a representation or warranty by that party is given by each of them separately).
- (xiv) A reference to *property* or an *asset* includes any real or personal, present or future, tangible or intangible property or asset (including intellectual property) and any right, interest, revenue or benefit in, under or derived from the property or asset.
- (xv) A reference to time is to Brisbane, Australia time.
- (xvi) A reference to an amount for which a person is contingently liable includes an amount that that person may become actually or contingently liable to pay if a contingency occurs, whether or not that liability actually arises.
- (xvii) A *month* means a calendar month.
- (xviii) A reference to a year or an operating year is a reference to each successive period of 12 months, commencing on the Effective Date.

1.3 Purpose

- (a) The purpose of this Agreement is to facilitate the achievement of the objects of the Act and to do so in a manner consistent with section 99H of the Act (**Purpose**).
- (b) In achieving the Purpose, the Act permits members of the public to collect and recycle, for reward, eligible Containers.
- (c) Consistent with paragraphs (a) and (b) the Purpose includes:
 - (i) to grant to the Operator the right to operate Operator Refund Points in accordance with this Agreement during the Term;
 - (ii) to set out the terms and conditions that must be complied with by the Operator in the operation of the Operator Refund Points, including the Operator's payment obligations;
 - (iii) for the Operator to provide the Services during the Term for the purposes of reducing the volume of waste and promoting the recovery, reuse and recycling of empty Containers in Queensland; and
 - (iv) to meet the key objectives outlined in section 1.2 of the Services Specification.
- (d) In order to achieve the Purpose, the Operator must strictly comply with the terms of this Agreement.
- (e) To assist the parties to achieve the Purpose, the Operator acknowledges that this Agreement provides flexibility for and gives the power to the PRO to exercise a discretion or Variation, where it is reasonably necessary to protect the legitimate interests of the PRO, including to:
 - (i) protect or enhance the goodwill associated with the Scheme; or
 - (ii) adapt the Services including to meet any changes to the Scheme, any Statutory Requirements or the Act during the Term.

1.4 Unfair Contract Terms Qualification

- (a) If a term of this Agreement is expressed to be subject to the Unfair Contract Terms Qualification then, but not otherwise, the qualification set out in this clause shall apply to the interpretation and application of that term.
- (b) Subject to paragraph (a), a term that is expressed to be subject to the Unfair Contract Terms Qualification that empowers the PRO to exercise a right or discretion to make a decision or unilateral variation is to be read as limiting the conferral and exercise of the power to the extent that:
 - (i) the decision or variation is reasonably necessary to protect the PRO's legitimate interests including that it is reasonably necessary to:
 - (A) protect or enhance the Scheme; or
 - (B) achieve the Purpose of this Agreement;
 - (ii) the decision, variation or new obligation is required or permitted by Statutory Requirements; or
 - (iii) the power, right or discretion is not to be exercised capriciously, arbitrarily, unconscionably or for a purpose ulterior to which the contractual right or power was conferred or in breach of the obligation to act in good faith.
- (c) If the variation to, or new obligation under, this Agreement is to operate retrospectively, all of the Refund Point Operators who are affected by the variation or obligation must consent in writing.
- (d) A reference to a "term" in this clause is intended to be a reference to either the entire clause or just the term of that clause, depending on whether the whole or only part of the clause that contains that term is expressed to be subject to the Unfair Contract Terms Qualification.

2 Term

2.1 Effective Date

This Agreement takes effect and comes into force on the date on which the last party executes this Agreement, unless a later date is specified as the Effective Date in the Reference Schedule, in which case this Agreement takes effect and comes into force on that date (**Effective Date**).

2.2 Expiry

- (a) This Agreement ends on the Agreement Expiry Date, unless terminated earlier in accordance with this Agreement.
- (b) This Agreement ceases to apply to an Operator Refund Point on the Operator Refund Point Expiry Date or if the Operator Refund Point Expiry Date is after the Agreement Expiry Date, this Agreement will cease to apply to the Operator Refund Point on the Agreement Expiry Date, unless terminated earlier in accordance with this Agreement.

2.3 Extension of Term

- (a) The PRO must, no later than the date that is 7 months before the Agreement Expiry Date:
 - (i) extend the Agreement Expiry Date by a period of up to 5 years by issuing a written notice to the Operator to this effect (**Extension Notice**); or
 - (ii) issue a written notice to the Operator of its intention to let this Agreement expire on the Agreement Expiry Date (**Expiry Notice**).

- (b) If the PRO does not give an Extension Notice or an Expiry Notice in accordance with clause 2.3(a), it will be deemed to have provided an Expiry Notice on the date that is 7 months before the relevant Agreement Expiry Date.
- (c) The Operator must provide the PRO with a written notification either accepting or rejecting an Extension Notice within 60 Business Days of receipt.
- (d) If the:
 - (i) PRO issues an Expiry Notice;
 - (ii) Operator provides written notification to the PRO that it rejects an Extension Notice; or
 - (iii) Operator does not accept or reject the Extension Notice within the timeframe specified in clause 2.3(c),
 then this Agreement will expire on the Agreement Expiry Date.
- (e) If an Extension Notice is accepted by the Operator, the Agreement Expiry Date (as applicable) is extended for the further period set out in the Extension Notice and any such extension will:
 - (i) be on the terms and conditions in effect at the end of the then current Term; and
 - (ii) take effect from the end of the then current Term.
- (f) Where the Term is extended under this clause 2.3, the parties may also agree to vary the Fee that is to apply during the extended Term, in accordance with the Review Procedure.
- (g) The PRO is under no obligation to extend the Term for a further period and any election to do so will be at its absolute discretion.

3 Statutory Requirements and compliance

3.1 Compliance

In performing the Services, the Operator must (and ensure that its Personnel must):

- (a) ensure that the Operational Services are carried out in a safe manner and in strict compliance with all applicable Approvals, Codes and Standards and Statutory Requirements;
- (b) not do anything to place the PRO, its Associates or PRO Personnel in breach of the applicable Statutory Requirements;
- (c) report to the PRO immediately on any:
 - (i) actual or reasonably suspected breach of the HVNL relating to the Services, including any corrective actions taken; and
 - (ii) breach or potential breach of clause 3.1(a), 3.1(b) or 3.1(c)(i); and
- (d) provide to the PRO any Infringement Notices.

3.2 Operator to obtain Approvals

- (a) The Operator must promptly:
 - (i) procure prior to the Mobilisation Completion Date and maintain for the remainder of the Term (at its cost) all Approvals required for it to be able to provide the Services in accordance with this Agreement and all Statutory Requirements, and is responsible for the satisfaction of, and compliance with, the terms and conditions of any such Approvals, including any applicable environmental

authorities required for conducting 'environmentally relevant activities' under the *Environmental Protection Act 1994* (Qld);

- (ii) upon request by the PRO, provide to the PRO a copy of all Approvals obtained;
 - (iii) provide to the PRO all relevant notices, applications and written communications between the Operator and any Regulatory Authority regarding each Operator Refund Point and the Services (**Authority Notices**); and
 - (iv) upon request by the PRO, update the PRO on the Operator's (or its Associates') discussions and interactions with any such Regulatory Authority regarding any such Authority Notices.
- (b) Without limiting clause 3.1 or clause 3.2(a), the PRO may (in its sole discretion) provide the Operator with guidance with respect to obtaining any relevant Approval.

4 Standards and performance

4.1 Operator's obligations

- (a) The Operator must:
- (i) perform its obligations under this Agreement, including the Services:
 - (A) in accordance with the Services Specification;
 - (B) to an appropriate standard as determined by the PRO, acting reasonably, including with respect to cleanliness, safety and convenience;
 - (C) in a safe and timely manner and in accordance with this Agreement, all Approvals, Statutory Requirements, State Policy and any Codes and Standards that are legally binding on the Operator or the PRO;
 - (D) in a competent, efficient and professional manner which meets or exceeds the requirements of Good Industry Practice, including with respect to the handling and resolution of any Customer complaints;
 - (E) subject to the Unfair Contract Terms Qualification, in accordance with any directions of the PRO (or an authorised Associate or Advisor of the PRO as notified to the Operator by the PRO from time to time) and any Policy, procedures, guidelines and rules notified by the PRO from time to time which the PRO reasonably requires the Operator to comply with; and
 - (F) otherwise in accordance with the terms of this Agreement;
 - (ii) ensure that each RVM, counting machine and any other equipment used by the Operator in providing the Services under this Agreement:
 - (A) has been, if directed by the PRO, accredited by the PRO;
 - (B) meets the accreditation requirements of the PRO as notified by the PRO to the Operator from time to time, acting reasonably; and
 - (C) if it has not been accredited by the PRO or does not meet the PRO's accreditation requirements, that the RVM, counting machine or any other equipment is disconnected and not used until it has been accredited;
 - (iii) take all reasonable measures to detect fraud, criminal conduct and Inappropriate Conduct (whether actual or reasonably suspected) by a Customer, Scheme Participant or Personnel where such conduct relates to the Scheme, and to promptly report any such conduct to the PRO and if requested by the PRO, report such conduct to any relevant authority;

- (iv) ensure that each Operator Refund Point complies with all Approvals, Statutory Requirements, Codes and Standards, State Policies, Manuals, Policies and this Agreement; and
- (v) in the performance of its obligations under this Agreement:
 - (A) provide all things and take all measures reasonably necessary to protect people and property;
 - (B) prevent unreasonable nuisance and unnecessary and unreasonable noise, disturbance, odour and interference with others;
 - (C) ensure that the Services are fit for the purpose or purposes detailed in this Agreement;
 - (D) ensure that it has the necessary resources (including Personnel) to perform the Services;
 - (E) ensure that the Services will be performed by suitably qualified Personnel with appropriate skills and experience; and
 - (F) to the extent required in connection with the performance of the Services under this Agreement, co-operate and co-ordinate its activities with other Scheme Participants and any authorised Associate or Advisor of the PRO (as notified to the Operator by the PRO from time to time).
- (b) Subject to the Unfair Contract Terms Qualification, the Operating Conditions, any Policy, Manual, direction, notification, procedures, guidelines, rules, training, education, instructions or information provided to the Operator by the PRO are intended to assist the Operator to provide the Services, but in no way relieve the Operator of its obligations under this Agreement.
- (c) The Operator must not:
 - (i) by its acts or omissions, place the PRO in breach of any Statutory Requirement or other law;
 - (ii) act in a manner that is inconsistent with the Purpose of this Agreement; or
 - (iii) facilitate, assist in or be involved in any conduct by any person in breach of the Act or in breach of the Operator's or that person's obligations at law or pursuant to any contract with the PRO or which is likely to undermine public confidence in the Scheme or the integrity of the Scheme or cause a misrepresentation in connection with the Scheme.
- (d) The PRO must not knowingly place the Operator in breach of any Statutory Requirement or other law.
- (e) The Operator must, at all times, use best endeavours to co-operate with the PRO, any relevant Processing Service Provider and Other Service Providers in all matters relating to this Agreement and to the Scheme.

4.2 Directions, Operating Conditions, Manuals and Policies

- (a) Subject to the Unfair Contract Terms Qualification, the PRO is entitled from time to time, to:
 - (i) issue written directions to the Operator;
 - (ii) notify the Operator in writing of any Operating Condition, Policy or Manual that the Operator must comply with;

- (iii) notify the Operator in writing of the withdrawal of, or any amendments or additions to, any Operating Condition, Policy or Manual that the Operator must comply with;
 - (iv) notify the Operator in writing of any other binding procedures, guidelines or rules that the Operator must comply with (such document will state that they are binding); and
 - (v) notify the Operator in writing of any amendments or additions to such binding procedures, guidelines or rules that the Operator must comply with.
- (b) When issuing any written direction or notification in accordance with clause 4.2(a) above, the PRO will have reasonable regard to the Scheme Objectives, the operation of the Scheme and function of the PRO as the Product Responsibility Organisation, the need for consistent requirements and policies applicable to all Operators involved in the Scheme, and any material financial detriment on the Operator which may result from the imposition of such direction, notification, Operating Condition, Policy, Manual, procedure, guideline or rule.
- (c) The Operator may notify the PRO in writing within 10 Business Days of the receipt of any direction or notification under clause 4.2(a) if it believes, acting reasonably, that the imposition of such direction, notification, Operating Condition, Policy, Manual, procedure, guideline or rule will result in a material financial detriment on the Operator, including full details of the reason that the Operator has formed this view.
- (d) The PRO agrees to meet and consult with the Operator in good faith within 10 Business Days of receipt of a notice under clause 4.2(c) and will use its reasonable endeavours to make such changes to the direction, notification, Operating Condition, Policy, Manual, procedure, guideline or rule to remove or reduce the material financial detriment to the Operator, subject to the need for the PRO to always have regard to the Scheme Objectives, the operation of the Scheme and function of the PRO as the Product Responsibility Organisation, and the need for consistent requirements and policies applicable to all Operators involved in the Scheme. The PRO will provide written notice to the Operator following the process outlined above notifying the Operator whether any changes will be made to the direction or other document required under 4.1(a), or whether it will remain unchanged.
- (e) If the Operator does not wish to continue under this Agreement following the process outlined above, it may exercise its termination rights under clause 20.6(a)(ii) within 40 Business Days of receiving the written notice from the PRO referred to in clause 4.2(d).
- (f) The PRO may also issue procedures and guidelines which are not mandatory from time to time. Such documents will not state that they are binding, and are provided by the PRO as guidelines only. Such non-mandatory procedures, guidelines or other documents are not required to be issued in accordance with the processes outlined in this clause 4.2.
- (g) The Operating Conditions, each Manual, Policy, procedure, guideline and rule remains the property of the PRO at all times, must not be copied by the Operator and must only be used by the Operator for the provision of the Services and the operation of each Operator Refund Point.

4.3 Bulk Quantities

- (a) For each claim for a Bulk Quantity of Containers at an Operator Refund Point, the Operator must ensure that:
 - (i) a Refund Declaration is provided; or

- (ii) a Bulk Claim Arrangement applies.
- (b) For the purpose of determining whether a claim is for a Bulk Quantity of Containers, a 'claim' is the total quantity of containers presented by a person at a single drop off at the same Operator Refund Point.
- (c) A Bulk Claim Arrangement must comply with the requirements of section 99T(4) of the Act, and must comply with any other reasonable requirements notified by the PRO to the Operator from time to time.
- (d) The Operator acknowledges that it will not be entitled to receive any payment under this Agreement in relation to any Containers in respect of which the Operator fails to comply with their obligations under clause 4.3(a).
- (e) Despite clause 4.3(d), if a claim for a Bulk Quantity of Containers is made and:
 - (i) the Operator uses reasonable endeavours to contact the Customer to obtain a Refund Declaration for the claim or enter into a Bulk Claim Arrangement that applies to the claim;
 - (ii) notwithstanding the Operator's reasonable endeavours, no Refund Declaration is obtained and no Bulk Claim Arrangement applies to the claim; and
 - (iii) the Operator has otherwise taken reasonable steps to ensure that the Containers the subject of the claim are not Excluded Containers;
 the Operator:
 - (iv) may elect to process the Containers the subject of the claim in accordance with this agreement;
 - (v) if the Operator elects to process the Containers the subject of the claim, the Operator must direct the PRO to pay the Refund Amount to the Customer Hold Member Number; and
 - (vi) may claim payment from the PRO for the Handling Fee in respect of Containers for which the Operator has made a direction in accordance with clause 4.3(e)(v); and
 - (vii) acknowledges that the PRO may hold and administer the Refund Amount in the Customer Hold Member Number in accordance with the PRO's procedures.
- (f) For the avoidance of doubt, the direction to pay the Refund Amount referred to in clause 4.3(e)(v) is made by the Operator to the PRO when the Operator records the transaction against the Customer Hold Member Number.

4.4 Provision of Bulk Claim Arrangements

The PRO may direct the Operator to provide copies of or information in relation to Bulk Claim Arrangements it has entered into. The Operator must comply with any direction by the PRO to provide such information within the reasonable timeframe provided by the PRO.

4.5 Unidentified Containers

- (a) If the Operator receives Containers and the Customer is unidentified (for example, where Containers returned to a Drop-Off Refund Point are unlabelled or incorrectly labelled such that the Customer who returned those Containers cannot be identified), the Operator must use reasonable endeavours to identify the Customer who returned the Containers. If the Customer who returned the Containers cannot be identified, the Operator:

- (i) must process the unidentified Containers in accordance with this Agreement, and direct the PRO to pay the Refund Amount in respect of those Containers to the Customer Hold Member Number; and
 - (ii) may claim payment from the PRO for the Handling Fee in respect of Containers for which the Operator has made a direction in accordance with clause 4.5(a)(i); and
 - (iii) acknowledges that the PRO may hold and administer the Refund Amount in the Customer Hold Member Number in accordance with the PRO's procedures.
- (b) For the avoidance of doubt, the direction to pay the Refund Amount referred to in clause 4.5(a)(i) is made by the Operator to the PRO when the Operator records the transaction against the Customer Hold Member Number.

4.6 Modern Slavery

- (a) The Operator must (and ensure that its Personnel must):
- (i) in performing the Services, ensure there are no Modern Slavery practices occurring in connection with the delivery of the Services;
 - (ii) take all reasonable steps to identify, assess and address risks of Modern Slavery practices occurring in the operations of, or supply chains used by, the Operator in the course of providing the Services;
 - (iii) ensure Personnel responsible for managing the operations and supply chains used in the course of delivering the Services are suitably trained and capable of identifying and reporting Modern Slavery should any such practice occur in connection with the Services; and
 - (iv) if it becomes aware of Modern Slavery practices occurring in connection with the delivery of the Services, take all reasonable action to address or remove these practices as soon as reasonably practicable and report to the PRO the existence of the practices and the steps the Operator has taken in response to them.
- (b) The Operator must ensure Personnel have access to and are notified of the existence of, a Grievance Reporting mechanism where they can report any instances of Modern Slavery in the operations and supply chains used by the Operator in the delivery of the Services.
- (c) In entering into contracts for services during the:
- (i) Mobilisation Period, and
 - (ii) Term,
- the Operator must ensure that the applicable services contracts require the service provider to take all reasonable steps to ensure Modern Slavery practices do not occur within the delivery of the contracted services.

5 Variations

5.1 Review Procedure

- (a) **(Review Proposal)** During the Term and subject to clause 5.2:
- (i) the Operator may, at any time (but not more than once in every 12 month period); and
 - (ii) the PRO may, at its discretion and subject to the Unfair Contract Terms Qualification,

issue a notice to the other party setting out a proposal for a Variation (**Review Proposal**). The Operator acknowledges that the PRO may also issue similar notices to other Refund Point Operators at the same or similar time.

- (b) (**Calculations**) The party issuing a Review Proposal must also include in the Review Proposal details of the calculation of any additional costs or savings that the party expects would be reasonably incurred or made by the Operator as a consequence of the Variation (**Calculations**).
- (c) (**Discussion of Review Proposal**) Within 20 Business Days of the Review Proposal being issued (or reissued, as applicable), the parties must meet (whether in person or remotely and at a time and method directed by the PRO, acting reasonably, having regard to the fact that the meeting may be attended by one or more other Refund Point Operators in accordance with clause 5.1(d)) and act in good faith to work together to consider the Review Proposal, including the Calculations, and must each use their reasonable endeavours to agree on any one or more of the following:
 - (i) timeframe for implementation of any Variation;
 - (ii) variation to the Services Specification;
 - (iii) variation to the Payments Schedule;
 - (iv) introduction of New Services; and/or
 - (v) variation to the terms of this Agreement.
- (d) (**Other Refund Point Operators**) The PRO may invite one or more other Refund Point Operators to any meeting between the PRO and the Operator (including any meeting under clause 5.2(c)).
- (e) (**Actions following meeting**) Following a meeting or meetings under clause 5.1(c):
 - (i) the party that issued the Review Proposal may withdraw it;
 - (ii) the PRO may elect not to proceed with the Review Proposal and not to issue a Variation Order in its sole discretion; or
 - (iii) the PRO may issue a Variation Order in accordance with clause 5.3 that, in the PRO's reasonable opinion, takes into account the discussions with the Operator (and any other Refund Point Operators), any material financial detriment on the Operator including as outlined in any independent assessment or the Calculations, and the best interests of the Scheme.

5.2 Independent Assessment

- (a) This clause 5.2 is subject to the Unfair Contract Terms Qualification.
- (b) If the Operator believes, acting reasonably, that a Variation proposed by the PRO will result in a material financial detriment on the Operator, it may, within 10 Business Days of its receipt of the Review Proposal issued by the PRO under clause 5.1(a):
 - (i) notify the PRO in writing of the material financial detriment it believes the Variation will have on it, including full details of the reason that the Operator has formed this view; and
 - (ii) request in writing that the PRO obtain an independent assessment of the material financial detriment of the Variation from an independent assessor nominated by the PRO having regard to the expertise of the relevant independent assessor in the area that the independent assessment is required.

- (c) If requested to do so in accordance with clause 5.2(b)(ii), the PRO must obtain an independent assessment within a reasonable time of the request.
- (d) The PRO must consider the independent assessment and may, acting reasonably:
 - (i) determine that the independent assessment is materially inconsistent with the Review Proposal, adjust the Review Proposal or Calculations having regard to the independent assessment, and reissue the Review Proposal to the Operator accordingly; or
 - (ii) determine that the independent assessment is materially consistent with the Review Proposal as issued and that no adjustments are required to the Review Proposal or Calculations; or
 - (iii) withdraw the Review Proposal.
- (e) The PRO must provide a copy of the independent assessment to the Operator within 5 Business Days of receipt.
- (f) For the avoidance of doubt, the PRO may satisfy its obligation under clause 5.2(c) using an independent assessment it has already obtained in relation to a request made by another Refund Point Operator when responding to a request made by the Operator in relation to the same Review Proposal. An independent assessment obtained by the PRO may be used by the PRO in relation to a request made by the Operator and any other Refund Point Operators where it relates to the same Review Proposal. The Operator may not request multiple independent assessments in respect of the same Review Proposal (including a Review Proposal that has been reissued following an independent assessment conducted under this clause 5.2). The PRO may only use previous independent assessments that are still relevant and apply to the existing Review Proposal.

5.3 Variation Order

- (a) The PRO must conduct a review in accordance with the Review Procedure in clause 5.1 before exercising its rights under this clause 5.3.
- (b) The PRO may, subject to the Unfair Contract Terms Qualification and provided it takes into account its discussions with the Operator (and any other Refund Point Operators) under clause 5.1 and any material financial detriment on the Operator including as outlined in any independent assessment or the Calculations, direct the Operator to carry out a Variation by issuing a written document titled "Variation Order" setting out a proposed Variation to any one or more of the following:
 - (i) the Services Specification;
 - (ii) the Payments Schedule;
 - (iii) introduce New Services; and/or
 - (iv) any other term of this Agreement,
 as well as setting out any applicable calculations (taking into account the Calculations, to the extent the PRO determines appropriate, acting reasonably), and the date from which the Variation will take effect (a **Variation Order**).
- (c) Where there will be a change to a fee or payment under this Agreement as a result of a Variation Order, the PRO must consider the following order of precedence in setting out the applicable calculations in the Variation Order:

- (i) prior agreement between the PRO and the Operator including as a consequence of discussions between the parties pursuant to clause 5.1(c);
 - (ii) applicable rates or fees in this Agreement; and
 - (iii) reasonable rates or fees (as determined by the PRO in its reasonable opinion).
- (d) Subject to clauses 5.3(e) to 5.3(j), both parties must comply with any Variation Order issued in accordance with this Agreement and any Variation will be binding on the parties as if it was included in this Agreement without the need for either party to sign a Variation or the Variation Order.
- (e) If the Operator does not agree to a Variation directed under a Variation Order, it may issue a notice to the PRO setting out its reasons (**Dissatisfaction Notice**) within 10 Business Days of receipt of the Variation Order. Upon receipt of a Dissatisfaction Notice the Executive Negotiators must meet within 30 Business Days (or such longer period of time as the Executive Negotiators may agree in writing) to undertake genuine and good faith negotiations in respect of the Variation Order and contents of the Dissatisfaction Notice.
- (f) The Executive Negotiators must have the authority to negotiate the Variation Order.
- (g) Subject to the Unfair Contract Terms Qualification, the PRO may, in its sole discretion, choose to amend the Variation Order on account of any Dissatisfaction Notice issued by the Operator under clause 5.3(e), or upon satisfactory resolution by the Executive Negotiators, within 40 Business Days of the latter of the receipt of a Dissatisfaction Notice or the date the Executive Negotiators meet, in which case the amended Variation Order will become immediately binding on the parties. If the PRO elects not to issue an amended Variation Order, it must notify the Operator of its decision not to amend the Variation Order. The PRO must take into account the contents of the Dissatisfaction Notice and the good faith negotiations between the parties when exercising its discretion pursuant to this clause.
- (h) If a Dissatisfaction Notice is issued and:
 - (i) the Executive Negotiators are not able to reach a resolution in respect of the Variation Order; or
 - (ii) the PRO notifies the Operator that it will not amend the Variation Order pursuant to clause 5.3(g); or
 - (iii) the Operator is dissatisfied with an amended Variation Order issued by the PRO pursuant to clause 5.3(g),

the Operator may invoke clause 20.6(a)(ii) within 40 Business Days of the latter of the date the Executive Negotiators meet, or the date the PRO notifies the Operator that it will not amend the Variation Order under clause 5.3(g), or the date that an amended Variation Order is issued by the PRO under clause 5.3(g).
- (i) For the avoidance of doubt, where the right to terminate under clause 20.6(a)(ii) is triggered under clause 5.3(h), the Variation Order is binding on both parties unless the Operator notifies the PRO of its intention to terminate this Agreement under clause 20.6(a)(ii), in which case clause 20.7 applies.
- (j) The Operator may, at any time, withdraw a Dissatisfaction Notice.
- (k) The Operator must not vary the Services except as directed in writing by the PRO in accordance with this Agreement, but may issue a Review Proposal in accordance with clause 5.1(a).

5.4 Acknowledgement by Operator

The Operator acknowledges that:

- (a) in addition to this Agreement, the PRO has entered into Container Collection Agreements with other Refund Point Operators;
- (b) subject to clause 5.4(c), all Container Collection Agreements must be on terms that are consistent to protect the PRO's legitimate interest in ensuring the efficiency of the Scheme and to comply with the Act;
- (c) the PRO acting reasonably may agree to different or additional terms for the Container Collection Agreement with the Operator or other Refund Point Operators where the PRO determines it may be necessary or desirable to trial and implement New Services to increase collections or meet Scheme requirements; and
- (d) the PRO must review and consider in good faith, but is not required to agree to, any Variation proposed by the Operator.

5.5 Minor amendments by Operator

- (a) The Operator may, by providing 15 Business Days' written notice to the PRO, amend any of the following details in the Reference Schedule:
 - (i) Executive Negotiator - Operator;
 - (ii) Bank Account Details - Operator;
 - (iii) Notices - Operator;
 - (iv) Trading Hours, provided the Trading Hours meet at least the Minimum Operating Hours,
 without the requirement for the parties to enter into an agreement under clause 5.6 or without the requirement for the Operator to issue a Review Proposal in accordance with clause 5.1(a).
- (b) Subject to clause 5.5(c), a variation that complies with the requirements in clause 5.5(a) will become effective 15 Business Days after the date on which written notice is received by the PRO, without the need for the parties to prepare or sign any further documents.
- (c) If requested by the PRO, the Operator must complete any internal paperwork requested by the PRO to effect the amendment. Any amendment will not be effective unless and until the Operator has provided the internal paperwork requested by the PRO and the PRO has had a reasonable opportunity to process that internal paperwork. The PRO will process such internal paperwork as soon as reasonably practicable.

5.6 Amendment by agreement

This Agreement may be amended by agreement between the parties by way of an agreement in writing executed by the parties.

6 New Services

Without limiting any other provision in this Agreement and the PRO's obligations as the Product Responsibility Organisation, the parties:

- (a) acknowledge that engagement and collaboration between the PRO, the Operator and other Refund Point Operators is to the mutual benefit of all parties and the Scheme; and
- (b) will use reasonable endeavours to collaborate prior to the introduction of New Services.

7 Scheme Changes

7.1 Amendments to Agreement

- (a) Subject to the Unfair Contract Terms Qualification, if:
 - (i) there is any Change in Law, including where a direction has been issued by the Minister in accordance with section 102ZE of the Act; or
 - (ii) the Minister amends the PRO's appointment as the Product Responsibility Organisation under the Act,

(Scheme Change), the PRO may, by giving no less than 60 days' notice in writing to the Operator **(Scheme Change Notice)**, amend the Payments Schedule, the Services Specification, the Reference Schedule or other terms of this Agreement in so far as they are connected or relate to the Scheme Change, including any changes to the Fee as a result of any additional costs reasonably incurred (or to be incurred), or savings made (or to be made) in relation to the Scheme as a result of such Scheme Change.
- (b) The Operator may provide the PRO with a written submission in response to the Scheme Change Notice within 30 days of receiving the Scheme Change Notice (**Operator Response**).
- (c) The PRO:
 - (i) must review and consider any Operator Response provided in accordance with clause 7.1(b); and
 - (ii) may (acting reasonably) amend the Scheme Change Notice in response to any Operator Response provided in accordance with clause 7.1(b).
- (d) Subject to clause 7.1(f) to (h), where the PRO issues a Scheme Change Notice in accordance with this clause, the Operator acknowledges and agrees that with effect from the date specified in the Scheme Change Notice, this Agreement is amended as set out in the Scheme Change Notice, including any amendments to the Scheme Change Notice pursuant to clause 7.1(c), without the requirement for the parties to enter into an agreement under clause 5.6.
- (e) Any amendment to this Agreement under this clause 7 is not subject to the PRO first conducting a review in accordance with the Review Procedure with respect to that amendment and the PRO is not required to effect such amendment by a Variation Order.
- (f) If the Operator does not agree with an amendment in a Scheme Change Notice, it may within 10 days issue a notice setting out its reasons to the PRO (**Dissatisfaction Notice**) and clause 20.6(a)(ii) shall apply.
- (g) The PRO may, in its sole discretion, choose to amend the Scheme Change Notice on account of any Dissatisfaction Notice issued by the Operator, in which case clause 20.6(a)(ii) shall not apply.
- (h) The Operator may, at any time, withdraw a Dissatisfaction Notice.
- (i) The timeframes set out in clause 7.1(a), 7.1(b) and 7.1(f) may be shortened by the PRO on a reasonable basis where a shorter timeframe is required (i.e. the change or amendment is more imminent).

7.2 Further acts and documents

Both parties must promptly do all further acts and execute and deliver all further documents (in form and content reasonably required by the PRO) required by law or reasonably requested by the PRO to give effect to the amendment referred to in clause 7.1.

8 Services

8.1 Operational Services

During each Operations Period, the Operator must provide the Operational Services in accordance with this Agreement.

8.2 No exclusivity

The Operator acknowledges that its engagement under this Agreement is not exclusive and that in addition to contracting with the Operator pursuant to this Agreement, the PRO may also contract with any other Refund Point Operators (or any other Scheme Participant or person) with respect to the operation of any other Over the Counter Refund Point, RVM Depot, Drop-Off Refund Point, Mobile Refund Point, RVM or New Services irrespective of the proximity to the Operator Refund Points.

8.3 Containers collected

- (a) Clause 8.3(b) only applies with respect to the Services provided at an Operator Refund Point if the relevant Operator Refund Point is not a Reverse Vending Machine.
- (b) During each Operations Period, the Operator must ensure that:
 - (i) whenever an Operator Refund Point is required to be open and operational in accordance with this Agreement:
 - (A) it is capable of collecting all types of empty Containers;
 - (B) all types of empty Containers are allowed to be delivered to, and collected at, the relevant Operator Refund Point; and
 - (C) the Operator accepts delivery of all empty Containers delivered to the relevant Operator Refund Point during the Trading Hours;
 - (ii) all Containers delivered to, or collected at, any Operator Refund Point are kept separate from any other material delivered to, or collected at, that Operator Refund Point;
 - (iii) unless otherwise waived by the PRO, all bottle caps are removed from all Containers delivered to, or collected at, any Operator Refund Point; and
 - (iv) it prepares and maintains appropriate auditable records to document its compliance with clause 8.3(b)(i) - (iii).
- (c) The Operator must keep Excluded Containers separate from eligible Containers delivered to, or collected at, any Operator Refund Point.
- (d) In order to determine whether a container is a Container, the Operator must refer to the register of Containers maintained by the PRO in accordance with section 99ZM of the Act.
- (e) The Operator acknowledges that:
 - (i) the definition of Containers may change:
 - (A) under applicable Statutory Requirements; and/or
 - (B) due to directions by the State of Queensland or a State Policy;
 during the Term;
 - (ii) it will, if directed by the PRO, be required to implement any such change to the extent that it impacts the provision of the Services under this Agreement, or the

Operators other obligations under this Agreement, in accordance with clauses 5 and 6, or 7 as appropriate in the circumstances;

- (iii) the Operator must use reasonable endeavours to return any Excluded Containers delivered to, or collected at, an Operator Refund Point, to the Customer that deposited the Excluded Containers; and
- (iv) if the Operator is unable to return Excluded Containers to the Customer in accordance with clause 8.3(e)(iii), despite having used its reasonable endeavours to do so, it:
 - (A) is solely responsible for disposing of those Excluded Containers at its own cost; and
 - (B) must ensure that those Excluded Containers that are recyclable are recycled (for example, by placing them in a yellow top recycling bin).

8.4 Refund Amount – other than Reverse Vending Machines

- (a) This clause 8.4 only applies where the Operator Refund Point is not a Reverse Vending Machine.
- (b) The Operator must use best endeavours to determine whether a person presenting an empty Container at the Operator Refund Point has a Member Number.
- (c) The Operator may only pay Refund Amounts by Voucher where the PRO has provided its approval.
- (d) Subject to the requirements of the Act, Regulations and this Agreement, during each Operations Period, the Operator must pay the Refund Amount:
 - (i) to Customers, for each Container in respect of which a Refund Amount is claimed;
 - (ii) either in cash or a Voucher, or by issuing a Payment Direction, in accordance with section 2.3(g) of the Services Specification;
 - (iii) per empty Container collected; and
 - (iv) otherwise in accordance with the Payments Schedule and all applicable Statutory Requirements.
- (e) For the avoidance of doubt, the Operator must not pay a Refund Amount or claim payment from the PRO with respect to a Container where:
 - (i) the Container is an Excluded Container; or
 - (ii) subject to clause 4.3(e), there is a Bulk Quantity of Containers and:
 - (A) a Refund Declaration is not provided; or
 - (B) a person has not entered into a Bulk Claim Arrangement.

8.5 Refund Amount – Reverse Vending Machines

- (a) This clause 8.5 only applies with respect to the Services provided at an Operator Refund Point that is a Reverse Vending Machine.
- (b) Without limiting the requirement for the Operator to comply with all Statutory Requirements, the Operator must ensure that Refund Amounts:
 - (i) may be claimed; and
 - (ii) are paid and dispensed, by the Reverse Vending Machine,

in accordance with section 99U of the Act and section 2.3(g) of the Services Specification.

- (c) The Operator may only pay Refund Amounts by Voucher where the PRO has provided its approval.

8.6 Payment by Voucher

- (a) Where Refund Amounts are paid by way of Vouchers:
 - (i) each Voucher must be issued by the Operator on the condition that:
 - (A) subject to clause 8.6(a)(i)(B), the Voucher will cease to be redeemable 3 years after the day on which the Voucher is issued; or
 - (B) if applicable Statutory Requirements require that the Voucher be redeemable on a date that is more than 3 years after the date of issue of the Voucher, the Voucher will cease to be redeemable on that later date;
 - (ii) one of the following must appear prominently on the Voucher:
 - (A) the date the Voucher ceases to be redeemable; or
 - (B) the date the Voucher is issued and a statement that identifies the period during which the Voucher is redeemable;
 - (iii) the Operator must prominently display terms and conditions on which the Vouchers are issued both on their website and at the Operator Refund Point, which must include the following terms and conditions:
 - (A) that if a Voucher fades due to the paper it is printed on, it will be replaced by the Operator;
 - (B) that the amount of the Voucher is not refunded if it is not redeemed; and
 - (C) the Voucher cannot be redeemed after the applicable date in clause 8.6(a)(i); and
 - (iv) without limiting any other provision of this Agreement, the parties will have the rights and obligations set out in Schedule 9.

8.7 Ownership of Containers

- (a) Subject to clause 8.7(b), title in all empty Containers collected at each Operator Refund Point will vest in the Operator immediately upon:
 - (i) acceptance of the Container at the Operator Refund Point; and
 - (ii) payment of the Refund Amount by the Operator with respect to the Container in accordance with clause 8.4(d) or 8.5(b).
- (b) Title in each Container referred to in clause 8.7(a) will subsequently pass from the Operator to a Processing Service Provider nominated by the PRO immediately upon the delivery of that Container by the Operator to the Container Recipient or collection of that Container from the Operator by the Container Recipient. The Operator acknowledges that it will be entitled to receive the Refund Amount from the PRO (acting as agent for the relevant Processing Service Provider) in respect of each Container transferred to the relevant Processing Service Provider.
- (c) The Operator must do all things necessary, upon request by the PRO or the Container Recipient, to give effect to the transfer of title referred to in clause 8.7(b).

- (d) For the purposes of this clause 8.7, where the Reference Schedule provides that the Operator Refund Point is a Reverse Vending Machine, title in the empty Container will vest in the Operator immediately where the requirements in section 99U(2) of the Act have been satisfied with respect to the Container.

8.8 Return of Containers

- (a) The Operator must cooperate with the PRO's nominated Logistics Services Provider by providing all empty Containers collected at the Operator Refund Point to that Logistics Services Provider, in the condition, and otherwise in accordance with the requirements specified in the Services Specification or in accordance with the PRO's reasonable instructions (having regard to the interests of the PRO and the Operator) as given from time to time with reasonable notice.
- (b) The Operator must notify the PRO of any Internal Logistics Services it will undertake at least 5 Business Days prior to conducting its first Internal Logistics Services, and must notify the PRO of any subsequent change to its Internal Logistics Services between an Operator Refund Point and a Drop-Off Refund Point or Mobile Refund Point or other collection point at least 5 Business Days prior to such change taking effect. The Operator must:
 - (i) comply with all aspects of the HVNL in performing the Internal Logistics Services; and
 - (ii) pay any costs for the Internal Logistics Services.
- (c) Without limiting the requirement for the Operator to comply with all Statutory Requirements, the Operator acknowledges and agrees to comply with the obligations set out in section 99ZD of the Act.
- (d) The Operator will be liable for all costs it incurs in complying with this clause 8.8.

8.9 Obligations relating to Reverse Vending Machines

Without limiting the requirement for the Operator to comply with all Statutory Requirements, where an Operator Refund Point is a Reverse Vending Machine or RVM Depot, the Operator must:

- (a) comply with the requirements of section 99X of the Act; and
- (b) ensure that the Operator Refund Point is capable of accepting all types of empty Containers except in the circumstances set out in section 99X(2)(d) of the Act.

8.10 Service Delivery Level Regime

- (a) Without limiting the Operator's obligations under clause 4, the Operator must comply with the Service Delivery Level Regime and perform its obligations under this Agreement in order to meet the Service Delivery Level Measures.
- (b) The Service Delivery Level Measures are only agreed target levels of service against which the Operator will be assessed by the PRO and the existence of the Service Delivery Level Measures does not limit the Operator's obligation to meet any other obligations in this Agreement.

8.11 Collection Infrastructure

- (a) The PRO will ensure that the Collection Infrastructure Provider provides the Operator with sufficient Collection Infrastructure on or before the Mobilisation Completion Date (and at all times thereafter), such that the Operator will be able to provide the Services in accordance with this Agreement.

- (b) The Operator acknowledges that the Collection Infrastructure provided to or used by the Operator for the purposes of this Agreement remains the property of the Collection Infrastructure Provider and that the Collection Infrastructure Provider may identify the Collection Infrastructure as its property.
- (c) The Operator must only use the Collection Infrastructure:
 - (i) for the purposes of providing the Services; and
 - (ii) in a manner consistent with any requirements or protocols for storing or maintaining the Collection Infrastructure, as notified by the PRO or the Collection Infrastructure Provider to the Operator.
- (d) The Operator must not, except to the extent reasonably necessary to enable the Operator to provide the Services or with the prior written approval of the PRO and where relevant the Collection Infrastructure Provider:
 - (i) modify the Collection Infrastructure;
 - (ii) move the Collection Infrastructure from the location to which it was delivered or installed;
 - (iii) transfer possession or control of the Collection Infrastructure to any other person (except a Container Recipient); or
 - (iv) create or allow to be created any Security Interest over the Collection Infrastructure.
- (e) The Operator must promptly return all items of Collection Infrastructure for each Operator Refund Point to the Collection Infrastructure Provider, on the earlier of:
 - (i) where they are not required by the Operator in the performance of the Services;
 - (ii) where the Services are not required at a particular Operator Refund Point;
 - (iii) at the end of the relevant Operations Period; or
 - (iv) at the end of the Term.

8.12 Loss of or damage to Collection Infrastructure, Shipping Units or Containers

- (a) The Operator must take reasonable care to prevent loss of, or damage to, the Collection Infrastructure.
- (b) The Operator is not responsible for any fair wear and tear to the Collection Infrastructure or any loss or damage to the Collection Infrastructure where it has complied with clause 8.11 and 8.12(a).
- (c) Subject to clause 8.12(b), the Operator is liable to the Collection Infrastructure Provider for any loss of or damage to the Collection Infrastructure in its possession (such liability shall be reduced to the extent the PRO or the Collection Infrastructure Provider has caused or contributed to the event resulting in such loss or damage).
- (d) The Operator acknowledges that any dispute in relation to loss of, or damage to, the Collection Infrastructure will be a Dispute to be resolved between the Operator and the Collection Infrastructure Provider under the Infrastructure Dispute Procedure if there is an agreement between the PRO and the Collection Infrastructure Provider and if that agreement includes provisions to that effect.
- (e) The Operator acknowledges that any dispute involving any Other Service Provider in relation to the loss of, or damage to, the Collection Infrastructure, Shipping Units or Containers will be a Dispute to be resolved between the Operator and the Other Service

Provider under the Infrastructure Dispute Procedure, if the agreement between the PRO and the Other Service Provider includes provisions to that effect.

8.13 IT Platform mobilisation

- (a) The Operator must comply with section 2.3(e)(v) of the Services Specification prior to the date specified in Item 32 of Schedule 2.
- (b) The PRO will provide the Operator with:
 - (i) access to the IT Platform software; and
 - (ii) installation instructions and training in relation to the IT Platform,
 by the following dates:
 - (iii) if the Operator has first complied with clause 8.13(a) and 8.13(d), on or before the Effective Date; and
 - (iv) if the Operator has not first complied with clause 8.13(a) and 8.13(d), promptly after the Operator has complied with clause 8.13(a) and 8.13(d).
- (c) The PRO will:
 - (i) provide help desk support to the Operator during installation of the IT Platform software by the Operator; and
 - (ii) provide online or in-person user training on the IT Platform on or before the Effective Date and the PRO will notify the Operator of the time and location of such training.
- (d) The Operator, or at least one of its Personnel, must attend at least one such training session (whether online or in person) and may be required by the PRO to pass a qualification test in respect of the use of the IT Platform. The Operator must train Personnel on the use of the IT Platform at the Operator's cost.
- (e) The Operator must uniquely identify each of its Personnel using the IT Platform by registering the Personnel on the IT Platform.
- (f) The Operator must ensure that it has its own information technology support for ongoing operations of each Operator Refund Point.

8.14 PRO Equipment

If the PRO supplies any PRO Equipment to the Operator for use at an Operator Refund Point, for any period during the Term, the Operator must:

- (a) enter into a contract or other arrangement with the PRO relating to the hire of the PRO Equipment. Any cost to hire the PRO Equipment will be at the PRO's cost; and
- (b) insure such PRO Equipment for its full replacement value in accordance with the terms of such hire or other arrangement.

9 Mobilisation

9.1 Mobilisation Activities

- (a) During each Mobilisation Period, the Operator must perform the Mobilisation Activities in accordance with this clause 9, including (at its cost):
 - (i) obtaining all Approvals;
 - (ii) procurement and installation of equipment;

- (iii) engaging and training Personnel;
 - (iv) installing and testing its information technology and other systems; and
 - (v) entering into any applicable services contracts,
- required for it to be able to achieve the Mobilisation Service Outcomes and deliver the Services in accordance with this Agreement and all Statutory Requirements.
- (b) Where the Operator is engaging and training employees who will perform work related to the Services, the Operator must:
- (i) ensure those employees are not required to pay any fees, charges, expenses or otherwise incur financial obligations in order to secure their employment or placement in connection with the Services;
 - (ii) not destroy or exclusively possess, whether temporarily or permanently, the identity or travel documents of any employees, such as a passport or visa documentation; and
 - (iii) ensure all employees have valid rights to work, are engaged pursuant to a lawful contract and are offered terms and conditions of engagement that comply with any and all minimum standards that are applicable in the relevant industry.

9.2 Mobilisation Plan

- (a) The Operator must deliver the Mobilisation Activities in accordance with the Mobilisation Plan approved by the PRO.
- (b) Where the PRO has approved the Operator's Mobilisation Plan prior to the Effective Date, this Mobilisation Plan is appended as Appendix A.
- (c) This clause 9.2(c) applies where the PRO has not approved the Operator's Mobilisation Plan prior to the Effective Date. The Operator must, within 5 Business Days of the Effective Date, prepare a Mobilisation Plan and submit it to the PRO.
 - (i) The Mobilisation Plan must be in the format provided by the PRO, and set out:
 - (A) the Mobilisation Activities to be performed by the Operator for each Operator Refund Point;
 - (B) how the Mobilisation Service Outcomes will be achieved by the Operator for each Operator Refund Point; and
 - (C) timeframes for the completion of the Mobilisation Activities by the Operator by the Mobilisation Completion Date for each Operator Refund Point.
 - (ii) Within 10 Business Days of receipt of the Mobilisation Plan (or any other period as agreed by the parties), the PRO must either:
 - (A) provide reasonable comments on the Mobilisation Plan (if any) to the Operator; or
 - (B) approve the updated Mobilisation Plan.
 - (iii) If clause 9.2(c)(ii)(A) applies:
 - (A) the Operator must amend the updated Mobilisation Plan and resubmit it to the PRO within 5 Business Days of receipt of the PRO's comments for PRO approval; and
 - (B) the PRO will approve the updated Mobilisation Plan (acting reasonably) within 5 Business Days of its receipt, or if the PRO does not approve the

Mobilisation Plan (acting reasonably) then clause 9.2(c)(ii)(A) applies in respect of any further updated Mobilisation Plan.

9.3 Mobilisation Completion Date

- (a) The Operator acknowledges that any delay to the Mobilisation Completion Date may have consequences for the PRO including costs incurred by the PRO due to the delay, reduction in the volume of Containers collected through the Scheme, reduction in growth of the network of Refund Points and may adversely affect the performance of the PRO's functions under section 99J of the Act.
- (b) The Operator must complete all Mobilisation Activities, all activities set out in the approved Mobilisation Plan, and achieve the Mobilisation Service Outcomes for each Operator Refund Point on or before the Mobilisation Completion Date for that Operator Refund Point.
- (c) Each Mobilisation Completion Date may only be extended where this Agreement is amended to extend the Mobilisation Completion Date in accordance with clause 5.6. The circumstances in which the PRO will agree to such an amendment include where:
 - (i) in the PRO's reasonable opinion, the Operator has demonstrated that an act or omission of the PRO has unreasonably delayed the Operator from being able to comply with its obligation in this clause 9.3; or
 - (ii) an Intervening Event has occurred that prevented the Operator from being able to comply with its obligation in clause 9.3(b).
- (d) Where the Operator fails to meet the Mobilisation Completion Date (including a failure to complete its obligations under clause 9.3(b)) for an Operator Refund Point and the PRO has not agreed (acting reasonably) to extend the Mobilisation Completion Date or the Operator has demonstrated to the PRO that it does not wish to have the Mobilisation Completion Date extended:
 - (i) the PRO may offer a Refund Point at or near that location to another operator under a Container Collection Agreement;
 - (ii) the PRO may by prior written notice to the Operator:
 - (A) vary this Agreement to remove that Operator Refund Point from this Agreement; or
 - (B) where there is only one Operator Refund Point, terminate this Agreement,

with effect from the day specified in the notice (which must be reasonable taking into account the circumstances) without the need for the parties to execute any further documents.
- (e) If pursuant to clause 9.3(d), an Operator Refund Point is removed from this Agreement or this Agreement is terminated, the Operator agrees that it will not be entitled to any compensation for the removal of the Operator Refund Point or the termination of this Agreement due to the Operator's failure to mobilise an Operator Refund Point by the Mobilisation Completion Date, unless the PRO fails to comply with clause 9.3(c).

9.4 Mobilisation Report

During each Mobilisation Period the Operator must provide the PRO a fortnightly report in such format as the PRO reasonably requires containing or setting out:

- (a) details of the progress made by the Operator in the previous fortnight in respect of the Mobilisation Activities;
- (b) progress against the achievement of the Mobilisation Service Outcomes;
- (c) any act, matter or thing which may have an actual or potential adverse impact on the progress of the Mobilisation Activities, together with detailed particulars as to how the Operator is dealing with any such issues; and
- (d) any other information the PRO may reasonably request from time to time.

10 Payment

10.1 Payment by PRO

- (a) Subject to the terms of this Agreement, the PRO must pay the Refund Amount and the Fee to the Operator in accordance with this clause 10 and the Payments Schedule.
- (b) The Refund Amount is paid by the PRO to the Operator as agent for the relevant Processing Service Provider in consideration for the Containers collected from the Operator by that Processing Service Provider.
- (c) The Fee consists of:
 - (i) the Handling Fee Payment, which is paid by the PRO to the Operator under this Agreement in consideration for the Services provided by the Operator; and
 - (ii) any adjustments, interest or GST applicable to the Handling Fee Payment as determined in accordance with this Agreement and the Payments Schedule.
- (d) The Refund Amount and the Fee may be adjusted by the PRO to account for:
 - (i) the results of the PRO's audit and verification procedures;
 - (ii) any Containers that are returned but which are not processed through the IT Platform and POS System in accordance with the Services Specification; and
 - (iii) documentation required to be provided in accordance with the Services Specification (including reports, Refund Declarations and statutory declarations on collection material data) and otherwise in accordance with this Agreement, which is not provided to the PRO.
- (e) The Refund Amount will be automatically adjusted to reflect any adjustment to the value of the Refund Amount under the Act or Regulation.
- (f) Where the PRO fails to make a payment to the Operator in accordance with this clause 10, the PRO will be liable to pay the Operator interest on any overdue payments at the Default Interest Rate.
- (g) Subject to the requirements of the Act and the Regulation, the Operator will not be entitled to any payment from the PRO under this Agreement in respect of any container that is an Excluded Container.

10.2 Refund Amount and Fee all inclusive

The Operator agrees that the Refund Amount and the Fee payable in accordance with this Agreement include:

- (a) consideration for the Containers collected from the Operator by the nominated Processing Service Provider;
- (b) all costs, expenses, fees, charges and other amounts incurred by the Operator in performing all of its obligations under this Agreement;

- (c) payment of any items of services which are reasonably inferred or necessary for the proper performance of the Operational Services; and
- (d) the Operator's profit, attendance, preliminaries, allowances, supervision, overheads and margin in connection with the performance of all of its obligations under this Agreement.

10.3 Expenses

The Operator must pay all costs and expenses incurred in carrying out the Operational Services and performing any other duties to be performed by the Operator pursuant to this Agreement regardless of whether the costs and expenses exceed the Refund Amount and the Fee.

10.4 Operator Invoices

- (a) Subject to clause 10.4(c), the Operator must submit to the PRO a valid Payment Claim for the relevant Operating Week through the IT Platform by no later than 12:00pm (AEST) on the first Business Day of the next Operating Week, which complies with the requirements set out in the Act and in section 2.1 of the Payments Schedule.
- (b) Provided the Operator has first complied with clause 10.4(a), the PRO will issue an invoice (as agent for the Operator) for payment to the Operator (**Operator Invoice**) on each Operator Invoice Date and such Operator Invoice will:
 - (i) be prepared in accordance with the requirements for a claim for a collection amount under sections 99ZB(2) and 99ZB(6) of the Act;
 - (ii) set out or attach sufficient details, calculations, supporting documentation and other information in respect of all amounts claimed by the Operator under, and in accordance with, the Payments Schedule, to enable the PRO to fully and accurately determine (without needing to refer to any other documentation or information) the Refund Amount and Fee then payable by the PRO to the Operator under this Agreement, including under the Payments Schedule;
 - (iii) separately set out details of the aggregate number of Refund Amounts paid by the Operator to Customers in accordance with clause 8.4(d); and
 - (iv) be in accordance with the Payments Schedule.
- (c) The Operator must not make a claim for payment under clause 10.4(a) where it is prohibited from making such a claim under section 99ZC of the Act.
- (d) The PRO will not be required to comply with its obligations in clause 10.5(a) with respect to any claim made by the Operator in breach of clause 10.4(c).

10.5 Timeframe for payment

- (a) Subject to clauses 10.4(d) and 10.5(b), the PRO must pay the Operator any undisputed amount set out as then payable in the Operator Invoice within 5 Business Days of an Operator Invoice being issued, after receiving a valid Payment Claim under clause 10.4.
- (b) Despite any other provision of this Agreement, the Parties agree that:
 - (i) the PRO may decide, in accordance with section 99ZB(4) of the Act, that an amount claimed under clause 10.4 is not payable to the Operator;
 - (ii) the PRO will not be required to comply with its obligations in clause 10.5(a) to the extent that it has made a decision under clause 10.5(b)(i) with respect to the relevant amount claimed; and
 - (iii) where the PRO has made a decision under clause 10.5(b)(i) with respect to any amount claimed:

- (A) the PRO must give the Operator an information notice for the decision in accordance with section 99ZB(4) of the Act; and
- (B) clause 20.1(b) does not apply and the Operator may request a review of the decision in accordance with Chapter 9 of the Act if the Operator disputes the decision.

10.6 Right of set-off

- (a) The PRO may set off or deduct from amounts otherwise payable to the Operator any amount claimed from the Operator by the PRO provided the amount payable and the set off or deduction amount is in connection with this Agreement, or another Container Collection Agreement with the Operator or a Related Entity as contemplated by clause 20.9.
- (b) Nothing in this clause 10.6 affects the PRO's right to recover from the Operator the whole of any balance that remains owing after any set-off.

10.7 Appointment of PRO as agent for the Operator for the payment of Refund Amounts

- (a) The Operator appoints the PRO as its agent for the sole purpose of facilitating the transfer of title in Containers to the relevant Processing Service Provider, receiving payment of Refund Amounts from the relevant Processing Service Provider (through the PRO as agent for that Processing Service Provider), and the payment of Refund Amounts, including the issuing of Payment Directions.
- (b) The Operator indemnifies the PRO to the extent of any liability incurred by the PRO in dealing with third parties as agent for the Operator (except to the extent any such liability is caused by the PRO's breach of this clause 10.7 or by a wilful act or omission or negligence of the PRO).
- (c) The Operator must do all things necessary, upon request by the PRO, to give effect to the appointment as agent under clause 10.7(a).

11 Parent Company Guarantee

- (a) This clause 11 only applies if the Operator:
 - (i) is a Major Operator;
 - (ii) is not the ultimate holding company (as defined in section 9 of the Corporations Act) in the Operator's corporate group; and
 - (iii) the Reference Schedule sets out the Parent Guarantor(s) from whom a Parent Company Guarantee must be provided.
- (b) The Operator must provide the PRO with a Parent Company Guarantee duly executed by each Parent Guarantor within 10 Business Days of the Effective Date, in the form contained in Schedule 8.
- (c) The Parent Company Guarantee must be provided by the ultimate holding company in the Operator's corporate group whether that company is an Australian company or a foreign company (within the meaning of section 9 of the Corporations Act).
- (d) If the ultimate holding company in the Operator's corporate group changes, the Operator must promptly notify the PRO and must provide the PRO with a new Parent Company Guarantee duly executed by the new ultimate holding company within 10 Business Days of the notice.

- (e) Despite any other provision of this Agreement, the PRO may refuse to make any payment otherwise due under this Agreement until the Operator has complied with its obligations under clause 11(b) or 11(d) (as applicable).

12 Information, audits and reporting

12.1 Audit and reporting

The Operator must and must ensure that its Associates:

- (a) comply with the Verification Policy;
- (b) have auditable systems in place to record:
 - (i) the Counting Method;
 - (ii) the number of Containers collected at each Operator Refund Point by Material Type;
 - (iii) the number of Containers sorted at each Operator Refund Point by Material Type;
 - (iv) the number of Containers transported from each Operator Refund Point by Material Type for recycling and processing in accordance with clause 8.8; and
 - (v) details of Vouchers issued for Refund Amounts in accordance with Schedule 9;
- (c) comply with its obligations under section 99Y of the Act (without limiting the requirement for the Operator to comply with all Statutory Requirements);
- (d) provide such information as the PRO reasonably requires, at such times as the PRO reasonably requires, so the PRO may comply with its reporting obligations under Statutory Requirements;
- (e) cooperate with, and provide access to, the PRO (or an Associate or Advisor of the PRO as notified to the Operator by the PRO from time to time) and the State so as to allow the PRO, its Associate, Advisor and the State to (upon providing reasonable notice to the Operator as determined by the PRO in the circumstances) undertake any audit or review of the performance of the Services under this Agreement and the Operator's compliance with any Manual or Policy, including providing to the PRO or the State (as applicable):
 - (i) copies of any documents requested;
 - (ii) copies of documents contained on laptops, computers, equipment and hard drives including portable hard drives; and
 - (iii) access to CCTV footage, including taking any copies of such footage;
- (f) provide the PRO with reports, Refund Declarations, Bulk Claim Arrangements and statutory declarations on collection material data, as specified in the Services Specification, including reports on the items listed in clause 12.1(b)(i) – 12.1(b)(v);
- (g) provide the PRO with all information, documents and access to premises reasonably requested by the PRO with respect to the Services and the Operator's obligations under this Agreement;
- (h) if requested by the PRO, provide to the PRO by no later than 31 July each year, a report that describes:
 - (i) the risks of Modern Slavery practices occurring in the operations and supply chains of the Operator in the course of providing the Services;
 - (ii) the actions taken by the Operator to assess and address the identified risks of Modern Slavery; and

- (iii) the effectiveness of any actions taken to address the risks of Modern Slavery;
- (i) cooperate with any auditor employed or engaged by or on behalf of the PRO for the purposes of undertaking an audit or review of the Services and the Operator's compliance with its obligations under this Agreement;
- (j) cooperate with and provide any reasonable assistance to any auditor engaged by or on behalf of the PRO for the purposes of undertaking any procedures in accordance with the Verification Policy;
- (k) cooperate with and provide any assistance to any auditor engaged by or on behalf of the PRO for the purposes of undertaking an audit or review of the Operator's record, books and other documentation relating to this Agreement where the PRO reasonably suspects fraud or other anomaly in respect of the Scheme;
- (l) otherwise take all reasonable measures to facilitate the PRO's compliance with its auditing and reporting obligations under all Statutory Requirements; and
- (m) provide any information, documents, access or assistance requested by the PRO under this clause within a reasonable time of the PRO's request.

12.2 Government information

The Operator acknowledges and agrees that:

- (a) if requested by the State, the PRO may provide a copy of this Agreement, any information relating to this Agreement, Scheme Data and any other information provided by the Operator to the PRO, to the State;
- (b) the PRO has obligations under the Statutory Requirements arising from its role as the Product Responsibility Organisation under the Act;
- (c) payments made to the Operator under this Agreement may be disclosed by the PRO to the State, another Regulatory Authority or an Associate or Advisor of the PRO in accordance with applicable Statutory Requirements; and
- (d) the annual report provided to the PRO under clause 12.1(h) may be provided to the Commonwealth government or used to inform the PRO's annual statement pursuant to the Act.

12.3 Contravention of the Act

The Operator must give written notice to the PRO, together with relevant particulars, promptly (and, in any event, no later than 5 Business Days) after becoming aware of any contravention of the Act or the Regulation by a Scheme Participant or any other person.

13 Fraud and Inappropriate Conduct

- (a) The Operator must not:
 - (i) in connection with a claim for payment under this Agreement;
 - (ii) in purported compliance with any requirement imposed by or under Part 3B of Chapter 4 of the Act or under regulations made under Part 3B of Chapter 4 of the Act; or
 - (iii) otherwise in connection with this Agreement,
 engage or participate in Inappropriate Conduct, any criminal activity or fraud.
- (b) The Operator must:

- (i) not (and must ensure that its Associates do not) claim a Refund Amount in respect of any Containers which have already been subject to the payment of a Refund Amount or a Recovery Amount;
 - (ii) take all reasonable steps to minimise and prevent fraud, criminal activity and Inappropriate Conduct in connection with the Scheme;
 - (iii) on the PRO's written request, provide the PRO with all requested information (which may include CCTV footage) relating to the Operator's processes and practices in providing the Services, to the extent reasonably required by the PRO to determine the Operator's compliance with this clause 13; and
 - (iv) on the PRO's written request, provide a statutory declaration confirming compliance with the requirements of this clause 13 and confirming that the Operator is not engaged in, or aware of, any fraud, criminal activity or Inappropriate Conduct in respect of the Scheme.
- (c) The Operator agrees that the rights, powers and remedies of the PRO in relation to any breach of this clause 13 are in addition to any penalties that may apply under the Act, Regulation or Statutory Requirements in relation to the breach.

14 Data, security, recovery and privacy

- (a) Subject to the Unfair Contract Terms Qualification, the Operator must at all times comply with State Policies, and the PRO's Policies, Manuals, directions, notifications, procedures, guidelines and rules (as may be updated from time to time in accordance with clause 4.2) for the security and integrity of all information technology systems (including the IT Platform) and Scheme Data.
- (b) The Operator must at all times comply with all Privacy Laws and must comply with (and must ensure that its Personnel handling Personal Information in connection with this Agreement comply with) Privacy Laws applying to the PRO, as if they applied to the Operator and its Personnel.
- (c) PRO has no responsibility for any failure by the Operator to backup any data that the Operator has uploaded to the IT Platform.
- (d) Without limiting the Operator's obligations in the Services Specification:
 - (i) the Operator must take reasonable steps to ensure that the IT Platform, and all Personal Information and Scheme Data handled by the Operator and its Personnel in connection with this Agreement, is protected from unauthorised access, modification or disclosure; and
 - (ii) the Operator must immediately notify the PRO upon the Operator becoming aware of any actual or suspected data breach (or any other breach) affecting the IT Platform, or any Personal Information or Scheme Data handled by the Operator or its Personnel in connection with this Agreement, and promptly take reasonable steps to mitigate the breach and the effects of the breach.

15 Signage and branding

- (a) Where requested by the PRO, the Operator agrees to:
 - (i) display at each Operator Refund Point all signs; and
 - (ii) appropriately use and display any other branding or marketing information or materials in accordance with the Media and Branding Policy,

as reasonably required by the PRO in relation to the operation of the Scheme.

- (b) Without limiting clause 15(a), the Operator must ensure that at each Operator Refund Point, any Scheme logo required to be displayed pursuant to clause 15(a) is clearly visible and sufficiently prominent such that, in the PRO's reasonable opinion, Customers and potential Customers can quickly, easily and clearly identify the site by the Scheme logo, and not be confused by other logos or branding. For the avoidance of doubt, this clause does not restrict Operators from displaying their own logos and branding in addition to the Scheme logo, provided that the Scheme logo is sufficiently prominent, and the use of Operator logos or branding does not cause customer confusion as to whether the site is part of the Scheme.
- (c) The Operator must not deface or obscure, and must use all reasonable endeavours to ensure no other person defaces, obscures or steals, any such signs, information or materials.

16 Intellectual Property and Trade Marks

16.1 Trade Marks licence

- (a) The PRO will use its best endeavours to procure the grant to the Operator of a non-exclusive, royalty free, non-transferable, non-sub-licensable licence to use any Trade Marks during the Term in Australia for the limited purpose of applying those Trade Marks to the carrying out of the Services, in accordance with this Agreement.
- (b) Except for the specific rights granted to the Operator under this clause 16.1, all rights in all Trade Marks are retained by the entity that is the registered owner of that Trade Mark.

16.2 Use of Trade Marks

- (a) The Operator acknowledges and agrees that:
 - (i) it has no rights in or to the Trade Marks (other than the rights granted by this Agreement);
 - (ii) its use of the Trade Marks is for the benefit of the PRO;
 - (iii) the protocols, procedures and guidelines referred to in clause 22.3(a) may include requirements relating to the use of Trade Marks; and
 - (iv) the powers (if any) conferred by section 26 of the *Trade Marks Act 1995* (Cth) are expressly excluded from this Agreement, other than to the extent provided for in this Agreement.
- (b) The PRO may give notice to the Operator that:
 - (i) the PRO considers in its reasonable opinion that the Operator's use of the Trade Marks is in some way prejudicial to the interests of the PRO; or
 - (ii) the Operator's use of the Trade Marks does not comply with this Agreement.
- (c) Upon receipt of any notice referred to in clause 16.2(b), the Operator must promptly cease such use (unless otherwise agreed between the parties).
- (d) The Operator must not, without the prior written consent of the PRO:
 - (i) subject to clause 15(b), use any of the Trade Marks together with any other trade marks, logos, names, trading styles or get up; and
 - (ii) use or register or attempt to use or register anywhere in the world any trade mark or business, trading, company or domain name, which includes or incorporates, or which is substantially identical or deceptively similar to, any of the Trade Marks.

16.3 Licence to IT Platform

- (a) The PRO grants to the Operator a limited, non-transferable, non-sublicensable, revocable, non-exclusive, royalty-free licence for the Term to use the IT Platform for the sole internal business purpose of performing its obligations under this Agreement.
- (b) The Operator must not sub-license any of the rights granted under clause 16.3(a) without the PRO's prior written consent.
- (c) To the extent permitted by law (including the Australian Consumer Law if applicable), the PRO makes no representations, warranties or guarantees about the IT Platform (including about any information that is input into the IT Platform), including that it will be accurate, current, reliable, timely, available, secure, complete, up-to-date or of a certain quality, or that it will operate in combination with any other hardware, software, system, or data, or that it is free from defects, bugs, viruses, errors or other harmful components, or that any stored data will not be lost or corrupted. The IT Platform and all other products and services made available to the Operator in connection with this Agreement are provided "as is" and to the extent permitted by law (including the Australian Consumer Law if applicable), the PRO disclaims any and all warranties and representations of any kind, including any warranty or non-infringement, title, fitness for a particular purpose, functionality or merchantability, whether express, implied or statutory.
- (d) The Operator acknowledges that, through its use of the IT Platform, it may have access to Scheme Data. The Operator acknowledges that Scheme Data is the sole and valuable property of the PRO and that any unauthorised disclosure, use or loss of it could give rise to damage to the PRO. The Operator assigns to the PRO all rights, title and interest (including all Intellectual Property rights) that the Operator has or acquires in future in or to Scheme Data. The Operator must not assert any lien or other right against or to Scheme Data or otherwise deal with Scheme Data.
- (e) The Operator agrees and acknowledges that it is responsible for all acts and activities that occur through use of an Authorised User's user account (including any unauthorised use), except where a person that is not an Authorised User obtains access to an Authorised User's user account on the IT Platform as a result of a failure of the PRO to comply with its obligations under this Agreement.
- (f) The Operator must ensure that each Authorised User of the IT Platform has their own unique user account, and that these are not shared across Authorised Users and that the POS System is only used at Refund Points approved by the PRO.

16.4 Modifications

- (a) The Operator must not (and must ensure that its Personnel do not) directly or indirectly allow or cause a third party to:
 - (i) modify, the whole or any part of the IT Platform or combine or incorporate the whole or any part of the IT Platform in any other program or system without the prior consent in writing of the PRO;
 - (ii) circumvent, disable or otherwise interfere with security-related features of the IT Platform; or
 - (iii) do anything that will or may damage, disrupt access to or interfere with the proper operation of the IT Platform, including uploading or permitting any virus or malicious code to adversely affect the IT Platform or any associated equipment or data.

- (b) The Operator must not (and must ensure that its Personnel do not), directly or indirectly allow or cause a third party to, copy, decompile, reverse-engineer, disassemble, attempt to derive the source code of, modify, or create derivative works of the IT Platform or any part of it.

16.5 Operator-Generated Material

- (a) The Operator must ensure that it has all applicable consents and rights (including Intellectual Property rights) to upload and distribute through the IT Platform all data, information, text, records and other content and materials uploaded or input to the IT Platform by the Operator or its Personnel (**Operator-Generated Material**).
- (b) The Operator warrants that the Operator-Generated Material:
 - (i) does not (and will not cause the PRO to) breach any applicable laws (including Privacy Laws) or infringe any third party rights (including Intellectual Property rights); and
 - (ii) is true, accurate, correct, and complete.

16.6 Feedback

- (a) The Operator acknowledges and agrees that any comments, suggestions, ideas or feedback about the IT Platform or the operation of the Scheme (**Feedback**) provided by the Operator to the PRO shall be the sole property of the PRO. The Operator assigns to the PRO all rights, title and interest (including all Intellectual Property rights) that the Operator has or acquires in future in or to Feedback.
- (b) The PRO shall be entitled to the unrestricted use and dissemination of Feedback for any purpose, commercial or otherwise, without acknowledgment, attribution or compensation to the Operator or any third party.

16.7 Other Intellectual Property

Subject to clauses 16.1, 16.2, 16.3 and 16.6:

- (a) ownership of Intellectual Property continues to vest in the party that created that Intellectual Property; and
- (b) each party grants to the other a non-exclusive, royalty free, non-transferable licence to use all Intellectual Property owned by or licensed to that party, solely for the purposes of performing this Agreement.

Other than as provided for in clauses 16.1, 16.2, 16.3 and this clause 16.7, the Operator must not, at any time, use in the course of trade or business any Intellectual Property owned by or licensed to the PRO or its Related Body Corporate (as that term is defined in the Corporations Act) without the prior written consent of the PRO.

17 Insurance

- (a) Unless otherwise agreed by the PRO in writing, the Operator must:
 - (i) effect and maintain with a financially secure and reputable insurer, for the duration of the Term, sufficient levels of the customary types of insurances relevant to a business of such nature, including:
 - (A) public and products liability insurance for an amount not less than \$20 million per occurrence or series of occurrences; and
 - (B) for the amount required by law:

- (1) workers compensation insurance to insure against liability for death of or injury to persons employed by the Operator, including liability by statute and at common law; and
 - (2) comprehensive motor vehicle insurance including compulsory third party insurance in respect of all motor vehicles used by the Operator in connection with the performance of the Services;
- (ii) before the Effective Date and upon renewal of the relevant insurance policy, provide the PRO with certificates of currency from its insurers certifying that it has insurance sufficient to comply with this clause 17; and
- (iii) ensure that the PRO is noted as an interested party under the policy required by this clause 17.
- (b) Despite any other provision of this Agreement, the PRO may refuse to make any payment otherwise due under this Agreement until the Operator has fully complied with its obligations under clause 17(a).

18 Intervening Event

18.1 Notice by Operator

If the Operator is of the opinion that an Intervening Event has occurred or is likely to occur, it must promptly give the PRO a written notice, which must include full particulars of all relevant matters including:

- (a) details of the Intervening Event and details of the basis on which the Operator has formed the opinion that the relevant event constitutes an Intervening Event;
- (b) details of the obligations affected (including any effect on Service Delivery Level Measures under the Service Delivery Level Regime);
- (c) details of the action that the Operator has taken and proposes to take to avoid or minimise the consequences of the Intervening Event (unless the Intervening Event is a breach of this Agreement by the PRO);
- (d) to the extent possible, an estimate of the time during which the Operator will be unable to carry out the affected obligations due to the Intervening Event; and
- (e) details of any insurance proceeds on which the Operator may be able to rely in relation to the Intervening Event,

(Intervening Event Notice).

18.2 Actions to be taken

The Operator must:

- (a) promptly after the occurrence of an Intervening Event, take and continue to take proper and reasonable steps to cure, avoid or minimise the consequence of the Intervening Event (unless the Intervening Event is a breach of this Agreement by the PRO); and
- (b) after giving an Intervening Event Notice, continue to promptly provide the PRO with all relevant information relating to the Intervening Event.

18.3 Conditions precedent to relief

It is a condition precedent to any relief or entitlement in respect of an Intervening Event being granted under this Agreement, that:

- (a) the Operator has complied with its obligations under clauses 18.1 and 18.2;

- (b) neither the Operator nor its Associates has, by act or omission, directly or indirectly caused the Intervening Event; and
- (c) where an IT Incident has been caused or contributed to by the PRO, the PRO has had a reasonable period of time to remedy the IT Incident .

18.4 Notice

If either party is of the opinion that a Force Majeure Event or a Change in Law has occurred it must promptly give the other party a written notice of the occurrence of that Intervening Event.

18.5 Suspension of obligations

- (a) If the conditions precedent in clause 18.3 have been satisfied, then the:
 - (i) Operator's obligation to perform the Services (or part of the Services) affected by the Intervening Event will be suspended;
 - (ii) the PRO will have no Claim against the Operator; and
 - (iii) the PRO cannot give notice under clause 20.1,
 but only for the duration and to the extent that:
 - (iv) the Intervening Event continues to prevent the Operator from performing the Services (or part of the Services); and
 - (v) the Operator has taken and is continuing to take all proper and reasonable steps:
 - (A) to minimise the duration of the Intervening Event; and
 - (B) to avoid or minimise the consequences of the Intervening Event.
- (b) The parties agree to meet and discuss in good faith to a reasonable extension to any dates or payments required to be made pursuant to this Agreement during any Intervening Event.
- (c) If the PRO has given a notice to the Operator under clause 18.4:
 - (i) the Operator's obligation to perform the Services (or part of the Services) affected by the relevant Force Majeure Event or Change in Law will be suspended;
 - (ii) the PRO will have no Claim against the Operator;
 - (iii) the PRO cannot give notice under clause 20.1; and
 - (iv) the PRO's obligations under this Agreement will be suspended, other than obligations to pay money that is due and payable,
 but only for the duration and to the extent that:
 - (v) the Force Majeure Event or Change in Law continues to prevent the Operator from performing the Services (or part of the Services); and
 - (vi) the Operator has taken and is continuing to take all proper and reasonable steps:
 - (A) to minimise the duration of the Force Majeure Event or Change in Law; and
 - (B) to avoid or minimise the consequences of the Force Majeure Event or Change in Law; and
 - (C) the Force Majeure Event or Change in Law continues to prevent the Operator from complying with its obligations under this Agreement.

19 Suspension

19.1 Suspension by the PRO

The PRO may direct the Operator, in writing (or verbally where there is a situation where it is not practicable to provide a direction in writing such as an emergency situation), to suspend the whole or any part of the provision of the Services for such time as the PRO considers necessary (acting reasonably):

- (a) to comply with any Approval, Statutory Requirement or direction of the State (including any suspension of the PRO's appointment under the Act);
- (b) to prevent or abate any emergency situation;
- (c) for the protection or safety of any person, property or the environment;
- (d) to eliminate, reduce or mitigate any hazard or risk;
- (e) to take all reasonable action to address or remove Modern Slavery practices occurring in its operations or supply chains used in the delivery of the Services;
- (f) if the Operator fails to comply with the PRO's reasonable directions under this Agreement;
- (g) if the Operator is in breach of a material obligation of a Manual or a Policy;
- (h) to exercise any of its rights or comply with any of its obligations under this Agreement; or
- (i) if the Operator is, or the PRO reasonably believes the Operator may be, in breach under this Agreement.

The Operator must recommence provision of the Services on reasonable notice by the PRO (which notice will take into account the cause of the suspension including whether the Operator contributed to it and a reasonable lead time to enable the Operator to recommence the provision of the Services).

19.2 Suspension Notice

Where the PRO directs the Operator to suspend the whole or any part of the provision of the Services under clause 19.1:

- (a) the PRO must, within a reasonable time of making that direction, acting reasonably, issue a written notice to the Operator outlining the reason for the suspension and include details of what is required and by whom to lift the suspension including reasonable timeframes (if applicable) (**Suspension Notice**);
- (b) where the Operator caused or contributed to the issue detailed in the Suspension Notice the PRO must also include in the Suspension Notice the PRO's reasonable requirements for the Operator to remedy the issues that caused the PRO to direct the suspension;
- (c) if required by the Suspension Notice:
 - (i) the Operator must, acting reasonably, undertake the actions outlined in the Suspension Notice and provide evidence to the PRO that the issues have been rectified in the timeframe specified in the Suspension Notice; and
 - (ii) the PRO, acting reasonably, may require further action to be taken by the Operator, and further evidence to be provided of the additional action, until the PRO is satisfied (acting reasonably) that the issues that caused the PRO to direct the suspension have been appropriately remedied.

19.3 Suspension by the Operator

Subject to clause 19.1, and noting the Operator's rights in respect of Intervening Events, the Operator must not suspend performance of any of its obligations under this Agreement without the PRO's prior written approval. The PRO must consider the Operator's request for a suspension (acting reasonably) and may approve or disapprove the suspension in its discretion and may impose conditions to any approval.

19.4 Compensation for suspension

- (a) Subject to clause 19.4(b), the Operator will be entitled to reasonable compensation from the PRO (as determined by the PRO in accordance with 19.4(d)) as a result of a suspension effected under this clause 19.
- (b) The Operator's right to compensation under this clause 19.4 is subject to the following limitations:
 - (i) the Operator will not be entitled to compensation where the suspension has been effected under clauses 19.1(b), 19.1(c), 19.1(d) (to the extent any such situation, hazard or risk is caused or contributed to by the Operator), 19.1(e), 19.1(f), 19.1(g) or 19.1(i);
 - (ii) the compensation will only be payable if the Operator has taken all reasonable steps to mitigate its losses resulting from the suspension; and
 - (iii) the amount of compensation payable will be reduced proportionally to the extent the Operator has caused or contributed to the event resulting in the suspension.
- (c) The Operator must submit any claim for compensation to the PRO together with supporting documentation that includes potential costs incurred by the Operator, expenses and losses suffered by the Operator and any other detail as required by the PRO to support the amount claimed.
- (d) The PRO will determine the amount of compensation payable to the Operator under clause 19.4(a) acting reasonably and giving consideration to the reason for the suspension and the information supplied by the Operator in clause 19.4(c).
- (e) The Operator must ensure it has sufficient financial resources whether or not it is entitled to compensation pursuant to clause 19.4, to continue to remunerate all of its Personnel in accordance with the applicable industrial instruments (including an enterprise agreement or modern award) which apply to the person's employment, notwithstanding the period of suspension and cessation of payments from the PRO.
- (f) The Operator is not entitled to any further compensation for suspension pursuant to this clause 19 other than as contemplated in this clause 19.4 and the Operator has no further Claim against the PRO in respect of any suspension.

20 Default and termination

20.1 Event of Default

- (a) The PRO may give a Default Notice to the Operator in relation to an Event of Default by the Operator.
- (b) The Operator may give a Default Notice to the PRO in relation to a PRO Default.

20.2 Immediate termination

This Agreement will terminate immediately:

- (a) on the effective date of a repeal of the Scheme; or

- (b) if the PRO's appointment as the Product Responsibility Organisation for the Scheme under the Act is terminated or rescinded or comes to an end for any reason.

20.3 Termination by either party

Either party may terminate this Agreement immediately by notice to the other party if:

- (a) an Insolvency Event occurs in respect of a party; or
- (b) the other party commits an act of fraud, including any act of fraud prohibited under the Act or Regulation.

20.4 Termination by PRO

- (a) The PRO may terminate this Agreement by giving at least 5 Business Days' written notice to the Operator if:
 - (i) the Operator fails to remedy an Event of Default specified in a Default Notice given by the PRO to the Operator, in the manner and within the timeframe specified in the Default Notice (which period must be reasonable taking into account the nature of the Event of Default);
 - (ii) the State has advised the PRO that, in its reasonable opinion, the Operator is not (or is no longer) a fit and proper person for the purposes of providing the Services under this Agreement;
 - (iii) the PRO is of the reasonable opinion that the Operator is not (or is no longer) a fit and proper person for the purposes of providing the Services under this Agreement. In determining whether the Operator is not (or is no longer) a fit and proper person, the PRO may have regard to:
 - (A) any public or private reports of Inappropriate Conduct, fraud or alleged criminal conduct;
 - (B) poor governance of or by the Operator or its Associates (whether or not in relation to the Scheme);
 - (C) the Operator or any of its Associates having been convicted of a serious offence or ordered to pay pecuniary penalties or engaging in any other unlawful conduct;
 - (D) any conduct of the Operator or its Associates which may bring the PRO or the Scheme into disrepute or impact on, or be inconsistent with, the achievement of the Scheme Objectives;
 - (E) any Event of Default or other breach of this Agreement; and
 - (F) any other matters that the PRO reasonably considers appropriate in the circumstances.

For the avoidance of doubt, the PRO may form a reasonable opinion that the Operator is not a fit and proper person for the purposes of providing the Services under this Agreement notwithstanding that the PRO has not suffered any Loss or damage by reason of the Operator's conduct;

- (iv) the State directs that this Agreement be terminated;
- (v) an agreement between the Operator and a Scheme Participant is terminated, which would prevent the Operator from being able to provide the Services;
- (vi) the Operator commits a criminal act or engages in Wilful Misconduct;

- (vii) there is a change to a Statutory Requirement or an Approval that makes or will make either party's performance of this Agreement non-compliant or contrary to law or policy;
 - (viii) the Operator is the subject of an investigation or decision by a Regulatory Authority that is or may be adverse to the Operator's capacity to perform the Services or harmful to the reputation of the PRO; or
 - (ix) a Force Majeure Event prevents the Operator from performing the Services or any part of the Services for a continuous period exceeding three months.
- (b) For the purposes of clause 20.4(a)(iii), the 'reasonable opinion' may be formed by the Chief Executive Officer of the PRO or their delegate.

20.5 Operator Refund Point specific Default

- (a) If:
- (i) this Agreement applies to more than one Operator Refund Point; and
 - (ii) an entitlement to terminate this Agreement arises under clause 20.4(a)(i), 20.4(a)(v), 20.4(a)(vii), 20.4(a)(viii) or 20.4(a)(ix); and
 - (iii) the PRO reasonably forms the view that the circumstance or event giving rise to the entitlement to terminate materially affects some, but not all, of the Operator's Refund Points;
- the PRO may, by notice to the Operator, elect to amend this Agreement to omit the affected Operator Refund Points from this Agreement and clause 5.6 will not apply to that amendment. The amendment will take effect on the date specified in the notice issued by the PRO without the need for either party to sign any further documents.
- (b) The rights conferred upon the PRO under clause 20.5(a) do not derogate from any entitlement of the PRO to terminate this Agreement.

20.6 Termination by Operator

- (a) The Operator may terminate this Agreement upon:
- (i) 20 Business Days' written notice to the PRO if the PRO fails to remedy a PRO Default within the timeframe specified in the Default Notice issued to the PRO by the Operator (which must be a reasonable timeframe) in relation to the PRO Default, subject to clause 20.6(b); or
 - (ii) no less than 6 months' written notice to the PRO (or such other period as agreed between the parties in writing) if the Operator has indicated its intention to terminate under clause 4.2(e), or a right to invoke this clause is triggered under clause 5.3(h), or the Operator has provided a Dissatisfaction Notice under clause 7.1.
- (b) The Operator must not terminate this Agreement where the PRO's failure to make a payment is the subject of an unresolved Dispute under clause 23.

20.7 Transition out by Operator

- (a) Following the issue of a notice by the Operator under clause 20.6(a), the Operator must, during the relevant notice period, continue to perform the Services in accordance with the terms of this Agreement, provided that where the Operator has provided notice of its intention to terminate in accordance with clause 20.6(a)(ii), the Operator shall not be

required to comply with any amendments to this Agreement which are the subject of the Dissatisfaction Notice (as applicable).

- (b) Where:
 - (i) an Expiry Notice has been issued by the PRO or an Extension Notice has been rejected by the Operator;
 - (ii) a notice under clause 20.4 has been given by the PRO; or
 - (iii) a notice under clause 20.6 has been given by the Operator,
 the Operator must comply with any direction issued by the PRO (acting reasonably) in relation to transitioning the Services provided under this Agreement to another Refund Point Operator.
- (c) The Operator will not be entitled to any additional payment with respect to its obligations under clause 20.7(b).

20.8 Rights not affected

- (a) Termination of this Agreement does not affect any accrued rights or remedies of either party.
- (b) Clauses 12.1(d), 12.1(e), 12.1(f), 12.1(g), 12.1(i), 12.1(j), 12.1(k), 12.1(l), 12.1(m), 12.2, will survive for 30 Business Days from termination of this Agreement.
- (c) Clauses 20.7, 21.3, 22 and 25 survive termination of this Agreement

20.9 Application of amounts recovered

Amounts recovered from an Operator or a Related Entity in respect of the enforcement of any Container Collection Agreement to which it is a party may be applied by the PRO as follows:

- (a) amounts recovered or otherwise received by the PRO under this Agreement may be applied to the payment of any debts owed under another Container Collection Agreement with the Operator or a Related Entity; and
- (b) amounts recovered or otherwise received by the PRO under another Container Collection Agreement with the Operator or a Related Entity may be applied by the PRO to pay debts owed under this Agreement.

21 Liability

21.1 General

- (a) Subject to clause 21.1(b), to the maximum extent permitted by law, each party's aggregate liability to the other in respect of any act or omission under this Agreement for each 12 month period following the Effective Date is limited to 100% of the aggregate Refund Amount and Fee paid to the Operator under this Agreement in respect of that period.
- (b) Clause 21.1(a) does not limit or affect the Operator's liability to the PRO:
 - (i) in accordance with the Operator's obligation to:
 - (A) not misuse the Trade Marks and IT Platform under clause 16;
 - (B) indemnify the PRO under clause 21.3; or
 - (C) keep information confidential under clause 22;
 - (ii) which cannot be limited at law;

- (iii) which is due to the Operator's criminal act, fraud, Inappropriate Conduct or Wilful Misconduct;
- (iv) for any Claim by any third party in respect of loss or damage to property or injury to, illness or death of, persons;
- (v) for any Claim by any third party in respect of Modern Slavery practices occurring in the delivery of the Services;
- (vi) to the extent that the Operator is paid or indemnified for the liability under an insurance policy required by this Agreement; and
- (vii) to the extent that the Operator would have been entitled to be indemnified for that liability by an insurer under an insurance policy required by this Agreement, but for a failure by the Operator to effect and maintain the insurance policy as required by this Agreement,

and such liability will not be included in any calculation of the Operator's total aggregate liability under clause 21.1(a).

- (c) Each party excludes all implied conditions and warranties except any implied condition or warranty the exclusion of which would contravene any statute or cause any part of this clause to be void.

21.2 Consequential loss

- (a) Subject to clause 21.2(b) and to the maximum extent permitted by law, each party excludes all liability to the other party for:
 - (i) loss of goodwill, loss of customers, loss of capital, downtime costs, loss of profit, loss of or damage to reputation, loss under or in relation to any other contract, loss or corruption of data, loss of use of data, loss of anticipated savings or benefits, wasted expenditure and consequential loss;
 - (ii) any loss, damage or expense arising from a cyberattack, or the introduction of viruses, malware or malicious code, by a third party; or
 - (iii) any third party Claims for compensation, damage, cost or expense, incurred by or awarded against the other party under or in any way connected with this Agreement or in respect of the provision of any of the Services described in this Agreement.
- (b) The exclusion in this clause 21.2(a) does not in any way limit either party's liability:
 - (i) in accordance with the Operator's obligations to indemnify the PRO under clause 21.3;
 - (ii) for a criminal or fraudulent act;
 - (iii) for Inappropriate Conduct;
 - (iv) for Wilful Misconduct; or
 - (v) in respect of liquidated damages payable under this Agreement (if any) or under any provision in this Agreement where a debt or other payment is due.

21.3 Indemnity by Operator

- (a) Subject to clause 21.3(b), the Operator indemnifies the PRO against any Claim or Loss sustained by the PRO arising out of any act or omission of the Operator in breach of this Agreement, that causes the PRO to be in breach of, or gives rise to any Loss sustained

by the PRO in connection with any Statutory Requirement, including with respect to any of its obligations as the Product Responsibility Organisation.

- (b) The indemnity in clause 21.3(a) will be reduced proportionally to the extent to which the Claim or Loss was caused or contributed to by an act or omission of the PRO.

22 Confidentiality

22.1 Confidentiality and Confidential Material

Each party acknowledges and agrees that, subject to clause 22.2:

- (a) the Confidential Material is and will remain confidential to the PRO or the Operator (as applicable);
- (b) it has not disclosed and will not at any time, without the other party's prior written consent, disclose the Confidential Material to any third party who is not Personnel or PRO Personnel (as applicable), one of its Associates or personnel of the State who has agreed to keep the Confidential Material confidential on the same terms as this clause 22.1; and
- (c) 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 the Confidential Material, other than for the purposes of this Agreement, including to carry out its obligations pursuant to this Agreement.

22.2 Exceptions to confidentiality

- (a) Where:
 - (i) the State has requested a copy of this Agreement or any relevant information as per clause 12.2(a);
 - (ii) the Confidential Material is in the public domain through no act, neglect or default of the party for whom the Confidential Material is not confidential (**Disclosing Party**) or its Associates (the onus of proving which will be on the Disclosing Party) in the same form or medium and arranged, collected or compiled in the same manner as it was disclosed to the Disclosing Party or its Associates or created by the Disclosing Party or its Associates;
 - (iii) the other party has notified the Disclosing Party in writing that the other party no longer requires the Disclosing Party to maintain the confidentiality of the Confidential Material; or
 - (iv) either party discloses the Confidential Material:
 - (A) to an Associate of the Disclosing Party, and that Associate agrees to keep that Confidential Material confidential;
 - (B) to a professional advisor of the Disclosing Party; or
 - (C) in order to comply with the Disclosing Party's obligations under the Act, the Regulation 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,

then the obligations in clause 22.1 will not, or will no longer, apply to that Confidential Material, provided that this clause 22.2 will not excuse any prior breach of clause 22.1 and the other party's rights and remedies in respect of any prior breach are expressly preserved.

- (b) The Operator acknowledges that the State may have certain rights and obligations under freedom of information legislation (including the *Right to Information Act 2009* (QLD) and the *Information Privacy Act 2009* (QLD)), and that these rights and obligations may impact on the parties' rights and obligations under this Agreement.

22.3 Publicity and branding

Without limiting any other obligation contained in this clause 22, the Operator must, in addition to its obligations under clause 15:

- (a) at all times comply with the Media and Branding Policy, and any other Policy, protocols, procedures, guidelines or rules notified by the PRO relating to confidentiality, branding (including the use of Trade Marks), public releases or announcements, advertising or any comment to the media, in connection with or relating to the Scheme or the PRO; and
- (b) as soon as practicable after it becomes aware of any non-compliance with the obligations contained in this clause 22 (either by it or another person), notify the PRO of the non-compliance, and take such reasonable action as is directed by the PRO in respect of any such non-compliance.

23 Disputes

23.1 Application of this clause

- (a) A Dispute may be determined in accordance with the procedures in this clause 23.
- (b) Subject to clause 23.6, if a Notice of Dispute is given a party must not commence any proceeding or initiate any other process in any Court or Tribunal unless that party has first complied with its obligations under this clause 23 and any applicable process under this clause 23 has come to an end.
- (c) This clause 23 ceases to apply on and from termination of this Agreement.

23.2 Dispute Resolution Process

- (a) The procedure in this clause 23.2 is hereinafter referred to as the ***Dispute Resolution Process***.
- (b) Where a Dispute arises, a party may give a Notice of Dispute to the other party. Within:
 - (i) 20 Business Days of service of a Notice of Dispute; or
 - (ii) such longer period after service of a Notice of Dispute as the Executive Negotiators may agree in writing,
 the Executive Negotiators must meet and undertake genuine and good faith negotiations with a view to resolving the Dispute.
- (c) The Executive Negotiators must have authority to agree to a resolution of the Dispute unless either party is required to obtain consent of their board in which case the board must provide their consent or otherwise within 3 Business Days. If the board of either party does not provide consent the process in sub-clause (e) continues.
- (d) The meeting referred to in clause 23.2(b) above will be held in any one of the following forums, as reasonably determined by the PRO:
 - (i) by phone (including by teleconference);
 - (ii) by videoconference; or
 - (iii) in person (at a place reasonably nominated by the PRO).
- (e) After the meeting of the Executive Negotiators, the Dispute Resolution Process:

- (i) continues for any further period agreed between the parties, including to allow the parties to engage in further negotiations or engage in any other alternative dispute resolution process; or
- (ii) ends, if the parties agree on terms for a resolution of the Dispute; or otherwise
- (iii) ends on the date which is 5 Business Days after the meeting.

23.3 Common Dispute Resolution Process

The procedure in this clause 23.3 is hereafter referred to as the **Common Dispute Resolution Process**.

- (a) If a Dispute the subject of a Notice of Dispute involves a Common Dispute:
 - (i) the PRO may, by giving written notice to the Operator, require the Common Dispute to be resolved in accordance with this Common Dispute Resolution Process (**Notice of Common Dispute**); and
 - (ii) the Operator agrees that other Scheme Participants affected by the Common Dispute and to whom the PRO gives written notice of the Common Dispute may participate in the Common Dispute Resolution Process with the Operator and the PRO.
- (b) On and from the issuing of a Notice of Common Dispute, in relation to a Common Dispute identified in that Notice of Common Dispute:
 - (i) the PRO and the Operator must comply with this Common Dispute Resolution Process in respect of the Common Dispute; and
 - (ii) the PRO and the Operator are not required to comply with the Dispute Resolution Process in relation to the Common Dispute.
- (c) Within:
 - (i) 20 Business Days of service of a Notice of Common Dispute; or
 - (ii) such longer period of time after service of a Notice of Common Dispute as the Executive Negotiators and Other Negotiators may agree in writing,

the Executive Negotiators and Other Negotiators must meet and undertake genuine and good faith negotiations with a view to resolving the Common Dispute.
- (d) The Executive Negotiators and Other Negotiators must have authority to agree to a resolution of the Common Dispute.
- (e) The meeting referred to in clause 23.3(c) above will be held in any one of the following forums, as reasonably determined by the PRO:
 - (i) by phone (including by teleconference);
 - (ii) by videoconference; or
 - (iii) in person (at a place reasonably nominated by the PRO).
- (f) If the Common Dispute remains unresolved by the date which is 15 Business Days after the meeting referred to in clause 23.3(c) above:
 - (i) the PRO may, by giving written notice to the Operator require the Operator to participate in a mediation with a view to resolving the Common Dispute (**Notice of Mediation**); and

- (ii) the Operator agrees that other Scheme Participants affected by the Common Dispute and to whom the PRO gives written notice of the Common Dispute may participate in that mediation with the Operator and the PRO.
- (g) Within 10 Business Days of issuing the Notice of Mediation, the PRO, the Operator, and any other Scheme Participants participating in the mediation will confer (via the Executive Negotiators and Other Negotiators) and agree upon the appointment of a mediator, who will be a suitably qualified and experienced barrister admitted to practise in Queensland unless otherwise agreed. If the appointment of a mediator cannot be agreed, the PRO will make a written request to the President of the Queensland Law Society for the nomination of a mediator and that nominee will be appointed.
- (h) Unless otherwise agreed between the parties to the mediation, the mediation will be held in person at a venue reasonably nominated by the PRO within 20 Business Days of the appointment of a mediator.
- (i) The mediator's fees and any fees payable for the mediation venue will be paid in equal shares by the PRO, the Operator, and any other Scheme Participant participating in the mediation.
- (j) The Common Dispute Resolution Process:
 - (i) ends if a written agreement is entered into by which the Common Dispute is resolved; or
 - (ii) continues after mediation for any further period agreed between the parties to the mediation, including to allow the parties to engage in further negotiations or engage in any other alternative dispute resolution process; or otherwise
 - (iii) ends on the date which is 5 Business Days after the conclusion of the mediation.

23.4 Costs

Unless otherwise agreed between the parties, each party will bear its own costs of and in connection with the Dispute.

23.5 Continuation of obligations

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

23.6 Urgent interlocutory relief

Nothing in this clause 23 prevents a party from seeking urgent injunctive or interlocutory relief.

24 Miscellaneous

24.1 Assignment

- (a) The PRO may, acting reasonably, and upon 7 days' prior written notice to the Operator, assign, charge, create a Security Interest over, encumber or otherwise deal with any of its rights or obligations under this Agreement without the consent of the Operator. The Operator cannot assign, novate, charge, create a Security Interest over, subcontract, encumber or otherwise deal with any of its rights or obligations under this Agreement, or attempt or purport to do so, without the prior written consent of the PRO. The consent of the PRO may be withheld in its absolute discretion without giving any reason for doing so.
- (b) Where the Operator subcontracts any of its rights or obligations under this Agreement, the Operator retains responsibility for ensuring the subcontractor does not carry out its

duties under the subcontracting arrangement in breach of any of the terms of this Agreement, Statutory Requirements or in a manner that involves Modern Slavery.

24.2 Change of Control

- (a) For the purposes of this clause 24.2, a change of Control occurs if the Operator comes under the Control of a third party (**New Controller**) who did not Control the Operator at the commencement of this Agreement.
- (b) The Operator must not allow a change of Control without obtaining the PRO's prior written consent (which must not be unreasonably withheld).
- (c) Without limiting clause 24.2(b), the PRO must not withhold its consent to a change in Control if (in the PRO's reasonable opinion):
 - (i) the change of Control will not diminish, fetter, limit or otherwise restrict the ability of the Operator to fulfil its obligations under this Agreement including the Operator's ability to deliver the Services; and
 - (ii) the New Controller:
 - (A) is a fit and proper person;
 - (B) has a sufficient level of relevant industry experience; and
 - (C) is of good financial standing.
- (d) Any decision made by the New Controller that has the ability to affect the Operator's compliance with this Agreement, Statutory Requirements or Modern Slavery obligations must be promptly notified by the Operator to the PRO.

24.3 Duty

The Operator:

- (a) must pay all stamp duties and any related fines and penalties in respect of this Agreement, the performance of this Agreement and each transaction effected by or made under this Agreement;
- (b) indemnify the PRO against any Loss suffered or incurred by it arising out of, or in connection with that Operator's failure to comply with clause 24.3(a); and
- (c) is authorised to apply for and retain the proceeds of any refund due in respect of stamp duty paid by the Operator under this clause.

24.4 Preparation of Agreement

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

24.5 Electronic Signature and counterparts

This clause permits the execution of this Agreement by the use of Electronic Signatures in accordance with the following:

- (a) the parties consent to this Agreement being signed by or on behalf of a party by an Electronic Signature in any number of counterparts in the English language which together will constitute the one and the same document;
- (b) where a party is a company, the party may execute this Agreement under section 127 of the Corporations Act by the requisite number of its officers electronically signing this Agreement;

- (c) where this Agreement is electronically signed by or on behalf of a party, the party warrants and agrees that the Electronic Signature has been used to identify the person signing and to indicate that the party intends to be bound by the Electronic Signature;
- (d) each party consents to the exchange of counterparts of this Agreement by delivery by email or such other electronic means as may be agreed in writing; and
- (e) each party must upon request promptly deliver a physical counterpart of this Agreement with the handwritten signature or signatures of the party and all written evidence of the authority of a person signing on their behalf, but a failure to comply with the request does not affect the validity of this Agreement.

24.6 Entire Agreement

Subject to the Australian Consumer Law, this Agreement contains the entire agreement between the parties with respect to its subject matter. It sets out the only conduct, representations, warranties, covenants, conditions, agreements or understandings (collectively **Conduct**) relied on by the parties and supersedes all earlier Conduct by or between the parties in connection with its subject matter. Neither party has relied on or is relying on any other Conduct in entering into this Agreement and completing the obligations contemplated by it.

24.7 Inconsistency between provisions

In the event of any inconsistency between the terms of the documents listed below in this clause 24.7, the following will prevail in descending order of precedence to the extent of that inconsistency:

- (a) the Act and Regulations;
- (b) Schedule 9;
- (c) this Agreement (excluding schedules and appendices);
- (d) schedules of this Agreement (excluding Schedule 9);
- (e) Operating Conditions;
- (f) Manuals;
- (g) Policies;
- (h) written directions or notifications;
- (i) procedures, rules and guidelines; and
- (j) Mobilisation Plan.

24.8 Validity

- (a) The parties acknowledge the effect of section 99ZW of the Act on the validity of the provisions of this Agreement.
- (b) To the extent a provision of this Agreement is found to be prohibited or unenforceable (whether due to the operation of section 99ZW of the Act or otherwise), the parties agree:
 - (i) that the remaining provisions of this Agreement 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 Agreement).

24.9 Governing law and jurisdiction

This Agreement is governed by the laws of Queensland. In relation to it and related non-contractual matters each party irrevocably submits to the non-exclusive jurisdiction of courts with jurisdiction there.

24.10 Joint and several obligations

In this Agreement a reference to a right or obligation of any two or more persons who comprise a party confers that right, or imposes that obligation, as the case may be, jointly and severally and a reference to that party includes a reference to any one or more of those persons.

24.11 No agency or partnership

Except for clause 10.7, nothing in this Agreement is to be construed as constituting an agency, partnership, joint venture, or any other form of association between the parties in which one party may be liable for the acts or omissions of any other party. No party has the authority to incur any obligation or make any representation or warranty on behalf of, or to pledge the credit of, any other party.

24.12 No merger

The rights and obligations of the parties will not merge on the completion of any transaction contemplated by this Agreement. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing a transaction.

24.13 No waiver

A failure to exercise or a delay in exercising any right, power or remedy under this Agreement does not operate as a waiver. A single or partial exercise or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.

24.14 Notices

- (a) Any communication (including each notice, consent, approval, request and demand) under or in connection with this Agreement:
 - (i) must be in writing; and
 - (ii) unless otherwise stated, may be made or delivered by hand, prepaid post or by email.
- (b) The address, email address and the department or officer (if any), for whose attention the communication is to be made of each party for any communication to be made pursuant or in connection with this Agreement is as set out in the Reference Schedule.
- (c) Any communication or document made or delivered by one person to another under or in connection with this Agreement will only be effective:
 - (i) (in the case of prepaid post) on the third working day after the date of posting to an address within Australia, and on the fifth working day after the date of posting by airmail to an address outside Australia;
 - (ii) (in the case of email) when it is dispatched by the sender to each of the email addresses specified by the recipient; and
 - (iii) (in the case of delivery by hand) on delivery,

but, in each case, if the communication is taken to be received on a day which is not a Business Day or after 5.00 pm, it is taken to be received at 9.00 am on the next Business Day.

24.15 Further acts and documents

Both parties must promptly do all further acts and execute and deliver all further documents required by law to give effect to this Agreement.

24.16 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 Agreement and that when executed it will constitute legal, valid and binding obligations in accordance with its terms.

24.17 Severance

If a provision of this Agreement 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 Agreement 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 Agreement.

25 GST and taxation

- (a) Unless the context requires otherwise, words used in this clause 25 that have a specific meaning in the GST law (as defined in the GST Legislation) shall have the same meaning in this clause.
- (b) Notwithstanding any other provision of this Agreement, any amount payable for a supply made under this Agreement which is calculated by reference to a cost, expense or other amount paid or incurred by a party will be reduced by an amount equal to any input tax credits which that party is entitled to in respect of that cost, expense or other amount.
- (c) If GST is payable on any supply made by a party (**GST Supplier**) under or in connection with this Agreement:
 - (i) any amount payable or consideration to be provided under any other provision of this Agreement for that supply (**Agreed Amount**) is exclusive of GST;
 - (ii) an additional amount will be payable by the party providing consideration for that supply (**Recipient**), equal to the amount of GST payable on that supply as calculated by the GST Supplier in accordance with the GST Legislation and payable at the same time and in the same manner as for the Agreed Amount; and
 - (iii) the GST Supplier will provide a tax invoice (or equivalent documentation which complies with the GST Legislation) to the Recipient in respect of that supply upon request from the Recipient.
- (d) If for any reason, the GST payable by the GST Supplier in respect of a supply it makes under this Agreement (incorporating any increasing adjustments or decreasing adjustments relating to that supply) varies from the additional amount it receives from the Recipient under clause 25(c) in respect of that supply, the GST Supplier will provide a refund or credit to or will be entitled to receive the amount of this variation from the Recipient (as appropriate). The GST Supplier will issue an adjustment note to the Recipient in respect of that supply within 10 Business Days after becoming aware of that adjustment event occurring.
- (e) If the Recipient is dissatisfied with any calculation to be made by the GST Supplier under this clause 25, the Recipient may, at its own expense and after notifying the GST

Supplier accordingly, refer the matter to an independent expert nominated by the President of the Institute of Chartered Accountants Australia and New Zealand for expert determination, which will be final and binding on all parties (absent manifest error). The expert will act as an expert and not as an arbitrator and will take into account the terms of this Agreement, the matters required to be taken into account by the GST Supplier under this clause 25 and any other matter considered by the expert to be relevant to the determination. The parties must release the expert from any liability in acting as an expert, except in the case of fraud on the part of the expert.

- (f) Each party agrees to do all things, including providing tax invoices and other documentation, that may be necessary or desirable to enable or assist the other party in determining its GST payable on any supply made by that other party under or in connection with this Agreement or any input tax credits, adjustments or refunds in relation to any amount of GST paid or payable in respect of any supply made under or in connection with this Agreement.
- (g) Despite any other provision of this Agreement, this clause 25 will survive the termination of this Agreement.
- (h) A reference to GST payable by a party includes any corresponding GST payable by the representative member of any GST group of which that party is a member, and a reference to an input tax credit entitlement of a party includes any corresponding input tax credit entitlement of the representative member of any GST group of which that party is a member.
- (i) Any reference in this Agreement to fees, value, sales, revenue or a similar amount (**Revenue**) is a reference to that Revenue exclusive of GST.
- (j) Any reference in this Agreement to a cost, expense or other similar amount (**Cost**) is a reference to that Cost exclusive of GST.
- (k) Despite any other provision of this Agreement, the Refund Amount is GST inclusive.

Schedule 1

Services Specification

1 Introduction

1.1 Structure of the Services Specification

- (a) The Services Specification sets out the Operational Services delivery requirements of the Operator.
- (b) The Services Specification is as follows:
 - (i) *Container Collection Services* (section 2): This section sets the minimum service requirements in relation to the collection of Containers that the Operator must deliver for each Operator Refund Point (**Container Collection Services**);
 - (ii) *Customer Services* (section 3): This section sets the minimum service requirements in relation to interactions with Customers that the Operator must deliver for each Operator Refund Point (**Customer Services**); and
 - (iii) *Environment, Health and Safety Services* (section 4): This section sets the minimum service requirements in relation to ensuring health and safety obligations and environmental practices are met in the delivery of all Services (**Environment, Health and Safety Services**).
- (c) Each section sets out the:
 - (i) key objectives;
 - (ii) scope; and
 - (iii) minimum service requirements;
 in respect of the relevant Operational Services.

1.2 Key objectives

- (a) The Operator must operate each Operator Refund Point in accordance with this Agreement and the Services Specification to support the successful delivery of the Scheme. The Operator must provide the Operational Services in a consistent manner that:
 - (i) supports and assists the PRO in delivering the Scheme Objectives as outlined in the Act;
 - (ii) increases the recovery and recycling of empty Containers;
 - (iii) reduces the number of empty Containers that are littered or disposed of to landfill; and
 - (iv) provides opportunities for social enterprise, and benefits for community organisations.

1.3 Operating Conditions

The Operator must operate each Operator Refund Point in accordance with the Operating Conditions and where there is formal planning or environment approval required under any applicable Statutory Requirement the Operator must also operate each Operator Refund Point in accordance with those requirements. Where there is any inconsistency between the Operating Conditions and the Statutory Requirement, the Statutory Requirement will prevail.

2 CONTAINER COLLECTION SERVICES

2.1 Introduction

This section outlines the service specific requirements for the provision of Container Collection Services for each Operator Refund Point.

2.2 Key objectives

The main objectives for the Operator of Container Collection Services are:

- (a) the accurate payment of Refund Amounts to Customers on the presentation of Containers;
- (b) the initial sortation of Containers to facilitate recycling;
- (c) the preparation and facilitation of the collection of Containers for further processing;
- (d) supporting the integrity and transparency of the Scheme;
- (e) accurately recording data;
- (f) minimising and preventing fraud; and
- (g) supporting the PRO's audit and verification activities.

2.3 Scope and requirements

- (a) General requirements
 - (i) In delivering the Container Collection Services, the Operator must:
 - (A) act in accordance with the reasonable directions of the PRO or an Associate of the PRO;
 - (B) ensure that all activities are undertaken in a manner that maximises the redemption of Containers;
 - (C) undertake all reasonable measures to minimise and prevent fraud in respect of the Scheme; and
 - (D) allow the PRO, or any party appointed by the PRO, reasonable access and assistance to its operations, premises and records to support Scheme audit and verification activities.
- (b) Container acceptance
 - (i) The Operator must accept all Containers returned by Customers to the Operator Refund Point (except in the circumstances set out in section 99X(2)(d) of the Act if the relevant Operator Refund Point is a Reverse Vending Machine).
 - (ii) The Operator is required to reasonably ensure that all collected Containers:
 - (A) are eligible for the payment of a Refund Amount (i.e. are not exempt from the Scheme and display a Refund Marking as required by Regulation);
 - (B) have not already been redeemed;
 - (C) are, to the extent the Operator reasonably believes, purchased in Queensland after the Scheme Commencement Date; and
 - (D) are not deposited from any Scheme Participant where a Refund Amount or Recovery Amount has already been claimed in respect of that Container.
 - (iii) The Operator must:

- (A) count each individual Container presented by a Customer; and
 - (B) take reasonable steps to assess each individual Container presented for eligibility to receive a Refund Amount including:
 - (1) checking whether the Container has a Refund Marking; and
 - (2) checking whether the Container is of a registered type pursuant to the Act; and
 - (3) checking whether the container is an Excluded Container,
 and the Operator must not claim the Refund Amount from the PRO in relation to a Container unless it has first complied with its obligations under this section in relation to that Container.
- (c) Counting Method
 - (i) The Operator must only use the Counting Method to count Containers unless an alternative method is notified by the PRO to the Operator in writing.
 - (ii) The Operator must ensure that the Counting Method complies with the requirements set out in this Agreement, the Act and the Regulation. If the PRO determines (acting reasonably) that the Counting Method is non-compliant or is otherwise insufficient, the PRO may direct the Operator to make reasonable changes to the Counting Method.
 - (iii) Without limiting paragraph (i) or (ii), the Operator must not weigh Containers or compile broken parts of a Container to form one or more Containers for the purpose of determining if they are eligible to receive a Refund Amount.
- (d) Accessibility
 - (i) The Operator must ensure that:
 - (A) each Operator Refund Point operated is available to the general public;
 - (B) the Trading Hours of each Operator Refund Point (or collection frequency in the case of Drop-off Refund Points, Mobile Refund Points and RVMs) are reasonable in light of the volume of Containers collected at the Operator Refund Point, and meet at least the Minimum Operating Hours as set out in the Reference Schedule; and
 - (C) for each Operator Refund Point that is an RVM or where there is a Drop-Off Refund Point, the receptacles are regularly emptied to maintain capacity to accept Containers and are otherwise kept in good working order.
- (e) IT Platform and Member Numbers
 - (i) The Operator must:
 - (A) utilise the IT Platform and POS System, which includes the functionality as described in Schedule 3, as directed by the PRO to deliver the Container Collection Services;
 - (B) utilise the POS System to capture the original location of Containers collected (i.e. use POS System to nominate a Container was collected at a Drop-Off Refund Point when later counted and entered into the POS System at an Over the Counter Refund Point or RVM Depot).
 - (C) without limiting paragraph (A), utilise the IT Platform and POS System for:

- (1) processing and collecting Containers;
 - (2) recording the number of Containers; and
 - (3) producing manifests;
- (D) use only the Member Number system; and
- (E) not introduce or attempt to introduce any other customer account systems. For the avoidance of doubt, the Member Number system is the only customer account system for the entirety of the Scheme and will be operated by the IT Platform.
- (ii) The Operator must not connect any other equipment to the IT Equipment, PRO IT Equipment, IT Platform or POS System without the prior written consent of the PRO.
- (iii) The Operator must use PRO IT Equipment provided by the PRO in accordance with the reasonable directions of the PRO.
- (iv) The Operator agrees that its use of the IT Platform, PRO IT Equipment, POS System and Member Number is a material obligation of this Agreement.
- (v) The Operator must satisfy the following requirements in respect of any IT Equipment that utilises the IT Platform:
 - (A) The Operator must provide:
 - (1) all required IT Equipment (including all equipment as set out in in a Manual or a Policy);
 - (2) consumables associated with the IT Equipment (e.g. printer cartridges and printer labels);
 - (3) internet access (where internet access is not reasonably reliable, the Operator will need to establish internet access for a period at least once every Operating Week in order to submit a Payment Claim. This requirement may be varied for Operator Refund Points operating in extremely remote areas, as determined by the PRO acting reasonably); and
 - (4) reliable power.
 - (B) The Operator must provide all maintenance and support to the IT Equipment.
 - (C) The Operator must ensure that all Personnel are appropriately trained in the use of the IT Equipment and the IT Platform.
 - (D) The Operator must have in place appropriate measures to support business continuity, including:
 - (1) appropriate security in relation to the IT Equipment, PRO IT Equipment and IT Platform;
 - (2) an appropriate protocol to protect and backup all data;
 - (3) the appropriate upgrade and maintenance of hardware;
 - (4) support and training of Personnel to ensure business continuity; and
 - (5) a disaster recovery plan setting out how the Operator will respond to IT Equipment, PRO IT Equipment and IT Platform

failures which is to be updated and tested annually, and the disaster recovery plan and testing results are to be shared with the PRO on each anniversary of the Effective Date.

- (vi) To ensure the Operator Refund Point continues to operate in the event of a fault, the Operator must:
 - (A) maintain appropriate backup hardware in case of hardware malfunctions; and
 - (B) maintain a manual processing solution that captures all relevant data to be subsequently entered into the IT Platform once the fault is resolved (e.g. serial numbered receipt books).
- (vii) The Operator must:
 - (A) implement practices, processes and systems to sufficiently identify and protect or mitigate against the following events occurring in relation to all software and data held on the IT Platform (including Scheme Data):
 - (1) complete or partial loss;
 - (2) complete or partial corruption;
 - (3) malicious deletion;
 - (4) unauthorised encryption of data or denial of service;
 - (5) accidental deletion; and
 - (6) unauthorised access;
 - (B) provide all reasonable access required by the PRO's auditors to the Operator's hardware, software or any other system, process, procedures and records; and
 - (C) within 10 Business Days, perform any updates to the POS System or IT Platform as required by the PRO from time to time.
- (f) Container sorting, counting and preparation for transport
 - (i) The Operator must:
 - (A) maintain a count of all the Containers collected by Material Type and Customer each day;
 - (B) sort and separate all Containers by Material Type;
 - (C) ensure each Operator Refund Point is secured and that sorted Containers are securely stored under cover or in a locked and secured fenced area in the Operator Owned Infrastructure, Collection Infrastructure or Shipping Units prior to collection by the PRO's nominated Logistics Services Providers;
 - (D) if the Shipping Units supplied by the Collection Infrastructure Provider are at maximum capacity with Containers, ensure that there is sufficient Operator Owned Infrastructure in which to hold excess Containers;
 - (E) use Operator Owned Infrastructure, for Containers that have a low volume of returns, to store until such time as there are sufficient Containers to fill a Shipping Unit;
 - (F) prepare the Shipping Units for collection including by maintaining a count of the Containers within each Shipping Unit and the preparation of

accurate and true logistics documentation (shipment manifest) reflecting the Container count and Shipping Unit identification in the timeframe required by the Logistics Services Provider, via the IT Platform;

- (G) ensure that Shipping Units are at least 90% full (based on volume) on collection by the Logistics Services Provider;
 - (H) use the Transport Management System to request collection of the Shipping Units by the Logistics Services Provider (unless the PRO directs the Operator to use another means to request collection by the Logistics Services Provider, in which case that other means must be used);
 - (I) facilitate the collection of the Shipping Units by the Logistics Services Providers nominated by the PRO for transportation to a Processing Facility during the times specified in the Logistics Services collection hours in the Reference Schedule;
 - (J) unload any empty Shipping Units from, and load any Shipping Units that are ready for collection onto, the Logistics Services Provider's vehicle using appropriate Operator Loading Equipment;
 - (K) take all reasonable actions to ensure that Containers are recycled and are not disposed of at landfill;
 - (L) ensure there is security and verification of the Container count to ensure the integrity of the count which must include the capturing of CCTV footage for each Container count;
 - (M) process Containers collected from a Drop-Off Refund Point at the Operator's Over the Counter Refund Point or RVM Depot (as applicable) via the POS System within 3 Business Days of collecting those Containers from the Drop-Off Refund Point;
 - (N) keep Containers as whole, loose, individual Containers (unless it receives prior written approval from the PRO, which approval may be rescinded by the PRO at any time acting reasonably); and
 - (O) where an Operator Refund Point utilises customer facing machines (including counting machines) that are not RVMs, the Operator must ensure that it manages the operation of the machines in a manner that meets the requirements of this Agreement and the Act, particularly in regards to the assessment of Container eligibility.
- (ii) Where Shipping Units are not 90% full (based on volume) on collection by the Logistics Services Provider, the PRO reserves the right to set-off the costs incurred by the PRO for cancelled Logistics Services in accordance with clause 10.6.
- (g) Refund Amount payment
- (i) Customers are entitled to Refund Amounts for depositing Containers in accordance with section 2.3(b) of this Schedule.
 - (ii) Except where the relevant Operator Refund Point is a Reverse Vending Machine, the Operator must use best endeavours to determine whether the Customer has a Member Number.
 - (iii) Where the Customer does have a Member Number and the Customer wants the Refund Amount to be paid to them electronically through their Member Number or

to their nominee through the nominee's Member Number (eg. charity or community group), the following process must be followed:

- (A) upon receiving the Customer's instructions to issue payment via the Member Number (or upon the Customer selecting this option at an RVM), the Operator must pay the Refund Amount either to the Customer or their nominee by issuing a Payment Direction through the IT Platform;
- (B) where the Operator Refund Point is an RVM, the Payment Direction will be automatically issued when the Customer selects the option of receiving the Refund Amount electronically via their Member Number (or to their nominee through their nominee's Member Number);
- (C) once the Payment Direction is issued to the PRO, a Processing Service Provider nominated by the PRO will issue an identical payment direction to the PRO under the Processing Services Agreement. The PRO will then directly process the payment of the Refund Amount through the IT Platform in accordance with the information collected through the IT Platform and the Customer's Member Number; and
- (D) the Customer (and, if applicable, their nominee) will be offered a paper or electronic receipt from the Operator (or from the RVM) as written acknowledgement of payment of the Refund Amount.

(iv) Where the Customer:

- (A) does not have a Member Number; and
- (B) has not nominated a Member Number of a nominee; or
- (C) does not wish to use their Member Number to receive payment electronically;

the Operator must pay any Refund Amounts payable to that Customer either in a cash or cash equivalent form, which may include the following forms:

- (D) credit to a credit card or another account (e.g. PayPal); or
- (E) Voucher if approved in accordance with clause 8.4(c) or 8.5(c).

- (v) The Operator must comply with all Statutory Requirements and protocols put in place by the PRO around the acceptance of Containers and payment of Refund Amounts. This includes the collection of statutory declarations, Refund Declarations and appropriate identification for Bulk Quantity redemptions.
- (vi) Where the Operator wishes to provide payment in only cash equivalent forms, the Operator must obtain prior written approval from the PRO for these payment arrangements.
- (vii) Paragraph (g) applies to all Operator Refund Points except where an exemption has been provided by the PRO in writing.

(h) Information to be provided to the PRO

- (i) By no later than 12:00 pm (AEST) on the first Business Day of the next Operating Week, the Operator must utilise the IT Platform to submit a declaration of the actual number of Containers, by Material Type:
 - (A) collected at each Operator Refund Point operated during each day of the Operating Week;

- (B) picked up each day in each Shipping Unit by the PRO's nominated Logistics Services Providers at each Operator Refund Point operated during the Operating Week; and
 - (C) stored at each Operator Refund Point operated at the end of each day.
- (ii) Within 20 Business Days of the end of each financial year (30 June), the Operator is required to provide to the PRO a signed statutory declaration in the form prescribed by the PRO, which states:
 - (A) the total volume of Containers, by Material Type, collected at each Operator Refund Point operated during that financial year;
 - (B) the total value of the Refund Amounts paid by the Operator to Customers during that financial year;
 - (C) that the information contained in each declaration submitted under section 2.3(h)(i) during that financial year is true and correct; and
 - (D) that the Operator has complied with its obligations under clause 13 during that financial year.
- (iii) Within 20 Business Days of the end of each Quarter the Operator must provide to the PRO a signed statutory declaration in the form required by the PRO, confirming the Operator's compliance with applicable industrial relations laws during the Quarter.
- (iv) The Operator must notify the PRO immediately of any of the following, in such a way nominated by the PRO:
 - (A) identification of any unregistered or unapproved materials;
 - (B) environmental, health or safety incidents;
 - (C) any false or fraudulent claims made; and
 - (D) any unauthorised access to the IT Platform or Scheme Data.
- (v) The Operator is required to ensure that their information (for example contact details, address and bank account details) within the PRO's records is complete and up-to-date at all times.
- (vi) The Operator must keep a register of all Bulk Claim Arrangements and Customers which the Operator collects Containers from and provide those details to the PRO on request. Details may include details of the Customer, name of contact where the Customer is an entity, Member Number and any other details reasonably requested by the PRO.

3 CUSTOMER SERVICES

3.1 Introduction

This section outlines the service specific requirements for the provision of Customer Services for each Operator Refund Point.

3.2 Key objectives

The Operator must provide Customer Services that:

- (a) create a positive experience for the public in regard to the Scheme;
- (b) maintain high levels of customer service at all times;

- (c) encourage Scheme participation of social enterprises, not-for-profit organisations and community groups; and
- (d) support and comply with the PRO's marketing and branding activities including the Media and Branding Policy.

3.3 Scope and requirements

(a) General requirements

In delivering the Customer Services, the Operator must act in accordance with the reasonable directions of the PRO or an Associate of the PRO.

(b) Customer Service

- (i) The Operator is required to maximise the level of customer service provided at each Operator Refund Point, including by:
 - (A) being available for Customer engagement and complaints handling, whether in person at each Operator Refund Point or by providing visible contact details (as may be the case for Drop-Off Refund Points, Mobile Refund Points and RVMS);
 - (B) making available and publicly displaying contact details for any enquiries;
 - (C) minimising wait times at each Operator Refund Point;
 - (D) ensuring that any customer service notices required to be displayed by the PRO are appropriately displayed; and
 - (E) striving for continuous customer service improvement, including by seeking customer feedback through surveys or other such activities. Customer feedback activities using surveys must be undertaken using systems nominated or otherwise accepted by the PRO. The Operator must provide customer feedback data from surveys to the PRO on a quarterly basis in the form nominated by the PRO.
- (ii) Subject to paragraph (iv), the Operator must ensure that the Trading Hours of each Operator Refund Point are fixed, displayed and are made easily accessible to the public, such as via a website or displayed on public signage.
- (iii) The Operator must notify the PRO of the Trading Hours of Operator Refund Points (and collection frequency in the case of Drop-Off Refund Points, Mobile Refund Points and RVMS) which it operates, and provide at least 10 Business Days' notice to the PRO of any changes to its Trading Hours (and collection frequency in the case of Drop-Off Refund Points, Mobile Refund Points and RVMS).
- (iv) In the case of Mobile Refund Points, the Operator must make available and known to the public the hours of operation and location of each Mobile Refund Point. This may include using media such as websites, newspaper advertisements or public posters or materials.
- (v) The Operator must maintain a standard of customer service at each Operator Refund Point that maintains the goodwill and reputation of the Scheme. If the PRO determines, acting reasonably, that the Operator is not maintaining an appropriate standard of customer service at an Operator Refund Point, the PRO may direct the Operator to rectify customer service standards at that Operator Refund Point and the Operator must comply with such direction within a reasonable time.

- (vi) Where an Operator Refund Point is an RVM Depot, the Operator must ensure that face to face customer service is available to Customers. The Operator may satisfy this requirement by having a bell or button which a Customer can push to alert the Personnel to attend the Customer area to assist the Customer (within a reasonable time). The PRO may, in its sole discretion, waive this requirement by providing the Operator with written notice of the waiver.
 - (vii) In the case of Drop-Off Refund Points, the Operator must ensure that appropriate facilities are available at the Drop-Off Refund Point to enable Customers to label their returns with their Member Number. For example, this requirement may be satisfied by providing label printing machines or pens and stickers so that Customers may handwrite labels.
- (c) Public areas around each Operator Refund Point
- (i) The Operator must ensure that public areas in and around each Operator Refund Point are kept clean and tidy at all times.
 - (ii) If an Operator fails to keep the public areas in and around each Operator Refund Point clean and tidy on more than two occasions or if there has been a complaint from:
 - (A) a member of the public;
 - (B) a Customer; or
 - (C) the landlord or owner of an Operator Refund Point,
 the PRO may notify the Operator and may appoint a third party to clean the public areas around the Operator Refund Point and the Operator must give the third party access to that area for that purpose.
 - (iii) Any costs incurred by the PRO in respect of such cleaning will be set-off by the PRO in accordance with clause 10.6.
- (d) Marketing and branding
- (i) The Operator is required to display marketing and branding materials as directed by the PRO at each Operator Refund Point. This also includes:
 - (A) ensuring that any Scheme branding, including signage and materials provided by the PRO or the State, is appropriately displayed;
 - (B) ensuring that any materials developed by the Operator are approved by the PRO and are consistent with the Scheme branding guidelines developed by the PRO (such as colour schemes, signage or otherwise) and the Media and Branding Policy;
 - (C) ensuring appropriate and consistent signage at entry points to each Operator Refund Point to allow Customers to easily recognise, identify and access the Operator Refund Point; and
 - (D) complying with all requirements specified in the Media and Branding Policy.
- (e) Community engagement
- (i) The Operator is expected to provide reasonable community support and engagement, including participating in local promotional and community awareness events as appropriate.
 - (ii) The Operator must ensure that any Operator Refund Point that:

- (A) collects more than 5,000,000 Containers in any financial year; or
- (B) collects more than 1,250,000 Containers in any consecutive three month period,

has available Community Collection Infrastructure as detailed in the Mobilisation Plan at or near to the Operator Refund Point, unless otherwise agreed in writing by the PRO.

- (iii) The Operator may be periodically required to provide community and social impact reporting, in a form reasonably required by the PRO. The Operator will be required to retain and maintain current records to facilitate the reports and must provide community and social impact data and reports within 14 days of a request from the PRO.

4 ENVIRONMENT, HEALTH AND SAFETY SERVICES

4.1 Introduction

This section outlines the service specific requirements for the provision of Environment, Health and Safety Services for each Operator Refund Point.

4.2 Key objectives

The main objectives for the Environment, Health and Safety Services are:

- (a) ensuring all applicable Approvals and permits to perform the Operational Services are maintained;
- (b) compliance with all Statutory Requirements, State Policies and Codes and Standards, including all relevant legislation and regulations;
- (c) providing a clean, safe and healthy working environment for the Personnel and other Scheme Participants;
- (d) ensuring the safety of all public persons accessing each Operator Refund Point and considers the community in which it operates; and
- (e) ensuring the Personnel are trained and established practises are in place to respond to any emergency circumstances that may impact an Operator Refund Point's operations.

4.3 Scope and requirements

- (a) Approvals and permits
 - (i) The Operator must:
 - (A) maintain all applicable Approvals, permits and licenses required to perform the Operational Services;
 - (B) provide the PRO with evidence that all applicable Approvals, permits and licences are held within 5 Business Days of the request of the PRO; and
 - (C) prior to the Operations Commencement Date of each Operator Refund Point, comply with the workplace health, safety and environment pre-requisites as detailed in the Operating Conditions.
- (b) Workplace health and safety
 - (i) The Operator must comply with the *Work Health and Safety Act 2011* (Qld) and any other relevant Statutory Requirements and Codes and Standards in relation to workplace health and safety at all times and in all of its operations.

- (ii) Without limiting paragraph (i), the Operator must pay attention to and adhere to the requirements of 'Part 2, Division 2 Primary duty of care' and 'Part 2, Division 3 Further duties of persons conducting businesses or undertakings' the subject of the *Work Health and Safety Act 2011* (Qld).
- (iii) The Operator will be required to develop a written safety management plan that is compliant with the *Work Health and Safety Act 2011* (Qld) and any other relevant Statutory Requirements and Codes and Standards, and any reasonable requests from the PRO. The safety management plan must be provided to the PRO at least annually, and must:
 - (A) manage risks to health and safety in line with the requirements of Part 3.1 section 36 of the *Work Health and Safety Regulation 2011* (Qld);
 - (B) ensure that risks to health and safety are eliminated or reduced using appropriate action considering the Hierarchy of Control in Part 3.1 section 36 *Workplace Health and Safety Regulation 2011* (Qld);
 - (C) provide that when completing a safety risk assessment, the Operator must consider and apply risk elimination or reduction activity for the risks identified in the Operating Conditions;
 - (D) ensure appropriate training and competency of Personnel;
 - (E) include the development and implementation of written induction training plans for all Personnel; and
 - (F) ensure all Personnel are trained in personal protective equipment requirements and comply with personal protective equipment requirements at all times.
- (iv) The Operator must ensure appropriate written instructions, policies and procedures are in place to support workplace health and safety, including development, implementation and training in regard to:
 - (A) standard operating procedures, including ensuring standard operating procedures are made available and accessible to all Personnel;
 - (B) onsite traffic management plans for each Operator Refund Point, containing as a minimum, the detail included within the Operating Conditions; and
 - (C) public access plans and exclusion zones, including a child safety policy regarding the safety and adult supervision of children onsite.
- (v) In relation to equipment and hazardous materials, the Operator must:
 - (A) prepare, maintain and update an asset register containing details of all equipment;
 - (B) prepare, maintain and update a register of all hazardous materials and goods;
 - (C) ensure appropriate storage of equipment and hazardous goods; and
 - (D) develop written protocols and standard operating procedures for equipment and hazardous goods (such as no-smoking policies near hazardous goods).
- (vi) The Operator must undertake a proactive approach to the identification of risks and hazards and undertake all reasonable actions to eliminate or control these

risks in accordance with the hierarchy of control measures in the *Work Health and Safety Regulation 2011* (Qld), including:

- (A) undertaking regular site risk assessments for each Operator Refund Point;
- (B) undertaking regular equipment risk assessments for all equipment;
- (C) reporting of all incidents, near-misses and potential or actual hazards;
- (D) undertaking regular monitoring of the effectiveness of implemented controls and implementing improved controls as required;
- (E) investigating all incidents, near misses and potential or actual hazards; and
- (F) eliminating identified risks, or where elimination of an identified risk is not practicable, implementing controls to minimise the risk in accordance with the hierarchy of control.

(c) HVNL

- (i) At all times when providing the Services, the Operator must comply with, and must ensure its Associates comply with, the HVNL.
- (ii) The Operator must have in place suitable systems, policies, procedures, training programs and audits to ensure it complies with, and to ensure its Associates comply with, the HVNL.
- (iii) The Operator must have in place a written safety management plan in respect of the Operator's obligations under the HVNL, having consideration to the risks associated with mass, dimension, loading, unloading, load restraint, fatigue management, speed, fitness for duty, training and education and all other relevant matters.
- (iv) The Operator's HVNL policy, procedures and safety management plan must be reviewed regularly by the Operator, and at least annually.
- (v) The Operator must promptly provide to the PRO such reports, documents and other information regarding compliance with the HVNL as reasonably requested by the PRO from time to time.
- (vi) The Operator's policies and procedures and safety management plan must be compliant with the HVNL and any other relevant Statutory Requirements and Codes and Standards, and any requests from the PRO. The Operator's written policies and procedures and safety management plan must be provided to the PRO at least annually, and must:
 - (A) ensure appropriate training and competency of Personnel; and
 - (B) include the development and implementation of written induction training plans for all Personnel; and
 - (C) ensure all Personnel are trained in personal protective equipment requirements and comply with personal protective equipment requirements at all times.
- (vii) The Operator's instructions, policies and procedures for loading and unloading vehicles and load restraint must be in writing and compliant with the National Transport Commission's Load Restraint Guide (or the equivalent guideline or policy as directed by the PRO).

- (d) Emergency management
 - (i) The Operator must develop a written Emergency Management Plan and provide to the PRO prior to the Mobilisation Completion Date. The Emergency Management Plan must detail:
 - (A) business continuity, such as in the event of:
 - (1) facilities issues such as utilities unavailability;
 - (2) extreme weather conditions;
 - (3) computer systems failure; and
 - (4) industrial action;
 - (B) local emergencies, such as in the event of:
 - (1) fire or flood;
 - (2) chemical, biological, radioactive or nuclear release; and
 - (3) violence on an Operator Refund Point site;
 - (C) any other disasters; and
 - (D) personal injury to Personnel, Customers and members of the public.
 - (ii) The Operator must update the Emergency Management Plan at the end of each operating year, and in the event of any major change to operations, and must provide the PRO with a current copy of the Emergency Management Plan upon request.
- (e) Environmental management
 - (i) The Operator must at all times act in accordance with good environmental management practices.
 - (ii) The Operator is required to develop and comply with a written Environmental Management Plan, to be provided to the PRO prior to the Mobilisation Completion Date. This must take into consideration:
 - (A) noise reduction, particularly in regard to handling glass or the use of any equipment;
 - (B) liquid pollution and the correct disposal of liquid waste; and
 - (C) traffic management, including:
 - (1) clearways on roads; and
 - (2) ensuring appropriate access onto site, especially for semi-trailer or heavy vehicles where required.
 - (iii) At all times, the Operator is required to act in accordance with all relevant Statutory Requirements and Codes and Standards, including, where applicable:
 - (A) the Act;
 - (B) the Regulation;
 - (C) the *Environmental Protection Act 1994* (Qld);
 - (D) the *Environmental Protection Regulation 2019* (Qld);
 - (E) the *Planning Act 2016* (Qld) and any relevant scheme made under that Act;

- (F) any local law made under the *Local Government Act 2009* (Qld); and
 - (G) any other State or Federal legislation or regulations relevant for the operations of a Refund Point.
- (f) Environmental, health and safety reporting
- (i) The Operator is required to provide the following to the PRO on a monthly basis:
 - (A) A Workplace Health and Safety Report, which must include, at a minimum:
 - (1) the Operator's performance against workplace health and safety requirements during the previous month;
 - (2) details of any workplace health and safety incidents in the previous month, why they occurred and how they were corrected; and
 - (3) workplace health and safety objectives and activities to be undertaken over the next month.
 - (B) An Environmental Management Report, which must include, at a minimum:
 - (1) the Operator's performance against environmental management requirements for the previous month;
 - (2) details of any environmental management incidents in the previous month, why they occurred and how they were corrected; and
 - (3) environmental management objectives for the following year.
 - (ii) The Operator is required to report to the PRO any breaches of the Workplace Health and Safety Report and Environmental Management Report on an ad hoc basis as and when they arise.
 - (iii) In addition, the Operator must provide the Emergency Management Plan to the PRO at the end of each operating year and in the event of any major change to operations.
- (g) Environmental, Health and Safety Services audit and access
- (i) The Operator must cooperate with, and provide access to, the PRO (or an Associate or Advisor of the PRO as notified to the Operator by the PRO from time to time) and the State so as to allow the PRO, its Associate, Advisor and the State to (upon providing reasonable notice to the Operator) undertake any audit or review of the performance of the Environment, Health and Safety Services, including compliance with all relevant Statutory Requirements and Codes and Standards and to inspect the facilities and operations of the Operator.
 - (ii) The PRO will publish Environment, Health and Safety Services audit criteria in the Operator resources web page located at <https://containerexchange.com.au/resources/>. This criteria may be changed periodically to reflect changes to relevant law or identified Scheme risk.
 - (iii) The Operator must rectify all non-conformances relating to Environment, Health and Safety Service audits, to the satisfaction of the PRO (or an Associate or Advisor of the PRO as notified to the Operator by the PRO from time to time),

acting reasonably, by no later than the date noted by the PRO on transmission of the final audit report to the Operator.

- (iv) The PRO may require the Operator to periodically provide environmental sustainability indicator data including, water usage, power and fuel usage and details of kilometres travelled by Operator vehicles, in the form nominated by the PRO. The Operator must return environmental sustainability indicator data and reports within 14 days of a request from the PRO.

Schedule 2

Mobilisation Service Outcomes

The table below sets out the Mobilisation Service Outcomes for the Operator Refund Points.

Table 1 – Mobilisation Service Outcomes

Item	Outcome	Date
1.	Evidence of development application submission or confirmation that installation does not breach any existing development approval conditions	[date]
2.	Status update of development application submission	[date]
3.	Confirmation of development application approval	[date]
4.	Review and close out of implications of any development application conditions	[date]
5.	Confirmation of site ownership or executed lease agreement	[date]
6.	Acceptance of provided evidence of entitlement to use premises	[date]
7.	Traffic management plan to be provided to PRO	[date]
8.	Final Operator Refund Point layout provided to PRO	[date]
9.	Scope and schedule of building works provided to PRO	[date]
10.	Scope and schedule of building works risk assessment completed by PRO	[date]
11.	Confirmation and evidence of counting tables ordered	[date]
12.	Confirmation and evidence of counting tables arrival on site	[date]
13.	Confirmation and evidence of forklifts ordered	[date]
14.	Confirmation and evidence of forklifts arrival on site	[date]
15.	Confirmation and evidence of RVMs ordered	[date]
16.	Confirmation and evidence of RVMs arrival on site	[date]
17.	Confirmation and evidence of RVM commissioning complete	[date]
18.	Confirmation and evidence of drop-off bins ordered	[date]
19.	Confirmation and evidence of drop-off bins arrival on site	[date]
20.	Confirmation and evidence of drop-off bins commissioning complete	[date]
21.	Confirmation of type, including specification documents and evidence of automated counting machines ordered	[date]

Item	Outcome	Date
22.	Confirmation and evidence of automated counting machines arrival on site	[date]
23.	Confirmation and evidence of automated counting machines commissioning complete	[date]
24.	Identification of development approval requirements for Operator Refund Point site signage	[date]
25.	Evidence of development approval submission provided	[date]
26.	Confirmation and evidence of development approval provided (if applicable)	[date]
27.	Signage drawing submitted to PRO for review and approval prior to order	[date]
28.	Confirmation of order of signage and evidence provided	[date]
29.	Confirmation of signage arrival and install on site	[date]
30.	Confirmation of IT infrastructure availability to contracted site	[date]
31.	Confirmation of procurement of appropriate IT Equipment	[date]
32.	Final confirmation of all required IT infrastructure installed on site	[date]
33.	PRO completion of testing program	[date]
34.	Completion of IT Platform training by all Personnel	[date]
35.	Required insurances obtained and evidence provided to the PRO	[date]
36.	Personnel training completed	[date]
37.	Safety management plan to be provided to PRO pursuant to the Operating Conditions	[date]
38.	Environmental Management Plan and Emergency Management Plan to be provided to PRO	[date]
39.	Mobilisation Completion Date	As per the Reference Schedule

Schedule 3

IT Platform

1 IT Platform and POS System functionality

This Schedule sets out the functionality of the IT Platform and POS System for the information of the Operator, and how these systems will support each of the Refund Point types. As per clause 16.3 of this Agreement, the IT Platform and POS System are provided “as is” and may not support all requirements of the Operator. The Operator should undertake their own due diligence to understand the scope and functionality of the IT Platform and POS System.

2 Over the Counter Refund Points

- (a) The POS System will act as the “transaction record system” to capture required data and facilitate the payment of Refund Amounts to Customers.
- (b) Payment can be made via cash or can be made electronically by the PRO against the Member Number, where supplied by the Customer. Customer is notified, and if applicable, the Customer’s nominee, when Member Numbers are used. In case of disputes, correction to the accounts will be made as required by the PRO on advice from the Operator.
- (c) The POS System will facilitate the preparation of Payment Claims through the report in section (e) on containers processed through the POS System.
- (d) The POS System will prepare shipment manifests for Logistics Services Providers which requires connection to the internet.
- (e) For reconciliation and audit purposes, an electronic end of the day report is generated in accordance with Material Type and payment method.

3 Drop-Off Refund Points

- (a) POS System to provide a means for Customers to return bags of Containers to a Refund Point for later processing.
- (b) Customer returns tracked against Member Number.
- (c) Member Number is used to generate a unique identifier for the Customer so labels identifying the Customer are attached to returned bags of Containers by the Customer.
- (d) When the bags of Containers are processed by the Operator, the Operator will scan the bag ID and record the count of Containers by Material Type.
- (e) Payment to be made electronically by the PRO against the Member Number. Payment advice is emailed to the Customer, and if applicable, the Customer’s nominee. In case of disputes, correction to the accounts will be made as required by the PRO on advice from the Operator.
- (f) The POS System will facilitate the preparation of Payment Claims through the report in section (g) on containers processed through the POS System.
- (g) For reconciliation and audit purposes an electronic end of the day report is generated in accordance with Material Type and payment method.

4 RVMs

- (a) Authorised RVM Operators to access the following data daily:
 - (i) product registry data;
 - (ii) Member Numbers; and

- (iii) charity organisation Member Number and charity name.
- (b) Operator must provide time stamped customer transaction data for each RVM to the PRO, as specified by the PRO, via the Container Exchange Interface.
- (c) Payment to be made electronically by the PRO against the Member Number where supplied by Customer. The Customer is notified, and if applicable, the Customer's nominee. In case of disputes, correction to the accounts will be made as required by the PRO on advice from the Operator.
- (d) The POS System will facilitate the preparation of Payment Claims.

5 Mobile Refund Points

Subject to the Services offered at the Mobile Refund Point, the IT Platform and POS System will either be that detailed in the Over the Counter Refund Point or Drop-Off Refund Point sections above (or a combination of both as appropriate).

6 RVM Depots

Subject to the Services offered at the RVM Depot, the IT Platform and POS System will either be that detailed in the Over the Counter Refund Point or RVM sections above (or a combination of both as appropriate).

Schedule 4

Payments Schedule

1 Payment calculation

1.1 Fee calculation

- (a) The amount payable to the Operator for a given Operating Week is the Fee in respect of the Operational Services as calculated according to the following formula, plus the Refund Amount (calculated in accordance with section 1.2):

$$Fee = HFP + Adj + I_n$$

Where:

- HFP = the Handling Fee Payment calculated in accordance with section 1.3;
- Adj = any adjustments to the weekly payment calculated in accordance with section 1.4;
- I_n = interest amount payable where the payment is number of days overdue, determined in accordance with section 2.2.

1.2 Refund Amount

- (b) The Refund Amount is the amount set by regulation which is payable by the Operator to Customers in exchange for returning Containers.
- (c) Subject to the provisions of this Agreement, the PRO will, on behalf of the relevant Processing Service Provider where the PRO acts as agent for the Processing Service Provider, pay the Operator an amount equal to the total value of Refund Amounts the Operator has paid to Customers by:
- (i) paying the Operator the Refund Amount which the Operator has paid directly to Customers in cash or cash equivalents; and
 - (ii) paying the Customer on behalf of the Operator and the Processing Service Provider in the circumstances set out in section 2.3(g) of the Services Specification.
- (d) The Refund Amount payable directly to the Operator under section 1.2(c)(i) will be calculated based on the number of Containers collected during the Operating Week and for which the Operator has paid a Refund Amount to the Customer directly in cash or cash equivalent (excluding any Refund Amounts paid directly to Customers by the PRO through a Payment Direction issued by the Operator to the Processing Service Provider and subsequently through a Payment Direction issued by the Processing Service Provider to the PRO), as set out in the Payment Claim submitted in accordance with clause 10.4(a).
- (e) The Refund Amount payable to the Operator under this section 1.2 is not paid in consideration for the Services provided by the Operator under this Agreement.

1.3 Handling Fee Payment

- (a) The Handling Fee Payment is the payment provided to the Operator for the inspecting, counting, sorting and preparing of Containers for collection (excluding the Excluded Containers), as described in the Services Specification (section 2, 3, and 4).
- (b) The Handling Fee Payment is calculated based on:

- (i) the Handling Fee for the relevant Operating Region where the Refund Point is located, as set out in Schedule 5; multiplied by the number of Containers inspected, counted, sorted and prepared for collection (excluding the Excluded Containers) during the Operating Week, as set out in the Payment Claim submitted by the Operator to the PRO in accordance with clause 10.4(a); plus
- (ii) 1/11th multiplied by the Refund Amount multiplied by the number of Containers collected from any entity that makes a GST-free supply of the Containers to the Operator pursuant to section 38-255 of the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) during the Operating Week, as set out in the Payment Claim submitted by the Operator to the PRO in accordance with clause 10.4(a).
- (c) The Handling Fee for each Operating Region will be reviewed at the end of the Operating Period as part of the Review Procedure set out in clause 5.1.
- (d) The Handling Fee set out in this section 1.3 is exclusive of GST.

1.4 Payment adjustment

- (a) From time to time, a payment adjustment may be made to the Refund Amount and Fee to account for:
 - (i) any discrepancies between the number of Containers by Material Type set out in a previous Payment Claim and the actual number of Containers by Material Type as determined by the PRO's audit and verification processes consistent with clause 12.1;
 - (ii) any adjustments to an Invoice made by the Operator where a discrepancy between the number of Containers by Material Type is identified;
 - (iii) any other Fee payable by the Operator to the PRO; or
 - (iv) any other circumstances where an auditor engaged by or on behalf of the PRO for the purposes of undertaking an audit or review of the Services and the Operator's compliance with its obligations under this Agreement determines that the Operator has been paid more or less than it was properly entitled to under this Agreement.

Payment Calculation - Worked Example

The parties acknowledge that the worked example below is for illustrative purposes only and:

- (a) is solely intended to assist the parties to undertake the calculations referred to in this Schedule;
- (b) does not form part of this Agreement; and
- (c) will not be used as a contractual reference for the purposes of interpreting this Agreement.

The Payment Claim for a given Operating Week provided the following details:

- Region: Region 1
- Handling Fee for Region 1: \$0.05 per Container
- Containers Collected:
 - Aluminium: 30,000 Containers
 - PET: 38,000 Containers
 - Glass: 30,000 Containers
 - LPB: 1,000 Containers
 - HDPE: 1,000 Containers
 - TOTAL 100,000 Containers
- Containers redeemed through Scheme Accounts: 80,000 Containers

Based on this Payment Claim, the total amount payable for the Operating Week is calculated below:

$$\text{Total amount payable to Operator} = RA + HFP + Adj + GST + In$$

(which includes the Refund Amount plus the Fee)

$$\begin{aligned}
 RA &= \$0.1 \times \text{Containers redeemed in cash or cash equivalent} \\
 &= \$0.1 \times 20,000 \\
 &= \$2,000 \text{ (GST incl), paid by the PRO as agent for the Processing Service Provider} \\
 HFP &= \$0.05 \times \text{Total Containers} \\
 &= \$0.05 \times 100,000 \\
 &= \$5,000 \\
 Adj &= Nil \\
 GST &= (HFP + Adj) \times (GSTr) \\
 &= (\$5,000 + Nil) \times 0.1 \\
 &= \$500
 \end{aligned}$$

Where GSTr is the rate of GST to be applied (as set by legislation, currently at 10%) payable in accordance with clause 25 of this Agreement on the Fee in respect of the Operational Services.

$$In = Nil$$

$$\begin{aligned}
 \text{Total amount payable} &= RA + HFP + Adj + GST + In \\
 &= \$2,000 + \$5,000 + \$500 \\
 &= \$7,500
 \end{aligned}$$

2 Payment terms

2.1 Payment Claim

- (a) A valid Payment Claim:
 - (i) must set out or attach sufficient details, calculations and supporting documentation, including the number of Containers collected during the Operating Week by Material Type, in regard to the amounts claimed by the Operator to enable the PRO to fully and accurately determine the amount payable by the PRO to the Operator;
 - (ii) must be submitted through the IT Platform, or if agreed otherwise by the PRO, be set out in a format and include the information requirements as specified by the PRO. For the avoidance of doubt, the PRO will not unreasonably withhold consent to submission of a valid Payment Claim in an alternate format if the Operator is not able submit a valid Payment Claim through the IT Platform, other than in circumstances where the Operator has caused or contributed to the event or circumstance resulting in their inability to submit the Payment Claim through that platform; and
 - (iii) without limiting paragraph (ii), must comply with the requirements for a claim for payment for Containers collected under section 99ZB(2) of the Act.
- (b) The Operator is responsible for ensuring the accuracy and integrity of the Payment Claim.

2.2 Interest payment

- (a) Where the PRO fails to pay the Operator on time in accordance with this section 2 and clause 10, the PRO will be liable to pay the Operator interest on any overdue payments at the Default Interest Rate as set out in this Agreement.
- (b) The interest payment payable in respect of an overdue payment by the PRO to the Operator is determined according to the following formula:

$$I_n = \left(\text{Amount} * \frac{i}{365} \right) \times n$$

Where:

Amount= the overdue amount;

i = The Default Interest Rate expressed in percentage per annum terms;

n = The number of days whereby the PRO has failed to pay the Amount to the Operator beyond the payment terms in accordance with this section 2.

- (c) For the avoidance of doubt, interest will not be payable by the PRO to the Operator where the PRO has determined that the Payment Claim submitted by the Operator is not a valid or complete Payment Claim.

3 Indexation

- (a) The Handling Fee for the relevant Operating Region where the Refund Point is located, as set out in Schedule 5 will be indexed according to paragraph (b) each year, with the first indexation adjustment to be applied on the next 1 July following the Effective Date.
- (b) The items listed in paragraph (a) will be indexed on an annual basis by the Consumer Price Index (**CPI**), being the percentage change between the 'all groups' – Brisbane CPI

as at the end of the March Quarter in the previous year and the end of the March Quarter of the current year, as shown on the Australian Bureau of Statistics website.

- (c) If the CPI referred to in paragraph (b) is suspended or discontinued or the basis of calculating that index is changed substantially, the PRO may nominate a replacement index which reflects similar cost fluctuations in a similar geographic area.
- (d) Indexation does not apply to any components of the Fee that are not listed in paragraph (a).

Schedule 5

Handling Fees by Operating Region

The table below sets out the Handling Fee applicable for each Operating Region.

Operating Region	Handling Fee (excl GST)
1 Greater Brisbane	\$0.0680 per Container*
2 Gold Coast	\$0.0680 per Container*
3 Sunshine Coast	\$0.0680 per Container*
4 South East	\$0.0680 per Container*
5 Darling Downs	\$0.0709 per Container*
6 Wide Bay	\$0.0709 per Container*
7 Fitzroy	\$0.0709 per Container*
8 Mackay	\$0.0709 per Container*
9 Townsville	\$0.0680 per Container*
10 Cairns	\$0.0709 per Container*
11 South West	\$0.0709 per Container*
12 Central Queensland	\$0.0709 per Container*
13 North Queensland	\$0.0709 per Container*
14 Far North Queensland	\$0.0709 per Container*

[USAGE NOTE: BELOW FOOTNOTE TO BE USED WITH CCAs DUE FOR EXECUTION IN EARLY/MID 2023, THEN TO BE DELETED FROM TEMPLATE CCA]

*To be indexed according to clause 3 paragraph (b) of Schedule 4, with the first indexation adjustment to be applied on 1 July 2023, such that the Handling Fee that applies on the Effective Date will be the above amount as adjusted at 1 July 2023.

Schedule 6

Operating Regions

For the purposes of this Agreement and as at the Effective Date, Operating Regions mean those Local Government Areas (as defined by the Department of Local Government, Racing and Multicultural Affairs) (the **Department**) set out in Table 1 below.

The Operator acknowledges that the Department may, in its discretion, amend or redefine the Local Government Areas. In this event the PRO may (in its sole discretion) amend or redefine the Operating Regions to ensure that each Operating Region continues to cover a similar geographic area when compared to the Operating Regions as at the Effective Date.

Table 1

Operating Region	Local Government Area
1 Greater Brisbane	Brisbane
1 Greater Brisbane	Ipswich
1 Greater Brisbane	Logan
1 Greater Brisbane	Moreton Bay
1 Greater Brisbane	Redland
2 Gold Coast	Gold Coast
3 Sunshine Coast	Noosa
3 Sunshine Coast	Sunshine Coast
4 South East	Locker Valley
4 South East	Scenic Rim
4 South East	Somerset
5 Darling Downs	Southern Downs
5 Darling Downs	Toowoomba
5 Darling Downs	Western Downs
6 Wide Bay	Bundaberg
6 Wide Bay	Cherbourg
6 Wide Bay	Fraser Coast

Operating Region	Local Government Area
6 Wide Bay	Gympie
6 Wide Bay	North Burnett
6 Wide Bay	South Burnett
7 Fitzroy	Banana
7 Fitzroy	Central Highlands
7 Fitzroy	Gladstone
7 Fitzroy	Livingstone
7 Fitzroy	Rockhampton
7 Fitzroy	Woorabinda
8 Mackay	Isaac
8 Mackay	Mackay
8 Mackay	Whitsunday
9 Townsville	Burdekin
9 Townsville	Charters Towers
9 Townsville	Hinchinbrook
9 Townsville	Palm Island
9 Townsville	Townsville
10 Cairns	Cairns
10 Cairns	Cassowary Coast
10 Cairns	Mareeba
10 Cairns	Tablelands
10 Cairns	Yarrabah
11 South West	Balonne

Operating Region	Local Government Area
11 South West	Bulloo
11 South West	Goondiwindi
11 South West	Maranoa
11 South West	Murweh
11 South West	Paroo
11 South West	Quilpie
12 Central Queensland	Barcaldine
12 Central Queensland	Barcoo
12 Central Queensland	Blackall Tambo
12 Central Queensland	Diamantina
12 Central Queensland	Longreach
12 Central Queensland	Winton
13 North Queensland	Boulia
13 North Queensland	Burke
13 North Queensland	Carpentaria
13 North Queensland	Cloncurry
13 North Queensland	Doomadgee
13 North Queensland	Flinders
13 North Queensland	McKinlay
13 North Queensland	Mornington
13 North Queensland	Mount Isa
13 North Queensland	Richmond
14 Far North Queensland	Aurukun

Operating Region	Local Government Area
14 Far North Queensland	Cook
14 Far North Queensland	Croydon
14 Far North Queensland	Douglas
14 Far North Queensland	Etheridge
14 Far North Queensland	Hope Vale
14 Far North Queensland	Kowanyama
14 Far North Queensland	Lockhart River
14 Far North Queensland	Mapoon
14 Far North Queensland	Napranum
14 Far North Queensland	Northern Peninsula Area
14 Far North Queensland	Pormpuraaw
14 Far North Queensland	Torres
14 Far North Queensland	Torres Strait Island
14 Far North Queensland	Weipa
14 Far North Queensland	Wujal Wujal

Schedule 7

Service Delivery Level Regime

1 Service Delivery Level Regime

1.1 Service Delivery Level Failures

Section 2 sets out the Service Delivery Level Measures, how they are measured and the period in which they are assessed.

1.2 Reporting

The Operator must report Service Delivery Level Failures within 24 hours of occurrence to the PRO.

1.3 Explanation of section 2

In section 2:

- (a) each Service Delivery Level Failure is identified by a unique reference number which should be used by the Operator in all reporting of Service Delivery Level Failures. The unique reference number is set out in the column headed "No.";
- (b) the column headed "Service Delivery Level Measure", sets out the actual Service Delivery Level Measure;
- (c) the column headed "Measurement", explains some of the tools that will be used to assess whether the Service Delivery Level Measure has been contravened. The PRO reserves the right to use other tools and mechanisms to assess a Service Delivery Level Failure where reasonable;
- (d) the column headed "Service Delivery Level Assessment Period", sets out the period over which a Service Delivery Level Failure will be assessed. For example where it says "weekly" the assessment will be made once a week, "monthly" once a month etc.;

2 Service Delivery Level Table

No.	Service Delivery Level Measure	Measurement	Service Delivery Level Assessment Period
PF1	Operator Refund Point availability The Operator must ensure that each Operator Refund Point operates for the published Trading Hours for that Operator Refund Point.	By verified complaint or by audit outcome.	Monthly
PF2A	Customer Complaints The Operator must ensure that all Customer complaints or disputes are responded to in a timely manner.	All complaints and disputes to be responded to within 5 Business Days	Monthly
PF2B	Customer Complaints The Operator must take reasonable steps to resolve the complaint or dispute (and provide supporting evidence to demonstrate this).	By verified complaint, evidence of reasonable steps to be provided by 5 Business Days; PRO to review and assess accordingly	Monthly
PF3	Customer Experience The Operator must display all marketing, branding materials and required notices as directed by the PRO at each Operator Refund Point.	Various including by audit or verified complaint. Operator will be provided with a period of 5 Business Days after initial incidence of non-compliance identified before Service Delivery Level Measure again assessed.	Monthly
PF4	Data and reporting The Operator must submit all data, reports, declarations and any other information to the PRO when due in accordance with the Services Specification.	When data, report, declaration or information is due to be submitted.	Monthly
PF5	Data and reporting The Operator must ensure that all data, reports, declarations and any other information required to be provided in accordance with the Services Specification are accurate in all material respects.	PRO determination.	Monthly

Schedule 8

Form of Parent Company Guarantee

Parent Company Guarantee

Date:

Parties: [Parent Guarantor] (ACN [*] or country of incorporation if the Parent Guarantor is not an Australian company) of [*] (the **Parent Guarantor**).

Container Exchange (QLD) Limited (ACN 622 570 209) of Level 25, 480 Queen St., Brisbane QLD 4000 (the **PRO**).

[Operator] (ACN [*]) of [*] (the **Operator**).

1 Definitions

1.1 Capitalised terms in this Parent Company Guarantee have the meaning given in clause 1.1 of the Agreement unless otherwise defined below.

Agreement means the Container Collection Agreement dated on or about the date of this Parent Company Guarantee between the PRO and the Operator.

Related Entity of an entity means another entity which is related to the first within the meaning of section 50 of the Corporations Act or is in any economic entity (as defined in any approved accounting standard) which contains the first.

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

2 Guarantee

2.1 Subject only to the provisions of this Parent Company Guarantee, the Parent Guarantor unconditionally and irrevocably guarantees to the PRO the due and punctual performance and observance by the Operator of its obligations under the Agreement, including the obligation to perform the Services in accordance with the Agreement.

2.2 Nothing in this Parent Company Guarantee restricts or otherwise affects the rights of the PRO under the Agreement.

3 Indemnity

3.1 As a separate undertaking, subject only to the provisions of this Parent Company Guarantee, the Parent Guarantor unconditionally and irrevocably indemnifies, and must keep indemnified, the PRO against any Claims against, or costs, losses, damages or liabilities suffered or incurred by the PRO to the extent that the Operator is liable to the PRO under the Agreement, including a breach of the obligation to perform the Services in accordance with the Agreement. It is not necessary for the PRO to incur expense or make payment before enforcing that right of indemnity.

3.2 The indemnity in clause 3.1 survives the termination of this Parent Company Guarantee.

3.3 The Parent Guarantor will make any payment under the indemnity in clause 3.1 on demand in writing by the PRO.

4 Completion undertaking

If the PRO is entitled to terminate the Agreement, and the PRO gives the Parent Guarantor a written notice under this clause 4, then the Parent Guarantor must perform the Operator's obligations under the Agreement.

5 **Interest**

The Parent Guarantor must pay interest on any amount payable under this Parent Company Guarantee from the time the amount becomes due for payment until it is paid in full at the rate which is the 90 day Bank Bill Swap Reference Rate (Average Bid) as published in the Australian Financial Review on the day the amount became due for payment.

6 **Enforcement of rights**

The Parent Guarantor waives any right it has of first requiring the PRO to commence proceedings or enforce any other right against the Operator or any other person before claiming under this Parent Company Guarantee.

7 **Continuing security**

This Parent Company Guarantee is a continuing security and is not discharged by any one payment or any one act.

8 **Guarantee not affected**

The obligations and liabilities of the Parent Guarantor under this Parent Company Guarantee as a guarantor, indemnifier or debtor and the rights of the PRO under this Parent Company Guarantee will not be released, discharged, affected, varied or limited by any matter or thing which might otherwise affect them at law or in equity including, one or more of the following:

- (a) the granting of any time, indulgence or other concession to the Operator or any delay in the enforcement of any right by the PRO;
- (b) acquiescence, delay, acts, omissions or mistakes on the part of the PRO;
- (c) any change in the relationship between the Parent Guarantor and the Operator;
- (d) any novation of a right of the PRO or any assignment of any right or interest of the Operator or the PRO in the Agreement;
- (e) any Variation;
- (f) any variation, amendment or termination of the Agreement;
- (g) the invalidity, illegality or unenforceability of an obligation or liability of a person other than the Parent Guarantor; or
- (h) the Operator being insolvent.

9 **Suspension of Parent Guarantor's rights**

The Parent Guarantor may not, without the consent of the PRO:

- (a) raise a set-off or counterclaim available to it against the PRO in reduction of its liability under this Parent Company Guarantee; or
- (b) claim to be entitled by way of contribution, indemnity, subrogation, marshalling or otherwise to the benefit of any security or guarantee held by the PRO in connection with the Agreement.

10 **Reinstatement of Guarantee**

If a claim that a payment or transfer to the PRO in connection with the Agreement or this Parent Company Guarantee is void or voidable (including, a claim under laws relating to liquidation, insolvency or protection of creditors) is upheld, conceded or compromised, then the PRO is

entitled immediately as against the Parent Guarantor to the rights to which it would have been entitled under this Parent Company Guarantee if the payment or transfer had not occurred.

11 Representations and warranties

The Parent Guarantor warrants that:

- (a) it has been incorporated as a company limited by shares in accordance with the laws of its place of incorporation, is validly existing under those laws and has power and authority to carry on its business as it is now being conducted;
- (b) it has power to enter into this Parent Company Guarantee and comply with its obligations under it;
- (c) this Parent Company Guarantee and the transactions under it which involve it do not contravene its constituent documents (if any) or any law or obligation by which it is bound or to which any of its assets are subject or cause a limitation on its powers (or, to the extent applicable, the powers of its directors) to be exceeded;
- (d) it has in full force and effect the authorisations necessary for it to enter into this Parent Company Guarantee, to comply with its obligations and exercise its rights under it, and allow it to be enforced; and
- (e) its obligations under this Parent Company Guarantee are valid and binding and, subject to any laws relating to insolvency, are enforceable against it in accordance with its terms.

12 Costs

12.1 The Parent Guarantor must pay or reimburse the PRO on demand for:

- (a) the PRO's costs, charges and expenses in making, enforcing and doing anything in connection with this Parent Company Guarantee including, legal costs and expenses reasonably incurred; and
- (b) all stamp duties, fees, taxes and charges which are payable in connection with this Parent Company Guarantee or a payment, receipt or other transaction contemplated by it.

12.2 Money paid to the PRO by the Parent Guarantor must be applied first against payment of costs, charges and expenses under this clause then against other obligations under the guarantee and indemnity.

12.3 To the extent that any monies payable under any other clause of this Parent Company Guarantee are regarded for the purposes of any law relating to GST as consideration (in whole or in part) for a taxable supply, the party paying must pay an additional amount to the receiving party calculated by multiplying the consideration for the supply by the prevailing GST rate. For the purposes of this clause 12.3, GST is defined as a goods and services tax, as governed by the GST Legislation.

13 Notices

- (a) Any notice, consent, approval or other communication under this deed must be:
 - (i) in writing;
 - (ii) delivered by hand or by mail to the address, or sent by email to the email address, shown below:
 - (A) to the PRO:

Address: [*]

For the attention of: [*]

- Email: [*]
- (B) to the Parent Guarantor:
 - Address: [*]
 - For the attention of: [*]
 - Email: [*]
- (C) to the Operator:
 - Address: [*]
 - For the attention of: [*]
 - Email: [*]
- (iii) marked with the following title:
 - Parent Company Guarantee
- (b) A notice is given on the day that:
 - (i) it is delivered to the addressee; or
 - (ii) if sent by email, when it is dispatched by the sender to each of the email addresses specified by the recipient.
- (c) A party may, from time to time, notify the other parties (if applicable) of any change to its details in clause 13(a)(ii).

14 **Governing law**

- (a) The law of this deed is the law in force in Queensland, Australia.
- (b) The parties submit to the jurisdiction of the courts of Queensland, Australia.

15 **Confidentiality**

- (a) The PRO agrees not to disclose information provided by the Parent Guarantor that is not publicly available except:
 - (i) in connection with any person exercising rights or dealing with rights or obligations under the Agreement (including in connection with preparatory steps such as negotiating with any potential assignee or potential participant of the PRO's or other person who is considering contracting with the PRO in connection with the Agreement);
 - (ii) to PRO Personnel, auditors, legal and other advisers of the PRO;
 - (iii) to any Related Entity of the PRO, provided the recipient agrees to act consistently with this clause 15;
 - (iv) to the members and directors of the PRO and its Related Entities; or
 - (v) as required by any law or stock exchange or Regulatory Authority.
- (b) The Parent Guarantor consents to disclosures made in accordance with this clause 15.

16 **Electronic Signature and counterparts**

This clause permits the execution of this deed by the use of Electronic Signatures in accordance with the following:

- (a) the parties consent to this deed being signed by or on behalf of a party by an Electronic Signature in any number of counterparts in the English language which together will constitute the one and the same document;
- (b) the parties may execute this deed under section 127 of the Corporations Act by the requisite number of its officers electronically signing this deed;
- (c) where this deed is electronically signed by or on behalf of a party, the party warrants and agrees that the Electronic Signature has been used to identify the person signing and to indicate that the party intends to be bound by the Electronic Signature;
- (d) each party consents to the exchange of counterparts of this deed by delivery by email or such other electronic means as may be agreed in writing; and
- (e) each party must upon request promptly deliver a physical counterpart of this deed with the handwritten signature or signatures of the party and all written evidence of the authority of a person signing on their behalf, but a failure to comply with the request does not affect the validity of this deed.

17 **Limitation on Parent Guarantor's liability**

Notwithstanding any other provision of this deed, the aggregate of the liability of the Parent Guarantor to the PRO under this deed is limited to \$[Value to be equal to \$25,000 per Operator Refund Point] which will be increased by [insert increase mechanism - fixed \$ amount or % increase] for each additional Operator Refund Point added to the Agreement after the date of this deed. The liability of the Parent Guarantor ceases 12 months from the expiry of the Term.

Executed and delivered as a deed

Executed in accordance with section 127 of the *Corporations Act 2001* (Cth) by **Container Exchange (QLD) Limited** (ACN 622 570 209):

Director Signature

Director/Secretary Signature

Print Name

Print Name

[Use this execution clause if the Parent Guarantor is an Australian company. If it is a foreign company, replace this execution clause with an appropriate execution clause to be provided by the foreign company.]

Executed in accordance with section 127 of the *Corporations Act 2001* (Cth) by **[insert name and ACN of Parent Guarantor]**:

Director Signature

Director/Secretary Signature

Print Name

Print Name

Executed in accordance with section 127 of the *Corporations Act 2001* (Cth) by **[insert name of Operator]**:

Director Signature

Director/Secretary Signature

Print Name

Print Name

Schedule 9 Vouchers

1 Application

This Schedule 9 applies where Refund Amounts are made by way of Vouchers.

2 Voucher records

The Operator must prepare and maintain auditable records to document:

- (a) each Voucher issued by or on behalf of the Operator, including the date of issue and the value of each Voucher;
- (b) each Voucher issued by or on behalf of the Operator that has been redeemed;
- (c) each Voucher issued by or on behalf of the Operator that has yet to be redeemed and has yet to expire; and
- (d) each Voucher issued by or on behalf of the Operator that has not been redeemed and has expired.

3 Refund Amounts

- (a) Upon payment by the PRO to the Operator of the Refund Amount in relation to which a Voucher has been issued by the Operator (under this Agreement or any new Container Collection Agreement entered into upon expiry of the Term), the Operator must pay an amount equal to the Refund Amount (**Voucher Refund Amount**) into either:
 - (i) a separate interest bearing trust account with an authorised deposit taking institution (within the meaning of the *Banking Act 1959* (Cth)) (**Trust Account**);
 - (ii) a separate bank account with an authorised deposit taking institution within the meaning of the *Banking Act 1959* (Cth) (**Bank Account**); or
 - (iii) a separate ledger code in the Operator's accounting system (**Ledger Account**), as approved by the PRO, to be held by the Operator on trust for the PRO until an amount equal to that Refund Amount is:
 - (iv) paid to the PRO in accordance with section 4 of this Schedule 9; or
- (b) paid to a person presenting an unexpired Voucher for redemption in accordance with the conditions of issue of the Voucher. The PRO will be entitled to any interest which accrues on the Voucher Refund Amount, less any applicable taxes and charges payable, in respect of the Trust Account in which the Voucher Refund Amount is held, including any tax deducted from such account because of failure to supply a tax file number (**Interest**) and any tax credit will belong to the PRO. No interest will be required to be accrued on a Bank Account or Ledger Account.

4 Provision of records, audit and repayment to the PRO

- (a) By 31 July each year, the Operator must provide to the PRO a written reconciliation of:
 - (i) either the Trust Account balance, the Bank Account balance or the Ledger Account balance;
 - (ii) all Vouchers issued by or on behalf of the Operator;
 - (iii) all amounts paid in and out of the Trust Account, Bank Account or Ledger Account;
 - (iv) each Voucher issued by or on behalf of the Operator that has been redeemed;

- (v) each Voucher issued by or on behalf of the Operator that has yet to be redeemed and has yet to expire;
- (vi) each Voucher issued by or on behalf of the Operator that has not been redeemed and has expired;
- (vii) financial statements signed by an accountant or auditor, which verify the amount held in the Trust Account, Bank Account or Ledger Account; and
- (viii) all Interest (if any),

(Reconciliation).

- (b) For the avoidance of doubt, the PRO's rights of access and audit under clause 12 apply to all records relating to Vouchers and the Trust Account, Bank Account or Ledger Account.
- (c) If a Reconciliation or an audit undertaken by or on behalf of the PRO discloses that there are Voucher Refund Amounts in the Trust Account, Bank Account or Ledger Account that relate to Vouchers that have expired and have not been redeemed, those Voucher Refund Amounts must be repaid by the Operator to the PRO within one month of the Reconciliation or audit (as applicable), which amount must be paid out of the Voucher Refund Amount in the Trust Account, Bank Account or Ledger Account (if any).
- (d) If a Reconciliation or an audit undertaken by or on behalf of the PRO discloses that there is any Interest in the Trust Account, that Interest must be paid by the Operator to the PRO within one month of the Reconciliation or audit (as applicable).
- (e) If following the date of termination or expiration of this Agreement and regardless of whether a new Container Collection Agreement is entered into to replace this Agreement, a Reconciliation or an audit undertaken by or on behalf of the PRO discloses that there are Voucher Refund Amounts in the Trust Account, Bank Account or Ledger Account that relate to Vouchers that have expired and have not been redeemed, those Voucher Refund Amounts plus any interest accrued must be repaid by the Operator to the PRO within one month of the Reconciliation or audit (as applicable).

5 Third party agreements

Section (c) of Schedule 9 applies irrespective of any agreement the Operator may have with a third party in respect of Vouchers.

6 Australian Consumer Law

If the *Competition and Consumer Law Act 2010* (Cth) schedule 2 (**Australian Consumer Law**) is amended and the amendment alters the expiry date of Vouchers issued by or on behalf of the Operator, the expiry date of the Vouchers will be altered in accordance with the amendment.

Appendix A

Mobilisation Plan

To be appended if approved by the PRO prior to the Effective Date otherwise the terms of clause 9.2(c) apply.

Executed as an agreement

Executed in accordance with section 127 of the *Corporations Act 2001* (Cth) by **Container Exchange (QLD) Limited** (ACN 622 570 209):

Director Signature

Director/Company Secretary Signature

Print Name

Print Name

Date

[USER NOTE: Use this clause for an Australian company with multiple officers. Delete execution clause if not applicable.]

Executed in accordance with section 127 of the *Corporations Act 2001* (Cth) by #**[Insert company name]**# #**[Insert ACN/ABN]**#:

Director Signature

Director/Company Secretary Signature

Print Name

Print Name

Date

[USER NOTE: Use this clause for an Australian company with a sole director who is also the company secretary. Delete execution clause if not applicable.]

Executed in accordance with section 127 of the *Corporations Act 2001* (Cth) by #**[Insert company name]**# #**[Insert ACN/ABN]**#:

Sole Director and Company Secretary Signature

Print Name

Date

[USER NOTE: Use this clause for an Australian registered company with a sole director and there is no company secretary. Delete execution clause if not applicable.]

Executed in accordance with section 127 of the *Corporations Act 2001* (Cth) by #**[Insert company name]**# #**[Insert ACN/ABN]**#:

Sole Director Signature

Print Name

Date

[USER NOTE: Use this clause for an Australian company signing as trustee which has multiple officers. Delete execution clause if not applicable.]

Executed in accordance with section 127 of the *Corporations Act 2001* (Cth) by #**[Insert company name]**# #**[Insert ACN/ABN]**# in its capacity as trustee for #**[Insert trust name]**# #**[Insert trust ABN]**#:

Director Signature

Director/Company Secretary Signature

Print Name

Print Name

Date

[USER NOTE: Use this clause for an Australian company signing as trustee which has a sole director who is also the company secretary. Delete execution clause if not applicable.]

Executed in accordance with section 127 of the *Corporations Act 2001* (Cth) by #[Insert company name]# #[Insert ACN/ABN]# in its capacity as trustee for #[Insert trust name]# #[Insert trust ABN]#:

Sole Director and Company Secretary Signature

Print Name

Date

[USER NOTE: Use this clause for an Australian registered company signing as trustee which has a sole director and there is no company secretary. Delete execution clause if not applicable.]

Executed in accordance with section 127 of the *Corporations Act 2001* (Cth) by #[Insert company name]# #[Insert ACN/ABN]# in its capacity as trustee for #[Insert trust name]# #[Insert trust ABN]#:

Sole Director Signature

Print Name

Date

[USER NOTE: Use this execution clause if a Qld local government entity constituted under the Local Government Act 2009 (Qld) which delegates authority to its CEO to sign the document under s.236 and 257 of that Act. Delete execution clause if not applicable.]

Executed by #[Insert local government entity name]# #[Insert ABN]# pursuant to section 236 of the *Local Government Act 2009* (Qld):

Signature of Chief Executive Officer

Print Name

Date

Taav'n Clark

From: Joe Fitzgerald [REDACTED]
Sent: Monday, June 2, 2025 3:23 PM
To: Health, Environment and Innovation Committee
Cc: Natalie Roach
Subject: COEX org chart and clarification
Attachments: Network Operators by Region - May 2025.pdf; COEX Organisation Chart May 2025.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Add to Corro Reg & save in Obj

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Jodhi,

As requested, please find attached the COEX org chart and list of operators. I've also added a response below to clarify the difference in the 22.5 cents per container figure provided in an early fact sheet and the 20.3 cent figure in our submissions, as noted last week. Please let me know if this helps and if there is any further information we can provide.

The 22.5 cent figure relates to the cost per container recovered (CPCR) for containers recovered through the CRP Network only. This figure includes the 10-cent refund which is paid to the consumer and the full cost of recycling the container. The 20.3 cent cost per container recovered figure refers to the average cost for all containers recovered through the scheme which includes both containers recovered through the CRP network and also those recovered through the MRFs. The cost to the scheme of containers recovered through the MRFs is the 10-cent refund paid to the MRF when the MRF sells the recovered containers to a recycler. This lower cost of recovery through the MRFs reduces the overall average cost per container recovered from 22.5 to 20.3 cents per container. The recovery rate is calculated based on all containers recovered through the scheme, therefore the decision to utilise the total scheme CPCR was taken to align to the recovery rate calculation.

Kind regards,
Joe



Joe Fitzgerald

Executive General Manager Strategic Communications & Stakeholder Relations

[REDACTED]
[REDACTED]
Level 13, 295 Ann Street, Brisbane QLD 4000
www.containerexchange.com.au

Container Exchange acknowledges the Traditional Custodians of Country across Australia. We pay our respect to Elders past and present and to the continuation of the custodial, cultural and educational practices of Australia's First People.



COEX



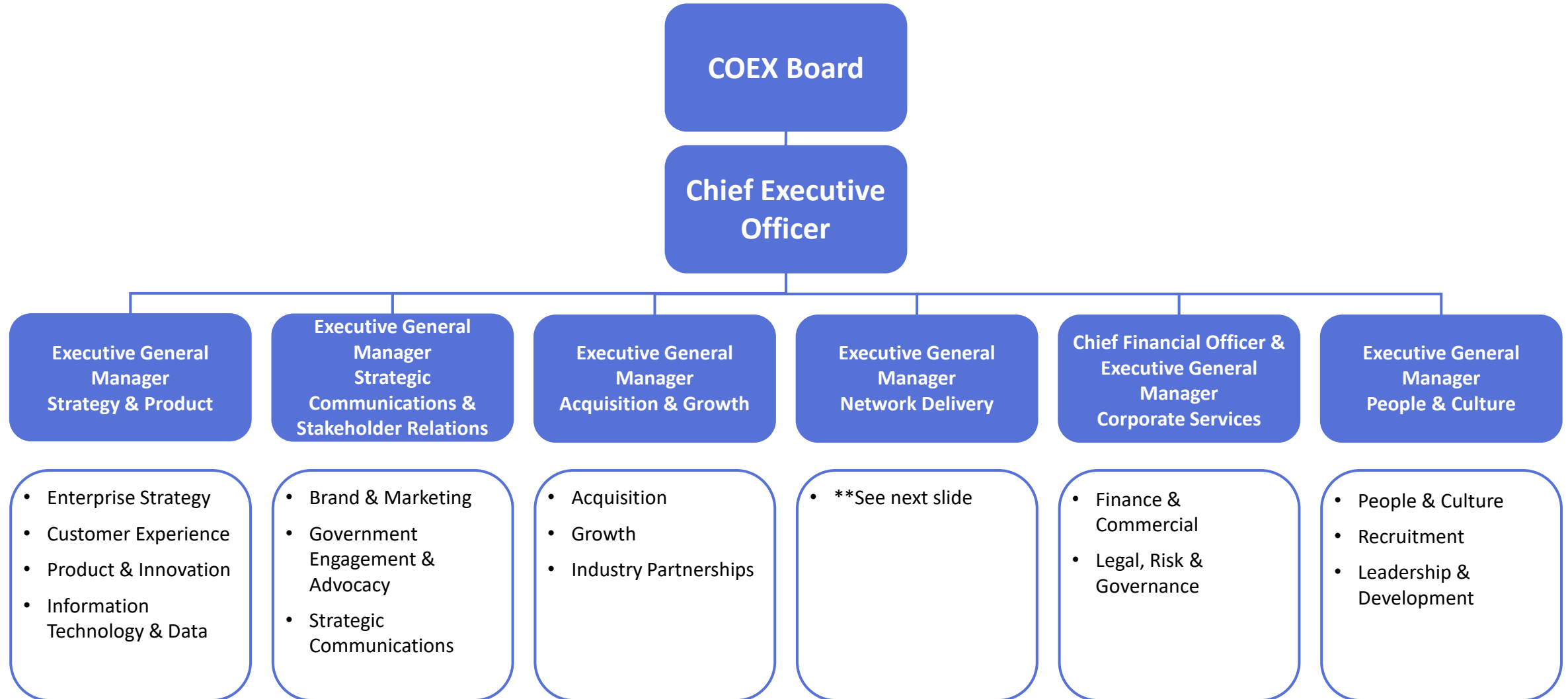
Share your eligible containers with a local cause
before June 30 and you could help them
win \$10,000.*

T&Cs apply*
Promotion ends 30 June 2025.

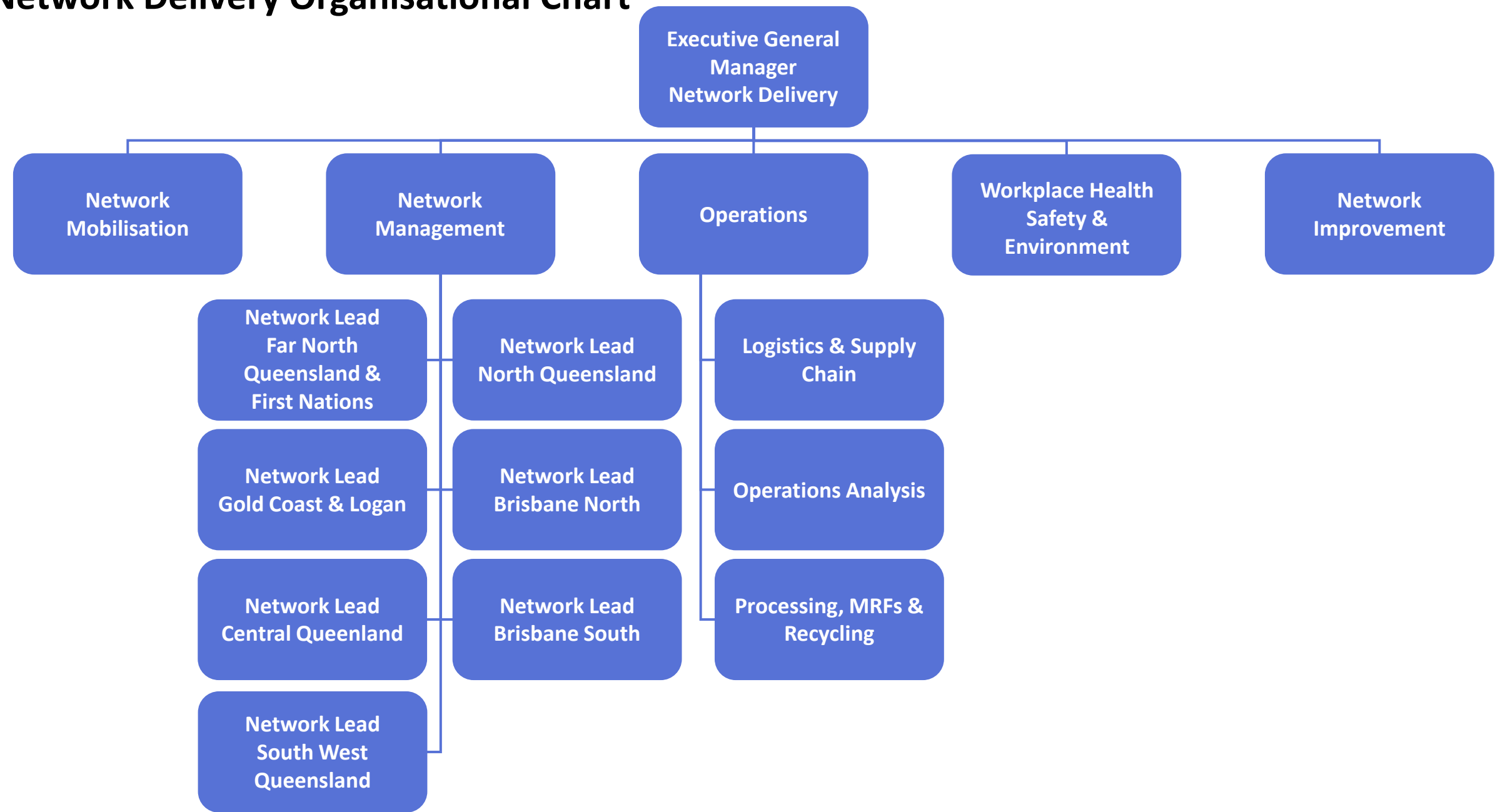


Please consider the environment before printing this email

Container Exchange Organisational Chart



Network Delivery Organisational Chart



Network Operators by Regions

Far North Queensland & First Nations
Auswaste - Archer River Roadhouse, Archer River
Auswaste - Aurukun
Auswaste - Ayton
Auswaste - Bamaga
Auswaste - Bramwell Junction Roadhouse, Shelburne
Auswaste - Coen
Auswaste - Cooktown
Auswaste - Hann River Roadhouse, Laura
Auswaste - Hope Vale
Auswaste - Injinoo
Auswaste - Lakeland
Auswaste - Laura Roadhouse, Laura
Auswaste - Lockhart River
Auswaste - Musgrave Roadhouse, Yarraden
Auswaste - Napranum
Auswaste - New Mapoon
Auswaste - Old Mapoon
Auswaste - PCYC Kowanyama
Auswaste - Punsand Bay
Auswaste - Recycling Shed Pormpuraaw
Auswaste - Rossville
Auswaste - Seisia
Auswaste - Umagico
Auswaste - Weipa
Auswaste - Wujal Wujal
Crystal Ailan - Badu Island
Gulf C4C - Burketown
Gulf C4C - Croydon
Gulf C4C - Doomadgee
Gulf C4C - Georgetown
Gulf C4C - Gregory
Gulf C4C - Karumba
Gulf C4C - Mount Surprise
Gulf C4C - Normanton
Mareeba Recycling - Mareeba
Mossman Port Douglas Senior Rugby League Club Incorporated - Mossman
Palm Island Aboriginal Shire Council - Palm Island
Palm Tree Recycling - Dimbulah
Palm Tree Recycling - Mareeba
Return-It - Atherton
Return-It - Malanda State School, Malanda
Torres Shire Council - Thursday Island
Yarrabah Aboriginal Shire Council - Yarrabah

North Queensland
Anything Environmental - Bloomsbury Rest Stop BP Service Station
Anything Environmental - Canelands Shopping Centre (1), Mackay
Anything Environmental - Canelands Shopping Centre (2), Mackay
Anything Environmental - Cannonvale
Anything Environmental - John Breen Park, Mackay
Anything Environmental - Mount Pleasant Shopping Centre, Mount Pleasant
Anything Environmental - Northern Beaches Bowls Club, Rural View
Anything Environmental - Paget
Anything Environmental - Proserpine
Anything Environmental - Seaforth
Anything Environmental - Walkerston
Birdsville Fuel Service - Birdsville
Boulia Camel Races - Boulia
Cairns Recycling - Bentley Park
Cairns Recycling - Gordonvale
Cairns Recycling - Kuranda
Cairns Recycling - Portsmith
Cairns Recycling - Smithfield
I&I Industries - Charters Towers
Mackay Recycling - Bag Drop
Mackay Recycling - Mackay Harbour
Mackay Recycling - RVM - Rural View
MAMS - Fairfield shopping centre
MAMS - Idalia
MAMS - Ingham
MAMS - Innisfail
MAMS - Julago
MAMS - Tully
Mt Isa Metal Recyclers - Mount Isa
MultiSkill Centre - Cloncurry
North Queensland Green Solutions - Ayr
North Queensland Green Solutions - Capella
North Queensland Green Solutions - Clermont Men's Shed, Clermont
North Queensland Green Solutions - Coppabella State School, Coppabella
North Queensland Green Solutions - Dysart
North Queensland Green Solutions - Gargett
North Queensland Green Solutions - Greenhill Transfer Station, Greenhill
North Queensland Green Solutions - Middlemount Hotel Motel, Middlemount
North Queensland Green Solutions - Nebo Community Sports and Recreation Club, Nebo
North Queensland Green Solutions - St Lawrence Transfer Station, St Lawrence
North Queensland Green Solutions - Tieri
North Queensland Green Solutions - Waste Transfer Station, Carmila
North Queensland Recycling Agents - Bungalow
Pilchers Recycling - Bowen
Pilchers Recycling - Collinsville
Recycle Well - Sarina
Reef Recycling - Bohle
Return It - Magnetic Island State School, Nelly Bay
Return-It - Condon
Return-It - Edge Hill State School, Edge Hill
Return-It - Garbutt
Return-It - Horseshoe Bay
Return-It - Manunda
Return-It - Moranbah
Return-It - Moranbah (bag drop only)
Return-It - Nelly Bay
Return-It - Paget
Return-It - Redlynch State College, Redlynch
Return-It - Townsville South State School, Townsville
Return-It - Trinity Bay State High School, Manunda
Return-It - Whitfield State School, Whitfield

Central Queensland
ABC Recycling - Bundaberg East
Biloela Recycling - Biloela
Bucks for Bottles - Duaringa Hotel
Bucks for Bottles - Mount Morgan
Central Queensland Container Refund - Emu Park
Central Queensland Container Refund - Yeppen
Cleanaway - Dundowran
Container Refund - Moura
Container Refund Capricorn Coast - Emu Park
Container Refund Capricorn Coast - Yeppoon
Container Refund Gracemere - Gracemere
Container Refund Rockhampton - Park Avenue
CQ Recycling - Agnes Water
CQ Recycling - Boyne Island
CQ Recycling - Bundaberg
CQ Recycling - Burnett Heads
CQ Recycling - Calliope
CQ Recycling - Gladstone
CQ Recycling - The Lighthouse Hotel, Burnett Heads
Express Recycling - Dundowran
Impact Community Services - Bundaberg
Impact Community Services - Qunaba
Mawhinney Container Company - Winton
Moore Park Beach Container Refund Point
North Burnett Recyclers - Burnett Hotel, Gayndah
North Burnett Recyclers - Eidsvold Bowls Club, Eidsvold
North Burnett Recyclers - Mulgildie
North Burnett Recyclers - Mundubbera Hotel, Mundubbera
Outwest Container Exchange - Longreach
Post Office - Kilkivan
Return-It - Emerald
Return-It - Emerald North State School, Emerald
Rosedale Hardware - Rosedale
Springsure Recycles - Springsure
The Refund Station - Blackwater
The Refund Station - Kawana
The Refund Station - Yeppen
True Value - Barcardine
True Value - Blackall
U Can Recycle - Bayside Christian Church, Pialba
U Can Recycle - Buxton General Store, Buxton
U Can Recycle - Childers
U Can Recycle - Craignish
U Can Recycle - Gin Gin Bowls Club, Gin Gin
U Can Recycle - Grand Hotel, Biggenden
U Can Recycle - Hervey Bay Sports Club, Torquay
U Can Recycle - Howard
U Can Recycle - Maryborough
U Can Recycle - Maryborough (Life Church)
U Can Recycle - Point Vernon
U Can Recycle - The Hideaway, Station Hotel Tiaro
U Can Recycle - Torquay Hotel, Torquay
U Can Recycle - Urangan
U Can Recycle - Woodgate Bowls Club, Woodgate

South West Queensland
Augathella pop-up
Beveridge Container Recycling - Redbank Plains
Beveridge Container Recycling - Redbank Plaza, Redbank
Beveridge Container Recycling - Yamanto
Cash for Cans - Condamine
Cash for Cans - Miles
Cash for Cans - Tara
Cash for Cans - Taroom
Cash for Cans - Wandoan
CFCNT - Harristown
CFCNT - Highfields
Chinchilla Container Cash
Citywide - Warwick
Community Co - Mount Tamborine
Community Co Recycling - Tivoli
Containers for Cash - North Toowoomba
E&E Waste - Dalby
E&E Waste - Goondwindi
E&E Waste - Inglewood
E&E Waste - Texas
E&E Waste - Toowoomba
Envirobank - Orion Springfield
Ferrvale Pop-up - Qld Container Recycling
Maranoa Container Refund - Injune
Maranoa Container Refund - Roma
Maranoa Container Refund - Surat
Maranoa Container Refund - Wallumbilla
Maranoa Container Refund - Yuleba
Michael White - Charleville
Pittsworth Metals - Pittsworth
Post Office - Oakey
QLD Container Recycling - Esk Pop-Up
QLD Container Recycling - Kilcoy Pop-Up
QLD Container Recycling - Kilcoy Refuse and Recycling Centre, Kilcoy
QLD Container Recycling - Laidley Transfer Station, Laidley Heights
QLD Container Recycling - Refuse and Recycling Centre, Harlin
QLD Container Recycling - Rising Sun Hotel, Rosewood
QLD Container Recycling - Walloon
QLD Container Recycling - Waste Transfer Station, Coominya
Quilpie Containers Exchange - Quilpie
Redivivus Resources - Cunnamulla
Reed Trading - Oakey
Reed Trading Company - Stanthorpe
Return-It - Gatton
Return-It - Goodna
Return-It - Ripley Valley State Secondary College, South Ripley
Return-It Tip Shop Gatton
RL & AP Mansfield Pty Ltd - Mitchell
Salvos Container Recycling - Bundamba
Salvos Container Recycling - Raceview Hotel, Raceview
Scenic Rim recycling - Aratula
Scenic Rim Recycling - Beaudesert
Scenic Rim Recycling - Boonah
Scenic Rim Recycling - Canungra
Scenic Rim Recycling - Kalbar
St George Lions Club - St George
Tomra Kiosk - Collingwood Park Shopping Centre, Collingwood Park
TOMRA Recycling Centre - Toowoomba
TOMRA Recycling Centre - West End

Brisbane North	Brisbane North cont.
Caboolture Container Recycling - Caboolture	TOMRA Kiosk - Arana Hills Plaza, Arana Hills
Caboolture Container Recycling - Morayfield Tavern, Morayfield	TOMRA Kiosk - Aspley Hypermarket, Aspley
Change Exchange - Beerwah	TOMRA Kiosk - Bracken Ridge
Change Exchange - Coolum Beach	TOMRA Kiosk - Carseldine Central, Carseldine
Change Exchange - Maleny	TOMRA Kiosk - Kallangur Fair, Kallangur
Change Exchange - Pomona	TOMRA Kiosk - Murrumba Downs Shopping Centre, Murrumba Downs
Change Exchange - Sunshine Homemaker Centre, Maroochydore	TOMRA Kiosk - Stafford City Shopping Centre, Stafford
Change Exchange - The Creek Tavern, Mountain Creek	TOMRA Kiosk - Taigum Square, Taigum
Change Exchange - Woombye Football Club, Woombye	TOMRA Kiosk - Westfield Chermside, Chermside
Cherbourg Aboriginal Shire Council - Blackbutt	TOMRA Recycling Centre - Geebung
Cherbourg Aboriginal Shire Council - Kingaroy	TOMRA Recycling Centre - Kunda Park
Cherbourg Aboriginal Shire Council - Nanango	U Can Recycle - Arana Hills
Cherbourg Aboriginal Shire Council - Yarraman	U Can Recycle - Aspley Hypermarket, Aspley
Cherbourg Recycling Centre - Cherbourg	U Can Recycle - Brendale
Community Co Recycling - Albion	U Can Recycle - Brookside Shopping Centre, Mitchelton
Community Co Recycling - Northshore	U Can Recycle - Glenwood
Community Co Recycling - Windsor	U Can Recycle - Rainbow Beach Community Centre - Rainbow Beach
Community Co Recycling - Windsor RVM, Windsor	U Can Recycle - Rivercity Family Church The Gap
Envirobank - Banyo	U Can Recycle - Tin Can Bay
Envirobank - Buderim	Urban Depot - Nambour
Envirobank - Cooroy	
Envirobank - Morayfield	
Express Recycling - Bongaree	
Express Recycling - Burpengary	
Express Recycling - Clontarf	
Express Recycling - Coles Peninsula Fair, Kippa Ring	
Express Recycling - Eumundi	
Express Recycling - Narangba	
Express Recycling - Noosaville	
Express Recycling - Tewantin	
Jaramac Recycling - Lawnton	
Noosa Council - Reviva Noosa Reuse Shop, Doonan	
Return-It - Araluen	
Return-It - Aspley Hypermarket, Aspley	
Return-It - Bounty Boulevard State School, North Lakes	
Return-It - Caloundra State Primary School, Caloundra	
Return-It - Enoggera	
Return-It - Glanmire	
Return-It - Kedron	
Return-It - Kurwongbah State School, Petrie	
Return-It - Lifeline, Margate	
Return-It - Narangba	
Return-It - Narangba Valley Tavern, Narangba	
Return-It - North Lakes	
Return-It - Nundah Primary State School	
Return-It - Sandgate District State High School, Deagon	
Return-It - Stafford State School, Stafford	
Return-It - West Caloundra	
Return-It - Westfield North Lakes, North Lakes	
Return-It - Windsor State School, Windsor	
Salvage & Recycle - Dayboro	
Salvage & Recycle - Samford Valley	
Sandgate Bottle & Can Exchange - Sandgate	
Sandgate Bottle and Can Exchange - Brighton	
Sandgate Bottles & Cans Exchange - Bracken Ridge	
Strong Street Recyclers - Baringa	
Strong Street Recyclers - Stockland Baringa Shopping Centre, Baringa	
The Bottle Community - Chancellors Tavern, Sippy Downs	
The Bottle Community - Goodlife Community Centre, Buderim	
The Bottle Community - Warana	
TOMRA Kiosk - Albany Creek Central, Albany Creek	

Brisbane South
Advanced Container Recyclers - Capalaba
Advanced Container Recyclers - Cleveland
Advanced Container Recyclers - Coles Kmart Plaza, Cannon Hill
Advanced Container Recyclers - Hemmant
Advanced Container Recyclers - Redland Bay
Advanced Container Recyclers - Wynnum Plaza Shopping Centre, Wynnum West
Advanced Metal Recyclers - Capalaba
Cleanaway - Hemmant
Cleanaway - Morningside
Community Co - Community Co - Kenmore Centenary Rugby Club, Kenmore
Community Co - Coorparoo
Community Co - Kenmore Our Lady of Rosary
Community Co - Moggill
Community Co - The Bardon Bowls Club, Bardon
Containers for Change - Brisbane City
Exchange Depot - Sumner
Green Path Recycling - Meadowbrook
Heathwood Swap Save Recycling - Heathwood
Phamily Recycling - Great Hope Baptist Church, Inala
Phamily Recycling - Inala Baptist Church
QLD Container Recycling - Coles Rochedale
Recycle 4 Cash - MacGregor Home Centre, MacGregor
Recycle 4 Cash - Mansfield
Recycle 4 Cash - Mt Gravatt Plaza, Mount Gravatt
Recyclehere - Home Centre, Jindalee
Recyclehere - Star Liquor Warehouse, Sunnybank Hills
Recyclehere - The Glen Hotel, Eight Mile Plains
Recyclehere - Yeerongpilly
Return-It - Acacia Ridge
Return-It - Calamvale Special School, Calamvale
Return-It - Redland Bay
Return-It - Star Liquor Warehouse, Sunnybank Hills
Return-It - The Gap State High School
Return-It - Victoria Point
Return-It - Wests Junior AFL Club, Toowong
Running Wild Youth Conservation Culture Inc - Macleay Island
Running Wild Youth Conservation Culture Inc - Russell Island
Sandgate Bottle & Can Exchange - BNE Service Centre, Pinkenba
Sandgate Bottle & Can Exchange - DFO, Pinkenba
Substation 33 - Kingston (NEW)
Substation 33 - Shailer Park
TOMRA Kiosk - Moggill Village, Moggill
TOMRA Kiosk - Sunny Park Shopping Centre, Sunnybank
TOMRA Kiosk - Westfield Garden City, Upper Mount Gravatt
TOMRA Recycling Centre - Salisbury
TOMRA Recycling Centre - Seventeen Mile Rocks
TOMRA Recycling Centre - Tingalpa
TOMRA Recycling Centre - Varsity Lakes
TOMRA Recycling Centre - West Ipswich
U Can Recycle - Faith Works Coorparoo
U Can Recycle - Faith Works Norman Park

Gold Coast
Bottles & Cans - Arundel
Browns Plains Bottles & Cans - Browns Plains
Circulis - Chevron Renaissance
Circulis - Molendinar Aggregation Point
Circulis - Nerang Fair Shopping Centre
Circulis - Pavilion Shopping Centre, Palm Beach
Circulis - Q Super Centre - near Aldi
Circulis - Q Super Centre - near Coles
Circulis - Q Super Centre - near Woolworths
Circulis - Slacks Creek Aggregation Point
Circulis - The Mall Beenleigh
Community Co - Yarrabilba
Exchange Depot - Stapylton
Express Recycling - Carrara
Express Recycling - Currumbin Waters
Express Recycling - Elanora State High School, Elanora
Express Recycling - Main Beach
QLD Container Recycling - Crosslife, Upper Coomera
QLD Container Recycling - Loganholme
Return-It - Bethania
Return-It - Burleigh Heads, Dover Drive
Return-It - Chatswood Hills State School, Springwood
Return-It - Middle Green Sports Club, Greenbank
Return-It - Underwood
Return-It - Upper Coomera
Return-It - Yarrabilba Secondary College, Yarrabilba
Southport Bottles & Cans - Southport
The Exchange Shed - Flagstone State Community College, Flagstone
The Exchange Shed - Jimboomba
The Scout Association - Slacks Creek
TOMRA Kiosk - Ashmore Plaza, Ashmore
TOMRA Kiosk - Capri on Via Roma, Surfers Paradise
TOMRA Kiosk - Logan Central Plaza, Logan Central
TOMRA Kiosk - Mudgeeraba Market Shopping Centre, Mudgeeraba
TOMRA Kiosk - Oxenford Village, Oxenford
TOMRA Kiosk - Runaway Bay Shopping Village, Runaway Bay
TOMRA Kiosk - Stockland Burleigh Heads, Burleigh Heads
TOMRA Kiosk - The Pines Shopping Centre, Elanora
TOMRA Kiosk - Westfield Coomera, Coomera
TOMRA Kiosk - Westfield Helensvale, Helensvale
TOMRA Kiosk - Worongary Town Centre, Worongary
TOMRA Recycling Centre - Crestmead

Ongoing Conditions

No	Requirement
1	Container Exchange (Qld) Limited must at all times comply with the Act and any Regulation
2	PRO is to use its best endeavours to ensure that each person appointed or employed as an executive officer of the PRO is at all times an eligible individual
3	Whenever a person is proposed to be appointed or employed as an executive officer of PRO, that prior to the formal appointment of that person as an employee or officer of the company PRO must: (a) obtain a signed consent from that person to: (i) the collection of personal or background information about the person by the Chief ii) the undertaking of a criminal history check: (b) provide the duly completed signed consent to the Chief Executive; and (c) not appoint or employ on a permanent basis the relevant person as an executive officer of PRO until the Chief Executive has responded to the PRO confirming the suitability of the relevant person to be permanently appointed. However, a temporary or conditional appointment (subject to the satisfactory undertaking of the checks set out above) may be made by PRO while the Department is reviewing the material and the results of undertaking the criminal history check.
4	If the Chief Executive informs PRO that a person is considered to not be an eligible individual (as that term is defined under the Act) PRO must ensure that: (a) that person is not permanently appointed or employed as an executive officer by PRO; and (b) if that person has already been appointed or employed as an executive officer, their appointment or employment with PRO is to be terminated.
5	PRO must use its best endeavours to achieve the container recovery rates as specified in any Regulation made under the Act and to also ensure that the relevant rates are achieved by the dates specified in the Regulation.
6	PRO must use its best endeavours to establish the number of container refund points specified in any Regulation by the dates specified in the Regulation.
7	PRO must ensure that the initial loans provided by the members of PRO to support the establishment of the Scheme are repaid as soon as is commercially practicable and, in any event, no later than the dates that were specified in PRO's Application for appointment as the PRO under the Act.
8	If at any time an amendment is made to the constitution of PRO or a new constitution is adopted, PRO must immediately notify the Minister of then/a amendment or new constitution and provide the Minister with a copy of the amended or new constitution.
9	PRO must give notice to the Minister of any changes made to the terms of its standard form: (a) container recovery agreement; (b) container collection agreement; or (c) material recovery agreement, within 10 business days of the relevant change being made.

No	Requirement
10	PRO must give notice to the Minister of any changes made to: (a) any agreement between PRO and any other person for the subcontracting or provision of services to allow PRO to undertake some or all of the functions of the PRO under the Act or any Regulation; and (b) any loans or the terms thereof provided by the members of PRO to support the establishment of the Scheme within 10 business days of the change being made.
11	PRO must ensure that at all times: (a) it has suitable arrangements in place to protect the confidentiality of information obtained by PRO in its capacity as the PRO; (b) any confidential information obtained by PRO is only to be used in accordance with the confidentiality arrangements that have been put in place by PRO; and (c) it notifies the Minister of any changes it has made to its policies for handling commercial or sensitive information (and in particular about the beverage market) within 10 business days of the changes being made.
12	PRO upon becoming aware that any information contained in its Application for appointment as the PRO was materially false or in any way misleading must immediately give written notice in that regard to the Minister.
13	If the Chief Executive is required to review a recovery amount protocol in accordance with s.99ZK(4) of the Act, PRO must as soon as practicable give to the Chief Executive any information that is reasonably requested by the Chief Executive from PRO for the purposes of conducting the review.
14	If the Minister issues a show cause notice to the PRO under s.102X(3) of the Act that it is proposed to cancel PRO's appointment as the PRO, the Chief Executive may make a relevant written request to PRO to deliver to the Chief Executive by a specified date: (a) any documents that are in the possession of PRO, including copies of any container collection agreements, container recovery agreements and material recovery agreements; and (b) any other information or to provide any other assistance that is requested by the Chief Executive. The intention behind this condition is to help ensure the effective and continual administration of the Scheme under the Act.
15	COEX must have a board skills matrix (including in respect of directors who are appointed as nominees of the members of COEX), approved by the Minister.
16	COEX must adopt and comply with a director nomination policy, approved by the Minister.
17	COEX must establish and maintain a committee (or committees) of the board that has responsibility for: (a) managing the remuneration, nomination, succession and interviews of, at a minimum, directors (other than directors who are appointed as nominees of the members of COEX) and the company secretary; (b) without limiting (a), nominating persons for appointment as directors (other than for positions as directors who are appointed as nominees of the members of COEX) and the company secretary, including recommendations in respect of remuneration and terms of appointment of those persons; and

No	Requirement
	(c) the handling and management of complaints, including whistleblower complaints and issues raised via COEX's Speak Up policy (or any other similar policy, regardless of how it is titled). The committee (or committees) must be comprised of a majority of directors who are independent of the beverage industry (as defined in the Act). The committee (or committees) must each have a chair who is independent of the beverage industry but not the chair of the board. The chair of the board may be a member of the committee (or committees). In the event that the board makes a decision regarding the appointment or remuneration of a director (other than a director who is appointed as a nominee of a member of COEX) that is inconsistent with a recommendation made by a committee under this Condition 17, the board must give notice of the decision and the reasons for not accepting the committee's recommendation to the Chief Executive within 10 business days of the decision.
18	COEX must benchmark the remuneration of directors every three years.
19	COEX must ensure that an external, independent evaluation of the board's performance is conducted at least every two years, at the frequency directed by the Chief Executive in writing. Feedback from COEX senior executives/management must be sought as part of the evaluation. COEX must ensure that the results of the evaluation are provided to the Minister within 20 business days of COEX receiving the results.
20	Any provisions of the COEX Constitution relating to COEX's membership or directors may only be amended with the prior written approval of the Minister.
21	COEX must hold an AGM each year. The AGM must be held within 5 months of the end of COEX's financial year.
22	COEX must provide confirmation each year, in the form of a statement in its Annual Report, that: (a) COEX has a gifts and benefits policy for employees and Directors which complies with ACNC guidance; and (b) COEX has complied with the policy during the relevant year.
23	COEX must ensure that its Constitution does not require any director with a conflict of interest or material personal interest (excluding any interests within the meaning of s191(2)(a)(ii), (vi) or (vii) of the Corporations Act 2001 (Cth)) in a matter being considered by the board to be present to form a quorum when the matter is being considered or voted on by the board.
24	COEX must provide regular training to directors and senior executives/management of COEX on its policies relating to the use of confidential information
25	COEX must adopt and comply with a policy, approved by the Minister, dealing with the management of conflicts of interest. The policy must, at a minimum, require COEX to accurately record all conflicts of interest disclosed in board meetings, including in closed sessions.
26	COEX must not: (a) pay any fees to: (i) members of COEX; (ii) directors of COEX who are appointed as nominees of members or their employers; or (b) make any payments related to the service of the director who are appointed as nominees of members

No	Requirement
	unless approved by a majority of the independent directors.

Obligations of the PRO under the Act

No	Requirement
1	The PRO must not enter into a container recovery agreement with a manufacturer for a type of container unless the PRO is satisfied that ongoing, effective and appropriate arrangements for the container type to be collected, sorted and recycled are available.
2	The container recovery agreements entered into by the PRO must include: (a) provisions about the matters detailed in s.99Q(4) of the Act; and (b) the standard terms, about a matter mentioned in s.99Q(4) of the Act or another matter as prescribed by a Regulation.
3	A small beverage manufacturer (BM) must not, under a container recovery agreement, be required to pay an amount to contribute to the cost of the Scheme that is more than the amount worked out under a Regulation.
4	The container collection agreements entered into by the PRO must include: (a) provisions about the matters detailed in s.99ZA(1) of the Act; and (b) the standard terms, about a matter mentioned in s.99ZA(1) of the Act or another matter as prescribed by a Regulation.
5	The PRO must give a person an information notice if: (a) the person asks the PRO, in writing, to enter into a container collection agreement for the purpose of the person operating a container refund point; and (b) the PRO decides not to enter into a container collection agreement with the person. Where an information notice is required to be given under the Act it must include the information set out in the definition of "information notice" in the Schedule to the Act.
6	The PRO must pay the collection amount for the containers to the container refund point operators as required by the applicable container collection agreement.
7	The PRO must give a container refund point operator an information notice if the PRO decides that the collection amount claimed for containers is not payable under the container collection agreement.
8	Material recovery agreements must include: (a) provisions about the matters detailed in s.99ZF(2) of the Act; and (b) the standard terms, about a matter mentioned in s.99ZF(2) of the Act or another matter as is prescribed by a Regulation.
9	The PRO must give an operator of a material recovery facility an information notice if: (a) the operator asks the PRO, in writing, to enter into a material recovery agreement for the purpose of claiming recovery amounts for containers; and (b) the PRO decides not to enter into a material recovery agreement with the operator.
10	The PRO must pay the recovery amount for the quantity of containers to the operator of a material recovery facility as is required under the applicable material recovery agreement.
11	The PRO must give the operator of a material recovery facility an information notice if the PRO decides that the recovery amount claimed for the quantity of containers is not payable under the applicable material recovery agreement.

12	The PRO must keep an up-to-date register of approved containers. The register of approved containers must contain the details for each approved container, and the beverage product packaged in the container, as is set out in s.99ZM(3) of the Act. The register of approved containers must be kept as a searchable, public register.
13	At all times, the PRO must be an "eligible company" and; (a) be registered under the Corporations Act; (b) be carried on other than for the profit or gain of its individual members; (c) have a constitution that meets the requirements in s.102B(1)(c) of the Act; and (d) have a board comprised in accordance with s.102B(2) of the Act. If an event happens which makes the PRO no longer an "eligible company", the PRO must give a notice to the Chief Executive and that notice must include the PRO's plan and timetable for making the PRO an eligible company.
14	The PRO must comply with a direction from the Minister given in accordance with s.102ZE(1) of the Act.
15	The PRO must include in its annual report for a financial year prepared under s.102ZJ of the Act details of: (a) each direction given by the Minister under s.102ZE(1) of the Act in the year; and (b) action taken by the PRO in the year because of the direction.
16	The PRO must use its best endeavours to achieve an outcome prescribed under a Regulation that is made in accordance with s.102ZF(1) of the Act.
17	Before 31 March each year, the PRO must in the way prescribed by a Regulation, prepare and give to the Minister, the documents set out in s.102ZG(1) of the Act.
18	If, during a year, the PRO amends its budget, strategic plan or operational plan for that year, the PRO must give the amended budget, strategic plan or operational plan to the Minister within 10 business days after making the amendment.
19	The PRO must give to the Minister a report about its operations for each quarter in a financial year: (a) within 6 weeks after the end of the quarter; or (b) within any other period after the end of the quarter as is agreed between the PRO and the Minister. The quarterly report must include the information: (a) stated in the PRO's strategic plan; or (b) as prescribed by a Regulation
20	The PRO must give the Minister a report about its operations for each financial year by 30 September after the end of the financial year. The annual report must meet the requirements set out in s.102ZJ(3) of the Act.
21	The PRO must immediately inform the Minister about any matter that the PRO considers may: (a) prevent, or significantly affect, its achievement of the objectives in its strategic and operational plans or an outcome prescribed under s.102ZF of the Act; or (b) significantly impact on its performance of its functions, its financial position or viability, or public confidence in the integrity of the Scheme.
22	The PRO must comply with any requirement of the Minister to report to the Chief Executive in accordance with s.102ZL(2) of the Act.
23	The PRO must implement its plans for the matters set out in s.102ZM(1) of the Act as was stated in its application for appointment as the PRO.

24	The PRO must establish and operate a container refund point in a community if: (a) persons in the community do not have reasonable access to a container refund point; and (b) the PRO has not identified another person with whom it will enter into a container collection agreement to operate a container refund point in the community.
25	In each year, within 10 business days after the day that is the anniversary of the PRO's appointment, the PRO must give to the Chief Executive: (a) a notice about whether the PRO is, and has been during the previous year, an eligible company; and (b) a copy of the PRO's constitution.
26	The PRO must give a notice to the Chief Executive if any of the events set out in s102ZO(1) of the Act occur. If the PRO gives a notice that it is no longer an eligible company, the notice must include the PRO's plan and timetable for making the PRO an eligible company. If the PRO gives a notice about an event mentioned in s.102ZO(1)(d) or (f) of the Act, the notice must be accompanied by the signed consent of the person who is the subject of the notice to: (a) the collection of personal or background information about the person by the Chief Executive of the Department; and (b) a criminal history check.
27	The PRO must, within 20 days after receiving an internal review application made under s.176 of the Act: (a) conduct an internal review of the decision the subject of the application (the original decision); and (b) make a decision (the internal review decision) to confirm the original decision or amend the original decision or substitute another decision for the original decision.
28	The PRO must, then within 10 days after making an internal review decision, give the internal review applicant notice of the decision, If the internal review decision is not the decision sought by the internal review applicant, the notice must be accompanied by a QCAT information notice for the decision.