

# **British Columbia Used Oil Management Association (BCUOMA)**

## **Membership Agreement**

**JUNE 8, 2009**

## 1. Definitions

1.1 In this Membership Agreement, unless the context otherwise requires:

- (a) **Act** means the Environmental Management Act.
- (b) **Association** means the British Columbia Used Oil Management Association (BCUOMA).
- (c) **Brand-owner** means
  - (i) a person in British Columbia who is the owner or licensee of a trademark under which oil, oil containers or oil filters are sold or otherwise distributed in British Columbia, whether the trademark is registered or not, or
  - (ii) a person who brings into British Columbia oil, oil containers or oil filters for sale or other distribution in British Columbia.

For illustrative purposes, Brand-owners are further described in Appendix 4 to this Agreement.

- (d) **Director** means the director as set out in the Regulation.
- (e) **EHC** means the Environmental Handling Charge assessed by the Association.
- (f) **EHC Payment Schedule** means the Environmental Handling Charge (EHC) Payment Schedule as periodically issued by the Association and is attached to this Agreement as Appendix 2.
- (g) **Member** means a Brand-owner who is a member of the Association.
- (h) **Membership Agreement or Agreement** means this agreement between a Member and the Association.
- (i) **Product** means those products to which EHC applies, as set out in Appendix 1 to this Agreement.
- (j) **Regulation** means the Recycling Regulation, B.C. Reg. 449/2004.
- (k) **Stewardship Program** means the stewardship program adopted by the Association and which has been approved as a plan under Part 2, section 5 of the Regulation.

1.2 Words importing the singular gender include the plural and vice versa; words importing gender include the masculine, feminine and neuter gender; words importing persons include individuals, bodies corporate, partnerships, and unincorporated organizations.

## 2. Terms of Membership

- 2.1 The Member acknowledges to the Association that it is a Brand-owner and it wishes to take advantage of Membership in the Association in order to meet the requirements of the Regulation.
- 2.2 The Association may require a Member to provide security from time to time to the Association, or provide the Association with evidence of security, in a form that is acceptable to the Association for the purpose of ensuring that the Member exercises the powers and carries out the duties of a Member in accordance with the Act, Regulation and this Agreement.
- 2.3 The Member in consideration of being permitted to become a Member of the Association and be in compliance with a Stewardship Program, hereby agrees with the Association as follows:
  - (a) To pay an initial membership fee of \$200 payable at the time of signing of the Membership Agreement,
  - (b) To pay the annual membership fee as from time to time set by the Association,
  - (c) To pay to the Association the EHC on all Products as set out by the Association in the EHC Payment Schedule and as amended from time to time by a special resolution of the Members.
  - (d) The Member agrees to remit to the Association the EHC for each Product used, sold or supplied by the Member in the Province of British Columbia. If the Member is located outside of the province but sells to a wholesaler, jobber, retailer or end user located in British Columbia, the EHC is to be remitted to the Association. If the Member is located in the Province of British Columbia but sells to a wholesaler, jobber, retailer or end user that is located in another province with a similar used oil program, the EHC is to be remitted to the provincial authority responsible for the used oil program. The Member further agrees that the List of EHC Applicable Products and Containers (Refer to Appendix 1 attached) shall be established, and from time to time amended, by the Association.
  - (e) To pay the Association the EHC on all Products sold or supplied by the Member between the date the Association assessed EHC on the Products and the date the Applicant becomes a Member of the Association.
- 2.4 The Member agrees that upon the signing of this Membership Agreement and the payment of the initial membership fee that it will maintain membership in the Association, subject to the by-laws, for a period not less than three (3) years from the date hereof. Subsequent to the initial three (3) year term, Membership in the Association, and the obligations flowing from Membership, shall be considered renewed annually on the

anniversary date of signing this Agreement, unless the Member gives written notice to the Association by registered mail of its intention to withdraw from the Association.

- 2.5 Where the Member has given written notice of its intention to withdraw, the Member shall be considered to have withdrawn from the Association 180 days from the date of receipt of notice. Upon receipt of notice the Association may require a closing audit of the Member, and the Association will forthwith advise the Director. Subject to the initial three-year membership obligation, a Member may give notice of its intention to withdraw from the Association at any time.

### **3. The Fund**

- 3.1 The Member acknowledges and agrees to creation of an Association managed fund, which shall be used to provide or pay for any or all of the following:

- (a) establishing and administering the Stewardship Program;
- (b) education programs for the purpose of promoting the Stewardship Program;
- (c) expenditures incurred in promoting the collection, transportation, storage, processing and disposal of used oil, used oil filters and used containers;
- (d) salaries, fees, costs, expenses and liabilities incurred in the administration of the fund;

- 3.2 The following shall be deposited into the fund:

- (a) EHCs,
- (b) Gifts, donations, and bequests to the fund,
- (c) Investment income earned on deposits to the fund,
- (d) Membership fees,
- (e) Other revenue the Association might generate through its operations.

- 3.3 The total of the EHCs with respect to the sale or supply of the Product is to be remitted by the Member quarterly, as scheduled by the Association, to the Association within 30 days of the end of each quarter. The remittance to the Association shall be in the form and fashion of the Association's "Environmental Handling Charge Payment Schedule Remittance Form" as amended from time to time by the Association. (Refer to Appendix 3 attached)

3.3 (1) If the total of a Member's EHCs remitted in the 4 quarters of the previous calendar year is less than \$2,000 and the Member has remitted all EHCs due to the Association in a manner and time satisfactory to the Association, then the Member shall have the option of providing the Association with notice in writing in the first quarter of the current calendar year that it shall make remittance of the EHCs for the current calendar year on an annual basis. In such event the remittance of the EHCs for the calendar year shall be remitted to the Association within 30 days of the end of the calendar year. The remittance to the association shall be in the form and fashion of the Association's "Environmental Handling Charge Payment Schedule Remittance Form" as amended from time to time by the Association.

- 3.4 The EHC to be remitted by the Member with respect to the use, sale or supply of Product shall be in accordance with the Environmental Handling Charge (EHC) Payment Schedule, as established, and from time to time amended, by special resolution of the Members (Refer to Appendix 2 attached).
- 3.5 Notwithstanding 3.3, and 3.4 the Association and the Member acknowledge and agree that if the Member is selling a Product to another Member in good standing, or is selling Product for use outside Canada or to a province with no used oil program, then no assessment or remittance of EHC is required in respect of that sale or supply. If the Member is selling Product for use in a province with a similar used oil program, the EHC is to be remitted to that provincial authority responsible for the used oil program. When Product moves between two or more Members, and there is a question about which one Member is responsible for remitting EHCs, the Members must between themselves agree in writing who shall be responsible for remittance of EHCs. Without evidence of such agreement, the Association shall be entitled to collect EHCs from any Member who has made a supply of a Product in British Columbia or from any Member from another jurisdiction supplying a Product to someone in British Columbia
- 3.6 It is the intent of the Association that the EHC in respect of a specific Product supplied be paid only once.
- 3.7 EHCs owing by the Member to the Association is a debt owing to the Association, and the Association shall be entitled to take any step it may be entitled to in contract or law to collect overdue EHCs.

#### **4. Record Keeping**

- 4.1 The Member agrees to keep an accurate record of all transactions respecting the Products, in the form and fashion that can be reasonably audited. If requested by the Association, the Member is to provide a record of all EHC sales and/or supplies of Product based on point of destination.

## **5. Audit by Association**

- 5.1 The Member agrees that the Association may from time to time, and as approved by the Association, audit the records of the Member, through the use of a firm of chartered accountants, with respect to the sale and/or supply of Product and remittance to the Association of the EHC.
- 5.2 In the event of an audit the Member shall make available to the Association's auditors any and all records relating to the sale and/or supply of those Products for the Member's own use, sold or supplied in, or from a Member outside the province of British Columbia to someone in the province of British Columbia and remittances to the Association of the EHC and shall provide to the auditor any information respecting transactions relating to Product, provided that such records are reasonably required to perform an accurate audit.
- 5.3 Where the Association has reason to believe the Member has under-remitted EHC to the Association, in an amount in excess of \$500.00 for any period or if previous audits have shown a Member has poor performance in accurately remitting their EHCs and has repeatedly failed to comply with the terms of an EHC Compliance Review Letter, then the Member shall, in addition to any other liability at law, be liable to pay the Association immediately the following:
- (a) the EHC due;
  - (b) the costs of the audit; and
  - (c) 20% of the EHC due by way of an administrative fee to the Association.
- 5.4 Where the Association has reason to believe the Member has over-remitted EHC to the Association, then the Member shall be reimbursed by the Association as soon as practicable.

## **6. Association by-laws govern**

- 6.1 The Member agrees that this Agreement and the by-laws of the Association shall govern its membership in the Association.

## **7. Obligations of the Association**

- 7.1 The Association agrees to accept and carry out the duties of the Member under s.2(1) of the Regulation and shall confirm in writing to the Director the duties it will perform on behalf of the Member under the Regulation.
- 7.2 The Association shall provide the Member with a Stewardship Program in respect of the sale and/or supply of Product, which is approved, and in accordance with the Regulation.
- 7.3 The Association covenants with the Member to keep confidential any and all information transmitted by the Member for any purpose, including audit,

except as required by law, [saving that it is permitted for the Association to identify a Member who is in arrears of EHC remittance], and except for the purposes of 7.6 of this Agreement.

- 7.4 The Association shall provide to all Members a written, ninety (90) day advance notice of any change to the EHC Payment Schedule.
- 7.5 The Association shall provide the following services:
  - (a) retain chartered accountants to prepare and present annual financial statements as required under the Societies Act and the Regulation;
  - (b) conduct regular Member audits as described under 6.1;
  - (c) review EHC remittances and recommend non-compliance audits;
- 7.6 The Association shall assign a registration number and issue a certificate of registration to the Member and shall notify the Member in writing of the number and effective date of registration. The Association will provide Members with a current website list of all Members in good standing of the Association and generally cooperate with Members so as to facilitate easy identification of Members of the Association.

**8. Limited Liability**

- 8.1 No Member shall be liable for a debt or obligation of the Association merely by reason of being a Member in the Association.
- 8.2 In consideration of the mutual promises set out above the Member and the Association have caused this Membership Agreement to be executed under the hands of their respective officers.

**British Columbia Used Oil Management Association:**

By \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

**Member:**

By \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

## Appendix 1

British Columbia Used Oil Management Assoc (**BCUOMA**)  
 Alberta Used Oil Management Assoc (**AUOMA**)  
 Saskatchewan Association for Resource Recovery Corp (**SARRC**)  
 Manitoba Association for Resource Recovery Corp (**MARRC**)  
 La Société de gestion des huiles usagées (**SOGHU**)

### EHC Applicable Products List

<u>Description</u>	<u>Product</u>	<u>Container (50 L or Less)</u>
<b>EHC applicable on both product and container</b>		
petroleum crankcase or engine oil	yes	yes
synthetic crankcase or engine oil	yes	yes
hydraulic fluid	yes	yes
polyolester fluids	yes	yes
circulating oil or turbine oil	yes	yes
paper machine oil	yes	yes
transmission fluid	yes	yes
power steering fluid	yes	yes
gear oil	yes	yes
vegetable oil for lubrication	yes	yes
re-refined oil	yes	yes
electrical insulating oil	yes	yes
refrigeration system oil	yes	yes
compressor oil	yes	yes
mineral heat transfer fluid	yes	yes
marine engine oil for vessels operating domestically	yes	yes

### EHC applicable on container only

metal working oil	no	yes
form release oil	no	yes
textile oil	no	yes
chain oil	no	yes
rock drill oil	no	yes
2-cycle engine oil	no	yes
gasoline / 2-cycle engine oil mixes	no	yes
saw guide oil	no	yes
drawing, stamping and shaping oil	no	yes
process oil	no	yes
dedusting oil	no	yes
marine cylinder oil	no	yes
machine tool and slideway lubricant	no	yes
natural gas compressor oil	no	yes
conveyor lube	no	yes
dripless lube	no	yes
quenching oil	no	yes
pneumatic system oil	no	yes
rustproof oil	no	yes
food grade white mineral oil	no	yes
agricultural spray oil	no	yes

### Applicable for Quebec only (SOGHU) - EHC applicable on aerosol container

aerosol propelled lubricant	no	yes
solvent/cleaner	no	no
grease	no	no
paint	no	no

**Description****Product****Container (50 L or Less)****EHC applicable on filters**

spin-on or element style filter that is used in hydraulic, transmission or internal combustion engine applications including diesel fuel filter	yes
household furnace fuel filter	yes
coolant filter	yes
storage tank diesel fuel filter	yes
sump type automatic transmission filter	yes
plastic / paper element style filter	yes
diesel fuel filter used at retail & commercial pump islands	yes
oil / air separator filter	yes

**EHC not applicable on either product or container**

ethylene glycol heat transfer fluid	no	no
propylene glycol heat transfer fluid	no	no
silicone heat transfer fluid	no	no
synthetic aromatic hydrocarbon heat transfer fluid	no	no
glycol-based heat transfer fluid	no	no
water glycol hydraulic fluid	no	no
phosphate ester hydraulic fluid	no	no
hydraulic oil dye	no	no
polyglycol synthetic compressor oil	no	no
base oil, including re-refined base oil	no	no
grease	no	no
oil additive	no	no
oil treatment	no	no
heating furnace oil	no	no
diesel fuel treatment	no	no
cleaning/flushing fluids for motors/equipment	no	no
winter start fluid	no	no
brake fluid	no	no
undercoating	no	no
penetrating oil	no	no
hydraulic jack oil	no	no
3-in-1 household oil	no	no
aerosol propelled lubricant (Except Quebec)	no	no
gun oil	no	no
kerosene	no	no
urethane coating	no	no
sewing machine oil	no	no
export oil sales	no	no
cooking oil	no	no
windshield washer fluid	no	no
emulsified oil	no	no
wax	no	no
marine engine oil for vessels operating internationally	no	no

**EHC not applicable on filters**

gasoline fuel filter	no
air filter	no
household furnace air filter	no
sock-type filter	no

## EHC Rate Schedule

All members have to pay an EHC based on sales volumes, as follows:

### **SOGHU**

Lubricating Oil - \$0.05 per litre.

Containers 50 litres or less - \$0.05/litre/container size. **Effective January 1, 2010**, increase to \$0.10/litre/container size

Filters - \$0.50/filter for all sump type transmissions filters, \$0.50/filter for other filters less than 8 inches (203 mm) in length or \$1.00/filter equal to or greater than 8 inches (203 mm) in length.

Aerosol container - \$0.25 per spray lubricant container (Quebec only)

### **MARRC**

Lubricating Oil - \$0.05 per litre.

Containers 50 litres or less - \$0.05/litre/container size. **Possibly effective April 1, 2010**, increase to \$0.10/litre/container size

Filters - \$0.50/filter for all sump type transmission filters, \$0.50/filter for other filters < 8 inches (203 mm) or \$1.00/filter for => 8 inches (203 mm).

### **SARRC**

Lubricating Oil - \$0.05 per litre.

Containers 50 litres or less - \$0.05/litre/container size. **Effective January 1, 2010**, increase to \$0.10/litre/container size

Filters - \$0.50/filter for all sump type transmission filters, \$0.50/filter for other filters < 8 inches (203 mm) or \$1.00/filter for => 8 inches (203 mm).

### **AUOMA**

Lubricating Oil - \$0.05 per litre.

Containers 50 litres or less - \$0.05/litre/container size.

Filters - \$0.50/filter for all sump type transmission filters, \$0.50/filter for other filters < 8 inches (203 mm) or \$1.00/filter for => 8 inches (203 mm).

### **BCUOMA**

Lubricating Oil - \$0.05 per litre.

Containers 50 litres or less - \$0.10/litre/container size

Filters - \$0.55/filter for all sump type transmission filters, \$0.55/filter for other filters < 8 inches (203 mm) or \$1.25/filter for => 8 inches (203 mm).

**Note:** If you have further questions on applicable Products, please contact the Association at **(780) 414-1510**.

## Appendix 2

### Environmental Handling Charge (EHC) Payment Schedule

#### Amount of EHC

A Member who, being a Brand Owner, uses, sells or supplies Product in BC, or from outside BC to someone in BC, shall remit to the Association an EHC in the amount for that class of Product as follows;

- (a) lubricating oil, \$0.05 per litre or per kilogram
- (b) containers, \$0.10 per litre of container size
- (c) oil filters, \$0.55 for a filter less than 203 mm in length, and \$1.25 for a filter of 203 mm or greater in length.

#### EHC Remittance

- 1) Member shall remit EHCs to the Association quarterly, using the Environmental Handling Charge Payment Schedule Remittance Form (see Appendix 3) by the following dates:
  - (a) January to March EHCs due April 30;
  - (b) April to June EHCs due July 30;
  - (c) July to September EHCs due October 30;
  - (d) October to December EHCs due January 30.
- 2) EHCs shall be remitted to the Association at Suite 1050, 10060 Jasper Avenue, Edmonton, Alberta T5J 3R8:
  - (a) by cheque payable to the Association;
  - (b) by electronic fund transfer from Member account to Association
- 3) Remittance forms and amounts remitted will be kept strictly confidential.

Administration fees and interest will be applied to late EHC remittances as follows:

- (a) Level I Administration Fee - \$100.00, shall be applied to all Reminder Letters sent to late remitters following the 30th day of the month the EHC Remittances are due.
- (b) Level II Administration Fee - \$200.00, shall be added to Level I fee and included on all Warning Letters sent out to late remitters 10 business days following the direction of the Reminder Letters.
- (c) Level III Administration Fee - \$625.00, shall be added to the Level I and Level II fees and included on Procedures to Initiate Assessment Proceedings Letters sent out to late remitters 10 business days following direction of the Warning Letters.
- (d) Late remittance interest charge equal to 1% per month on the late remittance, compounded at a rate of 12.68% per year.

**Electronic form and fund transfer process;**

- (a) Remittance forms may be transmitted electronically provided they contain all the information requested in the EHC Payment Schedule Remittance Form, attached as Appendix 3.
- (b) Members may provide the Association with pre-authorization to effect an electronic transfer of funds from the Member's account into the Association's account. The pre-authorization will be for the amounts provided for in the quarterly EHC Payment Schedule Remittance Form.

**Appendix 3**  
**British Columbia Used Oil Management Association**  
**Environmental Handling Charge Payment Schedule Remittance Form**

Member name: \_\_\_\_\_ Member \_\_\_\_\_

Remittance for quarter ended: mm/yy \_\_\_\_\_

	Units Sold	Rate	Remittance
1. Oil <sup>1</sup> (litres)	_____	\$0.05/litre	\$ _____
2. Filters (by length)			
(a) under 8 inches (203 mm)	_____	\$0.55/filter	\$ _____
(b) 8 inches (203 mm) and over	_____	\$1.25/filter	\$ _____
(c) sump type automatic transmission	_____	\$0.55/filter	\$ _____
3. Containers (size) <sup>2</sup>			
(a) 500 ml	_____	\$0.10/litre	\$ _____
(b) 0.947 litres (1US Quart)	_____	\$0.10/litre	\$ _____
(c) 1 litre	_____	\$0.10/litre	\$ _____
(d) 3.788 litres (1US Gallon)	_____	\$0.10/litre	\$ _____
(e) 4 litre	_____	\$0.10/litre	\$ _____
(f) 5 litre	_____	\$0.10/litre	\$ _____
(g) 10 litre	_____	\$0.10/litre	\$ _____
(h) 18.942 litre (% US Gallons)	_____	\$0.10/litre	\$ _____
(i) 20 litre	_____	\$0.10/litre	\$ _____
(j) under 500 ml	_____	\$0.10/litre	\$ _____
(k) Other (please specify) _____	_____	\$0.10/litre	\$ _____
		Sub-total	\$ _____
		GST @ 5%	\$ _____
		<b>Total</b>	<b>\$ _____</b>

I certify that all information contained within this remittance form is correct. I understand the information in this report is subject to audit. The detailed records that substantiate the information contained herein are available upon request.

\_\_\_\_\_  
 Authorized Signature

\_\_\_\_\_  
 Position

\_\_\_\_\_  
 Date: dd/mm/yy

\_\_\_\_\_  
 Print Name

\_\_\_\_\_  
 Phone Number

\_\_\_\_\_  
 Fax Number

The Association must receive remittance by the 30th of the month following the quarter's end.

Association GST# 123456789

<sup>1</sup> Where oil is sold in kilograms the EHC for oil is to be remitted based on one-kilogram equals one litre.

<sup>2</sup> Under Units Sold enter the product of multiplying units sold by container size.

## Appendix 4

To provide additional guidance, “Brand-owner” for the purpose of this Membership Agreement includes but is not limited to,

- (a) a manufacturer of Product who supplies the manufacturer’s own brand of Product to a jobber, retailer or end user;
- (b) a marketer who supplies Product to a jobber, retailer or end user, where the Product was manufactured for the marketer by another person and the marketer owns the brand;
- (c) a marketer who supplies Product to a jobber, retailer or end user, where Product was manufactured for the marketer by another person and the marketer is the licensee of the brand;
- (d) a wholesaler, including a retail distributor, who supplies Product to a jobber, retailer or end user;
- (e) a jobber who supplies Product that the jobber has imported into British Columbia to a retailer, or end user;
- (f) a retailer who supplies Product to the end user that the retailer has imported into British Columbia;
- (g) a wholesale equipment supplier who supplies equipment to its dealers, or the end user of the equipment, where, as part of the transaction Product is also supplied;
- (h) an end user who imports lubricating oil material into British Columbia for the end user’s own business use.

Example scenarios using Product category companies A, B & C

1. **A**, located outside BC, ships Product direct to **C** but invoices **B**, a co-op buying group. Both **B** and **C** are located in BC. **B** subsequently invoices **C** for the Product therefore **B** is the Brand-owner.
2. **A** ships Product to a BC wholesaler **B**, pre-pays the freight but adds it to **B**’s invoice. **A** is the Brand-owner.
3. **A** sells Product FOB its warehouse which is located outside BC. **B** buys the Product, ships it by common carrier to, and subsequently invoices **C**, a BC based jobber. **B** is the Brand-owner because it invoices **C**.
4. **A** ships Product to **B**’s BC based stores and franchisees on consignment but invoices **B** whose office is outside BC. **A** is the Brand-owner when **B** is not a Member of the Association and **B** is the Brand-owner when **B** is a Member of the Association.

5. **A** packages private brand Product for, or provides branded Product to **B**, direct ships the Product to **C** located in BC but invoices **B** located outside BC. **B** is the Brand-owner because it subsequently re-invoices **C**.
6. **A** delivers bulk Product to **B**'s BC based stores and franchisees, i.e. a fast lube, but invoices **B**'s head office located outside BC. **B** is the Brand-owner because it subsequently re-invoices **C**, it's BC based stores and franchisees.

**B** is the designated Brand-owner in scenarios 1, 3, 5 & 6 and **A** is the designated Brand-owner in scenarios 2 & 4. As Brand-owners in British Columbia they must,

- Join the Association, or
- Establish their own stewardship program, or
- Stop selling Products.

In the scenarios where **A** is already a Member of the Association it is **A**'s responsibility under its Membership Agreement to either ensure **B** is a Member of the Association, or remit the EHC for the Product which will be sold, supplied or used in BC.

**If after reviewing the above examples there is still doubt as to who is the EHC Responsible Party, contact the Association for clarification.**