

Court File No. CV-21-00663305-00CL

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**

IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF  
ONTARIO ELECTRONIC STEWARDSHIP

APPLICATION UNDER S. 243, 244 and 246 OF THE *CORPORATIONS ACT*, R.S.O.  
1990, C. C38

DELOITTE RESTRUCTURING INC.

Applicant

**APPLICATION RECORD**

June 1, 2021

**GOWLING WLG (CANADA) LLP**

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Toronto ON M5X 1G5

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Lawyers for the Applicant, Deloitte  
Restructuring Inc.

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*Liquidator of Ontario Electronic Stewardship*

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# TAB 1

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF  
ONTARIO ELECTRONIC STEWARDSHIP

APPLICATION UNDER SS. 243, 244 AND 246 OF THE *CORPORATIONS ACT*, R.S.O. 1990,  
C. C38



DELOITTE RESTRUCTURING INC.

Applicant

**NOTICE OF APPLICATION**

**TO THE RESPONDENT(S):**

**A LEGAL PROCEEDING HAS BEEN COMMENCED** by the Applicant, Deloitte Restructuring Inc. The claim made by the Applicant appears on the following page.

**THIS APPLICATION** will come on for a hearing (*choose one of the following*)

- In person
- By telephone conference
- By video conference

at the following location: **330 University Avenue, Toronto, Ontario M5G 1R7** on **Friday, June 11<sup>th</sup>, 2021, at 9:30 a.m.**

**Please refer to the video conference details attached as Schedule “A”**

**IF YOU WISH TO OPPOSE THIS APPLICATION**, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the applicant’s lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

**IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION**, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

**IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.**

**June 1, 2021**

**Christina  
Irwin**

Digitally signed by Christina Irwin  
DN: cn=Christina Irwin, o=Superior  
Court of Justice, ou=Client Services  
Representative/Registrar,  
email=christina.irwin@ontario.ca,  
c=CA  
Date: 2021.06.01 15:59:55 -04'00'

Issued by \_\_\_\_\_

Local Registrar

Address of court office:

330 University Ave., 9th floor  
Toronto, Ontario  
M5G 1R7

TO: THE SERVICE LIST

## APPLICATION

### THE APPLICANT MAKES APPLICATION FOR:

1. An order in substantially the form attached as Tab 5 of the Application Record of the Applicant, among other things:
  - (a) winding up Ontario Electronic Stewardship (“**OES**”) pursuant to sub-sections 243 (b) and (d) of the *Corporations Act*, R.S.O. 1990 c. C. 38, as modified by Ontario Regulation 357/17 (the “*Corporations Act*”); and
  - (b) appointing Deloitte Restructuring Inc. as court-appointed liquidator of all of the assets and undertakings of OES with the powers to carry out the wind up of OES under this Court’s supervision.
2. Such further and other relief as this Court deems just.

### THE GROUNDS FOR THIS APPLICATION ARE:

#### *Background*

3. OES is an “Industry Funding Organization” (“**IFO**”) previously responsible for managing the waste diversion program for waste electrical and electronic equipment (“**Electronics**”) in Ontario (the “**OES Program**”);
4. Following directions issued by the Minister of the Environment and Climate Change (now known as the Minister of Environment, Conservation and Parks, the “**Minister**”), OES adopted a wind up plan (the “**Wind Up Plan**”) for the OES Program and to wind itself up;

5. The OES Program ceased operating on December 31, 2020;
6. Following the termination of the OES Program, the members of the board of directors of OES resolved to engage Deloitte as liquidator (in such capacity, the “**Liquidator**”) effective April 1, 2021, to implement the Wind Up Plan;
7. The mandate granted to the Liquidator is broad and includes all obligations set forth in the Transition Act (as defined below) and the Wind Up Plan that are necessary for the winding up of the business and affairs of OES and the distribution of its assets and property;

#### ***Applicable Legislation***

8. The *Waste Diversion Transition Act, 2016*, S.O. 2016, c. 12, Sched. 2 (the “**Transition Act**”) is the main statute governing OES’ operations and wind up. The Transition Act also serves as a transition between the OES Program and the new program for managing waste Electronics established pursuant to the *Resource Recovery and Circular Economy Act, 2016*, S.O. 2016, c. 12, Sched. 1 (the “**New Act**”);
9. The Transition Act provides that the wind up of an organization such as OES, if so directed by the Minister, must be conducted in accordance with the provisions of the *Corporations Act*;

#### ***Need for Court-Supervised Process and Court Appointment of Deloitte as Liquidator***

10. OES has numerous stakeholders ranging from businesses that bring Electronics, or manufacture them for sale in Ontario to service providers in relation to the collection,

transportation and processing of waste Electronics;

11. The assets of OES are material and may significantly increase depending on the outcome of certain tax litigation that the Liquidator is considering;
12. A court-supervised process will assist the Liquidator in carrying out its mandate, ensuring that the wind up process is open and fair, and if required, will provide an avenue to resolve issues that may arise during the wind up;
13. Additionally, a court-supervised process and the court-appointment of Deloitte as liquidator is in the interests of the stakeholders and creditors of OES, as it will ensure appropriate public disclosure of information to interested parties and an effective mechanism to complete the wind up of OES;
14. This Court has previously granted an Order appointing a court-appointed liquidator over the assets and undertakings of an Ontario IFO on terms similar to those sought in this case;
15. A court-supervised winding up of OES and the corresponding court appointment of Deloitte as liquidator is just and equitable in the circumstances;

***Other Grounds***

16. The Applicant also relies on:
  - (a) The provisions of the Transition Act and the regulations thereunder, including Ontario Regulation 357/17: Industry Funding Organizations — Rules That Apply on Winding Up;

- (b) Part VI of the *Corporations Act*, as modified by Ontario Regulation 357/17: Industry Funding Organizations — Rules That Apply on Winding Up, including, per section 271 of the *Corporations Act*, if necessary, the practice and procedure in a winding up under the *Winding-up and Restructuring Act*, S.C. 1985, c. W-11; and
- (c) Such further and other grounds counsel for the Applicant may advise and as this Court may permit.

**THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE APPLICATION:**

17. The Affidavit of Richard Williams, sworn May 31, 2021;
18. The consent of Deloitte Restructuring Inc. to act as court-appointed liquidator;
19. Such further and other evidence as counsel for the Applicant may advise and this Court may permit.

Date: June 1, 2021

**GOWLING WLG (CANADA) LLP**  
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*Lawyers for the Applicant, Deloitte Restructuring Inc.*

## SCHEDULE "A"

**Sync Link:**

<https://ln4.sync.com/dl/d529c81c0/dh5u3ynz-mxc42gy4-2i88tga9-z24ztaq3>

**Join Zoom Meeting:**

<https://gowlingwlgca.zoom.us/j/91739003225?pwd=Njd4bHlnenZ3VlE1bkRNdWlRMWg5Zz09>

**Password:** 205944

**One tap mobile**

+14388097799,,91739003225# Canada

+15873281099,,91739003225# Canada

IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF ONTARIO ELECTRONIC  
STEWARDSHIP  
APPLICATION UNDER SS. 243, 244 and 246 OF THE CORPORATIONS ACT, R.S.O. 1990, C.  
C.38  
DELOITTE RESTRUCTURING INC.

Court File No.: CV-21-00663305-00CL

Applicant

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

(PROCEEDING COMMENCED AT TORONTO)

**NOTICE OF APPLICATION**

**GOWLING WLG (CANADA) LLP**

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*Lawyers for the Applicant, Deloitte Restructuring Inc.*

# TAB 2

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF  
ONTARIO ELECTRONIC STEWARDSHIP**

**APPLICATION UNDER SS. 243, 244 and 246 OF THE CORPORATIONS ACT, R.S.O.  
1990, C. C.38**

**DELOITTE RESTRUCTURING INC.**

Applicant

**NOTICE OF MOTION  
(Claims Procedure Order)  
(Returnable June 11, 2021)**

The Applicant, Deloitte Restructuring Inc. (“**Deloitte**”), will make a motion before a judge of the Ontario Superior Court of Justice (Commercial List) on Friday, June 11, 2021 at 9:30 am, or as soon after that time as the motion can be heard.

**PROPOSED METHOD OF HEARING:** The motion is to be heard

- In writing under subrule 37.12.1 (1) because it is (*insert one of* on consent, unopposed *or* made without notice);
- In writing as an opposed motion under subrule 37.12.1 (4);
- In person;
- By telephone conference;
- By video conference.

At the following location: Please refer to the videoconference details attached at **Schedule “A”** hereto. Please advise Kate Yurkovich if you intend to join the hearing of this motion by emailing [kate.yurkovich@gowlingwlg.com](mailto:kate.yurkovich@gowlingwlg.com)

**THE MOTION IS FOR:**

1. An order (the “**Claims Procedure Order**”) substantially in the form of the draft order attached at Tab 7 of the Applicant’s Application Record dated June 1, 2021 (the “**Application Record**”), among other things:
  - (a) approving the claims procedure (the “**Claims Procedure**”) as described and detailed in the proposed Claims Procedure Order; and
  - (b) such further and other relief as counsel may advise and as this Court deems just.

**THE GROUNDS FOR THIS MOTION ARE**

*Background*

1. In conjunction with this motion, the Applicant has made an application to this Court seeking a wind up and appointment order (the “**Appointment Order**”), which, among other things:
  - (a) orders the court-supervised winding up of Ontario Electronic Stewardship (“**OES**”) pursuant to sub-sections 243(b) and (d) of the *Corporations Act*, RSO 1990 c C 38, as modified by Ontario Regulation 357/17 (the “*Corporations Act*”); and
  - (b) orders the appointment of Deloitte Restructuring Inc. as Court-appointed liquidator of all of the assets and undertakings of OES with the powers to carry out the wind up of OES under this Court’s supervision;
2. Provided this Court grants the Appointment Order, the Applicant is further requesting that this Court grant the Claims Procedure Order at this time in order to promptly commence the Claims Procedure and eliminate the need for the Applicant to come back to Court at a later date;

***Applicable Legislation***

3. The *Waste Diversion Transition Act, 2016*, SO 2016, c 12, Sched 2 (the “**Transition Act**”) is the main statute governing OES’ operations and wind up;
4. The Transition Act provides that the wind up of an organization such as OES must be conducted in accordance with the provisions of the *Corporations Act*;
5. The *Corporations Act* provides that the identification and determination of any claim against a winding up entity must be conducted in accordance with the process contemplated in the *Ontario Assignment and Preferences Act*, RSO 1990, c A33 (the “**Assignments and Preferences Act**”);

***The Claims Procedure Order Should be Granted***

6. The Claims Procedure described in the Claims Procedure Order is fair and reasonable in the circumstances;
7. The Claims Procedure is consistent with the proof of claims provisions of the *Assignments and Preferences Act*, which are incorporated by reference into the *Corporations Act*;
8. If granted by this Court, the Claims Procedure as described in the Claims Procedure Order will provide Known Claimants and potential unknown Claimants (as defined in the Claims Procedure Order) with adequate notice of the Claims Procedure, and an adequate opportunity to prove their Claims prior to the Claims Bar Date (as defined in the Claims Procedure Order);
9. The adjudication process provided in the Proposed Claims Procedure Order will facilitate the fair and expeditious resolution of any disputes in the circumstance that they may arise;
10. The Proposed Claims Procedure will permit the Liquidator to address any remaining claim against OES prior to completing OES’ wind up.

***Other Grounds***

11. The provisions of the Transition Act and the regulations thereunder, including Ontario Regulation 357/17: Industry Funding Organizations — Rules That Apply on Winding Up;
12. Part VI of the *Corporations Act*, as modified by Ontario Regulation 357/17: Industry Funding Organizations — Rules That Apply on Winding Up, including, per section 260 of the *Corporations Act*, sections 25, 26, and 27 of the *Assignments and Preferences Act* for the purpose of proving claims;
13. Such further and other grounds as counsel for the Applicant may advise and this Court may permit.

**DOCUMENTARY EVIDENCE**

14. The following documentary evidence will be used at the hearing of the motion:
  - (a) The Affidavit of Richard Williams sworn May 31, 2021, including the exhibits thereto; and
  - (b) Such further and other materials as counsel for the Applicant may advise and as this Court may permit.

Date: June 1, 2021

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*Lawyers for Deloitte Restructuring Inc.*

**SCHEDULE “A”**

**Join Zoom Meeting:**

<https://gowlingwlga.zoom.us/j/91739003225?pwd=Njd4bHlnenZ3VlE1bkRNdWlrmWg5Zz09>

**Password:** 205944

**One tap mobile**

+14388097799,,91739003225# Canada

+15873281099,,91739003225# Canada

**Sync Access Link:**

<https://ln4.sync.com/dl/d529c81c0/dh5u3ynz-mxc42gy4-2i88tga9-z24ztaq3>

IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF ONTARIO ELECTRONIC  
STEWARDSHIP

APPLICATION UNDER SS. 243, 244 and 246 OF THE CORPORATIONS ACT, R.S.O. 1990, C. C.38  
DELOITTE RESTRUCTURING INC.

Applicant

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

(PROCEEDING COMMENCED AT TORONTO)

**NOTICE OF MOTION  
(Returnable June 11, 2021)**

**GOWLING WLG (CANADA) LLP**  
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**Virginie Gauthier** (LSO#: 41097D)  
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*Lawyers for Applicant, Deloitte Restructuring Inc.*

# TAB 3

Court File No. [●]

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF  
ONTARIO ELECTRONIC STEWARDSHIP

APPLICATION UNDER SS. 243, 244 AND 246 OF THE *CORPORATIONS ACT*, R.S.O. 1990,  
C. C.38

DELOITTE RESTRUCTURING INC.

Applicant

**AFFIDAVIT**

I, Richard Williams, of Deloitte Restructuring Inc. (“**Deloitte**”), in the Province of Ontario,

MAKE OATH AND SAY:

1. I am a Vice President and Licensed Insolvency Trustee with Deloitte. On February 24, 2021, the members of the board of directors of Ontario Electronic Stewardship (“**OES**”) appointed Deloitte as liquidator (in such capacity, the “**Liquidator**”) of OES, effective April 1, 2021. In connection with Deloitte’s appointment as Liquidator, I have been involved with OES since December 2, 2020, and am generally familiar with OES’ plans for its wind up. As such, I have knowledge of the matters contained in this affidavit and where I have reviewed information given to me by others, I have indicated the sources of that information and I believe the information to be true.
2. Deloitte is applying to this Court for: (i) a wind up and appointment order, substantially in the form attached at Tab 5 of the Applicant’s Application Record, among other things, appointing Deloitte as a court-appointed liquidator with the powers to carry out the wind up of OES under this Court’s supervision; and (ii) a claims procedure order (the “**Proposed**

**Claims Procedure Order**”), substantially in the form attached at Tab 7 of the Applicant’s Application Record, approving a claims procedure for the identification, quantification and resolution of claims of creditors of OES (the “**Proposed Claims Procedure**”).

## **BACKGROUND**

3. OES is an “Industry Funding Organization” (“**IFO**”) previously responsible for managing the waste diversion program for waste electrical and electronic equipment (“**Electronics**”) in Ontario (the “**OES Program**”).
4. OES administered the OES Program through an operating agreement with the Electronic Product Recycling Association (“**EPRA**”), an industry led not-for-profit organization that operates regulated Electronics recycling programs across Canada.
5. During its operation, the OES Program promoted the re-use and refurbishment of waste Electronics and ensured that the resources found in such waste that could not be re-used were processed and recycled in an environmentally responsible manner.
6. As a result of a directive issued by the Minister of the Environment and Climate Change (now known as the Minister of Environment, Conservation and Parks, the “**Minister**”), the OES Program ceased operating on December 31, 2020 and, on February 24, 2021, the members of the board of directors of OES (the “**Board**”) privately appointed Deloitte as Liquidator effective April 1, 2021.
7. The Liquidator believes that it is both appropriate and in the best interests of OES’ stakeholders that OES’ wind up be conducted through an open, Court-supervised process

overseen by an officer of the Court. This process will also provide a forum for resolving contentious matters, should any arise.

8. Further, as part of its mandate, the Liquidator must ensure that all financial obligations of OES are satisfied. For that reason, the Liquidator is also asking this Court for the Proposed Claims Procedure Order.

### **APPLICABLE LEGISLATION**

9. The *Waste Diversion Transition Act, 2016* (the “**Transition Act**”) is the main statute governing OES’ operations and wind up. The Transition Act also serves as a transition between the OES Program and the new program for managing waste Electronics established pursuant to the *Resource Recovery and Circular Economy Act, 2016* (the “**New Act**”).
10. The Transition Act provides that the wind up of an organization such as OES, if so directed by the Minister, must be conducted in accordance with the provisions of the *Corporations Act* (Ontario), as amended by O. Reg. 357/17 under the Transition Act.
11. The *Corporations Act* provides that the identification and determination of any claim against a winding up entity must be conducted in accordance with the process contemplated in the *Assignments and Preferences Act* (Ontario).

### **HISTORY OF MINISTERIAL DIRECTIONS AND WIND UP PLANS**

12. On February 8, 2018, the Minister directed (such direction, together with its addendum, the “**2018 Direction**”) OES to develop a plan to wind up both the OES Program and the stewardship itself. Attached as **Exhibit “A”** is a copy of the 2018 Direction.
13. The 2018 Direction requires OES to submit its proposed wind up plan for approval to the Resource Productivity and Recovery Authority (“**RPRA**”). RPRA was created by the Government of Ontario to oversee IFOs, their programs and their winding up. The 2018 Direction established June 30, 2020, as the OES Program’s wind up date (the “**June 30 Wind Up Date**”).
14. OES submitted its first proposed wind up plan (the “**First Proposed Plan**”) to RPRA for approval in November of 2018. Attached as **Exhibit “B”** is a copy of the First Proposed Plan.
15. Following the preparation of the First Proposed Plan, OES was successful in a tax appeal against Canada Revenue Agency (the “**CRA**”) and received an approximate \$60.8 million tax refund from CRA (the “**Tax Refund**”).
16. In February 2019, OES submitted a revised wind up plan (the “**Second Proposed Plan**”, together with the First Proposed Plan, the “**Proposed Plans**”) to RPRA for approval to update estimates of OES’ operating surplus funds (“**Surplus Funds**”), resulting largely from the Tax Refund. Attached as **Exhibit “C”** is a comparison document showing the changes between the First Proposed Plan and the Second Proposed Plan.
17. The Proposed Plans stipulated that any Surplus Funds remaining at the end of the OES Program would be disbursed to businesses that bring Electronics into Ontario or

manufacture Electronics for sale in Ontario (“**Stewards**”) since, during the operation of the OES Program, Stewards were charged fees (commonly known as environmental handling fees) (“**Steward Fees**”) that funded the OES Program.

18. On April 2, 2019, the Minister directed RPRA to consult with stakeholders on options to ensure that the Surplus Funds would be used for the benefit of consumers (the “**April 2019 Direction**”). Attached as **Exhibit “D”** is a copy of the April 2019 Direction.
19. RPRA engaged in consultations with stakeholders in June of 2019, presenting them with three options for the Surplus Funds: (i) the creation of a consumer rebate program; (ii) an extension of the June 30 Wind Up Date coupled with a suspension of fees payable by Stewards (the “**Fee Suspension**”); or (iii) a credit that consumers would receive at the point-of-waste or product return.
20. Following those consultations, (i) the Minister issued further directions (the “**July 2019 Directions**”) extending both the wind up date of the OES Program and the Fee Suspension to December 31, 2020; (ii) OES made further revisions to the Second Proposed Plan consistent with the Minister’s direction and submitted the further revised plan to RPRA for approval; and (iii) subject to certain conditions, RPRA approved the further revised wind up plan (the “**Final Wind Up Plan**”). Attached as **Exhibits “E”** and “**F**”, respectively, are copies of the July 2019 Directions and a comparison document showing the changes between the Second Proposed Plan and the Final Wind Up Plan, including the conditions attached by RPRA.

21. In contrast to the Proposed Plans, the Final Wind Up Plan requires that any Surplus Funds held by OES following its wind up be transferred to RPRA to offset registry costs incurred pursuant to the New Act.

#### **TERMINATION OF THE OES PROGRAM AND APPOINTMENT OF LIQUIDATOR**

22. The OES Program ended on December 31, 2020. Since that date, OES has not engaged in any further waste diversion programs and has continued to address its legal, financial and operational obligations.
23. On December 1, 2020, the Board initiated a request for proposal process (the “**RFP**”) for a qualified firm to act as Liquidator of OES and wind up the OES Program. Attached as **Exhibit “G”** is a copy of the RFP. As a result of the RFP, the Board selected Deloitte to act as Liquidator.
24. On February 24, 2021, the Board resolved to engage Deloitte as Liquidator effective April 1, 2021, to complete a formal winding up and dissolution of OES. Attached as **Exhibit “H”** is a certified copy of an extract of the minutes of the February 24, 2021 general meeting of the Board.
25. Deloitte’s appointment as Liquidator was approved by RPRA pursuant to O. Reg 357/17.

#### **MANDATE OF THE LIQUIDATOR PURSUANT TO THE RFP PROCESS**

26. The mandate granted to the Liquidator pursuant to the RFP process is broad and includes all obligations set forth in the Transition Act and the Final Wind Up Plan that are necessary for

the winding up of the business and affairs of OES and the distribution of its assets and property such as:

- (a) taking possession of, and reviewing, the books and records of OES, and the contracts to which it is a party, to ascertain OES' assets, liabilities and obligations;
- (b) taking possession of, and exercising control over, OES' property and any and all proceeds, receipts and disbursements arising out of, or from, OES' property;
- (c) receiving and collecting all monies and accounts owing to OES and exercising all necessary remedies of OES in collecting such monies including enforcing security, and initiating and defending proceedings as necessary;
- (d) reporting to, and meeting with, affected persons including Stewards, service providers, government officials and the Minister;
- (e) providing regular reports to RPRA regarding the status of the implementation of the Final Wind Up Plan;
- (f) preparing and submitting a final accounting to RPRA of all receipts and disbursements made by the Liquidator in carrying out its mandate;
- (g) preparing a final report to RPRA and the Minister regarding the implementation of the Final Wind Up Plan; and
- (h) filing all required HST and other tax returns and obtaining all necessary clearances from the CRA, and winding up the corporate entity.

27. In my experience, the mandate of the Liquidator is similar in scope to the powers and authority granted to a court-appointed receiver.

## **LIQUIDATOR'S ACTIVITIES SINCE ITS APPOINTMENT**

28. Since its appointment, the Liquidator has worked with EPRA and RPRA to familiarize itself with the applicable legislation, the Final Wind Up Plan, and the affairs of OES generally, including, the financial and operational obligations of OES.
29. In doing so, the Liquidator identified a potential conflict or ambiguity between the terms of the Final Wind Up Plan and rules (the “**Steward Rules**”) related to Steward Fees implemented by OES pursuant to the Transition Act. Attached as **Exhibit “I”** is a copy of the currently applicable Steward Rules.
30. The relevant provisions of the Steward Rules and the Transition Act are as follows:
- (a) *Steward Rules*: Rule 4(3) requires that, where a Steward has paid more fees in a fiscal year than is required (“**Excess Fees**”), OES will either credit or pay the Excess Fees to the Steward; and
  - (b) *Transition Act*: Pursuant to section 35(5) of the Transition Act, OES is permitted to distribute remaining Surplus Funds to RPRA, however such distribution may only occur after all liabilities of OES in respect of the OES Program have been satisfied.
31. The Liquidator identified that the obligation to return Excess Fees pursuant to the Steward Rules likely constituted a financial liability of OES such that Surplus Funds could not be

transferred to RPRA under the Final Wind Up Plan until such financial liability was addressed.

32. To address this conflict or ambiguity, and ensure consistency with the Final Wind Up Plan, the Liquidator proposed to amend the Steward Rules to include a new provision allowing for the distribution of Surplus Funds to RPRA, whether or not comprised of any amounts contemplated under Rule 4(3) of the Steward Rules (the “**Proposed Steward Rules Amendment**”).
33. The Transition Act permits OES to amend Steward Rules after consultation with the Stewards.
34. On May 10, 2021, in accordance with the consultation requirements under the Transition Act, the Liquidator, on behalf of OES, distributed a notice of consultation to Stewards (the “**Notice of Consultation**”) together with a presentation providing an overview of the Proposed Steward Rules Amendment. The Notice of Consultation provided details on the Proposed Steward Rules Amendment, notified stakeholders of consultations, including webinars to be held on May 20 and 21, 2021, and invited stakeholders to submit questions or comments in writing in advance of the webinars.
35. On May 14, 2021, an email (the “**May 14 Email**”) was sent to stakeholders, advising recipients that an updated presentation (the “**Updated Presentation**”) had been posted to the Liquidator’s case website, and extending the deadline to submit questions and comments until May 18, 2021. Attached as **Exhibits “J”, “K” and “L”**, respectively, are copies of the Notice of Consultation, May 14 Email and Updated Presentation.

36. The Liquidator did not receive any objections with respect to the Proposed Steward Rules Amendment. However, Electronics Product Stewardship Canada, an organization representing the vast majority of Stewards that participated in the OES Program, requested that it continue to be consulted with respect to the distribution of Surplus Funds. Attached as **Exhibit “M”** is a summary of the questions and comments received by the Liquidator during the consultation process.

### **NEED FOR COURT-SUPERVISED PROCESS AND COURT APPOINTMENT OF DELOITTE AS LIQUIDATOR**

37. Deloitte worked with OES, EPRA and RPRA in advance of this application to establish its mandate, run a stakeholder consultation process and advise on the best approach to various liquidation issues based on its extensive experience acting as a court-appointed officer.
38. Based on its review of the books and records of OES, the Liquidator has identified that OES has numerous stakeholders ranging from Stewards to service providers in relation to the collection, transportation and processing of waste Electronics.
39. The assets of OES are material and may significantly increase depending on the outcome of certain tax litigation that the Liquidator is considering.
40. In these circumstances, I believe that a court-supervised winding up of OES and the related court appointment of Deloitte as liquidator of OES is just and equitable.
41. A court-supervised process will assist the Liquidator in carrying out its mandate, ensure that the wind up process is open and fair, and if required, will provide an avenue to resolve issues that may arise during the wind up.

42. Additionally, I believe that a court-supervised process and the court-appointment of Deloitte as liquidator is in the interests of the stakeholders and creditors of OES, as it will ensure appropriate public disclosure of information to interested parties and an effective mechanism to complete the wind up of OES.

### PROPOSED CLAIM PROCEDURE<sup>1</sup>

43. Salient features and a timeline of the Proposed Claims Procedure are contained in the below table:

<b><i>Proof of Claims to Known Claimants</i></b>	
<b>Following the Court Appointment Date</b>	Liquidator shall compile a list of Known Claimants as at the Court Appointment Date, showing for each Known Claimant, their name, address, email address (where available) and amount owed pursuant to OES' books and records.
<b><i>Notification Process</i></b>	
<b>No later than June 30, 2021</b>	Liquidator shall send a Claims Package (which, for greater certainty, shall include a Pre-Populated Proof of Claim) to each Known Claimant by email to the last known email address of the Known Claimant set out in the books and records of OES.
<b>No later than 5:00 pm on June 30, 2021</b>	Liquidator shall cause the Notice to Claimants to be published, for at least one (1) Business Day, in <i>The Globe and Mail</i> (National Edition).
<b>Following Publication in <i>The Globe and Mail</i></b>	Liquidator shall cause the Notice to Claimants, the Claims Package and the Claims Procedure Order to be posted on the Liquidator's Website
<b><i>Claims Bar Date</i></b>	
<b>August 31, 2021 (the "Claims Bar Date")</b>	Any Person who (i) disagrees with the Claim stated in the Pre-Populated Proof of Claim, or (ii) wishes to assert a Claim, must deliver to the Liquidator, on or before the Claims Bar Date, a completed Proof of Claim, including all relevant supporting documentation.

<sup>1</sup> Any capitalized terms used but not defined in this section of the Affidavit shall have the meanings given to them in the proposed Claims Procedure Order attached at Tab 7 of the Applicant's Application Record.

<p><b>Impact of the Claims Bar Date</b></p>	<p>If any Person who received a Pre-Populated Proof of Claim does not return a Proof of Claim in the manner noted above by the Claims Bar Date, such Claim shall be deemed to be as set out in the Pre-Populated Proof of Claim and the Claimant will be barred from disputing or appealing same, and the balance of such Claimant's Claim, if any, shall be forever barred and extinguished.</p> <p>Any Person who has not received a Pre-Populated Proof of Claim and has not filed a Proof of Claim with the Liquidator pursuant to the Claims Procedure Order by the Claims Bar Date shall:</p> <p>(a) not be entitled to receive further notice with respect to, and shall not be entitled to participate as a Claimant or creditor in, the Claims Procedure or these Proceedings in respect of such Claim; and</p> <p>(b) be forever barred, estopped and enjoined from asserting or enforcing such Claim against OES and OES shall not have any liability whatsoever in respect of such Claim and such Claim shall be extinguished without any further act or notification by the Liquidator.</p>
<p><b><i>Adjudication and Resolution of Claims</i></b></p>	
<p><b>Following the Liquidator's receipt of Proofs of Claim</b></p>	<p>As soon as practicable after a Proof of Claim is received by the Liquidator, the Liquidator will attempt to resolve and settle the Claim with the Claimant. If the Liquidator determines, in its sole discretion, acting reasonably, that the Claim cannot be resolved or settled, the Liquidator shall issue a Notice of Revision or Disallowance in respect of such Claim.</p>
<p><b>30 Days Following Receipt of a Notice of Revision or Disallowance</b></p>	<p>Any Claimant who wishes to dispute a Claim as stated in a Notice of Revision or Disallowance shall bring a motion to the Court to seek a determination by the Court of the disputed Claim, within 30 days of the deemed receipt of the Notice of Revision or Disallowance in respect of such Claim.</p>

## **NEED FOR THE PROPOSED CLAIMS PROCEDURE**

44. I believe that the Proposed Claims Procedure in the Proposed Claims Procedure Order is fair and reasonable in the circumstances.

45. I am advised by Katherine Yurkovich of Gowling WLG (Canada) LLP, counsel to the Liquidator, that the Proposed Claims Procedure is consistent with the proof of claims provisions of the *Assignments and Preferences Act*, which are incorporated by reference into the *Corporations Act*.
46. I believe that the Proposed Claims Procedure will provide Known Claimants and potential unknown Claimants with adequate notice of the Proposed Claims Procedure, and an adequate opportunity to prove their Claims prior to the Claims Bar Date.
47. Additionally, I believe that the adjudication process provided in the Proposed Claims Procedure Order will facilitate the fair and expeditious resolution of any disputes in the circumstance that they may arise.

## **CONCLUSION**

48. This affidavit is made in support of an application for (i) a wind up and appointment order, among other things, appointing Deloitte as a court-appointed liquidator with the powers to carry out the wind up of OES under this Court's supervision; and (ii) a claims procedure order, among other things, approving the Proposed Claims Procure for the identification, quantification and resolution of claims of creditors of OES, and for no other, or improper, purpose.

SWORN BEFORE ME over videoconference on this 31<sup>st</sup> day of May, 2021. The affiant was located in the City of Toronto, in the Province of Ontario and the Commissioner was located in the city of Toronto, in the Province of Ontario. This affidavit was commissioned remotely as a result of the COVID-19 Pandemic.

}  
DocuSigned by:  
*Richard Williams*  
05D9C5850EAF4CC...  
Richard Williams

DocuSigned by:  
*Katherine Yurkovich*  
DF100400C72D4F9...  
A Commissioner for Taking Affidavits  
Katherine Yurkovich  
LSO# 80396R

**THIS IS EXHIBIT "A"  
TO THE AFFIDAVIT OF RICHARD WILLIAMS  
SWORN REMOTELY BEFORE ME  
THIS 31<sup>ST</sup> DAY OF MAY, 2021**

DocuSigned by:  
  
BF136400C72D4F9...

A commissioner for taking affidavits

Katherine Yurkovich  
LSO#80396R

Ministry of the Environment  
and Climate Change

Ministère de l'Environnement  
et de l'Action en matière de  
changement climatique

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ENV1283MC-2018-228

February 8, 2018

Mr. Jeff Van Damme  
Chair  
Ontario Electronic Stewardship  
5750 Explorer Drive, Suite 301  
Mississauga ON L4W 0A9

**Re: Direction to Wind Up the Waste Diversion Program for Waste Electrical and Electronic Equipment (WEEE) and Ontario Electronic Stewardship (OES)**

---

Dear Mr. Van Damme:

Pursuant to Section 14 of the *Waste Diversion Transition Act, 2016* (WDTA), I am directing Ontario Electronic Stewardship (OES) to wind up the waste diversion program for waste electrical and electronic equipment (WEEE) in full. OES must develop a plan to wind up the waste diversion program for WEEE and submit it to the Resource Productivity and Recovery Authority (the Authority) for approval no later than December 31, 2018. The waste diversion program for WEEE will cease operation on June 30, 2020.

As part of the plan, I am also directing OES to wind up its own operations once the waste diversion program for WEEE has ceased operation.

The development of the plan for winding up the waste diversion program for WEEE and OES must be conducted in accordance with this direction as well as the provisions of the WDTA and its regulations, including O. Reg. 357/17 (Industry Funding Organizations – Rules that Apply on Winding Up).

It is in the public interest that the plan is consistent with the following principles:

**Demonstrate Transparent Communications and Meaningful Consultation**

- The public, the Authority and affected stakeholders, including stewards, municipalities and service providers (e.g. collectors, haulers and processors), receive transparent and clear communications from OES on a regular basis during development and implementation of the wind-up plan.
- Affected stakeholders should be consulted and have opportunities for meaningful engagement during the development and implementation of the wind-up plan.

Mr. Jeff Van Damme  
Page 2.

### Support Competition and Prevent Conflict of Interest

- The plan shall support competition in, and not adversely affect, Ontario's current and future marketplace for the collection and recovery of WEEE. The plan shall not provide for unfair or preferential treatment of the public or any affected stakeholders, or barriers to competition during or following the windup of the program.
- OES shall take all necessary steps to ensure there is no real, potential or apparent conflict of interest when developing and implementing the plan.
- OES' sharing of data and information to parties other than the Authority must be done through a fair, open and transparent process that does not result in preferential treatment of one person or group over another or release of any confidential information.

### Demonstrate Fairness to Stewards and Protect Consumers

- The assets, liabilities, rights and obligations of OES must be dealt with in a fair, open and transparent process in accordance with applicable law. Assets (other than OES data and information) must be disposed of for fair market value.
- OES shall ensure that any fees paid by stewards fairly reflect the proportion of the costs referred to in Section 33 of the WDTA that are attributable to them and that there is no cost cross-subsidization among stewards for electrical and electronic equipment (EEE) categories.
- All monies held in trust by OES shall be treated appropriately in accordance with the WDTA and its regulations.
- The interests of current and future consumers should be considered when developing options to deal with program surpluses and/or deficits in the wind-up plan.
- OES' spending should be limited to program expenditures necessary to maintain or exceed current program performance for both collection and processing until the WEEE program ceases operation.

### Maintain and Improve Program Performance

- There shall be no disruption in the operation of the waste diversion program for WEEE, including collection, transportation and processing of WEEE, while the program is operating.
- Ontarians' access to and experience with the waste diversion program for WEEE shall not be negatively impacted during windup.
- Current program performance for both collection and processing must be maintained or exceeded until the WEEE program ceases operation.

Mr. Jeff Van Damme  
Page 3.

An addendum to this letter provides specific direction related to the details that OES must include in its wind-up plan for the waste diversion program for WEEE and for OES.

The implementation of the wind-up plan shall begin on the date on which the Authority approves the wind-up plan, which I anticipate will be no later than June 30, 2019.

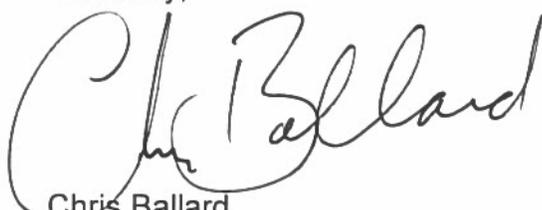
It is expected that OES will engage with the Authority, and consult with representatives of municipalities, stewards and other affected stakeholders, when developing its wind-up plan in accordance with my direction, the enclosed addendum, the WDTA and its regulations.

It is also expected that OES will engage with and work cooperatively with the Authority in implementing any policy direction issued to the Authority pursuant to Section 29 of the *Resource Recovery and Circular Economy Act, 2016* (RRCEA). In particular, OES will cooperate fully with the Authority on the activities set out in my policy direction to the Authority dated February 5, 2018, including providing the Authority with quarterly reports within four weeks of the end of each remaining quarter in 2018-2020 regarding OES' revenues and expenditures.

If it is in the public interest to do so, I will provide further direction at a later date related to the matters set out in this direction, or to provide clarification related to the windup of the waste diversion program for WEEE or OES.

Lastly, OES shall make publicly available on OES' website this wind-up direction letter, as well as the complementary policy direction letter issued to the Authority.

Sincerely,



Chris Ballard  
Minister

Attachment: Addendum

c: Mr. Paul Evans, Deputy Minister  
Ministry of the Environment and Climate Change

Ms. Glenda Gies, Chair  
Resource Productivity and Recovery Authority

## ADDENDUM

### **Addendum to the Minister's Direction Letter to Wind Up the Waste Diversion Program for Waste Electrical and Electronic Equipment (WEEE) and Ontario Electronic Stewardship (OES)**

OES is directed to develop a plan to wind up the waste diversion program for WEEE and for winding itself up that includes the following:

- A description of the designated wastes that are covered by the WEEE program.
- A description of how the program will be operated while the plan is being implemented and until the program has ceased operation.
- A proposed timeline according to which key aspects of the plan will be implemented.
- A description of and a proposal for dealing with the assets, liabilities, rights and obligations of OES in relation to the waste diversion program for WEEE, including:
  - All monies held in trust by OES pursuant to Section 35 of the WDTA.
  - Any other assets of OES, including, and without limitation, any intellectual property, physical assets, or real property.
  - Any liabilities incurred by OES during the development and implementation of the waste diversion program for WEEE and anticipated to be incurred during the development and implementation of the wind-up plan.
  - A detailed account of anticipated costs to operate and wind up both the waste diversion program for WEEE and OES during the development and implementation of the wind-up plan, and a detailed account of how OES will finance these costs.
  - A detailed account of how OES proposes to equitably apportion its assets, liabilities, rights and obligations among stewards of electrical and electronic equipment (EEE) categories.
- A description of and a proposal for dealing with any program surpluses or deficits associated with any of the EEE categories, including:
  - An approach to limit program expenditures necessary to maintain or exceed current program performance for both collection and processing until the program ceases operation.
  - Proposed rules governing steward fees that are in accordance with the principles set out in Section 33 of the WDTA.
  - Where possible, the rules would eliminate fees for EEE categories in order to minimize any remaining surplus funds, including any reserves, when the program ceases operations on June 30, 2020. If there is a fee elimination proposed, the fee will be eliminated as soon as it is feasible subject to the approval of the Authority, and the fee elimination will be in effect until the waste diversion program for WEEE ceases operation.

**ADDENDUM**

Page 2.

- Any fee elimination will be determined in a manner that would provide for sufficient funds to cover the costs set out in subsection 33 (5) of the WDTA, including costs of operating the program, costs incurred to wind up the waste diversion program for WEEE and OES, as well as costs incurred by the Authority under clauses 33 (5) (iv), (v) and (vi).
- A description of all data and information that is within OES' custody or control and that relates to the operation of the waste diversion program for WEEE since the Minister's program request letter (June 11, 2007), and a proposal for transferring all data and information to the Authority including:
  - The process for transferring all data and information to the Authority within any timeframes specified by the Authority.
  - The data and information that is to be transferred to the Authority, including, but not limited to:
    - A list of all registered stewards, including their business addresses and contact information, the nature of each steward's designation under the WDTA (e.g., whether designated because the steward is a brand holder, a first importer, or other person with a commercial connection to EEE); the classes of WEEE for which the steward is designated; the number of classes of WEEE for which the steward is designated; the number of materials in each class supplied by the steward into the Ontario marketplace;
    - Data and information relating to the collection and management of WEEE, including a list of collectors, haulers, processors and recycled product manufacturers, their business address, business contact information and past program performance data and information; and
    - Other additional data and information requested by the Authority.
  - Data and information related to the WEEE program that is in OES' custody or control shall not be for sale.
- A proposal for identifying confidential or personal data and information related to the waste diversion program for WEEE and indicating how such data and information will be supplied in confidence when transferring it to the Authority, which will assist the Authority in determining its treatment of such data and information based on applicable law and policies.
- The procedures that OES is putting in place to ensure there is no real, potential or apparent conflict of interest in respect of the plan's development, contents or implementation. Without limiting the scope of these procedures, the plan should address:
  - Any real, potential or apparent conflict of interest in respect of OES' relationship with the Electronic Products Recycling Association (EPRA).
  - Any necessary steps to ensure that EPRA does not receive preferential treatment as a result of its role in providing services to OES over other potential market participants in respect of WEEE resource recovery markets that may be created under the *Resource Recovery and Circular Economy Act, 2016*.

**ADDENDUM**

Page 3.

- An approach that outlines how OES will deal with any information technology systems related to the waste diversion program for WEEE to ensure fair and equitable access to all users, as an alternative to disposing of these assets for fair market value.
- A description of changes to the program that are anticipated to be necessary to implement the wind-up plan.

I am further directing that the plan to wind up the waste diversion program for WEEE and OES include the following:

- A detailed report of OES' communications with affected stakeholders and the public during the development of the wind-up plan.
- A detailed proposal for a communications plan for affected stakeholders and the public during the implementation of the wind-up plan, if approved. The proposed communications plan must set out the process by which OES will provide information to affected stakeholders and the public on a regular basis. The communications plan must include a description of the key steps that will be taken by OES to wind up the waste diversion program for WEEE and OES, and show how affected stakeholders and the public will be affected by the windup.
- A detailed report of how OES has met the consultation requirements of subsection 14 (13) of the WDTA during the development of the wind-up plan including:
  - A list of the stewards, municipalities, service providers and other affected stakeholders that were consulted during the development of the plan.
  - A summary of the communications directed by OES through its outreach channels and analytics on responses.
  - A summary of the comments received by OES from affected stakeholders. A report of how the comments from affected stakeholders were considered by OES in the development of the wind-up plan.

**THIS IS EXHIBIT "B"  
TO THE AFFIDAVIT OF RICHARD WILLIAMS  
SWORN REMOTELY BEFORE ME  
THIS 31<sup>ST</sup> DAY OF MAY, 2021**

DocuSigned by:  
  
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A commissioner for taking affidavits

Katherine Yurkovich  
LSO#80396R



# OES Wind Up Plan

ONTARIO ELECTRONIC STEWARDSHIP DECEMBER 2018

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### Schedules:

Schedule A: Detailed Implementation Plan and Timelines

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### Appendices:

Appendix A: OES WUP CONSULTATION REPORT

## OES WIND UP PLAN ACRONYM LIST

B2B:	Business to Business
BOL:	Bill of Lading
COI:	Conflict of Interest
CRA:	Canada Revenue Agency
CRT:	Cathode Ray Tube
CVP:	Claims Verification Process
EDM:	Environment Design Management Limited
EEE:	Electrical and Electronic Equipment
EHF:	Environmental Handling Fee
EOLE:	End-of-Life Electronics
EPRA:	Electronic Product Recycling Association
ERS:	Electronics Recycling Standard
HST:	Harmonized Sales Tax
IC&I:	Industrial, Commercial & Institutional
IFO:	Industry Funding Organization
IT:	Information Technology
ITC:	Input Tax Credit
MECP:	Ministry of Environment, Conservation and Parks
MTS:	Material Tracking System
OES:	Ontario Electronic Stewardship
PIP:	Processor Incentive Program
PO:	Purchase Order
PRO:	Producer Responsibility Organization
RFP:	Request for Proposal
RPRA:	Resource Productivity and Recovery Authority
RQO:	Recycler Qualification Office
RRCEA:	Resource Recovery and Circular Economy Act, 2016
SQL:	Standardized Query Language
TTC:	Toronto Transit Commission
WDTA:	Waste Diversion Transition Act, 2016
WEEE:	Waste Electrical and Electronic Equipment

# ONTARIO ELECTRONIC STEWARDSHIP WIND UP PLAN

## PROGRAM OVERVIEW AND WIND UP PROCESS

Ontario Electronic Stewardship (OES) is an Industry Funding Organization (IFO) designated to operate the waste diversion program for waste electrical and electronic equipment (WEEE) under the *Waste Diversion Transition Act, 2016* (WDTA). Since its inception in 2009, the WEEE program has diverted over 67 million electronic devices or over 500,000 tonnes of waste electronics from Ontario landfills. The WEEE program promotes the re-use and refurbishment of waste electronics and ensures that the valuable resources found in waste electronics, that cannot be re-used, are processed and recycled in an environmentally responsible manner.

In 2016 the Ontario legislature passed the *Resource Recovery and Circular Economy Act, 2016* (RRCEA) which creates a new legislative framework for managing waste in Ontario. Current waste diversion programs and related IFOs, such as Ontario Electronic Stewardship, will be wound up subject to provisions under the WDTA. Under the RRCEA, producers will be responsible for the implementation of new waste diversion programs that must meet recycling targets and objectives established under that Act.

Under the WDTA wind up process IFOs are required to develop wind up plans in accordance with specified statutory requirements once directed to do so by the Minister. Subsection 14 (13) of the WDTA requires IFOs to consult with stewards, municipalities and other stakeholders affected by termination of the program in developing wind up plans. IFOs submit wind up plans to the Resource Recovery and Productivity Authority (RPRA) which reviews and approves the plan if it is consistent with the Minister's direction and statutory requirements.

In February 2018, OES received direction from the former Minister of Environment and Climate Change to wind up the WEEE program by June 30, 2020. (Note: In July 2018 the Honourable Rod Phillips, Minister of Environment, Conservation and Parks, assumed responsibility for administering the RRCEA and WDTA statutes.)

OES's Ministerial wind up direction requires OES to submit its wind-up plan to RPRA by December 31, 2018.

### **Current Program Waste Materials**

Current WEEE program materials are identified in regulations under the WDTA and set out in Schedules under the program plan approved by RPRA.

WEEE can be identified in four broad categories, display devices, including: TVs and monitors; desktop and laptop computers; printers and peripherals, including telephones, cell phones, faxes etc.; and floor standing printers and copiers. See Section 1.1 for a full list of designated program waste.

## Current OES Program Funding

Under the WDTA, businesses that bring electrical and electronic equipment (EEE) into Ontario or manufacture EEE for sale in Ontario are defined as stewards and are obligated to register with OES, report on the volume of material supplied into the Ontario market and pay related steward fees to OES. Steward fee revenues fund operations related to the management of the WEEE program. OES steward fees are set subject to program rules, supported by RPPRA, and are established on a cost recovery basis for each waste electronic category.

Steward fees, commonly known as Environmental Handling Fees, or EHF's, are generally collected from the purchaser of the EEE at point of sale. Current December 2018 EHF rates for various EEE materials are provided in Table 1 below:

<b>Table 1: Ontario EHF Fees</b>	
<b>Electronic Product</b>	<b>EHF Per Unit</b>
Display Devices (TV/Monitors) 46" or larger	\$28.00
Display Devices (TV/Monitors) 30" to 45"	\$12.00
Display Devices (TV/Monitors) 29" or smaller	\$7.00
Non-cellular Telephones and Answering Machines	\$1.50
Home Audio/Video Playback and Recording Systems/Components	\$2.50
Desktop Computers	\$1.40
Portable Computers	\$1.00
Desktop Printers/Multifunction Devices	\$2.50
Personal/Portable Audio/Video Playback and Recording Systems	\$0.75
Home Theatre in a Box (HTB) Systems	\$2.50
Vehicle Audio/Video Systems (Aftermarket)	\$2.50
Floor-Standing Multifunction Devices	\$25.00
Computer Peripherals	\$0.75
Cellular Devices	\$0.07

\* EHF's are subject to applicable sales tax

Under the program Ontario companies, known as remitters who may do the reporting and remitting on behalf of stewards, register with OES and pay related fees for product supplied into the Ontario market.

In 2017, registered stewards and remitters reported 27.5 million EEE units supplied into the Ontario market and paid a total of \$55.5 million to OES to fund operations. There are approximately 750 stewards currently registered in the WEEE program.

Under the WEEE program, stewards also have the option of self-managing (i.e. recycling) electronic waste. These stewards must meet legal obligations under the program but may be exempt from paying related steward fees as they run programs to recycle and manage their related WEEE materials.

OES conducts compliance activities to ensure that stewards and remitters are complying with program requirements and statutory obligations. This includes the

identification and registration of potential stewards who are not registered under the program and the verification of reporting and payments from stewards and remitters that are registered under the program.

### **OES Service Providers and Program Delivery**

The OES program facilitates recycling of waste electronics through two general approaches: an allocation-based recycling model and a processor incentive-based model.

Under the allocation model, representing approximately 20% of WEEE recycling, OES pays direct collection incentives, pays and arranges for warehousing and transportation of WEEE materials to processors and allocates WEEE materials to processors selected through an RFP process. These processors are paid processing rates agreed to under contractual terms associated with the award of the RFP contract.

In addition to this recycling stream, OES also runs a Processor Incentive Program (PIP) under which processors recycle WEEE materials sourced from generators. Under this program, OES pays an incentive to processors that covers the collection, transportation and processing of the WEEE, and processors are responsible for the financial arrangements with generators and haulers with respect to the services those parties provide.

### **Allocation Based WEEE Recycling**

#### *WEEE Collection Sites:*

Under the allocation model, collectors are approved by OES to collect and sort WEEE for transport according to OES requirements. Collectors can be for-profit, not-for-profit organizations or municipalities which have entered into agreements with OES for the collection of designated materials.

Collectors can choose to collect all WEEE materials or a subset of WEEE materials. If collectors collect a subset of WEEE materials they cannot exclude any brands of such products and collection operations must be accessible to the public. For example, a retailer that chooses to collect WEEE computers and cell phones must collect all brands from consumers (even brands it may not sell) to become an OES-approved collector.

OES-approved collectors must utilize OES-approved transporters and are eligible for a collection incentive for every tonne of WEEE materials collected.

OES runs a number of programs, and provides a number of services, in relation to WEEE collection that assist various WEEE service providers in collecting and managing material in accordance with program guidelines. These include the following:

*Multi-Residential Collections:*

OES provides multi-residential collection to a number of municipal partners. This program involves providing community housing complexes as well as apartment and town house complexes with collection bin services. OES bins, the majority of which are rented by OES, are located in secure recycling rooms that only residents have access to. These sites are serviced at regular intervals either bi-weekly or monthly.

OES provides promotional support to these sites in the form of stickered and highly visible wheelie bins as well as some graphic design promotional material.

*Allocation Collections:*

OES has established an extensive collection network throughout the province since program inception. These permanent collectors consist of but are not limited to: municipalities, private businesses, government institutions, first nations groups, and not-for-profit organizations. Permanent collection sites have been established following one of two models:

A: Large Bin Collections (utilizing sea containers and roll offs or front-end bins);

B: Gaylord Collections (utilizing pallets, gaylords and shrink wrap).

Large bins, sea containers, roll offs, etc., are rented from various service providers. OES also provides collectors with promotional material and with pallets, gaylord boxes and shrink wrap necessary to facilitate the collection and transportation of WEEE in a safe and environmentally responsible manner. Some OES collection sites include WEEE drop off bins which are the property of, or are leased by, OES and which are provided to the collection site to facilitate WEEE collection. OES pays sites collection incentives on a monthly basis for any materials transported to, and received by, approved OES consolidation and re-packing facilities.

*Business-to-Business (B2B) Pick-ups:*

OES also facilitates B2B WEEE pick ups at no cost to businesses and residents in Ontario. Businesses and residents with a minimum volume of WEEE can contact the OES Customer Service department which will arrange for transportation to an authorized WEEE processor. These one-time B2B pickups are not eligible for collection incentives.

As of December 31, 2017, there were a total of 902 permanent OES approved collection sites of which 383 were municipal facilities. Approximately 95% of the Ontario population lives within 10 kilometres of a WEEE collection location.

### *Collection Events:*

In addition to authorizing permanent collection sites, OES also approves collection events for businesses, community groups and not-for-profit organizations that wish to collect WEEE materials. As with permanent collectors, OES provides a collection incentive related to WEEE collected at special events along with promotional and packaging materials. In 2017 OES authorized 377 collection events and the WEEE tonnage collected accounted for approximately two percent of total WEEE collected.

These collection events not only collect product for recycling but also represent educational opportunities for which OES provides staff to promote electronics recycling with the public and help with actual WEEE collection (see Promotion and Education below).

### **WEEE Transportation**

OES-approved transporters pick up WEEE from OES-approved collection sites and move it to OES-approved regional consolidation or repacking centres for initial sorting prior to transportation to WEEE processors. Repacking centres sort and palletize material collected in bulk containers into different WEEE categories for delivery to consolidators. Consolidators weigh and aggregate pallets of materials into larger shipments for transporting to OES-approved processors.

OES pays re-packers, consolidators and transporters operating under the allocation model on an order-by-order basis. It tracks WEEE shipments throughout the supply chain with a proprietary Materials Tracking System (MTS) software.

### **Processing Under the Allocation Model**

In order to be approved as a WEEE processor under either the Allocation or Processor Incentive model, companies must first apply to the EPRA Recycler Qualification Office (RQO) for verification that they operate in compliance with a national Electronics Recycling Standard (ERS), published by the Electronic Products Stewardship Canada . The RQO audits prospective processors and related downstream partner companies to ensure they recycle WEEE materials in accordance with the ERS.

Once verified by the RQO as compliant with the Electronic Recycling Standard (ERS), prospective processors are eligible to become service providers to OES and operate under either the allocation model or the Processor Incentive Program.

Processors operating under OES allocation model are selected through an RFP process and are also eligible to participate in the Processor Incentive Program as well (see below). OES monitors WEEE product flows to successful RFP processors to ensure that WEEE volumes are consistent with RFP contractual terms.

## **Processor Incentive Program**

Under the WEEE Processor Incentive Program (PIP), OES does not directly contract with collectors or manage WEEE product flows directly. Rather, processors which have met OES eligibility requirements source WEEE from generators, arrange transportation and are paid processing incentives by OES based on the weight of WEEE processed in respect of the collection, transportation and processing. The processor enters into contracts with the generators and haulers which determines, among other things, how much of the incentive the processor will pass on to the generator and hauler.

### ***Processing under the PIP***

Under the PIP program, processors can contract directly with OES-approved generators for the supply and processing of WEEE materials. Generators must be registered and approved by OES and operate in accordance with program guidelines.

Processors submit invoices for incentives to OES, documenting the processing of WEEE materials in accordance with OES standards. Invoices for any particular WEEE shipment must be submitted within 90 days of the Material Tracking System (MTS) Bill of Lading generation for the pickup of the WEEE to be eligible for OES incentives.

### ***Generators and the Processor Incentive Program (PIP):***

OES's Process Incentive Program supports the collection of WEEE at generator sites. Generators are private sector, not-for-profit or government organizations that contract directly with an OES approved primary processor to handle residential and/or IC&I electronic waste. Generators must be approved by OES and meet the OES Generator operating standard in order to collect end of life electronics for eligibility in the OES program.

Generators operate under contracts with approved OES processors and any financial compensation regarding WEEE collection is a function of their contractual terms with processors.

### ***PIP WEEE Transportation:***

Under the PIP program, OES does not provide transportation or consolidation incentives directly to transporters, consolidators or re-packers. However, OES processors are eligible for a transportation incentive based on the distance the WEEE travelled from various collection sites to processing facilities. Transporter financial compensation for WEEE delivery is a function of contractual arrangements between processors and transporters.

## **Reuse and Refurbishment**

The OES program also includes a number of Reuse and Refurbishment (R&R) organizations which can be not-for-profit or for-profit organizations that handle EEE

materials for reuse without repairing or modifying the hardware or repairing or redistributing parts or equipment.

Under the program, these organizations receive an incentive for reporting on EEE whole units (via monthly reports to OES) that are sold or donated for re-use. These WEEE materials must have a warranty associated with their resale. R&R organizations must meet site requirements established by OES and are eligible to collect incentives on WEEE materials transported to processors.

In 2017, a total of 28 R&R organizations representing 29 reuse and refurbishing sites participated in the WEEE program. These organizations processed 2,628 tonnes of WEEE materials for re-use (primarily display devices, computers and printers) which represented approximately 5% of total WEEE diversion tonnage in 2017.

### **Service Provider Compliance Activity**

As with stewards, OES conducts regular compliance and audit activities to ensure that various service providers conduct activity in accordance with program requirements. OES may suspend or revoke authorizations for service providers if WEEE recycling activity is not conducted in accordance with program requirements.

### **Promotion and Education**

Promotion and Education is an important component of the OES WEEE program which informs consumers about the benefits of electronic waste recycling and builds awareness of program accessibility and the location of WEEE collection sites and events.

In 2017, OES promoted WEEE recycling through radio, print and transit (Go Train and TTC) advertising. OES also coordinated a number of OES sponsored WEEE recycling activities in conjunction with environmental events such Earth Day and Waste Reduction Week. OES also raised awareness about electronics recycling through participation in community festivals and fairs, leveraging with the EPRA Recycle My Electronics Mobile Classroom, a customized shipping container which features videos and games designed to entertain and inform visitors about why they should recycle their old waste electronics.

In 2017, OES spent just under \$3 million related to promotional and educational activities with represented approximately 5.3% of the OES operating budget.

### **Program Performance**

In 2017, the OES WEEE program collected 52,712 tonnes of waste electronics materials from landfill. Since its inception the WEEE program has diverted over 500,000 tonnes of material.

Current trends in electronics manufacturing are significantly reducing the weight associated with display devices, computers and other electronic equipment. As such

the tonnage of WEEE processed under the program is expected to decline in 2019 and the first six months of 2020.

<b>Table 2: 2017 WEEE Tonnage by Material Category</b>	
<b>Material Category &amp; Processing</b>	<b>2017 Collection (Tonnes)</b>
Display Devices	26,869
Computers	6,454
Printers and Peripherals	18,495
Floor-Standing	894
<b>Total</b>	<b>52,712</b>

### **OES Operations and Administration**

OES currently administers the WEEE program through an operating agreement with the Electronics Product Recycling Association (EPRA), an industry led not-for-profit organization that operates regulated electronics recycling programs across Canada. OES has no direct employees. Under the terms of its operating agreement with EPRA, is liable for certain employee severance payments in the event of program termination.

Historically, a number of members of the EPRA and OES governing boards were comprised of the same representatives as both organizations operate for the same electronics industry. In preparation for program wind up, a new OES Board was appointed in August 2018 so that there is no overlap between the EPRA and OES governing representatives.

## OES Financing Heading into Wind Up

As can be seen in Table 3 below, OES is forecasting total operating expenses of \$46.6 million in 2018. Of this, \$38.9 million or 84%, is related to material management or incentive payments provided to service providers.

**Table 3: OES 2017 – 2018 (Forecast) Financials (\$000s)**

<b>Revenue:</b>	<b>2017 Actual</b>	<b>2018 Forecast</b>
EEE Fee Revenue	\$55,544	\$49,333
EEE Fee Refund		
Tax Refund		\$29,357
Interest	\$417	\$768
	\$55,961	\$79,458
<b>Expenses:</b>		
Processing	\$35,888	\$26,818
Handling	\$6,257	\$5,948
Transportation/Storage	\$7,340	\$6,127
<b>Direct Program Costs:</b>	\$49,485	\$38,893
<b>Other:</b>		
Promotion and Education	\$2,999	\$2,870
Administration	\$3,394	\$3,351
Wind-up Fees		\$150
RPRAs Fees	\$878	\$1,306
<b>Indirect Costs:</b>	\$7,271	\$7,677
<b>Total Costs:</b>	\$56,756	\$46,570
<b>Surplus/(Deficit)</b>	<b>-\$795</b>	\$32,888
<b>Tonnage (metric tonnes)</b>	<b>52,712</b>	<b>47,097</b>
<b>Closing Reserve</b>	<b>\$43,603</b>	<b>\$76,491</b>

During 2018, OES's net asset position will increase from \$43.6 million as of December 31, 2017 to a projected \$76.5 million as of December 31, 2018. This increase in OES's net asset position is due to a recent Tax Court ruling, Stewardship Ontario versus the Queen, 2018 TCC59.

Ontario Electronic Stewardship, like Stewardship Ontario, provides a service to stewards in managing the waste recycling program that the stewards are legally obligated to provide in Ontario.

In managing the program, OES collects and remits HST on the fees charged to the stewards.

In the early years of the program, the CRA ruled that the Ontario stewardship entities, including OES, were not allowed to claim Input Tax Credits (ITCs) for the HST they paid to third parties in operating the recycling programs. Stewardship Ontario and OES filed appeals with the Tax Court of Canada to challenge this ruling.

In April 2018, the Tax Court of Canada overturned the ruling for Stewardship Ontario. In June 2018, the CRA and Tax Court of Canada consented to overturn the ruling for OES, meaning ITCs are thereby allowed for the HST which had been paid to the third parties. As a result, OES received refunds for the previously denied ITCs, and is permitted to continue to claim ITCs on a go forward basis.

This favourable outcome means that OES will, by February 2019, have sufficient reserves from previous steward fees to fully offset the fees chargeable to the stewards to manage the program.

The ability of OES to begin to properly claim ITCs following the Tax Court ruling in May 2018 also affected OES's 2018 budget by shifting it from a deficit position to a projected operating surplus.

The CRA refund as a result of ITC credits received is \$29.4M as of December 13<sup>th</sup>, 2018 and this amount is reflected in the 2018 forecast. Additional ITC claims are in the process of being audited by CRA and are not concluded at the writing of this Wind Up Plan.

## **SECTION 1: OPERATING PLAN**

### **1.1 A. Operating Plan Overview**

As per Ministerial direction, OES will run the WEEE program subject to changes identified below until June 30, 2020.

OES net assets permit the implementation of an EEE fee reduction to zero, as per Ministerial direction, for implementation February 1, 2019 and OES forecasts having some surplus funds remaining in the program following the resolution of all financial obligations after program termination. (See Proposed Wind Up Plan Budget and Steward Fees and Program Funding below for more details).

With respect to program operations, OES is not proposing any changes to WEEE material definitions during program wind up. OES is also not proposing any changes to service provider incentive rates during wind up. In the view of OES, a business as usual approach to current material management and incentives will ensure that program performance is maintained and, as per Ministerial direction, there are no disruptions to the existing program during the wind up period.

OES as a corporate entity will continue to function beyond June 30, 2020 to process claims from service provider partners, dispose of any remaining net assets and resolve final financial arrangements with stewards. Following the reconciliation of OES steward and service provider accounts, OES proposes to appoint a liquidator post-program termination to dispose of any remaining assets and coordinate the steps necessary for corporate dissolution. As noted below, anticipated residual surplus funds left with OES following the disposition of all assets and resolution of all financial obligations, will be distributed to stewards per the WDTA and the program agreement.

OES anticipates that it will need approximately nine months following program termination to complete operational wind up activities and complete financial arrangements. Costs that may be incurred in 2021, such as a final financial audit, are accrued into and reflected in the 2020 budget.

While EEE product trends will reduce the weight of WEEE materials available for collection in 2019 and 2020, the changes OES is proposing in this Wind Up Plan (WUP) will ensure that current program performance on awareness and accessibility is maintained and that the WEEE program operates without disruption for both stakeholders and consumers until June 30, 2020. Tonnage is expected to decline consistent with the light-weighting of electronics products that has been and will continue to occur in the industry. In the view of OES, this Wind Up Plan is consistent with Ministerial directions including the requirement to support competition in, and not adversely impact, the current marketplace for recycling WEEE in Ontario.

Key Wind Up Plan elements include the following:

***OES Wind Up Budget Summary***

Given OES's projected net asset position as of December 31, 2018, OES worked in conjunction with RPRA to take steps to implement an EEE fee reduction to zero for February 1, 2019. Notice to stewards regarding OES's intention to implement a fee reduction to zero was provided by OES on November 23, 2018 in order for stewards to prepare their internal IT systems accordingly. This fee reduction was reviewed and supported by RPRA Board and OES provided formal notification of the EEE fee reduction to stewards on December 3, 2018. The following OES wind up budgetary forecasts are based on the implementation of an EEE fee reduction to zero for February 1, 2019.

As per Ministerial direction regarding wind up, the EEE fee change will reduce OES surplus funds that remain following program termination.

As can be seen from Table 4 below, preliminary OES budgetary forecasts indicate that OES is currently projecting program surplus funds of approximately \$1.4 million following the resolution of outstanding financial obligations after the program termination date of June 30, 2020. As per the current statutory requirements under the WDTA and the approved program agreement, any surplus funds remaining at the end of program wind up will be disbursed to stewards.

It should be noted that these initial forecasts are subject to financial contingencies, such as fluctuations in WEEE supply and potential additional HST rebates, that may occur between now and program termination. In the unlikely event that OES requires more funds than planned prior to program termination, it will reserve the right, despite the implementation of the EEE reduction to \$0 in February 2019, to adjust the EEE fee to a higher \$ amount to fund any financial shortfalls that may occur prior to program termination.

**Table 4: OES Wind Up Financial Forecast 2018 – 2020**

<b>Revenue:</b>	<b>2018 Forecast</b>	<b>2019 Budget</b>	<b>2020 Budget</b>
EEE Fee Revenue	\$49,333	\$3,327	0
EHF Fee Refund		<b>-\$2,300</b>	
Tax Refund	\$29,357		
Interest	\$768	\$545	\$250
	\$79,458	\$1,572	\$250
<b>Expenses:</b>			
Processing	\$26,818	\$26,013	\$12,681
Handling	\$5,948	\$6,231	\$3,280
Transportation/Storage	\$6,127	\$6,419	\$3,380
<b>Direct Program Costs:</b>	\$38,893	\$38,663	\$19,341
<b>Other:</b>			
Promotion and Education	\$2,870	\$2,860	\$1,000
Administration	\$3,351	\$3,370	\$2,485
Wind-up Fees	\$150	\$2,400	\$2,900
RPRA Fees	\$1,306	\$2,600	\$1,300
<b>Indirect Costs:</b>	\$7,677	\$11,230	\$7,685
<b>Total Costs:</b>	\$46,570	\$49,893	\$27,026
<b>Surplus/(Deficit)</b>	\$32,888	<b>-\$48,321</b>	<b>-\$26,776</b>
<b>Tonnage (metric tonnes)</b>	<b>47,097</b>	<b>45,684</b>	<b>22,271</b>
<b>Closing Reserve</b>	<b>\$76,491</b>	<b>\$28,170</b>	<b>\$1,394</b>

### ***Steward Fees and Supply Reports***

As noted above, OES has announced the reduction of EEE steward fees to zero for implementation on February 1, 2019. This fee reduction to zero will be the same for all program materials. Despite the EEE fee reduction to zero, OES stewards will remain obligated to report on EEE supply into the Ontario market until June 30, 2020. OES will finance operations during this period from existing reserve funds.

All stewards will be required to submit supply reports and pay existing EEE fees for January 2019 by February 28, 2019. Stewards will be permitted to submit adjustments or corrections to these reports until April 30<sup>th</sup>, 2019

These reporting deadlines will apply to all stewards including those who are approved to report on a quarterly or annual basis. After submitting their January supply report and paying related fees, stewards that submit on a quarterly basis will revert to the submission of supply reports on a quarterly basis until program termination. Stewards that normally submit supply reports on a quarterly or annual basis will also submit a January 2019 report no later than February 28<sup>th</sup>, 2019. All stewards will continue reporting market units supplied following their normal monthly, quarterly or annual schedule for February 2019 sales through to June 30<sup>th</sup>, 2020 sales. Following program termination on June 30, 2020, stewards that normally submit annual supply reports will submit a 6-month supply report covering the period from January 1, 2020 to June 30, 2020.

The reduction of steward fees prior to program termination will allow OES to resolve most steward account and outstanding payments during the wind up period and in advance of the June 30, 2020 program termination date.

Stewards, however, will continue to be required to submit EEE supply reports to OES throughout the wind up period (despite the reduction of steward fees to zero in relation to these reports). Final steward reports for the month ending June 30, 2020 will be due to OES by July 31, 2020 (this applies to all stewards whether they normally report on a monthly, quarterly or annual basis) with correction or adjustments to final steward reports due to OES no later than September 15, 2020.

The continuation of steward supply reports is essential for OES to monitor program performance and conduct period and final program cost allocations associated with the program. As such, current OES-steward and remitter service agreements will remain in place for the duration of the WEEE program. OES will provide formal notice of the timing of the termination of these agreements to stewards following approval of the Wind Up Plan by RPRA.

Once OES has resolved all financial program obligations following program termination, any remaining surplus OES funds, as per RPRA Wind Up Guide instructions and

statutory requirements, will be distributed to OES stewards in accordance with a methodology supported by RPRA.<sup>1</sup>

### ***Service Provider Contracts, Incentives and Payments***

OES is not proposing any changes to current WEEE related collection, transportation and processing incentive rates prior to or during the wind up period.

During the wind up period (Wind Up Plan approval date to June 2020), OES is proposing that it maintain existing service provider contracts related to the collection, transportation or processing of WEEE materials. OES will monitor applications for additional service providers during this period in light of maintaining current program performance and streamlining program wind up.

OES operates a Claims Verification Process (CVP) to support the integrity of the service provider reporting process. In the first quarter of 2020, processor mass balancing reports will be moved from a quarterly to a monthly basis to facilitate wind up and expedite OES payments in the final six months of program operations. OES will also continue with its regular compliance review activities during the wind up period and conduct additional onsite processor visits to validate inputs and outputs related to processor reports. OES will conduct additional reviews on claims outside of normal patterns to ensure validity of claims and expedite the reconciliation process.

Consumer collection sites will maintain program access throughout the wind up period and OES will coordinate the collection of any OES collection materials previously provided to OES collection partners in a manner which does not adversely impact consumer access to WEEE disposal sites prior to June 30, 2020.

OES will begin working with collectors and generators, both of whom operate collection sites, in January 2020 in preparation for program shut down. Collected WEEE will only be eligible for program incentives if the WEEE is dropped off at a collection site by June 30, 2020 and the related MTS Bill of Lading (BOL) for pick up and transportation of these materials is created and submitted to OES by end of day, June 30<sup>th</sup>, 2020.

As of July 1<sup>st</sup>, 2020, collectors and generators will not be able to add new volume to the OES Material Tracking System and no new BOL submissions will be accepted. Collector and generator BOL submissions must be made by June 30, 2020 with arrangement for pickup of such materials arranged no later than July 10, 2020. Collector claims for incentives on WEEE materials collected prior to June 30, 2020 must be submitted to OES no later than July 31, 2020.

OES will provide carriers with notice of program wind up consistent with contractual terms. OES will also coordinate the wind up of WEEE collection activities with existing processors.

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<sup>1</sup> The methodology used by OES to determine any surplus funds disbursements to individual stewards will be reviewed and supported by RPRA as part of the wind up process.

Following program termination, Re-use and Refurbisher service providers will have until July 10, 2020 to submit reports to OES on R&R activities completed prior to June 30, 2020. After July 10<sup>th</sup>, 2020, the MTS system will no longer be available for R&R reports.

Following program termination, processors will have until August 15, 2020 to submit claims to OES for the MTS BOL's completed and submitted by June 30<sup>th</sup>, 2020 end of day and with corresponding pickups completed by July 10<sup>th</sup>, 2020. BOL's dated later than June 30<sup>th</sup>, 2020, will not be eligible for reimbursement. Mass balancing reports are to be completed and submitted to OES by September 15, 2020.

OES will increase the audits of processors during the last six months of the program to ensure claims are entered correctly, are valid and that processors continue to function in accordance with program requirements. OES will work closely with processors to ensure that any additional or expedited audit or verification procedures required by OES to facilitate program wind up are implemented efficiently and in a manner that is reasonable for both processors and OES.

Onsite inspections and wind up audits will occur during July through September 2020. Material collected under the OES program will be properly dismantled and not stock piled, on-hand inventories will be managed in accordance with the ERS Standard and OES program requirements. Final collector, processor and other service provider payments will be consistent with contractual terms.

Where WEEE collection partners have OES-branded promotional materials and excess OES collection supplies such as bins, gaylord boxes, pallets and shrink wrap at program termination, these materials will be collected during final program pickups. OES will track packaging material supply inventories on an ongoing basis throughout the wind up period and will work to minimize on-hand OES packaging supplies at the point of program termination. Following program termination, OES leased bins will be returned to service providers and OES owned bins and packaging supplies which are re-usable will be disposed of in conjunction with other assets (Note: OES is not anticipating that these assets will generate significant revenues (see Wind Up Plan Section 5 for preliminary estimates)). OES recovered packaging supplies which are not suitable for resale will be recycled.

All service providers will be given a minimum of 6 months of notice of contract terminations. Currently OES anticipates providing notice of contractual termination to service providers in relation to wind up by September 30, 2019. OES will also provide adequate notice to service providers that do not have signed service contracts with OES regarding impending program termination (i.e. transporters that are paid on an order by order basis).

### ***Transition of OES's Material Tracking System***

OES currently tracks WEEE materials through various service providers to intended recycling outcomes through the use of a proprietary software Material Tracking System (MTS) specifically designed to track WEEE in accordance with OES regulatory requirements. The MTS system helps OES maintain integrity in the WEEE recycling marketplace and ensure that materials are recycled in accordance with acceptable environmental standards and program objectives and requirements.

As part of its Wind Up Plan, OES is proposing that the MTS system be made available to stakeholders as free software, including potential service providers and RRCEA stewards, as of January 1, 2020. While the MTS system is specifically designed for operation in the OES regulatory environment, making it available may assist future WEEE organizations in establishing their own tracking and reporting systems under the RRCEA framework. Making the MTS system broadly available also ensures that individual stakeholders are not receiving preferential treatment as WEEE recycling transitions to the new legislative framework.

OES will conduct information sessions with stakeholders if necessary to facilitate the transition of the Material Tracking System. A copy of the MTS system software will be provided to RPRA following program termination for potential release to stakeholders for whatever period of time RPRA determines is helpful with respect to continued WEEE recycling.

### ***Data Management***

As part of the wind up process, OES is required to transfer data that relates to the operation of the waste diversion program to RPRA. RPRA will be responsible for administering WEEE recycling programs under the RRCEA legislative framework.

Under Section 70 of the WDTA and Section 57 of the RRCEA, RPRA is required to treat information in its possession as confidential unless that information is required to be made public under the statutes. OES will identify any confidential or commercially sensitive data transferred to RPRA and take measures to ensure that data is supplied in confidence.

All steward and service provider data in OES's possession will eventually be destroyed following transfer of data to RPRA and resolution of final OES financial and corporate obligations (see WUP Section 9 for more detail).

Throughout the wind up process, OES will treat all stakeholder information in its possession as commercially confidential and maintain measures to ensure data security. Data will be transferred to RPRA at RPRA's request and RPRA is bound by confidentiality guidelines as well regarding safeguarding of data.

### ***OES Operations and Administration***

A new governing OES Board was appointed in August 2018 to develop and manage the OES wind up process and plan. The Board will monitor and assess OES fiscal and program performance throughout the wind up period to ensure that operations and outcomes are consistent with WUP schedules and objectives. It will work closely with RPRA to address any financial or program contingencies that may occur during the WUP period.

Upon RPRA approval of the OES Wind Up Plan, EPRA, which functions as OES's administrative service provider, will separate OES related operations and staff from those of EPRA's other operations to minimize overlap between OES personnel and functions with other EPRA activities during the wind up period (See WUP Section 13 for more details on Board and OES conflict of interest measures).

As noted earlier, the OES Board also proposes to appoint a liquidator, subject to RPRA approval, following program termination to dispose of any remaining OES assets and take the final steps necessary to dissolve OES as a corporate entity.

Winding down OES operations will require a termination of OES's operating agreement with EPRA. As noted earlier, OES administers the WEEE program through a service agreement with EPRA and does not have any direct employees.

As EPRA services are utilized by OES to process service provider and steward transactions, OES will manage the end of its EPRA service agreement to coincide with resolution of final program obligations with respect to both stewards and service providers. OES contractual closure with EPRA will likely occur approximately six to nine months following program termination after which the liquidator appointed by OES will assume responsibility for remaining OES operations.

OES will not incur any financial penalties for termination of its service contract with EPRA. Under the terms of the contract it has financial liability for severance costs associated with any EPRA employees that are laid off as a result of WEEE program termination. Potential contract termination costs, including severance, are covered in the wind up costs allowed for in the wind up budget.

OES physical assets are relatively minimal and include a few collection bins and an appliance which will have a net book value of less than \$2000 as of the program termination date. The OES appointed liquidator will assume responsibility for disposition of these assets in accordance with this Plan. OES does not anticipate that revenues related to asset disposition will be significant.

### ***Stakeholder Communications***

The attached Wind Up Plan includes a comprehensive communications strategy that will ensure that all stewards, stakeholders and service providers receive ongoing communications related OES wind up activities and related dates. OES may allocate

additional staffing to Field Operations in an effort to ensure all stakeholders receive notification of OES wind up and understand the impacts of the program wind up. Targeted stakeholder groups will include both the service providers that OES partners with directly and the secondary service providers that participate in the WEEE program indirectly through service arrangements with direct OES partners.

All affected stakeholders will be notified of RPRA approval of the Wind Up Plan and impending changes by July 2019 or earlier depending upon the timing of RPRA WUP approval process.

All OES contractual arrangements will be provided with notice of contractual termination in advance of, or consistent with, the timing of specified contractual terms. As noted above, OES anticipates providing contracted partners with notice of contract termination dates by September 30, 2019.

In early 2020, OES will increase communications outreach with service provider entities including generators, municipalities, and not-for-profit organizations participating in the collection of WEEE materials.

During the development of this Wind Up Plan, OES also conducted consultation with stewards, municipalities, service providers and other affected stakeholders. A summary of the OES consultation process and how it responded to stakeholder feedback in the development of this plan is attached as Appendix A.

### ***Designated Waste Covered Under the Wind Up Plan***

Desktop Computers

Portable Computers

Display Devices

Desktop Printers, Scanners, Fax Machines and Multifunctional Devices

Floor Standing Printers, Copiers and Multifunction Devices

Computer Peripherals

Personal/Portable Audio/Video playback and/or Recording Systems

Home Audio/Video Playback and/or Recording Systems

Home Theatre in a Box

Vehicle Audio and Video, Navigation Systems and Recessed Wall and Ceiling Speakers

Non-Cellular Telephones and Answering Machines

Cellular Devices and Pagers

OES is not proposing any changes to the content of designated Waste Electronics and Electrical Equipment prior to or during the wind up period. The current list of designated waste has been in place since program inception in 2009.

### **Summary of Operational Timelines**

<b>Table 5: Summary of OES Operational Timelines</b>	
<b>Date</b>	<b>OES Wind Up Action</b>
December 31, 2018	OES submission of WUP due to RPRA
February 1, 2019	Reduction of steward EEE fees to zero.
February 28, 2019	Steward deadline for submission of January 2019 supply report and payment of related steward fees. (Note deadline applies to all stewards including those which normally report on a quarterly or annual basis.)
April 30, 2019	Deadline for stewards to submit any reporting revisions re previous reports which required fee payments and pay any associated fees owing (or submit request for OES fee adjustment).
April 1, 2019	OES 2018 Annual Report due to RPRA
June 30 <sup>th</sup> , 2019	RPRA Windup Plan Approval Due Date
July 2019 (or earlier dependent upon RPRA approval process)	OES notification to stewards, service providers and other stakeholders of Wind Up Plan approval
September 30, 2019	OES notice to stakeholders of pending contractual terminations
November-December 2019	OES Information Sessions re: Availability of MTS software and impending release.
January 2020	Communication reminder to all stewards regarding the final reporting and remitting period being June, 2020, due July 2020 and for six-month R&R reporting ending June 30, 2020.
January 2020	Release of OES MTS software to stakeholders.
January 2020	Communication reminder to all service providers and affected stakeholders of impending program termination date.
April 1, 2020	OES 2019 Annual Report due to RPRA
June 30 <sup>th</sup> , 2020	Program Termination Date: Final date for which OES will accept: - Final date for collectors and generators to submit MTS bill of lading (BOL) submissions and arrange WEEE pickup.
July 10, 2020	Final date for transporters to pick up WEEE at collector and generator sites for MTS BOL dated June 30 <sup>th</sup> , 2020 and earlier.
July 10, 2020	Final date for submission of R&R reports to OES

July 31, 2020	OS Collector cut-off date for submission of final OES collection claims.
August 15, 2020	Processor Cut-off date: Date by which processors must have processed any WEEE material collected prior to June 30, 2020 and submitting final PI claims.
September 15, 2020	Deadline for completion of processor mass balancing reports. Deadline for Stewards to submit any final supply report corrections or adjustments.
TBD	Final date for OES transfer of MTS software to eligible stakeholders and transfer to RPRA
September 30 <sup>th</sup> , 2020	\$5K holdback returned to processors meeting final mass balancing reporting requirements
TBD	Disbursements to stewards if surplus funds remaining.
TBD	Appointment of OES liquidator (subject to RPRA approval)
TBD	Termination of OES-EPRA Service Agreement
TBD	Dissolution of OES as a corporation
April 1, 2021	OES 2020 Annual Report due to RPRA
April 2021	Submission of Final Wind Up Report to RPRA and Minister

## 1.1 B Reporting Obligations During Wind Up

Prior to and during the wind up period OES will continue to fulfill its reporting obligations under the WDTA:

Consistent with the WDTA, OES will provide the following reports to RPRA by the following dates:

- Annual report for 2018 by April 1, 2019
- Annual report for 2019 by April 1, 2020
- Annual report for 2020 by April 1, 2021

OES also proposed to submit the final Program Wind Up Report by April 30<sup>th</sup>, 2021 to RPRA and Ministry of Environment, Conservation and Parks.

Consistent with Ministerial direction, OES is also providing quarterly financial reports to RPRA.

## 1.2 Steward Rules During Wind Up

Steward rules will be amended to facilitate certain wind up activities.

These will include amendments to enable the following changes:

- Update steward rules to permit an EHF change effective February 1, 2019.
- Implement shorter time frames for reporting obligations given the mid-year wind up date of June 30<sup>th</sup>, 2020.

## 1.3 Targets and Performance

### ***Program Accessibility***

Since the WEEE program began, OES has diverted 507,619 metric tonnes of end-of-life electronics (EOLE) from landfill to help the environment. As noted above, WEEE collection is facilitated by both OES approved collection sites, including municipal, not-for-profit organizations and retailers and OES-approved generator sites (which are often open to the public).

In 2017 the number of Ontarians living within the catchment area of WEEE collection/generator sites was the following:<sup>2</sup>

- Total accessibility within 10 kms – 96.9%;
- Total accessibility with 25kms – 99.7%
- Total accessibility within 50kms – 99.8%

OES will continue to post all public collection sites on its website throughout the wind up period and direct residents to their nearest collection site based on postal code. In addition, OES will continue to implement marketing and promotional activities that facilitate consumer awareness of WEEE drop off locations.

OES will monitor collection site activity throughout the wind up period to ensure program accessibility is maintained. If select collection sites voluntarily exit the program during the wind up period, OES will look to contract other service partners in any affected areas so that service is not interrupted. OES will continue to recommend the nearest existing collection sites to any resident or business that contacts the customer service group. If the material to be collected meets the requirements of the B2B program OES will arrange for an on-site pick up.

### ***Tonnage and Light Weighting***

It should be noted that trends in EEE manufacturing are driving reduced tonnages with respect to WEEE recycling throughout Canada. As can be seen in Table 6 below, the tonnage of collected WEEE in the last five years has dropped by over a third since 2013. Laptops, as an example, are 50% lighter than 5 years ago.

<b>Table 6: OES WEEE Tonnage 2013 – 2018</b>		
<b>Year</b>	<b>WEEE Collection Tonnage</b>	<b>YOY Decrease due to Light Weighting</b>
2013	76,764	
2014	71,018	- 7%
2015	67,115	- 5%
2016	60,139	- 10%
2017	52,712	- 12%
2018 (Forecast)	47,097	- 11%

OES anticipates that collected WEEE tonnages will decline in 2019 and 2020 but that the current rate of tonnage decline will lessen in comparison to the previous five years as the heavy CRT televisions and monitors are becoming less and less prevalent in the returns of display devices.

<sup>2</sup> OES commissioned Environmental Design and Management Limited (EDM) in 2017 to measure the program's accessibility.

## **Consumer Program Awareness**

OES conducts polling on an annual basis to assess consumer awareness of the WEEE recycling program. In 2018, 69% of the adult Ontario population reported being aware of waste electronic recycling, a 3% improvement over 2017.

OES will continue to monitor consumer awareness in 2019 to support ongoing consumer awareness of WEEE recycling throughout the wind up period.

OES utilizes the EPRA Recycle My Electronics logo, branding, campaigns and marketing collateral in order to increase the awareness and participation in Ontario at an affordable cost. This has proven an effective strategy for OES as the awareness has increased from 66% in 2017 to 69% in the 2018 survey results.

### **1.4 Education Programs**

Promotion and education are crucial components of the OES WEEE Program. OES P&E activities inform Ontario residents on the importance of safely and securely recycling their end-of-life electronics while also providing information on safe and convenient drop-off locations.

A number of EPRA/Recycle My Electronics campaigns are utilized by OES to raise awareness and ask the Ontario audience to consider the future for their own, local, natural environment, along with the behaviour of the devices they use today. These include:

- **Education Learning Hub:** The EPRA Learning Hub is utilized by OES to provide students, youth groups, educators and parents with engaging content that helps them learn about the importance of electronics recycling.
- **My Electronics Mobile Classroom:** The successful launch of the EPRA Recycle My Electronics Mobile Classroom was utilized by OES to raise awareness in a self-contained, hands-on environment. This Mobile Classroom, made from a customized shipping container, features videos and games designed to both educate and entertain visitors about why they should recycle their old, unused electronics. As well as being a mobile information centre, the container serves as a collection bin for visitors to drop off their end-of-electronics on the spot. The Mobile Classroom was set up on location at festivals and fall fairs with on-site event staff present to interact with the public and spread the word about the importance of recycling end-of-life electronics

- The operation of a Trade Show Booth for industry association and waste management events;
- Participation with service providers in promotion of WEEE recycling and collection at environment events such as Earth Day and Waste Reduction Week. OES expanded on its communications strategy in 2017, by focusing on the recoverable resources inside end-of-life electronics and promoting this message at Earth Week and Waste Reduction Week events, through new media partnerships and with the new interactive Recycle My Electronics Mobile Classroom

In support of these events and WEEE recycling generally, OES conducts annual advertising in radio, print and online forums in addition to utilizing digital marketing to raise awareness and encourage participation in electronics recycling. Brochures, signage, stickers and marketing materials are provided to collection sites and other OES service providers.

Current promotional and education campaigns and partnerships will be continued in 2019. In 2020 such events will be assessed on a case-by-case basis to determine whether benefits are still applicable in light of the pending program termination.

With the reduction of the EHF consumer fee to zero for the wind up period, in the view of OES, it is important to maintain promotional and education programs which support consumer awareness of WEEE recycling to ensure that the change in the EHF fees does not create the impression that WEEE recycling is ending.

During the wind up period, OES will refocus communications activities on informing stakeholders and consumers about the wind up process and the continued importance of electronic recycling following program termination. OES communication activities and events will promote recycling of waste electronics generally and emphasize the continuation of WEEE recycling behaviours.

These activities will not only support a streamlined wind up of OES operations but also help to improve consumer and stakeholder awareness of continued WEEE recycling under the RRCEA framework.

## **1.5 Market Development**

As there are active markets existing for WEEE downstream materials, OES focuses on building awareness of WEEE recycling among both businesses and consumers.

OES has implemented a number of projects designed to build program awareness and thereby increase the volume of WEEE collection in Ontario indirectly supporting market

development for related downstream materials (by encouraging the production of larger Ontario volumes).

OES intends to continue marketing plans and events throughout 2019. In 2020, each special collection event or campaign partnership will be assessed on a case-by-case basis to determine if the short-term benefits associated with the event or campaign are still justified given impending program termination.

### ***Studies, Reports and Market Information***

OES conducts analysis and produces annual reports on accessibility and awareness. These reports will be transferred to RPRA during the wind up. These annual assessments will continue to be run by OES in 2019 and the spring of 2020:

OES Consumer Awareness Survey

OES Accessibility Report

OES commissioned a third party to measure brand awareness of the program in 2017 and 2018. They conducted survey research among adults living in Ontario and data was weighted to reflect the adult population of Ontario by region, age and gender. Awareness increased by 3% from 66% in 2017 to 69% in 2018.

## **SECTION 2: IMPLEMENTATION PLAN AND TIMELINES**

### **2.1 Implementation Plan and Timeline**

#### **A. Detailed Implementation Plan**

A detailed implementation plan is attached as Schedule A. OES will begin to operationalize implementation of the Wind Up Plan with a general notification of RPRA's approval of the Plan targeted for July 2019 (or earlier dependent on RPRA approval date). All program participants will be notified of key wind up dates with a schedule of follow-up notifications specific to each program participant and key wind up steps.

As per Ministerial instruction, key wind up steps will operationalize a program termination of June 30, 2020. Following WEEE program termination, OES estimates that it will take approximately six to nine months to resolve remaining WEEE program and OES corporate financial and legal obligations and dissolve OES as a corporate entity.

As part of this Wind Up Plan, OES is proposing the engagement of a liquidator to resolve final OES financial and legal obligations and undertake the steps necessary to dissolve OES as a corporate entity in a manner consistent with the provincial *Corporations Act* and regulations under the WDTA.

Throughout the process, OES will meet regularly with RPRA staff to monitor implementation of key wind up tasks, as per Schedule A, and ensure that wind up activities are completed in accordance with the approved Wind Up Plan. Quarterly reviews will include regular updating of OES financial and budgetary forecasts to ensure consistency with the approved wind up budget and early identification of any financial discrepancies or adjustments necessary in relation to the OES wind up budget.

Throughout the wind up process an OES third party consultant will work with relevant OES staff to ensure that tasks identified in Schedule A are completed in accordance with the WUP.

#### **B. Corporations Act and WDTA Regulations**

As noted above, OES proposes to engage a liquidator, subject to RPRA approval, to take the final steps necessary to dissolve OES as a corporate entity in a manner consistent with WDTA regulations and the *Corporations Act*.

## 2.2 Key Wind Up Plan Dates

<b>December 31, 2018:</b>	As per Ministerial direction of February 8, 2018, date by which OES must submit a Wind Up Plan for the WEEE program to RPRA for review and approval.
<b>June 30, 2019:</b>	Date by which RPRA will approve a Wind Up Plan for the WEEE program.
<b>June 30, 2020:</b>	Termination date for OES program operations as per Ministerial direction of February 8, 2018.
<b>December 31, 2020:</b>	Target date for the completion of all OES third party arrangements (i.e. disbursement of any excess funds, finalization of service provider payments, etc.)
<b>April 2021:</b>	Target date for submission of final Wind Up Plan report to RPRA and Minister as per Subsection 14 (20) of the <i>Waste Diversion Transition Act, 2016</i> (confirmation of Wind Up Plan implementation and completion.)

## 2.3 Other Timeline Considerations

Wind up of the WEEE program will require termination of contracts with a number of OES service providers including: collectors, transporters and processors. Contractual termination provisions for these service providers range from 30 to 90 days. OES is proposing to provide formal notice of contract terminations to service providers approximately 9 months prior to the program termination.

The OES wind up plan (Section 1: Operational Plan) includes explicit dates for the completion of WEEE related activities for all service providers along with set dates for the submission of claims and related submissions to OES.

Steward OES agreements do not include explicit termination clauses, but as with service providers, the Wind Up Plan will include advance notice to stewards of program termination along with final dates for the submission of steward fees, related adjustments and supply reports (Note: Under the proposed Wind Up Plan it is proposed that steward WEEE fees will be reduced to zero prior to program termination. However, steward EEE supply report obligations will continue until program termination meaning that stewards will be subject to different dates for the finalization of fee payments and EEE supply reports.)

Wind up of the WEEE program will also require termination of the OES service contract with the EPRA which provides administrative support to the program. This termination is anticipated to be operationalized approximately six months after the WEEE program

termination date. OES's termination of the EPRA contract will be implemented in accordance with contractual requirements and Wind Up Plan provisions.

Detailed information on various dates for program participant contractual, activity and reporting deadlines are found in: WUP Section 1: Timelines Summary; WUP Section 2: Schedule A: Implementation Plan and Timelines; and WUP Section 7: Cut-off Dates.

## **SECTION 3: CONSULTATION WITH STAKEHOLDERS**

### **3.1 Consultation During Wind Up Plan Development**

OES conducted a series of webinars and meetings in October and November 2018 to solicit input regarding the development of its Wind Up Plan (WUP). Stakeholders were provided with an overview of OES Wind Up Plan financials and a summary of key proposals for wind up activities. In addition, OES sought feedback on specific proposed dates for termination of steward and service provider reporting obligations and transactions.

A series of 11 webinars were conducted between October 30<sup>th</sup> and November 23<sup>rd</sup> 2018. All stakeholders were notified of webinar sessions through email blast. Webinars were grouped by stakeholder category but open to all stakeholders. OES also invited all WEEE processors to individual, in-person consultations as well as meeting with the Retail Council of Canada and Electronic Products Stewardship Canada. OES conducted the final webinar on November 23, 2018 providing a financial update and signaling the intent to implement an EEE fee reduction to zero effective for February 1, 2019.<sup>3</sup>

As per Ministerial direction a full report (the OES Wind Up Plan Consultation Report) regarding OES consultation during the development of the wind up plan is attached as Appendix A to this plan. The OES Wind Up Plan Consultation Report identifies types of organizations that participated in OES wind up plan consultation sessions, a summary of the comments received during consultation and a discussion of how those comments were considered by OES in the development of this wind up Plan.

### **3.2 Communications with Stakeholders**

#### ***Communication Plan Objectives***

A comprehensive and effective communications strategy is a key component of implementing an OES Wind Up Plan that is consistent with legislative requirements and consistent with Ministerial direction. Throughout the wind up period, OES will utilize open and transparent communications strategies to support an orderly wind up of OES operations and a smooth transition to recycling under the RRCEA framework. Key communications objectives include the following:

- Support for program performance throughout the wind up period:
  - Maintain or improve program performance;
  - Ensure no disruption in the operation of WEEE recycling;
- Implementation of a transparent and open OES wind up process:

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<sup>3</sup> Stewards were provided with formal notification of the EEE fee reduction to zero for implementation effective February 1, 2019 on December 3, 2018 following review and support of the proposal by RPRA Board.

- Ensure advance stakeholder awareness of key program changes;
- Maintain open and accessible communications feedback options for all affected stakeholders – i.e. make it easy for stakeholders to get questions answered.
- Sustain effective OES-stakeholder interaction during program wind up:
  - Tailor stakeholder messaging where applicable to address the needs of specific stakeholders;
  - Monitor stakeholder reactions and adjust outreach activities/messaging where necessary.
- Support for stakeholder awareness of impending transition to waste electronic diversion under the RRCEA framework (although not a direct OES responsibility, represents a complementary objective to smooth wind up of existing OES program).

Note: The wind up of the current OES WEEE program is taking place during the concurrent development of a new regulatory framework for diverting waste electrical and electronic equipment to be implemented under the RRCEA. That new legislative framework will come into effect after the current OES program terminates. As such the majority of OES stakeholders participating in the wind up of the current program will also be preparing for anticipated operations under the RRCEA framework.

OES communications activities during program wind up will support stakeholder awareness of the impending transition to the diversion of waste electronics under the RRCEA, but primarily to direct stakeholders to the appropriate organizations for information, RPRA or the MECP, and identify any outreach activities that may be impending or underway on the part of those organizations. OES communications activities will not address any specific issues related to waste electronic recycling under the RRCEA framework (i.e. content of waste electronic regulations under the RRCEA, etc.). The content of RRCEA requirements and details of stakeholder obligations under that legislative framework are out of scope with respect to OES communications activities.

See Section 3.4, 3.5 Stakeholder Communications Mechanisms for an outline of proposed communication activities and tactics to be implemented during the wind up period.

### **3.3 Audits, Reviews and Engagements**

#### ***Operational Audits***

OES undertakes a number of compliance activities to ensure that service providers comply with program requirements. OES service providers contracting with OES are accountable to meet and fulfill regulated program requirements. Sanctions for service

provider non-compliance include repayment of incentives or recovery of fees paid, through to suspension and termination from the program.

With respect to collection sites, OES site visits are required prior to approval of registration to ensure such sites comply with program requirements. As with the current operations, OES will continue to inspect collection sites during the wind up to ensure ongoing compliance.

With respect to WEEE processing facilities, all facilities must operate in accordance with the RQO recycling standard for WEEE materials and comply with program standards and reporting requirements established by OES. All invoices submitted by processors to OES must be supported by complete, accurate and timely documentation in accordance with OES requirements. OES reserves the right to visit and inspect processor locations and those of processor generators to ensure ongoing compliance with program requirements.<sup>4</sup>

With respect to program wind up, prior to and after the program termination date, OES will employ additional resources to perform processor audit functions to maintain program integrity throughout the wind up process and to enable OES to expedite the wind up of the program in a reasonable time frame.

OES follow-up work related to documentation and processor incentive claims submissions will be conducted under tighter time frames that apply to normal program operations. Throughout the wind up period, OES will work closely with processors to ensure that any OES additional or expedited verification requirements associated with the program termination are implemented in a manner which is reasonable for both the processors and the OES program.

During program consultation, processors indicated that the initial time frames proposed by OES for the submission of final processor incentive claims reports in relation to program termination were reasonable and workable from their perspectives.

### ***Steward Audits***

OES conducts a number of compliance activities to ensure stewards are complying with their obligations under the WDTA. Compliance activity related to stewards can be subdivided into three general categories:

1. Identification of stewards who are obligated to register under the WDTA but have not done so and notification to those stewards of their obligation;
2. Ensuring registered stewards file required EEE supply reports and pay related fees in relation to those reports; and
3. Verification of the accuracy steward reports filed.

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<sup>4</sup> Note: OES site visit inspections may be undertaken for all processors and related generators prior to their approval to participate in the OES WEEE program.

With respect to identification of unregistered stewards, OES will continue to identify and notify these organizations to report on EEE supplied into the Ontario market throughout the wind up period. As noted in section 1, amendments to OES steward rules will be made to shorten the time frames to report EEE supply to accommodate the wind up of the WEEE program. OES will continue with these functions even after the EEE fee has been reduced to zero. Supply information will be required to monitor program performance and the identification of obligated stewards will identify organizations that will likely be obligated to register under the RRCEA regulatory framework with respect to EEE supply.

OES will continue to follow-up with stewards where they have failed to submit supply reports and pay any related steward fees in accordance with program requirements.

As noted in WUP Section 1, OES is implementing an EEE fee reduction to zero effective for February 1, 2019. All stewards will be required to submit supply reports and pay existing EEE fees for January 2019 by February 28, 2019. Stewards will be permitted to submit adjustments or corrections to these reports until April 30th, 2019.

As noted in the operational plan, following program termination on June 30, 2020 stewards will have until July 31, 2020 to submit final supply reports (this applies to all stewards whether they report on a monthly, quarterly or on a 6-month basis). Stewards will be given until September 15, 2020 to make any final adjustments or corrections to these final supply reports.

In the case of program termination, OES will increase steward communication activities and expedite steward follow-up compliance to ensure OES final financial and program reconciliations can be completed in a reasonable time frame.

With respect to verifying the accuracy of steward reports, OES conducts both risk-based assessments (stewards with a history of non-compliance are audited more frequently) and random steward assessments. This pattern will continue throughout the wind up period with a stronger emphasis on risk-based accuracy verifications following the program termination date on June 30, 2020.

### ***Annual Reports***

During the wind up period OES Annual Reports will be prepared and submitted in accordance with historical practice and existing statutory requirements. The schedule for submission of OES Annual Reports is the following:

2018 Annual Report – Submission to RPRA by April 1, 2019;

2019 Annual Report – Submission to RPRA by April 1, 2020;

2020 Annual Report - Submission to RPRA by April 1, 2021.

### ***Final Financial Audit***

Following the submission of final steward supply reports (and any corrections and adjustments) and the final processing of payments to OES service providers, OES will be in a position to conduct final financial reconciliations related to both 2020 program operations and the full term of the overall WEEE program. These final financial audits are scheduled to be conducted in the fall of 2020 once final stakeholder reports have been received and processed. The final financial audit of the program will be conducted in accordance the audit process currently used for OES Annual Reports.

### **3.4, 3.5 Stakeholder Communications Mechanisms**

A number of OES wind up communication related activities will be common to all stakeholders. These include the following activities along with targeted time frames related to such activities.

April 2019 – Publication of 2018 OES Annual Report (On-line posting)

July 2019 – (or earlier dependent upon RPRA approval process) Notification of Approval of OES Wind Up Plan (Special Email Communications)

January 2020 – Wind Up Notification Reminders (Special Email Communications)

April 2020 – Publication of 2019 OES Annual Report (On-line posting)

May/June 2020 – Wind Up Notification Reminders (Special Email Communications)

April 2021 – Publication of 2020 OES Annual Report (On-line posting)

OES communication mechanisms related to various stakeholder groups and initial timeframes for activities are outlined below.

<b>Table 7: Summary of OES Communications by Stakeholder Group</b>		
<b>Stakeholder</b>	<b>Communication Mechanisms</b>	<b>General Schedule</b>
Stewards	Email Blasts Steward Newsletter Letters Information Sessions (Webinars) Phone Calls Website Posts Web Portal – Call Centre access throughout wind up period.	<i>November 2018</i> Notification of EEE Fee reduction to zero Webinar sessions - re fee reduction process, continued reporting obligations. <i>February 2019</i> Implementation of EEE fee reduction to zero. <i>February-April 2019</i> Final steward EEE fee payments and adjustments – individual steward follow up as required. <i>July 2019 (or earlier)</i> Notification of WEEE Wind Up Plan Approval <i>TBD</i> Notice of timing for termination of OES-remitter-steward agreements. <i>Fall 2019</i> Notification of MTS Availability Information Sessions <i>January 2020</i> WEEE Wind Up Reminders <i>April – May 2020</i> WEEE Wind Up Reminders - re final reporting requirements – timing re termination of OES-remitter steward agreements. <i>July – September</i> Reminder of final reporting due dates, follow-up reminders where required. Individual steward follow-up as required. <i>TBD</i> Final program reconciliation notices for WEEE program. Letters to stewards – end of program obligations.
Processors	Email Blasts Letters Phone Calls In person Meetings Website Posts Web Portal Call Centre access throughout wind up period.	<i>July 2019 (or earlier)</i> Notification of WEEE Wind Up Plan Approval <i>Fall 2019 – TBD</i> Formal notice of upcoming contract terminations <i>Fall 2019</i> Notification of MTS Availability Information Sessions <i>January 2020</i> WEEE Program Termination Reminders <i>April – June 2020</i> One on One Information Sessions re WEEE termination processes and Timeframes <i>July – September</i> Reminder of final reporting due dates, follow-up where required – scheduling of final mass balance site visits. <i>Fall 2020 TBD</i> Issuance of final processor payments – termination of OES-processor relationships.

<b>Table 7: Summary of OES Communications by Stakeholder Group</b>		
<b>Stakeholder</b>	<b>Communication Mechanisms</b>	<b>General Schedule</b>
Collectors Generators	Email Blasts Letters Phone Calls Website Posts Web Portal – Call Centre access throughout wind up period.	<i>July 2019 (or earlier)</i> Notification of WEEE Wind Up Plan Approval <i>Fall 2019 – TBD</i> Formal notice of upcoming contract terminations (where applicable) <i>January 2020</i> WEEE Program Termination Reminders <i>April – June 2020</i> One on One contact re wind up dates – arrangement for pickup of OES materials (where applicable) <i>July – August</i> Reminder of final reporting due dates, follow-up where required. <i>Fall 2020 TBD</i> Issuance of final collector payments – termination of OES-collector relationships.
Municipalities	Email Blasts Phone Calls Website Posts Web Portal Call Centre access throughout wind up period	<i>July 2019 (or earlier)</i> Notification of WEEE Wind Up Plan Approval <i>Fall 2019 – TBD</i> Formal notice of upcoming contract terminations (where applicable) <i>January 2020</i> WEEE Program Termination Reminders <i>April – June 2020</i> One on One contact re wind up dates – arrangement for pickup of OES materials (where applicable) <i>July – August</i> Reminder of final reporting due dates, follow-up where required. <i>Fall 2020 TBD</i> Issuance of final collector incentive payments – termination of OES-municipal agreements.
Refurbishers	Email Blasts Phone Calls Website Posts Web Portal Call Centre access throughout wind up period	<i>July 2019 (or earlier)</i> Notification of WEEE Wind Up Plan Approval <i>Fall 2019 – TBD</i> Formal notice of upcoming contract terminations (where applicable) <i>January 2020</i> WEEE Program Termination Reminders <i>April – June 2020</i> One on One contact re wind up dates – arrangement for pickup of OES materials (where applicable) <i>July – August</i> Reminder of final reporting due dates, follow-up where required. <i>Fall 2020 TBD</i> Issuance of final refurbisher reporting payments – termination of OES-refurbisher relationships.

<b>Table 7: Summary of OES Communications by Stakeholder Group</b>		
<b>Stakeholder</b>	<b>Communication Mechanisms</b>	<b>General Schedule</b>
Transporters, Consolidators, Re-packers	Email Blasts Phone Calls Website Posts Web Portal Call Centre access throughout wind up period	<i>July 2019 (or earlier)</i> Notification of WEEE Wind Up Plan Approval <i>January 2020</i> WEEE Program Termination Reminders <i>April – June 2020</i> One on One contact re wind up dates – arrangement for pickup of WEEE materials and OES branding materials (if applicable) <i>July – August 2020</i> Issuance of final transporter, consolidator, re-packer payments – termination of OES-relationships with these service providers.
Public	Website Posts Web Portal Call Centre access throughout wind up period	As noted in Section 1, OES is proposing to continue promotional and education activities in 2019 consistent with its historical practice. Throughout 2019 and 2020 OES will continue to participate in community and municipal events and programs which support public awareness of WEEE recycling. Messaging in support of WEEE recycling will be adjusted to reflect the impending termination of the OES program and transition to WEEE recycling under the RRCEA framework. Members of the public interested in OES wind up activities will be directed to its website and the wind up web portal for more information on how the program is being wound up (See WUP Section 1: Operational Plan for more details of proposed OES Promotional and Educational activities during wind up.)
OES dedicated Staff	Meetings (monthly or more frequently as required)	Staff administering the WEEE wind up program will be kept informed of all OES communications activities throughout the wind up period.
RPRA	Emails Phone Calls Letters Meetings	Throughout the wind up period RPRA will be provided with key wind up communication materials produced and issued by OES and kept informed regarding OES stakeholder outreach. OES-RPRA liaison will be ongoing throughout the wind up period.

### **Stakeholder Feedback**

Throughout the wind up period, stewards, service providers and other interested parties who have questions about the OES wind up process will have the ability to ask questions, raise concerns through a variety of communications mechanisms. These include:

- Phone calls;
- Emails;
- Web portal inquiries;
- Letters;
- In person meetings.

Proposed time frames for OES responses to various stakeholder feedback mechanisms are identified in the Table below.

<b>OES Stakeholder Feedback Mechanisms</b>	
<b>Type of Stakeholder Inquiry</b>	<b>Proposed Response Timeframe</b>
Direct Phone Call	Immediate
Phone Call – Message	24 Hours
Direct Email Inquiry	48 Hours
Web Portal Inquiry	48 Hours
Letter to OES	10 Business Days

## SECTION 4. FINANCIAL FORECAST AND BUDGET

Forecasts of cash inflows and outflows and current account statements are confidential and provided to RPRA.

A summary of overall revenue projections and forecasts for 2019 and 2020 is provided in Table 8 below.

**Table 8: OES Wind Up Financial Forecast 2018 - 2020**

	<b>2018 Forecast</b>	<b>2019 Budget</b>	<b>2020 Budget</b>
<b>Revenue:</b>			
EEE Fee Revenue	\$49,333	\$3,327	0
EHF Fee Refund		-\$2,300	
Tax Refund	\$29,357		
Interest	\$768	\$545	\$250
	\$79,458	\$1,572	\$250
<b>Expenses:</b>			
Processing	\$26,818	\$26,013	\$12,681
Handling	\$5,948	\$6,231	\$3,280
Transportation/Storage	\$6,127	\$6,419	\$3,380
<b>Direct Program Costs:</b>	\$38,893	\$38,663	\$19,341
<b>Other:</b>			
Promotion and Education	\$2,870	\$2,860	\$1,000
Administration	\$3,351	\$3,370	\$2,485
Wind-up Fees	\$150	\$2,400	\$2,900
RPRA Fees	\$1,306	\$2,600	\$1,300
<b>Indirect Costs:</b>	\$7,677	\$11,230	\$7,685
<b>Total Costs:</b>	\$46,570	\$49,893	\$27,026
<b>Surplus/(Deficit)</b>	\$32,888	-\$48,321	-\$26,776
<b>Tonnage (metric tonnes)</b>	<b>47,097</b>	<b>45,684</b>	<b>22,271</b>
<b>Closing Reserve</b>	<b>\$76,491</b>	<b>\$28,170</b>	<b>\$1,394</b>

Key assumptions regarding OES financial forecasts for 2019 and 2020 are provided below:

### ***Projected Revenue Assumptions***

With the implementation of an EEE fee reduction to zero as of February 1, 2019, OES steward fee revenues for 2019 will be limited to January 2019 EEE supplies and related fees. OES has projected January 2019 EEE fee revenues to represent approximately 7% of forecast 2018 levels based on historical EEE supply reports for January 2018.

January EEE fee revenues will be offset by OES EEE fee rebates provided to retailers for EEE fees paid on retailer inventories which have not yet been sold to the public as of February 1, 2019. OES's estimate of the total cost of EEE fee rebates is \$2.3 million.

Following the collection of January 2019 EEE fees from stewards, OES remaining revenue projection for steward fee revenues in budgetary forecasts for 2019 and 2020 is zero.

OES's other source of revenue in 2019 and 2020 is interest accrued on cash reserves. OES may receive more HST refunds, and if so, this will be reflected in the financial statements. With respect to forecasting these amounts, OES is forecasting interest revenue in 2019 that is 30% less than the 2018 forecast. This interest revenue will continue to decline in 2020 as OES's cash reserves are depleted to finance program expenses.

### ***Projected Expense Assumptions***

With respect to direct collection, processing and transportation costs, the key assumptions related to expense forecasting are the following:

- OES Processing costs will decline by approximately 3% in 2019 and again in 2020 due to continued light weighting trends and a similar drop in the tonnage of WEEE collected for recycling. [Note: While the projected tonnage decline included in OES financial forecasts is less than the program tonnage reductions experienced in the last few years, OES anticipates that the tonnage decline due to product light weighting trends is currently slowing.];
- OES handling, transportation and storage costs are forecast to increase by approximately 5% in 2019 and 2020. Although light weighting will decrease direct costs, variable items like fuel surcharges may increase costs. Forecasts for 2019 and 2020 are allowing room for potential cost increases, ensuring that a move to \$0 revenue in February 2019 will be manageable.

OES spending on promotional and educational (P&E) activities in 2019 will be consistent with 2018 expenditures. P&E spending for 2020 is forecast to be about 35 percent of spending for 2019 which reflects the fact that: the program will only be operating for six months; OES P&E events are more frequent in the summer months

and there will be an anticipated reduction in OES sponsored events immediately preceding the program termination date;

OES administration expenses are forecast to remain the same in 2019 as 2018 and in 2020 be about 75% of 2019 levels reflecting the need for OES to perform a number of administrative functions for approximately six to nine months after program termination to complete wind up activities;

Costs specific to wind up activities are forecast to be \$2.4 million in 2019 and \$2.9 million in 2020. Wind up cost forecasts include items like additional legal fees, administrative costs, IT costs to prepare MTS for distribution, segregating the OES activities and systems from EPRA, and additional communication and consultation.

Finally, OES is projecting that RPRA related fees will be \$2.6M in 2019 and with a reduction in RPRA fees 2020 due to a partial year of OES program operations.

### ***Other Financial Issues***

As noted in Table 8 above, OES will begin 2019 with estimated cash reserves of approximately \$76.5 million based on current forecasts and CRA refunds received. Additional reserves may result if CRA completes audits and refunds further HST to OES. OES reserves will enable the EEE fee reduction to zero for February 1, 2019 and the continued financing of operations until program termination and beyond. OES cash reserves are not restricted and will remain available to fund operations throughout program wind up. OES is not anticipating any cash shortfalls or need to borrow money during the wind up period.

With respect to proceeds from the sale of capital assets, as noted in WUP Section 1: Operational Plan, OES does not expect assets disbursement to generate significant revenues (projected to be less than \$2000, see WUP Section 5: Assets for more detail).

Legal fees associated with program termination have been included in OES estimates of wind-up fees and program administration costs noted in Table 8. A full discussion of legal issues and related costs is included in WUP Section 11: Legal Considerations.

Total OES wind up costs associated with termination of existing service agreements and contracts, including lease terminations, are included in wind up costs in Table 8 above.

### ***Excess Funds Following Program Termination***

Current budget forecasts and financial estimates suggest that OES will retain excess cash funds following the resolution of all financial obligations after program termination of approximately \$1.4 million. While the exact amount associated with excess funds will be subject to financial fluctuations and contingencies related to a number of financial forecasts and additional tax refunds received, barring unforeseen contingencies with large financial implications between now and program termination, OES forecasts surplus on hand following the resolution of all financial obligations after program termination.

In accordance with current statutory requirements and RPRA wind up guide instructions, OES proposes to disburse any surplus to stewards. The methodology OES utilizes to calculate any excess fund disbursement amounts will be reviewed and supported by RPRA as part of the wind up process.

This disbursement of excess program funds will take place upon program wind up once OES has finalized payment of all service provider invoices, terminated various operating agreements and resolved outstanding wind up financial obligations.

The proposed disbursement of excess funds is consistent with the current Subsections 35 (2) and 33 (5) of the WDTA which limit OES spending to the costs of operating and winding up the existing WEEE program.

## **SECTION 5: ASSETS**

### **5.1 Cash**

#### **A Cash and Short-term Investments**

A list of OES bank accounts along with account balances, account numbers, institution, currency and type of account is confidential and provided to RPRA.

#### **B Short term investments requiring liquidation**

OES does not have any cash or short-term investments in accounts which cannot be easily liquidated.

#### **C Monies held in trust**

OES does not have any monies held in trust.

OES does hold \$ 76,500 in processor letters of credit, that under current contractual terms, must be provided back to processors following the termination of processor service agreements assuming required processor contractual requirements have been complied with. OES proposes to return processor letters of credit in the fall of 2020 following the completion of processor final mass balance reports.

### **5.2 Accounts Receivable**

As the Wind Up Plan includes implementation of a steward fee reduction to zero effective for February 1, 2019, OES anticipates that receivables related to collection of steward fees will be resolved in the spring of 2019.

Stewards will be required to submit fee payments for EEE supplied into the Ontario market in January by February 28, 2019 with any adjustments or corrections to previous EEE supply reports required by April 30, 2019. As noted in WUP Section 4, OES is forecasting total steward fees payable in January 2019 to be approximately \$3.3 million. Collectability risk related to this amount is relatively low as typically 98% of Accounts Receivable are current.

While steward fee receivables are uninsured, stewards have a legislative obligation to report EEE supply and pay related fees. OES steward rules also subject stewards that fail to pay required fees before the required deadline to a number of penalties and potential costs described below:

## 8) Penalties, Interest and Back Fees (From OES Steward Rules)

(1) Stewards who fail to pay Steward's Fees with respect to any Data Period before the Deadline Date or to pay the Reconciliation Fees on or before their due date shall pay a penalty equal to 10% of the unpaid Steward's Fees or Reconciliation Fees.

(2) If the amounts reported in a Steward's Report are inaccurate, any deficiency in Steward's Fees paid resulting from such inaccuracies shall be immediately due and payable from the date of the filing of the correcting Steward's Report, and, if not paid within 30 days, the Steward shall pay a penalty equal to 10% of such Steward Fee deficiency.

(3) Interest on the amounts payable under Rules 8(1) and 8(2) shall accrue from the respective Deadline Date or due date for the Reconciliation Fees at the Interest Rate. In addition, a Steward in default shall pay all collection costs, including all proper and reasonable legal fees, incurred by OES, whether or not an action has been commenced. If an audit under Rule 9 reveals that a Steward has under-reported the amount of Steward's Fees due by more than 10% in any Data Period, in addition to any other sums payable, the Steward shall pay the costs of such audit, as reasonably determined by OES.

(4) OES may waive all or part of any penalty, interest or charges otherwise payable under this Rule 8.

Given that final steward corrections or adjustments related to EEE supply which requires fee payments are due by April 30, 2019, OES anticipates that virtually all steward fee payment issues should be resolved by June of 2019.

Other than steward fees payable for January 2019, OES does not anticipate any other revenues associated with accounts receivable during the wind up period.

### 5.3 Prepaid Assets

<b>Table 9: OES Prepaid Assets as of December 31, 2018</b>	
<b>Description of Assets</b>	<b>Estimate as of December 31, 2018</b>
Commercial/General Insurance	\$854
Consolidation/Repack Deposit	\$71,190
Office Rent	\$9,821
Furniture Rental	\$12,200
<b>Total</b>	<b>\$93,866</b>

## 5.4 Capital Assets

### ***Material Tracking System***

As noted in Section 1: Operational Plan, OES main asset is its Material Tracking System (MTS) which is a proprietary software developed by OES to manage the collection, transportation, consolidation and processing of material across the OES allocation and processor incentive programs. The system is coded in Microsoft .net framework 4.0 and runs on Microsoft Server, with a Microsoft SQL Server database.

For OES purposes, the useful life of the MTS system extends to program termination. The system's useful life is limited to the wind up period as system models the current business processes and controls under the current program.

The system is the sole property of Ontario Electronic Stewardship. The system was built, supported and implemented by OES. The OES book value of the MTS system is \$0. The system was fully amortized in 2017. As the system is custom and proprietary to OES business processes, significant modification would likely be required to use MTS for other purposes.

Ministerial wind up direction included a requirement for OES to outline how it would deal with information technology systems to ensure fair and equitable access to all users as an alternative to disposing of these assets for fair market value.

OES WUP proposes to make the MTS available to stewards and potential RRCEA producer responsibility organizations as free software. OES will hold information sessions for interested organizations in the late fall of 2019 outlining system operating requirements and capabilities. A clean version of the software, excluding any historic data or company specific information would be made available to interested parties as of January 2020.

The OES Material Tracking System will be packaged into a white label version of the system with all OES data and configuration removed. The system will be bundled into a zip folder containing the application code, a copy of an empty database and sample configuration file for secure file transfer to the authority. Also included in this package will be basic documentation of how to setup the system.

Following program termination, OES proposed to transfer the MTS to RPRA to act as the trustee of the MTS source code (as it exists on the date of transfer from OES) and enable RPRA to continue to make instances of MTS available to users after the wind up of OES.

OES estimates that its costs related to making a version of the MTS available to potential users will be approximately \$250,000. These costs have been included in wind up costs as part of 2019 and 2020 financial forecasts.

### ***Other Capital Assets***

Other OES capital assets include the MTS logistics software, a WEEE container, a refrigerator and leasehold improvements (network and electrical wiring in current space). OES estimates that the book value of other capital assets will be approximately \$1300 as of the program termination date June 30, 2020.

OES proposes to auction these capital assets off following program termination. OES estimates that the total proceeds related to this auction audit will be relatively minimal. A list of OES assets along with a preliminary estimate of auction value is provided in Table 10 below. OES branded materials collection materials that cannot be auctioned off will be recycled.

<b>Table 10: OES Capital Assets</b>			
<b>Description</b>	<b>Number of Items</b>	<b>Net Book Value December 31, 2018</b>	<b>Estimated Auction Value July 2020</b>
Collection Bin (20 ft)	1	\$1,610	\$1,200
Refrigerator	1	\$0	\$100
Leasehold Improvement	Wiring	\$8,931	\$0
MTS Software	NA	\$0	NA
<b>Total Auction Value (Estimated)</b>			<b>\$1,300</b>

## **5.5 Leased Assets**

### ***Collection Materials***

OES rents 40-yard bins, sea containers, wheelie bins and trailers that are located at collection sites across the province. E-waste must be sheltered from the environment to ensure hazardous substances do not leach into the ground and surrounding waters. Bins are also used to protect e-waste from the elements.

All rentals are on a month-to-month basis. Bins can be removed at any point in time, however, if the site has no other means of sheltering collected WEEE materials they are in breach of the collection site agreement and the risk for contaminants entering the ground is significant.

OES will make arrangements to collect and return leased assets to suppliers following program termination. Suppliers will be given advance notice of termination of rental arrangements. OES will also work closely with collection sites that utilize leased OES assets for WEEE collection so that those locations can plan alternate collection

arrangements if they chose to continue collecting WEEE materials under the RRCEA legislative framework. OES anticipates that all leased assets related to collection sites will be returned to suppliers by July 31, 2020.

### ***Other Leased Assets***

OES rents a storage unit in which historical files are retained for tax purposes. Following program termination, the OES liquidator will make whatever arrangements are necessary with respect to these files for OES to comply with records retention requirements for tax purposes. The storage unit operator will be given notice of lease termination in accordance with existing contractual provisions.

OES will also consult with RPRA regarding file contents to determine whether any should be transferred to RPRA as part of OES WEEE program data transfer steps.

OES has leased premises at 5750 Explorer Drive, Suite 302, with obligation until October 31<sup>st</sup>, 2020 in the amount of \$ 8,500 per month. Early termination will require full payout of the lease term. A reimbursement of leased space to EPRA of \$5,400 per month is also required, as OES leased the separate suite 302 office facility in order to address the desire for segregation during wind up, as an aspect of the governance directive.

## **5.6 Intellectual Property**

### ***OES Material Tracking System***

See Section 5.4 for a description of the proprietary OES MTS software and its proposed method of transfer to RPRA.

## **5.7 Investments**

OES does not hold any funds in long-term investments. Reserve funds are held in accounts identified in Section 5.1

## **5.8 Internally Restricted Assets**

Not applicable to OES operations or financial forecast.

## **SECTION 6: LIABILITIES**

### **6.1 Accounts Payable and Accrued Liabilities**

#### **A. Current Accounts Payable**

A list of current accounts payable and accrued liabilities is confidential and provided to RPRA. Related costs and financial implications are included in wind up plan budget summaries provided.

#### **B. Future Accounts Payable**

##### ***Collection Incentive Accounts Payable Forecasts***

##### ***Processing Incentive Accounts Payable Forecasts***

##### ***Re-use and Refurbish Reports Accounts Payable***

##### ***Transportation, Re-pack and Consolidation Accounts Payable***

Accounts Payable forecasts are based on prior year trending and adjusted for current year run rates.

#### **C. Key Suppliers**

Termination notification periods for OES processor and collector contracts are described, and proposed OES processes for notification of contract terminations in WUP Section 2: Implementation Plan and Timeline.

Key Suppliers whom OES directly compensates include:

- Collectors;
- Transporters;
- Processors;
- Administrative Service Providers such as IT services; and
- Marketing and Communication Service Providers such as Media Organizations.

All service providers will be given a minimum 90 days of notice, or notice per the contractual arrangement, should the contractual notice exceed 90 days.

### **6.2 Debt**

OES does not carry debt. OES does not anticipate any need to source additional funding over the wind-up period.

## SECTION 7: CUT-OFF DATES

### 7.1 A. Key Wind Up Cut-Off Dates

<b>Table 11: Key OES Wind Up Cut-Off Dates</b>	
<b>Cut-Off Date</b>	<b>Wind Up Plan Measure</b>
June 30, 2020	<ul style="list-style-type: none"> <li>- Program termination date;</li> <li>- Final date for collection of WEEE materials under program;</li> <li>- Final date for submission of MTS BOLs by collectors and generators;</li> </ul>
July 10, 2020	<ul style="list-style-type: none"> <li>- Final date for transportation pick up of WEEE from collector and generator sites;</li> <li>- Final date for submission of re-use and refurbish reports to OES;</li> </ul>
July 31, 2020	<ul style="list-style-type: none"> <li>- Final date for submission of claims for collection incentives to OES from collectors;</li> <li>- Final date for submission of steward EEE supply reports to OES for the period ending June 30, 2020;</li> </ul>
August 15, 2020	<ul style="list-style-type: none"> <li>- Final date for processing of WEEE collected prior to June 30, 2020 and submission of processor incentive claims to OES;</li> </ul>
September 15, 2020	<ul style="list-style-type: none"> <li>- Final date for completion of final processor mass balance reports under WEEE program;</li> <li>- Final date for steward submission of corrections or adjustments to EEE supply reports provided earlier under the program.</li> </ul>

Based on consultation feedback, OES is comfortable that the proposed key cut-off dates can be implemented with minimal disruption to stakeholders.

### B. WEEE Inventory Management and Cut-off Dates

During consultation some service providers raised concerns about the risk of being saddled with stranded inventory at program termination. OES's proposed time lines related to service provider cut-offs and payments ensure that all WEEE material collected by June 30, 2020 will be eligible for a full range of incentives under the program.

Time lines allow processors up to six weeks to process WEEE materials that they have in inventory as of June 30, 2020 and materials collected from generation and collection sites that were collected by June 30, 2020. As most processors currently submit claims for PI incentives within two weeks of receiving WEEE materials, six weeks will allow for the final processing of existing WEEE inventories as of the program termination date.

For a brief transitional period collectors (July 1 to July 10) and processors (July 1 to August 15) will maintain separate inventories of WEEE materials collected before and after the June 30<sup>th</sup> program termination date.

Under the allocation model, data records in the MTS will provide OES will real time inventory forecasts of WEEE materials as of June 30, 2020. Only those WEEE materials collected by June 30<sup>th</sup> will be eligible for OES incentives. OES will also increase the frequency of processor mass balance reports shifting to monthly mass balance reports no later than the 2<sup>nd</sup> quarter of 2020. OES will monitor both collection and processing incentive claims volumes closely throughout the wind up period and where necessary implement additional verification processes to ensure that incentive claims are consistent with program requirements.

Some collectors and processors may fail to or choose not to submit incentive claims for WEEE materials collected prior to June 30, 2020. Any WEEE material collected prior to June 30, 2020 for which collection incentive claims have not been submitted to OES by July 31, 2020 or for which processing incentive claims have not been submitted to OES by August 15, 2020 will not be eligible for respective OES program collection or processing incentives.

## **7.2 Revenue**

As noted in WUP Section 1, OES will implement a reduction of steward EEE fees to zero as of February 1<sup>st</sup>, 2019.

## SECTION 8: RESERVES

### 8.1 Reserves

#### A. Reserve Fund Balances

As of December 31, 2018, OES estimates a total reserve fund balance of \$76.5 million. Table 12: outlines estimates of operating deficits for 2019 and 2020 and the related impact on OES reserve fund estimates.

<b>Table 12: OES Reserve Fund Estimates 2018 - 2020</b>	
OES Projected Reserve Fund Balance December 31, 2018 (unaudited)	\$76.5 Million
Projected OES Operating (Deficit) 2019	(\$48.3 Million)
OES Projected Reserve Fund Balance December 31, 2019	\$28.2 Million
Projected OES Operating (Deficit) 2020	(\$26.8 Million)
Preliminary Estimate of OES Surplus Funds Remaining Post-Program Termination, prior to surplus distribution.	\$1.4 Million

The OES reserve fund balance for 2018 forecast is calculated by beginning with prior year ending reserve, adding current year operating surplus or deficit and any one-time items like a tax refund, to arrive at the ending year reserve.

Estimates of operating deficits for 2019 and 2020 and the subsequent reduction in OES Reserve Funds are based on assumptions in OES Financial Forecast and Budget described in detail in WUP Section 4: Financial Forecast and Budget.

#### B. Reserve Fund Management Plan

As noted in Section 1: Operational Plan, OES reserve fund balances enable a reduction of steward EEE fees to zero as of February 1, 2019,

OES proposals for financing operations through the reduction of reserve funds is consistent with Ministerial direction related to program wind up. OES also worked with RPRA to consult on and receive support to implement this EEE fee reduction prior to formal approval of the full OES Wind Up Plan in order to minimize any surplus remaining at program wind up.

### **C. Targeting a Nil Balance**

As noted earlier, a Tax Court of Canada ruling in 2018 resulted in an HST tax refund to OES, which increased the OES existing reserve fund balance by \$29.4 million.

Given the time lines established for program termination and the level of OES year end 2018 cash reserves, even with an EEE fee reduction to zero in February 2019, it is not forecasted that OES will end with a reserve fund balance at zero following program termination. OES currently estimates that its reserve fund balance following program termination and the resolution of all outstanding financial obligations will be approximately \$ 1.4 million, and that amount may increase with additional HST refunds. At the time of Wind Up Plan writing, these potential amounts remain under audit by CRA.

### **D. Reserve Fund Risks and Compliance with WDTA**

Given the length of time between the submission of this WUP plan and program termination, forecasts related to reserve fund balances for 2019 and 2020 are subject to a number of financial contingencies associated with OES operating expenses for these years. Variations in actual WEEE tonnage recycled in relation to current forecasts could create significant cost variations in the OES program.

Actual reserve fund balances as of September 2020, therefore, may vary significantly from the current reserve fund forecasts. Even with these caveats, however, OES is forecasting that excess surplus funds will remain in the WEEE program following program termination. As noted in the operational plan, OES proposes to disburse these funds in accordance with the WDTA approved program agreement. The methodology OES utilizes to calculate steward contributions and any excess fund disbursement amounts will be reviewed and supported by RPRA.

The proposed WUP plan strategy to fund program operations from reserve fund balances during program wind up and disburse excess funds to stewards following program termination are both consistent with Ministerial wind up direction and WDTA provisions.

With respect to the EEE fee reduction to zero, the Ministerial direction instructed OES to, where possible, reduce the EEE steward fee in order to minimize any remaining surplus funds including any reserves when the program ceases operations. This use of reserve funds to finance program operations is also consistent with WDTA provisions which limit the use of program reserves to the following purposes:

**Purposes of fund (Subsection 35 (2) WDTA)**

(2) The fund [*in this case OES reserve funds*] shall be held in trust by the industry funding organization and shall only be used for the following purposes:

1. To pay the costs of operating the program.
2. To pay the costs of developing and implementing changes to the program.
3. To pay the costs of developing and implementing a plan to wind up all or part of the program.
4. To pay the costs incurred by the organization or the Authority to wind up all or part of the program.
5. To pay the costs incurred by the organization or the Authority to wind up the organization.
6. To pay the costs incurred by the Authority in exercising its powers and carrying out its duties as they relate to the industry funding organization.
7. To pay the costs incurred by the Crown in administering this Act and the regulations, as the costs relate to the industry funding organization and the Authority's oversight of it, including costs associated with appeals to the Tribunal of the Authority's orders.

With respect to disbursement of excess funds to stewards following program termination, page 7 of RPRA IFO Wind Up Guide states "To the extent that there are credits/reserves/refunds/excess cash balances ("Excess Funds"), these Excess Funds must be allocated to the steward who paid the original fee that gave rise to those Excess Funds, in accordance with the applicable laws governing the transaction and to the extent feasibly possible."

The disbursement of OES excess funds back to stewards following program termination is also consistent with the funding principles established in the WDTA related to program financing which state that steward fees must fairly reflect the costs of running the program.

**8.2 Funds****Fund Restrictions**

OES reserve funds are not subject to any specific restrictions other than the spending parameters for program spending created by the WDTA and related regulations and requirements.

**Excess Fund Disbursement**

As noted above, the methodology OES proposes to disburse excess funds to stewards following program termination is to base each steward's disbursement on their

estimated contribution to excess funds over the course of the OES WEEE program. The methodology OES utilizes to calculate steward contributions and any excess fund disbursement amounts will be reviewed and approved by RPRA.

## SECTION 9: DATA

### 9.1 Security/Privacy

Through the operation of the WEEE program, OES has accumulated data pertaining to the operation of the program from stewards, service providers, stakeholders and the general public. This data falls into the following categories:

- Steward and service provider contact information;
- Steward put on market data;
- Supplier contact information;
- Supplier banking information;
- Pricing and volume data;
- Tax information;
- Operational information, audit results and open issues

Consumer data collected would only include information gathered to support the validation of WEEE Program material claims by a processor, to investigate and/or respond to a concern, question or statements addressed to OES by a consumer, or as a result of consulting on program planning with a consumer.

Collected information is only used for the administration of the WEEE program and validation of claims. This data contains information that is commercially sensitive and highly confidential. OES exercises extreme care in the management of this data through its operation of the program and through the wind up process.

All authorized OES resources have signed covenant agreement which requires resources to act in a manner which protects all information including that which is commercially sensitive. Contractors and IT service providers sign non-disclosure agreements which similarly protect OES information.

#### *OES/EPRA Data Segregation*

OES data is protected through a combination of physical system segregation and in-system access controls.

The key OES data solutions (steward, service provider and accounting ledgers) are separate and distinct from EPRA solutions. These separate modules have been configured to limit access to the dedicated OES authorized resources only.

IT administration of OES systems is provided by a third-party IT firm that is contracted to provide IT support and systems development for OES. This third party has signed confidentiality agreements with OES.

Access to local data is protected as OES-dedicated staff and operations are managed from a separate office with separate card key access during wind up.

## **9.2 Data Destruction**

As noted in WUP Section 1: Operational Plan, OES proposes to destroy all historic WEEE recycling data in its possession following transfer of program data to RPRA (see Section 9.4 Data Transfer below).

Following confirmation of receipt of data by RPRA, OES will commence the following process to shut down and destroy systems and cancel IT contracts:

- OES will notify its third-party IT firm and provide a date for the OES systems to be shut down;
- The third party will execute the shutdown of all internal systems and accounts and purge all data;
- For any physical data storage devices, data will be removed according to current department of defense standards and the devices disposed of according to this Wind Up Plan;
- The third party will verify by manual inspection that OES data has been removed and will issue a formal letter attesting to the deletion of OES data;
- For systems hosted by third parties, the third-party IT firm will contact service providers to ensure all accounts are closed and data has been purged from the providers' servers;
- For systems hosted by EPRA, the third-party IT firm will close all OES accounts and purge data from EPRA servers.

For physical files held at the OES office and OES off-site storage location, a similar process will be used. OES will notify its IT firm and provide a date for the OES physical documents to be destroyed:

- The third party will coordinate and oversee the onsite shredding of all remaining physical document;
- The third party will verify by manual inspection that OES data has been destroyed and will issue a formal letter attesting to the destruction of OES data.

### **9.3 Data Retention and Sharing**

#### *Post Program Data Retention*

Following program termination, OES will takes steps to ensure that data retention required to ensure compliance with residual program obligations, any outstanding *Corporations Act* or taxation requirements, will be retained in a manner consistent with those obligations.

Any materials provided to RPRA that have to be retained for a period of time to ensure compliance with residual OES obligations will be clearly marked and identified with retention time frames explicitly identified. If RPRA cannot act as the repository for certain OES data requirements, the OES appointed liquidator will take steps necessary to ensure the retention of such data for the periods required.

#### *Data Safeguards*

OES employs a secure cloud document management system (Box) which is used to house electronic copies of OES documents. This system ensures that data is encrypted while at rest and while being transferred to/from the system. Throughout the windup this secure system will be used for data transfer with RPRA.

#### *Public Information*

Throughout the wind up period, OES will continue to publish Annual Reports which include aggregated non-commercially sensitive information about OES stewards, and program recycling volumes.

OES is not proposing to release any additional public information data about WEEE recycling other than the annual data summations included in those reports.

#### *Confidential Information*

Confidential information submitted to RPRA as part of this WUP submission is provided as appendices to this report with such information clearly marked as confidential for RPRA. This information will not be included for publication as part of the public OES WUP.

OES will consider a steward request for the release of their own OES-held data to a third party of the steward's choice, subject to signing of an appropriate authorization by the steward and the reasonable availability of requested data in the OES steward reporting system.

OES may also provide commercially sensitive and confidential information to RPRA as part of the transfer of historic WEEE recycling data (see 9.4 below). OES will clearly identify any confidential or commercially sensitive data transferred to RPRA as such so that RPRA can take appropriate measures to safeguard such data in accordance with its confidentiality guidelines for such data.

#### **9.4 Data Transfer**

As part of the wind up process, OES will provide historic and current WEEE program data to RPRA. Most of this information will be provided to RPRA in digital format with measures taken to ensure no access by third parties during the transfer process.

Once program data has been transferred to RPRA and all necessary OES post-program termination administrative tasks have been completed, OES will engage a third-party IT firm to destroy remaining data and ensure all such data is cleansed from OES devices before any such devices are auctioned off

Following termination of the EPRA-OES operating agreement, OES-dedicated staff employed by EPRA will not have access to any OES program data.

## **SECTION 10: HUMAN RESOURCES**

### **10.1 Employees**

OES does not have employees. Services are provided by EPRA staff, and the EPRA contract allows for provision of OES to pay severance for any OES supporting staff that are terminated as a result of program wind up or contract cancellation with EPRA. These potential costs are included in wind up budget forecasts.

Additional staff that may be required to handle an influx of administrative activity during wind up have been built into the wind up plan and costs. Additional staff may be required for handling calls, processing claims and compliance activities.

### **10.2 Sub-Contractors**

OES subcontracts administration to EPRA. Reference to the EPRA staffing is in previous section, 10.1

### **10.3 Pension and RRSPs**

Not applicable to OES operations

### **10.4 Communications with Personnel**

OES dedicated staff are informed regularly on program updates regarding regulatory information, news from RPRA, wind up activities and next steps.

## **SECTION 11: LEGAL CONSIDERATIONS**

### **11.1 Litigation**

#### **A. Ongoing Litigation**

There is one case currently under legal guidance. Due to the confidential nature, it is not disclosed here.

#### **B. Legal Wind Up Risks**

OES compliance with contractual terms of all stakeholder agreements should minimize legal risks that may arise during wind up.

#### **C. Mitigation of Legal Risks**

Any legal claims or actions that arise during program wind up will be managed on an ad hoc basis. OES does not anticipate that run-off insurance will be required in relation to managing these risks.

### **11.2 Contracts**

#### **A. OES Contracts**

OES obligations and termination processes for collector and processor contracts are described in WUP Sections 1 and 2: Operational Plan and Implementation Plan and Timelines. These contracts do not generate termination costs given appropriate notice, which can be achieved within the wind up timelines.

Other Contracts: OES has contracts providing administration services, IT services, and marketing services with various providers. All contracts have normal notification terms that are well within the 12-month period of wind up plan and therefore no unusual termination costs are forecasted.

#### **B. Contractual Terminations, Timing and Costs**

OES will provide notice of contractual terminations in relation to all commercial agreements or contracts in a manner that meets or exceeds those contractual provisions. All costs associated with anticipated contractual terminations have been factored into OES budgetary forecasts (WUP SECTION 4) and where applicable have been identified in relation to specific contracts in subsection A above.

### **11.3 Legal Contingency Costs**

Legal contingency costs associated with ongoing litigation and other potential legal issues have been factored into OES estimates of wind up costs included its budgetary forecast.

### **11.4 Environmental Issues**

#### **A. Need for Environmental Review**

WEEE is not considered a hazardous material until it is broken down or processed. As such, collectors and transporters of WEEE do not require environmental approvals from the MECP. Processors who undertake the processing of WEEE must hold valid Environment Certificates of Approvals and are regulated by the MECP. Processors are required to provide financial assurance to the MECP to cover any costs associated with site contamination or clean up.

OES processors operate under the ERS 2013 Standard. The standard outlines the safe handling and operations requirements for processors and is administered by the RQO. Processors are obligated to provide OES with Mass Balance Reports which outline where their outputs are delivered. OES validates that the appropriate volume of material is being shipped to approved downstream processors.

A formal environmental review is not required to be conducted by OES as the MECP has jurisdiction over processor operations.

Environmental insurance is addressed through letters of credit that Processors are required to issue in order to handle the potential of an environmental cleanup. Letters of Credit may be issued to the Ministry of Environment or the OES Program.

### **11.5 Key Contracts**

As noted in the Operation Plan, the OES program is delivered through a service agreement with the EPRA. The OES-EPRA service agreement will be terminated following the completion of OES administrative functions after the program termination date. OES may incur some labour-related costs following termination of the agreement which are described in Section 10 and which have been factored into wind up plan financial forecasts.

## **SECTION 12: TAX**

### **12.1 Harmonized Sales Tax**

OES provides a service to stewards in managing the waste recycling program that the stewards are legally obligated to fund in Ontario. OES collects and remits Harmonized Sales Tax (HST) on fees charged to stewards.

Early in the program, the Canada Revenue Agency (CRA) ruled that Industry Funding Organizations (IFOs), such as OES, were not allowed to claim Input Tax Credits (ITCs) for the HST paid to third parties for services provided in operating the recycling program (such as processors and collectors).

In 2017, Stewardship Ontario and OES filed appeals with the Tax Court of Canada challenging the CRA ruling with respect to the eligibility of ITCs.

In April 2018, the Tax Court of Canada overturned the ruling for Stewardship Ontario. In June 2018, the CRA and Tax Court of Canada consented to allow the SO ruling to apply to OES, meaning ITCs were allowed for the HST which had been paid on services and goods received.

As a result, OES in 2018 received CRA HST refunds in the amount of \$29.4 M. and is permitted to claim ITCs on HST payable on a go forward basis. Additional refunds of HST may be forthcoming, however audits are underway and no confirmation is in place at the time of Wind Up Plan submission.

As noted in previous WUP sections, the ability of OES to claim ITCs on program expenses in 2018 shifted the OES 2018 budget forecast from a deficit to surplus position.

### **12.2 Employee Source Deductions**

Not applicable to OES financing. OES pays EPRA for services provided. Employee related expenses are managed directly by EPRA and all EPRA employee related costs and related OES financial obligations have been factored into OES estimates related to the operation and termination of the OES-EPRA agreement. These costs are referenced in WUP Sections: 4 Financial Forecast and Budget and 10: Human Resources

## **12.3 Other Tax Considerations**

### **A. Final Tax Return**

The final OES tax return for 2020 will be filed by the liquidator.

### **B. Record Keeping**

CRA related tax records are required to be kept for a period of seven years. OES or its liquidator will contract with a third party to manage and retain all required tax records. After the required seven-year retention period these records will be destroyed. As part of winding up OES as a corporate entity, the liquidator will be required to file a final tax return and obtain a Clearance Certificate from the CRA before final disbursements of any remaining cash that remains in OES accounts at the point of corporate dissolution.

## **12.4 HST Rulings**

See Section 12.1 above.

## **SECTION 13: MANAGEMENT OF OTHER RISKS**

### **13.1 Public Perception: Potential Wind Up Risks**

#### *Public Awareness of WEEE Recycling*

OES does not anticipate any significant negative consumer impacts associated with program wind up. OES will monitor consumer access to WEEE drop off locations through the wind period to ensure that consumer WEEE returns are convenient and in keeping with historic program performance metrics.

One potential risk associated with the OES wind up plan relates to the reduction of steward EEE fee to zero after February 2019. OES anticipates that consumer EHF fees may also be removed as of February 1, 2019. The change to zero of EHF fees for some consumers may create the impression that WEEE materials are no longer being recycled. This may be particularly true for consumer items where EHF fees are more significant such as those applied to large TVs and monitors.

To ensure that consumer awareness of WEEE recycling is maintained, OES will continue with promotional and education programs throughout the wind up period to support public awareness of WEEE recycling. OES will also conduct polling related to consumer awareness in the summer or fall of 2019 following the elimination of EHF fees to assess whether there has been any reduction in consumer awareness in relation to WEEE recycling (in comparison to historical norms).

#### *Disruption of WEEE Recycling*

As noted throughout the WUP, OES is not proposing any changes to program incentive rates throughout the wind up period. It is also proposing that all WEEE collected as of June 30, 2020 will be eligible for a full range of incentives under the program. As such OES does not anticipate that there will be any disruption to WEEE recycling during the wind up period. In the view of OES, its recommendations to continue with a business as usual approach to managing WEEE recycling should minimize the likelihood of any disruptions to WEEE recycling prior to June 30, 2020.

However, OES will monitor WEEE product flows closely throughout the wind up period to ensure continued program performance is maintained. As noted earlier if OES determines that significant backlogs related to WEEE recycling are emerging it will consider implementation of additional measures to address those backlogs.

### *Disbursement of Excess or Surplus Funds to Stewards Following Program Termination*

As in noted earlier in the WUP, given the Ministerial direction received by OES and the statutory limitations that exist with respect to what OES can do with reserve funds, the OES Board felt that consideration of any alternative use of excess funds (other than disbursement back to stewards) was beyond the scope of its operating parameters. This view was confirmed by RPRA in correspondence to OES. As such, in the view of OES, its only response to the steward requests to allow funds to be used for post-wind up costs rather than distributed, is to clarify for such stakeholders that their preferred approach for the management of excess OES funds at program termination is not consistent with the statutory and regulatory parameters which currently exist with respect to OES operations.

## **13.2 Conflict of Interest**

### **A. OES Governance and Operations During Wind Up**

As noted in WUP Section 1: Operation Plan, a new OES Board was appointed in August 2018 to manage the OES program including the development and submission of this WUP. Unlike previous OES boards, the new OES board does not have any members whom are also members of the EPRA Board of Directors.

The new OES Board was appointed in accordance with WDTA regulatory requirements with members appointed by the Retail Council of Canada and Electronic Product Stewardship of Canada. The new OES Board includes members with extensive senior management experience in variety of national corporations, including members with previous OES experience and backgrounds related to corporate product stewardship responsibilities.

OES By-laws obligate members and officers to avoid and declare conflict of interest situations and conduct Board business in accordance with high governance standards (See section 13.3 below for more details on Board conflict of interest guidelines). As noted earlier, OES utilizes EPRA services to administer the WEEE program. It is anticipated that EPRA will likely apply to operate programs on behalf of stewards under the RRCEA framework. The separation of OES and EPRA board memberships during the wind up period will ensure that OES Board wind up activities are directed independently of EPRA Board considerations.

Operationally, OES dedicated staff will be segregated from EPRA staff through operations in separate office facilities. OES data-containing applications relating to stewards, service providers and the corresponding accounting ledgers will be segregated and accessed only by the OES dedicated staff. EPRA senior management

will not have system or data access and will only be available for guidance as called upon by the OES Board or in general consultation by the OES dedicated staff. Dedicated managers of Finance and Operations will be put in place to manage the OES daily activities and information. In addition, a third-party consultant was engaged to facilitate the wind up consultations and draft the wind up plan for the OES Board.

Following program termination, all OES WEEE recycling data will be destroyed (see WUP Section 9: Data). EPRA staff utilized to deliver the OES program will be prohibited from retaining, communicating or transferring any OES related WEEE recycling data to EPRA or any other parties.

## **B. Legal Advice and Governance Issues**

To prepare for program wind up and ensure that conflict of interest (COI) issues are managed appropriately, OES engaged legal counsel with expertise in governance issues to advise the OES Board throughout the wind up period.

Legal counsel attends all OES Board meetings to address any potential conflict of interest issues that are flagged and to help ensure that Board decisions are made in compliance with conflict of interest by-laws and high corporate governance standards.

Each Board meeting begins with a reminder regarding COI obligations. Any Board member who has questions about whether a personal situation creates a conflict of interest problem or issue for OES operations, has direct access to legal counsel for advice on the matter.

### **C. Third Party Transactions**

As noted above, OES administers the WEEE program through a service agreement with EPRA. See Subsection A above for a description of OES-EPRA arrangements during program wind up.

### **D. Prior Transactions**

Not applicable to OES operations.

### **E. Governance Documentation**

OES Corporate By-law Number 1 General By-Law governing Board and Committee operations and procedures is attached as Schedule B to this WUP Plan. This By-law will be in force during the wind up period.

OES By-Law Number 2: A by-law related to Code of Conduct of OES is attached as Schedule C to this WUP. This By-law will be in force during the wind up period.

## **13.3 Board of Directors**

### **Conflict of Interest Provisions**

As noted in section 13.2 above, in anticipation of program wind up a new OES Board was appointed in August 2018 to manage the development and administration of the OES WUP.

OES By-Law Number 2, attached as Schedule C, establishes code of conduct provisions that apply to all Board members and officers of the corporation. By-Law No. 2 defines real, potential and apparent conflict of interest situations for OES Board members and officers of the corporation:

- Real conflict of interest is defined as an indirect personal or business interest (financial or non-pecuniary) that is sufficient to influence the exercise the board member's or officer's duties or responsibilities;
- Potential conflict of interest is defined as an interest which could affect duties or responsibilities but where those duties or responsibilities have not yet been exercised; and,
- Apparent conflict of interest is defined as existing where a reasonable well-informed person could have a reasonable belief that a Board member or officer was in a direct or indirect conflict of interest situation even if there was no conflict of interest in fact.

Under By-Law No. 2, Board members are obligated to conduct themselves to avoid conflict of interest situations. They are obligated to declare any conflict of interest situations and must remove themselves from participation in Board activities where a conflict of interest is deemed to exist. Board members and officers are also prohibited from using confidential or commercial OES information for any purpose other than the conduct of their OES duties. They are also prohibited from releasing such information to third parties.

Board members and officers, upon appointment, must sign declarations indicating that to the best of their knowledge, they or any persons related to them, have no direct or indirect conflict of interest situations related to OES operations. Where a potential conflict does exist with respect to a particular OES contract or transaction, Board members must declare their connection or interest that gives rise to a conflict of interest with respect to OES operations.

Board members and officers agree to abide by OES conflict of interest provisions and agree to disclose any new conflict of interest situations that might arise subsequent to their appointments.

### **Board and Committee Meetings During Wind Up**

OES will provide RPRA with copies of all OES Board and Committee minutes during the wind up period.

**SCHEDULE A: DETAILED OES IMPLEMENTATION PLAN AND TIMELINES**

<b>Wind Up Task</b>	<b>Personnel Responsible (ADD NAMES THROUGHOUT)</b>	<b>Key Tasks/Dates</b>	<b>Status Update</b>
<b>1. Implementation of Steward OES Fee Reduction to Zero on February 1, 2019</b>			
<b>OES Notice to Stewards re Proposed Fee Reduction Via Steward Webinar Session - email blast invitation (November 19, 2018)</b>		<ul style="list-style-type: none"> <li>- November 23, 2018 Webinar updating OES Financials and providing notice of EHF fee reduction to zero for February 1, 2019;</li> <li>- Identification of continuing supply reporting obligation;</li> <li>- Posting of webinar on OES website (consultation update);</li> <li>- <b>November 23, 2018</b></li> </ul>	Completed
<b>Formal OES notification of EHF fee reduction to zero</b>		<ul style="list-style-type: none"> <li>- Website posting;</li> <li>- Steward email blast;</li> <li>- Identification of key dates for final fee payments to OES along with final dates for any fee adjustment corrections;</li> <li>- OES contact information/process re questions;</li> <li>- <b>December 3, 2018</b></li> </ul>	Completed
<b>Implementation of Steward Fee Reduction</b>		- Update EHF fee rates and references throughout OES website; <b>February 1, 2019</b>	
<b>Final Date for Submission of Steward Reports requiring fee payments</b>		<b>February 28, 2019</b> - OES staff follow-up as required.	
<b>Final date for Stewards to Report any corrections to supply reports and associated fee adjustments.</b>		<b>April 30, 2019</b> - OES staff follow-up as required.	

Wind Up Task	Personnel Responsible (ADD NAMES THROUGHOUT)	Key Tasks/Dates	Status Update
Deadline for submission of inventory adjustment claims from retailers		- February 28, 2019 deadline for submission of claims; - April 30, 2019 deadline for adjustments to claims; - One on one staff follow-up as required	
<b>2. Notice to Stakeholders re RPRA Approval of OES Wind Up Plan</b> <ul style="list-style-type: none"> <li>• General notification of approval of wind up plan;</li> <li>• Confirmation of key WUP dates and deadlines;</li> <li>• Link to copy of full WUP;</li> <li>• Identification of process for contacting OES re information and questions of clarification</li> </ul>			
Stewards		Preparation and release of notification materials: <ul style="list-style-type: none"> <li>- Website update;</li> <li>- Steward Newsletter;</li> <li>- Email Blast;</li> <li>- <b>Target Date: July 15, 2019 or earlier.</b></li> </ul>	
Collectors		Preparation and release of notification materials: <ul style="list-style-type: none"> <li>- Website update;</li> <li>- Email Blast;</li> <li>- <b>Target Date: July 15, 2019 or earlier.</b></li> </ul>	
Transporters		Preparation and release of notification materials: <ul style="list-style-type: none"> <li>- Website update;</li> <li>- Email Blast;</li> <li>- <b>Target Date: July 15, 2019 or earlier.</b></li> </ul>	
Processors		Preparation and release of notification materials: <ul style="list-style-type: none"> <li>- Website update;</li> <li>- Email Blast;</li> <li>- <b>Target Date: July 15, 2019 or earlier.</b></li> </ul>	

Wind Up Task	Personnel Responsible (ADD NAMES THROUGHOUT)	Key Tasks/Dates	Status Update
<b>Generators</b>		Preparation and release of notification materials: <ul style="list-style-type: none"> <li>- Website update;</li> <li>- Email Blast;</li> </ul> <b>Target Date: July 15, 2019 or earlier.</b>	
<b>Re-use and Refurbishers</b>		Preparation and release of notification materials: <ul style="list-style-type: none"> <li>- Website update;</li> <li>- Email Blast;</li> </ul> <b>Target Date: July 15, 2019 or earlier.</b>	
<b>Municipalities</b>		Preparation and release of notification materials: <ul style="list-style-type: none"> <li>- Website update;</li> <li>- Email Blast;</li> </ul> <b>Target Date: July 15, 2019 or earlier.</b>	
<b>Public</b>		Preparation and release of notification materials: <ul style="list-style-type: none"> <li>- Website update;</li> <li>- <b>Target Date: July 15, 2019 or earlier.</b></li> </ul>	
<b>3. Formal Notification to Service Providers of Contract Terminations</b>			
<b>Stewards-Remitters</b>		<ul style="list-style-type: none"> <li>- Preparation of contract termination notice (email/letter);</li> <li>- Identification of date on which OES service contract will be terminated;</li> <li>- Reference to key submission dates re finalization of contract obligations;</li> <li>- OES contact information/process re questions.</li> <li>- <b>Target Date: September 2019</b></li> </ul>	

Wind Up Task	Personnel Responsible (ADD NAMES THROUGHOUT)	Key Tasks/Dates	Status Update
<b>Collectors</b>		<ul style="list-style-type: none"> <li>- Preparation of contract termination notice (email/letter);</li> <li>- Identification of date on which OES service contract will be terminated;</li> <li>- Reference to key submission dates re finalization of contract obligations;</li> <li>- OES contact information/process re questions.</li> </ul> <p><b>Target Date: September 2019</b></p>	
<b>Municipalities</b>		<ul style="list-style-type: none"> <li>- Preparation of contract termination notice (email/letter);</li> <li>- Identification of date on which OES service contract will be terminated;</li> <li>- Reference to key submission dates re finalization of contract obligations;</li> <li>- OES contact information/process re questions.</li> </ul> <p><b>Target Date: September 2019</b></p>	
<b>Refurbishers</b>		<ul style="list-style-type: none"> <li>- Preparation of contract termination notice (email/letter);</li> <li>- Identification of date on which OES service contract will be terminated;</li> <li>- Reference to key submission dates re finalization of contract obligations;</li> <li>- OES contact information/process re questions.</li> </ul> <p><b>Target Date: September 2019</b></p>	

Wind Up Task	Personnel Responsible (ADD NAMES THROUGHOUT)	Key Tasks/Dates	Status Update
Processors		<ul style="list-style-type: none"> <li>- Preparation of contract termination notice (email/letter);</li> <li>- Identification of date on which OES service contract will be terminated;</li> <li>- Reference to key submission dates re finalization of contract obligations;</li> <li>- OES contact information/process re questions.</li> </ul> <p><b>Target Date: September 2019</b></p>	
<b>4. Making MTS tracking software available to Program Participants</b>			
Notification to Stewards, Service Providers of OES MTS Information Session		<ul style="list-style-type: none"> <li>- Letter indicating time and date of session to provide briefing on MTS requirements, process for transfer.</li> <li>- <b>Target Date: October 2019</b></li> </ul>	
Conduct MTS Information Session		<ul style="list-style-type: none"> <li>- Development of briefing materials for information session</li> <li>- <b>Target Date: November 2019;</b></li> </ul>	
MTS software available for transfer		<ul style="list-style-type: none"> <li>- Development of internal process, software modifications, instructions, necessary to facilitate transfer</li> <li>- <b>Target Date: January 2020 – software available until June 30, 2018</b></li> </ul>	
Provision of MTS Software to RPRA for potential transfer to WEEE recyclers post-program termination.		<ul style="list-style-type: none"> <li>- After June 30, 2020 MTS software transferred to the RPRA.</li> <li>- Date to be determined in consultation with RPRA.</li> </ul>	

Wind Up Task	Personnel Responsible (ADD NAMES THROUGHOUT)	Key Tasks/Dates	Status Update
<b>5. Submission and publication of OES 2019 Annual Report</b>			
<b>Draft and Submit Annual Report</b>		<ul style="list-style-type: none"> <li>- Compile data;</li> <li>- Draft Report;</li> <li>- Engage Auditor complete financial statements;</li> <li>- Submit report to RPRA;</li> <li>- <b>By April 1, 2020</b></li> </ul>	
<b>6. Implementation of Process for Finalization of OES Steward Supply Reports</b>			
<b>Notification of Wind Up processes and deadline to Stewards-Remitters</b>		<ul style="list-style-type: none"> <li>- Preparation and release of wind up reminders;</li> <li>- Newsletters;</li> <li>- Email blasts;</li> <li>- Website postings;</li> <li>- <b>January 2020 to June 2020</b></li> </ul>	
<b>Follow up one on one contact with Stewards as required</b>		<ul style="list-style-type: none"> <li>- Staff contact any stewards which have not submitted final reports or submitted deficient reports by July 31 deadline;</li> <li>- <b>August 2020</b></li> </ul>	
<b>Additional one-on-one steward follow-up as required</b>		<ul style="list-style-type: none"> <li>- Staff contact stewards to resolve correction or adjustment to reports issues with September 15 steward adjustments to reports;</li> <li>- <b>September-October 2020</b></li> </ul>	
<b>Final OES Steward Supply Report Reconciliations</b>		<ul style="list-style-type: none"> <li>- OES finalizes steward supply reports for 2020 operating period.</li> <li>- <b>October-November 2020</b></li> </ul>	

Wind Up Task	Personnel Responsible (ADD NAMES THROUGHOUT)	Key Tasks/Dates	Status Update
<b>7. Implementation of process for finalization of collector (including municipalities) incentive payments</b>			
Reminder Notifications of Wind Up Processes and Deadlines to Collectors		<ul style="list-style-type: none"> <li>- Preparation and release of wind up reminders;</li> <li>- Email blasts;</li> <li>- Website postings;</li> <li>- Direct staff contact;</li> <li>- <b>January 2020 to June 2020</b></li> </ul>	
Arrangement of final collector WEEE pickups		<ul style="list-style-type: none"> <li>- Staff arrangement of final collector pickups;</li> <li>- <b>By July 10, 2020</b></li> </ul>	
One on one follow-up with collectors as required		<ul style="list-style-type: none"> <li>- Staff contact any collectors to resolve any issues with claims submissions due by July 31, 2020;</li> <li>- <b>August 2020</b></li> </ul>	
Processing of final collection incentive payments to collectors		<ul style="list-style-type: none"> <li>- Processing of final collector incentive payments;</li> <li>- <b>August-September 2020</b></li> </ul>	
<b>8. Implementation of process for finalization of processor incentive payments</b>			
Reminder Notification of Wind Up Processes and Deadlines to Processors		<ul style="list-style-type: none"> <li>- Preparation and release of wind up reminders;</li> <li>- Email blasts;</li> <li>- Website postings;</li> <li>- Direct staff contact;</li> <li>- <b>January 2020 to June 2020</b></li> </ul>	
One on one work with processors re additional audit/verification requirements re wind up requirements		<ul style="list-style-type: none"> <li>- OES Identification of additional verification requirements/revised time frames for documentation, etc.;</li> <li>- Additional site visits as required;</li> <li>- <b>May – July 2020</b></li> </ul>	
One on one follow up with processors as required		<ul style="list-style-type: none"> <li>- Follow up with processors re final incentive claims submissions due August 15, 2020;</li> <li>- <b>August – September 2020</b></li> </ul>	

Wind Up Task	Personnel Responsible (ADD NAMES THROUGHOUT)	Key Tasks/Dates	Status Update
<b>Final Processor Site Visits – Completion of Mass Balance Reports</b>		<ul style="list-style-type: none"> <li>- Final staff processor site visits and completion of mass balance reports – final adjustments to incentive claims volumes;</li> <li>- <b>September 2020</b></li> </ul>	
<b>Processing of Final OES Processor Incentive Payments</b>		<ul style="list-style-type: none"> <li>- Processing of final processor incentive payments;</li> <li>- <b>October/November 2020</b></li> </ul>	
<b>9. Finalization of OES Transporter, Re-Packer and Consolidator Arrangements</b>			
<b>Reminder Notification of Wind Up Processes and Deadlines to Processors</b>		<ul style="list-style-type: none"> <li>- Preparation and release of wind up reminders;</li> <li>- Email blasts;</li> <li>- Website postings;</li> <li>- Direct staff contact;</li> <li>- <b>January 2020 to June 2020</b></li> </ul>	
<b>Final Purchase Orders for Services</b>		<ul style="list-style-type: none"> <li>- Staff processing of final purchase orders for services;</li> <li>- <b>July 2020</b></li> </ul>	
<b>Processing of payments for final purchase orders</b>		<ul style="list-style-type: none"> <li>- Processing of payment for final purchase orders;</li> <li>- <b>August 2020</b></li> </ul>	
<b>10. Implementation of process for Finalization of Re-use and Refurbisher Reports</b>			
<b>Reminder Notification of Wind Up Processes and Deadlines to Processors</b>		<ul style="list-style-type: none"> <li>- Preparation and release of wind up reminders;</li> <li>- Email blasts;</li> <li>- Website postings;</li> <li>- Direct staff contact;</li> <li>- <b>January 2020 to June 2020</b></li> </ul>	

Wind Up Task	Personnel Responsible (ADD NAMES THROUGHOUT)	Key Tasks/Dates	Status Update
One on one follow up with Refurbishers		<ul style="list-style-type: none"> <li>- Staff follow-up with refurbishers as required re submission of final reuse and refurbish reports (due by July 10, 2020);</li> <li>- <b>July – August 2020</b></li> </ul>	
Processing of final OES payments for reuse and refurbish reports		<ul style="list-style-type: none"> <li>- Staff processing of final payments for last reuse and refurbish reports</li> <li>- <b>August – September 2020</b></li> </ul>	
<b>11. Collection of OES Branded Materials Used by Collectors or Processors (Note to be completed in conjunction with WUP Tasks 6 – 10 above as applicable).</b>			
Reminder Notifications of Wind Up Processes and Deadlines to Collectors		<ul style="list-style-type: none"> <li>- Direct staff contact with collectors re inventories of OES materials</li> <li>- <b>May-June 2020</b></li> </ul>	
Arrangement of collection of OES branded materials from collectors in conjunction with final WEEE pickups		<ul style="list-style-type: none"> <li>- Staff arrangement of final material pickups;</li> <li>- <b>June-July 2020</b></li> </ul>	
Arrangement of collection of OES branded materials form processors		<ul style="list-style-type: none"> <li>- Staff arrangement of final material pickups;</li> <li>- <b>August-September 2020</b></li> </ul>	
Auctioning off of any OES branded materials with value		<ul style="list-style-type: none"> <li>- Materials to be auctioned off in conjunction with dispersal of other remaining OES assets (possibly by OES appointed liquidator (see below));</li> <li>- <b>September-October 2020</b></li> </ul>	
Arrangement for recycling of OES branded materials with no material value		<ul style="list-style-type: none"> <li>- Staff arrangement of branded materials recycling;</li> <li>- <b>August-September 2020</b></li> </ul>	
<b>12. Final Program Financial Reconciliation</b>			
Program reconciliation for January – June 2020		TBD –	
Processing of Payments to Stewards if applicable		TBD –	

Wind Up Task	Personnel Responsible (ADD NAMES THROUGHOUT)	Key Tasks/Dates	Status Update
<b>13. Finalization Arrangements re OES DATA</b>			
<b>Final WEEE Data Transfers from OES to RPRA</b>		<ul style="list-style-type: none"> <li>- Consultation with RPRA;</li> <li>- Transfer of any remaining program data to RPRA;</li> <li>- Arrangements any additional information to be transferred to RPRA following appointment of liquidator;</li> </ul>	
<b>Destruction of WEEE program data</b>		- Once all OES data requirements met, including those necessary for completion of 2020 Annual Report, implementation of arrangements to destroy remaining data. <b>TBD</b>	
<b>14. Appointment of OES Liquidator</b>			
<b>Consultation with RPRA</b>		OES Board consults with RPRA re appointment of liquidator <b>Fall 2020</b>	
<b>Selection of Liquidator</b>		OES Board selection of liquidator subject to RPRA approval; Assignment of liquidator functions; <b>Nov-Dec 2020</b>	
<b>Resignation of OES Board</b>		Board resignation and transfer of duties to liquidator <b>Late 2020</b>	
<b>15. Termination of OES-EPRA Service Agreement</b>			
<b>Final arrangements for termination of OES-EPRA service agreement</b>		<b>Fall 2020</b>	
<b>Shut down of OES Website</b>		<b>TBD</b>	
<b>16. Submission of Wind Up Report to Minister</b>			
<b>Draft and submit wind up report as required by WDTA section 14</b>		<b>TBD – Target Date April 2021</b>	

Wind Up Task	Personnel Responsible (ADD NAMES THROUGHOUT)	Key Tasks/Dates	Status Update
<b>17. Dissolution of OES as Corporation</b>			
<b>Notices under Corporations Act as Required</b>		Filed by liquidator <b>TBD</b>	
<b>Arrangement for required record keeping</b>		Made by liquidator	
<b>Corporate Dissolution</b>		Final paperwork submitted by liquidator <b>TBD</b>	
<b>18. Submission and Publication of OES 2020 Annual Report</b>			
<b>Draft and Submit Annual Report</b>		<ul style="list-style-type: none"> <li>- Compile data;</li> <li>- Draft Report;</li> <li>- Engage Auditor to complete financial statements;</li> <li>- Submit report to RPRA;</li> <li>- <b>By April 1, 2021</b></li> </ul>	

**THIS IS EXHIBIT "C"  
TO THE AFFIDAVIT OF RICHARD WILLIAMS  
SWORN REMOTELY BEFORE ME  
THIS 31<sup>ST</sup> DAY OF MAY, 2021**

DocuSigned by:

*Katherine Yurkovich*

BF130400C72D4F9...

A commissioner for taking affidavits

Katherine Yurkovich  
LSO#80396R

# OES Wind Up Plan

ONTARIO ELECTRONIC STEWARDSHIP DECEMBER 2018\*

[\\* Financial Forecast Updated February 2019](#)

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### Appendices:

Appendix A: OES WUP CONSULTATION REPORT OES WIND UP PLAN ACRONYM LIST

B2B:	Business to Business
BOL:	Bill of Lading
COI:	Conflict of Interest
CRA:	Canada Revenue Agency
CRT:	Cathode Ray Tube
CVP:	Claims Verification Process

EDM: Environment Design Management  
Limited EEE: Electrical and Electronic Equipment  
EHF: Environmental Handling  
Fee EOLE: End-of-Life Electronics  
EPRA: Electronic Product Recycling  
Association ERS: Electronics Recycling Standard  
HST: Harmonized Sales Tax  
IC&I: Industrial, Commercial &  
Institutional IFO: Industry Funding Organization  
IT: Information Technology  
ITC: Input Tax Credit  
MECP: Ministry of Environment, Conservation and  
Parks MTS: Material Tracking System  
OES: Ontario Electronic  
Stewardship PIP: Processor Incentive  
Program  
PO: Purchase Order  
PRO: Producer Responsibility  
Organization RFP: Request for Proposal  
RPRA: Resource Productivity and Recovery  
Authority RQO: Recycler Qualification Office  
RRCEA: Resource Recovery and Circular Economy Act,  
2016 SQL: Standardized Query Language  
TTC: Toronto Transit Commission  
WDTA: Waste Diversion Transition Act, 2016  
WEEE: Waste Electrical and Electronic  
Equipment

# ONTARIO ELECTRONIC STEWARDSHIP WIND UP PLAN

## PROGRAM OVERVIEW AND WIND UP PROCESS

Ontario Electronic Stewardship (OES) is an Industry Funding Organization (IFO) designated to operate the waste diversion program for waste electrical and electronic equipment (WEEE) under the *Waste Diversion Transition Act, 2016* (WDTA).

Since its inception in 2009, the WEEE program has diverted over 67 million electronic devices or over 500,000 tonnes of waste electronics from Ontario landfills. The WEEE program promotes the re-use and refurbishment of waste electronics and ensures that the valuable resources found in waste electronics, that cannot be re-used, are processed and recycled in an environmentally responsible manner.

In 2016 the Ontario legislature passed the *Resource Recovery and Circular Economy Act, 2016 (RRCEA)* which creates a new legislative framework for managing waste in Ontario. Current waste diversion programs and related IFOs, such as Ontario Electronic Stewardship, will be wound up subject to provisions under the WDTA. Under the RRCEA, producers will be responsible for the implementation of new waste diversion programs that must meet recycling targets and objectives established under that Act.

Under the WDTA wind up process IFOs are required to develop wind up plans in accordance with specified statutory requirements once directed to do so by the Minister. Subsection 14 (13) of the WDTA requires IFOs to consult with stewards, municipalities and other stakeholders affected by termination of the program in developing wind up plans. IFOs submit wind up plans to the Resource Recovery and Productivity Authority (RPRA) which reviews and approves the plan if it is consistent with the Minister's direction and statutory requirements.

In February 2018, OES received direction from the former Minister of Environment and Climate Change to wind up the WEEE program by June 30, 2020. (Note: In July 2018 the Honourable Rod Phillips, Minister of Environment, Conservation and Parks, assumed responsibility for administering the RRCEA and WDTA statutes.)

OES's Ministerial wind up direction requires OES to submit its wind-up plan to RPRA by December 31, 2018.

### **Current Program Waste Materials**

Current WEEE program materials are identified in regulations under the WDTA and set out in Schedules under the program plan approved by RPRA.

WEEE can be identified in four broad categories, display devices, including: TVs and monitors; desktop and laptop computers; printers and peripherals, including telephones, cell phones, faxes etc.; and floor standing printers and copiers. See Section 1.1 for a full list of designated program waste.

## Current OES Program Funding

Under the WDTA, businesses that bring electrical and electronic equipment (EEE) into Ontario or manufacture EEE for sale in Ontario are defined as stewards and are obligated to register with OES, report on the volume of material supplied into the Ontario market and pay related steward fees to OES. Steward fee revenues fund operations related to the management of the WEEE program. OES steward fees are set subject to program rules, supported by RPRA, and are established on a cost recovery basis for each waste electronic category.

Steward fees, commonly known as Environmental Handling Fees, or EHF, are generally collected from the purchaser of the EEE at point of sale. Current December 2018 EHF rates for various EEE materials are provided in Table 1 below:

<b>Table 1: Ontario EHF Fees</b>	
<b>Electronic Product</b>	<b>EHF Per Unit</b>
Display Devices (TV/Monitors) 46" or larger	\$28.00
Display Devices (TV/Monitors) 30" to 45"	\$12.00
Display Devices (TV/Monitors) 29" or smaller	\$7.00
Non-cellular Telephones and Answering Machines	\$1.50
Home Audio/Video Playback and Recording Systems/Components	\$2.50
Desktop Computers	\$1.40
Portable Computers	\$1.00
Desktop Printers/Multifunction Devices	\$2.50
Personal/Portable Audio/Video Playback and Recording Systems	\$0.75
Home Theatre in a Box (HTB) Systems	\$2.50
Vehicle Audio/Video Systems (Aftermarket)	\$2.50
Floor-Standing Multifunction Devices	\$25.00
Computer Peripherals	\$0.75
Cellular Devices	\$0.07

\* EHF's are subject to applicable sales tax

Under the program Ontario companies, known as remitters who may do the reporting and remitting on behalf of stewards, register with OES and pay related fees for product supplied into the Ontario market.

In 2017, registered stewards and remitters reported 27.5 million EEE units supplied into the Ontario market and paid a total of \$55.5 million to OES to fund operations. There are approximately 750 stewards currently registered in the WEEE program.

Under the WEEE program, stewards also have the option of self-managing (i.e. recycling) electronic waste. These stewards must meet legal obligations under the program but may be exempt from paying related steward fees as they run programs to recycle and manage their related WEEE materials.

OES conducts compliance activities to ensure that stewards and remitters are complying with program requirements and statutory obligations. This includes the identification and registration of potential stewards who are not registered under the program and the verification of reporting and payments from stewards and remitters

that are registered under the program.

## **OES Service Providers and Program Delivery**

The OES program facilitates recycling of waste electronics through two general approaches: an allocation-based recycling model and a processor incentive-based model.

Under the allocation model, representing approximately 20% of WEEE recycling, OES pays direct collection incentives, pays and arranges for warehousing and transportation of WEEE materials to processors and allocates WEEE materials to processors selected through an RFP process. These processors are paid processing rates agreed to under contractual terms associated with the award of the RFP contract.

In addition to this recycling stream, OES also runs a Processor Incentive Program (PIP) under which processors recycle WEEE materials sourced from generators. Under this program, OES pays an incentive to processors that covers the collection, transportation and processing of the WEEE, and processors are responsible for the financial arrangements with generators and haulers with respect to the services those parties provide.

## **Allocation Based WEEE Recycling**

### *WEEE Collection Sites:*

Under the allocation model, collectors are approved by OES to collect and sort WEEE for transport according to OES requirements. Collectors can be for-profit, not-for-profit organizations or municipalities which have entered into agreements with OES for the collection of designated materials.

Collectors can choose to collect all WEEE materials or a subset of WEEE materials. If collectors collect a subset of WEEE materials they cannot exclude any brands of such products and collection operations must be accessible to the public. For example, a retailer that chooses to collect WEEE computers and cell phones must collect all brands from consumers (even brands it may not sell) to become an OES-approved collector.

OES-approved collectors must utilize OES-approved transporters and are eligible for a collection incentive for every tonne of WEEE materials collected.

OES runs a number of programs, and provides a number of services, in relation to WEEE collection that assist various WEEE service providers in collecting and managing material in accordance with program guidelines. These include the following:

### *Multi-Residential Collections:*

OES provides multi-residential collection to a number of municipal partners. This

program involves providing community housing complexes as well as apartment and town house complexes with collection bin services. OES bins, the majority of which are rented by OES, are located in secure recycling rooms that only residents have access to. These sites are serviced at regular intervals either bi-weekly or monthly.

OES provides promotional support to these sites in the form of stickered and highly visible wheelie bins as well as some graphic design promotional material.

#### *Allocation Collections:*

OES has established an extensive collection network throughout the province since program inception. These permanent collectors consist of but are not limited to: municipalities, private businesses, government institutions, first nations groups, and not-for-profit organizations. Permanent collection sites have been established following one of two models:

- A: Large Bin Collections (utilizing sea containers and roll offs or front-end bins);
- B: Gaylord Collections (utilizing pallets, gaylords and shrink wrap).

Large bins, sea containers, roll offs, etc., are rented from various service providers. OES also provides collectors with promotional material and with pallets, gaylord boxes and shrink wrap necessary to facilitate the collection and transportation of WEEE in a safe and environmentally responsible manner. Some OES collection sites include WEEE drop off bins which are the property of, or are leased by, OES and which are provided to the collection site to facilitate WEEE collection. OES pays sites collection incentives on a monthly basis for any materials transported to, and received by, approved OES consolidation and re-packing facilities.

#### *Business-to-Business (B2B) Pick-ups:*

OES also facilitates B2B WEEE pick ups at no cost to businesses and residents in Ontario. Businesses and residents with a minimum volume of WEEE can contact the OES Customer Service department which will arrange for transportation to an authorized WEEE processor. These one-time B2B pickups are not eligible for collection incentives.

As of December 31, 2017, there were a total of 902 permanent OES approved collection sites of which 383 were municipal facilities. Approximately 95% of the Ontario population lives within 10 kilometres of a WEEE collection location.

#### *Collection Events:*

In addition to authorizing permanent collection sites, OES also approves collection events for businesses, community groups and not-for-profit organizations that wish to collect WEEE materials. As with permanent collectors, OES provides a collection incentive related to WEEE collected at special events along with promotional and packaging materials. In 2017 OES authorized 377 collection events and the WEEE tonnage collected accounted for approximately two percent of total WEEE collected.

These collection events not only collect product for recycling but also represent educational opportunities for which OES provides staff to promote electronics recycling with the public and help with actual WEEE collection (see Promotion and Education below).

### **WEEE Transportation**

OES-approved transporters pick up WEEE from OES-approved collection sites and move it to OES-approved regional consolidation or repacking centres for initial sorting prior to transportation to WEEE processors. Repacking centres sort and palletize material collected in bulk containers into different WEEE categories for delivery to consolidators. Consolidators weigh and aggregate pallets of materials into larger shipments for transporting to OES-approved processors.

OES pays re-packers, consolidators and transporters operating under the allocation model on an order-by-order basis. It tracks WEEE shipments throughout the supply chain with a proprietary Materials Tracking System (MTS) software.

### **Processing Under the Allocation Model**

In order to be approved as a WEEE processor under either the Allocation or Processor Incentive model, companies must first apply to the EPRA Recycler Qualification Office (RQO) for verification that they operate in compliance with a national Electronics Recycling Standard (ERS), published by the Electronic Products Stewardship Canada . The RQO audits prospective processors and related downstream partner companies to ensure they recycle WEEE materials in accordance with the ERS.

Once verified by the RQO as compliant with the Electronic Recycling Standard (ERS), prospective processors are eligible to become service providers to OES and operate under either the allocation model or the Processor Incentive Program.

Processors operating under OES allocation model are selected through an RFP process and are also eligible to participate in the Processor Incentive Program as well (see below). OES monitors WEEE product flows to successful RFP processors to ensure that WEEE volumes are consistent with RFP contractual terms.

### **Processor Incentive Program**

Under the WEEE Processor Incentive Program (PIP), OES does not directly contract with collectors or manage WEEE product flows directly. Rather, processors which have met OES eligibility requirements source WEEE from generators, arrange transportation and are paid processing incentives by OES based on the weight of WEEE processed in respect of the collection, transportation and processing. The processor enters into contracts with the generators and haulers which determines, among other things, how much of the incentive the processor will pass on to the generator and hauler.

### ***Processing under the PIP***

Under the PIP program, processors can contract directly with OES-approved

generators for the supply and processing of WEEE materials. Generators must be registered and approved by OES and operate in accordance with program guidelines.

Processors submit invoices for incentives to OES, documenting the processing of WEEE materials in accordance with OES standards. Invoices for any particular WEEE shipment must be submitted within 90 days of the Material Tracking System (MTS) Bill of Lading generation for the pickup of the WEEE to be eligible for OES incentives.

*Generators and the Processor Incentive Program (PIP):*

OES's Process Incentive Program supports the collection of WEEE at generator sites. Generators are private sector, not-for-profit or government organizations that contract directly with an OES approved primary processor to handle residential and/or IC&I electronic waste. Generators must be approved by OES and meet the OES Generator operating standard in order to collect end of life electronics for eligibility in the OES program.

Generators operate under contracts with approved OES processors and any financial compensation regarding WEEE collection is a function of their contractual terms with processors.

*PIP WEEE Transportation:*

Under the PIP program, OES does not provide transportation or consolidation incentives directly to transporters, consolidators or re-packers. However, OES processors are eligible for a transportation incentive based on the distance the WEEE travelled from various collection sites to processing facilities. Transporter financial compensation for WEEE delivery is a function of contractual arrangements between processors and transporters.

**Reuse and Refurbishment**

The OES program also includes a number of Reuse and Refurbishment (R&R) organizations which can be not-for-profit or for-profit organizations that handle EEE

materials for reuse without repairing or modifying the hardware or repairing or redistributing parts or equipment.

Under the program, these organizations receive an incentive for reporting on EEE whole units (via monthly reports to OES) that are sold or donated for re-use. These WEEE materials must have a warranty associated with their resale. R&R organizations must meet site requirements established by OES and are eligible to collect incentives on WEEE materials transported to processors.

In 2017, a total of 28 R&R organizations representing 29 reuse and refurbishing sites participated in the WEEE program. These organizations processed 2,628 tonnes of WEEE materials for re-use (primarily display devices, computers and printers) which represented approximately 5% of total WEEE diversion tonnage in 2017.

## Service Provider Compliance Activity

As with stewards, OES conducts regular compliance and audit activities to ensure that various service providers conduct activity in accordance with program requirements.

OES may suspend or revoke authorizations for service providers if WEEE recycling activity is not conducted in accordance with program requirements.

## Promotion and Education

Promotion and Education is an important component of the OES WEEE program which informs consumers about the benefits of electronic waste recycling and builds awareness of program accessibility and the location of WEEE collection sites and events.

In 2017, OES promoted WEEE recycling through radio, print and transit (Go Train and TTC) advertising. OES also coordinated a number of OES sponsored WEEE recycling activities in conjunction with environmental events such as Earth Day and Waste Reduction Week. OES also raised awareness about electronics recycling through participation in community festivals and fairs, leveraging with the EPRA Recycle My Electronics Mobile Classroom, a customized shipping container which features videos and games designed to entertain and inform visitors about why they should recycle their old waste electronics.

In 2017, OES spent just under \$3 million related to promotional and educational activities with represented approximately 5.3% of the OES operating budget.

## Program Performance

In 2017, the OES WEEE program collected 52,712 tonnes of waste electronics materials from landfill. Since its inception the WEEE program has diverted over 500,000 tonnes of material.

Current trends in electronics manufacturing are significantly reducing the weight associated with display devices, computers and other electronic equipment. As such the tonnage of WEEE processed under the program is expected to decline in 2019 and the first six months of 2020.

<b>Material Category &amp; Processing</b>	<b>2017 Collection (Tonnes)</b>
Display Devices	26,869
Computers	6,454
Printers and Peripherals	18,495
Floor-Standing	894
Total	52,712

## OES Operations and Administration

OES currently administers the WEEE program through an operating agreement with the Electronics Product Recycling Association (EPRA), an industry led not-for-profit organization that operates regulated electronics recycling programs across Canada. OES has no direct employees. Under the terms of its operating agreement with EPRA, is liable for certain employee severance payments in the event of program termination.

Historically, a number of members of the EPRA and OES governing boards were comprised of the same representatives as both organizations operate for the same electronics industry. In preparation for program wind up, a new OES Board was appointed in August 2018 so that there is no overlap between the EPRA and OES governing representatives.

## OES Financing Heading into Wind Up

As can be seen in Table 3 below, OES is forecasting total operating expenses of \$~~46.6~~46.9 million in 2018. Of this, \$~~38.9~~39.5 million or 84%, is related to material management or incentive payments provided to service providers.

**Table 3: OES 2017 – 2018 (Forecast) Financials (\$000s)**

Revenue:	2017 Actual	2018 Forecast*
EEE Fee Revenue	\$55,544	<del>\$49,333</del>
EEE Fee Refund		<u>51,305</u>
Tax Refund		<del>\$29,357</del>
		<u>\$60,84</u>
		<u>0</u>
Interest	\$417	<del>\$768</del> <u>\$936</u>
	\$55,961	<del>\$79,458</del> <u>\$113</u>
<b>Expenses:</b>		<u>,081</u>
Processing	\$35,888	<del>\$26,818</del> <u>\$27,</u>
		<u>142</u>
Handling	\$6,257	<del>\$5,948</del> <u>\$6,10</u>
		<u>3</u>
Transportation/Storage	\$7,340	<del>\$6,127</del> <u>\$6,23</u>
		<u>6</u>
<b>Direct Program Costs:</b>	\$49,485	<del>\$38,893</del> <u>\$39,</u>
		<u>481</u>
<b>Other:</b>		
Promotion and Education	\$2,999	<del>\$2,870</del> <u>\$2,88</u>
		<u>5</u>
Administration	\$3,394	<del>\$3,351</del> <u>\$3,14</u>

		8
Wind-up Fees		<del>\$150</del> \$100
RPRA Fees	\$878	<del>\$1,306</del> \$1,256
<b>Indirect Costs:</b>	\$7,271	<del>\$7,677</del> \$7,389
<b>Total Costs:</b>	\$56,756	<del>\$46,570</del> \$46,870
<b>Surplus/(Deficit)</b>	-\$795	<del>\$32,888</del> \$66,211
<b>Tonnage (metric tonnes)</b>	<b>52,712</b>	<b>47,097</b>
<b>Closing Reserve</b>	<b>\$43,603</b>	<del>\$76,491</del> \$109,814

\* Updated February 2019

During 2018, OES's net asset position will increase from \$43.6 million as of December 31, 2017 to a projected ~~\$76.5~~\$109.8 million as of December 31, 2018. This increase in OES's net asset position is due to a recent Tax Court ruling, Stewardship Ontario versus the Queen, 2018 TCC59.

Ontario Electronic Stewardship, like Stewardship Ontario, provides a service to stewards in managing the waste recycling program that the stewards are legally obligated to provide in Ontario.

In managing the program, OES collects and remits HST on the fees charged to the stewards.

In the early years of the program, the CRA ruled that the Ontario stewardship entities, including OES, were not allowed to claim Input Tax Credits (ITCs) for the HST they paid to third parties in operating the recycling programs. Stewardship Ontario and OES filed appeals with the Tax Court of Canada to challenge this ruling.

In April 2018, the Tax Court of Canada overturned the ruling for Stewardship Ontario. In June 2018, the CRA and Tax Court of Canada consented to overturn the ruling for OES, meaning ITCs are thereby allowed for the HST which had been paid to the third parties. As a result, OES received refunds for the previously denied ITCs, and is permitted to continue to claim ITCs on a go forward basis.

This favourable outcome means that OES will, by February 2019, have sufficient reserves from previous steward fees to fully offset the fees chargeable to the stewards to manage the program.

The ability of OES to begin to properly claim ITCs following the Tax Court ruling in May 2018 also affected OES's 2018 budget by shifting it from a deficit position to a projected operating surplus.

The CRA refund as a result of ITC credits received is \$~~29.460.8~~60.8M as of ~~December 13<sup>th</sup>, 2018 and this amount is reflected in the 2018 forecast. Additional ITC claims are in the process of being audited by CRA and are not concluded at the writing of this Wind Up Plan~~February 12, 2019 which will accrue to the 2018 OES operating budget.

## **SECTION 1: OPERATING PLAN**

### **1.1 A. Operating Plan Overview**

As per Ministerial direction, OES will run the WEEE program subject to changes identified below until June 30, 2020.

OES net assets permit the implementation of an EEE fee reduction to zero, as per Ministerial direction, for implementation February 1, 2019 and OES forecasts having some surplus funds remaining in the program following the resolution of all financial obligations after program termination. (See Proposed Wind Up Plan Budget and Steward Fees and Program Funding below for more details).

With respect to program operations, OES is not proposing any changes to WEEE material definitions during program wind up. OES is also not proposing any changes to service provider incentive rates during wind up. In the view of OES, a business as usual approach to current material management and incentives will ensure that program performance is maintained and, as per Ministerial direction, there are no disruptions to the existing program during the wind up period.

OES as a corporate entity will continue to function beyond June 30, 2020 to process claims from service provider partners, dispose of any remaining net assets and resolve final financial arrangements with stewards. Following the reconciliation of OES steward and service provider accounts, OES proposes to appoint a liquidator post-program termination to dispose of any remaining assets and coordinate the steps necessary for corporate dissolution. As noted below, anticipated residual surplus funds left with OES following the disposition of all assets and resolution of all financial obligations, will be distributed to stewards per the WDTA and the program agreement.

OES anticipates that it will need approximately nine months following program termination to complete operational wind up activities and complete financial arrangements. Costs that may be incurred in 2021, such as a final financial audit, are accrued into and reflected in the 2020 budget.

While EEE product trends will reduce the weight of WEEE materials available for collection in 2019 and 2020, the changes OES is proposing in this Wind Up Plan (WUP) will ensure that current program performance on awareness and accessibility is maintained and that the WEEE program operates without disruption for both stakeholders and consumers until June 30, 2020. Tonnage is expected to decline consistent with the light-weighting of electronics products that has been and will continue to occur in the industry. In the view of OES, this Wind Up Plan is consistent with Ministerial directions including the requirement to support competition in, and not **Ontario Electronic Stewardship Wind Up Plan 2018 (Updated February 2019)**

adversely impact, the current marketplace for recycling WEEE in Ontario.

Key Wind Up Plan elements include the following:

### ***OES Wind Up Budget Summary***

Given OES's projected net asset position as of December 31, 2018, OES worked in conjunction with RPRA to take steps to implement an EEE fee reduction to zero for February 1, 2019. Notice to stewards regarding OES's intention to implement a fee reduction to zero was provided by OES on November 23, 2018 in order for stewards to prepare their internal IT systems accordingly. This fee reduction was reviewed and supported by RPRA Board and OES provided formal notification of the EEE fee reduction to stewards on December 3, 2018. The following OES wind up budgetary forecasts are based on the implementation of an EEE fee reduction to zero for February 1, 2019.

As per Ministerial direction regarding wind up, the EEE fee change will reduce OES surplus funds that remain following program termination.

As can be seen from Table 4 below, preliminary OES budgetary forecasts indicate that OES is currently projecting program surplus funds of approximately **\$1,433.8** million following the resolution of outstanding financial obligations after the program termination date of June 30, 2020. As per the current statutory requirements under the WDTA and the approved program agreement, any surplus funds remaining at the end of program wind up will be disbursed to stewards.

It should be noted that these initial forecasts are subject to financial contingencies, such as fluctuations in WEEE supply ~~and potential additional HST rebates~~, that may occur between now and program termination. In the unlikely event that OES requires more funds than planned prior to program termination, it will reserve the right, despite the implementation of the EEE reduction to \$0 in February 2019, to adjust the EEE fee to a higher \$ amount to fund any financial shortfalls that may occur prior to program termination.

**Table 4: OES Wind Up Financial Forecast 2018 – 2020\***

Revenue:	2019	2020	
	2018 Forecast	Budget	Budget
EEE Fee Revenue	<del>\$49,333</del> \$51,305	\$3,327	0
EHF Fee Refund		<del>-\$2,300</del>	
Tax Refund	<del>\$29,357</del> \$60,840		
Interest	<del>\$768</del> \$936	\$545	\$250
	<del>\$79,458</del> \$113,081	\$1,572	\$250
<b>Expenses:</b>			
Processing	<del>\$26,818</del> \$27,142	<del>\$26,013</del> \$26,328	<del>\$12,681</del> \$12,835

Handling	<del>\$5,948</del> <u>\$6,103</u>	<del>\$6,231</del> <u>6,393</u>	<del>\$3,280</del> <u>3,366</u>
Transportation/Storage	<del>\$6,127</del> <u>\$6,236</u>	<del>\$6,419</del> <u>6,533</u>	<del>\$3,380</del> <u>3,440</u>
<b>Direct Program Costs:</b>	<del>\$38,893</del> <u>\$39,481</u>	<del>\$38,663</del> <u>\$39,254</u>	<del>\$19,341</del> <u>\$19,640</u>
<b>Other:</b>			
Promotion and Education	<del>\$2,870</del> <u>\$2,885</u>	\$2,860	\$1,000
Administration	<del>\$3,351</del> <u>\$3,148</u>	\$3,370	\$2,485
Wind-up Fees	<del>\$150</del> <u>\$100</u>	\$2,400	\$2,900
RPR Fees	<del>\$1,306</del> <u>\$1,256</u>	\$2,600	\$1,300
<b>Indirect Costs:</b>	<del>\$7,677</del> <u>\$7,389</u>	\$11,230	\$7,685
<b>Total Costs:</b>	<del>\$46,570</del> <u>\$46,870</u>	<del>\$49,893</del> <u>\$50,484</u>	<del>\$27,026</del> <u>\$27,325</u>
<b>Surplus/(Deficit)</b>	<del>\$32,888</del> <u>\$66,211</u>	<del>-\$48,321</del> <u>-\$48,912</u>	<del>-\$26,776</del> <u>-\$27,075</u>
<b>Tonnage (metric tonnes)</b>	<b>47,097</b>	<b>45,684</b>	<b>22,271</b>
<b>Closing Reserve</b>	<del>\$76,491</del> <u>\$109,814</u>	<del>\$28,170</del> <u>\$60,902</u>	<del>\$1,394</del> <u>\$33,827</u>

\* [Updated February 2019](#)

### **Steward Fees and Supply Reports**

As noted above, OES has announced the reduction of EEE steward fees to zero for implementation on February 1, 2019. This fee reduction to zero will be the same for all program materials. Despite the EEE fee reduction to zero, OES stewards will remain obligated to report on EEE supply into the Ontario market until June 30, 2020. OES will finance operations during this period from existing reserve funds.

All stewards will be required to submit supply reports and pay existing EEE fees for January 2019 by February 28, 2019. Stewards will be permitted to submit adjustments or corrections to these reports until April 30<sup>th</sup>, 2019

These reporting deadlines will apply to all stewards including those who are approved to report on a quarterly or annual basis. After submitting their January supply report and paying related fees, stewards that submit on a quarterly basis will revert to the submission of supply reports on a quarterly basis until program termination. Stewards that normally submit supply reports on a quarterly or annual basis will also submit a January 2019 report no later than February 28<sup>th</sup>, 2019. All stewards will continue

reporting market units supplied following their normal monthly, quarterly or annual schedule for February 2019 sales through to June 30<sup>th</sup>, 2020 sales. Following program termination on June 30, 2020, stewards that normally submit annual supply reports will submit a 6-month supply report covering the period from January 1, 2020 to June 30, 2020.

The reduction of steward fees prior to program termination will allow OES to resolve most steward account and outstanding payments during the wind up period and in advance of the June 30, 2020 program termination date.

Stewards, however, will continue to be required to submit EEE supply reports to OES throughout the wind up period (despite the reduction of steward fees to zero in relation to these reports). Final steward reports for the month ending June 30, 2020 will be due to OES by July 31, 2020 (this applies to all stewards whether they normally report on a monthly, quarterly or annual basis) with correction or adjustments to final steward reports due to OES no later than September 15, 2020.<sup>1</sup>

The continuation of steward supply reports is essential for OES to monitor program performance and conduct period and final program cost allocations associated with the program. As such, current OES-steward and remitter service agreements will remain in place for the duration of the WEEE program. OES will provide formal notice of the

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timing of the termination of these agreements to stewards following approval of the Wind Up Plan by RPRA.

Once OES has resolved all financial program obligations following program termination, any remaining surplus OES funds, as per RPRA Wind Up Guide instructions and statutory requirements, will be distributed to OES stewards in accordance with a methodology supported by RPRA.<sup>42</sup>

### ***Service Provider Contracts, Incentives and Payments***

OES is not proposing any changes to current WEEE related collection, transportation and processing incentive rates prior to or during the wind up period.

During the wind up period (Wind Up Plan approval date to June 2020), OES is proposing that it maintain existing service provider contracts related to the

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<sup>1</sup>[Note: Stewards can currently link to OES's registration page and file reports through the Recycle My Electronics website, recyclemyelectronics.ca, which OES uses to promote WEEE recycling through an agreement with EPRA. OES proposes to continue to utilize the Recycle My Electronics website to promote electronics recycling including steward registration and reporting links until the program termination date of June 30, 2020. Following the program termination date, the steward links for remaining electronic report filing will be transferred to the ontarioelectronicstewardship.ca website. See Schedule A for more details with respect to the details of the proposed transition of steward registration and reporting links.](#)

<sup>42</sup> The methodology used by OES to determine any surplus funds disbursements to individual stewards will be reviewed and supported by RPRA as part of the wind up process.

collection, transportation or processing of WEEE materials. OES will monitor applications for additional service providers during this period in light of maintaining current program performance and streamlining program wind up.

OES operates a Claims Verification Process (CVP) to support the integrity of the service provider reporting process. In the first quarter of 2020, processor mass balancing reports will be moved from a quarterly to a monthly basis to facilitate wind up and expedite OES payments in the final six months of program operations. OES will also continue with its regular compliance review activities during the wind up period and conduct additional onsite processor visits to validate inputs and outputs related to processor reports. OES will conduct additional reviews on claims outside of normal patterns to ensure validity of claims and expedite the reconciliation process.

Consumer collection sites will maintain program access throughout the wind up period and OES will coordinate the collection of any OES collection materials previously provided to OES collection partners in a manner which does not adversely impact consumer access to WEEE disposal sites prior to June 30, 2020.

OES will begin working with collectors and generators, both of whom operate collection sites, in January 2020 in preparation for program shut down. Collected WEEE will only be eligible for program incentives if the WEEE is dropped off at a collection site by June 30, 2020 and the related MTS Bill of Lading (BOL) for pick up and transportation of these materials is created and submitted to OES by end of day, June 30<sup>th</sup>, 2020.

As of July 1<sup>st</sup>, 2020, collectors and generators will not be able to add new volume to the OES Material Tracking System and no new BOL submissions will be accepted. Collector and generator BOL submissions must be made by June 30, 2020 with arrangement for pickup of such materials arranged no later than July 10, 2020.

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Collector claims for incentives on WEEE materials collected prior to June 30, 2020 must be submitted to OES no later than July 31, 2020.

OES will provide carriers with notice of program wind up consistent with contractual terms. OES will also coordinate the wind up of WEEE collection activities with existing processors.

Following program termination, Re-use and Refurbisher service providers will have until July 10, 2020 to submit reports to OES on R&R activities completed prior to June 30, 2020. After July 10<sup>th</sup>, 2020, the MTS system will no longer be available for R&R reports.

Following program termination, processors will have until August 15, 2020 to submit claims to OES for the MTS BOL's completed and submitted by June 30<sup>th</sup>, 2020 end of day and with corresponding pickups completed by July 10<sup>th</sup>, 2020. BOL's dated [Ontario Electronic Stewardship Wind Up Plan 2018 \(Updated February 2019\)](#)

later than June 30<sup>th</sup>, 2020, will not be eligible for reimbursement. Mass balancing reports are to be completed and submitted to OES by September 15, 2020.

OES will increase the audits of processors during the last six months of the program to ensure claims are entered correctly, are valid and that processors continue to function in accordance with program requirements. OES will work closely with processors to ensure that any additional or expedited audit or verification procedures required by OES to facilitate program wind up are implemented efficiently and in a manner that is reasonable for both processors and OES.

Onsite inspections and wind up audits will occur during July through September 2020. Material collected under the OES program will be properly dismantled and not stock piled, on-hand inventories will be managed in accordance with the ERS Standard and OES program requirements. Final collector, processor and other service provider payments will be consistent with contractual terms.

Where WEEE collection partners have OES-branded promotional materials and excess OES collection supplies such as bins, gaylord boxes, pallets and shrink wrap at program termination, these materials will be collected during final program pickups. OES will track packaging material supply inventories on an ongoing basis throughout the wind up period and will work to minimize on-hand OES packaging supplies at the point of program termination. Following program termination, OES leased bins will be returned to service providers and OES owned bins and packaging supplies which are re-usable will be disposed of in conjunction with other assets (Note: OES is not anticipating that these assets will generate significant revenues (see Wind Up Plan Section 5 for preliminary estimates)). OES recovered packaging supplies which are not suitable for resale will be recycled.

All service providers will be given a minimum of 6 months of notice of contract terminations. Currently OES anticipates providing notice of contractual termination to service providers in relation to wind up by September 30, 2019. OES will also provide adequate notice to service providers that do not have signed service contracts with OES regarding impending program termination (i.e. transporters that are paid on an order by order basis).

### ***Transition of OES's Material Tracking System***

OES currently tracks WEEE materials through various service providers to intended recycling outcomes through the use of a proprietary software Material Tracking System (MTS) specifically designed to track WEEE in accordance with OES regulatory requirements. The MTS system helps OES maintain integrity in the WEEE recycling marketplace and ensure that materials are recycled in accordance with acceptable environmental standards and program objectives and requirements.

As part of its Wind Up Plan, OES is proposing that the MTS system be made available to stakeholders as free software, including potential service providers and RRCEA stewards, as of January 1, 2020. While the MTS system is specifically designed for operation in the OES regulatory environment, making it available may assist future **Ontario Electronic Stewardship Wind Up Plan 2018** [\(Updated February 2019\)](#)

WEEE organizations in establishing their own tracking and reporting systems under the RRCEA framework. Making the MTS system broadly available also ensures that individual stakeholders are not receiving preferential treatment as WEEE recycling transitions to the new legislative framework.

OES will conduct information sessions with stakeholders, if necessary, to facilitate the transition of the Material Tracking System. A copy of the MTS system software will be provided to RPRA following program termination for potential release to stakeholders for whatever period of time RPRA determines is helpful with respect to continued WEEE recycling.

### ***Data Management***

As part of the wind up process, OES is required to transfer data that relates to the operation of the waste diversion program to RPRA. RPRA will be responsible for administering WEEE recycling programs under the RRCEA legislative framework.

Under Section 70 of the WDTA and Section 57 of the RRCEA, RPRA is required to treat information in its possession as confidential unless that information is required to be made public under the statutes. OES will identify any confidential or commercially sensitive data transferred to RPRA and take measures to ensure that data is supplied in confidence.

All steward and service provider data in OES's possession will eventually be destroyed following transfer of data to RPRA and resolution of final OES financial and corporate obligations (see WUP Section 9 for more detail).

Throughout the wind up process, OES will treat all stakeholder information in its possession as commercially confidential and maintain measures to ensure data security. Data will be transferred to RPRA at RPRA's request and RPRA is bound by confidentiality guidelines as well regarding safeguarding of data.

### ***OES Operations and Administration***

A new governing OES Board was appointed in August 2018 to develop and manage the OES wind up process and plan. The Board will monitor and assess OES fiscal and program performance throughout the wind up period to ensure that operations and outcomes are consistent with WUP schedules and objectives. It will work closely with RPRA to address any financial or program contingencies that may occur during the WUP period.

Upon RPRA approval of the OES Wind Up Plan, EPRA, which functions as OES's administrative service provider, will separate OES related operations and staff from those of EPRA's other operations to minimize overlap between OES personnel and functions with other EPRA activities during the wind up period (See WUP Section 13 for more details on Board and OES conflict of interest measures).

As noted earlier, the OES Board also proposes to appoint a liquidator, subject to

RPRA approval, following program termination to dispose of any remaining OES assets and take the final steps necessary to dissolve OES as a corporate entity.

Winding down OES operations will require a termination of OES's operating agreement with EPRA. As noted earlier, OES administers the WEEE program through a service agreement with EPRA and does not have any direct employees.

As EPRA services are utilized by OES to process service provider and steward transactions, OES will manage the end of its EPRA service agreement to coincide with resolution of final program obligations with respect to both stewards and service providers. OES contractual closure with EPRA will likely occur approximately six to nine months following program termination after which the liquidator appointed by OES will assume responsibility for remaining OES operations.

OES will not incur any financial penalties for termination of its service contract with EPRA. Under the terms of the contract it has financial liability for severance costs associated with any EPRA employees that are laid off as a result of WEEE program termination. Potential contract termination costs, including severance, are covered in the wind up costs allowed for in the wind up budget.

OES physical assets are relatively minimal and include a few collection bins and an appliance which will have a net book value of less than \$2000 as of the program termination date. The OES appointed liquidator will assume responsibility for disposition of these assets in accordance with this Plan. OES does not anticipate that revenues related to asset disposition will be significant.

### ***Stakeholder Communications***

The attached Wind Up Plan includes a comprehensive communications strategy that will ensure that all stewards, stakeholders and service providers receive ongoing communications related OES wind up activities and related dates. OES may allocate additional staffing to Field Operations in an effort to ensure all stakeholders receive notification of OES wind up and understand the impacts of the program wind up. Targeted stakeholder groups will include both the service providers that OES partners with directly and the secondary service providers that participate in the WEEE program indirectly through service arrangements with direct OES partners.

All affected stakeholders will be notified of RPRA approval of the Wind Up Plan and impending changes by July 2019 or earlier depending upon the timing of RPRA WUP approval process.

All OES contractual arrangements will be provided with notice of contractual termination in advance of, or consistent with, the timing of specified contractual terms. As noted above, OES anticipates providing contracted partners with notice of contract termination dates by September 30, 2019.

In early 2020, OES will increase communications outreach with service provider entities including generators, municipalities, and not-for-profit organizations participating in the collection of WEEE materials.

**Ontario Electronic Stewardship Wind Up Plan 2018** [\(Updated February 2019\)](#)

During the development of this Wind Up Plan, OES also conducted consultation with stewards, municipalities, service providers and other affected stakeholders. A summary of the OES consultation process and how it responded to stakeholder feedback in the development of this plan is attached as Appendix A.

### ***Designated Waste Covered Under the Wind Up Plan***

Desktop	Computers	Portable
Computers Display Devices		
Desktop Printers, Scanners, Fax Machines and Multifunctional		
Devices Floor Standing Printers, Copiers and Multifunction Devices		
Computer Peripherals		
Personal/Portable Audio/Video playback and/or Recording		
Systems Home Audio/Video Playback and/or Recording Systems		
Home Theatre in a Box		
Vehicle Audio and Video, Navigation Systems and Recessed Wall and Ceiling Speakers		
Non-Cellular Telephones and Answering Machines		
Cellular Devices and Pagers		

OES is not proposing any changes to the content of designated Waste Electronics and Electrical Equipment prior to or during the wind up period. The current list of designated waste has been in place since program inception in 2009.

### ***Summary of Operational Timelines***

<b>Table 5: Summary of OES Operational Timelines</b>	
<b>Date</b>	<b>OES Wind Up Action</b>
December 31, 2018	OES submission of WUP due to RPRA
February 1, 2019	Reduction of steward EEE fees to zero.
February 28, 2019	Steward deadline for submission of January 2019 supply report and payment of related steward fees. (Note deadline applies to all stewards including those which normally report on a quarterly or annual basis.)
April 30, 2019	Deadline for stewards to submit any reporting revisions re previous reports which required fee payments and pay any associated fees owing (or submit request for OES fee adjustment).

April 1, 2019	OES 2018 Annual Report due to RPRA
June 30 <sup>th</sup> , 2019	RPRA Windup Plan Approval Due Date
July 2019 (or earlier dependent upon RPRA approval process)	OES notification to stewards, service providers and other stakeholders of Wind Up Plan approval
September 30, 2019	OES notice to stakeholders of pending contractual terminations
November-December 2019	OES Information Sessions re: Availability of MTS software and impending release.
January 2020	Communication reminder to all stewards regarding the final reporting and remitting period being June, 2020, due July 2020 and for six-month R&R reporting ending June 30, 2020.
January 2020	Release of OES MTS software to stakeholders.
January 2020	Communication reminder to all service providers and affected stakeholders of impending program termination date.
April 1, 2020	OES 2019 Annual Report due to RPRA
June 30 <sup>th</sup> , 2020	Program Termination Date: Final date for which OES will accept: - Final date for collectors and generators to submit MTS bill of lading (BOL) submissions and arrange WEEE pickup.
July 10, 2020	Final date for transporters to pick up WEEE at collector and generator sites for MTS BOL dated June 30 <sup>th</sup> , 2020 and earlier.
July 10, 2020	Final date for submission of R&R reports to OES
July 31, 2020	OS Collector cut-off date for submission of final OES collection claims.
August 15, 2020	Processor Cut-off date: Date by which processors must have processed any WEEE material collected prior to June 30, 2020 and submitting final PI claims.
September 15, 2020	Deadline for completion of processor mass balancing reports. Deadline for Stewards to submit any final supply report corrections or adjustments.
TBD	Final date for OES transfer of MTS software to eligible stakeholders and transfer to RPRA
September 30 <sup>th</sup> , 2020	\$5K holdback returned to processors meeting final mass balancing reporting requirements
<u>TBD – Target Oct-Nov 2020</u>	<u>Appointment of OES liquidator (subject to RPRA approval)</u>
TBD	Disbursements to stewards if surplus funds remaining.
<del>TBD</del>	<del>Appointment of OES liquidator (subject to</del>

	<del>RPR A-approval</del>
TBD	Termination of OES-EPRA Service Agreement
TBD	Dissolution of OES as a corporation
April 1, 2021	OES 2020 Annual Report due to RPR A
April 2021	Submission of Final Wind Up Report to RPR A and Minister

### 1.1 B Reporting Obligations During Wind Up

Prior to and during the wind up period OES will continue to fulfill its reporting obligations under the WDTA:

Consistent with the WDTA, OES will provide the following reports to RPR A by the following dates:

- Annual report for 2018 by April 1, 2019
- Annual report for 2019 by April 1, 2020
- Annual report for 2020 by April 1, 2021

OES also proposed to submit the final Program Wind Up Report by April 30<sup>th</sup>, 2021 to RPR A and Ministry of Environment, Conservation and Parks.

Consistent with Ministerial direction, OES is also providing quarterly financial reports to RPR A.

### 1.2 Steward Rules During Wind Up

Steward rules will be amended to facilitate certain wind up

activities. These will include amendments to enable the following

changes:

- Update steward rules to permit an EHF change effective February 1, 2019.
- Implement shorter time frames for reporting obligations given the mid-year wind up date of June 30<sup>th</sup>, 2020.

### 1.3 Targets and Performance

#### ***Program Accessibility***

Since the WEEE program began, OES has diverted 507,619 metric tonnes of end-of-life electronics (EOLE) from landfill to help the environment. As noted above, WEEE collection is facilitated by both OES approved collection sites, including municipal, not-for-profit organizations and retailers and OES-approved generator sites (which are often open to the public).

In 2017 the number of Ontarians living within the catchment area of WEEE collection/generator sites was the following:<sup>23</sup>

- Total accessibility within 10 kms – 96.9%;
- Total accessibility with 25kms – 99.7%
- Total accessibility within 50kms – 99.8%

OES will continue to post all public collection sites on its website throughout the wind up period and direct residents to their nearest collection site based on postal code. In addition, OES will continue to implement marketing and promotional activities that facilitate consumer awareness of WEEE drop off locations.

OES will monitor collection site activity throughout the wind up period to ensure program accessibility is maintained. If select collection sites voluntarily exit the program during the wind up period, OES will look to contract other service partners in any affected areas so that service is not interrupted. OES will continue to recommend the nearest existing collection sites to any resident or business that contacts the customer service group. If the material to be collected meets the requirements of the B2B program OES will arrange for an on-site pick up.

### ***Tonnage and Light Weighting***

It should be noted that trends in EEE manufacturing are driving reduced tonnages with respect to WEEE recycling throughout Canada. As can be seen in Table 6 below, the tonnage of collected WEEE in the last five years has dropped by over a third since 2013. Laptops, as an example, are 50% lighter than 5 years ago.

<b>Table 6: OES WEEE Tonnage 2013 – 2018</b>		
<b>Year</b>	<b>WEEE Collection Tonnage</b>	<b>YOY Decrease due to Light Weighting</b>
2013	76,764	
2014	71,018	- 7%
2015	67,115	- 5%
2016	60,139	- 10%
2017	52,712	- 12%
2018 (Forecast)	47,097	- 11%

OES anticipates that collected WEEE tonnages will decline in 2019 and 2020 but that the current rate of tonnage decline will lessen in comparison to the previous five years as the heavy CRT televisions and monitors are becoming less and less prevalent in the returns of display devices.

<sup>23</sup> OES commissioned Environmental Design and Management Limited (EDM) in 2017 to measure the program's accessibility.  
**Ontario Electronic Stewardship Wind Up Plan 2018 (Updated February 2019)**

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## **Consumer Program Awareness**

OES conducts polling on an annual basis to assess consumer awareness of the WEEE recycling program. In 2018, 69% of the adult Ontario population reported being aware of waste electronic recycling, a 3% improvement over 2017.

OES will continue to monitor consumer awareness in 2019 to support ongoing consumer awareness of WEEE recycling throughout the wind up period.

OES utilizes the EPRA Recycle My Electronics logo, branding, campaigns and marketing collateral in order to increase the awareness and participation in Ontario at an affordable cost. This has proven an effective strategy for OES as the awareness has increased from 66% in 2017 to 69% in the 2018 survey results.

[The recyclemyelectronics.ca website provides consumers and businesses with information about the OES program, what types of electronics can be recycled and allows them to search for the closest waste electronic collections sites. OES proposes to continue to utilize the recyclemyelectronics.ca website and related marketing activities to promote consumer awareness of the program throughout the wind up period. Following the program termination date use of the recyclemyelectronics.ca website and marketing materials would revert to EPRA.](#)

[OES's ontarioelectronicstewardship.ca website is and will continue to be the primary source of information about OES wind up activities for stakeholders and the recyclemyelectronics.ca will include links to that information for stakeholders interested in the details of how the OES program is being wound up.](#)

### **1.4 Education Programs**

Promotion and education are crucial components of the OES WEEE Program. OES P&E activities inform Ontario residents on the importance of safely and securely recycling their end-of-life electronics while also providing information on safe and convenient drop-off locations.

A number of EPRA/Recycle My Electronics campaigns are utilized by OES to raise awareness and ask the Ontario audience to consider the future for their own, local, natural environment, along with the behaviour of the devices they use today. These include:

- **Education Learning Hub:** The EPRA Learning Hub is utilized by OES to provide students, youth groups, educators and parents with engaging content **Ontario Electronic Stewardship Wind Up Plan 2018 (Updated February 2019)**

that helps them learn about the importance of electronics recycling.

- **My Electronics Mobile Classroom:** The successful launch of the EPRA Recycle My Electronics Mobile Classroom was utilized by OES to raise awareness in a self-contained, hands-on environment. This Mobile Classroom, made from a customized shipping container, features videos and games designed to both educate and entertain visitors about why they should recycle their old, unused electronics. As well as being a mobile information centre, the container serves as a collection bin for visitors to drop off their end-of-electronics on the spot. The Mobile Classroom was set up on location at festivals and fall fairs with on-site event staff present to interact with the public and spread the word about the importance of recycling end-of-life electronics
- The operation of a Trade Show Booth for industry association and waste management events;
- Participation with service providers in promotion of WEEE recycling and collection at environment events such as Earth Day and Waste Reduction Week. OES expanded on its communications strategy in 2017, by focusing on the recoverable resources inside end-of-life electronics and promoting this message at Earth Week and Waste Reduction Week events, through new media partnerships and with the new interactive Recycle My Electronics Mobile Classroom

In support of these events and WEEE recycling generally, OES conducts annual advertising in radio, print and online forums in addition to utilizing digital marketing to raise awareness and encourage participation in electronics recycling. Brochures, signage, stickers and marketing materials are provided to collection sites and other OES service providers.

Current promotional and education campaigns and partnerships will be continued in 2019. In 2020 such events will be assessed on a case-by-case basis to determine whether benefits are still applicable in light of the pending program termination.

With the reduction of the EHF consumer fee to zero for the wind up period, in the view of OES, it is important to maintain promotional and education programs which support consumer awareness of WEEE recycling to ensure that the change in the EHF fees does not create the impression that WEEE recycling is ending.

During the wind up period, OES will refocus communications activities on informing stakeholders and consumers about the wind up process and the continued importance of electronic recycling following program termination. OES communication activities and events will promote recycling of waste electronics generally and emphasize the continuation of WEEE recycling behaviours.

These activities will not only support a streamlined wind up of OES operations but also help to improve consumer and stakeholder awareness of continued WEEE recycling under the RRCEA framework.

## **1.5 Market Development**

As there are active markets existing for WEEE downstream materials, OES focuses on building awareness of WEEE recycling among both businesses and consumers.

OES has implemented a number of projects designed to build program awareness and thereby increase the volume of WEEE collection in Ontario indirectly supporting market development for related downstream materials (by encouraging the production of larger Ontario volumes).

OES intends to continue marketing plans and events throughout 2019. In 2020, each special collection event or campaign partnership will be assessed on a case-by-case basis to determine if the short-term benefits associated with the event or campaign are still justified given impending program termination.

### ***Studies, Reports and Market Information***

OES conducts analysis and produces annual reports on accessibility and awareness. These reports will be transferred to RPRA during the wind up. These annual assessments will continue to be run by OES in 2019 and the spring of 2020:

OES Consumer Awareness Survey

OES Accessibility Report

OES commissioned a third party to measure brand awareness of the program in 2017 and 2018. They conducted survey research among adults living in Ontario and data was weighted to reflect the adult population of Ontario by region, age and gender. Awareness increased by 3% from 66% in 2017 to 69% in 2018.

## **SECTION 2: IMPLEMENTATION PLAN AND TIMELINES**

### **2.1 Implementation Plan and Timeline**

#### ***A. Detailed Implementation Plan***

A detailed implementation plan is attached as Schedule A. OES will begin to operationalize implementation of the Wind Up Plan with a general notification of RPRA's approval of the Plan targeted for July 2019 (or earlier dependent on RPRA approval date). All program participants will be notified of key wind up dates with a

schedule of follow-up notifications specific to each program participant and key wind up steps.

As per Ministerial instruction, key wind up steps will operationalize a program termination of June 30, 2020. Following WEEE program termination, OES estimates that it will take approximately six to nine months to resolve remaining WEEE program and OES corporate financial and legal obligations and dissolve OES as a corporate entity.

As part of this Wind Up Plan, OES is proposing the engagement of a liquidator to resolve final OES financial and legal obligations and undertake the steps necessary to dissolve OES as a corporate entity in a manner consistent with the provincial *Corporations Act* and regulations under the WDTA. [The liquidator will be appointed prior to the finalization of OES financial arrangements and reconciliations.](#)

Throughout the process, OES will meet regularly with RPRA staff to monitor implementation of key wind up tasks, as per Schedule A, and ensure that wind up activities are completed in accordance with the approved Wind Up Plan. Quarterly reviews will include regular updating of OES financial and budgetary forecasts to ensure consistency with the approved wind up budget and early identification of any financial discrepancies or adjustments necessary in relation to the OES wind up budget.

~~Throughout the wind up process an OES third party consultant~~ [OES also proposes to engage an independent program manager, focused solely on OES wind up, who will work with relevant OES staff to ensure that tasks identified in Schedule A are completed in accordance with the WUP.](#)

## **B. Corporations Act and WDTA Regulations**

As noted above, OES proposes to engage a liquidator, subject to RPRA approval, to take the final steps necessary to dissolve OES as a corporate entity in a manner consistent with WDTA regulations and the *Corporations Act*.

### **2.2 Key Wind Up Plan Dates**

<b>December 31, 2018:</b>	As per Ministerial direction of February 8, 2018, date by which OES must submit a Wind Up Plan for the WEEE program to RPRA for review and approval.
<b>June 30, 2019:</b>	Date by which RPRA will approve a Wind Up Plan for the WEEE program.
<b>June 30, 2020:</b>	Termination date for OES program operations as per Ministerial direction of February 8, 2018.
<b>December 31, 2020:</b>	Target date for the completion of all OES third party arrangements (i.e. disbursement of any excess

funds, finalization of service provider payments, etc.)

**April 2021:**

Target date for submission of final Wind Up Plan report to RPRA and Minister as per Subsection 14 (20) of the *Waste Diversion Transition Act, 2016* (confirmation of Wind Up Plan implementation and completion.)

### 2.3 Other Timeline Considerations

Wind up of the WEEE program will require termination of contracts with a number of OES service providers including: collectors, transporters and processors. Contractual termination provisions for these service providers range from 30 to 90 days. OES is proposing to provide formal notice of contract terminations to service providers approximately 9 months prior to the program termination.

The OES wind up plan (Section 1: Operational Plan) includes explicit dates for the completion of WEEE related activities for all service providers along with set dates for the submission of claims and related submissions to OES.

Steward OES agreements do not include explicit termination clauses, but as with service providers, the Wind Up Plan will include advance notice to stewards of program termination along with final dates for the submission of steward fees, related adjustments and supply reports (Note: Under the proposed Wind Up Plan it is proposed that steward WEEE fees will be reduced to zero prior to program termination. However, steward EEE supply report obligations will continue until program termination meaning that stewards will be subject to different dates for the finalization of fee payments and EEE supply reports.)

Wind up of the WEEE program will also require termination of the OES service contract with the EPRA which provides administrative support to the program. This termination is anticipated to be operationalized approximately six months after the WEEE program termination date. OES's termination of the EPRA contract will be implemented in accordance with contractual requirements and Wind Up Plan provisions.

Detailed information on various dates for program participant contractual, activity and reporting deadlines are found in: WUP Section 1: Timelines Summary; WUP Section 2: Schedule A: Implementation Plan and Timelines; and WUP Section 7: Cut-off Dates.

## SECTION 3: CONSULTATION WITH STAKEHOLDERS

### 3.1 Consultation During Wind Up Plan Development

OES conducted a series of webinars and meetings in October and November 2018 to solicit input regarding the development of its Wind Up Plan (WUP). Stakeholders were provided with an overview of OES Wind Up Plan financials and a summary of key [Ontario Electronic Stewardship Wind Up Plan 2018 \(Updated February 2019\)](#)

proposals for wind up activities. In addition, OES sought feedback on specific proposed dates for termination of steward and service provider reporting obligations and transactions.

A series of 11 webinars were conducted between October 30<sup>th</sup> and November 23<sup>rd</sup> 2018. All stakeholders were notified of webinar sessions through email blast. Webinars were grouped by stakeholder category but open to all stakeholders. OES also invited all WEEE processors to individual, in-person consultations as well as meeting with the Retail Council of Canada and Electronic Products Stewardship Canada. OES conducted the final webinar on November 23, 2018 providing a financial update and signaling the intent to implement an EEE fee reduction to zero effective for February 1, 2019.<sup>34</sup>

As per Ministerial direction a full report (the OES Wind Up Plan Consultation Report) regarding OES consultation during the development of the wind up plan is attached as Appendix A to this plan. The OES Wind Up Plan Consultation Report identifies types of organizations that participated in OES wind up plan consultation sessions, a summary of the comments received during consultation and a discussion of how those comments were considered by OES in the development of this wind up Plan.

## 3.2 Communications with Stakeholders

### *Communication Plan Objectives*

A comprehensive and effective communications strategy is a key component of implementing an OES Wind Up Plan that is consistent with legislative requirements and consistent with Ministerial direction. Throughout the wind up period, OES will utilize open and transparent communications strategies to support an orderly wind up of OES operations and a smooth transition to recycling under the RRCEA framework. Key communications objectives include the following:

- Support for program performance throughout the wind up period:
  - Maintain or improve program performance;
  - Ensure no disruption in the operation of WEEE recycling;
- Implementation of a transparent and open OES wind up process:
  - Ensure advance stakeholder awareness of key program changes;
  - Maintain open and accessible communications feedback options for all affected stakeholders – i.e. make it easy for stakeholders to get questions answered.
- Sustain effective OES-stakeholder interaction during program wind up:

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<sup>34</sup> Stewards were provided with formal notification of the EEE fee reduction to zero for implementation effective February 1, 2019 on December 3, 2018 following review and support of the proposal by RPRA Board.

- Tailor stakeholder messaging where applicable to address the needs of specific stakeholders;
- Monitor stakeholder reactions and adjust outreach activities/messaging where necessary.
- Support for stakeholder awareness of impending transition to waste electronic diversion under the RRCEA framework (although not a direct OES responsibility, represents a complementary objective to smooth wind up of existing OES program).

Note: The wind up of the current OES WEEE program is taking place during the concurrent development of a new regulatory framework for diverting waste electrical and electronic equipment to be implemented under the RRCEA. That new legislative framework will come into effect after the current OES program terminates. As such the majority of OES stakeholders participating in the wind up of the current program will also be preparing for anticipated operations under the RRCEA framework.

OES communications activities during program wind up will support stakeholder awareness of the impending transition to the diversion of waste electronics under the RRCEA, but primarily to direct stakeholders to the appropriate organizations for information, RPRA or the MECP, and identify any outreach activities that may be impending or underway on the part of those organizations. OES communications activities will not address any specific issues related to waste electronic recycling under the RRCEA framework (i.e. content of waste electronic regulations under the RRCEA, etc.). The content of RRCEA requirements and details of stakeholder obligations under that legislative framework are out of scope with respect to OES communications activities.

See Section 3.4, 3.5 Stakeholder Communications Mechanisms for an outline of proposed communication activities and tactics to be implemented during the wind up period.

### **3.3 Audits, Reviews and Engagements**

#### ***Operational Audits***

OES undertakes a number of compliance activities to ensure that service providers comply with program requirements. OES service providers contracting with OES are accountable to meet and fulfill regulated program requirements. Sanctions for service provider non-compliance include repayment of incentives or recovery of fees paid, through to suspension and termination from the program.

With respect to collection sites, OES site visits are required prior to approval of registration to ensure such sites comply with program requirements. As with the current operations, OES will continue to inspect collection sites during the wind up to ensure ongoing compliance.

With respect to WEEE processing facilities, all facilities must operate in accordance with the RQO recycling standard for WEEE materials and comply with program standards and reporting requirements established by OES. All invoices submitted by processors to OES must be supported by complete, accurate and timely documentation in accordance with OES requirements. OES reserves the right to visit and inspect processor locations and those of processor generators to ensure ongoing compliance with program requirements.<sup>45</sup>

With respect to program wind up, prior to and after the program termination date, OES will employ additional resources to perform processor audit functions to maintain program integrity throughout the wind up process and to enable OES to expedite the wind up of the program in a reasonable time frame.

OES follow-up work related to documentation and processor incentive claims submissions will be conducted under tighter time frames that apply to normal program operations. Throughout the wind up period, OES will work closely with processors to ensure that any OES additional or expedited verification requirements associated with the program termination are implemented in a manner which is reasonable for both the processors and the OES program.

During program consultation, processors indicated that the initial time frames proposed by OES for the submission of final processor incentive claims reports in relation to program termination were reasonable and workable from their perspectives.

### **Steward Audits**

OES conducts a number of compliance activities to ensure stewards are complying with their obligations under the WDTA. Compliance activity related to stewards can be subdivided into three general categories:

1. Identification of stewards who are obligated to register under the WDTA but have not done so and notification to those stewards of their obligation;
2. Ensuring registered stewards file required EEE supply reports and pay related fees in relation to those reports; and
3. Verification of the accuracy steward reports filed.

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With respect to identification of unregistered stewards, OES will continue to identify and notify these organizations to report on EEE supplied into the Ontario market throughout the wind up period. As noted in section 1, amendments to OES steward rules will be made to shorten the time frames to report EEE supply to accommodate

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<sup>45</sup> Note: OES site visit inspections may be undertaken for all processors and related generators prior to their approval to participate in the OES WEEE program.

the wind up of the WEEE program. OES will continue with these functions even after the EEE fee has been reduced to zero. Supply information will be required to monitor program performance and the identification of obligated stewards will identify organizations that will likely be obligated to register under the RRCEA regulatory framework with respect to EEE supply.

OES will continue to follow-up with stewards where they have failed to submit supply reports and pay any related steward fees in accordance with program requirements.

As noted in WUP Section 1, OES is implementing an EEE fee reduction to zero effective for February 1, 2019. All stewards will be required to submit supply reports and pay existing EEE fees for January 2019 by February 28, 2019. Stewards will be permitted to submit adjustments or corrections to these reports until April 30th, 2019.

As noted in the operational plan, following program termination on June 30, 2020 stewards will have until July 31, 2020 to submit final supply reports (this applies to all stewards whether they report on a monthly, quarterly or on a 6-month basis). Stewards will be given until September 15, 2020 to make any final adjustments or corrections to these final supply reports.

In the case of program termination, OES will increase steward communication activities and expedite steward follow-up compliance to ensure OES final financial and program reconciliations can be completed in a reasonable time frame.

With respect to verifying the accuracy of steward reports, OES conducts both risk-based assessments (stewards with a history of non-compliance are audited more frequently) and random steward assessments. This pattern will continue throughout the wind up period with a stronger emphasis on risk-based accuracy verifications following the program termination date on June 30, 2020.

### ***Annual Reports***

During the wind up period OES Annual Reports will be prepared and submitted in accordance with historical practice and existing statutory requirements. The schedule for submission of OES Annual Reports is the following:

2018 Annual Report – Submission to RPRA by April 1,  
2019; 2019 Annual Report – Submission to RPRA by April  
1, 2020; 2020 Annual Report - Submission to RPRA by April  
1, 2021. ***Final Financial Audit***

Following the submission of final steward supply reports (and any corrections and adjustments) and the final processing of payments to OES service providers, OES will be in a position to conduct final financial reconciliations related to both 2020 program operations and the full term of the overall WEEE program. These final financial audits

are scheduled to be conducted in the fall of 2020 once final stakeholder reports have been received and processed. The final financial audit of the program will be conducted in accordance the audit process currently used for OES Annual Reports.

### 3.4, 3.5 Stakeholder Communications Mechanisms

A number of OES wind up communication related activities will be common to all stakeholders. These include the following activities along with targeted time frames related to such activities.

April 2019 – Publication of 2018 OES Annual Report (On-line posting)

July 2019 – (or earlier dependent upon RPRA approval process) Notification of Approval of OES Wind Up Plan (Special Email Communications)

January 2020 – Wind Up Notification Reminders (Special Email

Communications) April 2020 – Publication of 2019 OES Annual Report (On-line posting)

May/June 2020 – Wind Up Notification Reminders (Special Email

Communications) April 2021 – Publication of 2020 OES Annual Report (On-line posting)

OES communication mechanisms related to various stakeholder groups and initial timeframes for activities are outlined below.

Table 7: Summary of OES Communications by Stakeholder Group		
Stakeholder	Communication Mechanisms	General Schedule
Stewards	Email Blasts Steward Newsletter Letters Information Sessions (Webinars) Phone Calls Website Posts Web Portal – <a href="http://ontarioelectronicsstewardship.ca">ontarioelectronicsstewardship.ca</a> <a href="http://ontarioelectronicsstewardship.ca/Website%20Notifications/Links">Website Notifications/Links:</a> <a href="http://recyclemyelectronics.ca">recyclemyelectronics.ca</a> Call Centre access throughout wind up period.	<i>November 2018</i> Notification of EEE Fee reduction to zero Webinar sessions - re fee reduction process, continued reporting obligations. <i>February 2019</i> Implementation of EEE fee reduction to zero. <i>February-April 2019</i> Final steward EEE fee payments and adjustments – individual steward follow up as required. <i>July 2019 (or earlier)</i> Notification of WEEE Wind Up Plan Approval <i>TBD</i> Notice of timing for termination of OES-remitter-steward agreements. <i>Fall 2019</i> Notification of MTS Availability Information Sessions <i>January 2020</i> WEEE Wind Up Reminders <i>April – May 2020</i>

		<p>WEEE Wind Up Reminders - re final reporting requirements – timing re termination of OES-remitter steward agreements.  <i>July – September</i>  Reminder of final reporting due dates, follow-up reminders where required. Individual steward follow-up as required.  <i>TBD</i>  Final program reconciliation notices for WEEE program. Letters to stewards – end of program obligations.</p>
<b>Stakeholder</b>	<b>Communication Mechanisms</b>	<b>General Schedule</b>
Processors	<p>Email Blasts  Letters  Phone Calls  In person Meetings  Website Posts  Web <a href="#">PortalPortals</a>  <a href="http://ontarioelectronicsstewardship.ca">ontarioelectronicsstewardship.ca</a>  <a href="http://recyclemyelectronics.ca">recyclemyelectronics.ca</a>  Call Centre access throughout wind up period.</p>	<p><i>July 2019 (or earlier)</i>  Notification of WEEE Wind Up Plan Approval  <i>Fall 2019 – TBD</i>  Formal notice of upcoming contract terminations  <i>Fall 2019</i>  Notification of MTS Availability Information Sessions  <i>January 2020</i>  WEEE Program Termination Reminders  <i>April – June 2020</i>  One on One Information Sessions re WEEE termination processes and Timeframes  <i>July – September</i>  Reminder of final reporting due dates, follow-up where required – scheduling of final mass balance site visits.  <i>Fall 2020 TBD</i>  Issuance of final processor payments – termination of OES-processor relationships.</p>
<b>Stakeholder</b>	<b>Communication Mechanisms</b>	<b>General Schedule</b>
Collectors Generators	<p>Email Blasts  Letters  Phone Calls  Website Posts  Web <a href="#">PortalPortals</a> –  <a href="http://ontarioelectronicsstewardship.ca">ontarioelectronicsstewardship.ca</a>  <a href="http://recyclemyelectronics.ca">recyclemyelectronics.ca</a>  Call Centre access throughout wind up period.</p>	<p><i>July 2019 (or earlier)</i>  Notification of WEEE Wind Up Plan Approval  <i>Fall 2019 – TBD</i>  Formal notice of upcoming contract terminations (where applicable)  <i>January 2020</i>  WEEE Program Termination Reminders  <i>April – June 2020</i>  One on One contact re wind up dates – arrangement for pickup of OES materials (where applicable)  <i>July – August</i>  Reminder of final reporting due dates, follow-up where required.  <i>Fall 2020 TBD</i>  Issuance of final collector payments – termination of OES-collector relationships.</p>
<b>Stakeholder</b>	<b>Communication Mechanisms</b>	<b>General Schedule</b>
Municipalities	<p>Email Blasts  Phone Calls</p>	<p><i>July 2019 (or earlier)</i>  Notification of WEEE Wind Up Plan Approval</p>

	<p>Website Posts  Web <del>Portal</del><a href="http://Portals.ontarioelectronicsstewardship.ca">Portals</a>  <a href="http://ontarioelectronicsstewardship.ca">ontarioelectronicsstewardship.ca</a>  <a href="http://recyclemyelectronics.ca">recyclemyelectronics.ca</a>  Call Centre access throughout wind up period</p>	<p><i>Fall 2019 – TBD</i>  Formal notice of upcoming contract terminations (where applicable)  <i>January 2020</i>  WEEE Program Termination Reminders  <i>April – June 2020</i>  One on One contact re wind up dates – arrangement for pickup of OES materials (where applicable)  <i>July – August</i>  Reminder of final reporting due dates, follow-up where required.  <i>Fall 2020 TBD</i>  Issuance of final collector incentive payments – termination of OES-municipal agreements.</p>
Refurbishers	<p>Email Blasts  Phone Calls  Website Posts  Web <del>Portal</del><a href="http://Portals.ontarioelectronicsstewardship.ca">Portals</a>  <a href="http://ontarioelectronicsstewardship.ca">ontarioelectronicsstewardship.ca</a>  <a href="http://recyclemyelectronics.ca">recyclemyelectronics.ca</a>  Call Centre access throughout wind up period</p>	<p><i>July 2019 (or earlier)</i>  Notification of WEEE Wind Up Plan Approval  <i>Fall 2019 – TBD</i>  Formal notice of upcoming contract terminations (where applicable)  <i>January 2020</i>  WEEE Program Termination Reminders  <i>April – June 2020</i>  One on One contact re wind up dates – arrangement for pickup of OES materials (where applicable)  <i>July – August</i>  Reminder of final reporting due dates, follow-up where required.  <i>Fall 2020 TBD</i>  Issuance of final refurbisher reporting payments – termination of OES-refurbisher relationships.</p>
<b>Stakeholder</b>	<b>Communication Mechanisms</b>	<b>General Schedule</b>
Transporters, Consolidators, Re-packers	<p>Email Blasts  Phone Calls  Website Posts  Web <del>Portal</del><a href="http://Portals.ontarioelectronicsstewardship.ca">Portals</a>  <a href="http://ontarioelectronicsstewardship.ca">ontarioelectronicsstewardship.ca</a>  <a href="http://recyclemyelectronics.ca">recyclemyelectronics.ca</a>  Call Centre access throughout wind up period</p>	<p><i>July 2019 (or earlier)</i>  Notification of WEEE Wind Up Plan Approval  <i>January 2020</i>  WEEE Program Termination Reminders  <i>April – June 2020</i>  One on One contact re wind up dates – arrangement for pickup of WEEE materials and OES branding materials (if applicable)  <i>July – August 2020</i>  Issuance of final transporter, consolidator, re-packer payments – termination of OES-relationships with these service providers.</p>
<b>Stakeholder</b>	<b>Communication Mechanisms</b>	<b>General Schedule</b>
Public	<p>Website Posts  Web <del>Portal</del><a href="http://Portals.ontarioelectronicsstewardship.ca">Portals</a>  <a href="http://ontarioelectronicsstewardship.ca">ontarioelectronicsstewardship.ca</a>  <a href="http://recyclemyelectronics.ca">recyclemyelectronics.ca</a>  Call Centre access throughout wind up period</p>	<p>As noted in Section 1, OES is proposing to continue promotional and education activities in 2019 consistent with its historical practice. Throughout 2019 and 2020 OES will continue to participate in community and municipal events and programs which support public awareness of WEEE recycling. Messaging in support of WEEE recycling will be adjusted to</p>

		reflect the impending termination of the OES program and transition to WEEE recycling under the RRCEA framework. Members of the public interested in OES wind up activities will be directed to its website and the wind up web portal for more information on how the program is being wound up (See WUP Section 1: Operational Plan for more details of proposed OES Promotional and Educational activities during wind up.)
OES dedicated Staff	Meetings (monthly or more frequently as required)	Staff administering the WEEE wind up program will be kept informed of all OES communications activities throughout the wind up period.
RPRA	Emails Phone Calls Letters Meetings	Throughout the wind up period RPRA will be provided with key wind up communication materials produced and issued by OES and kept informed regarding OES stakeholder outreach. OES-RPRA liaison will be ongoing throughout the wind up period.

### **Stakeholder Feedback**

Throughout the wind up period, stewards, service providers and other interested parties who have questions about the OES wind up process will have the ability to ask questions, raise concerns through a variety of communications mechanisms. These include:

- Phone calls;
- Emails;
- Web portal inquiries;
- Letters;
- In person meetings.

Proposed time frames for OES responses to various stakeholder feedback mechanisms are identified in the Table below.

<b>OES Stakeholder Feedback Mechanisms</b>	
<b>Type of Stakeholder Inquiry</b>	<b>Proposed Response Timeframe</b>
Direct Phone Call	Immediate
Phone Call – Message	24 Hours
Direct Email Inquiry	48 Hours
Web Portal Inquiry	48 Hours
Letter to OES	10 Business Days

## **SECTION 4. FINANCIAL FORECAST AND BUDGET**

Forecasts of cash inflows and outflows and current account statements are confidential and provided to RPRA.

A summary of overall revenue projections and forecasts for 2019 and 2020 is

**Ontario Electronic Stewardship Wind Up Plan 2018** ([Updated February 2019](#))

provided in Table 8 below.

**Table 8: OES Wind Up Financial Forecast 2018 – 2020\***

**2018**

**2019**

**2020**

	Revenue:	<u>2018</u> Forecast	Budget	Budget
EEE Fee Revenue	<del>\$49,333</del>	<u>\$51,305</u>	\$3,327	0
EHF Fee Refund			<del>-\$2,300</del>	
Tax Refund	<del>\$29,357</del>	<u>\$60,840</u>		
Interest	<del>\$768</del>	<u>\$936</u>	\$545	\$250
	<del>\$79,458</del>	<u>\$113,081</u>	\$1,572	\$250
<b>Expenses:</b>				
Processing	<del>\$26,818</del>	<u>\$27,142</u>	<del>\$26,013</del>	<del>\$12,681</del>
			<u>\$26,328</u>	<u>\$12,835</u>
Handling	<del>\$5,948</del>	<u>\$6,103</u>	<del>\$6,231</del>	<del>\$3,280</del>
			<u>\$6,393</u>	<u>\$3,366</u>
Transportation/Storage	<del>\$6,127</del>	<u>\$6,236</u>	<del>\$6,419</del>	<del>\$3,380</del>
			<u>\$6,533</u>	<u>\$3,440</u>
<b>Direct Program Costs:</b>	<del>\$38,893</del>	<u>\$39,481</u>	<del>\$38,663</del>	<del>\$19,341</del>
			<u>\$39,254</u>	<u>\$19,640</u>
<b>Other:</b>				
Promotion and Education	<del>\$2,870</del>	<u>\$2,885</u>	\$2,860	\$1,000
Administration	<del>\$3,351</del>	<u>\$3,148</u>	\$3,370	\$2,485
Wind-up Fees	<del>\$150</del>	<u>\$100</u>	\$2,400	\$2,900
RPRA Fees	<del>\$1,306</del>	<u>\$1,256</u>	\$2,600	\$1,300
<b>Indirect Costs:</b>	<del>\$7,677</del>	<u>\$7,389</u>	\$11,230	\$7,685
<b>Total Costs:</b>	<del>\$46,570</del>	<u>\$46,870</u>	<del>\$49,893</del>	<del>\$27,026</del>
			<u>\$50,484</u>	<u>\$27,325</u>
<b>Surplus/(Deficit)</b>	<del>\$32,888</del>	<u>\$66,211</u>	<del>-\$48,321</del>	<del>-\$26,776</del>
			<u>-\$48,912</u>	<u>-\$27,075</u>

<b>Tonnage (metric tonnes)</b>	<b>47,097</b>	<b>45,684</b>	<b>22,271</b>
<b>Closing Reserve</b>	<del>\$76,491</del> <u>\$109,814</u>	<del>\$28,170</del> <u>\$60,902</u>	<del>\$1,394</del> <u>\$33,827</u>

\* Updated February 2019

Key assumptions regarding OES financial forecasts for 2019 and 2020 are provided below:

***Projected Revenue Assumptions***

With the implementation of an EEE fee reduction to zero as of February 1, 2019, OES steward fee revenues for 2019 will be limited to January 2019 EEE supplies and related fees. OES has projected January 2019 EEE fee revenues to represent approximately 7% of forecast 2018 levels based on historical EEE supply reports for January 2018.

January EEE fee revenues will be offset by OES EEE fee rebates provided to retailers for EEE fees paid on retailer inventories which have not yet been sold to the public as of February 1, 2019. OES's estimate of the total cost of EEE fee rebates is \$2.3 million.

Following the collection of January 2019 EEE fees from stewards, OES remaining revenue projection for steward fee revenues in budgetary forecasts for 2019 and 2020 is zero.

OES's other source of revenue in 2019 and 2020 is interest accrued on cash reserves. OES may receive more HST refunds, and if so, this will be reflected in the financial statements. With respect to forecasting these amounts, OES is forecasting interest revenue in 2019 that is 30% less than the 2018 forecast. This interest revenue will continue to decline in 2020 as OES's cash reserves are depleted to finance program expenses.

***Projected Expense Assumptions***

With respect to direct collection, processing and transportation costs, the key assumptions related to expense forecasting are the following:

- OES Processing costs will decline by approximately 3% in 2019 and again in 2020 due to continued light weighting trends and a similar drop in the tonnage of WEEE collected for recycling. [Note: While the projected tonnage decline included in OES financial forecasts is less than the program tonnage reductions experienced in the last few years, OES anticipates that the tonnage decline due to product light weighting trends is currently slowing.];
- OES handling, transportation and storage costs are forecast to increase by approximately 5% in 2019 and 2020. Although light weighting will decrease direct

costs, variable items like fuel surcharges may increase costs. Forecasts for 2019 and 2020 are allowing room for potential cost increases, ensuring that a move to \$0 revenue in February 2019 will be manageable.

OES spending on promotional and educational (P&E) activities in 2019 will be consistent with 2018 expenditures. P&E spending for 2020 is forecast to be about 35 percent of spending for 2019 which reflects the fact that: the program will only be operating for six months; OES P&E events are more frequent in the summer months and there will be an anticipated reduction in OES sponsored events immediately preceding the program termination date;

OES administration expenses are forecast to remain the same in 2019 as 2018 and in 2020 be about 75% of 2019 levels reflecting the need for OES to perform a number of administrative functions for approximately six to nine months after program termination to complete wind up activities;

Costs specific to wind up activities are forecast to be \$2.4 million in 2019 and \$2.9 million in 2020. Wind up cost forecasts include items like additional legal fees, administrative costs, IT costs to prepare MTS for distribution, segregating the OES activities and systems from EPRA, and additional communication and consultation.

Finally, OES is projecting that RPRA related fees will be \$2.6M in 2019 and with a reduction in RPRA fees 2020 due to a partial year of OES program operations.

### ***Other Financial Issues***

As noted in Table 8 above, OES will begin 2019 with estimated cash reserves of approximately ~~\$76.5~~109.8 million based on current forecasts and CRA refunds received. Additional reserves may result if CRA completes audits and refunds further HST to OES. OES reserves will enable the EEE fee reduction to zero for February 1, 2019 and the continued financing of operations until program termination and beyond. OES cash reserves are not restricted and will remain available to fund operations throughout program wind up. OES is not anticipating any cash shortfalls or need to borrow money during the wind up period.

With respect to proceeds from the sale of capital assets, as noted in WUP Section 1: Operational Plan, OES does not expect assets disbursement to generate significant revenues (projected to be less than \$2000, see WUP Section 5: Assets for more detail).

Legal fees associated with program termination have been included in OES estimates of wind-up fees and program administration costs noted in Table 8. A full discussion of legal issues and related costs is included in WUP Section 11: Legal Considerations.

Total OES wind up costs associated with termination of existing service agreements and contracts, including lease terminations, are included in wind up costs in Table 8 above.

### ***Excess Funds Following Program Termination***

Current budget forecasts and financial estimates suggest that OES will retain excess cash funds following the resolution of all financial obligations after program termination of approximately \$~~1.4~~33.8 million. While the exact amount associated with excess funds will be subject to financial fluctuations and contingencies related to a number of financial forecasts ~~and additional tax refunds received~~, barring unforeseen contingencies with large financial implications between now and program termination, OES forecasts surplus on hand following the resolution of all financial obligations after program termination.

In accordance with current statutory requirements and RPRA wind up guide instructions, OES proposes to disburse any surplus to stewards. The methodology OES utilizes to calculate any excess fund disbursement amounts will be reviewed and supported by RPRA as part of the wind up process.



The proposed disbursement of excess funds is consistent with the current Subsections 35 (2) and 33 (5) of the WDTA which limit OES spending to the costs of operating and winding up the existing WEEE program.

## **SECTION 5: ASSETS**

### **5.1 Cash**

#### **A Cash and Short-term Investments**

A list of OES bank accounts along with account balances, account numbers, institution, currency and type of account is confidential and provided to RPRA.

#### **B Short term investments requiring liquidation**

OES does not have any cash or short-term investments in accounts which cannot be easily liquidated.

#### **C Monies held in trust**

OES does not have any monies held in trust.

OES does hold \$ 76,500 in processor letters of credit, that under current contractual terms, must be provided back to processors following the termination of processor service agreements assuming required processor contractual requirements have been complied with. OES proposes to return processor letters of credit in the fall of 2020 following the completion of processor final mass balance reports.

## 5.2 Accounts Receivable

As the Wind Up Plan includes implementation of a steward fee reduction to zero effective for February 1, 2019, OES anticipates that receivables related to collection of steward fees will be resolved in the spring of 2019.

Stewards will be required to submit fee payments for EEE supplied into the Ontario market in January by February 28, 2019 with any adjustments or corrections to previous EEE supply reports required by April 30, 2019. As noted in WUP Section 4, OES is forecasting total steward fees payable in January 2019 to be approximately \$3.3 million. Collectability risk related to this amount is relatively low as typically 98% of Accounts Receivable are current.

While steward fee receivables are uninsured, stewards have a legislative obligation to report EEE supply and pay related fees. OES steward rules also subject stewards that fail to pay required fees before the required deadline to a number of penalties and potential costs described below:

### 8) Penalties, Interest and Back Fees (From OES Steward Rules)

(1) Stewards who fail to pay Steward's Fees with respect to any Data Period before the Deadline Date or to pay the Reconciliation Fees on or before their due date shall pay a penalty equal to 10% of the unpaid Steward's Fees or Reconciliation Fees.

(2) If the amounts reported in a Steward's Report are inaccurate, any deficiency in Steward's Fees paid resulting from such inaccuracies shall be immediately due and payable from the date of the filing of the correcting Steward's Report, and, if not paid within 30 days, the Steward shall pay a penalty equal to 10% of such Steward Fee deficiency.

(3) Interest on the amounts payable under Rules 8(1) and 8(2) shall accrue from the respective Deadline Date or due date for the Reconciliation Fees at the Interest Rate. In addition, a Steward in default shall pay all collection costs, including all proper and reasonable legal fees, incurred by OES, whether or not an action has been commenced. If an audit under Rule 9 reveals that a Steward has under-reported the amount of Steward's Fees due by more than 10% in any Data Period, in addition to any other sums payable, the Steward shall pay the costs of such audit, as reasonably determined by OES.

(4) OES may waive all or part of any penalty, interest or charges otherwise payable under this Rule 8.

Given that final steward corrections or adjustments related to EEE supply which requires fee payments are due by April 30, 2019, OES anticipates that virtually all steward fee payment issues should be resolved by June of 2019.

Other than steward fees payable for January 2019, OES does not anticipate any other revenues associated with accounts receivable during the wind up period.

### 5.3 Prepaid Assets

<b>Table 9: OES Prepaid Assets as of December 31, 2018</b>	
<b>Description of Assets</b>	<b>Estimate as of December 31, 2018</b>
Commercial/General Insurance	\$854
Consolidation/Repack Deposit	\$71,190
Office Rent	\$9,821
Furniture Rental	\$12,200
<b>Total</b>	<b>\$93,866</b>

### 5.4 Capital Assets

#### ***Material Tracking System***

As noted in Section 1: Operational Plan, OES main asset is its Material Tracking System (MTS) which is a proprietary software developed by OES to manage the collection, transportation, consolidation and processing of material across the OES allocation and processor incentive programs. The system is coded in Microsoft .net framework 4.0 and runs on Microsoft Server, with a Microsoft SQL Server database.

For OES purposes, the useful life of the MTS system extends to program termination. The system's useful life is limited to the wind up period as system models the current business processes and controls under the current program.

The system is the sole property of Ontario Electronic Stewardship. The system was built, supported and implemented by OES. The OES book value of the MTS system is \$0. The system was fully amortized in 2017. As the system is custom and proprietary to OES business processes, significant modification would likely be required to use MTS for other purposes.

Ministerial wind up direction included a requirement for OES to outline how it would deal with information technology systems to ensure fair and equitable access to all users as an alternative to disposing of these assets for fair market value.

OES WUP proposes to make the MTS available to stewards and potential RRCEA producer responsibility organizations as free software. OES will hold information

sessions for interested organizations in the late fall of 2019 outlining system operating requirements and capabilities. A clean version of the software, excluding any historic data or company specific information would be made available to interested parties as of January 2020.

The OES Material Tracking System will be packaged into a white label version of the system with all OES data and configuration removed. The system will be bundled into a zip folder containing the application code, a copy of an empty database and sample configuration file for secure file transfer to the authority. Also included in this package will be basic documentation of how to setup the system.

Following program termination, OES proposed to transfer the MTS to RPRA to act as the trustee of the MTS source code (as it exists on the date of transfer from OES) and enable RPRA to continue to make instances of MTS available to users after the wind up of OES.

OES estimates that its costs related to making a version of the MTS available to potential users will be approximately \$250,000. These costs have been included in wind up costs as part of 2019 and 2020 financial forecasts.

### ***Other Capital Assets***

Other OES capital assets include the MTS logistics software, a WEEE container, a refrigerator and leasehold improvements (network and electrical wiring in current space). OES estimates that the book value of other capital assets will be approximately \$1300 as of the program termination date June 30, 2020.

OES proposes to auction these capital assets off following program termination. OES estimates that the total proceeds related to this auction audit will be relatively minimal. A list of OES assets along with a preliminary estimate of auction value is provided in Table 10 below. OES branded materials collection materials that cannot be auctioned off will be recycled.

<b>Table 10: OES Capital Assets</b>			
<b>Description</b>	<b>Number of Items</b>	<b>Net Book Value December 31, 2018</b>	<b>Estimated Auction Value July 2020</b>
Collection Bin (20 ft)	1	\$1,610	\$1,200
Refrigerator	1	\$0	\$100
Leasehold Improvement	Wiring	\$8,931	\$0
MTS Software	NA	\$0	NA
<b>Total Auction Value (Estimated)</b>			<b>\$1,300</b>

## **5.5 Leased Assets**

### ***Collection Materials***

OES rents 40-yard bins, sea containers, wheelie bins and trailers that are located at collection sites across the province. E-waste must be sheltered from the environment to ensure hazardous substances do not leach into the ground and surrounding waters. Bins are also used to protect e-waste from the elements.

All rentals are on a month-to-month basis. Bins can be removed at any point in time, however, if the site has no other means of sheltering collected WEEE materials they are in breach of the collection site agreement and the risk for contaminants entering the ground is significant.

OES will make arrangements to collect and return leased assets to suppliers following program termination. Suppliers will be given advance notice of termination of rental arrangements. OES will also work closely with collection sites that utilize leased OES assets for WEEE collection so that those locations can plan alternate collection arrangements if they chose to continue collecting WEEE materials under the RRCEA legislative framework. OES anticipates that all leased assets related to collection sites will be returned to suppliers by July 31, 2020.

### ***Other Leased Assets***

OES rents a storage unit in which historical files are retained for tax purposes. Following program termination, the OES liquidator will make whatever arrangements are necessary with respect to these files for OES to comply with records retention requirements for tax purposes. The storage unit operator will be given notice of lease termination in accordance with existing contractual provisions.

OES will also consult with RPRA regarding file contents to determine whether any should be transferred to RPRA as part of OES WEEE program data transfer steps.

OES has leased premises at 5750 Explorer Drive, Suite 302, with obligation until October 31<sup>st</sup>, 2020 in the amount of \$ 8,500 per month. Early termination will require full payout of the lease term. A reimbursement of leased space to EPRA of \$5,400 per month is also required, as OES leased the separate suite 302 office facility in order to address the desire for segregation during wind up, as an aspect of the governance directive.

## **5.6 Intellectual Property**

### ***OES Material Tracking System***

See Section 5.4 for a description of the proprietary OES MTS software and its proposed method of transfer to RPRA.

### ***Other Intellectual Property***

**Ontario Electronic Stewardship Wind Up Plan 2018 (Updated February 2019)**

OES's additional intellectual property includes the domain name for the OES website: [ontarioelectronicstewardship.ca](http://ontarioelectronicstewardship.ca) and the trademark for the business name Ontario Electronic Stewardship. OES will continue to utilize these trademarks and domain names throughout the wind up period. Following program termination, the legal ownership rights to the OES trademark and website domain name will be transferred to RPRA.

## **5.7 Investments**

OES does not hold any funds in long-term investments. Reserve funds are held in accounts identified in Section 5.1

## **5.8 Internally Restricted Assets**

Not applicable to OES operations or financial forecast.

# **SECTION 6: LIABILITIES**

## **6.1 Accounts Payable and Accrued Liabilities**

### **A. Current Accounts Payable**

A list of current accounts payable and accrued liabilities is confidential and provided to RPRA. Related costs and financial implications are included in wind up plan budget summaries provided.

### **B. Future Accounts Payable**

#### ***Collection Incentive Accounts Payable Forecasts***

#### ***Processing Incentive Accounts Payable***

#### ***Forecasts Re-use and Refurbish Reports***

#### ***Accounts Payable***

#### ***Transportation, Re-pack and Consolidation Accounts Payable***

Accounts Payable forecasts are based on prior year trending and adjusted for current year run rates.

### **C. Key Suppliers**

Termination notification periods for OES processor and collector contracts are described, and proposed OES processes for notification of contract terminations in WUP Section 2: Implementation Plan and Timeline.

**Ontario Electronic Stewardship Wind Up Plan 2018** [\(Updated February 2019\)](#)

Key Suppliers whom OES directly compensates include:

- Collectors;
- Transporters;
- Processors;
- Administrative
- Service Providers such as IT services; and
- Marketing and Communication Service Providers such as Media Organizations.

All service providers will be given a minimum 90 days of notice, or notice per the contractual arrangement, should the contractual notice exceed 90 days.

## 6.2 Debt

OES does not carry debt. OES does not anticipate any need to source additional funding over the wind-up period.

## SECTION 7: CUT-OFF DATES

### 7.1 A. Key Wind Up Cut-Off Dates

<b>Cut-Off Date</b>	<b>Wind Up Plan Measure</b>
June 30, 2020	Program termination date; - Final date for collection of WEEE materials under program; - Final date for submission of MTS BOLs by collectors and generators;
July 10, 2020	Final date for transportation pick up of WEEE from collector and generator sites; - Final date for submission of re-use and refurbish reports to OES;
July 31, 2020	Final date for submission of claims for collection incentives to OES from collectors; - Final date for submission of steward EEE supply reports to OES for the period ending June 30, 2020;
August 15, 2020	- Final date for processing of WEEE collected prior to June 30, 2020 and submission of processor incentive claims to OES;
September 15, 2020	Final date for completion of final processor mass balance reports under WEEE program; - Final date for steward submission of corrections or adjustments to EEE supply reports provided earlier under the program.

Based on consultation feedback, OES is comfortable that the proposed key **Ontario Electronic Stewardship Wind Up Plan 2018** [\(Updated February 2019\)](#)

cut-off dates can be implemented with minimal disruption to stakeholders.

## **B. WEEE Inventory Management and Cut-off Dates**

During consultation some service providers raised concerns about the risk of being saddled with stranded inventory at program termination. OES's proposed time lines related to service provider cut-offs and payments ensure that all WEEE material collected by June 30, 2020 will be eligible for a full range of incentives under the program.

Time lines allow processors up to six weeks to process WEEE materials that they have in inventory as of June 30, 2020 and materials collected from generation and collection sites that were collected by June 30, 2020. As most processors currently submit claims for PI incentives within two weeks of receiving WEEE materials, six weeks will allow for the final processing of existing WEEE inventories as of the program termination date.

For a brief transitional period collectors (July 1 to July 10) and processors (July 1 to August 15) will maintain separate inventories of WEEE materials collected before and after the June 30<sup>th</sup> program termination date.

Under the allocation model, data records in the MTS will provide OES will real time inventory forecasts of WEEE materials as of June 30, 2020. Only those WEEE materials collected by June 30<sup>th</sup> will be eligible for OES incentives. OES will also increase the frequency of processor mass balance reports shifting to monthly mass balance reports no later than the 2<sup>nd</sup> quarter of 2020. OES will monitor both collection and processing incentive claims volumes closely throughout the wind up period and where necessary implement additional verification processes to ensure that incentive claims are consistent with program requirements.

Some collectors and processors may fail to or choose not to submit incentive claims for WEEE materials collected prior to June 30, 2020. Any WEEE material collected prior to June 30, 2020 for which collection incentive claims have not been submitted to OES by July 31, 2020 or for which processing incentive claims have not been submitted to OES by August 15, 2020 will not be eligible for respective OES program collection or processing incentives.

## **7.2 Revenue**

As noted in WUP Section 1, OES will implement a reduction of steward EEE fees to zero as of February 1<sup>st</sup>, 2019.

## **SECTION 8: RESERVES**

### **8.1 Reserves**

## A. Reserve Fund Balances

As of December 31, 2018, OES estimates a total reserve fund balance of ~~\$76.5~~109.8 million. Table 12: outlines estimates of operating deficits for 2019 and 2020 and the related impact on OES reserve fund estimates.

<b>Table 12: OES Reserve Fund Estimates 2018 – 2020*</b>	
OES Projected Reserve Fund Balance December 31, 2018 (unaudited)	<del>\$76.5</del> <u>109.8</u> Million
Projected OES Operating (Deficit) 2019	<del>(\$48.3)</del> <u>48.9</u> Million)
OES Projected Reserve Fund Balance December 31, 2019	<del>\$28.2</del> <u>260.9</u> Million
Projected OES Operating (Deficit) 2020	<del>(\$26.8)</del> <u>27.1</u> Million)
Preliminary Estimate of OES Surplus Funds Remaining Post- Program Termination, prior to surplus distribution.	<del>\$1.4</del> <u>33.8</u> Million

\* Updated February 2019

The OES reserve fund balance for 2018 forecast is calculated by beginning with prior year ending reserve, adding current year operating surplus or deficit and any one-time items like a tax refund, to arrive at the ending year reserve.

Estimates of operating deficits for 2019 and 2020 and the subsequent reduction in OES Reserve Funds are based on assumptions in OES Financial Forecast and Budget described in detail in WUP Section 4: Financial Forecast and Budget.

## B. Reserve Fund Management Plan

As noted in Section 1: Operational Plan, OES reserve fund balances enable a reduction of steward EEE fees to zero as of February 1, 2019,

OES proposals for financing operations through the reduction of reserve funds is consistent with Ministerial direction related to program wind up. OES also worked with RPRA to consult on and receive support to implement this EEE fee reduction prior to formal approval of the full OES Wind Up Plan in order to minimize any surplus remaining at program wind up.

## C. Targeting a Nil Balance

As noted earlier, a Tax Court of Canada ruling in 2018 resulted in an HST tax refund to OES, which increased the OES existing reserve fund balance by ~~\$29.4~~60.8 million.

Given the time lines established for program termination and the level of OES year end 2018 cash reserves, even with an EEE fee reduction to zero in February 2019, it

is not forecasted that OES will end with a reserve fund balance at zero following program termination. OES currently estimates that its reserve fund balance following program termination and the resolution of all outstanding financial obligations will be approximately \$ ~~4.4~~33.8 million, and that amount may increase with additional HST refunds. At the time of Wind Up Plan writing, these potential amounts remain under audit by CRA.

#### **D. Reserve Fund Risks and Compliance with WDTA**

Given the length of time between the submission of this WUP plan and program termination, forecasts related to reserve fund balances for 2019 and 2020 are subject to a number of financial contingencies associated with OES operating expenses for these years. Variations in actual WEEE tonnage recycled in relation to current forecasts could create significant cost variations in the OES program.

Actual reserve fund balances as of September 2020, therefore, may vary significantly from the current reserve fund forecasts. Even with these caveats, however, OES is forecasting that excess surplus funds will remain in the WEEE program following program termination. As noted in the operational plan, OES proposes to disburse these funds in accordance with the WDTA approved program agreement. The methodology OES utilizes to calculate steward contributions and any excess fund disbursement amounts will be reviewed and supported by RPRA.

The proposed WUP plan strategy to fund program operations from reserve fund balances during program wind up and disburse excess funds to stewards following program termination are both consistent with Ministerial wind up direction and WDTA provisions.

With respect to the EEE fee reduction to zero, the Ministerial direction instructed OES to, where possible, reduce the EEE steward fee in order to minimize any remaining surplus funds including any reserves when the program ceases operations. This use of reserve funds to finance program operations is also consistent with WDTA provisions which limit the use of program reserves to the following purposes:

##### ***Purposes of fund (Subsection 35 (2) WDTA)***

(2) The fund [*in this case OES reserve funds*] shall be held in trust by the industry funding organization and shall only be used for the following purposes:

1. To pay the costs of operating the program.
2. To pay the costs of developing and implementing changes to the program.
3. To pay the costs of developing and implementing a plan to wind up all or part of the program.
4. To pay the costs incurred by the organization or the Authority to wind up all or part of the program.

5. To pay the costs incurred by the organization or the Authority to wind up the organization.
6. To pay the costs incurred by the Authority in exercising its powers and carrying out its duties as they relate to the industry funding organization.
7. To pay the costs incurred by the Crown in administering this Act and the regulations, as the costs relate to the industry funding organization and the Authority's oversight of it, including costs associated with appeals to the Tribunal of the Authority's orders.

With respect to disbursement of excess funds to stewards following program termination, page 7 of RPRA IFO Wind Up Guide states "To the extent that there are credits/reserves/refunds/excess cash balances ("Excess Funds"), these Excess Funds must be allocated to the steward who paid the original fee that gave rise to those Excess Funds, in accordance with the applicable laws governing the transaction and to the extent feasibly possible."

The disbursement of OES excess funds back to stewards following program termination is also consistent with the funding principles established in the WDTA related to program financing which state that steward fees must fairly reflect the costs of running the program.

## 8.2 Funds Fund Restrictions

OES reserve funds are not subject to any specific restrictions other than the spending parameters for program spending created by the WDTA and related regulations and requirements.

### Excess Fund Disbursement

As noted above, the methodology OES proposes to disburse excess funds to stewards following program termination is to base each steward's disbursement on their estimated contribution to excess funds over the course of the OES WEEE program. The methodology OES utilizes to calculate steward contributions and any excess fund disbursement amounts will be reviewed and approved by RPRA.

## SECTION 9: DATA

### 9.1 Security/Privacy

Through the operation of the WEEE program, OES has accumulated data pertaining to the operation of the program from stewards, service providers, stakeholders and the general public. This data falls into the following categories:

- Steward and service provider contact information;
- Steward put on market data;

- Supplier contact information;
- Supplier banking information;
- Pricing and volume data;
- Tax information;
- Operational information, audit results and open issues

Consumer data collected would only include information gathered to support the validation of WEEE Program material claims by a processor, to investigate and/or respond to a concern, question or statements addressed to OES by a consumer, or as a result of consulting on program planning with a consumer.

Collected information is only used for the administration of the WEEE program and validation of claims. This data contains information that is commercially sensitive and highly confidential. OES exercises extreme care in the management of this data through its operation of the program and through the wind up process.

All authorized OES resources have signed covenant agreement which requires resources to act in a manner which protects all information including that which is commercially sensitive. Contractors and IT service providers sign non-disclosure agreements which similarly protect OES information.

### *OES/EPRA Data Segregation*

OES data is protected through a combination of physical system segregation and in- system access controls.

The key OES data solutions (steward, service provider and accounting ledgers) are separate and distinct from EPRA solutions. These separate modules have been configured to limit access to the dedicated OES authorized resources only.

IT administration of OES systems is provided by a third-party IT firm that is contracted to provide IT support and systems development for OES. This third party has signed confidentiality agreements with OES.

Access to local data is protected as OES-dedicated staff and operations are managed from a separate office with separate card key access during wind up.

## **9.2 Data Destruction**

As noted in WUP Section 1: Operational Plan, OES proposes to destroy all historic WEEE recycling data in its possession following transfer of program data to RPRA (see Section 9.4 Data Transfer below).

Following confirmation of receipt of data by RPRA, OES will commence the following process to shut down and destroy systems and cancel IT contracts:

- OES will notify its third-party IT firm and provide a date for the OES systems to be shut down;
- The third party will execute the shutdown of all internal systems and accounts and purge all data;
- For any physical data storage devices, data will be removed according to current department of defense standards and the devices disposed of according to this Wind Up Plan;
- The third party will verify by manual inspection that OES data has been removed and will issue a formal letter attesting to the deletion of OES data;
- For systems hosted by third parties, the third-party IT firm will contact service providers to ensure all accounts are closed and data has been purged from the providers' servers;
- For systems hosted by EPRA, the third-party IT firm will close all OES accounts and purge data from EPRA servers.

For physical files held at the OES office and OES off-site storage location, a similar process will be used. OES will notify its IT firm and provide a date for the OES physical documents to be destroyed:

- The third party will coordinate and oversee the onsite shredding of all remaining physical document;
- The third party will verify by manual inspection that OES data has been destroyed and will issue a formal letter attesting to the destruction of OES data.

### **9.3 Data Retention and Sharing**

#### *Post Program Data Retention*

Following program termination, OES will takes steps to ensure that data retention required to ensure compliance with residual program obligations, any outstanding *Corporations Act* or taxation requirements, will be retained in a manner consistent with those obligations.

Any materials provided to RPRA that have to be retained for a period of time to ensure compliance with residual OES obligations will be clearly marked and identified with retention time frames explicitly identified. If RPRA cannot act as the repository for certain OES data requirements, the OES appointed liquidator will take steps necessary to ensure the retention of such data for the periods required.

#### *Data Safeguards*

OES employs a secure cloud document management system (Box) which is used to house electronic copies of OES documents. This system ensures that data is **Ontario Electronic Stewardship Wind Up Plan 2018** [\(Updated February 2019\)](#)

encrypted while at rest and while being transferred to/from the system. Throughout the windup this secure system will be used for data transfer with RPRA.

### *Public Information*

Throughout the wind up period, OES will continue to publish Annual Reports which include aggregated non-commercially sensitive information about OES stewards, and program recycling volumes.

OES is not proposing to release any additional public information data about WEEE recycling other than the annual data summations included in those reports.

### *Confidential Information*

Confidential information submitted to RPRA as part of this WUP submission is provided as appendices to this report with such information clearly marked as confidential for RPRA. This information will not be included for publication as part of the public OES WUP.

OES will consider a steward request for the release of their own OES-held data to a third party of the steward's choice, subject to signing of an appropriate authorization by the steward and the reasonable availability of requested data in the OES steward reporting system.

OES may also provide commercially sensitive and confidential information to RPRA as part of the transfer of historic WEEE recycling data (see 9.4 below). OES will clearly identify any confidential or commercially sensitive data transferred to RPRA as such so that RPRA can take appropriate measures to safeguard such data in accordance with its confidentiality guidelines for such data.

## **9.4 Data Transfer**

As part of the wind up process, OES will provide historic and current WEEE program data to RPRA. Most of this information will be provided to RPRA in digital format with measures taken to ensure no access by third parties during the transfer process.

Once program data has been transferred to RPRA and all necessary OES post-program termination administrative tasks have been completed, OES will engage a third-party IT firm to destroy remaining data and ensure all such data is cleansed from OES devices before any such devices are auctioned off

Following termination of the EPRA-OES operating agreement, OES-dedicated staff employed by EPRA will not have access to any OES program data.

## 10.1 Employees

OES does not have employees. Services are provided by EPRA staff, and the EPRA contract allows for provision of OES to pay severance for any OES supporting staff that are terminated as a result of program wind up or contract cancellation with EPRA. These potential costs are included in wind up budget forecasts.

Additional staff that may be required to handle an influx of administrative activity during wind up have been built into the wind up plan and costs. Additional staff may be required for handling calls, processing claims and compliance activities.

## 10.2 Sub-Contractors

OES subcontracts administration to EPRA. Reference to the EPRA staffing is in previous section, 10.1

## 10.3 Pension and RRSPs

Not applicable to OES operations

## 10.4 Communications with Personnel

OES dedicated staff are informed regularly on program updates regarding regulatory information, news from RPRA, wind up activities and next steps.

# SECTION 11: LEGAL CONSIDERATIONS

## 11.1 Litigation

### A. Ongoing Litigation

There is one case currently under legal guidance. Due to the confidential nature, it is not disclosed here.

### B. Legal Wind Up Risks

OES compliance with contractual terms of all stakeholder agreements should minimize legal risks that may arise during wind up.

## **C. Mitigation of Legal Risks**

Any legal claims or actions that arise during program wind up will be managed on an ad hoc basis. OES does not anticipate that run-off insurance will be required in relation to managing these risks.

### **11.2 Contracts**

#### **A. OES Contracts**

OES obligations and termination processes for collector and processor contracts are described in WUP Sections 1 and 2: Operational Plan and Implementation Plan and Timelines. These contracts do not generate termination costs given appropriate notice, which can be achieved within the wind up timelines.

Other Contracts: OES has contracts providing administration services, IT services, and marketing services with various providers. All contracts have normal notification terms that are well within the 12-month period of wind up plan and therefore no unusual termination costs are forecasted.

#### **B. Contractual Terminations, Timing and Costs**

OES will provide notice of contractual terminations in relation to all commercial agreements or contracts in a manner that meets or exceeds those contractual provisions. All costs associated with anticipated contractual terminations have been factored into OES budgetary forecasts (WUP SECTION 4) and where applicable have been identified in relation to specific contracts in subsection A above.

### **11.3 Legal Contingency Costs**

Legal contingency costs associated with ongoing litigation and other potential legal issues have been factored into OES estimates of wind up costs included its budgetary forecast.

### **11.4 Environmental Issues**

#### **A. Need for Environmental Review**

WEEE is not considered a hazardous material until it is broken down or processed. As such, collectors and transporters of WEEE do not require environmental approvals from the MECP. Processors who undertake the processing of WEEE must hold valid Environment Certificates of Approvals and are regulated by the MECP. Processors are required to provide financial assurance to the MECP to cover any costs associated with site contamination or clean up.

OES processors operate under the ERS 2013 Standard. The standard outlines the safe handling and operations requirements for processors and is administered by the RQO. Processors are obligated to provide OES with Mass Balance Reports which outline where their outputs are delivered. OES validates that the appropriate volume of material is being shipped to approved downstream processors.

A formal environmental review is not required to be conducted by OES as the MECP has jurisdiction over processor operations.

Environmental insurance is addressed through letters of credit that Processors are required to issue in order to handle the potential of an environmental cleanup. Letters of Credit may be issued to the Ministry of Environment or the OES Program.

## **11.5 Key Contracts**

As noted in the Operation Plan, the OES program is delivered through a service agreement with the EPRA. The OES-EPRA service agreement will be terminated following the completion of OES administrative functions after the program termination date. OES may incur some labour-related costs following termination of the agreement which are described in Section 10 and which have been factored into wind up plan financial forecasts.

## **SECTION 12: TAX**

### **12.1 Harmonized Sales Tax**

OES provides a service to stewards in managing the waste recycling program that the stewards are legally obligated to fund in Ontario. OES collects and remits Harmonized Sales Tax (HST) on fees charged to stewards.

Early in the program, the Canada Revenue Agency (CRA) ruled that Industry Funding Organizations (IFOs), such as OES, were not allowed to claim Input Tax Credits (ITCs) for the HST paid to third parties for services provided in operating the recycling program (such as processors and collectors).

In 2017, Stewardship Ontario and OES filed appeals with the Tax Court of Canada challenging the CRA ruling with respect to the eligibility of ITCs.

In April 2018, the Tax Court of Canada overturned the ruling for Stewardship Ontario. In June 2018, the CRA and Tax Court of Canada consented to allow the SO ruling to apply to OES, meaning ITCs were allowed for the HST which had been paid on services and goods received.

As a result, OES in 2018 and early 2019 received CRA HST refunds in the amount of \$29.460.8 M. and is permitted to claim ITCs on HST payable on a go forward basis.—  
~~Additional refunds of HST may be forthcoming, however audits are underway and no confirmation is in place at the time of Wind Up Plan submission.~~

As noted in previous WUP sections, the ability of OES to claim ITCs on program expenses in 2018 shifted the OES 2018 budget forecast from a deficit to surplus position.

## **12.2 Employee Source Deductions**

Not applicable to OES financing. OES pays EPRA for services provided. Employee related expenses are managed directly by EPRA and all EPRA employee related costs and related OES financial obligations have been factored into to OES estimates related to the operation and termination of the OES-EPRA agreement. These costs are referenced in WUP Sections: 4 Financial Forecast and Budget and 10: Human Resources

## **12.3 Other Tax Considerations**

### **A. Final Tax Return**

The final OES tax return for 2020 will be filed by the liquidator.

### **B. Record Keeping**

CRA related tax records are required to be kept for a period of seven years. OES or its liquidator will contract with a third party to manage and retain all required tax records. After the required seven-year retention period these records will be destroyed. As part of winding up OES as a corporate entity, the liquidator will be required to file a final tax return and obtain a Clearance Certificate from the CRA before final disbursements of any remaining cash that remains in OES accounts at the point of corporate dissolution.

## **12.4 HST Rulings**

See Section 12.1 above.

## SECTION 13: MANAGEMENT OF OTHER RISKS

### 13.1 Public Perception: Potential Wind Up Risks

#### *Public Awareness of WEEE Recycling*

OES does not anticipate any significant negative consumer impacts associated with program wind up. OES will monitor consumer access to WEEE drop off locations through the wind period to ensure that consumer WEEE returns are convenient and in keeping with historic program performance metrics.

One potential risk associated with the OES wind up plan relates to the reduction of steward EEE fee to zero after February 2019. OES anticipates that consumer EHF fees may also be removed as of February 1, 2019. The change to zero of EHF fees for some consumers may create the impression that WEEE materials are no longer being recycled. This may be particularly true for consumer items where EHF fees are more significant such as those applied to large TVs and monitors.

To ensure that consumer awareness of WEEE recycling is maintained, OES will continue with promotional and education programs throughout the wind up period to support public awareness of WEEE recycling. OES will also conduct polling related to consumer awareness in the summer or fall of 2019 following the elimination of EHF fees to assess whether there has been any reduction in consumer awareness in relation to WEEE recycling (in comparison to historical norms).

#### *Disruption of WEEE Recycling*

As noted throughout the WUP, OES is not proposing any changes to program incentive rates throughout the wind up period. It is also proposing that all WEEE collected as of June 30, 2020 will be eligible for a full range of incentives under the program. As such OES does not anticipate that there will be any disruption to WEEE recycling during the wind up period. In the view of OES, its recommendations to continue with a business as usual approach to managing WEEE recycling should minimize the likelihood of any disruptions to WEEE recycling prior to June 30, 2020.

However, OES will monitor WEEE product flows closely throughout the wind up period to ensure continued program performance is maintained. As noted earlier if OES determines that significant backlogs related to WEEE recycling are emerging it will consider implementation of additional measures to address those backlogs.

#### *Disbursement of Excess or Surplus Funds to Stewards Following Program Termination*

As in noted earlier in the WUP, [given at the time of submission of this plan, the RPRR IFO Wind Up Guide indicates that to the extent there are excess IFO funds “these Ontario Electronic Stewardship Wind Up Plan 2018 \(Updated February 2019\)”](#)

Excess Funds must be allocated to the Steward who paid the original fee that gave rise to those Excess Funds". In the absence of Ministerial ~~direction received by OES and the statutory limitations that exist with respect to what OES can do with reserve funds~~Direction or guidance from the RPRA that clarifies that alternate uses of program surpluses may be permitted under the statute or regulations, the OES Board felt that consideration of any alternative use of excess funds (other than disbursement back to stewards) was beyond the scope of its ~~operating parameters~~recommendations.

~~This view was confirmed by RPRA in correspondence to OES. As such, in the view of OES, its only response to the steward requests to allow~~While some stewards requested that surplus funds ~~to~~ be used for post-wind up costs rather than distributed; ~~is back to clarify for such stakeholders that their preferred approach for the management of excess OES funds at program termination is not~~stewards, in the view of OES, consideration of such options as part of the wind up plan would require clarification from the RPRA that such options are consistent with ~~the~~ statutory and regulatory ~~parameters which currently exist with respect to OES operations~~requirements.

## 13.2 Conflict of Interest

### A. OES Governance and Operations During Wind Up

As noted in WUP Section 1: Operation Plan, a new OES Board was appointed in August 2018 to manage the OES program including the development and submission of this WUP. Unlike previous OES boards, the new OES board does not have any members whom are also members of the EPRA Board of Directors.

The new OES Board was appointed in accordance with WDTA regulatory requirements with members appointed by the Retail Council of Canada and Electronic Product Stewardship of Canada. The new OES Board includes members with extensive senior management experience in variety of national corporations, including members with previous OES experience and backgrounds related to corporate product stewardship responsibilities.

OES By-laws obligate members and officers to avoid and declare conflict of interest situations and conduct Board business in accordance with high governance standards (See section 13.3 below for more details on Board conflict of interest guidelines).

As noted earlier, OES utilizes EPRA services to administer the WEEE program. It is anticipated that EPRA will likely apply to operate programs on behalf of stewards under the RRCEA framework. The separation of OES and EPRA board memberships during the wind up period will ensure that OES Board wind up activities are directed independently of EPRA Board considerations.

Operationally, [OES will engage an independent Wind Up Program Manager to oversee OES dedicated staff who](#) will be segregated from EPRA staff through operations in separate office facilities. OES data-containing applications relating to stewards, service providers and the corresponding accounting ledgers will be segregated and accessed only by the OES dedicated staff. EPRA senior management will not have system or data access and will only be available for guidance as called upon by the OES Board or in general consultation by the OES dedicated staff. Dedicated managers of Finance and Operations will be put in place to manage the OES daily activities and information [and report to the Wind Up Program Manager](#). In addition, a third-party consultant was engaged to facilitate the wind up consultations and draft the wind up plan for the OES Board.

Following program termination, all OES WEEE recycling data will be destroyed (see WUP Section 9: Data). EPRA staff utilized to deliver the OES program will be prohibited from retaining, communicating or transferring any OES related WEEE recycling data to EPRA or any other parties.

## **B. Legal Advice and Governance Issues**

To prepare for program wind up and ensure that conflict of interest (COI) issues are managed appropriately, OES engaged legal counsel with expertise in governance issues to advise the OES Board throughout the wind up period.

Legal counsel attends all OES Board meetings to address any potential conflict of interest issues that are flagged and to help ensure that Board decisions are made in compliance with conflict of interest by-laws and high corporate governance standards.

Each Board meeting begins with a reminder regarding COI obligations. Any Board member who has questions about whether a personal situation creates a conflict of interest problem or issue for OES operations, has direct access to legal counsel for advice on the matter.

## **C. Third Party Transactions**

As noted above, OES administers the WEEE program through a service agreement with EPRA. See Subsection A above for a description of OES-EPRA arrangements during program wind up.

## **D. Prior Transactions**

Not applicable to OES operations.

## **E. Governance Documentation**

OES Corporate By-law Number 1 General By-Law governing Board and Committee operations and procedures is attached as Schedule B to this WUP Plan. This By-law will be in force during the wind up period.

OES By-Law Number 2: A by-law related to Code of Conduct of OES is attached as Schedule C to this WUP. This By-law will be in force during the wind up period.

### **13.3 Board of Directors Conflict of Interest**

#### **Provisions**

As noted in section 13.2 above, in anticipation of program wind up a new OES Board was appointed in August 2018 to manage the development and administration of the OES WUP.

OES By-Law Number 2, attached as Schedule C, establishes code of conduct provisions that apply to all Board members and officers of the corporation.

By-Law No. 2 defines real, potential and apparent conflict of interest situations for OES Board members and officers of the corporation:

- Real conflict of interest is defined as an indirect personal or business interest (financial or non-pecuniary) that is sufficient to influence the exercise the board member's or officer's duties or responsibilities;
- Potential conflict of interest is defined as an interest which could affect duties or responsibilities but where those duties or responsibilities have not yet been exercised; and,
- Apparent conflict of interest is defined as existing where a reasonable well-informed person could have a reasonable belief that a Board member or officer was in a direct or indirect conflict of interest situation even if there was no conflict of interest in fact.

Under By-Law No. 2, Board members are obligated to conduct themselves to avoid conflict of interest situations. They are obligated to declare any conflict of interest situations and must remove themselves from participation in Board activities where a conflict of interest is deemed to exist. Board members and officers are also prohibited from using confidential or commercial OES information for any purpose other than the conduct of their OES duties. They are also prohibited from releasing such information to third parties.

Board members and officers, upon appointment, must sign declarations indicating that to the best of their knowledge, they or any persons related to them, have no direct or indirect conflict of interest situations related to OES operations. Where a potential conflict does exist with respect to a particular OES contract or transaction, Board members must declare their connection or interest that gives rise to a conflict of

interest with respect to OES operations.

Board members and officers agree to abide by OES conflict of interest provisions and agree to disclose any new conflict of interest situations that might arise subsequent to their appointments.

### **Board and Committee Meetings During Wind Up**

OES will provide RPRA with copies of all OES Board and Committee minutes during the wind up period.

**SCHEDULE A: DETAILED OES IMPLEMENTATION PLAN AND TIMELINES**

Wind Up Task	Personnel Responsible (ADD NAMES THROUGHOUT)	Key Tasks/Dates	Status Update
<b>1.</b>		<b>Implementation of Steward OES Fee Reduction to Zero on February 1, 2019</b>	
<b>OES Notice to Stewards re Proposed Fee Reduction Via Steward Webinar Session - email blast invitation (November 19, 2018)</b>		November 23, 2018 Webinar updating OES Financials and providing notice of EHF fee reduction to zero for February 1, 2019; <ul style="list-style-type: none"> <li>- Identification of continuing supply reporting obligation;</li> <li>- Posting of webinar on OES website (consultation update);</li> <li>- <b>November 23, 2018</b></li> </ul>	Completed
<b>Formal OES notification of EHF fee reduction to zero</b>		Website posting; <ul style="list-style-type: none"> <li>- Steward email blast;</li> <li>- Identification of key dates for final fee payments to OES along with final dates for any fee adjustment corrections;</li> <li>- OES contact information/process re questions;</li> <li>- <b>December 3, 2018</b></li> </ul>	Completed
<b>Implementation of Steward Fee Reduction</b>		- Update EHF fee rates and references throughout OES website; <b>February 1, 2019</b>	
<b>Final Date for Submission of Steward Reports requiring fee payments</b>		<b>February 28, 2019</b> - OES staff follow-up as required.	
<b>Final date for Stewards to Report any corrections to supply reports and associated fee adjustments.</b>		<b>April 30, 2019</b> - OES staff follow-up as required.	
<b>Deadline for submission of inventory adjustment claims from retailers</b>		February 28, 2019 deadline for submission of claims; <ul style="list-style-type: none"> <li>- April 30, 2019 deadline for adjustments to claims;</li> <li>- One on one staff follow-up as required</li> </ul>	

<b>Notice to Stakeholders re RPRA Approval of OES Wind Up Plan</b>			
<ul style="list-style-type: none"> <li>• <b>General notification of approval of wind up plan;</b></li> <li>• <b>Confirmation of key WUP dates and deadlines;</b></li> <li>• <b>Link to copy of full WUP;</b></li> <li>• <b>Identification of process for contacting OES re information and questions of clarification</b></li> </ul>			
<b>Stewards</b>		Preparation and release of notification materials: <ul style="list-style-type: none"> <li>- Website update;</li> <li>- Steward Newsletter;</li> <li>- Email Blast;</li> <li>- <b>Target Date: July 15, 2019 or earlier.</b></li> </ul>	
<b>Collectors</b>		Preparation and release of notification materials: <ul style="list-style-type: none"> <li>- Website update;</li> <li>- Email Blast;</li> <li>- <b>Target Date: July 15, 2019 or earlier.</b></li> </ul>	
<b>Transporters</b>		Preparation and release of notification materials: <ul style="list-style-type: none"> <li>- Website update;</li> <li>- Email Blast;</li> <li>- <b>Target Date: July 15, 2019 or earlier.</b></li> </ul>	
<b>Processors</b>		Preparation and release of notification materials: <ul style="list-style-type: none"> <li>- Website update;</li> <li>- Email Blast;</li> <li>- <b>Target Date: July 15, 2019 or earlier.</b></li> </ul>	
<b>Generators</b>		Preparation and release of notification materials: <ul style="list-style-type: none"> <li>- Website update;</li> <li>- Email Blast;</li> <li>- <b>Target Date: July 15, 2019 or earlier.</b></li> </ul>	
<b>Re-use and Refurbishers</b>		Preparation and release of notification materials: <ul style="list-style-type: none"> <li>- Website update;</li> <li>- Email Blast;</li> <li>- <b>Target Date: July 15, 2019 or earlier.</b></li> </ul>	
<b>Municipalities</b>		Preparation and release of notification materials:	

		<ul style="list-style-type: none"> <li>- Website update;</li> <li>- Email Blast;</li> </ul> <p><b>Target Date: July 15, 2019 or earlier.</b></p>	
<b>Public</b>		<p>Preparation and release of notification materials:</p> <ul style="list-style-type: none"> <li>- Website update;</li> <li>- <b>Target Date: July 15, 2019 or earlier.</b></li> </ul>	
<b>3. Formal Notification to Service Providers of Contract Terminations</b>			
<b>Stewards-Remitters</b>		<p>Preparation of contract termination notice (email/letter);</p> <ul style="list-style-type: none"> <li>- Identification of date on which OES service contract will be terminated;</li> <li>- Reference to key submission dates re finalization of contract obligations;</li> <li>- OES contact information/process re questions.</li> <li>- <b>Target Date: September 2019</b></li> </ul>	
<b>Collectors</b>		<p>Preparation of contract termination notice (email/letter);</p> <ul style="list-style-type: none"> <li>- Identification of date on which OES service contract will be terminated;</li> <li>- Reference to key submission dates re finalization of contract obligations;</li> <li>- OES contact information/process re questions.</li> </ul> <p><b>Target Date: September 2019</b></p>	
<b>Municipalities</b>		<p>Preparation of contract termination notice (email/letter);</p> <ul style="list-style-type: none"> <li>- Identification of date on which OES service contract will be terminated;</li> <li>- Reference to key submission dates re finalization of contract obligations;</li> <li>- OES contact</li> </ul>	

		information/process re questions. <b>Target Date: September 2019</b>	
<b>Refurbishers</b>		Preparation of contract termination notice (email/letter); <ul style="list-style-type: none"> <li>- Identification of date on which OES service contract will be terminated;</li> <li>- Reference to key submission dates re finalization of contract obligations;</li> <li>- OES contact information/process re questions.</li> </ul> <b>Target Date: September 2019</b>	
<b>Processors</b>		Preparation of contract termination notice (email/letter); <ul style="list-style-type: none"> <li>- Identification of date on which OES service contract will be terminated;</li> <li>- Reference to key submission dates re finalization of contract obligations;</li> <li>- OES contact information/process re questions.</li> </ul> <b>Target Date: September 2019</b>	
<b>4. Making MTS tracking software available to Program Participants</b>			
<b>Notification to Stewards, Service Providers of OES MTS Information Session</b>		Letter indicating time and date of session to provide briefing on MTS requirements, process for transfer. <ul style="list-style-type: none"> <li>- <b>Target Date: October 2019</b></li> </ul>	
<b>Conduct MTS Information Session</b>		Development of briefing materials for information session <ul style="list-style-type: none"> <li>- <b>Target Date: November 2019;</b></li> </ul>	
<b>MTS software available for transfer</b>		Development of internal process, software modifications, instructions, necessary to facilitate transfer <ul style="list-style-type: none"> <li>- <b>Target Date: January 2020 – software available until June 30, 2018</b></li> </ul>	

<b>Provision of MTS Software to RPRA for potential transfer to WEEE recyclers post-program termination.</b>		After June 30, 2020 MTS software transferred to the RPRA. <ul style="list-style-type: none"> <li>- Date to be determined in consultation with RPRA.</li> </ul>	
<b>5. Submission and publication of OES 2019 Annual Report</b>			
<b>Draft and Submit Annual Report</b>		Compile data; <ul style="list-style-type: none"> <li>- Draft Report;</li> <li>- Engage Auditor complete financial statements;</li> <li>- Submit report to RPRA;</li> <li>- <b>By April 1, 2020</b></li> </ul>	
<b>6. Implementation of Process for Finalization of OES Steward Supply Reports</b>			
<b>Notification of Wind Up processes and deadline to Stewards-Remitters</b>		Preparation and release of wind up reminders; <ul style="list-style-type: none"> <li>- Newsletters;</li> <li>- Email blasts;</li> <li>- Website postings;</li> </ul> <b>January 2020 to June 2020</b>	
<a href="#"><u>Transition of Steward reporting/registration link from recyclemyelectronics.ca to ontariostewardship.ca</u></a>		<ul style="list-style-type: none"> <li>- <a href="#"><u>July 1, 2020</u></a></li> <li>- <a href="#"><u>Implementation of IT adjustments;</u></a></li> <li>- <a href="#"><u>Implementation of changes to both websites.</u></a></li> </ul>	
<b>Follow up one on one contact with Stewards as required</b>		Staff contact any stewards which have not submitted final reports or submitted deficient reports by July 31 deadline; <ul style="list-style-type: none"> <li>- <b>August 2020</b></li> </ul>	
<b>Additional one-on-one steward follow-up as required</b>		Staff contact stewards to resolve correction or adjustment to reports issues with September 15 steward adjustments to reports; <ul style="list-style-type: none"> <li>- <b>September-October 2020</b></li> </ul>	

<b>Final OES Steward Supply Report Reconciliations</b>		OES finalizes steward supply reports for 2020 operating period. - <b>October-November 2020</b>	
<b>7. Implementation of process for finalization of collector (including municipalities) incentive payments</b>			
<b>Reminder Notifications of Wind Up Processes and Deadlines to Collectors</b>		Preparation and release of wind up reminders; - Email blasts; - Website postings; - Direct staff contact; - <b>January 2020 to June 2020</b>	
<b>Arrangement of final collector WEEE pickups</b>		- Staff arrangement of final collector pickups; - <b>By July 10, 2020</b>	
<b>One on one follow-up with collectors as required</b>		Staff contact any collectors to resolve any issues with claims submissions due by July 31, 2020; - <b>August 2020</b>	
<b>Processing of final collection incentive payments to collectors</b>		Processing of final collector incentive payments; - <b>August-September 2020</b>	
<b>8. Implementation of process for finalization of processor incentive payments</b>			
<b>Reminder Notification of Wind Up Processes and Deadlines to Processors</b>		Preparation and release of wind up reminders; - Email blasts; - Website postings; - Direct staff contact; - <b>January 2020 to June 2020</b>	
<b>One on one work with processors re additional audit/verification requirements re wind up requirements</b>		OES Identification of additional verification requirements/revised time frames for documentation, etc.; - Additional site visits as required; - <b>May – July 2020</b>	

<b>One on one follow up with processors as required</b>		Follow up with processors re final incentive claims submissions due August 15, 2020; - <b>August – September 2020</b>	
<b>Final Processor Site Visits – Completion of Mass Balance Reports</b>		Final staff processor site visits and completion of mass balance reports – final adjustments to incentive claims volumes; - <b>September 2020</b>	
<b>Processing of Final OES Processor Incentive Payments</b>		Processing of final processor incentive payments; - <b>October/November 2020</b>	
<b>9. Finalization of OES Transporter, Re-Packer and Consolidator Arrangements</b>			
<b>Reminder Notification of Wind Up Processes and Deadlines to Processors</b>		Preparation and release of wind up reminders; - Email blasts; - Website postings; - Direct staff contact; - <b>January 2020 to June 2020</b>	
<b>Final Purchase Orders for Services</b>		Staff processing of final purchase orders for services; - <b>July 2020</b>	
<b>Processing of payments for final purchase orders</b>		Processing of payment for final purchase orders; - <b>August 2020</b>	
<b>10. Implementation of process for Finalization of Re-use and Refurbisher Reports</b>			
<b>Reminder Notification of Wind Up Processes and Deadlines to Processors</b>		Preparation and release of wind up reminders; - Email blasts; - Website postings; - Direct staff contact; - <b>January 2020 to June 2020</b>	
<b>One on one follow up with Refurbishers</b>		Staff follow-up with refurbishers as required re submission of final reuse and refurbish reports (due by July 10, 2020); - <b>July – August 2020</b>	

<b>Processing of final OES payments for reuse and refurbish reports</b>		Staff processing of final payments for last reuse and refurbish reports - <b>August – September 2020</b>	
<b>11. Collection of OES Branded Materials Used by Collectors or Processors (Note to be completed in conjunction with WUP Tasks 6 – 10 above as applicable).</b>			
<b>Reminder Notifications of Wind Up Processes and Deadlines to Collectors</b>		Direct staff contact with collectors re inventories of OES materials - <b>May-June 2020</b>	
<b>Arrangement of collection of OES branded materials from collectors in conjunction with final WEEE pickups</b>		Staff arrangement of final material pickups; - <b>June-July 2020</b>	
<b>Arrangement of collection of OES branded materials form processors</b>		Staff arrangement of final material pickups; - <b>August-September 2020</b>	
<b>Auctioning off of any OES branded materials with value</b>		Materials to be auctioned off in conjunction with dispersal of other remaining OES assets (possibly by OES appointed liquidator (see below)); - <b>September-October 2020</b>	
<b>Arrangement for recycling of OES branded materials with no material value</b>		Staff arrangement of branded materials recycling; - <b>August-September 2020</b>	
<b>12. Final Program Financial Reconciliation</b>			
<b>Program reconciliation for January – June 2020</b>		<b>TBD –</b>	
<b>Processing of Payments to Stewards if applicable</b>		<b>TBD –</b>	
<b>13. Finalization Arrangements re OES DATA</b>			
<b>Final WEEE Data Transfers from OES to RPRA</b>		Consultation with RPRA; - Transfer of any remaining program data to RPRA; - Arrangements any additional information to be transferred to RPRA following appointment of liquidator;	
<b>Destruction of WEEE program data</b>		- Once all OES data requirements met, including those necessary for completion of 2020 Annual Report, implementation of	

		arrangements to destroy remaining data. <b>TBD</b>	
<b>14. Appointment of OES Liquidator</b>			
<b>Consultation with RPRA</b>		OES Board consults with RPRA re appointment of liquidator <b>Fall 2020</b>	
<b>Selection of Liquidator</b>		OES Board selection of liquidator subject to RPRA approval; Assignment of liquidator functions; <b>Oct-Nov-Dec 2020</b>	
<b>Resignation of OES Board</b>		Board resignation and transfer of duties to liquidator <b>Late 2020</b>	
<b>15. Termination of OES-EPRA Service Agreement</b>			
<a href="http://recyclemyelectronics.ca">Termination of OES consumer functions on EPRA recyclemyelectronics.ca website</a>		- <a href="#">July 1, 2020</a> ; - <a href="#">preparation and implementation of necessary IT and website changes</a> ; - <a href="#">links to OES ontarioelectronicstewardship.ca website</a>	
<b>Final arrangements for termination of OES-EPRA service agreement</b>		<b>Fall 2020</b>	
<b>Shut down of OES Website</b>		<b>TBD</b> <a href="#">Fall 2020 Transition of domain name and trademarks to RPRA</a> - <a href="#">preparation of necessary legal documents</a> ; - <a href="#">preparation and implementation of necessary IT changes</a> .	
<b>16. Submission of Wind Up Report to Minister</b>			
<b>Draft and submit wind up report as required by WDTA section 14</b>		<b>TBD – Target Date April 2021</b>	
<b>17. Dissolution of OES as Corporation</b>			
<b>Notices under Corporations Act as Required</b>		Filed by liquidator <b>TBD</b>	
<b>Arrangement for required record keeping</b>		Made by liquidator	

<b>Corporate Dissolution</b>		Final paperwork submitted by liquidator <b>TBD</b>	
<b>18. Submission and Publication of OES 2020 Annual Report</b>			
<b>Draft and Submit Annual Report</b>		Compile data; - Draft Report; - Engage Auditor to complete financial statements; - Submit report to RPRA; - <b>By April 1, 2021</b>	

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Document 2 ID	file://\gowlings.corp\PersonalDrives\TOR\yurkovik\Deskto p\OES - Affidavit Exhibits\Windup Plan OES_Wind_Up_Plan_Updated_Feb_2019 (1).pdf
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Insertions	196
Deletions	145
Moved from	0
Moved to	0
Style changes	0
Format changes	0
Total changes	341

**THIS IS EXHIBIT "D"**  
**TO THE AFFIDAVIT OF RICHARD WILLIAMS**  
**SWORN REMOTELY BEFORE ME**  
**THIS 31<sup>ST</sup> DAY OF MAY, 2021**

DocuSigned by:  
  
BF136400C72D4F9...

A commissioner for taking affidavits

Katherine Yurkovich  
LSO#80396R

Ministry of the Environment,  
Conservation and Parks

Ministère de l'Environnement,  
de la Protection de la nature et des  
Parcs

Office of the Minister

Bureau du ministre

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Tel.: 416-314-6790

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Tél. : 416.314.6790



APR 02 2019

Ms. Glenda Gies  
Chair  
Resource Productivity and Recovery Authority  
4711 Yonge Street, Suite 408  
Toronto ON M2N 6K8

Dear Ms. Gies:

It has recently come to my attention that Ontario Electronic Stewardship (OES), which has been directed to wind up the waste electrical and electronic equipment program and itself, is now expected to have surplus funds in excess of \$25 million, in part due to the resolution of a tax dispute with the Canada Revenue Agency.

This surplus amount is substantially larger than what was identified in the draft wind up plan that OES consulted on and submitted to the Authority in December 2018. The draft plan stated that OES would return excess funds of approximately \$1.7 million that OES held after the final financial reconciliation to stewards.

I am requesting that the Authority consult on options to ensure that any surplus funds that OES does not need for program operations or wind up costs be used for the benefit of Ontario consumers; for example, through a consumer rebate program. This is consistent with the principle that the interests of consumers should be considered when dealing with program surpluses and deficits since consumers were charged fees when they purchased new electrical and electronic equipment.

It is my expectation that the Authority will report back to me by April 30, 2019.

Sincerely,

A handwritten signature in black ink, appearing to read "Rod Phillips", written over a circular scribble.

Rod Phillips  
Minister

c: Mr. Serge Imbrogno, Deputy Minister, Ministry of the Environment, Conservation and Parks  
Mr. Nick Aubry, Chair, Ontario Electronic Stewardship

**THIS IS EXHIBIT "E"  
TO THE AFFIDAVIT OF RICHARD WILLIAMS  
SWORN REMOTELY BEFORE ME  
THIS 31<sup>ST</sup> DAY OF MAY, 2021**

DocuSigned by:  
  
BF136400C72D4F9...

A commissioner for taking affidavits

Katherine Yurkovich  
LSO#80396R

Ministry of the Environment,  
Conservation and Parks

Ministère de l'Environnement,  
de la Protection de la nature et des  
Parcs

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Mr. Nick Aubry  
Chair  
Ontario Electronic Stewardship  
5750 Explorer Drive, Suite 301  
Mississauga, ON L4W 0A9

and

Ms. Glenda Gies  
Chair  
Resource Productivity and Recovery Authority  
4711 Yonge Street, Suite 408  
Toronto, ON M2N 6K8

Dear Mr. Aubry and Ms. Gies:

On April 30, 2019, the Resource Productivity and Recovery Authority (the Authority) provided me with a report on options to ensure that any surplus funds not needed by Ontario Electronic Stewardship (OES) for program operations or wind up expenses related to the waste diversion program for waste electrical and electronic equipment (WEEE) be used for the benefit of Ontario consumers. The report identifies a projected surplus of \$27.8 million if the program ceases operation on June 30, 2020 as per the direction issued to OES on February 8, 2018. The report summarizes the steps the Authority took to develop and consult on options and reports on stakeholder feedback and the preferred option. The report describes strong stakeholder support for addressing the projected surplus funds by extending the operation of the waste diversion program for WEEE for an additional six months.

As a result, and pursuant to section 14 of the Waste Diversion Transition Act, 2016, it is in the public interest that I amend the timelines set out in the direction letter to wind up the waste diversion program for WEEE issued to OES on February 8, 2018. I am directing that the waste diversion program for WEEE cease operation on December 31, 2020. It is still expected that OES will wind up its operations once the waste diversion program for WEEE has ceased operation.

As a result of extending the operation of the waste diversion program for WEEE, I expect the wind up plan will outline the steps needed to implement the preferred option of extending the existing fee elimination during the wind up period to benefit Ontario consumers and to substantially eliminate the amount of funds projected to be held by OES once the program has ceased operation.

The length of any fee elimination period will be determined in a manner that would provide for sufficient funds for the costs of operating the program during the wind up period, as well as costs incurred to wind up the waste diversion program for WEEE, and OES. The wind up plan shall also set out a proposal to deal with any residual funds after the fee elimination has concluded and OES has finished its final financial reconciliations for the program and organization wind up.

All other elements included in the direction to wind up the waste diversion program for WEEE on February 8, 2018 remain unchanged except as necessary to implement this direction.

It is my expectation that the implementation of the wind up plan shall begin on the date on which the Authority approves the wind up plan, which I anticipate will be no later than June 30, 2019.

It is expected that OES and the Authority will continue to engage with each other and work cooperatively on the implementation of the wind up directions and any associated policy directions issued to the Authority pursuant to section 29 of the Resource Recovery and Circular Economy Act, 2016.

Lastly, OES and the Authority shall post this wind up direction to their respective websites.

Sincerely,



Jeff Yurek  
Minister

c: Mr. Serge Imbrogno, Deputy Minister, Ministry of the Environment, Conservation and Parks

**THIS IS EXHIBIT "F"  
TO THE AFFIDAVIT OF RICHARD WILLIAMS  
SWORN BEFORE ME  
THIS 31<sup>ST</sup> DAY OF MAY, 2021**

DocuSigned by:

*Katherine Yurkovich*

BF136400C72D4F9...  
A commissioner for taking affidavits

Katherine Yurkovich  
LSO#80396R



August 20, 2019

Mr. Nick Aubry  
Chair, Ontario Electronic Stewardship  
5750 Explorer Drive, Suite 301  
Mississauga, ON L4W 0A9

Dear Mr. Aubry,

**RE: Approval of OES Wind-up Plan**

As directed by the then Minister of the Environment and Climate Change in correspondence dated February 8, 2018, Ontario Electronic Stewardship (OES) submitted a wind up plan for the diversion program for waste electrical and electronic equipment (WEEE) and for OES (the Wind Up Plan) to the Resource Productivity and Recovery Authority (the Authority) by December 31, 2018.

On March 7, 2019, the Authority posted the Wind Up Plan and, on March 21, began consultations with municipalities, stewards and other affected stakeholders. On April 2, the Minister of the Environment, Conservation and Parks (the Minister) requested that the Authority consult on surplus fund options that benefit consumers and report back by April 30. Consultations continued until April 25 to accommodate this request and the Authority reported to the Minister on April 30. On July 2, the Minister amended the wind up date to extend the waste diversion program for WEEE for six months and directed OES to revise the Wind Up Plan accordingly. OES submitted the revised Wind Up Plan to the Authority on July 25.

In addition to consulting on the Wind Up Plan, the Authority conducted an assessment of the Wind Up Plan to ensure it was consistent with the Minister's direction letters and in accordance with the *Waste Diversion Transition Act* (WDTA) and its regulations.

I am pleased to inform you that on August 16, 2019, the Authority's Board approved the OES Wind Up Plan with the following conditions:

1. The OES Wind-up Plan shall be updated by OES as required to address operational and implementation issues and as directed by Authority staff.



2. OES shall provide any information identified by Authority staff that is required to assist the Authority in performing its duties under the *Waste Diversion Transition Act, 2016*, pursuant to s. 31 of that Act.
3. OES shall arrange for an independent auditor, who is licensed or holds a certificate of authorization under the *Public Accounting Act, 2004*, to perform an audit satisfactory to the Authority to assess whether OES intellectual property and any other OES assets were fairly used by or transferred to EPRA.
4. OES shall develop and implement a detailed data management plan acceptable to Authority staff with the objective of ensuring data security and ensuring that data are solely used by OES for the purpose of implementing the approved Wind-up Plan. OES shall submit a draft plan to the Authority within 75 days of the Authority's approval of the OES Wind-up Plan.
5. Regarding OES compliance activities relating to service providers, OES is directed to:
  - a. Develop and implement a compliance guideline acceptable to Authority staff, to ensure consistency and transparency in OES compliance decision-making.
  - b. Submit to the Authority a copy of each rejection, default or suspension notice and the related written justification for the action within 5 business days of issuance.
  - c. Inform the Authority of any generator pairing request that is not accepted or approved within 45 days of the request being submitted to OES, including the details of the request and the status of the request assessment.
  - d. Provide the Authority with advance notice of scheduled site inspections, reviews, and audits.
6. OES shall provide clear and transparent communications to the public and affected stakeholders and collaborate closely with the Authority to coordinate communications to stakeholders relating to the WEEE Program wind-up, under the direction of the Wind-Up Manager.
7. Regarding OES's recommendation that remaining residual funds after program wind-up be transferred to the Authority to offset Registry-related expenses, OES shall cooperate with the Authority in consulting with stakeholders on additional details about the transfer and how the funds will be used.

In accordance with the WDTA, this approval will be published on the Authority's Registry. A report describing the consultation process and summarizing stakeholder comments received will also be posted on the Authority's Registry.



OES may communicate the Authority's decision to approve the Wind Up Plan with conditions only after the Authority publishes its decision. The Authority will work with OES to develop a co-ordinated communications strategy including the date on which OES may communicate the Authority's approval with conditions to stakeholders.

Finally, on behalf of the Authority, I would like to express my appreciation for the diligence and cooperation of the OES Board of Directors and staff in reaching this critical milestone. There is, of course, much work to be done in the months ahead, and the collaborative approach established between OES and the Authority will be key to successfully implementing the Wind Up Plan.

Sincerely,



Glenda Gies  
Chair, Resource Productivity and Recovery Authority



# OES Wind Up Plan

ONTARIO ELECTRONIC STEWARDSHIP DECEMBER 2018\*

\* ~~Financial Forecast~~ Updated ~~February~~July 2019

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### Appendices:

Appendix A: OES WUP CONSULTATION REPORT OES WIND UP PLAN ACRONYM LIST

B2B:	Business to Business
BOL:	Bill of Lading
COI:	Conflict of Interest
CRA:	Canada Revenue Agency
CRT:	Cathode Ray Tube
CVP:	Claims Verification Process

EDM: Environment Design Management  
Limited EEE: Electrical and Electronic Equipment  
EHF: Environmental Handling  
Fee EOLE: End-of-Life Electronics  
EPRA: Electronic Product Recycling  
Association ERS: Electronics Recycling Standard  
HST: Harmonized Sales Tax  
IC&I: Industrial, Commercial &  
Institutional IFO: Industry Funding Organization  
IT: Information Technology  
ITC: Input Tax Credit  
MECP: Ministry of Environment, Conservation and  
Parks MTS: Material Tracking System  
OES: Ontario Electronic  
Stewardship PIP: Processor Incentive  
Program  
PO: Purchase Order  
PRO: Producer Responsibility  
Organization RFP: Request for Proposal  
RPRA: Resource Productivity and Recovery  
Authority RQO: Recycler Qualification Office  
RRCEA: Resource Recovery and Circular Economy Act,  
2016 SQL: Standardized Query Language  
TTC: Toronto Transit Commission  
WDTA: Waste Diversion Transition Act, 2016  
WEEE: Waste Electrical and Electronic  
Equipment

# ONTARIO ELECTRONIC STEWARDSHIP WIND UP PLAN

## PROGRAM OVERVIEW AND WIND UP PROCESS

Ontario Electronic Stewardship (OES) is an Industry Funding Organization (IFO) designated to operate the waste diversion program for waste electrical and electronic equipment (WEEE) under the *Waste Diversion Transition Act, 2016* (WDTA).

Since its inception in 2009, the WEEE program has diverted over 67 million electronic devices or over 500,000 tonnes of waste electronics from Ontario landfills. The WEEE program promotes the re-use and refurbishment of waste electronics and ensures that the valuable resources found in waste electronics, that cannot be re-used, are processed and recycled in an environmentally responsible manner.

In 2016 the Ontario legislature passed the *Resource Recovery and Circular Economy Act, 2016 (RRCEA)* which creates a new legislative framework for managing waste in Ontario. Current waste diversion programs and related IFOs, such as Ontario Electronic Stewardship, will be wound up subject to provisions under the WDTA. Under the RRCEA, producers will be responsible for the implementation of new waste diversion programs that must meet recycling targets and objectives established under that Act.

Under the WDTA wind up process IFOs are required to develop wind up plans in accordance with specified statutory requirements once directed to do so by the Minister. Subsection 14 (13) of the WDTA requires IFOs to consult with stewards, municipalities and other stakeholders affected by termination of the program in developing wind up plans. IFOs submit wind up plans to the Resource Recovery and Productivity Authority (RPRA) which reviews and approves the plan if it is consistent with the Minister's direction and statutory requirements.

In February 2018, OES received direction from the former Minister of Environment and Climate Change to wind up the WEEE program by June 30, 2020. (~~Note: In~~ On July 2018 the Honourable Rod Phillips, Minister of Environment, Conservation and Parks (MECP), assumed responsibility for administering the RRCEA and WDTA statutes.)

OES's Ministerial wind up direction ~~requires~~ required OES to submit its wind-up plan to RPRA by December 31, 2018. Following submission of the OES wind-up plan to RPRA, Minister Phillips, on April 2, 2019, noted that OES surplus funds were substantially larger than what was identified in the December 2018 wind-up plan. The Minister issued instructions to RPRA to consult on options to ensure surplus funds would be used for the benefit of consumers and report back on that consultation by April 30, 2019.

On July 2, 2019, the Honourable Jeff Yurek, Minister of Environment, Conservation and Parks (appointed in June 2019), instructed OES to extend the operations of the OES program until December 31, 2020.

Ontario Electronic Stewardship Wind Up Plan 2018 (Updated February ~~July~~ 2019)

## Current Program Waste Materials

Current WEEE program materials are identified in regulations under the WDTA and set out in Schedules under the program plan approved by RPRA.

WEEE can be identified in four broad categories, display devices, including: TVs and monitors; desktop and laptop computers; printers and peripherals, including telephones, cell phones, faxes etc.; and floor standing printers and copiers. See Section 1.1 for a full list of designated program waste.

## Current OES Program Funding

Under the WDTA, businesses that bring electrical and electronic equipment (EEE) into Ontario or manufacture EEE for sale in Ontario are defined as stewards and are obligated to register with OES, report on the volume of material supplied into the Ontario market and pay related steward fees to OES. Steward fee revenues fund operations related to the management of the WEEE program. OES steward fees are set subject to program rules, supported by RPRA, and are established on a cost recovery basis for each waste electronic category.

Steward fees, commonly known as Environmental Handling Fees, or EHF, are generally collected from the purchaser of the EEE at point of sale. Current December 2018 EHF rates for various EEE materials are provided in Table 1 below:

<b>Table 1: Ontario EHF Fees</b>	
<b>Electronic Product</b>	<b>EHF Per Unit</b>
Display Devices (TV/Monitors) 46" or larger	\$28.00
Display Devices (TV/Monitors) 30" to 45"	\$12.00
Display Devices (TV/Monitors) 29" or smaller	\$7.00
Non-cellular Telephones and Answering Machines	\$1.50
Home Audio/Video Playback and Recording Systems/Components	\$2.50
Desktop Computers	\$1.40
Portable Computers	\$1.00
Desktop Printers/Multifunction Devices	\$2.50
Personal/Portable Audio/Video Playback and Recording Systems	\$0.75
Home Theatre in a Box (HTB) Systems	\$2.50
Vehicle Audio/Video Systems (Aftermarket)	\$2.50
Floor-Standing Multifunction Devices	\$25.00
Computer Peripherals	\$0.75
Cellular Devices	\$0.07

\* EHF's are subject to applicable sales tax

Under the program Ontario companies, known as remitters who may do the reporting and remitting on behalf of stewards, register with OES and pay related fees for product supplied into the Ontario market.

In 2017, registered stewards and remitters reported 27.5 million EEE units supplied into the Ontario market and paid a total of \$55.5 million to OES to fund operations. There are approximately 750 stewards currently registered in the WEEE program.

Under the WEEE program, stewards also have the option of self-managing (i.e. recycling) electronic waste. These stewards must meet legal obligations under the program but may be exempt from paying related steward fees as they run programs to recycle and manage their related WEEE materials.

OES conducts compliance activities to ensure that stewards and remitters are complying with program requirements and statutory obligations. This includes the identification and registration of potential stewards who are not registered under the program and the verification of reporting and payments from stewards and remitters that are registered under the program.

### **OES Service Providers and Program Delivery**

The OES program facilitates recycling of waste electronics through two general approaches: an allocation-based recycling model and a processor incentive-based model.

Under the allocation model, representing approximately 20% of WEEE recycling, OES pays direct collection incentives, pays and arranges for warehousing and transportation of WEEE materials to processors and allocates WEEE materials to processors selected through an RFP process. These processors are paid processing rates agreed to under contractual terms associated with the award of the RFP contract.

In addition to this recycling stream, OES also runs a Processor Incentive Program (PIP) under which processors recycle WEEE materials sourced from generators. Under this program, OES pays an incentive to processors that covers the collection, transportation and processing of the WEEE, and processors are responsible for the financial arrangements with generators and haulers with respect to the services those parties provide.

### **Allocation Based WEEE Recycling**

#### *WEEE Collection Sites:*

Under the allocation model, collectors are approved by OES to collect and sort WEEE for transport according to OES requirements. Collectors can be for-profit, not-for-profit organizations or municipalities which have entered into agreements with OES for the collection of designated materials.

Collectors can choose to collect all WEEE materials or a subset of WEEE materials. If collectors collect a subset of WEEE materials they cannot exclude any brands of such

products and collection operations must be accessible to the public. For example, a retailer that chooses to collect WEEE computers and cell phones must collect all brands from consumers (even brands it may not sell) to become an OES-approved

collector.

OES-approved collectors must utilize OES-approved transporters and are eligible for a collection incentive for every tonne of WEEE materials collected.

OES runs a number of programs, and provides a number of services, in relation to WEEE collection that assist various WEEE service providers in collecting and managing material in accordance with program guidelines. These include the following:

*Multi-Residential Collections:*

OES provides multi-residential collection to a number of municipal partners. This program involves providing community housing complexes as well as apartment and town house complexes with collection bin services. OES bins, the majority of which are rented by OES, are located in secure recycling rooms that only residents have access to. These sites are serviced at regular intervals either bi-weekly or monthly.

OES provides promotional support to these sites in the form of stickered and highly visible wheelie bins as well as some graphic design promotional material.

*Allocation Collections:*

OES has established an extensive collection network throughout the province since program inception. These permanent collectors consist of but are not limited to: municipalities, private businesses, government institutions, first nations groups, and not-for-profit organizations. Permanent collection sites have been established following one of two models:

- A: Large Bin Collections (utilizing sea containers and roll offs or front-end bins);
- B: Gaylord Collections (utilizing pallets, gaylords and shrink wrap).

Large bins, sea containers, roll offs, etc., are rented from various service providers. OES also provides collectors with promotional material and with pallets, gaylord boxes and shrink wrap necessary to facilitate the collection and transportation of WEEE in a safe and environmentally responsible manner. Some OES collection sites include WEEE drop off bins which are the property of, or are leased by, OES and which are provided to the collection site to facilitate WEEE collection. OES pays sites collection incentives on a monthly basis for any materials transported to, and received by, approved OES consolidation and re-packing facilities.

*Business-to-Business (B2B) Pick-ups:*

OES also facilitates B2B WEEE pick ups at no cost to businesses and residents in Ontario. Businesses and residents with a minimum volume of WEEE can contact the OES Customer Service department which will arrange for transportation to an authorized WEEE processor. These one-time B2B pickups are not eligible for collection incentives.

As of December 31, 2017, there were a total of 902 permanent OES approved collection sites of which 383 were municipal facilities. Approximately 95% of the Ontario population lives within 10 kilometres of a WEEE collection location.

#### *Collection Events:*

In addition to authorizing permanent collection sites, OES also approves collection events for businesses, community groups and not-for-profit organizations that wish to collect WEEE materials. As with permanent collectors, OES provides a collection incentive related to WEEE collected at special events along with promotional and packaging materials. In 2017 OES authorized 377 collection events and the WEEE tonnage collected accounted for approximately two percent of total WEEE collected.

These collection events not only collect product for recycling but also represent educational opportunities for which OES provides staff to promote electronics recycling with the public and help with actual WEEE collection (see Promotion and Education below).

#### **WEEE Transportation**

OES-approved transporters pick up WEEE from OES-approved collection sites and move it to OES-approved regional consolidation or repacking centres for initial sorting prior to transportation to WEEE processors. Repacking centres sort and palletize material collected in bulk containers into different WEEE categories for delivery to consolidators. Consolidators weigh and aggregate pallets of materials into larger shipments for transporting to OES-approved processors.

OES pays re-packers, consolidators and transporters operating under the allocation model on an order-by-order basis. It tracks WEEE shipments throughout the supply chain with a proprietary Materials Tracking System (MTS) software.

#### **Processing Under the Allocation Model**

In order to be approved as a WEEE processor under either the Allocation or Processor Incentive model, companies must first apply to the EPRA Recycler Qualification Office (RQO) for verification that they operate in compliance with a national Electronics Recycling Standard (ERS), published by the Electronic Products Stewardship Canada. The RQO audits prospective processors and related downstream partner companies to ensure they recycle WEEE materials in accordance with the ERS.

Once verified by the RQO as compliant with the Electronic Recycling Standard (ERS), prospective processors are eligible to become service providers to OES and operate under either the allocation model or the Processor Incentive Program.

Processors operating under OES allocation model are selected through an RFP process and are also eligible to participate in the Processor Incentive Program as well (see below). OES monitors WEEE product flows to successful RFP processors to ensure that WEEE volumes are consistent with RFP contractual terms.

## **Processor Incentive Program**

Under the WEEE Processor Incentive Program (PIP), OES does not directly contract with collectors or manage WEEE product flows directly. Rather, processors which have met OES eligibility requirements source WEEE from generators, arrange transportation and are paid processing incentives by OES based on the weight of WEEE processed in respect of the collection, transportation and processing. The processor enters into contracts with the generators and haulers which determines, among other things, how much of the incentive the processor will pass on to the generator and hauler.

### ***Processing under the PIP***

Under the PIP program, processors can contract directly with OES-approved generators for the supply and processing of WEEE materials. Generators must be registered and approved by OES and operate in accordance with program guidelines.

Processors submit invoices for incentives to OES, documenting the processing of WEEE materials in accordance with OES standards. Invoices for any particular WEEE shipment must be submitted within 90 days of the Material Tracking System (MTS) Bill of Lading generation for the pickup of the WEEE to be eligible for OES incentives.

### ***Generators and the Processor Incentive Program (PIP):***

OES's Process Incentive Program supports the collection of WEEE at generator sites. Generators are private sector, not-for-profit or government organizations that contract directly with an OES approved primary processor to handle residential and/or IC&I electronic waste. Generators must be approved by OES and meet the OES Generator operating standard in order to collect end of life electronics for eligibility in the OES program.

Generators operate under contracts with approved OES processors and any financial compensation regarding WEEE collection is a function of their contractual terms with processors.

### ***PIP WEEE Transportation:***

Under the PIP program, OES does not provide transportation or consolidation incentives directly to transporters, consolidators or re-packers. However, OES processors are eligible for a transportation incentive based on the distance the WEEE travelled from various collection sites to processing facilities. Transporter financial compensation for WEEE delivery is a function of contractual arrangements between processors and transporters.

## **Reuse and Refurbishment**

The OES program also includes a number of Reuse and Refurbishment (R&R) organizations which can be not-for-profit or for-profit organizations that handle EEE materials for reuse without repairing or modifying the hardware or repairing or redistributing parts or equipment.

Under the program, these organizations receive an incentive for reporting on EEE whole units (via monthly reports to OES) that are sold or donated for re-use. These WEEE materials must have a warranty associated with their resale. R&R organizations must meet site requirements established by OES and are eligible to collect incentives on WEEE materials transported to processors.

In 2017, a total of 28 R&R organizations representing 29 reuse and refurbishing sites participated in the WEEE program. These organizations processed 2,628 tonnes of WEEE materials for re-use (primarily display devices, computers and printers) which represented approximately 5% of total WEEE diversion tonnage in 2017.

### **Service Provider Compliance Activity**

As with stewards, OES conducts regular compliance and audit activities to ensure that various service providers conduct activity in accordance with program requirements.

OES may suspend or revoke authorizations for service providers if WEEE recycling activity is not conducted in accordance with program requirements.

### **Promotion and Education**

Promotion and Education is an important component of the OES WEEE program which informs consumers about the benefits of electronic waste recycling and builds awareness of program accessibility and the location of WEEE collection sites and events.

In 2017, OES promoted WEEE recycling through radio, print and transit (Go Train and TTC) advertising. OES also coordinated a number of OES sponsored WEEE recycling activities in conjunction with environmental events such as Earth Day and Waste Reduction Week. OES also raised awareness about electronics recycling through participation in community festivals and fairs, leveraging with the EPRA Recycle My Electronics Mobile Classroom, a customized shipping container which features videos and games designed to entertain and inform visitors about why they should recycle their old waste electronics.

In 2017, OES spent just under \$3 million related to promotional and educational activities with represented approximately 5.3% of the OES operating budget.

### **Program Performance**

In 2017, the OES WEEE program collected 52,712 tonnes of waste electronics materials from landfill. Since its inception the WEEE program has diverted over 500,000 tonnes of material.

Current trends in electronics manufacturing are significantly reducing the weight associated with display devices, computers and other electronic equipment. As such the tonnage of WEEE processed under the program is expected to decline in 2019

and ~~the first six months of~~ 2020.

<b>Table 2: 2017 WEEE Tonnage by Material Category</b>	
<b>Material Category &amp; Processing</b>	<b>2017 Collection (Tonnes)</b>
Display Devices	26,869
Computers	6,454
Printers and Peripherals	18,495
Floor-Standing	894
Total	52,712

### OES Operations and Administration

OES currently administers the WEEE program through an operating agreement with the Electronics Product Recycling Association (EPRA), an industry led not-for-profit organization that operates regulated electronics recycling programs across Canada. OES has no direct employees. Under the terms of its operating agreement with EPRA, is liable for certain employee severance payments in the event of program termination.

Historically, a number of members of the EPRA and OES governing boards were comprised of the same representatives as both organizations operate for the same electronics industry. In preparation for program wind up, a new OES Board was appointed in August 2018 so that there is no overlap between the EPRA and OES governing representatives.

### OES Financing Heading into Wind Up

As can be seen in Table 3 below, OES ~~is forecasting~~incurred total operating expenses of \$46.9 million in 2018. Of this, \$39.5 million or 84%, is related to material management or incentive payments provided to service providers.

**Table 3: OES 2017 – 2018 (Forecast) Financials (\$000s)**

<b>Revenue:</b>	<b>2017 Actual</b>	<b>2018 <del>Forecast</del>Actual*</b>
EEE Fee	\$55,544	<del>\$51,305</del>
Revenue EEE		<u>51,309</u>
Fee Refund Tax Refund		\$60,840
Interest	\$417	\$936
	\$55,961	<del>\$113,081</del> <u>\$113,084</u>
<b>Expenses:</b>		<u>3,084</u>
Processing	\$35,888	\$27,142
Handling	\$6,257	\$6,103

Transportation/Storage	\$7,340	\$6,236
<b>Direct Program Costs:</b>	\$49,485	\$39,481
<b>Other:</b>		
Promotion and Education	\$2,999	\$2,885
Administration	\$3,394	<del>\$3,148</del> <u>\$3,101</u>
Wind-up Fees		<del>\$100</del> <u>\$150</u>
RPRF Fees	\$878	\$1,256
<b>Indirect Costs:</b>	\$7,271	<del>\$7,389</del> <u>\$7,392</u>
<b>Total Costs:</b>	\$56,756	<del>\$46,870</del> <u>\$46,874</u>
<b>Surplus/(Deficit)</b>	<u>-\$795</u>	<del>\$66,211</del> <u>\$66,210</u>
<b>Tonnage (metric tonnes)</b>	<b>52,712</b>	<del>47,097</del> <u>47,711</u>
<b>Closing Reserve</b>	<b>\$43,603</b>	<del>\$109,814</del> <u>\$109,813</u>

\* Updated ~~February~~ July 2019

During 2018, OES's net asset position ~~will increase~~ increased from \$43.6 million as of December 31, 2017 to ~~a projected~~ \$109.8 million as of December 31, 2018. This increase in OES's net asset position is due to a recent Tax Court ruling, Stewardship Ontario versus the Queen, 2018 TCC59.

Ontario Electronic Stewardship, like Stewardship Ontario, provides a service to stewards in managing the waste recycling program that the stewards are legally obligated to provide in Ontario.

In managing the program, OES collects and remits HST on the fees charged to the stewards.

In the early years of the program, the CRA ruled that the Ontario stewardship entities, including OES, were not allowed to claim Input Tax Credits (ITCs) for the HST they paid to third parties in operating the recycling programs. Stewardship Ontario and OES filed appeals with the Tax Court of Canada to challenge this ruling.

In April 2018, the Tax Court of Canada overturned the ruling for Stewardship Ontario. In June 2018, the CRA and Tax Court of Canada consented to overturn the ruling for OES, meaning ITCs are thereby allowed for the HST which had been paid to the third parties. As a result, OES received refunds for the previously denied ITCs, and is permitted to continue to claim ITCs on a go forward basis.

This favourable outcome means that OES will, by February 2019, have sufficient **Ontario Electronic Stewardship Wind Up Plan 2018 (Updated ~~February~~ July 2019)**

reserves from previous steward fees to fully offset the fees chargeable to the stewards to manage the program.

The ability of OES to begin to properly claim ITCs following the Tax Court ruling in May 2018 also affected OES's 2018 budget by shifting it from a deficit position to a projected operating surplus.

The CRA refund as a result of ITC credits received is \$60.8M as of February 12, 2019 which will accrue to the 2018 OES operating budget.

## **SECTION 1: OPERATING PLAN**

### **1.1 A. Operating Plan Overview**

As per Ministerial direction, OES will run the WEEE program subject to changes identified below until ~~June 30~~December 31, 2020.

OES net assets permit the implementation of an EEE fee reduction to zero, as per Ministerial direction, for implementation February 1, 2019 and OES forecasts having some surplus funds remaining in the program following the resolution of all financial obligations after program termination. (See Proposed Wind Up Plan Budget and Steward Fees and Program Funding below for more details).

With respect to program operations, OES is not proposing any changes to WEEE material definitions during program wind up. OES is also not proposing any changes to service provider incentive rates during wind up. In the view of OES, a business as usual approach to current material management and incentives will ensure that program performance is maintained and, as per Ministerial direction, there are no disruptions to the existing program during the wind up period.

OES as a corporate entity will continue to function beyond ~~June 30~~December 31, 2020 to process claims from service provider partners, dispose of any remaining net assets and resolve final financial arrangements with stewards. Following the reconciliation of OES steward and service provider accounts, OES proposes to appoint a liquidator post- program termination to dispose of any remaining assets and coordinate the steps necessary for corporate dissolution. ~~As noted below, anticipated~~The RPRA Registrar has confirmed that OES may transfer residual ~~surplus~~ funds ~~left with OES following the disposition of all assets and resolution of all financial obligations~~to RPRA to offset RRCEA Registry-related expenses. ~~Accordingly, OES will be distributed to stewards per the WDTA and the program agreement~~transfer the residual funds remaining in OES after wind up activities are completed to RPRA.

OES anticipates that it will need approximately nine months following program termination to complete operational wind up activities and complete financial arrangements. ~~Costs that may be incurred in 2021, such as a final financial audit, are accrued into and reflected in the 2020 budget.~~

While EEE product trends will reduce the weight of WEEE materials available for collection in 2019 and 2020, the changes OES is proposing in this Wind Up Plan (WUP) will ensure that current program performance on awareness and accessibility is maintained and that the WEEE program operates without disruption for both stakeholders and consumers until ~~June 30~~December 31, 2020. Tonnage is expected to decline consistent with the light-weighting of electronics products that has been and will continue to occur in the industry. In the view of OES, this Wind Up Plan is consistent with Ministerial directions including the requirement to support competition in, and not adversely impact, the current marketplace for recycling WEEE in Ontario.

Key Wind Up Plan elements include the following:

### ***OES Wind Up Budget Summary***

Given OES's projected net asset position as of December 31, 2018, OES worked in conjunction with RPRA to take steps to implement an EEE fee reduction to zero for February 1, 2019. Notice to stewards regarding OES's intention to implement a fee reduction to zero was provided by OES on November 23, 2018 in order for stewards to prepare their internal IT systems accordingly. This fee reduction was reviewed and supported by RPRA Board and OES provided formal notification of the EEE fee reduction to stewards on December 3, 2018. The following OES wind up budgetary forecasts are based on the implementation of an EEE fee reduction to zero for February 1, 2019.

As per Ministerial direction regarding wind up, the EEE fee change will reduce OES surplus funds that remain following program termination.

As can be seen from Table 4 below, preliminary OES budgetary forecasts indicate that OES is currently projecting program ~~surplus~~residual funds of approximately \$~~33.83.1~~ million following the resolution of outstanding financial obligations after the program termination date of ~~June 30~~December 31, 2020. ~~As per the current statutory requirements under the WDTA and the approved program agreement, any surplus~~The RPRA Registrar has confirmed that OES may transfer residual funds to RPRA to offset RRCEA Registry-related expenses. Accordingly, OES will transfer the residual funds remaining ~~at the end of program~~in OES after wind up ~~will be disbursed~~activities are completed to ~~stewards~~RPRA.

It should be noted that these initial forecasts are subject to financial contingencies, such as fluctuations in WEEE supply, that may occur between now and program termination. In the unlikely event that OES requires more funds than planned prior to program termination, it will reserve the right, despite the implementation of the EEE reduction to \$0 in February 2019, to adjust the EEE fee to a higher \$ amount to fund any financial shortfalls that may occur prior to program termination.

Table 4: OES Wind Up Financial Forecast 2018 – ~~2020~~2021\*

**Revenue:** ~~2018 Forecast~~ ~~Budget~~ ~~Budget~~

<b>Revenue:</b>	<b>2018 Actual</b>	<b>2019 Budget</b>	<b>2020 Budget</b>	<b>2021 Budget</b>
EEE Fee Revenue	<del>\$51,305</del> \$51,309	\$3,327	0	<u>0</u>
EHF Fee Refund		<del>-\$2,300</del> -\$500		
Tax Refund	\$60,840			
Interest	\$936	\$545	\$250	<u>\$0</u>
	<del>\$113,081</del> \$113,084	<del>\$1,572</del> \$3,372	\$250	<u>\$0</u>
<b>Expenses:</b>				
Processing	\$27,142	<del>\$26,328</del> \$26,013	<del>\$12,835</del> \$26,013	<u>\$0</u>
Handling	\$6,103	<del>\$6,393</del> \$6,231	<del>\$3,366</del> \$5,795	<u>\$0</u>
Transportation/Storage	\$6,236	<del>\$6,533</del> \$6,419	<del>\$3,440</del> \$6,419	<u>\$0</u>
<b>Direct Program Costs:</b>	\$39,481	<del>\$39,254</del> \$38,663	<del>\$19,640</del> \$38,227	<u>\$0</u>
<b>Other:</b>				
Promotion and Education	\$2,885	\$2,860	<del>\$1,000</del> \$1,800	<u>\$0</u>
Administration	<del>\$3,148</del> \$3,101	\$3,370	<del>\$2,485</del> \$3,370	<u>\$0</u>
Wind-up Fees	<del>\$100</del> \$150	<del>\$2,400</del> \$1,700	<del>\$2,900</del> \$1,700	<u>\$1,520</u>
RPRA Fees	\$1,256	<del>\$2,600</del> \$1,800	\$2,100	<del>\$1,300</del> \$750
<b>Indirect Costs:</b>	<del>\$7,389</del> \$7,392	<del>\$11,230</del> \$9,730	<del>\$7,685</del> \$8,970	<u>\$2,270</u>
<b>Total Costs:</b>	<del>\$46,870</del> \$46,874	<del>\$50,484</del> \$48,393	<del>\$27,325</del> \$47,197	<u>\$2,270</u>
<b>Surplus/(Deficit)</b>	<del>\$66,211</del> \$66,210	<del>-\$48,912</del> (\$45,021)	<del>-\$27,075</del> (\$46,947)	<u>(\$2,270)</u>
<b>Tonnage (metric tonnes)</b>	<del>47,097</del> 47,711	45,684	<del>22,271</del> 43,857	<u>0</u>
<b>Closing Reserve</b>	<del>\$109,814</del> \$109,813	<del>\$60,902</del> \$64,792	<del>\$33,827</del> \$11,607	<u>\$3,099</u>
<b>Drawdown on Reserve for HST</b>		<b>(\$6,238)</b>	<b>(\$6,238)</b>	<b>\$0</b>
<b>Closing Reserve</b>		<b>\$58,554</b>	<b>\$5,369</b>	<b>\$3,099</b>

\* Updated February/July 2019

**Steward Fees and Supply Reports**

As noted above, OES has announced the reduction of EEE steward fees to zero for implementation on February 1, 2019. This fee reduction to zero will be the same for all program materials. Despite the EEE fee reduction to zero, OES stewards will remain obligated to report on EEE supply into the Ontario market until ~~June 30~~December 31, 2020.

OES will finance operations during this period from existing reserve funds.

All stewards will be required to submit supply reports and pay existing EEE fees for January 2019 by February 28, 2019. Stewards will be permitted to submit adjustments or corrections to these reports until April 30<sup>th</sup>, 2019

These reporting deadlines will apply to all stewards including those who are approved to report on a quarterly or annual basis. After submitting their January supply report and paying related fees, stewards that submit on a quarterly basis will revert to the submission of supply reports on a quarterly basis until program termination. Stewards that normally submit supply reports on a quarterly or annual basis will also submit a January 2019 report no later than February 28<sup>th</sup>, 2019. All stewards will continue reporting market units supplied following their normal monthly, quarterly or annual schedule for ~~February 2019 and 2020~~ sales through to ~~June 30<sup>th</sup>~~December 31, 2020~~-sales~~. ~~Following~~For example, following program termination on ~~June 30~~December 31, 2020, stewards that normally submit annual supply reports will submit a ~~6~~12-month supply report covering the period from January 1, 2020 to ~~June 30~~December 31, 2020.

The reduction of steward fees prior to program termination will allow OES to resolve most steward account and outstanding payments during the wind up period and in advance of the ~~June 30~~December 31, 2020 program termination date.

Stewards, however, will continue to be required to submit EEE supply reports to OES throughout the wind up period (despite the reduction of steward fees to zero in relation to these reports). Final steward reports for the month ending ~~June 30~~December 31, 2020 will be due to OES by ~~July 31~~February 1, ~~2020~~2021 (this applies to all stewards whether they normally report on a monthly, quarterly or annual basis) with correction or adjustments to final steward reports due to OES no later than ~~September~~March 15, ~~2020~~2021.<sup>1</sup>

The continuation of steward supply reports is essential for OES to monitor program

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<sup>1</sup> Note: Stewards can currently link to OES's registration page and file reports through the Recycle My Electronics website, recyclemyelectronics.ca, which OES uses to promote WEEE recycling through an agreement with EPRA. OES proposes to continue to utilize the Recycle My Electronics website to promote electronics recycling including steward registration and reporting links until the program termination date of ~~June 30~~December 31, 2020. Following the program termination date, the steward links for remaining electronic report filing will be transferred to the ontarioelectronicstewardship.ca website. [OES owns the rights to a dormant website recycleyourelectronics.ca which has no content and has not been functional for 3 years. OES is proposing to transfer recycleyourelectronics.ca ownership to RPRA following program termination.](#) See Schedule A for more details with respect to the details of the proposed transition of steward registration and reporting links.  
**Ontario Electronic Stewardship Wind Up Plan 2018 (Updated February**July 2019)

performance and conduct period and final program cost allocations associated with the

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program. As such, current OES-steward and remitter service agreements will remain in place for the duration of the WEEE program. OES will provide formal notice of the timing of the termination of these agreements to stewards following approval of the Wind Up Plan by RPRA.

Once OES has resolved all financial program obligations following program termination, any remaining surplus residual OES funds, ~~as per RPRA Wind Up Guide instructions and statutory requirements, will be distributed to OES stewards in accordance with a methodology supported by~~ will be transferred to RPRA. The RPRA Registrar has confirmed that OES may transfer residual funds to RPRA to offset RRCEA Registry-related expenses. Accordingly, OES will transfer the residual funds remaining in OES after wind up activities are completed to RPRA.<sup>2</sup>

### ***Service Provider Contracts, Incentives and Payments***

OES is not proposing any changes to current WEEE related collection, transportation and processing incentive rates prior to or during the wind up period.

During the wind up period (Wind Up Plan approval date to ~~June~~December 2020), OES is proposing that it maintain existing service provider contracts related to the collection, transportation or processing of WEEE materials. OES will monitor applications for additional service providers during this period in light of maintaining current program performance and streamlining program wind up.

OES operates a Claims Verification Process (CVP) to support the integrity of the service provider reporting process. ~~In~~Beginning in the ~~first~~third quarter of 2020, processor mass balancing reports will be moved from a quarterly to a monthly basis to facilitate wind up and expedite OES payments in the final six months of program operations. OES will also continue with its regular compliance review activities during the wind up period and conduct additional onsite processor visits to validate inputs and outputs related to processor reports. OES will conduct additional reviews on claims outside of normal patterns to ensure validity of claims and expedite the reconciliation process.

Consumer collection sites will maintain program access throughout the wind up period and OES will coordinate the collection of any OES collection materials previously provided to OES collection partners in a manner which does not adversely impact consumer access to WEEE disposal sites prior to ~~June 30~~December 31,

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<sup>2</sup>~~The methodology used by OES to determine any surplus funds disbursements to individual stewards will be reviewed and supported by RPRA as part of the wind up process.~~  
 Ontario Electronic Stewardship Wind Up Plan 2018 (Updated FebruaryJuly 2019)

2020.

OES will begin working with collectors and generators, both of whom operate collection sites, in ~~January~~July 2020 in preparation for program shut down. Collected WEEE will only be eligible for program incentives if the WEEE is dropped off at a collection site by ~~June 30~~December 31, 2020 and the related MTS Bill of Lading (BOL) for pick up and transportation of these materials is created and submitted to OES by end of day, ~~June 30<sup>th</sup>~~December 31, 2020.

As of ~~July~~January 1<sup>st</sup>, ~~2020~~2021, collectors and generators will not be able to add new volume to the OES Material Tracking System and no new BOL submissions will be accepted.

Collector and generator BOL submissions must be made by ~~June 30~~December 31, 2020 with arrangement for pickup of such materials arranged no later than ~~July 10~~January 15, ~~2020~~2021.

Collector claims for incentives on WEEE materials collected prior to ~~June 30~~December 31, 2020 must be submitted to OES no later than ~~July 31~~March 1, ~~2020~~2021.

OES will provide carriers with notice of program wind up consistent with contractual terms. OES will also coordinate the wind up of WEEE collection activities with existing processors.

Following program termination, Re-use and Refurbisher service providers will have until ~~July 10~~January 15, ~~2020~~2021 to submit reports to OES on R&R activities completed prior to ~~June 30~~December 31, 2020. After ~~July 10<sup>th</sup>~~January 15, ~~2020~~2021, the MTS system will no longer be available for R&R reports.

Following program termination, processors will have until ~~August~~February 15, ~~2020~~2021 to submit claims to OES for the MTS BOL's completed and submitted by ~~June 30<sup>th</sup>~~December 31, 2020 end of day and with corresponding pickups completed by ~~July 10<sup>th</sup>~~January 15, ~~2020~~2021. BOL's dated later than ~~June 30<sup>th</sup>~~December 31, 2020, will not be eligible for reimbursement. Mass balancing reports are to be completed and submitted to OES by ~~September~~March 15, ~~2020~~2021.

OES will increase the audits of processors during the last six months of the program to ensure claims are entered correctly, are valid and that processors continue to function in accordance with program requirements. OES will work closely with processors to ensure that any additional or expedited audit or verification procedures required by OES to facilitate program wind up are implemented efficiently and in a manner that is reasonable for both processors and OES.

Onsite inspections and wind up audits will occur during ~~July~~January through ~~September 2020~~March 2021. Material collected under the OES program will be properly dismantled and not stock piled, on-hand inventories will be managed in

accordance with the ERS Standard and OES program requirements. Final collector, processor and other service provider payments will be consistent with contractual terms.

Where WEEE collection partners have OES-branded promotional materials and excess OES collection supplies such as bins, gaylord boxes, pallets and shrink wrap at program termination, these materials will be collected during final program pickups. OES will track packaging material supply inventories on an ongoing basis throughout the wind up period and will work to minimize on-hand OES packaging supplies at the point of program termination. Following program termination, OES leased bins will be returned to service providers and OES owned bins and packaging supplies which are re-usable will be disposed of in conjunction with other assets (Note: OES is not anticipating that these assets will generate significant revenues (see Wind Up Plan Section 5 for preliminary estimates)). OES recovered packaging supplies which are not suitable for resale will be recycled.

All service providers will be given a minimum of 6 months of notice of contract terminations. Currently OES anticipates providing notice of contractual termination to service providers in relation to wind up by ~~September 30~~ January 31, 2019 2020. OES will also provide adequate notice to service providers that do not have signed service contracts with OES regarding impending program termination (i.e. transporters that are paid on an order by order basis).

### ***Transition of OES's Material Tracking System***

OES currently tracks WEEE materials through various service providers to intended recycling outcomes through the use of a proprietary software Material Tracking System (MTS) specifically designed to track WEEE in accordance with OES regulatory requirements. The MTS system helps OES maintain integrity in the WEEE recycling marketplace and ensure that materials are recycled in accordance with acceptable environmental standards and program objectives and requirements.

As part of its Wind Up Plan, OES is proposing that the MTS system be made available to stakeholders as free software, including potential service providers and RRCEA stewards, as of ~~January~~ July 1, 2020. While the MTS system is specifically designed for operation in the OES regulatory environment, making it available may assist future WEEE organizations in establishing their own tracking and reporting systems under the RRCEA framework. Making the MTS system broadly available also ensures that individual stakeholders are not receiving preferential treatment as WEEE recycling transitions to the new legislative framework.

OES will conduct information sessions with stakeholders, if necessary, to facilitate the transition of the Material Tracking System. A copy of the MTS system software will be provided to RPRA following program termination for potential release to stakeholders for whatever period of time RPRA determines is helpful with respect to continued WEEE recycling.

### ***Data Management***

As part of the wind up process, OES is required to transfer data that relates to the operation of the waste diversion program to RPRA. RPRA will be responsible for administering WEEE recycling programs under the RRCEA legislative framework.

Under Section 70 of the WDTA and Section 57 of the RRCEA, RPRA is required to treat information in its possession as confidential unless that information is required to be made public under the statutes. OES will identify any confidential or commercially sensitive data transferred to RPRA and take measures to ensure that data is supplied in confidence.

All steward and service provider data in OES's possession will eventually be destroyed following transfer of data to RPRA and resolution of final OES financial and corporate obligations (see WUP Section 9 for more detail).

Throughout the wind up process, OES will treat all stakeholder information in its possession as commercially confidential and maintain measures to ensure data security. Data will be transferred to RPRA at RPRA's request and RPRA is bound by confidentiality guidelines as well regarding safeguarding of data.

### ***OES Operations and Administration***

A new governing OES Board was appointed in August 2018 to develop and manage the OES wind up process and plan. The Board will monitor and assess OES fiscal and program performance throughout the wind up period to ensure that operations and outcomes are consistent with WUP schedules and objectives. It will work closely with RPRA to address any financial or program contingencies that may occur during the WUP period.

Upon RPRA approval of the OES Wind Up Plan, EPRA, which functions as OES's administrative service provider, will separate OES related operations and staff from those of EPRA's other operations to minimize overlap between OES personnel and functions with other EPRA activities during the wind up period (See WUP Section 13 for more details on Board and OES conflict of interest measures).

As noted earlier, the OES Board also proposes to appoint a liquidator, subject to RPRA approval, following program termination to dispose of any remaining OES assets and take the final steps necessary to dissolve OES as a corporate entity.

Winding down OES operations will require a termination of OES's operating agreement with EPRA. As noted earlier, OES administers the WEEE program through a service agreement with EPRA and does not have any direct employees.

As EPRA services are utilized by OES to process service provider and steward transactions, OES will manage the end of its EPRA service agreement to coincide with resolution of final program obligations with respect to both stewards and service providers. OES contractual closure with EPRA will likely occur approximately six to nine months following program termination after which the liquidator appointed by OES will

assume responsibility for remaining OES operations.

OES will not incur any financial penalties for termination of its service contract with EPRA. Under the terms of the contract it has financial liability for severance costs associated with any EPRA employees that are laid off as a result of WEEE program termination. Potential contract termination costs, including severance, are covered in the wind up costs allowed for in the wind up budget.

OES physical assets are relatively minimal and include a few collection bins and an appliance which will have a net book value of less than \$~~2000~~500 as of the program termination date. The OES appointed liquidator will assume responsibility for disposition of these assets in accordance with this Plan. OES does not anticipate that revenues related to asset disposition will be significant.

### ***Stakeholder Communications***

The attached Wind Up Plan includes a comprehensive communications strategy that will ensure that all stewards, stakeholders and service providers receive ongoing communications related OES wind up activities and related dates. OES may allocate additional staffing to Field Operations in an effort to ensure all stakeholders receive notification of OES wind up and understand the impacts of the program wind up. Targeted stakeholder groups will include both the service providers that OES partners with directly and the secondary service providers that participate in the WEEE program indirectly through service arrangements with direct OES partners.

All affected stakeholders will be notified of RPRA approval of the Wind Up Plan and impending changes by July 2019 or earlier depending upon the timing of RPRA WUP approval process.

All OES contractual arrangements will be provided with notice of contractual termination in advance of, or consistent with, the timing of specified contractual terms. As noted above, OES anticipates providing contracted partners with notice of contract termination dates by ~~September 30~~January 31, 2019~~2020~~.

In the early fall of 2020, OES will increase communications outreach with service provider entities including generators, municipalities, and not-for-profit organizations participating in the collection of WEEE materials.

During the development of this Wind Up Plan, OES also conducted consultation with stewards, municipalities, service providers and other affected stakeholders. A summary of the OES consultation process and how it responded to stakeholder feedback in the development of this plan is attached as Appendix A.

### ***Designated Waste Covered Under the Wind Up Plan***

Desktop	Computers	Portable
Computers Display Devices		
Desktop Printers, Scanners, Fax Machines and Multifunctional		

Devices Floor Standing Printers, Copiers and Multifunction Devices

Computer Peripherals

Personal/Portable Audio/Video playback and/or Recording Systems

Home Audio/Video Playback and/or Recording Systems

Home Theatre in a Box Vehicle Audio and Video, Navigation Systems and Recessed Wall and Ceiling Speakers

Non-Cellular Telephones and Answering Machines

Cellular Devices and Pagers

OES is not proposing any changes to the content of designated Waste Electronics and Electrical Equipment prior to or during the wind up period. The current list of designated waste has been in place since program inception in 2009.

### Summary of Operational Timelines

Table 5: Summary of OES Operational Timelines	
Date	OES Wind Up Action
December 31, 2018	OES submission of WUP due to RPRA.
February 1, 2019	Reduction of steward EEE fees to zero.
February 28, 2019	Steward deadline for submission of January 2019 supply report and payment of related steward fees. (Note deadline applies to all stewards including those which normally report on a quarterly or annual basis.)
April 30, 2019	Deadline for stewards to submit any reporting revisions re previous reports which required fee payments and pay any associated fees owing (or submit request for OES fee adjustment).
April 1, 2019	OES 2018 Annual Report due to RPRA.
June 30 <sup>th</sup> , 2019	RPRA Windup Plan Approval Due Date.
<del>July</del> <u>August</u> 2019 (or earlier dependent upon RPRA approval process)	OES notification to stewards, service providers and other stakeholders of Wind Up Plan approval.
<del>September 30, 2019</del> <u>January 31, 2020</u>	OES notice to stakeholders of pending contractual terminations.
<del>November-December 2019</del> <u>May-June 2020</u>	OES Information Sessions re: Availability of MTS software and impending release.
<del>January</del> <u>July</u> 2020	Communication reminder to all stewards regarding the final reporting and remitting period being <del>June, December</del> <u>July 2020</u> and for six-month R&R reporting ending <del>June 30, 2020</del> <u>January 2021</u> .
<del>January</del> <u>July</u> 2020	Release of OES MTS software to stakeholders.
<del>January</del> <u>July</u> 2020	Communication reminder to all service

	providers and affected stakeholders of impending program termination date.
April 1, 2020	OES 2019 Annual Report due to RPRA.
<del>June 30<sup>th</sup></del> <u>December 31</u> , 2020	Program Termination Date: Final date for which OES will accept: - Final date for collectors and generators to submit MTS bill of lading (BOL) submissions and arrange WEEE pickup.
<del>July 10, 2020</del> <u>January 15, 2021</u>	Final date for transporters to pick up WEEE at collector and generator sites for MTS BOL dated <del>June 30<sup>th</sup></del> <u>December 31</u> , 2020 and earlier.
<del>July 10, 2020</del> <u>January 15, 2021</u>	Final date for submission of R&R reports to OES.
<del>July 31, 2020</del> <u>February 1, 2021</u>	<del>OS</del> Collector cut-off date for submission of final OES collection claims.
<del>August 15, 2020</del> <u>February 15, 2021</u>	Processor Cut-off date: Date by which processors must have processed any WEEE material collected prior to <del>June 30</del> <u>December 31</u> , 2020 and submitting final PI claims.
<del>September 15, 2020</del> <u>March 15, 2021</u>	Deadline for completion of processor mass balancing reports. Deadline for Stewards to submit any final supply report corrections or adjustments.
TBD	Final date for OES transfer of MTS software to eligible stakeholders and transfer to RPRA.
<del>September 30<sup>th</sup>, 2020</del> <u>March 31, 2021</u>	\$5K holdback returned to processors meeting final mass balancing reporting requirements.
TBD – Target <del>Oct</del> <u>April</u> - <del>Nov 2020</del> <u>May 2021</u>	Appointment of OES liquidator (subject to RPRA approval).
<del>TBD</del>	<del>Disbursements to stewards if surplus funds remaining.</del>
TBD	Termination of OES-EPRA Service Agreement.
TBD	Dissolution of OES as a corporation.
April 1, 2021	OES 2020 Annual Report due to RPRA.
<del>April</del> <u>TBD – target October</u> 2021	Submission of Final Wind Up Report to RPRA and Minister.
<u>TBD – by April 2022</u>	<u>OES 2021 Annual Report due to RPRA.</u>

### 1.1 B Reporting Obligations During Wind Up

Prior to and during the wind up period OES will continue to fulfill its reporting obligations under the WDTA:

Consistent with the WDTA, OES will provide the following reports to RPRA by the following dates:

- Annual report for 2018 by April 1, 2019
- Annual report for 2019 by April 1, 2020
- Annual report for 2020 by April 1, 2021
- Annual report for 2021 by April 1, 2022

OES also proposed to submit the final Program Wind Up Report by ~~April 30<sup>th</sup>~~ October, 2021 to RPRA and Ministry of Environment, Conservation and Parks.

Consistent with Ministerial direction, OES is also providing quarterly financial reports to RPRA.

## 1.2 Steward Rules During Wind Up

Steward rules will be amended to facilitate certain wind up

activities. These will include amendments to enable the following

changes:

- Update steward rules to permit an EHF change effective February 1, 2019.
- Implement shorter time frames for certain reporting obligations given the ~~mid-year~~ wind up ~~date of June 30<sup>th</sup>, 2020~~ the program.

## 1.3 Targets and Performance

### *Program Accessibility*

Since the WEEE program began, OES has diverted 507,619 metric tonnes of end-of-life electronics (EOLE) from landfill to help the environment. As noted above, WEEE collection is facilitated by both OES approved collection sites, including municipal, not-for-profit organizations and retailers and OES-approved generator sites (which are often open to the public).

In 2017 the number of Ontarians living within the catchment area of WEEE collection/generator sites was the following:<sup>32</sup>

- Total accessibility within 10 kms – 96.9%;
- Total accessibility with 25kms – 99.7%
- Total accessibility within 50kms – 99.8%

OES will continue to post all public collection sites on its website throughout the wind

<sup>32</sup> OES commissioned Environmental Design and Management Limited (EDM) in 2017 to measure the program's accessibility.

up period and direct residents to their nearest collection site based on postal code. In addition, OES will continue to implement marketing and promotional activities that facilitate consumer awareness of WEEE drop off locations.

OES will monitor collection site activity throughout the wind up period to ensure program accessibility is maintained. If select collection sites voluntarily exit the program during the wind up period, OES will look to contract other service partners in any affected areas so that service is not interrupted. OES will continue to recommend the nearest existing collection sites to any resident or business that contacts the customer service group. If the material to be collected meets the requirements of the B2B program OES will arrange for an on-site pick up.

### ***Tonnage and Light Weighting***

It should be noted that trends in EEE manufacturing are driving reduced tonnages with respect to WEEE recycling throughout Canada. As can be seen in Table 6 below, the tonnage of collected WEEE in the last five years has dropped by over a third since 2013. Laptops, as an example, are 50% lighter than 5 years ago.

<b>Table 6: OES WEEE Tonnage 2013 – 2018</b>		
<b>Year</b>	<b>WEEE Collection Tonnage</b>	<b>YOY Decrease due to Light Weighting</b>
2013	76,764	
2014	71,018	- 7%
2015	67,115	- 5%
2016	60,139	- 10%
2017	52,712	- 12%
2018 (Forecast)	47,097	- 11%

OES anticipates that collected WEEE tonnages will decline in 2019 and 2020 but that the current rate of tonnage decline will lessen in comparison to the previous five years as the heavy CRT televisions and monitors are becoming less and less prevalent in the returns of display devices.

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### ***Consumer Program Awareness***

OES conducts polling on an annual basis to assess consumer awareness of the WEEE recycling program. In 2018, 69% of the adult Ontario population reported being aware of waste electronic recycling, a 3% improvement over 2017.

OES will continue to monitor consumer awareness in 2019 to support ongoing consumer awareness of WEEE recycling throughout the wind up period.

OES utilizes the EPRA Recycle My Electronics logo, branding, campaigns and marketing collateral in order to increase the awareness and participation in Ontario at an affordable cost. This has proven an effective strategy for OES as the awareness has increased from 66% in 2017 to 69% in the 2018 survey results.

The recyclemyelectronics.ca website provides consumers and businesses with information about the OES program, what types of electronics can be recycled and allows them to search for the closest waste electronic collections sites. OES proposes to continue to utilize the recyclemyelectronics.ca website and related marketing activities to promote consumer awareness of the program throughout the wind up period. Following the program termination date use of the recyclemyelectronics.ca website and marketing materials would revert to EPRA.

OES's ontarioelectronicstewardship.ca website is and will continue to be the primary source of information about OES wind up activities for stakeholders and the recyclemyelectronics.ca will include links to that information for stakeholders interested in the details of how the OES program is being wound up.

#### 1.4 Education Programs

Promotion and education are crucial components of the OES WEEE Program. OES P&E activities inform Ontario residents on the importance of safely and securely recycling their end-of-life electronics while also providing information on safe and convenient drop-off locations.

A number of EPRA/Recycle My Electronics campaigns are utilized by OES to raise awareness and ask the Ontario audience to consider the future for their own, local, natural environment, along with the behaviour of the devices they use today. These include:

- **Education Learning Hub:** The EPRA Learning Hub is utilized by OES to provide students, youth groups, educators and parents with engaging content that helps them learn about the importance of electronics recycling.
- **My Electronics Mobile Classroom:** The successful launch of the EPRA Recycle My Electronics Mobile Classroom was utilized by OES to raise awareness in a self-contained, hands-on environment. This Mobile Classroom, made from a customized shipping container, features videos and games designed to both educate and entertain visitors about why they should recycle their old, unused electronics. As well as being a mobile information centre, the container serves as a collection bin for visitors to drop off their end-of-electronics on the spot. The Mobile Classroom was set up on location at festivals and fall fairs with on-site event staff present to interact with the public and spread the word about the importance of recycling

end-of-life electronics

- The operation of a Trade Show Booth for industry association and waste management events;
- Participation with service providers in promotion of WEEE recycling and collection at environment events such as Earth Day and Waste Reduction Week. OES expanded on its communications strategy in 2017, by focusing on the recoverable resources inside end-of-life electronics and promoting this message at Earth Week and Waste Reduction Week events, through new media partnerships and with the new interactive Recycle My Electronics Mobile Classroom

In support of these events and WEEE recycling generally, OES conducts annual advertising in radio, print and online forums in addition to utilizing digital marketing to raise awareness and encourage participation in electronics recycling. Brochures, signage, stickers and marketing materials are provided to collection sites and other OES service providers.

Current promotional and education campaigns and partnerships will be continued in 2019. In 2020 such events will be assessed on a case-by-case basis to determine whether benefits are still applicable in light of the pending program termination.

With the reduction of the EHF consumer fee to zero for the wind up period, in the view of OES, it is important to maintain promotional and education programs which support consumer awareness of WEEE recycling to ensure that the change in the EHF fees does not create the impression that WEEE recycling is ending.

During the wind up period, OES will refocus communications activities on informing stakeholders and consumers about the wind up process and the continued importance of electronic recycling following program termination. OES communication activities and events will promote recycling of waste electronics generally and emphasize the continuation of WEEE recycling behaviours.

These activities will not only support a streamlined wind up of OES operations but also help to improve consumer and stakeholder awareness of continued WEEE recycling under the RRCEA framework.

## **1.5 Market Development**

As there are active markets existing for WEEE downstream materials, OES focuses on building awareness of WEEE recycling among both businesses and consumers.

OES has implemented a number of projects designed to build program awareness and thereby increase the volume of WEEE collection in Ontario indirectly supporting [Ontario Electronic Stewardship Wind Up Plan 2018 \(Updated February/July 2019\)](#)

market development for related downstream materials (by encouraging the production of larger Ontario volumes).

OES intends to continue marketing plans and events throughout 2019. In 2020, each special collection event or campaign partnership will be assessed on a case-by-case basis to determine if the short-term benefits associated with the event or campaign are still justified given impending program termination.

### ***Studies, Reports and Market Information***

OES conducts analysis and produces annual reports on accessibility and awareness. These reports will be transferred to RPRA during the wind up. These annual assessments will continue to be run by OES in 2019 and the spring of 2020:

OES Consumer Awareness Survey

OES Accessibility Report

OES commissioned a third party to measure brand awareness of the program in 2017 and 2018. They conducted survey research among adults living in Ontario and data was weighted to reflect the adult population of Ontario by region, age and gender. Awareness increased by 3% from 66% in 2017 to 69% in 2018.

## **SECTION 2: IMPLEMENTATION PLAN AND TIMELINES**

### **2.1 Implementation Plan and Timeline**

#### **A. Detailed Implementation Plan**

A detailed implementation plan is attached as Schedule A. OES will begin to operationalize implementation of the Wind Up Plan with a general notification of RPRA's approval of the Plan targeted for July 2019 (or earlier dependent on RPRA approval date). All program participants will be notified of key wind up dates with a schedule of follow-up notifications specific to each program participant and key wind up steps.

As per Ministerial instruction, key wind up steps will operationalize a program termination of ~~June 30~~December 31, 2020. Following WEEE program termination, OES estimates that it will take approximately six to nine months to resolve remaining WEEE program and OES corporate financial and legal obligations and dissolve OES as a corporate entity.

As part of this Wind Up Plan, OES is proposing the engagement of a liquidator to resolve final OES financial and legal obligations and undertake the steps necessary to dissolve OES as a corporate entity in a manner consistent with the provincial *Corporations Act* and regulations under the WDTA. The liquidator will be appointed

prior to the finalization of OES financial arrangements and reconciliations.

Throughout the process, OES will meet regularly with RPRA staff to monitor implementation of key wind up tasks, as per Schedule A, and ensure that wind up activities are completed in accordance with the approved Wind Up Plan. Quarterly reviews will include regular updating of OES financial and budgetary forecasts to ensure consistency with the approved wind up budget and early identification of any financial discrepancies or adjustments necessary in relation to the OES wind up budget.

OES also proposes to engage an independent program manager, focused solely on OES wind up, who will work with relevant OES staff to ensure that tasks identified in Schedule A are completed in accordance with the WUP.

### **B. Corporations Act and WDTA Regulations**

As noted above, OES proposes to engage a liquidator, subject to RPRA approval, to take the final steps necessary to dissolve OES as a corporate entity in a manner consistent with WDTA regulations and the *Corporations Act*.

### **2.2 Key Wind Up Plan Dates**

**December 31, 2018:** As per Ministerial direction of February 8, 2018, date by which OES must submit a Wind Up Plan for the WEEE program to RPRA for review and approval.

**June 30, 2019:** Date by which RPRA will approve a Wind Up Plan for the WEEE program.

~~June 30~~ December 31, 2020: Termination date for OES program operations as per Ministerial direction of ~~February 8, 2018~~ July 2019.

~~December 31~~ June 30, 2020 2021: Target date for the completion of all OES third party arrangements (i.e. disbursement of any excess funds, finalization of service provider payments, etc.).

~~April~~ October 2021: Target date for submission of final Wind Up Plan report to RPRA and Minister as per Subsection 14 (20) of the *Waste Diversion Transition Act, 2016* (confirmation of Wind Up Plan implementation and completion).

### **2.3 Other Timeline Considerations**

Wind up of the WEEE program will require termination of contracts with a number of OES service providers including: collectors, transporters and processors.

Contractual termination provisions for these service providers range from 30 to 90 days.

OES is

proposing to provide formal notice of contract terminations to service providers approximately 912 months prior to the program termination.

The OES wind up plan (Section 1: Operational Plan) includes explicit dates for the completion of WEEE related activities for all service providers along with set dates for the submission of claims and related submissions to OES.

Steward OES agreements do not include explicit termination clauses, but as with service providers, the Wind Up Plan will include advance notice to stewards of program termination along with final dates for the submission of steward fees, related adjustments and supply reports (Note: Under the proposed Wind Up Plan it is proposed that steward WEEE fees will be reduced to zero prior to program termination. However, steward EEE supply report obligations will continue until program termination meaning that stewards will be subject to different dates for the finalization of fee payments and EEE supply reports.)

Wind up of the WEEE program will also require termination of the OES service contract with the EPRA which provides administrative support to the program. This termination is anticipated to be operationalized approximately six months after the WEEE program

termination date. OES's termination of the EPRA contract will be implemented in accordance with contractual requirements and Wind Up Plan provisions.

Detailed information on various dates for program participant contractual, activity and reporting deadlines are found in: WUP Section 1: Timelines Summary; WUP Section 2: Schedule A: Implementation Plan and Timelines; and WUP Section 7: Cut-off Dates.

## **SECTION 3: CONSULTATION WITH STAKEHOLDERS**

### **3.1 Consultation During Wind Up Plan Development**

OES conducted a series of webinars and meetings in October and November 2018 to solicit input regarding the development of its Wind Up Plan (WUP). Stakeholders were provided with an overview of OES Wind Up Plan financials and a summary of key proposals for wind up activities. In addition, OES sought feedback on specific proposed dates for termination of steward and service provider reporting obligations and transactions.

A series of 11 webinars were conducted between October 30<sup>th</sup> and November 23<sup>rd</sup> 2018. All stakeholders were notified of webinar sessions through email blast.

Webinars were grouped by stakeholder category but open to all stakeholders. OES also invited all WEEE processors to individual, in-person consultations as well as meeting with the Retail Council of Canada and Electronic Products Stewardship Canada.

OES conducted the final webinar on November 23, 2018 providing a financial update and signaling the

<sup>3</sup> Stewards were provided with formal notification of the EEE fee reduction to zero for implementation effective February 1, 2019 on December 3, 2018 following review and support of the proposal by RPRA  
**Ontario Electronic Stewardship Wind Up Plan 2018 (Updated February July 2019)**

As per Ministerial direction, a full report (the OES Wind Up Plan Consultation Report) regarding OES consultation during the development of the ~~wind-up plan~~ [Wind Up Plan](#) is attached as Appendix A to this plan. The OES Wind Up Plan Consultation Report identifies types of organizations that participated in OES ~~wind-up plan~~ [Wind Up Plan](#) consultation sessions, a summary of the comments received during consultation and a discussion of how those comments were considered by OES in the development of this ~~wind-up~~ [Wind Up](#) Plan.

## 3.2 Communications with Stakeholders

### *Communication Plan Objectives*

A comprehensive and effective communications strategy is a key component of implementing an OES Wind Up Plan that is consistent with legislative requirements and consistent with Ministerial direction. Throughout the wind up period, OES will utilize open and transparent communications strategies to support an orderly wind up of OES operations and a smooth transition to recycling under the RRCEA framework. Key communications objectives include the following:

- Support for program performance throughout the wind up period:
  - Maintain or improve program performance;
  - Ensure no disruption in the operation of WEEE recycling;
- Implementation of a transparent and open OES wind up process:
 

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  - Ensure advance stakeholder awareness of key program changes;
  - Maintain open and accessible communications feedback options for all affected stakeholders – i.e. make it easy for stakeholders to get questions answered.
- Sustain effective OES-stakeholder interaction during program wind up:
  - Tailor stakeholder messaging where applicable to address the needs of specific stakeholders;
  - Monitor stakeholder reactions and adjust outreach activities/messaging where necessary.
- Support for stakeholder awareness of impending transition to waste electronic diversion under the RRCEA framework (although not a direct OES responsibility, represents a complementary objective to smooth wind up of existing OES program).

Note: The wind up of the current OES WEEE program is taking place during the concurrent development of a new regulatory framework for diverting waste electrical and electronic equipment to be implemented under the RRCEA. That new legislative

framework will come into effect after the current OES program terminates. As such the majority of OES stakeholders participating in the wind up of the current program will also be preparing for anticipated operations under the RRCEA framework.

OES communications activities during program wind up will support stakeholder awareness of the impending transition to the diversion of waste electronics under the RRCEA, but primarily to direct stakeholders to the appropriate organizations for information, RPRA or the MECP, and identify any outreach activities that may be impending or underway on the part of those organizations. OES communications activities will not address any specific issues related to waste electronic recycling under the RRCEA framework (i.e. content of waste electronic regulations under the RRCEA, etc.). The content of RRCEA requirements and details of stakeholder obligations under that legislative framework are out of scope with respect to OES communications activities.

See Section 3.4, 3.5 Stakeholder Communications Mechanisms for an outline of proposed communication activities and tactics to be implemented during the wind up period.

### **3.3 Audits, Reviews and Engagements**

#### ***Operational Audits***

OES undertakes a number of compliance activities to ensure that service providers comply with program requirements. OES service providers contracting with OES are accountable to meet and fulfill regulated program requirements. Sanctions for service provider non-compliance include repayment of incentives or recovery of fees paid, through to suspension and termination from the program.

With respect to collection sites, OES site visits are required prior to approval of registration to ensure such sites comply with program requirements. As with the current operations, OES will continue to inspect collection sites during the wind up to ensure ongoing compliance.

With respect to WEEE processing facilities, all facilities must operate in accordance with the RQO recycling standard for WEEE materials and comply with program standards and reporting requirements established by OES. All invoices submitted by processors to OES must be supported by complete, accurate and timely documentation in accordance with OES requirements. OES reserves the right to visit and inspect processor locations and those of processor generators to ensure ongoing compliance with program requirements.<sup>54</sup>

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<sup>54</sup> Note: OES site visit inspections may be undertaken for all processors and related generators prior to their approval to participate in the OES WEEE program.

With respect to program wind up, prior to and after the program termination date, OES will employ additional resources to perform processor audit functions to maintain program integrity throughout the wind up process and to enable OES to expedite the wind up of the program in a reasonable time frame.

OES follow-up work related to documentation and processor incentive claims submissions will be conducted under tighter time frames that apply to normal program operations. Throughout the wind up period, OES will work closely with processors to ensure that any OES additional or expedited verification requirements associated with the program termination are implemented in a manner which is reasonable for both the processors and the OES program.

During program consultation, processors indicated that the initial time frames proposed by OES for the submission of final processor incentive claims reports in relation to program termination were reasonable and workable from their perspectives.

### ***Steward Audits***

OES conducts a number of compliance activities to ensure stewards are complying with their obligations under the WDTA. Compliance activity related to stewards can be subdivided into three general categories:

1. Identification of stewards who are obligated to register under the WDTA but have not done so and notification to those stewards of their obligation;
2. Ensuring registered stewards file required EEE supply reports and pay related fees in relation to those reports; and
3. Verification of the accuracy steward reports filed.

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With respect to identification of unregistered stewards, OES will continue to identify and notify these organizations to report on EEE supplied into the Ontario market throughout the wind up period. As noted in section 1, amendments to OES steward rules will be made to shorten the time frames to report EEE supply to accommodate the wind up of the WEEE program. OES will continue with these functions even after the EEE fee has been reduced to zero. Supply information will be required to monitor program performance and the identification of obligated stewards will identify organizations that will likely be obligated to register under the RRCEA regulatory framework with respect to EEE supply.

OES will continue to follow-up with stewards where they have failed to submit supply reports and pay any related steward fees in accordance with program requirements.

As noted in WUP Section 1, OES is implementing an EEE fee reduction to zero  
**Ontario Electronic Stewardship Wind Up Plan 2018 (Updated  
February/July 2019)**

effective for February 1, 2019. All stewards will be required to submit supply reports and pay existing EEE fees for January 2019 by February 28, 2019. Stewards will be permitted to submit adjustments or corrections to these reports until April 30<sup>th</sup>, 2019.

As noted in the operational plan, following program termination on ~~June 30~~December 31, 2020 stewards will have until ~~July~~January 31, ~~2020~~2021 to submit final supply reports (this applies to all stewards whether they report on a monthly, quarterly, half-year or ~~on a 6-month~~full-year basis).

Stewards will be given until ~~September~~March 15, ~~2020~~2021 to make any final adjustments or corrections to these final supply reports.

In the case of program termination, OES will increase steward communication activities and expedite steward follow-up compliance to ensure OES final financial and program reconciliations can be completed in a reasonable time frame.

With respect to verifying the accuracy of steward reports, OES conducts both risk-based assessments (stewards with a history of non-compliance are audited more frequently) and random steward assessments. This pattern will continue throughout the wind up period with a stronger emphasis on risk-based accuracy verifications following the program termination date on ~~June 30~~December 31, 2020.

### ***Annual Reports***

During the wind up period OES Annual Reports will be prepared and submitted in accordance with historical practice and existing statutory requirements. The schedule for submission of OES Annual Reports is the following:

2018 Annual Report – Submission to RPRA by April 1, 2019; 2019 Annual Report – Submission to RPRA by April 1, 2020; 2020 Annual Report - Submission to RPRA by April 1, 2021; 2021 Annual Report – Submission to RPRA by

April 1, 2022. ***Final Financial Audit***

Following the submission of final steward supply reports (and any corrections and adjustments) and the final processing of payments to OES service providers, OES will be in a position to conduct final financial reconciliations related to both 2020 program operations and the full term of the overall WEEE program. These final financial audits are scheduled to be conducted in the ~~fall~~spring/summer of ~~2020~~2021 once final stakeholder reports have been received and processed. The final financial audit of the program will be conducted in accordance the audit process currently used for OES Annual Reports.

### **3.4, 3.5 Stakeholder Communications Mechanisms**

A number of OES wind up communication related activities will be common to all stakeholders. These include the following activities along with targeted time frames related to such activities.

April 2019 – Publication of 2018 OES Annual Report (On-line posting)

~~July~~August 2019 – (or earlier dependent upon RPRA approval process)  
Notification of Approval of OES Wind Up Plan (Special Email Communications)

~~January~~July 2020 – Wind Up Notification Reminders (Special Email Communications)

April 2020 – Publication of 2019 OES Annual Report (On-line posting)

~~May/June~~November/December 2020 – Wind Up Notification Reminders (Special Email Communications)

April 2021 – Publication of 2020 OES Annual Report (On-line posting)

OES communication mechanisms related to various stakeholder groups and initial timeframes for activities are outlined below.

Table 7: Summary of OES Communications by Stakeholder Group		
Stakeholder	Communication Mechanisms	General Schedule
Stewards	Email Blasts Steward Newsletter Letters Information Sessions (Webinars) Phone Calls Website Posts Web Portal: <a href="http://ontarioelectronicsstewardship.ca">ontarioelectronicsstewardship.ca</a> Website Notifications/Links: <a href="http://recyclemyelectronics.ca">recyclemyelectronics.ca</a> Call Centre access throughout wind up period.	<i>November 2018</i> Notification of EEE Fee reduction to zero Webinar sessions - re fee reduction process, continued reporting obligations. <i>February 2019</i> Implementation of EEE fee reduction to zero. <i>February-April 2019</i> Final steward EEE fee payments and adjustments – individual steward follow up as required. <i>July 2019 (or earlier)</i> Notification of WEEE Wind Up Plan Approval. <i>TBD</i> Notice of timing for termination of OES-remitter-steward agreements. <del>Fall 2019</del> <u>Spring 2020</u> Notification of MTS Availability Information Sessions. <del>January</del> <u>July</u> 2020 WEEE Wind Up Reminders. <del>April – May</del> <u>October-November</u> 2020 WEEE Wind Up Reminders - re final reporting requirements – timing re termination of OES-remitter steward agreements. <del>July – September</del> <u>January-March 2021</u> Reminder of final reporting due dates, follow-up reminders where required. Individual steward follow-up as required. <i>TBD</i> Final program reconciliation notices for WEEE program. Letters to stewards – end of program obligations.

Stakeholder	Communication Mechanisms	General Schedule
Processors	Email Blasts Letters Phone Calls In person Meetings Website Posts Web Portals: ontarioelectronicsstewardship.ca recyclemyelectronics.ca Call Centre access throughout wind up period-	<del>July</del> <u>August</u> 2019 (or earlier) Notification of WEEE Wind Up Plan Approval. <del>Fall 2019</del> —TBD <u>Before January 31, 2020</u> Formal notice of upcoming contract terminations. <del>Fall 2019</del> <u>Spring 2020</u> Notification of MTS Availability Information Sessions. <del>January</del> <u>July</u> 2020 WEEE Program Termination Reminders. <del>April</del> — <del>June</del> <u>October - December</u> 2020 One on One Information Sessions re WEEE termination processes and Timeframes. <del>July</del> — <del>September</del> <u>January – March 2021</u> Reminder of final reporting due dates, follow-up where required – scheduling of final mass balance site visits. <del>Fall 2020</del> <u>Spring 2021</u> TBD Issuance of final processor payments – termination of OES-processor relationships.
Collectors Generators	Email Blasts Letters Phone Calls Website Posts Web Portals—: ontarioelectronicsstewardship.ca recyclemyelectronics.ca Call Centre access throughout wind up period-	<del>July</del> <u>August</u> 2019 (or earlier) Notification of WEEE Wind Up Plan Approval. <del>Fall 2019</del> —TBD <u>Before January 31, 2020</u> Formal notice of upcoming contract terminations (where applicable). <del>January</del> <u>July</u> 2020 WEEE Program Termination Reminders. <del>April</del> — <del>June</del> <u>October-December</u> 2020 One on One contact re wind up dates – arrangement for pickup of OES materials (where applicable). <del>July</del> — <del>August</del> <u>January-February 2021</u> Reminder of final reporting due dates, follow-up where required. <del>Fall 2020</del> <u>Spring 2021</u> TBD Issuance of final collector payments – termination of OES-collector relationships.
Stakeholder	Communication Mechanisms	General Schedule
Municipalities	Email Blasts Phone Calls Website Posts Web Portals: ontarioelectronicsstewardship.ca recyclemyelectronics.ca Call Centre access throughout wind up period	<del>July</del> <u>August</u> 2019 (or earlier) Notification of WEEE Wind Up Plan Approval. <del>Fall 2019</del> —TBD <u>Before January 31, 2020</u> Formal notice of upcoming contract terminations (where applicable). <del>January</del> <u>July</u> 2020 WEEE Program Termination Reminders. <del>April</del> — <del>June</del> <u>October-December</u> 2020 One on One contact re wind up dates – arrangement for pickup of OES materials (where applicable). <del>July</del> — <del>August</del> <u>January-February 2021</u> Reminder of final reporting due dates, follow-up where required. <del>Fall 2020</del> <u>Spring 2021</u> TBD

		Issuance of final collector incentive payments – termination of OES-municipal agreements.
Refurbishers	Email Blasts Phone Calls Website Posts Web Portals: ontarioelectronicsstewardship.ca recyclemyelectronics.ca Call Centre access throughout wind up period	<del>July</del> <u>August</u> 2019 (or earlier) Notification of WEEE Wind Up Plan Approval <del>Fall 2019 – TBD</del> <u>Before January 31, 2020</u> Formal notice of upcoming contract terminations (where applicable). <del>January</del> <u>July</u> 2020 WEEE Program Termination Reminders. <del>April – June</del> <u>October-December</u> 2020 One on One contact re wind up dates – arrangement for pickup of OES materials (where applicable). <del>July – August</del> <u>January-February 2021</u> Reminder of final reporting due dates, follow-up where required. <del>Fall 2020</del> <u>Spring 2021</u> TBD Issuance of final refurbisher reporting payments – termination of OES-refurbisher relationships.
Transporters, Consolidators, Re-packers	Email Blasts Phone Calls Website Posts Web Portals: ontarioelectronicsstewardship.ca recyclemyelectronics.ca Call Centre access throughout wind up period	<del>July</del> <u>August</u> 2019 (or earlier) Notification of WEEE Wind Up Plan Approval. <del>January</del> <u>July</u> 2020 WEEE Program Termination Reminders. <del>April – June</del> <u>October-December</u> 2020 One on One contact re wind up dates – arrangement for pickup of WEEE materials and OES branding materials (if applicable). <del>July – August 2020</del> <u>January-February 2021</u> Issuance of final transporter, consolidator, re-packer payments – termination of OES-relationships with these service providers.
<b>Stakeholder</b>	<b>Communication Mechanisms</b>	<b>General Schedule</b>
Public	Website Posts Web Portals: ontarioelectronicsstewardship.ca recyclemyelectronics.ca Call Centre access throughout wind up period	As noted in Section 1, OES is proposing to continue promotional and education activities in 2019 consistent with its historical practice. Throughout 2019 and 2020, OES will continue to participate in community and municipal events and programs which support public awareness of WEEE recycling. Messaging in support of WEEE recycling will be adjusted to reflect the impending termination of the OES program and transition to WEEE recycling under the RRCEA framework. Members of the public interested in OES wind up activities will be directed to its website and the wind up web portal for more information on how the program is being wound up (See WUP Section 1: Operational Plan for more details of proposed OES Promotional and Educational activities during wind up.)
OES dedicated Staff	Meetings (monthly or more frequently as required)	Staff administering the WEEE wind up program will be kept informed of all OES communications activities throughout the wind up period.
RPRA	Emails Phone Calls	Throughout the wind up period RPRA will be provided with key wind up communication

	Letters Meetings	materials produced and issued by OES and kept informed regarding OES stakeholder outreach. OES-RPRA liaison will be ongoing throughout the wind up period.
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### **Stakeholder Feedback**

Throughout the wind up period, stewards, service providers and other interested parties who have questions about the OES wind up process will have the ability to ask questions, raise concerns through a variety of communications mechanisms. These include:

- Phone calls;
- Emails;
- Web portal inquiries;
- Letters;
- In person meetings.

Proposed time frames for OES responses to various stakeholder feedback mechanisms are identified in the Table below.

<b>OES Stakeholder Feedback Mechanisms</b>	
<b>Type of Stakeholder Inquiry</b>	<b>Proposed Response Timeframe</b>
Direct Phone Call	Immediate
Phone Call – Message	24 Hours
Direct Email Inquiry	48 Hours
Web Portal Inquiry	48 Hours
Letter to OES	10 Business Days

## **SECTION 4: FINANCIAL FORECAST AND BUDGET**

Forecasts of cash inflows and outflows and current account statements are confidential and provided to RPRA.

A summary of overall revenue projections and forecasts for 2019, [2020](#) and [2020](#)[2021](#) is provided in Table 8 below.

**Table 8: OES Wind Up Financial Forecast 2018 – ~~2020~~[2021](#)\***

2019            2020            [2021 Budget](#)

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EHF Fee Refund		<del>-\$2,300</del> <u>\$500</u>		
Tax Refund	\$60,840			
Interest	\$936	\$545	\$250	
	<del>\$113,081</del> <u>\$13,084</u>	<del>\$1,572</del> <u>\$3,372</u>	\$250	<u>\$0</u>
<b>Expenses:</b>				
Processing	\$27,142	<del>\$26,328</del> <u>\$26,013</u>	<del>\$12,835</del> <u>\$26,013</u>	
Handling	\$6,103	<del>\$6,393</del> <u>\$6,231</u>	<del>\$3,366</del> <u>\$5,795</u>	
Transportation/Storage	\$6,236	<del>\$6,533</del> <u>\$6,419</u>	<del>\$3,440</del> <u>\$6,419</u>	
<b>Direct Program Costs:</b>	\$39,481	<del>\$39,254</del> <u>\$38,663</u>	<del>\$19,640</del> <u>\$38,227</u>	<u>\$0</u>
<b>Other:</b>				
Promotion and Education	\$2,885	\$2,860	<del>\$1,000</del> <u>\$1,800</u>	
Administration	<del>\$3,148</del> <u>\$3,101</u>	\$3,370	<del>\$2,485</del> <u>\$3,370</u>	
Wind-up Fees	<del>\$100</del> <u>\$150</u>	<del>\$2,400</del> <u>\$1,700</u>	<del>\$2,900</del> <u>\$1,700</u>	<u>\$1,520</u>
RPRAs Fees	\$1,256	<del>\$2,600</del> <u>\$1,800</u>	<del>\$1,300</del> <u>\$2,100</u>	<u>\$750</u>
<b>Indirect Costs:</b>	<del>\$7,389</del> <u>\$7,392</u>	<del>\$11,230</del> <u>\$9,730</u>	<del>\$7,685</del> <u>\$8,970</u>	<u>\$2,270</u>
<b>Total Costs:</b>	<del>\$46,870</del> <u>\$46,874</u>	<del>\$50,484</del> <u>\$48,393</u>	<del>\$27,325</del> <u>\$47,197</u>	<u>\$2,270</u>
<b>Surplus/(Deficit)</b>	<del>\$66,211</del> <u>\$66,210</u>	<del>-\$48,912</del> <u>(\$45,021)</u>	<del>-\$27,075</del> <u>(\$46,947)</u>	<u>(\$2,270)</u>
<b>Tonnage (metric tonnes)</b>	<del>47,097</del> <u>47,711</u>	45,684	<del>22,271</del> <u>3,857</u>	<u>0</u>
<b>Closing Reserve</b>	<del>\$109,814</del> <u>\$109,813</u>	<del>\$60,902</del> <u>\$64,792</u>	<del>\$33,827</del> <u>\$11,607</u>	<u>\$3,099</u>
<b>Drawdown on Reserve for HST</b>		<u>(\$6,238)</u>	<u>(\$6,238)</u>	<u>\$0</u>
<b>Closing Reserve</b>		<u>\$58,554</u>	<u>\$5,369</u>	<u>\$3,099</u>

\* Updated ~~February~~July 2019

Key assumptions regarding OES financial forecasts for 2019, 2020 and ~~2020~~2021 are provided below:

Ontario Electronic Stewardship Wind Up Plan 2018 (Updated July 2019)

### ***Projected Revenue Assumptions***

With the implementation of an EEE fee reduction to zero as of February 1, 2019, OES steward fee revenues for 2019 will be limited to January 2019 EEE supplies and related fees. OES has projected January 2019 EEE fee revenues to represent approximately 7% of forecast 2018 levels based on historical EEE supply reports for January 2018.

January EEE fee revenues will be offset by OES EEE fee rebates provided to retailers for EEE fees paid on retailer inventories which have not yet been sold to the public as of February 1, 2019. OES's estimate of the total cost of EEE fee rebates is ~~\$2.30.5~~ million.

Following the collection of January 2019 EEE fees from stewards, OES remaining revenue projection for steward fee revenues in budgetary forecasts for 2019 and 2020 is zero.

OES's other source of revenue in 2019 and 2020 is interest accrued on cash reserves. OES may receive more HST refunds, and if so, this will be reflected in the financial statements. With respect to forecasting these amounts, OES is forecasting interest revenue in 2019 that is 30% less than the 2018 forecast. This interest revenue will continue to decline in 2020 as OES's cash reserves are depleted to finance program expenses.

### ***Projected Expense Assumptions***

With respect to direct collection, processing and transportation costs, the key assumptions related to expense forecasting are the following:

- OES Processing costs will decline by approximately 3% in 2019 and again in 2020 due to continued light weighting trends and a similar drop in the tonnage of WEEE collected for recycling. [Note: While the projected tonnage decline included in OES financial forecasts is less than the program tonnage reductions experienced in the last few years, OES anticipates that the tonnage decline due to product light weighting trends is currently slowing.];
- OES handling, transportation and storage costs are forecast to increase by approximately 5% in 2019 and 2020. Although light weighting will decrease direct costs, variable items like fuel surcharges may increase costs. Forecasts for 2019 and 2020 are allowing room for potential cost increases, ensuring that a move to \$0 revenue in February 2019 will be manageable.

OES spending on promotional and educational (P&E) activities in 2019 will be consistent with 2018 expenditures. P&E spending for 2020 is forecast to ~~be decline by~~ about ~~35 percent of spending for 2019~~ a third which reflects the fact that: the program will ~~only be operating for six months; OES P&E events are more frequent in the summer months~~

~~and there~~ scaling back these activities toward the end of the year. ~~There~~ will be an anticipated reduction in OES sponsored events ~~immediately~~ preceding the program termination date;

OES administration expenses are forecast to remain the same in 2019 ~~as 2018~~ and in 2020 ~~be about 75% of 2019 levels reflecting the need for OES to perform a number of administrative functions for approximately six to nine months after program termination to complete wind up activities;~~ as 2018. Costs specific to wind up activities are forecast to be ~~\$2.41.7~~ million in both 2019 and ~~\$2.9 million in~~ 2020. Wind up cost forecasts include items like additional legal fees, administrative costs, IT costs to prepare MTS for distribution, segregating the OES activities and systems from EPRA, and additional communication and consultation.

Wind up costs in 2021 are forecast at \$1.5 million reflecting the need for OES to perform a number of administrative functions for approximately six to nine months after program termination to complete wind up activities;

~~Finally,~~ OES is projecting that RPRA related fees will be ~~\$2.61.8M~~ in 2019 ~~and with a reduction,~~ \$2.1M in ~~RPRA fees~~ 2020 ~~due to a partial year of OES program operations~~ and \$0.75M in 2021.

Although the steward fee is reduced to zero effective February 1<sup>st</sup>, 2019, OES is continuing to provide a taxable service to stewards that is funded through the steward earlier contributions. As such, HST is owed on these services. OES can remit these payments on behalf of stewards which are shown as a drawn down on reserve for HST in Table 8 above.

### ***Other Financial Issues***

As noted in Table 8 above, OES ~~will begin~~ began 2019 with ~~estimated~~ cash reserves of ~~approximately~~ \$109.8 million based on ~~current forecasts and~~ CRA refunds received. ~~Additional reserves may result if CRA completes audits and refunds further HST to OES.~~ OES reserves will enable the EEE fee reduction to zero for February 1, 2019 and the continued financing of operations until program termination and beyond. OES cash reserves are not restricted and will remain available to fund operations throughout program wind up. OES is not anticipating any cash shortfalls or need to borrow money during the wind up period.

With respect to proceeds from the sale of capital assets, as noted in WUP Section 1: Operational Plan, OES does not expect assets disbursement to generate significant revenues (projected to be less than \$2000, see WUP Section 5: Assets for more detail).

Legal fees associated with program termination have been included in OES estimates of wind-up fees and program administration costs noted in Table 8. A full discussion of legal issues and related costs is included in WUP Section 11: Legal Considerations.

Total OES wind up costs associated with termination of existing service agreements and contracts, including lease terminations, are included in wind up costs in Table 8 above.

### **Excess Funds Following Program Termination**

Current budget forecasts and financial estimates suggest that OES will retain ~~excess cash~~ approximately \$3.1 million in residual funds following the resolution of all financial obligations after program termination ~~of approximately \$33.8 million. While the~~ the exact amount associated with ~~excess residual~~ funds will be subject to financial fluctuations and contingencies related to a number of financial forecasts, ~~barring unforeseen contingencies with large financial implications between now and program termination, OES forecasts surplus on hand following the resolution of all financial obligations after program termination.~~

~~In accordance with current statutory requirements and RPPRA wind up guide instructions, OES proposes to disburse any surplus to stewards. The methodology OES utilizes to calculate any excess fund disbursement amounts will be reviewed and supported by RPPRA as part of the wind up process.~~

~~to offset RPPRA Registry-related expenses. Accordingly, OES will transfer the residual funds remaining in OES after wind up activities are completed to RPPRA.~~

The RPPRA Registrar has confirmed that the transfer of ~~excess residual~~ funds is consistent with the current Subsections 35 (2) and 33 (5) of the WDTA which ~~limitable~~ OES ~~spending to the fund~~ costs ~~of associated with~~ operating and winding up the existing WEEE program.

## **SECTION 5: ASSETS**

### **5.1 Cash**

#### **A. ACash and Short-term Investments**

A list of OES bank accounts along with account balances, account numbers, institution, currency and type of account is confidential and provided to RPPRA.

#### **B. BShort term investments requiring liquidation**

OES does not have any cash or short-term investments in accounts which cannot be easily liquidated.

#### **C. CMonies held in trust**

OES does not have any monies held in trust.

OES does hold \$ 76,500 in processor letters of credit, that under current contractual terms, must be provided back to processors following the termination of processor service agreements assuming required processor contractual requirements have been complied with. OES proposes to return processor letters of credit in the fall of 2020 following the completion of processor final mass balance reports.

## **5.2 Accounts Receivable**

As the Wind Up Plan includes implementation of a steward fee reduction to zero effective for February 1, 2019, OES anticipates that receivables related to collection of steward fees will be resolved in the spring of 2019.

Stewards will be required to submit fee payments for EEE supplied into the Ontario market in January by February 28, 2019 with any adjustments or corrections to previous EEE supply reports required by April 30, 2019. As noted in WUP Section 4, OES is forecasting total steward fees payable in January 2019 to be approximately \$3.3 million. Collectability risk related to this amount is relatively low as typically 98% of Accounts Receivable are current.

While steward fee receivables are uninsured, stewards have a legislative obligation to report EEE supply and pay related fees. OES steward rules also subject stewards that fail to pay required fees before the required deadline to a number of penalties and potential costs described below:

### **8) Penalties, Interest and Back Fees (From OES Steward Rules)**

(1) Stewards who fail to pay Steward's Fees with respect to any Data Period before the Deadline Date or to pay the Reconciliation Fees on or before their due date shall pay a penalty equal to 10% of the unpaid Steward's Fees or Reconciliation Fees.

(2) If the amounts reported in a Steward's Report are inaccurate, any deficiency in Steward's Fees paid resulting from such inaccuracies shall be immediately due and payable from the date of the filing of the correcting Steward's Report, and, if not paid within 30 days, the Steward shall pay a penalty equal to 10% of such Steward Fee deficiency.

(3) Interest on the amounts payable under Rules 8(1) and 8(2) shall accrue from the respective Deadline Date or due date for the Reconciliation Fees at the Interest Rate. In addition, a Steward in default shall pay all collection costs, including all proper and reasonable legal fees, incurred by OES, whether or not an action has been commenced. If an audit under Rule 9 reveals that a

Steward has under-reported the amount of Steward's Fees due by more than 10% in any Data Period, in addition to any other sums payable, the Steward shall pay the costs of such audit, as reasonably determined by OES.

(4) OES may waive all or part of any penalty, interest or charges otherwise payable under this Rule 8.

Given that final steward corrections or adjustments related to EEE supply which requires fee payments are due by April 30, 2019, OES anticipates that virtually all steward fee payment issues should be resolved by June of 2019.

Other than steward fees payable for January 2019, OES does not anticipate any other revenues associated with accounts receivable during the wind up period.

### 5.3 Prepaid Assets

<b>Table 9: OES Prepaid Assets as of December 31, 2018</b>	
<b>Description of Assets</b>	<b>Estimate as of December 31, 2018</b>
Commercial/General Insurance	\$854
Consolidation/Repack Deposit	\$71,190
Office Rent	\$9,821
Furniture Rental	\$12,200
<b>Total</b>	<b>\$93,866</b>

### 5.4 Capital Assets

#### ***Material Tracking System***

As noted in Section 1: Operational Plan, OES main asset is its Material Tracking System (MTS) which is a proprietary software developed by OES to manage the collection, transportation, consolidation and processing of material across the OES allocation and processor incentive programs. The system is coded in Microsoft .net framework 4.0 and runs on Microsoft Server, with a Microsoft SQL Server database.

For OES purposes, the useful life of the MTS system extends to program termination. The system's useful life is limited to the wind up period as system models the current business processes and controls under the current program.

The system is the sole property of Ontario Electronic Stewardship. The system was built, supported and implemented by OES. The OES book value of the MTS system is \$0. The system was fully amortized in 2017. As the system is custom and proprietary to OES business processes, significant modification would likely be required to use MTS for other purposes.

Ministerial wind up direction included a requirement for OES to outline how it would deal with information technology systems to ensure fair and equitable access to all users as an alternative to disposing of these assets for fair market value.

OES WUP proposes to make the MTS available to stewards and potential RRCEA producer responsibility organizations as free software. OES will hold information sessions for interested organizations in the ~~late fall~~spring of ~~2019~~2020 outlining system operating requirements and capabilities. A clean version of the software, excluding any historic data or company specific information would be made available to interested parties as of ~~January~~July 2020.

The OES Material Tracking System will be packaged into a white label version of the system with all OES data and configuration removed. The system will be bundled into a zip folder containing the application code, a copy of an empty database and sample configuration file for secure file transfer to the authority. Also included in this package will be basic documentation of how to setup the system.

Following program termination, OES proposed to transfer the MTS to RPRA to act as the trustee of the MTS source code (as it exists on the date of transfer from OES) and enable RPRA to continue to make instances of MTS available to users after the wind up of OES.

OES estimates that its costs related to making a version of the MTS available to potential users will be approximately \$250,000. These costs have been included in wind up costs as part of 2019 and 2020 financial forecasts.

### ***Other Capital Assets***

Other OES capital assets include the MTS logistics software, a WEEE container, a refrigerator and leasehold improvements (network and electrical wiring in current space). OES estimates that the book value of other capital assets will be approximately \$~~1300~~375 as of the program termination date ~~June 30~~December 31, 2020.

OES proposes to auction these capital assets off following program termination. OES estimates that the total proceeds related to this auction audit will be relatively minimal. A list of OES assets along with a preliminary estimate of auction value is provided in Table 10 below. OES branded materials collection materials that cannot be auctioned off will be recycled.

<b>Table 10: OES Capital Assets</b>			
<b>Description</b>	<b>Number of Items</b>	<b>Net Book Value December 31, 2018</b>	<b>Estimated Auction Value <del>July</del> <u>December 31</u> 2020</b>

Collection Bin (20 ft)	1	\$1,610	<del>\$1,200</del> <u>\$375</u>
Refrigerator	1	\$0	<del>\$100</del> <u>\$0</u>
Leasehold Improvement	Wiring	\$8,931	\$0
MTS Software	NA	\$0	NA
<b>Total Auction Value (Estimated)</b>			<del>\$1,300</del> <u>\$375</u>

## 5.5 Leased Assets

### ***Collection Materials***

OES rents 40-yard bins, sea containers, wheelie bins and trailers that are located at collection sites across the province. E-waste must be sheltered from the environment to ensure hazardous substances do not leach into the ground and surrounding waters. Bins are also used to protect e-waste from the elements.

All rentals are on a month-to-month basis. Bins can be removed at any point in time, however, if the site has no other means of sheltering collected WEEE materials they are in breach of the collection site agreement and the risk for contaminants entering the ground is significant.

OES will make arrangements to collect and return leased assets to suppliers following program termination. Suppliers will be given advance notice of termination of rental arrangements. OES will also work closely with collection sites that utilize leased OES assets for WEEE collection so that those locations can plan alternate collection arrangements if they chose to continue collecting WEEE materials under the RRCEA legislative framework. OES anticipates that all leased assets related to collection sites will be returned to suppliers by ~~July 31, 2020~~February 1, 2021.

### ***Other Leased Assets***

OES rents a storage unit in which historical files are retained for tax purposes. Following program termination, the OES liquidator will make whatever arrangements are necessary with respect to these files for OES to comply with records retention requirements for tax purposes. The storage unit operator will be given notice of lease termination in accordance with existing contractual provisions.

OES will also consult with RPRA regarding file contents to determine whether any should be transferred to RPRA as part of OES WEEE program data transfer steps.

OES has leased premises at 5750 Explorer Drive, Suite 302, with obligation until October 31<sup>st</sup>, 2020 in the amount of \$ 8,500 per month. ~~Early termination will require full payout of the lease term. A reimbursement of leased space to EPRA of \$5,400 per month is also required, as OES leased the separate suite 302 office facility in order to address the desire for segregation during~~OES intends to negotiate an extension of the

lease to enable it to provide program services until December 31, 2020 and take steps following the program termination date to wind up, ~~as an aspect of~~ the ~~governance directive~~ program.  
Anticipated lease related amounts have been included in 2020 and 2021 financial forecasts.

## **5.6 Intellectual Property**

### ***OES Material Tracking System***

See Section 5.4 for a description of the proprietary OES MTS software and its proposed method of transfer to RPRA.

### ***Other Intellectual Property***

OES's additional intellectual property includes the domain name for the OES website: ontarioelectronicstewardship.ca and the trademark for the business name Ontario Electronic Stewardship. OES will continue to utilize these trademarks and domain names throughout the wind up period. Following program termination, the legal ownership rights to the OES trademark and website domain name will be transferred to RPRA.

OES also has a dormant website, [recycleyourelectronics.ca](http://recycleyourelectronics.ca), which has no content and has not been in use for approximately 3 years. The website ownership will be transferred to RPRA upon OES entity dissolution.

## **5.7 Investments**

OES does not hold any funds in long-term investments. Reserve funds are held in accounts identified in Section 5.1

## **5.8 Internally Restricted Assets**

Not applicable to OES operations or financial forecast.

## **SECTION 6: LIABILITIES**

### **6.1 Accounts Payable and Accrued Liabilities**

#### **A. Current Accounts Payable**

A list of current accounts payable and accrued liabilities is confidential and provided to RPRA. Related costs and financial implications are included in wind up plan budget summaries provided.

#### **B. Future Accounts Payable**

***Collection Incentive Accounts Payable Forecasts******Processing Incentive Accounts Payable******Forecasts Re-use and Refurbish Reports******Accounts Payable******Transportation, Re-pack and Consolidation Accounts Payable***

Accounts Payable forecasts are based on prior year trending and adjusted for current year run rates.

**C. Key Suppliers**

Termination notification periods for OES processor and collector contracts are described, and proposed OES processes for notification of contract terminations in WUP Section 2: Implementation Plan and Timeline.

Key Suppliers whom OES directly compensates include:

Collectors;

Transporters;

Processors;

Administrative Service Providers such as IT services; and

Marketing and Communication Service Providers such as Media Organizations.

All service providers will be given a minimum 90 days of notice, or notice per the contractual arrangement, should the contractual notice exceed 90 days.

**6.2 Debt**

OES does not carry debt. OES does not anticipate any need to source additional funding over the wind-up period.

**SECTION 7: CUT-OFF DATES****7.1 A. Key Wind Up Cut-Off Dates**

<b>Table 11: Key OES Wind Up Cut-Off Dates</b>	
<b>Cut-Off Date</b>	<b>Wind Up Plan Measure</b>
<del>June 30</del> <u>December 31,</u> 2020	- Program termination date; - Final date for collection of WEEE materials under program;

	- Final date for submission of MTS BOLs by collectors and generators;
<del>July 10, 2020</del> <u>January 15, 2021</u>	- Final date for transportation pick up of WEEE from collector and generator sites; - Final date for submission of re-use and refurbish reports to OES;
<del>July 31, 2020</del> <u>February 1, 2021</u>	- Final date for submission of claims for collection incentives to OES from collectors; - Final date for submission of steward <del>EEE</del> supply reports to OES for the period ending <del>June 30</del> <u>December 31</u> , 2020;
<del>August 15, 2020</del> <u>February 15, 2021</u>	- Final date for processing of WEEE collected prior to <del>June 30</del> <u>December 31</u> , 2020 and submission of processor incentive claims to OES;
<del>September 15, 2020</del> <u>March 15, 2021</u>	- Final date for completion of final processor mass balance reports under WEEE program; - Final date for steward submission of corrections or adjustments to EEE supply reports provided earlier under the program.

Based on consultation feedback, OES is comfortable that the proposed key cut-off dates can be implemented with minimal disruption to stakeholders.

## B. WEEE Inventory Management and Cut-off Dates

During consultation some service providers raised concerns about the risk of being saddled with stranded inventory at program termination. OES's proposed time lines related to service provider cut-offs and payments ensure that all WEEE material collected by ~~June 30~~December 31, 2020 will be eligible for a full range of incentives under the program.

Time lines allow processors up to six weeks to process WEEE materials that they have in inventory as of ~~June 30~~December 31, 2020 and materials collected from generation and collection sites that were collected by ~~June 30~~December 31, 2020. As most processors currently submit claims for PI incentives within two weeks of receiving WEEE materials, six weeks will allow for the final processing of existing WEEE inventories as of the program termination date.

For a brief transitional period collectors (~~July~~January 1 to ~~July 10~~January 15) and processors (~~July~~January 1 to ~~August~~March 15) will maintain separate inventories of WEEE materials collected before and after the ~~June 30<sup>th</sup>~~December 31 program termination date.

Under the allocation model, data records in the MTS will provide OES will real time inventory forecasts of WEEE materials as of ~~June 30~~December 31, 2020. Only those WEEE materials collected by June 30<sup>th</sup> will be eligible for OES incentives. OES will [Ontario Electronic Stewardship Wind Up Plan 2018 \(Updated July 2019\)](#) [46](#)

also increase the frequency of processor mass balance reports shifting to monthly mass balance reports no later than the ~~2<sup>nd</sup>~~4<sup>th</sup> quarter of 2020. OES will monitor both collection and processing incentive claims volumes closely throughout the wind up period and where necessary implement additional verification processes to ensure that incentive claims are consistent with program requirements.

Some collectors and processors may fail to or choose not to submit incentive claims for WEEE materials collected prior to ~~June 30~~December 31, 2020. Any WEEE material collected prior to ~~June 30~~December 31, 2020 for which collection incentive claims have not been submitted to OES by ~~July~~January 31, ~~2020~~2021 or for which processing incentive claims have not been submitted to OES by ~~August~~March 15, ~~2020~~2021 will not be eligible for respective OES program collection or processing incentives.

## 7.2 Revenue

As noted in WUP Section 1, OES ~~will implement~~implemented a reduction of steward EEE fees to zero as of February 1<sup>st</sup>, 2019.

## SECTION 8: RESERVES

### 8.1 Reserves

#### A. Reserve Fund Balances

As of December 31, 2018, OES ~~estimates~~had a total reserve fund balance of \$109.8 million. Table 12: outlines estimates of operating deficits for 2019 ~~and~~, 2020 and 2021 and the related impact on OES reserve fund estimates.

<b>Table 12: OES Reserve Fund Estimates 2018 – <del>2020</del><u>2021</u>*</b>	
OES <del>Projected</del> Reserve Fund Balance December 31, 2018 (unaudited)	\$109.8 Million
Projected OES Operating (Deficit) 2019	(\$ <del>48.9</del> <u>51.3</u> Million)
OES Projected Reserve Fund Balance December 31, 2019	<del>\$60.9</del> <u>\$58.6</u> Million
Projected OES Operating (Deficit) 2020	(\$ <del>27.1</del> <u>53.2</u> Million)
<u>OES Projected Reserve Fund Balance December 31, 2020</u>	<u>\$5.4 Million</u>
<u>Projected OES Operating (Deficit) 2021</u>	<u>\$2.3 Million</u>
Preliminary Estimate of OES Surplus Funds Remaining Post- Program Termination, prior to surplus distribution.	\$ <del>33.8</del> <u>31.1</u> Million

\* Updated ~~February~~July 2019

The OES reserve fund balance for 2018-~~forecast~~ is calculated by beginning with prior year ending reserve, adding current year operating surplus or deficit and any one-time items like a tax refund, to arrive at the ending year reserve.

Estimates of operating deficits for 2019 and 2020 and the subsequent reduction in OES Reserve Funds are based on assumptions in OES Financial Forecast and Budget described in detail in WUP Section 4: Financial Forecast and Budget.

## **B. Reserve Fund Management Plan**

As noted in Section 1: Operational Plan, OES reserve fund balances enable a reduction of steward EEE fees to zero as of February 1, 2019~~;~~.

OES proposals for financing operations through the reduction of reserve funds is consistent with Ministerial direction related to program wind up. OES also worked with RPRA to consult on and receive support to implement this EEE fee reduction prior to formal approval of the full OES Wind Up Plan in order to minimize any surplus remaining at program wind up.

## **C. Targeting a Nil Balance**

As noted earlier, a Tax Court of Canada ruling in 2018 resulted in an HST tax refund to OES, which increased the OES existing reserve fund balance by \$60.8 million.

~~Given~~With the ~~time lines established for~~extension of the program ~~termination and the level of OES year end 2018 cash reserves, even with an EEE fee reduction to zero in February 2019, it is not forecasted that OES will end with a reserve fund balance at zero following program termination.~~OES until December 31, 2020, OES is currently estimates that its reserve budgeting to a residual fund balance of approximately \$3.1 million following program termination and the resolution of all outstanding financial obligations will be approximately \$ 33.8 million, and. The RPRA Registrar has confirmed that amount OES may increase with additional HST refunds. At the time of Wind Up Plan writing, these potential amounts remain under audit by CRA transfer residual funds to RPRA to offset RRCEA Registry- related expenses. Accordingly, OES will transfer the residual funds remaining in OES after wind up activities are completed to RPRA.

## **D. Reserve Fund Risks and Compliance with WDTA**

Given the length of time between the submission of this WUP plan and program termination, forecasts related to reserve fund balances for 2019, 2020 and ~~2020~~2021 are subject to a number of financial contingencies associated with OES operating expenses for these years. Variations in actual WEEE tonnage recycled in relation to current forecasts could create significant cost variations in the OES program.

Actual ~~reserve~~residual fund balances ~~as of September 2020, therefore, following~~  
~~program termination in 2021~~ may vary significantly from the current ~~reserve fund~~  
forecasts. ~~Even with these caveats, however, OES is forecasting that excess~~  
~~surplus funds will remain in the WEEE program following program termination. As~~  
~~noted in the operational plan, OES proposes to disburse~~  
~~these funds in accordance with the WDTA approved program agreement. The~~  
~~methodology OES utilizes to calculate steward contributions and any excess fund~~  
~~disbursement amounts will be reviewed and supported by~~The RPRa Registrar has  
confirmed that OES may transfer residual funds to RPRa to offset RRCEA  
Registry-related expenses.  
Accordingly, OES will transfer the residual funds remaining in OES after wind  
up activities are completed to RPRa.

The ~~proposed~~ WUP plan strategy to fund program operations from reserve fund  
balances during program wind up and ~~disburse excess~~the transfer of residual funds to  
~~stewards~~RPRa following program termination are both consistent with Ministerial wind  
up direction and WDTA provisions.

With respect to the EEE fee reduction to zero, the Ministerial direction instructed OES  
to, where possible, reduce the EEE steward fee in order to minimize any remaining  
surplus funds including any reserves when the program ceases operations. This use  
of reserve funds to finance program operations is also consistent with WDTA provisions  
which limit the use of program reserves to the following purposes:

***Purposes of fund (Subsection 35 (2) WDTA)***

- (2) The fund [*in this case OES reserve funds*] shall be held in trust by the  
industry funding organization and shall only be used for the following purposes:
1. To pay the costs of operating the program.
  2. To pay the costs of developing and implementing changes to the program.
  3. To pay the costs of developing and implementing a plan to wind up all or  
part of the program.
  4. To pay the costs incurred by the organization or the Authority to wind up all  
or part of the program.
  5. To pay the costs incurred by the organization or the Authority to wind up  
the organization.
  6. To pay the costs incurred by the Authority in exercising its powers and  
carrying out its duties as they relate to the industry funding organization.
  7. To pay the costs incurred by the Crown in administering this Act and the  
regulations, as the costs relate to the industry funding organization and  
the Authority's oversight of it, including costs associated with appeals to  
the Tribunal of the Authority's orders.

~~With respect to disbursement of excess funds to stewards following program~~  
~~termination, page 7 of RPRa IFO Wind Up Guide states "To the extent that there are~~  
~~credits/reserves/refunds/excess cash balances ("Excess Funds"), these Excess Funds~~

~~must be allocated to the steward who paid the original fee that gave rise to those Excess Funds, in accordance with the applicable laws governing the transaction and to the extent feasibly possible.”~~

~~The disbursement of OES excess funds back to stewards following program termination is also consistent with the funding principles established in the WDTA related to program financing which state that steward fees must fairly reflect the costs of running the program.~~

## 8.2 Funds Fund Restrictions

OES reserve funds are not subject to any specific restrictions other than the spending parameters for program spending created by the WDTA and related regulations and requirements.

### ~~Excess Fund Disbursement~~

~~As noted above, the methodology OES proposes to disburse excess funds to stewards following program termination is to base each steward's disbursement on their estimated contribution to excess funds over the course of the OES WEEE program. The methodology OES utilizes to calculate steward contributions and any excess fund disbursement amounts will be reviewed and approved by RPRA.~~

### Transfer of Residual Funds to RPRA

The RPRA Registrar has confirmed that OES may transfer residual funds to RPRA to offset RRCEA Registry-related expenses. Accordingly, OES will transfer the residual funds remaining in OES after wind up activities are completed to RPRA.

## SECTION 9: DATA

### 9.1 Security/Privacy

Through the operation of the WEEE program, OES has accumulated data pertaining to the operation of the program from stewards, service providers, stakeholders and the general public. This data falls into the following categories:

- Steward and service provider contact information;
- Steward put on market data;
- Supplier contact information;
- Supplier banking information;
- Pricing and volume data;

- Tax information;
- Operational information, audit results and open issues

Consumer data collected would only include information gathered to support the validation of WEEE Program material claims by a processor, to investigate and/or respond to a concern, question or statements addressed to OES by a consumer, or as a result of consulting on program planning with a consumer.

Collected information is only used for the administration of the WEEE program and validation of claims. This data contains information that is commercially sensitive and highly confidential. OES exercises extreme care in the management of this data through its operation of the program and through the wind up process.

All authorized OES resources have signed covenant agreement which requires resources to act in a manner which protects all information including that which is commercially sensitive. Contractors and IT service providers sign non-disclosure agreements which similarly protect OES information.

### ***OES/EPRA Data Segregation***

OES data is protected through a combination of physical system segregation and in- system access controls.

The key OES data solutions (steward, service provider and accounting ledgers) are separate and distinct from EPRA solutions. These separate modules have been configured to limit access to the dedicated OES authorized resources only.

IT administration of OES systems is provided by a third-party IT firm that is contracted to provide IT support and systems development for OES. This third party has signed confidentiality agreements with OES.

Access to local data is protected as OES-dedicated staff and operations are managed from a separate office with separate card key access during wind up.

## **9.2 Data Destruction**

As noted in WUP Section 1: Operational Plan, OES proposes to destroy all historic WEEE recycling data in its possession following transfer of program data to RPRA (see Section 9.4 Data Transfer below).

Following confirmation of receipt of data by RPRA, OES will commence the following process to shut down and destroy systems and cancel IT contracts:

- OES will notify its third-party IT firm and provide a date for the OES systems

- to be shut down;
- The third party will execute the shutdown of all internal systems and accounts and purge all data;
  - For any physical data storage devices, data will be removed according to current department of defense standards and the devices disposed of according to this Wind Up Plan;
  - The third party will verify by manual inspection that OES data has been removed and will issue a formal letter attesting to the deletion of OES data;
  - For systems hosted by third parties, the third-party IT firm will contact service providers to ensure all accounts are closed and data has been purged from the providers' servers;
  - For systems hosted by EPRA, the third-party IT firm will close all OES accounts and purge data from EPRA servers.

For physical files held at the OES office and OES off-site storage location, a similar process will be used. OES will notify its IT firm and provide a date for the OES physical documents to be destroyed:

- The third party will coordinate and oversee the onsite shredding of all remaining physical document;
- The third party will verify by manual inspection that OES data has been destroyed and will issue a formal letter attesting to the destruction of OES data.

### **9.3 Data Retention and Sharing**

#### ***Post Program Data Retention***

Following program termination, OES will takes steps to ensure that data retention required to ensure compliance with residual program obligations, any outstanding *Corporations Act* or taxation requirements, will be retained in a manner consistent with those obligations.

Any materials provided to RPRA that have to be retained for a period of time to ensure compliance with residual OES obligations will be clearly marked and identified with retention time frames explicitly identified. If RPRA cannot act as the repository for certain OES data requirements, the OES appointed liquidator will take steps necessary to ensure the retention of such data for the periods required.

#### ***Data Safeguards***

OES employs a secure cloud document management system (Box) which is used to house electronic copies of OES documents. This system ensures that data is encrypted while at rest and while being transferred to/from the system. Throughout the windup this secure system will be used for data transfer with RPRA.

### ***Public Information***

Throughout the wind up period, OES will continue to publish Annual Reports which include aggregated non-commercially sensitive information about OES stewards, and program recycling volumes.

OES is not proposing to release any additional public information data about WEEE recycling other than the annual data summations included in those reports.

### ***Confidential Information***

Confidential information submitted to RPRA as part of this WUP submission is provided as appendices to this report with such information clearly marked as confidential for RPRA. This information will not be included for publication as part of the public OES WUP.

OES will consider a steward request for the release of their own OES-held data to a third party of the steward's choice, subject to signing of an appropriate authorization by the steward and the reasonable availability of requested data in the OES steward reporting system.

OES may also provide commercially sensitive and confidential information to RPRA as part of the transfer of historic WEEE recycling data (see 9.4 below). OES will clearly identify any confidential or commercially sensitive data transferred to RPRA as such so that RPRA can take appropriate measures to safeguard such data in accordance with its confidentiality guidelines for such data.

## **9.4 Data Transfer**

As part of the wind up process, OES will provide historic and current WEEE program data to RPRA. [OES and RPRA will work together to develop a formalized Data Transfer Plan](#). Most of this information will be provided to RPRA in digital format with measures taken to ensure no access by third parties during the transfer process.

Once program data has been transferred to RPRA and all necessary OES post-program termination administrative tasks have been completed, OES will engage a third-party IT firm to destroy remaining data and ensure all such data is cleansed from OES devices before any such devices are auctioned off

Following termination of the EPRA-OES operating agreement, OES-dedicated staff employed by EPRA will not have access to any OES program data.

## **SECTION 10: HUMAN RESOURCES**

## **10.1 Employees**

OES does not have employees. Services are provided by EPRA staff, and the EPRA contract allows for provision of OES to pay severance for any OES supporting staff that are terminated as a result of program wind up or contract cancellation with EPRA. These potential costs are included in wind up budget forecasts.

Additional staff that may be required to handle an influx of administrative activity during wind up have been built into the wind up plan and costs. Additional staff may be required for handling calls, processing claims and compliance activities.

## **10.2 Sub-Contractors**

OES subcontracts administration to EPRA. Reference to the EPRA staffing is in previous section, 10.1

## **10.3 Pension and RRSPs**

Not applicable to OES operations

## **10.4 Communications with Personnel**

OES dedicated staff are informed regularly on program updates regarding regulatory information, news from RPRA, wind up activities and next steps.

# **SECTION 11: LEGAL CONSIDERATIONS**

## **11.1 Litigation**

### **A. Ongoing Litigation**

There is one case currently under legal guidance. Due to the confidential nature, it is not disclosed here.

### **B. Legal Wind Up Risks**

OES compliance with contractual terms of all stakeholder agreements should minimize legal risks that may arise during wind up.

## **C. Mitigation of Legal Risks**

Any legal claims or actions that arise during program wind up will be managed on an ad hoc basis. OES does not anticipate that run-off insurance will be required in relation to managing these risks.

### **11.2 Contracts**

#### **A. OES Contracts**

OES obligations and termination processes for collector and processor contracts are described in WUP Sections 1 and 2: Operational Plan and Implementation Plan and Timelines. These contracts do not generate termination costs given appropriate notice, which can be achieved within the wind up timelines.

Other Contracts: OES has contracts providing administration services, IT services, and marketing services with various providers. All contracts have normal notification terms that are well within the 12-month period of wind up plan and therefore no unusual termination costs are forecasted.

#### **B. Contractual Terminations, Timing and Costs**

OES will provide notice of contractual terminations in relation to all commercial agreements or contracts in a manner that meets or exceeds those contractual provisions. All costs associated with anticipated contractual terminations have been factored into OES budgetary forecasts (WUP SECTION 4) and where applicable have been identified in relation to specific contracts in subsection A above.

### **11.3 Legal Contingency Costs**

Legal contingency costs associated with ongoing litigation and other potential legal issues have been factored into OES estimates of wind up costs included its budgetary forecast.

### **11.4 Environmental Issues**

#### **A. Need for Environmental Review**

WEEE is not considered a hazardous material until it is broken down or processed. As such, collectors and transporters of WEEE do not require environmental approvals from the MECP. Processors who undertake the processing of WEEE must hold valid Environment Certificates of Approvals and are regulated by the MECP. Processors are required to provide financial assurance to the MECP to cover any costs associated with site contamination or clean up.

OES processors operate under the ERS 2013 Standard. The standard outlines the safe handling and operations requirements for processors and is administered by the RQO. Processors are obligated to provide OES with Mass Balance Reports which outline where their outputs are delivered. OES validates that the appropriate volume of material is being shipped to approved downstream processors.

A formal environmental review is not required to be conducted by OES as the MECP has jurisdiction over processor operations.

Environmental insurance is addressed through letters of credit that Processors are required to issue in order to handle the potential of an environmental cleanup. Letters of Credit may be issued to the Ministry of Environment or the OES Program.

## **11.5 Key Contracts**

As noted in the Operation Plan, the OES program is delivered through a service agreement with the EPRA. The OES-EPRA service agreement will be terminated following the completion of OES administrative functions after the program termination date. OES may incur some labour-related costs following termination of the agreement which are described in Section 10 and which have been factored into wind up plan financial forecasts.

## **SECTION 12: TAX**

### **12.1 Harmonized Sales Tax**

OES provides a service to stewards in managing the waste recycling program that the stewards are legally obligated to fund in Ontario. OES collects and remits Harmonized Sales Tax (HST) on fees charged to stewards.

Early in the program, the Canada Revenue Agency (CRA) ruled that Industry Funding Organizations (IFOs), such as OES, were not allowed to claim Input Tax Credits (ITCs) for the HST paid to third parties for services provided in operating the recycling program (such as processors and collectors).

In 2017, Stewardship Ontario and OES filed appeals with the Tax Court of Canada challenging the CRA ruling with respect to the eligibility of ITCs.

In April 2018, the Tax Court of Canada overturned the ruling for Stewardship Ontario. In June 2018, the CRA and Tax Court of Canada consented to allow the SO ruling to apply to OES, meaning ITCs were allowed for the HST which had been paid on services and goods received.

As a result, OES in 2018 and early 2019 received CRA HST refunds in the amount of \$60.8 M. and is permitted to claim ITCs on HST payable on a go forward basis.

As noted in previous WUP sections, the ability of OES to claim ITCs on program expenses in 2018 shifted the OES 2018 budget forecast from a deficit to surplus position.

[As noted in the OES Financial Forecast and Budget, OES will continue to remit HST to the CRA on the program services as the OES program continues to fulfill the program obligation on behalf of stewards until wind up.](#)

## **12.2 Employee Source Deductions**

Not applicable to OES financing. OES pays EPRA for services provided. Employee related expenses are managed directly by EPRA and all EPRA employee related costs and related OES financial obligations have been factored into OES estimates related to the operation and termination of the OES-EPRA agreement. These costs are referenced in WUP Sections: 4 Financial Forecast and Budget and 10: Human Resources

## **12.3 Other Tax Considerations**

### **A. Final Tax Return**

The final OES tax return for ~~2020~~2021 will be filed by the liquidator.

### **B. Record Keeping**

CRA related tax records are required to be kept for a period of seven years. OES or its liquidator will contract with a third party to manage and retain all required tax records. After the required seven-year retention period these records will be destroyed. As part of winding up OES as a corporate entity, the liquidator will be required to file a final tax return and obtain a Clearance Certificate from the CRA before final disbursements of any remaining cash that remains in OES accounts at the point of corporate dissolution.

## **12.4 HST Rulings**

See Section 12.1 above.

## SECTION 13: MANAGEMENT OF OTHER RISKS

### 13.1 Public Perception: Potential Wind Up Risks

#### *Public Awareness of WEEE Recycling*

OES does not anticipate any significant negative consumer impacts associated with program wind up. OES will monitor consumer access to WEEE drop off locations through the wind period to ensure that consumer WEEE returns are convenient and in keeping with historic program performance metrics.

One potential risk associated with the OES wind up plan relates to the reduction of steward EEE fee to zero after February 2019. OES anticipates that consumer EHF fees may also be removed as of February 1, 2019. The change to zero of EHF fees for some consumers may create the impression that WEEE materials are no longer being recycled. This may be particularly true for consumer items where EHF fees are more significant such as those applied to large TVs and monitors.

To ensure that consumer awareness of WEEE recycling is maintained, OES will continue with promotional and education programs throughout the wind up period to support public awareness of WEEE recycling. OES will also conduct polling related to consumer awareness in the summer or fall of 2019 following the elimination of EHF fees to assess whether there has been any reduction in consumer awareness in relation to WEEE recycling (in comparison to historical norms).

#### *Disruption of WEEE Recycling*

As noted throughout the WUP, OES is not proposing any changes to program incentive rates throughout the wind up period. It is also proposing that all WEEE collected as of ~~June 30~~December 31, 2020 will be eligible for a full range of incentives under the program. As such OES does not anticipate that there will be any disruption to WEEE recycling during the wind up period. In the view of OES, its recommendations to continue with a business as usual approach to managing WEEE recycling should minimize the likelihood of any disruptions to WEEE recycling prior to ~~June 30~~December 31, 2020.

However, OES will monitor WEEE product flows closely throughout the wind up period to ensure continued program performance is maintained. As noted earlier if OES determines that significant backlogs related to WEEE recycling are emerging it will consider implementation of additional measures to address those backlogs.

~~Disbursement~~Transfer of ~~Excess or Surplus~~Residual Funds to ~~Stewards~~RPRA Following Program Termination

~~As in noted earlier in the WUP, at the time of submission of this plan, the RPRA IFO Wind Up Guide indicates that to the extent there are excess IFO funds “these Excess Funds must be allocated to the Steward who paid the original fee that gave rise to those Excess Funds”. In the absence of Ministerial Direction or guidance from the RPRA that clarifies that alternate uses of program surpluses may be permitted under the statute or regulations, the OES Board felt that consideration of any alternative use of excess funds (other than disbursement back to stewards) was beyond the scope of its recommendations.~~

~~While some stewards requested that surplus funds be used for post-wind up costs rather than distributed back to stewards, in the view of OES, consideration of such options as part of the wind up plan would require clarification from the RPRA that such options are consistent with statutory and regulatory requirements.~~ With the extension of the program to December 31, 2020, OES is now budgeting to a residual fund balance of approximately \$3.1 million following program termination. The RPRA Registrar has confirmed that OES may transfer residual funds to RPRA to offset RRCEA Registry-related expenses. Accordingly, OES will transfer the residual funds remaining in OES after wind up activities are completed to RPRA.

## 13.2 Conflict of Interest

### A. OES Governance and Operations During Wind Up

As noted in WUP Section 1: Operation Plan, a new OES Board was appointed in August 2018 to manage the OES program including the development and submission of this WUP. Unlike previous OES boards, the new OES board does not have any members whom are also members of the EPRA Board of Directors.

The new OES Board was appointed in accordance with WDTA regulatory requirements with members appointed by the Retail Council of Canada and Electronic Product Stewardship of Canada. The new OES Board includes members with extensive senior management experience in variety of national corporations, including members with previous OES experience and backgrounds related to corporate product stewardship responsibilities.

OES By-laws obligate members and officers to avoid and declare conflict of interest situations and conduct Board business in accordance with high governance standards (See section 13.3 below for more details on Board conflict of interest guidelines).

As noted earlier, OES utilizes EPRA services to administer the WEEE program. It is anticipated that EPRA will likely apply to operate programs on behalf of stewards under the RRCEA framework. The separation of OES and EPRA board memberships during the wind up period will ensure that OES Board wind up activities are directed independently of EPRA Board considerations.

Operationally, OES will engage an independent Wind Up Program Manager to oversee OES dedicated staff who will be segregated from EPRA staff through operations in separate office facilities. OES data-containing applications relating to stewards, service providers and the corresponding accounting ledgers will be segregated and accessed only by the OES dedicated staff. EPRA senior management will not have system or data access and will only be available for guidance as called upon by the OES Board or in general consultation by the OES dedicated staff. Dedicated managers of Finance and Operations will be put in place to manage the OES daily activities and information and report to the Wind Up Program Manager. In addition, a third-party consultant was engaged to facilitate the wind up consultations and draft the wind up plan for the OES Board.

Following program termination, all OES WEEE recycling data will be destroyed (see WUP Section 9: Data). EPRA staff utilized to deliver the OES program will be prohibited from retaining, communicating or transferring any OES related WEEE recycling data to EPRA or any other parties.

## **B. Legal Advice and Governance Issues**

To prepare for program wind up and ensure that conflict of interest (COI) issues are managed appropriately, OES engaged legal counsel with expertise in governance issues to advise the OES Board throughout the wind up period.

Legal counsel attends all OES Board meetings to address any potential conflict of interest issues that are flagged and to help ensure that Board decisions are made in compliance with conflict of interest by-laws and high corporate governance standards.

Each Board meeting begins with a reminder regarding COI obligations. Any Board member who has questions about whether a personal situation creates a conflict of interest problem or issue for OES operations, has direct access to legal counsel for advice on the matter.

## **C. Third Party Transactions**

As noted above, OES administers the WEEE program through a service agreement with EPRA. See Subsection A above for a description of OES-EPRA arrangements during program wind up.

## **D. Prior Transactions**

Not applicable to OES operations.

## **E. Governance Documentation**

OES Corporate By-law Number 1 General By-Law governing Board and Committee operations and procedures is attached as Schedule B to this WUP Plan. This By-law will be in force during the wind up period.

OES By-Law Number 2: A by-law related to Code of Conduct of OES is attached as Schedule C to this WUP. This By-law will be in force during the wind up period.

### **13.3 Board of Directors Conflict of Interest Provisions**

As noted in section 13.2 above, in anticipation of program wind up a new OES Board was appointed in August 2018 to manage the development and administration of the OES WUP.

OES By-Law Number 2, attached as Schedule C, establishes code of conduct provisions that apply to all Board members and officers of the corporation.

By-Law No. 2 defines real, potential and apparent conflict of interest situations for OES Board members and officers of the corporation:

- Real conflict of interest is defined as an indirect personal or business interest (financial or non-pecuniary) that is sufficient to influence the exercise the board member's or officer's duties or responsibilities;
- Potential conflict of interest is defined as an interest which could affect duties or responsibilities but where those duties or responsibilities have not yet been exercised; and,
- Apparent conflict of interest is defined as existing where a reasonable well-informed person could have a reasonable belief that a Board member or officer was in a direct or indirect conflict of interest situation even if there was no conflict of interest in fact.

Under By-Law No. 2, Board members are obligated to conduct themselves to avoid conflict of interest situations. They are obligated to declare any conflict of interest situations and must remove themselves from participation in Board activities where a conflict of interest is deemed to exist. Board members and officers are also prohibited from using confidential or commercial OES information for any purpose other than the conduct of their OES duties. They are also prohibited from releasing such information to third parties.

Board members and officers, upon appointment, must sign declarations indicating that to the best of their knowledge, they or any persons related to them, have no direct or indirect conflict of interest situations related to OES operations. Where a potential conflict does exist with respect to a particular OES contract or transaction, Board

members must declare their connection or interest that gives rise to a conflict of interest with respect to OES operations.

Board members and officers agree to abide by OES conflict of interest provisions and agree to disclose any new conflict of interest situations that might arise subsequent to their appointments.

### **Board and Committee Meetings During Wind Up**

OES will provide RPRA with copies of all OES Board and Committee minutes during the wind up period.

## SCHEDULE A: DETAILED OES IMPLEMENTATION PLAN AND TIMELINES

Wind Up Task	Personnel Responsible (ADD NAMES THROUGHOUT)	Key Tasks/Dates	Status Update
<b>4. Implementation of Steward OES Fee Reduction to Zero on February 1, 2019</b>			
OES Notice to Stewards re Proposed Fee Reduction Via Steward Webinar Session - email blast invitation (November 19, 2018)		<ul style="list-style-type: none"> <li>- November 23, 2018 Webinar updating OES Financials and providing notice of EHF fee reduction to zero for February 1, 2019;</li> <li>- Identification of continuing supply reporting obligation;</li> <li>- Posting of webinar on OES website (consultation update);</li> </ul> <b>November 23, 2018</b>	Completed
Formal OES notification of EHF fee reduction to zero		<ul style="list-style-type: none"> <li>- Website posting;</li> <li>- Steward email blast;</li> <li>- Identification of key dates for final fee payments to OES along with final dates for any fee adjustment corrections;</li> <li>- OES contact information/process re questions;</li> </ul> <b>December 3, 2018</b>	Completed
Implementation of Steward Fee Reduction		- Update EHF fee rates and references throughout OES website; <b>February 1, 2019</b>	<a href="#">Completed</a>
Final Date for Submission of Steward Reports requiring fee payments		<b>February 28, 2019</b> - OES staff follow-up as required.	<a href="#">Completed</a>
Final date for Stewards to Report any corrections to supply reports and associated fee adjustments.		<b>April 30, 2019</b> - OES staff follow-up as required.	<a href="#">Completed</a>
Deadline for submission of inventory adjustment claims from retailers		<ul style="list-style-type: none"> <li>- February 28, 2019 deadline for submission of claims;</li> <li>- April 30, 2019 deadline for adjustments to claims;</li> </ul>	

		- One on one staff follow-up as required	
<b>2. Notice to Stakeholders re RPRA Approval of OES Wind Up Plan</b> <ul style="list-style-type: none"> <li>• General notification of approval of wind up plan;</li> <li>• Confirmation of key WUP dates and deadlines;</li> <li>• Link to copy of full WUP;</li> <li>• Identification of process for contacting OES re information and questions of clarification</li> </ul>			
<b>Stewards</b>		Preparation and release of notification materials: <ul style="list-style-type: none"> <li>- Website update;</li> <li>- Steward Newsletter;</li> <li>- Email Blast;</li> </ul> <b>Target Date: <del>July 15</del>August 31, 2019 or earlier.</b>	
<b>Collectors</b>		Preparation and release of notification materials: <ul style="list-style-type: none"> <li>- Website update;</li> <li>- Email Blast;</li> </ul> <b>Target Date: <del>July 15</del>August 31, 2019 or earlier.</b>	
<b>Transporters</b>		Preparation and release of notification materials: <ul style="list-style-type: none"> <li>- Website update;</li> <li>- Email Blast;</li> </ul> <b>Target Date: <del>July 15</del>August 31, 2019 or earlier.</b>	
<b>Processors</b>		Preparation and release of notification materials: <ul style="list-style-type: none"> <li>- Website update;</li> <li>- Email Blast;</li> </ul> <b>Target Date: <del>July 15</del>August 31, 2019 or earlier.</b>	
<b>Generators</b>		Preparation and release of notification materials: <ul style="list-style-type: none"> <li>- Website update;</li> <li>- Email Blast;</li> </ul> <b>Target Date: <del>July 15</del>August 31, 2019 or earlier.</b>	
<b>Re-use and Refurbishers</b>		Preparation and release of notification materials: <ul style="list-style-type: none"> <li>- Website update;</li> <li>- Email Blast;</li> </ul> <b>Target Date: <del>July 15</del>August 31, 2019 or earlier.</b>	

<b>Municipalities</b>		Preparation and release of notification materials: - Website update; - Email Blast; <b>Target Date: <del>July 15</del><u>August 31</u>, 2019 or earlier.</b>	
<b>Public</b>		Preparation and release of notification materials: - Website update; <b>Target Date: <del>July 15</del><u>August 31</u>, 2019 or earlier.</b>	
<b>3. Formal Notification to Service Providers of Contract Terminations</b>			
<b>Stewards-Remitters</b>		- Preparation of contract termination notice (email/letter); - Identification of date on which OES service contract will be terminated; - Reference to key submission dates re finalization of contract obligations; - OES contact information/process re questions. <b>Target Date: <del>September</del><u>January</u> 20192020</b>	
<b>Collectors</b>		- Preparation of contract termination notice (email/letter); - Identification of date on which OES service contract will be terminated; - Reference to key submission dates re finalization of contract obligations; - OES contact information/process re questions. <b>Target Date: <del>September</del><u>January</u> 20192020</b>	
<b>Municipalities</b>		- Preparation of contract termination notice (email/letter); - Identification of date on which OES service contract will be	

		<ul style="list-style-type: none"> <li>terminated;</li> <li>- Reference to key submission dates re finalization of contract obligations;</li> <li>- OES contact information/process re questions.</li> </ul> <p><b>Target Date:</b> <del>September 2019</del> <u>January 2020</u></p>	
<b>Refurbishers</b>		<ul style="list-style-type: none"> <li>- Preparation of contract termination notice (email/letter);</li> <li>- Identification of date on which OES service contract will be terminated;</li> <li>- Reference to key submission dates re finalization of contract obligations;</li> <li>- OES contact information/process re questions.</li> </ul> <p><b>Target Date:</b> <del>September 2019</del> <u>January 2020</u></p>	
<b>Processors</b>		<ul style="list-style-type: none"> <li>- Preparation of contract termination notice (email/letter);</li> <li>- Identification of date on which OES service contract will be terminated;</li> <li>- Reference to key submission dates re finalization of contract obligations;</li> <li>- OES contact information/process re questions.</li> </ul> <p><b>Target Date:</b> <del>September 2019</del> <u>January 2020</u></p>	
<b>4. Making MTS tracking software available to Program Participants</b>			
<b>Notification to Stewards, Service Providers of OES MTS Information Session</b>		<ul style="list-style-type: none"> <li>- <u>    </u> Letter indicating time and date of session to provide briefing on MTS requirements, process for transfer.</li> </ul>	

		<b>Target Date: <del>October</del> <del>March 2019</del> <del>2020</del></b>	
<b>Conduct MTS Information Session</b>		- <u>    </u> Development of briefing materials for information session <b>Target Date: <del>November 2019</del> <del>April 2020</del>;</b>	
<b>MTS software available for transfer</b>		- <u>    </u> Development of internal process, software modifications, instructions, necessary to facilitate transfer <b>Target Date: <del>January</del> <del>July 2020</del> – software available until <del>June 30</del> <del>December 31, 2018</del> <del>2020</del></b>	
<b>Provision of MTS Software to RPRA for potential transfer to WEEE recyclers post-program termination.</b>		- After <del>June 30</del> <del>December 31</del> , 2020 MTS software transferred to the RPRA. - Date to be determined in consultation with RPRA.	
<b>5. Submission and publication of OES 2019 Annual Report</b>			
<b>Draft and Submit Annual Report</b>		- Compile data; - Draft Report; - Engage Auditor complete financial statements; - Submit report to RPRA; <b>By April 1, 2020</b>	
<b>6. Implementation of Process for Finalization of OES Steward Supply Reports</b>			
<b>Notification of Wind Up processes and deadline to Stewards-Remitters</b>		- Preparation and release of wind up reminders; - Newsletters; - Email blasts; - Website postings; <b>January <del>July 2020</del> to <del>June</del> <del>December 2020</del></b>	
<b>Transition of Steward reporting/registration link from recyclemyelectronics.ca to ontariostewardship.ca</b>		<del>— July 1, 2020</del> - <u>    </u> <del>January 1, 2021</del> - Implementation of IT adjustments;	

		- Implementation of changes to both websites.	
<b>Follow up one on one contact with Stewards as required</b>		- Staff contact any stewards which have not submitted final reports or submitted deficient reports by <del>July 31</del> <u>February 1st</u> deadline; <del>August 2020</del> <u>February 2021</u>	
<b>Additional one-on-one steward follow-up as required</b>		- Staff contact stewards to resolve correction or adjustment to reports issues with September 15 steward adjustments to reports; <del>September-October 2020</del> <u>March-April 2021</u>	
<b>Final OES Steward Supply Report Reconciliations</b>		- OES finalizes steward supply reports for 2020 operating period. <del>October-November 2020</del> <u>March-April 2021</u>	
<b>7. Implementation of process for finalization of collector (including municipalities) incentive payments</b>			
<b>Reminder Notifications of Wind Up Processes and Deadlines to Collectors</b>		- Preparation and release of wind up reminders; - Email blasts; - Website postings; - Direct staff contact; <del>January</del> <u>July 2020 to June</u> <del>December</del> <u>2020</u>	
<b>Arrangement of final collector WEEE pickups</b>		- Staff arrangement of final collector pickups; <del>-By July 10, 2020</del> <u>January 15, 2021</u>	
<b>One on one follow-up with collectors as required</b>		- Staff contact any collectors to resolve any issues with claims submissions due by	

		<p><del>July</del> <del>January 31, 2020</del> <del>2021</del>;  <del>August 2020</del> <del>February 2021</del></p>	
Processing of final collection incentive payments to collectors		<p>- <del>Processing of final collector incentive payments;</del>  <del>August-September 2020</del> <del>February-March 2021</del></p>	
<b>8. Implementation of process for finalization of processor incentive payments</b>			
Reminder Notification of Wind Up Processes and Deadlines to Processors		<p>- Preparation and release of wind up reminders;  - Email blasts;  - Website postings;  - Direct staff contact;  <del>January</del> <del>July 2020 to June</del> <del>December 2020</del></p>	
One on one work with processors re additional audit/verification requirements re wind up requirements		<p>- OES Identification of additional verification requirements/revised time frames for documentation, etc.;  - Additional site visits as required;  <del>May – July</del> <del>November 2020 – January 2021</del></p>	
One on one follow up with processors as required		<p>- Follow up with processors re final incentive claims submissions due <del>August 15, 2020</del> <del>February</del>;  <del>August – September 2020</del> <del>February – March 2021</del></p>	
Final Processor Site Visits – Completion of Mass Balance Reports		<p>- Final staff processor site visits and completion of mass balance reports – final adjustments to incentive claims volumes;  <del>September 2020</del> <del>March 2021</del></p>	
Processing of Final OES Processor Incentive Payments		<p>- Processing of final processor incentive payments;  <del>October/November 2020</del> <del>April/May 2021</del></p>	
<b>9. Finalization of OES Transporter, Re-Packer and Consolidator Arrangements</b>			

<b>Reminder Notification of Wind Up Processes and Deadlines to Processors</b>		<ul style="list-style-type: none"> <li>- Preparation and release of wind up reminders;</li> <li>- Email blasts;</li> <li>- Website postings;</li> <li>- Direct staff contact;</li> </ul> <p><del>January</del> <u>July 2020 to June</u> <del>December</del> <u>2020</u></p>	
<b>Final Purchase Orders for Services</b>		<ul style="list-style-type: none"> <li>- <u>Staff</u> processing of final purchase orders for services;</li> </ul> <p><del>July 2020</del> <u>January 2021</u></p>	
<b>Processing of payments for final purchase orders</b>		<ul style="list-style-type: none"> <li>- <u>Processing</u> of payment for final purchase orders;</li> </ul> <p><del>August 2020</del> <u>February 2021</u></p>	
<b>10. Implementation of process for Finalization of Re-use and Refurbisher Reports</b>			
<b>Reminder Notification of Wind Up Processes and Deadlines to Processors</b>		<ul style="list-style-type: none"> <li>- Preparation and release of wind up reminders;</li> <li>- Email blasts;</li> <li>- Website postings;</li> <li>- Direct staff contact;</li> </ul> <p><del>January</del> <u>July 2020 to June</u> <del>December</del> <u>2020</u></p>	
<b>One on one follow up with Refurbishers</b>		<ul style="list-style-type: none"> <li>- <u>Staff</u> follow-up with refurbishers as required re submission of final reuse and refurbish reports (due by <del>July 10</del> <u>January 15,</u> <del>2020</del> <u>2021</u>);</li> </ul> <p><del>July – August 2020</del> <u>January-February 2021</u></p>	
<b>Processing of final OES payments for reuse and refurbish reports</b>		<ul style="list-style-type: none"> <li>- <u>Staff</u> processing of final payments for last reuse and refurbish reports</li> </ul> <p><del>August – September 2020</del> <u>February – March 2021</u></p>	
<b>11. Collection of OES Branded Materials Used by Collectors or Processors (Note to be completed in conjunction with WUP Tasks 6 – 10 above as applicable).</b>			

Reminder Notifications of Wind Up Processes and Deadlines to Collectors		- <u>    </u> Direct staff contact with collectors re inventories of OES materials <del>May-June</del> <u>November-December 2020</u>	
Arrangement of collection of OES branded materials from collectors in conjunction with final WEEE pickups		- <u>    </u> Staff arrangement of final material pickups; <del>June-July</del> <u>December 2020-January 2021</u>	
Arrangement of collection of OES branded materials form processors		- <u>    </u> Staff arrangement of final material pickups; <del>August-September 2020</del> <u>February-March 2021</u>	
Auctioning off of any OES branded materials with value		- <u>    </u> Materials to be auctioned off in conjunction with dispersal of other remaining OES assets (possibly by OES appointed liquidator (see below)); <del>September-October 2020</del> <u>March-April 2021</u>	
Arrangement for recycling of OES branded materials with no material value		- <u>    </u> Staff arrangement of branded materials recycling; <del>August-September 2020</del> <u>February-March 2021</u>	
<b>12. Final Program Financial Reconciliation</b>			
Program reconciliation for January – <del>June</del> <u>December 2020</u>		TBD –	
Processing of Payments to Stewards if applicable		TBD –	
<b>13. Finalization Arrangements re OES DATA</b>			
Final WEEE Data Transfers from OES to RPRA		- Consultation with RPRA; - Transfer of any remaining program data to RPRA; - Arrangements any additional information to be transferred to RPRA following appointment of liquidator;	
Destruction of WEEE program		- Once all OES data requirements met,	

<b>data</b>		including those necessary for completion of 2020 Annual Report, implementation of arrangements to destroy remaining data. <b>TBD</b>	
<b>14. Appointment of OES Liquidator</b>			
<b>Consultation with RPRA</b>		OES Board consults with RPRA re appointment of liquidator <b>Fall 2020</b>	
<b>Selection of Liquidator</b>		OES Board selection of liquidator subject to RPRA approval; Assignment of liquidator functions; <del>Oct-Nov-2020</del> <a href="#">April-May 2021</a>	
<b>Resignation of OES Board</b>		Board resignation and transfer of duties to liquidator <del>Late-2020</del> <a href="#">Spring-Summer 2021</a>	
<b>15. Termination of OES-EPRA Service Agreement</b>			
<b>Termination of OES consumer functions on EPRA recyclemyelectronics.ca website</b>		<del>- July 1, 2020 -</del> <a href="#">January 1, 2021</a> ; - preparation and implementation of necessary IT and website changes; - links to OES ontarioelectronicstewardship.ca <del>webiste</del> <a href="#">website</a>	
<b>Final arrangements for termination of OES-EPRA service agreement</b>		<del>Fall-2020</del> <a href="#">Spring 2021</a>	
<b>Shut down of OES Website</b>		<del>Fall-2020</del> <a href="#">Spring 2021</a> Transition of domain name and trademarks to RPRA - preparation of necessary legal documents; - preparation and implementation of necessary IT changes.	
<b>16. Submission of Wind Up Report to Minister</b>			

<p><b>Draft and submit wind up report as required by WDTA section 14</b></p>		<p><b>TBD – Target Date <del>April</del><u>October</u> 2021</b></p>	
<p><b>17. Dissolution of OES as Corporation</b></p>			
<p><b>Notices under Corporations Act as Required</b></p>		<p>Filed by liquidator <b>TBD</b></p>	
<p><b>Arrangement for required record keeping</b></p>		<p>Made by liquidator</p>	
<p><b>Corporate Dissolution</b></p>		<p>Final paperwork submitted by liquidator <b>TBD</b></p>	
<p><b>18. Submission and Publication of OES 2020 Annual Report</b></p>			
<p><b>Draft and Submit Annual Report</b></p>		<ul style="list-style-type: none"> <li>- Compile data;</li> <li>- Draft Report;</li> <li>- Engage Auditor to complete financial statements;</li> <li>- Submit report to RPRA;</li> </ul> <p><b>By April 1, 2021</b></p>	
<p><b>19. <u>Submission and Publication of OES 2021 Annual Report</u></b></p>			
		<ul style="list-style-type: none"> <li>- <u>Compile data;</u></li> <li>- <u>Draft Report;</u></li> <li>- <u>Engage Auditor to complete financial statements;</u></li> <li>- <u>Submit report to RPRA;</u></li> </ul> <p><b>By April 1, 2022</b></p>	

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**THIS IS EXHIBIT "G"  
TO THE AFFIDAVIT OF RICHARD WILLIAMS  
SWORN REMOTELY BEFORE ME  
THIS 31<sup>ST</sup> DAY OF MAY, 2021**

DocuSigned by:  
  
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A commissioner for taking affidavits

Katherine Yurkovich  
LSO#80396R



# Request for Proposal - Provision of Liquidator Services for Ontario Electronic Stewardship

Issued by:  
Ontario Electronic Stewardship

Issued date:  
December 1, 2020

Response Deadline:  
5:00 p.m. (EST) on December 21, 2020



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## 1.0 INTRODUCTION

Ontario Electronic Stewardship (OES) is seeking the provision of Liquidator services.

Until December 31, 2020 Ontario Electronic Stewardship (OES) will be the Industry Funding Organization (IFO) responsible for managing the waste diversion program for waste electrical and electronic equipment (WEEE) under the Waste Diversion Transition Act, 2016 (WDTA) (previously under the Waste Diversion Act, 2002). OES continues to function as a corporate entity to fulfil various financial and operational responsibilities, however, will require Liquidation services to wind up the affairs of the Corporation in Fiscal 2021 and Fiscal 2022.

## 2.0 BACKGROUND

In 2016, as part of the Ontario government's Strategy for a Waste-Free Ontario, the Ontario legislature passed both the Resource Recovery and Circular Economy Act, 2016 (RRCEA) and the WDTA. The RRCEA creates a new legislative framework for managing waste in Ontario that will wind up current waste diversion programs and related IFOs, such as Ontario Electronic Stewardship. Under the RRCEA producers will be responsible for the implementation of new waste diversion programs that must meet recycling targets and objectives established under that Act.

Under the WDTA wind up process, IFOs once directed by the Minister, are required to develop wind up plans in accordance with specified statutory requirements. This Wind up Plan was submitted to the Resource Productivity and Recovery Authority (RPRA) on July 25, 2019:

Link to Wind-Up Plan: [http://ontarioelectronicstewardship.ca/wp-content/uploads/2019/09/OES\\_Wind\\_Up\\_Plan\\_Dec31\\_2020\\_Board\\_Approved.pdf](http://ontarioelectronicstewardship.ca/wp-content/uploads/2019/09/OES_Wind_Up_Plan_Dec31_2020_Board_Approved.pdf)

On August 16, 2019, the revised Wind Up Plan was approved, with conditions that can be found at: [https://ontarioelectronicstewardship.ca/wp-content/uploads/2019/09/RPRA\\_Wind\\_Up\\_Approval\\_Letter.pdf](https://ontarioelectronicstewardship.ca/wp-content/uploads/2019/09/RPRA_Wind_Up_Approval_Letter.pdf)

### Additional Supporting Information:

OES Website for further Program Wind Up Information:  
<https://ontarioelectronicstewardship.ca/mecp-direction-to-oes-wind-up/>

Policy Direction regarding the Windup of the Waste Diversion Program for Waste Electrical and Electronic Equipment (WEEE) and Ontario Electronic Stewardship:  
<https://ontarioelectronicstewardship.ca/wp-content/uploads/2018/10/2018-228-Gies-signed.pdf>

Addendum to the Minister's Direction Letter to Wind Up the Waste Diversion Program for Waste Electrical and Electronic Equipment (WEEE) and Ontario Electronic Stewardship:  
<https://ontarioelectronicstewardship.ca/wp-content/uploads/2018/10/2018-228-Van-Damme-addendum.pdf>



Direction to Wind Up the Waste Diversion Program for Waste Electrical and Electronic Equipment (WEEE) and Ontario Electronic Stewardship:

<https://ontarioelectronicstewardship.ca/wp-content/uploads/2018/10/2018-228-Van-Damme-signed.pdf>

MECP Direction to OES for Wind Up December 31, 2020:

<https://ontarioelectronicstewardship.ca/wp-content/uploads/2019/07/357-2019-1688-WEEE-Wind-Up-Direction-1.pdf>

Under the terms of the Wind Up Plan, the OES WEEE Program daily program operations will cease as of on December 31, 2020. For example, all OES related field activity including collection, transportation and processing and corresponding contracts for such services will cease as of December 31st, 2020. However, OES will continued to function as a corporate entity in 2021 to fulfil various financial and operational responsibilities including settling any financial liabilities, finalizing reporting and working with RPRA to transfer final funds and assets to RPRA as required. Please refer to the revised the Wind-Up Plan and approval letter for further details of the expected role, responsibilities and timelines of the liquidator.

A regulation under the WDTA (O.Reg.357/17) sets out rules that apply when an IFO winds up. The regulation incorporates part VI of the Corporations Act (which is the corporate statute for Ontario not for profit corporations) with various modifications.

As part of this Wind Up Plan, OES is engaging a liquidator to resolve final OES financial and legal obligations and undertake the steps necessary to dissolve OES as a corporate entity in a manner consistent with the provincial Corporations Act and regulations under the WDTA. O.Reg.357/17 sets out an approval role by RPRA for the appointment of the liquidator as well as limitations to who can be selected as a liquidator.

Section 2(2) of O.Reg.357/17 modifying subsection 230(2) of the Corporations Act states:

#### Appointment of liquidator

(2) At such meeting, the shareholders or members shall appoint one or more persons who have been approved by RPRA (which shall not approve directors, officers or employees of the corporation or of another entity that has entered into an agreement with the corporation for the management and/or administration of a program for which the corporation is designated, nor persons who are related to any of those individuals) as liquidator of the estate and effects of the corporation for the purpose of winding up its affairs and distributing its property, and may at that or any subsequent general meeting fix the liquidator's remuneration and the costs, charges and expenses of the winding up. R.S.O. 1990, c. C.38, s. 230.

Under O.Reg.357/17 "members" should be read as referring to the OES Board. For clarity, OES is issuing the liquidator RFP, will in conjunction with RPRA, select a liquidator and the OES Board makes the final appointment.



RPRA is an administrative authority overseen by the Ontario Ministry of the Environment, Conservation and Parks. RPRA is mandated to enforce the requirements of the Resource Recovery and Circular Economy Act, 2016 (RRCEA) and the Waste Diversion Transition Act, 2016 (WDTA), and their associated regulations.

### Use of Residual Program Funds

The Wind Up Plan submitted by OES in July 2019 forecasted that OES program will have residual program funds. The approved Wind Up Plan directs that OES may transfer residual program funding to RPRA to offset RRCEA registry-related expenses. Accordingly, OES will transfer residual funding remaining in OES after wind-up activities are completed to RPRA. The timing of transfer and details of fund disbursement are currently under discussion between RPRA and OES and this will continue into early 2021.

### 3.0 PROPOSAL OBJECTIVE

OES and RPRA are seeking qualified vendors to be considered for the appointment in the role of Liquidator.

### 4.0 DUTIES AND OBLIGATIONS OF THE LIQUIDATOR

The Liquidator will have broad powers to do all things that are necessary for the winding up of the business and affairs of Ontario Electronic Stewardship ("OES") including the disposal of any remaining OES assets and to take the final steps necessary to dissolve OES as a corporate entity.

The general mandate of the Liquidator is to apply the property of OES in satisfaction of all its debts, obligations and liabilities.

4.1 In that regard, consistent with O.Reg.357/17, the Liquidator's duties, powers and obligations are expected to include:

4.1.1 To take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;

4.1.2 To take such steps as necessary to protect and preserve the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

4.1.3 To take possession of and review the books and records of OES, in electronic or paper form, to ascertain the Property, all liabilities and obligations of OES;

4.1.4 To engage consultants, appraisers, agents, experts, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, and including the OES Wind Up Oversight Manager, to assist with the exercise of the Liquidator's powers and duties;

4.1.5 To receive and collect all monies and accounts now owed or hereafter owing to OES and to exercise all remedies of OES in collecting such monies, including, without limitation, the initiation of legal proceedings and the enforcement of any security held by OES. All funds, monies, cheques, instruments, and other forms of payments received or collected by the Liquidator from and after its appointment from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of its appointment or thereafter, shall be deposited into one or more new accounts to be opened by the Liquidator (the "Liquidator's Accounts") and the monies standing to the credit of the Liquidator's Accounts from time to time, net of any disbursements provided for herein, shall be held by the Liquidator and applied to satisfy the debts and obligations of OES; to draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of OES;

4.1.6 To execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Liquidator's name or in the name and on behalf of OES, for any purpose pursuant to this Order;

4.1.7 To initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to OES, the Property or the Liquidator and RPRA hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding and subject to an Order of the Court to settle or compromise any such proceeding;

4.1.8 To arrange for the final reconciliation of financial obligations owed by or to OES;

4.1.9 To market the tangible Property, if any, of OES for sale and negotiate such terms and conditions of sale as the Liquidator in its discretion may deem appropriate;

4.1.10 To the extent necessary, apply to the Court for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;

4.1.11 To apply to the Court for directions as may be necessary in carrying out its duties hereunder;

4.1.12 To report to, meet with and discuss with such affected persons, including employees, Stewards, service providers, government officials and representatives of any of the foregoing as the Liquidator deems appropriate on all matters relating to the Property and / or the debts and obligations of OES and to share information with such persons, subject to such terms as to confidentiality as the Liquidator deems advisable;

4.1.13 To report to RPRA as required for wind up compliance. This may be on a bi-weekly basis and frequency, as established and agreed to between the Liquidator and RPPRA.

4.1.14 To file all required HST and other tax returns and obtain appropriate clearances from the Canada Revenue Agency;

- 4.1.15 To take any remaining steps necessary to transition the Material Tracking System (MTS) to RPRA so that it can be made available to brand owners of electronics under the new independent producer responsibility regime;
- 4.1.16 To arrange for the final transfer of any OES data to RPRA;
- 4.1.17 To issue invoices to OES, subject to the written approval of RPRA, for its compensation and to deduct its compensation from the Program Residual Funds of OES;
- 4.1.18 To take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations, any direction to the OES from the Minister of the Environment, Conservation and Parks, including the wind-up or dissolution of OES as a corporate entity.
- 4.2 Following the liquidation of all of OES's assets and fiscal obligations, the Liquidator shall:
- 4.2.1 Distribute any program residual funds in accordance with the OES Wind Up plan and amendments as approved by RPRA.
- 4.2.2 Prepare and submit a final report to RPRA including a final accounting of all receipts and disbursements made by the Liquidator in carrying out its duties;
- 4.2.3 Submit a final wind up report to the Authority (RPRA) and the Minister of Environment, Conservation and Parks, pursuant to section 14(20) of the WDTA;
- 4.2.4 In consultation with RPRA, initiate steps to wind down and terminate the existence of OES as a corporate entity.

## 5.0 General Instructions to Proponents

### 5.1 General Invitation to Submit Proposals

Ontario Electronic Stewardship is seeking proposals for the provision of services of a Liquidator. Proposals specifically marked "Proposal for Provision of Services of a Liquidator" shall be received by the following:

Attention: Kyle Hulme, OES Program Wind Up Oversight Manager

Proposals will be accepted until December 21<sup>st</sup>, 2020 before 5:00pm EST. Late proposals will not be accepted.

Prospective vendors must provide their proposal electronically in PDF file format on or before the specified submission deadline to Kyle Hulme at [kyle.hulme@ontarioes.ca](mailto:kyle.hulme@ontarioes.ca). All proposal amounts shall be indicated in words and figures and shall include applicable taxes and any other associated costs the successful Vendor(s) will require.

### 5.2 Complete Proposals

The requirements that each proponent must follow and include in its proposal submission are outlined herein. OES reserves the right to determine, in its sole discretion, whether any proposal meets the mandatory requirements. Proposals shall address all of the requirements as outlined in this RFP in addition to any perceived or anticipated requirements determined by the Vendor.

### 5.3 Negotiation

OES reserves the right to negotiate with any or all Vendors including those Vendors that have submitted a proposal that does not fully comply, either in material or non-material ways, with the RFP requirements.

### 5.4 Request for Information

Each Vendor is solely responsible for ensuring that it has all information necessary to prepare its proposal and for independently verifying and informing itself with respect to any terms or conditions that may affect this proposal. All inquiries related to the RFP shall be directed to Kyle Hulme at [kyle.hulme@ontarioes.ca](mailto:kyle.hulme@ontarioes.ca) by 11am EST on December 9, 2020.

### 5.5 Acceptance of Proposals

OES reserves the right to reject any or all Proposals or to accept the Proposal deemed most favourable to OES. All proposals must include a statement of authorization to submit a proposal signed by a principal of the Vendor.

Following the evaluation of the submitted proposals, OES will consider entering into negotiations for a contract with a prospective Vendor(s) it believes best meets the needs and expectations and offers the

best overall content and value. The solicitation of proposals does not in any way commit OES to accept any proposal or to commence negotiations with any Vendor.

## 6.0 PROPOSAL REQUIREMENTS

### 6.1 No Conflict of Interest

The successful Vendor(s) must not have a real or apparent conflict of interest between its ability to provide an independent review on this project, and its service to OES or to RPRA.

### 6.2 Executive Summary

The Vendor shall provide an executive summary with its proposal in addition to the minimum requirements/expectations as outlined. The executive summary shall briefly summarize the key aspects of the proposal and the primary contact person for the prospective Vendor.

### 6.3 RFP Submissions

The minimum requirements of the RFP submissions should:

- Introduce the Vendor.
- Provide a statement declaring the Vendor has no conflict of interest.
- Provide a description of the Vendor's history, experience and recent relevant projects.
- Demonstrate understanding of the scope and complexity of the required work.
- Description of Vendor's abilities related to the provision of Liquidator services. Clearly outline if any services will be outsourced.
- Identify the person(s) who would be involved in the project, their proposed role on the project, and their experience and qualifications to fulfill that role. Clearly outline if any services will be outsourced.
- Describe any professional and technical services that will be called upon to assist in the project.
- Indicate the proponent's ability to meet the timelines as set out herein.
- Provide a detailed description of processes and deliverables.
- Provide a proposed timeline for each component of the project.
- Outline the methodology and approaches that would be used in carrying out the specific project.
- Client references (names, phone numbers and email addresses) who may be contacted to confirm the satisfactory delivery of service by key team member(s) on previous assignments

Submissions must include:

- Project specific content:
  - The proposed work plan and timeline
  - The methodology proposed
- Cost quotation including:
  - Transition period with OES Management
  - Daily, weekly or monthly rate for Liquidation services
  - Hourly rates for additional services

## 7.0 REQUEST FOR PROPOSAL PROCESS

### 7.1 General Information

The submission of a proposal does not constitute a legally binding agreement between OES and any Vendor. It is part of an overall selection process intended to enable OES to identify a potential successful Vendor for the provision of services described herein. The goal of this RFP process is to identify those Vendors who offer the best delivery of service and value and demonstrate the highest degree of capability for providing and implementing the functions and objectives of the project.

OES, with the assistance of RPRA staff, will evaluate and assess the proposals and make a recommendation to the Board of Directors of RPRA, which must provide final approval.

Upon approval by RPRA, a contract will be entered into between the successful Vendor and OES. OES may, in its sole discretion, discontinue the RFP process and/or cancel the initiatives as outlined prior to the execution of the contract.

### 7.2 Proposed Schedule & Submittal Information

Milestone:	Scheduled Date:
Release of RFP	December 1, 2020
Deadline for Invitation to Submit an Expression of Interest	December 7, 2020
Deadline for Prospective Vendor Questions	December 10, 2020 (11am EST)
Deadline for OES Response to Vendor Questions	December 16, 2020 (11am EST)
Deadline for Prospective Vendor Proposal Submissions	December 21, 2020 (5pm EST)
Vendor Presentations	Week of January 11, 2021
Vendor Evaluations	Week of January 18, 2021
Vendor Approval by RPRA Board	Late January, 2021
Vendor Award Notification	Week of February 5, 2021
Vendor Appointment	Est. March 1, 2021 – April 1, 2021

OES reserves the right to modify the schedule as circumstances may warrant.

### Confidentiality of Information

OES will require the successful Vendor(s) to enter into a confidentiality agreement that protects all information provided to the Vendor(s) by OES, RPRA or by any party contacted by the Vendor(s) in order to complete this project.

## 8.0 DURATION OF OFFER

Proposals will be accepted up until at 5:00 pm EST on December 21, 2021. Late proposals will not be considered. OES also reserves the right to extend the RFP deadline.

## 9.0 Evaluation Criteria

### 9.1 Submission Evaluation

The evaluation process to determine the successful Vendor(s) will involve both qualitative and quantitative elements. As a general framework, all proposals presented by Vendors will be evaluated in the context of the overall value that it brings to the initiative. While cost is a significant part of the evaluation criteria, it will not be the sole determinant. Proposals will be reviewed and ranked on the following criteria and scored out of a 100 point total as follows:

Ranking Criteria	Percentage
Demonstrated understanding of project goals	15%
Approach and methodology	25%
Qualifications of individual or project team and firm's relevant experience	20%
Extent of value in relation to proposed cost	20%
Cost	20%
Total	100%

OES reaffirms its right to make any selection it deems prudent and responding firms or individual participants acknowledge through their participation that such selection is not subject to protest or contest.

OES reserves the right to:

- Not award a contract as a result of this RFP;
- Award contracts to one or more respondents;
- Modify the tasks based on negotiation with respondents and/or reduce scope based on proposed costs;
- Award a contract to the same Vendor(s) for multiple years.

## 10.0 CLARIFICATIONS/ INTERPRETATIONS

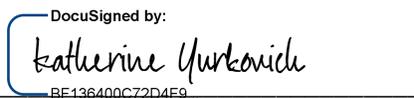
Each prospective Vendor shall be responsible for conducting its own due diligence on the data and information upon which their proposal is based. Prospective Vendors shall be deemed to have gathered all information necessary to perform their obligations under the RFP.

Information referenced in this RFP, or otherwise made available by OES or RPRA as part of this RFP, is provided for the convenience of the prospective Vendor only and OES and RPRA do not warrant the accuracy or completeness of this information. Prospective Vendors that find discrepancies or omissions in the information provided, or that have questions as to the meaning or intent of various aspects of the project, shall at once notify Kyle Hulme at [kyle.hulme@ontarioes.ca](mailto:kyle.hulme@ontarioes.ca), who will, if necessary, send written instructions, clarifications, or explanations to all prospective Vendors who have responded to this RFP.

### Project Billings and Budget

Respondents may propose to invoice on a milestone or hourly, daily or weekly basis. Regardless of the method used, invoices must clearly identify the costs associated.

**THIS IS EXHIBIT "H"  
TO THE AFFIDAVIT OF RICHARD WILLIAMS  
SWORN REMOTELY BEFORE ME  
THIS 31<sup>ST</sup> DAY OF MAY, 2021**

DocuSigned by:  
  
BF136400C72D4E9...

A commissioner for taking affidavits  
Katherine Yurkovich  
LSO#80396R



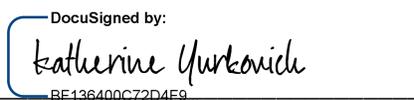
**SCHEDULE A**

**Extract from Minutes of a Meeting of the Members of Ontario Electronic  
Stewardship held February 24, 2021**

On motion by Brandon Seegmiller, seconded by Doug Smith, it was resolved that:...

- B. Deloitte Restructuring Inc. be appointed as the liquidator of the Corporation, effective April 1, 2021, to carry on such functions as set out in the Corporations Act and as set out pursuant to the terms of a liquidator agreement between the Corporation and Deloitte Restructuring Inc. to effect the approved wind-up plan for the Corporation

**THIS IS EXHIBIT "I"  
TO THE AFFIDAVIT OF RICHARD WILLIAMS  
SWORN REMOTELY BEFORE ME  
THIS 31<sup>ST</sup> DAY OF MAY, 2021**

DocuSigned by:  
  
BF136400C72D4E9...

A commissioner for taking affidavits

Katherine Yurkovich  
LSO#80396R

## RULES FOR STEWARDS WITH RESPECT TO PAYMENT OF EEE FEES

### 1) Interpretation

In these Rules, the following terms shall have the following meanings. Capitalized terms which are not otherwise defined will have the meaning given to them in the *Waste Diversion Act, 2002*:

**Affiliate** means an affiliated body corporate, determined as follows:

(1) one body corporate shall be deemed to be affiliated with another body corporate if, but only if, one of them is the subsidiary of the other or both are subsidiaries of the same body corporate or each of them is controlled by the same person;

(2) a body corporate shall be deemed to be controlled by another person or by two or more bodies corporate if, but only if,

(a) voting securities of the first-mentioned body corporate carrying more than 50 per cent of the votes for the election of directors are held, other than by way of security only, by or for the benefit of such other person or by or for the benefit of such other bodies corporate; and

(b) the votes carried by such securities are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned body corporate; and

(3) a body corporate shall be deemed to be a subsidiary of another body corporate if, but only if,

(a) it is controlled by,  
that other, or  
that other and one or more bodies corporate each of which is controlled by that other, or  
two or more bodies corporate each of which is controlled by that other; or

(b) it is a subsidiary of a body corporate that is that other's subsidiary;

**Brand Owner** means, with respect to Branded EEE, during any time in a Data Period:

(a) a Person Resident in Ontario who is the registered owner of the Brand, or

(b) a Person Resident in Ontario who is a licensee of the Brand, or

(c) a Person Resident in Ontario, who owns the intellectual property rights to the Brand, or

(d) a Person Resident in Ontario, who is the licensee, in respect of the intellectual property rights of the Brand;

where "licensee" includes a Person who packages EEE which bear a Brand, other than a packager, producer, Manufacturer or filler of Private Label Goods, and includes any Person whose corporate name or business name registration contains the Brand;

**Brand** means a trademark, official mark, trade name or distinguishing guise, within the meaning of the *Trade-marks Act (Canada)*, whether or not registered pursuant thereto;

**Branded** means a Brand is attached to or otherwise associated with EEE;

**Business Day** means a day which is not a Saturday, Sunday or statutory holiday in the province of Ontario;

**Commencement Date** means:

(a) April 1, 2009 with respect to all EEE which appears for the first time in Appendix A – Table 1;

(b) April 1, 2010 with respect to all EEE which appears for the first time in Appendix A – Table 2;

(c) December 1, 2010 with respect to all EEE which appears for the first time in Appendix A – Table 3;

**Commercial Connection**, for the purposes of these Rules, means that a Person derives a direct economic benefit when the particular EEE is Supplied in Ontario;

**Data Period** means each calendar month following an applicable Commencement Date, provided that the Data Period for a month in which an applicable Commencement Date occurred shall begin on the Commencement Date and end on the last day of the same calendar month;

**Deadline Date** means the date by which Steward's Fees must be paid and Steward's Reports must be filed with respect to a Data Period, in accordance with Rule 5;

**EEE** means electrical and electronic equipment which are Supplied in Ontario that result in the generation of WEEE, being all goods and products set out in the relevant Table of Appendix A in effect from time to time,

**EEE Category** means the EEE material category or sub-category to which an item of EEE is assigned for reporting purposes in Appendix A to the Rules;

**Filed** means electronically submitted to OES at an address identified to the Stewards electronically, with confirmation of transmission;

**First Importer** means a Person Resident in Ontario who is not a Brand Owner for a specific EEE that imports such EEE into Ontario, and includes a Person Resident in Ontario who is the first to take title or delivery or possession to such EEE, upon or after arrival in Ontario from elsewhere during the Data Period; and for the purposes of this definition, a Franchisee is not a First Importer of EEE if the Franchisor for such EEE is Resident in Ontario. A Person who takes delivery/possession of EEE for the sole purpose of storing it or transporting it to another Person (and who does not take title to such EEE) is not the First Importer of the EEE;

**Franchisor, Franchisee and Franchise System** have the meaning ascribed thereto under the *Arthur Wishart Act (Franchise Disclosure), 2000*, as amended from time to time;

**Interest Rate** means the prime rate published by the Scotiabank as at the close of business on the first day of each month plus three percent;

**Manufacturer/Assembler** means a Person, other than a Refurbisher, who uses or combines Branded or Unbranded components with or without value added, and performs additional processing or work to create EEE;

**OES** means Ontario Electronic Stewardship;

**OES Website** means <http://www.ontarioelectronicstewardship.ca/>;

**Person** includes an individual, partnership, joint venture, sole proprietorship, company or corporation, government (whether national, federal, provincial, state, municipal, city, county or otherwise and including any instrumentality, division, body, department, board or agency of any of them), trust, trustee, executor, administrator or any other kind of legal personal representatives, unincorporated organization, association, institution, entity, however designated; and words importing "persons" have similar meanings;

**Private Label Goods** means goods manufactured by a third party on behalf of and bearing the brand or trademark of a Brand Owner which are Supplied by such Brand Owner;

**Program Plan** means the Final Revised (Phase 1 and 2) Waste Electrical and Electronic Equipment (WEEE) Program Plan, July 10, 2009, as amended;

**Published Address** means an address in Ontario appearing in a current telephone directory or a recognized current published business directory;

**Reconciliation Fees** means the Steward's Fees payable to OES in accordance with Rule 4(2);

**Refurbisher** means a Person who carries out internal testing, troubleshooting disassembly or physical modification to WEEE, part removal and replacement or repair of non-functioning or obsolete parts (not including consumable items such as batteries, toners, fuses, etc.) for the purpose of product or part repair and/or redistribution and Supplies such product for distribution in Ontario;

**Resident in Ontario** means either of the following: (i) having a published address in Ontario; or (ii) having a permanent establishment in Ontario within the meaning of Section 4 of the *Corporations Tax Act (Ontario)*, as set out in Appendix C;

**Rules** means these Rules, and includes additional Rules or amendments to these Rules from time to time, as published on the OES Website;

**Self-Managed Program** means a program managed by a Steward and approved by OES under which the Steward operates its own collection and recycling program with respect to a particular class or classes of WEEE;

**Steward** means a Person designated as such under Rule 2; and "Stewards" means more than one Steward;

**Steward's Fees** means the fees calculated in accordance with the methodology set out in Appendix B and set out in a table of Steward's Fees posted on the OES Website in effect at the relevant time, which are payable to OES pursuant to Rule 4(1);

**Steward's Report** means a report prepared by a Steward and filed with OES describing the aggregate amount of EEE Supplied to a Person resident in Ontario in each Data Period by the Steward or its Franchisees and/or Affiliates, containing the information set out in the current version of the Steward's Report form posted on the OES website at [www.ontarioelectronicstewardship.ca /Rules](http://www.ontarioelectronicstewardship.ca/Rules), as amended from time to time;

**Supplied** means:

- (i) sold or otherwise transferred (whether by transfer of possession or title);
- (ii) leased;
- (iii) donated;
- (iv) disposed of;
- (v) used; or
- (vi) otherwise made available or distributed

for use in the Province of Ontario, and includes an import of EEE for a purpose set out in Rule 2(2)(b); **Supply** and **Supplies** have similar meanings.

**Unbranded** means a Brand is not attached to or otherwise associated with EEE; and

**WEEE** means waste electrical and electronic equipment, being any waste EEE that is defined in Ontario Regulation 393/04.

## 2) Designation of Stewards

For the purposes of determining which Person shall be designated as a Steward for any designated EEE or particular class or group of EEE, the following provisions shall apply, in the order in which they are set out. If two or more Persons are designated as a Steward pursuant to the following, the earlier provision shall prevail.

- (1) A Brand Owner is designated as a Steward with respect to all EEE Supplied:
  - (a) for which it is the Brand Owner in each Data Period; and
  - (b) to which it has a Commercial Connection.
- (2) A First Importer is designated as a Steward with respect to all EEE:
  - (a) Supplied in each Data Period of which it is the First Importer; or
  - (b) of which it is the First Importer in the Data Period for use by it or its Affiliate in the Province of Ontario.
- (3) A Franchisor is designated as a Steward with respect to all EEE Supplied within the relevant Franchise System in the Data Period.
- (4) If there are two Brand Owners for the same EEE in the same Data Period, the Brand Owner more directly connected to the production of the EEE shall be designated as the Steward.
- (5) If there is Unbranded EEE in the Data Period, and if the Manufacturer/Assembler is Resident in Ontario, the Manufacturer/Assembler of such EEE shall be designated as the Steward for such EEE; otherwise the First Importer shall be designated as the Steward for such EEE.

- (6) A Person who receives a Supply of EEE for personal consumption and not for a business or commercial use is not a Steward.

### 3) **Steward's Report**

- (1) Every Steward shall file its first Steward's Report with OES by the later of:
- (a) 31 days after the applicable Commencement Date; and
  - (b) 91 days after such Steward is notified of the existence of these Rules and how to obtain a copy of them.
- (2) The first Steward's Report(s) shall cover the period from the applicable Commencement Date to the end of the most recent Data Period.
- (3) If, as a result of the definition of "Supply", there is more than one Supply of an individual item of EEE, only the first Supply must be reported in a Steward's Report.
- (4) Stewards may amend a Steward's Report with the consent of OES to correct information in the Steward's Report that is in error or to replace data previously reported.
- (5) Once it has filed its first Steward's Report, an EEE Steward shall file a Steward's Report with respect to each Data Period within the time specified in Rule 5.
- (6) Notwithstanding the above OES may require a Steward to file a Steward's Report by sending a written request to the Steward.

### 4) **Fees Payable**

- (1) Stewards shall pay Steward's Fees to OES with respect to each Data Period, within the time specified in Rule 5. The Steward's Fees payable shall be calculated by OES in accordance with the methodology set out in Appendix B and set out in a table of Steward's Fees posted on the OES Website. Stewards shall calculate the amount of Steward's Fees payable in respect of any Data Period by multiplying the number of units of EEE supplied in each EEE Category included in the Steward's Report for such Data Period by the Steward's Fee applicable to such EEE Category set out in such table.
- (2) If applicable, Stewards shall pay annual Reconciliation Fees calculated by OES in accordance with the methodology set out in Appendix B and set out in a table of Reconciliation Fees posted on the OES Website. Reconciliation Fees are in addition to the Steward's Fees under Rule 4(1) and shall be payable to OES within the time specified in Rule 5.
- (3) If OES determines that a Steward has paid more Steward's Fees in a fiscal year than is required by these Rules, OES will at its sole option:
- (a) apply the excess amount as a credit against Steward's Fees payable by or on behalf of the Steward no later than June 30 in the calendar year that is two years following the calendar year in respect of which the amount was determined, and

(b) pay any amount not applied as a credit under subclause (a) to or for the credit of the Steward no later than June 30 in the calendar year that is two years following the calendar year in respect of which the amount was determined; and

(c) if the Steward ceases to be designated as a Steward, pay or credit the amount to or on behalf of the Steward no later than June 30 in the calendar year following the calendar year in which the Steward ceases to be a Steward.

- (4) Notwithstanding that a Steward may not have received the notice described in Rule 3(1)(b), it is responsible for payment of Steward's Fees for all EEE for which it is a Steward from and after the applicable Commencement Date to the date on which it receives such notice.
- (5) Steward's Fees and Reconciliation Fees are exclusive of HST. If applicable, Stewards shall remit HST to OES with each remittance of Steward's Fees or Reconciliation Fees.
- (6) A Person described in any provision of Rule 2 who acquires EEE from a person also described in Rule 2 (the "**provider**") must ensure that the provider has an OES identification number. The OES number will be posted on the OES website. If a valid OES identification number is not given, the Person to whom a provider Supplies EEE will then be a Steward, and will be subject to filing a Steward's Report and paying Steward's Fees to the extent that the provider does not.

#### 5) **Schedule of Payment and Reporting**

For each Data Period, Stewards shall file Steward's Reports and pay Steward's Fees and applicable Reconciliation Fees with respect to the EEE Supplied in such Data Period, no later than the last business day of the month following such Data Period (the "Deadline Date").

Payment and reporting schedule will be monthly. A steward may be eligible for a quarterly or annual remittance depending on their annual EHF remittance level. Eligibility levels will be established by OES.

#### 6) **Self-Managed Programs**

- (1) A Steward who operates a Self-Managed Program under agreement with OES shall file Steward's Reports for EEE included in such Self-Managed Program in accordance with the terms and conditions of such agreement;
- (2) A Steward who operates a Self-Managed Program under an agreement with OES is exempt from payment of the Steward's Fees under Rule 4 and shall pay fees to OES in accordance with the terms and conditions of such agreement;

#### 7) **Voluntary Stewards**

Where there is no Steward for a particular EEE Supplied in Ontario, a Person who is not Resident in Ontario may enter into an agreement with OES to be a voluntary Steward and file a Steward's Report and pay Steward's Fees in respect of such EEE.

## 8) Penalties, Interest and Back Fees

- (1) Stewards who fail to pay Steward's Fees with respect to any Data Period before the Deadline Date or to pay the Reconciliation Fees on or before their due date shall pay a penalty equal to 10% of the unpaid Steward's Fees or Reconciliation Fees.
- (2) If the amounts reported in a Steward's Report are inaccurate, any deficiency in Steward's Fees paid resulting from such inaccuracies shall be immediately due and payable from the date of the filing of the correcting Steward's Report, and, if not paid within 30 days, the Steward shall pay a penalty equal to 10% of such Steward Fee deficiency.
- (3) Interest on the amounts payable under Rules 8(1) and 8(2) shall accrue from the respective Deadline Date or due date for the Reconciliation Fees at the Interest Rate. In addition, a Steward in default shall pay all collection costs, including all proper and reasonable legal fees, incurred by OES, whether or not an action has been commenced. If an audit under Rule 9 reveals that a Steward has under-reported the amount of Steward's Fees due by more than 10% in any Data Period, in addition to any other sums payable, the Steward shall pay the costs of such audit, as reasonably determined by OES.
- (4) OES may waive all or part of any penalty, interest or charges otherwise payable under this Rule 8.

## 9) Record Provision and Retention

- (1) Upon request from OES, Stewards shall promptly provide data used by Stewards in the preparation of the Steward's Report, including calculation methodology, product data, audit reports, list of Brands reported and list of Brands excluded from report, and allocation percentages.
- (2) A Steward shall retain records or, on receipt of written request, provide records at an address in the Province of Ontario to substantiate and verify the amount set out in its Steward's Report for a period of not less than five years from the date of the Steward's Report to which they relate. A Steward shall grant access to OES upon its request to examine its books and records to enable OES to audit and inspect such records respecting a Steward's Report up to five years after the date of receipt of such Steward's Report by OES.

## 10) Dispute Resolution

If any dispute arises between a Steward and OES as to the amount of EEE that is required to be included in a Steward's Report:

- (1) The parties shall attempt to resolve the dispute through designated representatives from each of OES and the Steward within 30 days after written notice of the dispute was first given, or as otherwise agreed upon.
- (2) If the parties are unable to resolve the dispute within the above period, the Steward and OES shall, within 30 days thereafter, jointly select an arbitrator to arbitrate the dispute. If the Steward does not nominate an arbitrator within the 30 day period, OES shall nominate the arbitrator. The arbitration shall be conducted in accordance with the *Arbitration Act, 1991*, as amended from time to time.

- (3) OES may from time to time establish a panel of approved arbitrators for the purposes of this Rule, whose names will be published on the OES website. The arbitrator shall be chosen from this panel, unless OES and the Steward mutually agree otherwise.
- (4) The arbitrator shall render a written decision on the dispute within 14 days after the arbitration hearing or submission. The decision of the arbitrator shall be final and binding on the parties and shall not be subject to appeal on any grounds whatsoever, and shall be enforceable against OES and the Steward, as the case may be, immediately on the issue of such decision to the parties to the dispute.
- (5) Non-payment of Stewards Fees or the requirement for a Steward to file a Steward's Report shall not be items subject to arbitration.

#### **11) Interpretive Memoranda**

OES may publish on its website binding and non-binding interpretive memoranda on these Rules and how it proposes to administer them.

#### **12) Publishing of Names**

- (1) OES will provide all Stewards with an identification number.
- (2) The names and identification numbers of Stewards filing Steward's Reports will be posted on the OES website.
- (3) OES may post a list on its website of all Brands reported in Steward's Reports from time to time.
- (4) OES may publish on its website the name of any Person who may appear to be a Steward Resident in Ontario, but which it has determined upon investigation is not Resident in Ontario.

#### **13) Notice**

Any notice, request or other communication from OES to a Steward which is required or may be given under these Rules may be delivered or transmitted by means of electronic communication, personal service or by prepaid first class postage to the Steward at a Published Address in Ontario and shall be deemed to have been received on the third day after posting and on the first day after the date of electronic transmission, in each case which is a Business Day.

#### **14) Effective Date**

This version of the Rules as amended shall be effective May 1, 2015.

#### **15) Amendments to Rules**

These Rules and any forms, fee schedules or other matters provided for or referred to in them may be amended, removed or replaced by OES from time to time, subject to any required contractual or regulatory approvals. The version of these Rules and the Stewards Fees in effect at the time of a particular Supply shall continue to apply to all EEE which are

the subject of such Supply, notwithstanding any subsequent amendments to these Rules or any document posted on the OES website pursuant to them.



\_\_\_\_\_  
Waste Diversion Ontario



\_\_\_\_\_  
Chair  
Ontario Electronic Stewardship

## Appendix A – Table 1

### EEE Material Definitions

#### Appendix A – Table 1 -EEE Material Definitions April 1, 2009 - March 31, 2010

Appendix A – Table 1 EEE Material Definitions April 1, 2009 – March 31, 2010		
Material Definitions	Inclusions	Exclusions
<p><b>Desktop Computers</b> – A desktop computer or computer terminal that requires a standard AC power plug for its primary source of power.</p>	<p>Includes products commonly referred to as</p> <ul style="list-style-type: none"> <li>• Desktops</li> <li>• Computers</li> <li>• Computer terminals</li> <li>• Desktops acting as servers</li> <li>• Thin Clients</li> <li>• Microcomputers</li> <li>• Minicomputers</li> </ul>	<ul style="list-style-type: none"> <li>• Computer terminals that are embedded into non-Phase 1 products</li> <li>• Portable computers identified in Phase 2 (e.g. PDA's)</li> <li>• Products classified as Computer Peripherals under this Plan</li> </ul>
<p><b>Portable Computers</b> – A computer that contains a Central Processing Unit (CPU) and that can operate through self-contained battery.</p>	<p>Includes products commonly called</p> <ul style="list-style-type: none"> <li>• Laptops</li> <li>• Notebooks</li> <li>• Notepads</li> <li>• Tablet PC</li> </ul>	<ul style="list-style-type: none"> <li>• Portable computers identified in Phase 2 such as Personal Digital Assistant (PDA's)</li> <li>• Other handheld devices</li> </ul>
<p><b>Computer Peripherals</b> – Standalone disk drives, optical drives, computer mouse and keyboards.</p>	<p>Includes replacement computer components, and those Supplied as standalone products.</p> <ul style="list-style-type: none"> <li>• CD-ROM, DVD, HD-DVD, and BluRay drives</li> <li>• Disk Drives</li> <li>• Computer Mouse</li> <li>• Computer Keyboard</li> </ul>	<ul style="list-style-type: none"> <li>• Speakers, cameras, microphones and other non-Phase 1 products</li> <li>• Internal components contained within the original desktop or portable computer at the time of supply</li> </ul>
<p><b>Monitors</b> – A device that displays video image and does not have an embedded television tuner. The video images are displayed using a variety of technologies including Cathode Ray Tube (CRT), Liquid Crystal Display (LCD), and Plasma.</p>	<ul style="list-style-type: none"> <li>• Computer monitors</li> <li>• Professional display monitors</li> <li>• Closed circuit monitor screens</li> </ul>	<ul style="list-style-type: none"> <li>• Displays that are embedded into non-Phase 1 product, where the monitor is not the primary product.</li> </ul>
<p><b>Televisions</b> – A device that displays video image and has an embedded television tuner. The video images are displayed using a variety of technologies including Cathode Ray Tube (CRT), Liquid Crystal Display (LCD), Plasma, and Rear-Projection.</p>	<ul style="list-style-type: none"> <li>• Televisions</li> <li>• Dual television and computer monitors</li> </ul>	<ul style="list-style-type: none"> <li>• Monitors</li> <li>• Televisions that are embedded into non-Phase 1 products where the television is not the primary product (e.g. televisions within refrigerators)</li> </ul>
<p><b>Printing Devices</b> – Printing devices that are designed to reside on a work surface and includes various printing technologies, including laser and LED, ink jet, dot matrix, thermal, dye sublimation, etc. and "multi-function" or "all in one" devices that perform different tasks such as copy, scan, fax, and print.</p>	<p>Standalone</p> <ul style="list-style-type: none"> <li>• Desktop printers</li> <li>• Portable PC-free photo printers</li> <li>• Camera dock printers</li> <li>• Desktop label, barcode, and card printers</li> <li>• Desktop fax machines</li> </ul>	<ul style="list-style-type: none"> <li>• Printing devices listed in Phase 2 including: <ul style="list-style-type: none"> <li>– Floor standing printers</li> <li>– Point of sale (POS) receipt printers</li> <li>– Handheld printers such as calculators with printing capabilities or label makers</li> </ul> </li> <li>• Printing devices that are embedded into non-Phase 1 products, where the printer is not primary product.</li> </ul>

**Appendix A Table 2 - EEE Material Definitions April 1, 2010 – November 30, 2010**

<b>Appendix A – Table 2: EEE Material Definitions April 1, 2010 – November 30, 2010</b>				
<b>EEE Material Category for Reporting Purposes</b>		<b>Phase 1 and 2 Materials Definition</b>	<b>Includes</b>	<b>Excludes</b>
<b>Category</b>	<b>Sub-Category</b>			
<b>Display Devices</b>	<b>Less than or equal to 29" Screen</b>	A device that displays an image, using a variety of technologies including CRT, LCD, plasma and rear-projection.	<ul style="list-style-type: none"> <li>• Computer monitors</li> <li>• Professional display monitors</li> <li>• Closed circuit monitor screens</li> <li>• Televisions</li> <li>• Dual television and computer monitors</li> <li>• All-in-One (AIO) computers: a display device with an embedded computer</li> </ul>	<ul style="list-style-type: none"> <li>• Displays that are embedded into non-Phase 1 and 2 products where the display is not the primary function of the product</li> </ul>
	<b>Greater than 29" Screen</b>			
<b>Desktop Computers</b>		Desktop models refer to those computers that are designed to be utilized on a work surface and require standard alternating current (AC) power plug for a primary source of power.	<ul style="list-style-type: none"> <li>• Desktops</li> <li>• Computers</li> <li>• Computer terminals</li> <li>• Desktops acting as servers</li> <li>• Thin clients</li> <li>• Microcomputers</li> <li>• Minicomputers</li> </ul>	<ul style="list-style-type: none"> <li>• Computer terminals that are embedded into non-Phase 1 and 2 products</li> <li>• Portable computers</li> <li>• Products classified as Computer Peripherals under this Plan</li> <li>• All-in-One (AIO) computers: a display device with an embedded computer</li> <li>• Rack-mounted or floor standing servers</li> </ul>
<b>Portable Computers</b>		Portable models refer to a portable computer that contains a Central Processing Unit (CPU) and than can operate using a self-contained battery or using an external AC/DC adaptor.	<ul style="list-style-type: none"> <li>• Laptops</li> <li>• Notebooks</li> <li>• Notepads</li> <li>• Tablet PCs</li> <li>• Mini notebooks</li> <li>• NetBooks</li> </ul>	<ul style="list-style-type: none"> <li>• Computer terminals that are embedded into non-Phase 1 and 2 products</li> <li>• Personal handheld computers (included in Image, Audio and Video category)</li> <li>• Personal digital assistance (PDAs) (cell-enabled included in Cellular Devices category; non-cell-enabled included in Personal/Portable Image, Audio and Video Devices category)</li> <li>• Products classified as Computer Peripherals under this Plan</li> <li>• Other handheld electronic devices</li> </ul>

<p><b>Computer Peripherals</b></p>	<p>Computer peripherals refers to external, as well as integrated modems, disk drives, optical drives, computer mouse and keyboards that are added, or attached, to a computer in order to expand its functionality.</p> <p>A modem refers to a devices that encodes digital computer signals into analog/analogue telephone signals and vice versa and allows computers to communicate over a phone line or cable connection.</p>	<ul style="list-style-type: none"> <li>• Replacement computer component and standalone products that are sold to the end user</li> <li>• CD-ROM, DVD, HD-DVD and BluRay drives</li> <li>• Floppy-disk drives</li> <li>• Computer mouse</li> <li>• Computer keyboards</li> <li>• Wired cable, DSL, and ADSL modems</li> <li>• Wireless modems</li> </ul>	<ul style="list-style-type: none"> <li>• Computer peripherals that are supplied as replacement parts under a warranty and non-warranty service repair arrangement</li> <li>• Internal components contained within the original desktop or portable computer at the time of supply</li> <li>• Components that are supplied as replacement parts under a warranty</li> <li>• Components for non-warranty service repair arrangements</li> <li>• Speakers, cameras, microphone and other non-Phase 1 and 2 products</li> <li>• Internal components contained within the original desktop or portable computer at the time of supply</li> <li>• Routers</li> <li>• Network hubs</li> <li>• Satellite networking devices</li> <li>• Telephony devices (i.e. VoIP devices)</li> </ul>
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<p><b>Appendix A – Table 2: EEE Material Definitions April 1, 2010 – November 30, 2010</b></p>				
<p><b>EEE Material Category for Reporting Purposes</b></p>		<p><b>Phase 1 and 2 Materials Definition</b></p>	<p><b>Includes</b></p>	<p><b>Excludes</b></p>
<p><b>Category</b></p>	<p><b>Sub-Category</b></p>			
<p><b>Printing, Copying and Multi-Function Devices</b></p>	<p><b>Desktop and Portable Printing, Copying and Multi-Function Devices</b></p>	<p>Printing, copying and multi-function devices, utilizing all printing technologies, designed to be handheld or to reside on a work surface and that can print on media with dimensions up to 48" wide.</p> <p>Copiers and/or multi-function devices classified as Segment 1 or Segment 2. Copier and/or multi-function devices that are designed to reside on a work surface that are not classified as Segment 1 or Segment 2.</p> <p>Includes models that are able to utilize an optional floor-stand.</p>	<ul style="list-style-type: none"> <li>• Desktop or portable computer scanners</li> <li>• Desktop printers</li> <li>• Portable PC-free photo printers</li> <li>• Camera dock printers</li> <li>• Desktop label, barcode, card printers</li> <li>• Desktop fax machines</li> <li>• Desktop multi-function or "all-in-one" devices</li> <li>• Point of Sale (POS) receipt printers</li> <li>• Handheld printers such as calculators with printing capabilities or label makers</li> <li>• Desktop copiers or copy &amp; print devices</li> <li>• Typewriters powered by AC power plug or by internal battery unit</li> </ul>	<ul style="list-style-type: none"> <li>• Printing devices that are embedded into non-Phase 1 and 2 products, where the printing devices are not the primary product</li> <li>• Non-electronic typewriters</li> <li>• Printing devices capable of printing on media with dimensions greater than 48" wide</li> </ul>
	<p><b>Floor-Standing Printing Devices</b></p>	<p>Printing devices, utilizing all printing technologies that are floor-standing models and that can print on media with dimensions up to 48" wide.</p>	<ul style="list-style-type: none"> <li>• Floor-standing office printers</li> <li>• Floor-standing graphics printers</li> <li>• Floor-standing wide-format printers</li> </ul>	<ul style="list-style-type: none"> <li>• Floor-standing printing devices capable of performing additional non-printing functions such as copying or faxing</li> <li>• Printing devices that are embedded into non-Phase 1 and 2 products, where the printing device is not the primary product</li> <li>• Newspaper and industrial printing devices</li> <li>• Printing devices capable of printing on media with dimensions greater than 48" wide</li> <li>• Models which are able to utilize an optional floor-stand</li> </ul>

	<p><b>Floor- Standing Copying Devices</b></p>	<p>Copier and/or multi-function devices classified as Segment 3, Segment 4 or Segment 5. Copier and/or multi-function devices that are floor-standing models that are not classified as Segment 3, Segment 4 or Segment 5.</p>	<ul style="list-style-type: none"> <li>• Floor-standing multi-function or "all-in-one" devices that perform different tasks such as copy, scan, fax, print</li> <li>• Floor-standing photocopiers</li> <li>• Floor-standing copy and print devices</li> <li>• Floor-standing wide-format copiers and/or multi-function devices</li> </ul>	<ul style="list-style-type: none"> <li>• Floor-standing devices that only perform printing functions</li> <li>• Newspaper and industrial copying and/or multi-function devices</li> <li>• Copying and/or multi-function devices capable of printing on media with dimensions greater than 48" wide</li> <li>• Models which are able to utilize an optional floor-stand</li> </ul>
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Appendix A – Table 2: EEE Material Definitions April 1, 2010 – November 30, 2010				
EEE Material Category for Reporting Purposes		Phase 1 and 2 Materials Definition	Includes	Excludes
Category	Sub-Category			
Telephones and Telephone Answering Machines		<p>A telecommunication device with a handset or headset that is used for the transmission of sound (most commonly speech) between two or more locations using a variety of technologies including wire-line telephones and Voice over Internet Protocol (VoIP).</p> <p>Also includes telephone answering machines that are installed alongside, or incorporated within a wire-line telephone.</p>	<ul style="list-style-type: none"> <li>• Wire line telephones including rotary and touch-tone technologies</li> <li>• Cordless telephones requiring an electrical base station/handset cradle for battery charging and wire-line network connection</li> <li>• VoIP phones</li> <li>• Answering machines that utilize cassette-based or digital recording technologies</li> <li>• Accessory handsets packaged with a telephone in a single OEM package under a single SKU are subject to one fee</li> </ul>	<ul style="list-style-type: none"> <li>• Telecommunication equipment developed for embedded use in motor vehicles of any type</li> <li>• Commercial-grade “pay phones”</li> <li>• Voicemail/answering machine devices that utilize a centralized networked system</li> <li>• Telephone accessories including headsets and hands-free accessories</li> </ul>
Cellular Devices and Pagers		<p>A handheld communication device that utilizes cellular networks to transmit voice or data signals. Includes cell-enabled Personal Digital Assistants (PDAs).</p>	<ul style="list-style-type: none"> <li>• Cellular phones</li> <li>• Cellular phones offering camera, video recording and/or audio functions</li> <li>• Smart phones (cell-enabled)</li> <li>• Palmtop computers (cell-enabled)</li> <li>• Cell-enabled PDAs utilizing touch-screen technology</li> <li>• Cell-enabled handheld devices</li> <li>• Pagers</li> </ul>	<ul style="list-style-type: none"> <li>• Satellite phones</li> <li>• Wireless devices that do not utilize cellular networks to operate</li> <li>• Non-cell-enabled PDAs (Included in Personal/Portable Image, Audio, and Video Devices category)</li> </ul>

Appendix A – Table 2: EEE Material Definitions April 1, 2010 – November 30, 2010				
EEE Material Category for Reporting Purposes		Phase 1 and 2 Materials Definition	Includes	Excludes
Category	Sub-Category			
Image, Audio and Video Devices	Personal/ Portable	<p>Personal and/or portable devices that can transmit, record and/or playback an image, audio or video using a variety of technologies including mechanical, optical and digital technologies.</p> <p>Personal and/or portable peripheral audio devices that enable audio playback.</p>	<ul style="list-style-type: none"> <li>• Audio cassette players and/or recorders</li> <li>• Combination cassette recorders and players</li> <li>• CD players and/or recorders</li> <li>• Digital Video Disk (DVD) players and recorder</li> <li>• MP3 and other portable music players</li> </ul>	<ul style="list-style-type: none"> <li>• CD-writing drives contained within, or replacements parts for Desktop and Portable Computers</li> <li>• DVD-writing drives contained within, or replacement parts for Desktop and Portable Computers</li> <li>• Non-audio optical disk-players</li> </ul>
	Home/Non-Portable	<p>Home and/or non-portable devices that can transmit, record and/or playback an image, audio or video using a variety of technologies including mechanical, optical and digital technologies.</p> <p>Home and/or non-portable peripheral audio devices that enable audio playback.</p>	<ul style="list-style-type: none"> <li>• Other Digital Audio Players/Recorders (DAP)</li> <li>• Video cassette players (VCRs) and/or video projectors</li> <li>• Analog and digital video cameras and recorders</li> <li>• Turntables (Record Players and gramophones)</li> <li>• AM/FM Radios</li> <li>• Digital and non-digital cameras, including webcams</li> <li>• Digital picture frames</li> <li>• Digital projectors</li> <li>• Home stereo amplifiers</li> <li>• Speaker systems, including computer speakers</li> <li>• Home stereo systems</li> <li>• Handheld personal computers</li> <li>• Devices commonly called Ultra Mobile PCs (UMPC) that utilize a touch-sensitive screen between 4" and 7", and that can operate the same software as a standard computer (i.e. Windows)</li> <li>• PDAs that are not communication-enabled or cellular compatible</li> <li>• Portable and personal audio/video players supplied with accessories or bundled in a single OEM package under a single SKU are subject to one fee</li> <li>• Includes audio and video equipment sold as a package/bundle that are used in non-residential locations</li> </ul>	<ul style="list-style-type: none"> <li>• Optical disk drives included in the Computer Peripherals materials category</li> <li>• Webcams embedded in Desktop Computers and Portable Computers</li> <li>• Cameras embedded in devices for which the primary function is not to record an image/ video</li> <li>• Cell-enabled PDAs</li> <li>• Devices for which the primary design and function are for video-gaming purposes (As designated in Section 5 of O. Reg. 393/04)</li> <li>• Global Positioning Systems (GPS) for both portable and aftermarket vehicle installation</li> <li>• Home/ Non-Portable video-gaming devices</li> <li>• Satellite, Cable, and Digital transmitters and receivers</li> <li>• Headphones and ear-buds</li> </ul>
	Home Theatre in a Box (HTB)	<p>Bundled combinations or devices that can transmit, record and/or playback an image, audio or video using a variety of technologies.</p>	<ul style="list-style-type: none"> <li>• Home theatre image, audio and video equipment sold as a package/bundle with a single point-of-sale SKU. Includes peripheral audio devices.</li> <li>• Includes audio and video equipment sold as a package/bundle that are used in non-residential locations.</li> </ul>	<ul style="list-style-type: none"> <li>• Home theatre image, audio and video equipment sold as a package/ bundle with more than a single point-of-sale SKU (report separately).</li> <li>• Home theatre bundles that include televisions</li> </ul>
	Aftermarket Vehicle	<p>Audio and video devices for installation in motor vehicles aftermarket.</p>	<ul style="list-style-type: none"> <li>• Vehicle speakers</li> <li>• Vehicle radios</li> <li>• Vehicle CD players</li> <li>• Vehicle DVD/Blu-Ray players</li> </ul>	<ul style="list-style-type: none"> <li>• Audio and video equipment embedded in original equipment manufacturer (OEM) supplied motor vehicles of any type</li> </ul>

Appendix A – Table 3: EEE Material Definitions December 1, 2010 – July 31, 2011

Appendix A – Table 3: EEE Material Definitions December 1, 2010 – July 31, 2011				
EEE Material Category for Reporting Purposes		Phase 1 and 2 Materials Definition	Includes	Excludes
Category	Sub-Category			
Display Devices	Less than or equal to 29" Screen	A device that displays an image, using a variety of technologies including CRT, LCD, plasma and rear-projection.	<ul style="list-style-type: none"> <li>• Computer monitors</li> <li>• Professional display monitors</li> <li>• Closed circuit monitor screens</li> <li>• Televisions</li> <li>• Dual television and computer monitors</li> <li>• All-in-One (AIO) computers: a display device with an embedded computer</li> </ul>	<ul style="list-style-type: none"> <li>• Displays that are embedded into non-Phase 1 and 2 products where the display is not the primary function of the product</li> <li>• Display devices that are less than 10"</li> </ul>
	Greater than 29" Screen			
Desktop Computers		Desktop models refer to those computers that are designed to be utilized on a work surface and require standard alternating current (AC) power plug for a primary source of power.	<ul style="list-style-type: none"> <li>• Desktops</li> <li>• Computers</li> <li>• Computer terminals</li> <li>• Desktops acting as servers</li> <li>• Thin clients</li> <li>• Microcomputers</li> <li>• Minicomputers</li> </ul>	<ul style="list-style-type: none"> <li>• Computer terminals that are embedded into non-Phase 1 and 2 products</li> <li>• Portable computers</li> <li>• Products classified as Computer Peripherals under this Plan</li> <li>• All-in-One (AIO) computers: a display device with an embedded computer</li> <li>• Rack-mounted or floor standing servers</li> </ul>
Portable Computers		Portable models refer to a portable computer that contains a Central Processing Unit (CPU) and than can operate using a self-contained battery or using an external AC/DC adaptor.	<ul style="list-style-type: none"> <li>• Laptops</li> <li>• Notebooks</li> <li>• Notepads</li> <li>• Tablet PCs</li> <li>• Mini notebooks</li> <li>• NetBooks</li> <li>• Devices commonly called Ultra Mobile PCs (UMPC) that utilize a touch-sensitive screen and that can operate the same software as a standard computer (i.e. Windows)</li> </ul>	<ul style="list-style-type: none"> <li>• Computer terminals that are embedded into non-Phase 1 and 2 products</li> <li>• Personal handheld computers (included in Image, Audio and Video category)</li> <li>• Personal digital assistance (PDAs) (cell-enabled included in Cellular Devices category; non-cell-enabled included in Personal/Portable Image, Audio and Video Devices category)</li> <li>• Products classified as Computer Peripherals under this Plan</li> <li>• Other handheld electronic devices</li> </ul>
Computer Peripherals		<p>Computer peripherals refers to external, as well as integrated modems, disk drives, optical drives, computer mouse and keyboards that are added, or attached, to a computer in order to expand its functionality.</p> <p>A modem refers to a devices that encodes digital computer signals into analog/analogue telephone signals and vice versa and allows computers to communicate over a phone line or cable connection.</p>	<ul style="list-style-type: none"> <li>• Replacement computer component and standalone products that are sold to the end user</li> <li>• CD-ROM, DVD, HD-DVD and BluRay drives</li> <li>• Floppy-disk drives</li> <li>• Computer mouse</li> <li>• Computer keyboards</li> <li>• Wired cable, DSL, and ADSL modems</li> <li>• Wireless modems</li> </ul>	<ul style="list-style-type: none"> <li>• Computer peripherals that are supplied as replacement parts under a warranty and non-warranty service repair arrangement</li> <li>• Internal components contained within the original desktop or portable computer at the time of supply</li> <li>• Components that are supplied as replacement parts under a warranty</li> <li>• Components for non-warranty service repair arrangements</li> <li>• Speakers, cameras, microphone and other non-Phase 1 and 2 products</li> <li>• Internal components contained within the original desktop or portable computer at the time of supply</li> <li>• Routers and Network hubs</li> <li>• Satellite networking devices</li> <li>• Telephony devices (i.e. VoIP devices)</li> </ul>

Appendix A – Table 3: EEE Material Definitions December 1, 2010 – July 31, 2011				
EEE Material Category for Reporting Purposes		Phase 1 and 2 Materials Definition	Includes	Excludes
Category	Sub-Category			
Printing, Copying and Multi-Function Devices	Desktop Printing, Copying and Multi-Function Devices	<p>Printing, copying and multi-function devices, utilizing all printing technologies, designed to be handheld or to reside on a work surface and that can print on media with dimensions up to 48" wide.</p> <p>Copiers and/or multi-function devices classified as Segment 1 or Segment 2. Copier and/or multi-function devices that are designed to reside on a work surface that are not classified as Segment 1 or Segment 2.</p> <p>Includes models that are able to utilize an optional floor-stand.</p>	<ul style="list-style-type: none"> <li>• Desktop computer scanners</li> <li>• Desktop printers</li> <li>• Desktop PC-free photo printers</li> <li>• Camera dock printers</li> <li>• Desktop fax machines</li> <li>• Desktop multi-function or "all-in-one" devices</li> <li>• Desktop copiers or copy &amp; print devices</li> <li>• Typewriters powered by AC power plug or by internal battery unit</li> </ul>	<ul style="list-style-type: none"> <li>• Printing devices that are embedded into non-Phase 1 and 2 products, where the printing devices are not the primary product</li> <li>• Non-electronic typewriters</li> <li>• Printing devices capable of printing on media with dimensions greater than 48" wide</li> </ul>
	Floor-Standing Printing Devices	<p>Printing devices, utilizing all printing technologies that are floor-standing models and that can print on media with dimensions up to 48" wide.</p>	<ul style="list-style-type: none"> <li>• Floor-standing office printers</li> <li>• Floor-standing graphics printers</li> <li>• Floor-standing wide-format printers</li> </ul>	<ul style="list-style-type: none"> <li>• Floor-standing printing devices capable of performing additional non-printing functions such as copying or faxing</li> <li>• Printing devices that are embedded into non-Phase 1 and 2 products, where the printing device is not the primary product</li> <li>• Newspaper and industrial printing devices</li> <li>• Printing devices capable of printing on media with dimensions greater than 48" wide</li> <li>• Models which are able to utilize an optional floor-stand</li> </ul>
	Floor-Standing Copying Devices	<p>Copier and/or multi-function devices classified as Segment 3, Segment 4 or Segment 5. Copier and/or multi-function devices that are floor-standing models that are not classified as Segment 3, Segment 4 or Segment 5.</p>	<ul style="list-style-type: none"> <li>• Floor-standing multi-function or "all-in-one" devices that perform different tasks such as copy, scan, fax, print</li> <li>• Floor-standing photocopiers</li> <li>• Floor-standing copy and print devices</li> <li>• Floor-standing wide-format copiers and/or multi-function devices</li> </ul>	<ul style="list-style-type: none"> <li>• Floor-standing devices that only perform printing functions</li> <li>• Newspaper and industrial copying and/or multi-function devices</li> <li>• Copying and/or multi-function devices capable of printing on media with dimensions greater than 48" wide</li> <li>• Models which are able to utilize an optional floor-stand</li> </ul>
	Telephones and Telephone Answering Machines	<p>A telecommunication device with a handset or headset that is used for the transmission of sound (most commonly speech) between two or more locations using a variety of technologies including wire-line telephones and Voice over Internet Protocol (VoIP).</p> <p>Also includes telephone answering machines that are installed alongside, or incorporated within a wire-line telephone.</p>	<ul style="list-style-type: none"> <li>• Wire line telephones including rotary and touch-tone technologies</li> <li>• Cordless telephones requiring an electrical base station/handset cradle for battery charging and wire-line network connection</li> <li>• VoIP phones</li> <li>• Answering machines that utilize cassette-based or digital recording technologies</li> </ul> <p>Accessory handsets packaged with a telephone in a single OEM package under a single SKU are subject to one fee</p>	<ul style="list-style-type: none"> <li>• Telecommunication equipment developed for embedded use in motor vehicles of any type</li> <li>• Commercial-grade "pay phones"</li> <li>• Voicemail/answering machine devices that utilize a centralized networked system</li> </ul> <p>Telephone accessories including headsets and hands-free accessories</p>

Appendix A – Table 3: EEE Material Definitions December 1, 2010 – July 31, 2011				
EEE Material Category for Reporting Purposes		Phase 1 and 2 Materials Definition	Includes	Excludes
Category	Sub-Category			
<b>Cellular Devices and Pagers</b>		A handheld communication device that utilizes cellular networks to transmit voice or data signals. Includes cell-enabled Personal Digital Assistants (PDAs).	<ul style="list-style-type: none"> <li>• Cellular phones</li> <li>• Cellular phones offering camera, video recording and/or audio functions</li> <li>• Smart phones (cell-enabled)</li> <li>• Palmtop computers (cell-enabled)</li> <li>• Cell-enabled PDAs utilizing touch-screen technology</li> <li>• Cell-enabled handheld devices</li> <li>• Pagers</li> </ul>	<ul style="list-style-type: none"> <li>• Satellite phones</li> <li>• Wireless devices that do not utilize cellular networks to operate</li> <li>• Non-cell-enabled PDAs (Included in Personal/Portable Image, Audio, and Video Devices category)</li> </ul>

<p><b>Image, Audio and Video Devices</b></p>	<p><b>Personal/ Portable</b></p>	<p>Personal and/or portable devices that can transmit, record and/or playback an image, audio or video using a variety of technologies including mechanical, optical and digital technologies.</p> <p>Personal and/or portable peripheral audio devices that enable audio playback.</p>	<ul style="list-style-type: none"> <li>• A portable device that is used primarily for personal use, that operates on battery power or is powered directly from the device it is connected to (i.e. computer),</li> <li>• Point of Sale (POS) receipt printers</li> <li>• Portable computer scanners</li> <li>• Portable PC-free photo printers</li> <li>• Handheld printers such as calculators with printing capabilities or label makers</li> <li>• Desktop label, barcode, card printers</li> <li>• Portable audio cassette players and/or recorders</li> <li>• Portable combination cassette recorders and players</li> <li>• Portable CD players and/or recorders</li> <li>• Portable Digital Video Disk (DVD) players and recorder</li> <li>• MP3 and other portable music players</li> <li>• Other Portable Digital Audio Players/ Recorders (DAP)</li> <li>• Analog and digital video cameras and recorders</li> <li>• Portable AM/FM Radios</li> <li>• Clock radios</li> <li>• Compact docking speakers including computer speakers,</li> <li>• Digital and non-digital cameras</li> <li>• Webcams</li> <li>• Digital picture frames</li> <li>• Handheld personal computers</li> <li>• Portable display devices under 10"</li> <li>• PDAs that are not communication-enabled or cellular compatible</li> <li>• Portable and personal audio/video players supplied with accessories or bundled in a single OEM package under a single SKU are subject to one fee</li> </ul>	<ul style="list-style-type: none"> <li>• CD-writing drives contained within, or replacements parts for Desktop and Portable Computers</li> <li>• DVD-writing drives contained within, or replacement parts for Desktop and Portable Computers</li> <li>• Non-audio optical disk-players</li> <li>• Optical disk drives included in the Computer Peripherals materials category</li> <li>• Webcams embedded in Desktop Computers and Portable Computers</li> <li>• Cameras embedded in devices for which the primary function is not to record an image/ video</li> <li>• Cell-enabled PDAs</li> <li>• Devices for which the primary design and function are for video-gaming purposes (As designated in Section 5 of O. Reg. 393/04)</li> <li>• Global Positioning Systems (GPS) for both portable and aftermarket vehicle installation</li> <li>• Home/ Non-Portable video-gaming devices</li> <li>• Headphones and ear-buds</li> </ul>
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Appendix A – Table 3: EEE Material Definitions December 1, 2010 – July 31, 2011				
EEE Material Category for Reporting Purposes		Phase 1 and 2 Materials Definition	Includes	Excludes
Category	Sub-Category			
	<p><b>Home/Non-Portable</b></p>	<p>Home and/or non-portable devices that can transmit, record and/or playback an image, audio or video using a variety of technologies including mechanical, optical and digital technologies.</p>	<ul style="list-style-type: none"> <li>• Non portable AM/FM Radios</li> <li>• Video cassette players (VCRs) and/or video projectors</li> <li>• Turntables (Record Players and gramophones)</li> <li>• Non-portable Digital Video Disk (DVD) players and recorder, audio cassette players and/or</li> </ul>	<ul style="list-style-type: none"> <li>• CD-writing drives contained within, or replacements parts for Desktop and Portable Computers</li> <li>• Satellite, Cable, and Digital transmitters and receivers</li> <li>• Home/ Non-Portable video-gaming devices</li> <li>• Global Positioning Systems (GPS) for</li> </ul>

<b>Image, Audio and Video Devices</b>		Home and/or non-portable peripheral audio devices that enable audio playback.	<p>recorders</p> <ul style="list-style-type: none"> <li>• Non-portable combination cassette recorders and players</li> <li>• Other non-portable Digital Audio Players/ Recorders (DAP)</li> <li>• Non portable CD players and/or recorders</li> <li>• Digital projectors</li> <li>• Home stereo amplifiers</li> <li>• Home stereo systems</li> <li>• Speaker systems, connected to a home audio or stereo system</li> <li>• Includes audio and video equipment sold as a package/bundle that are used in non-residential locations</li> </ul>	<p>both portable and aftermarket vehicle installation</p> <ul style="list-style-type: none"> <li>• Devices for which the primary design and function are for video-gaming purposes (As designated in Section 5 of O. Reg. 393/04)</li> <li>• DVD-writing drives contained within, or replacement parts for Desktop and Portable Computers</li> <li>• Non-audio optical disk-players. Optical disk drives included in the Computer Peripherals</li> </ul>
	<b>Home Theatre in a Box (HTB)</b>	Bundled combinations or devices that can transmit, record and/or playback an image, audio or video using a variety of technologies.	<ul style="list-style-type: none"> <li>• Home theatre image, audio and video equipment sold as a package/bundle with a single point-of-sale SKU. Includes peripheral audio devices.</li> <li>• Includes audio and video equipment sold as a package/bundle that are used in non-residential locations.</li> </ul>	<ul style="list-style-type: none"> <li>• Home theatre image, audio and video equipment sold as a package/ bundle with more than a single point-of-sale SKU (report separately).</li> <li>• Home theatre bundles that include televisions</li> </ul>
	<b>Aftermarket Vehicle</b>	Audio and video devices for installation in motor vehicles aftermarket.	<ul style="list-style-type: none"> <li>• Vehicle speakers</li> <li>• Vehicle radios</li> <li>• Vehicle CD players</li> <li>• Vehicle DVD/Blu-Ray players</li> </ul>	<ul style="list-style-type: none"> <li>• Audio and video equipment embedded in original equipment manufacturer (OEM) supplied motor vehicles of any type</li> </ul>

### Appendix A – Table 4: EEE Material Definitions

The definitions in this table are general descriptions, and should be used together with the complete list of Inclusions and Exclusions for each Sub-Category Type on the OES website. The list of Inclusions and Exclusions is continually updated by OES. Please see <http://www.ontarioelectronicstewardship.ca/program/electronics-gallery> for the current list. This list remains in effect from August 1, 2011 until further notice.

Appendix A – Table 4: EEE Material Definitions		
EEE Material Category for Reporting Purposes		Phase 1 and 2 Materials Definition
Category	Sub-Category	
Display Devices	less than or equal to 29" Screen	A device that displays an image, using a variety of technologies including CRT, LCD, plasma and rear-projection.
	Greater than 29" Screen	
Desktop Computers		Desktop models refer to those computers that are designed to be utilized on a work surface and require standard alternating current (AC) power plug for a primary source of power.
Portable Computers		Portable models refer to a portable computer that contains a Central Processing Unit (CPU) and than can operate using a self-contained battery or using an external AC/DC adaptor.
Computer Peripherals		Computer peripherals refers to external, as well as integrated modems, disk drives, optical drives, computer mouse and keyboards that are added, or attached, to a computer in order to expand its functionality. A modem refers to a devices that encodes digital computer signals into analog/analogue telephone signals and vice versa and allows computers to communicate over a phone line or cable connection.
Printing, Copying and Multi-Function Devices	Desktop Printing, Copying and Multi-Function Devices	Printing, copying and multi-function devices, utilizing all printing technologies, designed to be handheld or to reside on a work surface and that can print on media with dimensions up to 48" wide.  Copiers and/or multi-function devices classified as Segment 1 or Segment 2. Copier and/or multi-function devices that are designed to reside on a work surface that are not classified as Segment 1 or Segment 2.  Includes models that are able to utilize an optional floor-stand.
	Floor-Standing Printing Devices	Printing devices, utilizing all printing technologies that are floor-standing models and that can print on media with dimensions up to 48" wide.
	Floor-Standing Copying Devices	Copier and/or multi-function devices classified as Segment 3, Segment 4 or Segment 5. Copier and/or multi-function devices that are floor-standing models that are not classified as Segment 3, Segment 4 or Segment 5.
Telephones and Telephone Answering Machines		A telecommunication device with a handset or headset that is used for the transmission of sound (most commonly speech) between two or more locations using a variety of technologies including wire-line telephones and Voice over Internet Protocol (VoIP).

Appendix A – Table 4: EEE Material Definitions		
EEE Material Category for Reporting Purposes		Phase 1 and 2 Materials Definition
Category	Sub-Category	
		Also includes telephone answering machines that are installed alongside, or incorporated within a wire-line telephone.
<b>Cellular Devices and Pagers</b>		A handheld communication device that utilizes cellular networks to transmit voice or data signals. Includes cell-enabled Personal Digital Assistants (PDAs).
<b>Image, Audio and Video Devices</b>	<b>Personal/ Portable</b>	<p>Personal and/or portable devices that can transmit, record and/or playback an image, audio or video using a variety of technologies including mechanical, optical and digital technologies.</p> <p>Personal and/or portable peripheral audio devices that enable audio playback.</p>
	<b>Home/Non-Portable</b>	<p>Home and/or non-portable devices that can transmit, record and/or playback an image, audio or video using a variety of technologies including mechanical, optical and digital technologies.</p> <p>Home and/or non-portable peripheral audio devices that enable audio playback.</p>
	<b>Home Theatre in a Box (HTB)</b>	Bundled combinations or devices that can transmit, record and/or playback an image, audio or video using a variety of technologies.
	<b>Aftermarket Vehicle</b>	Audio and video devices for installation in motor vehicles aftermarket.

## Appendix B

### Methodology for Calculation of Stewards Fees and Reconciliation Fees

1. Definitions:

- (a) "base fee period" means the period beginning on a date between May 1 and September 1 of each year and ending on a date between April 30 and August 31 of the next year. The base fee period start and end dates in each year will be determined by OES and communicated with appropriate notice to the stewards involved.
- (b) "cost reference period" means the calendar year preceding the calendar year in which the base fee period begins.

2. Calculation of Steward's Fees:

OES shall determine the Steward's Fees which will be in effect for each base fee period in the following manner:

- (1)
  - (a) determine the actual cost of operating the Program in the cost reference period;
  - (b) determine the portion of such cost attributable to each EEE Category in the cost reference period;
  - (c) determine the cost per unit of EEE in each EEE Category by dividing the amount in Section 2(1)(b) by the number of units of EEE Supplied in such EEE Category in the cost reference period;
  - (d) determine an appropriate per unit amount, as required, on account of an operating reserve for each EEE Category
- (2)
  - (a) determine the amount, if any, of EEE Category deficits as at December 31, 2012;
  - (b) divide the amount determined in Section 2(2)(a) by 5;
  - (c) determine the cost per unit for each relevant EEE Category by dividing the amount in Section 2(2)(b) by the number of units of EEE supplied in such EEE Category in the cost reference period
- (3) calculate the per unit Steward's Fee as the aggregate of the amount determined in Sections 2(1) and 2(2).

3. Calculation of Reconciliation Fee

Effective for base fee periods commencing May 1, 2014 and each base fee period thereafter, OES shall determine the Reconciliation Fee, if any, by EEE Category, to be paid in respect of each cost reference period in the following manner:

- (a) determine the revenue earned in the cost reference period;
- (b) determine the actual cost of operating the Program in the cost reference period;
- (c) subtract the amount determined under Section 3(b) from the amount determined under 3(a);
- (d) if the amount arrived at under Section 3(c) is zero or positive, the Reconciliation Fee is zero and any amount so determined shall be applied as an addition to the operating reserve and in accordance with the Program Plan;
- (e) if the amount arrived at under section 3(c) is negative, the Reconciliation Fee is the amount determined by dividing the amount in 3(c) by the number of units supplied in the cost reference period.

## Appendix C

### Extract from *Corporations Tax Act (Ontario)*

#### Permanent establishment

4. (1) In this Act,

“permanent establishment” includes branches, mines, oil wells, farms, timberlands, factories, workshops, warehouses, offices, agencies and other fixed places of business.

#### Idem

(2) Where a corporation carries on business through an employee or agent who has general authority to contract for the corporation or who has a stock of merchandise owned by the corporation from which the employee or agent regularly fills orders which the employee or agent receives, such employee or agent shall be deemed to operate a permanent establishment of the corporation.

#### Idem

(3) The fact that a corporation has business dealings through a commission agent, broker or other independent agent shall not of itself be deemed to mean that the corporation has a permanent establishment.

#### Idem

(4) The fact that a corporation has a subsidiary controlled corporation in a place or a subsidiary controlled corporation engaged in a trade or business in a place shall not of itself be deemed to mean that the first-mentioned corporation is operating a permanent establishment in that place.

#### Idem

(5) An insurance corporation is deemed to have a permanent establishment in each jurisdiction in which the corporation is registered or licensed to do business.

#### Idem

(6) The fact that a corporation maintains an office solely for the purchase of merchandise shall not of itself be deemed to mean that the corporation has a permanent establishment in that office.

#### Idem

(7) Where a corporation, otherwise having a permanent establishment in Canada, owns land in a province or territory of Canada, such land is a permanent establishment.

**Idem**

(8) The fact that a non-resident corporation in a taxation year produced, grew, mined, created, manufactured, fabricated, improved, packed, preserved or constructed in whole or in part anything in Canada, whether or not the corporation exported that thing without selling it prior to exportation, shall of itself, for the purposes of this Act, be deemed to mean that the corporation maintained a permanent establishment at any place where the corporation did any of those things in the taxation year.

**Idem**

(9) The use of substantial machinery or equipment in a particular place at any time in a taxation year of a corporation constitutes a permanent establishment of such corporation in that place for the taxation year.

**Idem**

(10) Where a corporation has no fixed place of business, it has a permanent establishment in the principal place in which the corporation's business is conducted.

**Idem**

(11) Where a corporation does not otherwise have a permanent establishment in Canada, it has a permanent establishment in the place designated in its charter or by-laws as being its head office or registered office.

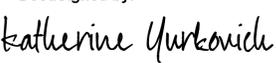
**Idem**

(12) If the liability of a corporation for tax under the *Income Tax Act* (Canada) is determined with reference to a tax treaty, convention or agreement with another country, the corporation does not have a permanent establishment in Ontario for the purposes of this Act if it does not have such an establishment for the purposes of the tax treaty, convention or agreement.

**Same**

(13) Subsection (12) applies with respect to taxation years ending after June 17, 2002.

**THIS IS EXHIBIT "J"  
TO THE AFFIDAVIT OF RICHARD WILLIAMS  
SWORN REMOTELY BEFORE ME  
THIS 31<sup>ST</sup> DAY OF MAY, 2021**

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BF136400C72D4E9

A commissioner for taking affidavits

Katherine Yurkovich  
LSO#80396R



## NOTICE OF CONSULTATION

May 10, 2021

**Re: Ontario Electronic Stewardship Inc. – Amendment to Steward Rules**

Ontario Electronic Stewardship ("OES") is an Industry Funding Organization established under the Waste Diversion Act, 2002 and continued under the Waste Diversion Transition Act, 2016 (the "WDTA") to develop and implement a waste diversion program for designated Waste Electrical and Electronic Equipment ("WEEE").

Pursuant to section 14 of the WDTA, and at the direction of the Minister of the Environment and Climate Change (the "Minister"), OES prepared a plan (the "Wind-Up Plan") to wind up the WEEE program and OES as a corporate entity in anticipation of a transfer of responsibility to producers in accordance with the Resource Recovery and Circular Economy Act, 2016 (the "RRCEA"). The Wind-Up Plan was approved with conditions by the Resource Productivity and Recovery Authority ("RPRRA") and OES ceased operations on December 31, 2020.

Deloitte Restructuring Inc. ("Deloitte") was appointed as liquidator of OES (the "Liquidator") on April 1, 2021 by resolution of the board of directors of OES (the "Board") pursuant to s. 230(2) of the Corporations Act, 1990 (the "CA").

The Liquidator is responsible for identifying and quantifying the financial and operational obligations of OES, realizing on the assets of OES, and distributing residual funds in accordance with the Wind-Up Plan. The Wind-Up Plan states that any residual funds in the possession of OES ("Residual Funds") will be distributed to RPRRA in order to offset registry-related costs under the RRCEA. At the time of the Liquidator's appointment, OES had a cash position of approximately \$4.5 million. The amount of the Residual Funds will depend on costs incurred in the liquidation and any additional realizations.

The Liquidator has identified a potential conflict between the Wind-Up Plan and the rules created by OES with respect to the payment of fees by stewards (the "Steward Rules"). Specifically, the Steward Rules state that amounts collected from stewards by OES that exceed the fees prescribed by the Steward Rules in a given fiscal year must be credited against the steward's account or refunded.

In the Liquidator's view, there is some ambiguity as to whether all or part of the Residual Funds could be interpreted to constitute excess amounts that should be remitted to the stewards under the Steward Rules. The Liquidator also understands that the complexity of remitter and sub-remitter arrangements underlying the payment of steward fees makes it impractical to refund any excess amounts to stewards.

In light of the above, the Liquidator has concluded that, prior to distributing Residual Funds to RPRRA as required by the Wind-Up Plan, the Steward Rules must be amended to remove any ambiguity and ensure consistency with the approved Wind-Up Plan, and specifically allow for the distribution of the Residual Funds notwithstanding any other provision of the Steward Rules. As required by section 33(3) of the WDTA, the Liquidator is holding consultations with affected stakeholders between May 14 and May 25, 2021, including webinars on May 20, 2021 at 11:00 am EST and on May 21, 2021 at 2:00 pm EST, in order to provide stakeholders with an opportunity to pose questions and raise concerns regarding the addition of the following section to the Steward Rules:

- 4 (7) *Nothing in these Rules shall prevent the distribution of residual funds, whether or not comprised of any amounts determined under section 4(3) above, to the Resource Productivity and Recovery Authority consistent with a Wind-Up Plan approved under section 14 of the Waste Diversion Transition Act, 2016.*

The Liquidator invites interested stakeholders to submit questions or comments in writing in advance of the consultation by email to [oeswindup@ontarioes.ca](mailto:oeswindup@ontarioes.ca) no later than May 14, 2021. Following the consultation, stakeholders will have an opportunity to make written submissions, which must be received at the email address above no later than 5:00 pm EST on May 25, 2021.

**THIS IS EXHIBIT "K"  
TO THE AFFIDAVIT OF RICHARD WILLIAMS  
SWORN REMOTELY BEFORE ME  
THIS 31<sup>ST</sup> DAY OF MAY, 2021**

DocuSigned by:  
  
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A commissioner for taking affidavits  
Katherine Yurkovich  
LSO#80396R

**Yurkovich, Kate**

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**From:** Yurkovich, Kate  
**Sent:** May 30, 2021 10:55 AM  
**To:** Yurkovich, Kate  
**Subject:** Update RE: Consultation on Ontario Steward Rules for Electrical and Electronic Equipment

**From:** Ontario Electronic Stewardship Wind up <[oeswindup@ontarioes.ca](mailto:oeswindup@ontarioes.ca)>  
**Sent:** May 14, 2021 3:44 PM  
**To:** Gauthier, Virginie <[Virginie.Gauthier@gowlingwlg.com](mailto:Virginie.Gauthier@gowlingwlg.com)>  
**Subject:** Update RE: Consultation on Ontario Steward Rules for Electrical and Electronic Equipment

**This message originated from outside of Gowling WLG. | Ce message provient de l'extérieur de Gowling WLG.**



OES Stakeholders,

Please note that the information for next week's OES Consultations on Steward Rules has been revised to include additional information on the financial position of OES. The **presentation material is posted** under OES:

Consultation on Steward Rules at the Liquidator website:

<https://www.insolvencies.deloitte.ca/en-ca/Pages/OntarioElectronicStewardship.aspx?searchpage=Search-Insolvencies.aspx>

The deadline for questions or comments prior to the consultations has been extended to **May 18<sup>th</sup>, 2021**.

Questions regarding the consultations or the liquidation may be sent to the Liquidator at [oeswindup@ontarioes.ca](mailto:oeswindup@ontarioes.ca)

The Liquidator will hold two information sessions to provide an overview of the proposed amendment to the Rules and invite feedback. To register for one of the sessions, please follow the links below:

- **Consultation on Rules for Stewards with respect to payment of EEE Fees #1 - Thursday May 20<sup>th</sup>, 2021 - 11:00am**  
<https://attendee.gotowebinar.com/register/1159914813386331662>
- **Consultation on Rules for Stewards with respect to payment of EEE Fees #2 – Friday May 21<sup>st</sup>, 2021 - 2:00 pm**  
<https://attendee.gotowebinar.com/register/2910273553131413518>

Background:

Ontario Electronic Stewardship (OES) ceased operation of the Waste Electronic and Electrical Equipment (WEEE) program as of December 31st, 2020 as directed by the Ministry of the Environment, Conservation and Parks.

As outlined in the approved OES Wind Up Plan, residual funds are to be transferred to the Resource Productivity and Recovery Authority (RPRA) in order to offset Resource Recovery and Circular Economy Act (RRCEA) Registry-related expenses.

Deloitte Restructuring Inc. has been appointed as liquidator (the Liquidator) by the board of directors of OES. The Liquidator is inviting stewards to a consultation relating to a proposed amendment to the Rules for Stewards with respect to payment of EEE Fees (the Rules), which is required in order to complete the transfer of residual funds.

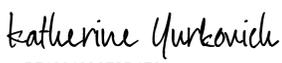
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This email was sent to [Virginie.Gauthier@gowlingwlq.com](mailto:Virginie.Gauthier@gowlingwlq.com)

You are receiving this email because your company is a registered steward, supplier or service provider with OES.

[Unsubscribe from this list](#)

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**TO THE AFFIDAVIT OF RICHARD WILLIAMS**  
**SWORN REMOTELY BEFORE ME**  
**THIS 31<sup>ST</sup> DAY OF MAY, 2021**

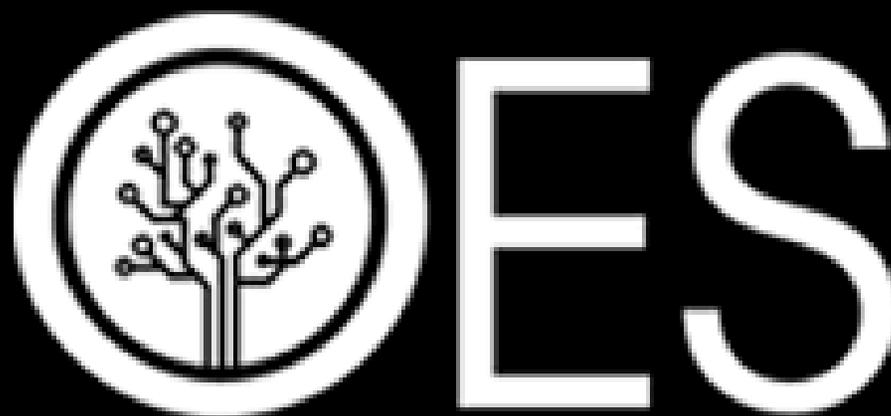
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A commissioner for taking affidavits

Katherine Yurkovich  
LSO#80396R

**Deloitte.**



**Ontario Electronic Stewardship**

Consultation on Amendment  
to Steward Rules

## Background

- In February 2018, Ontario Electronic Stewardship (“OES”) was directed by the Minister of Environment and Climate Change (the “Minister”) to wind up the waste electrical and electronic equipment (“WEEE”) program. As required by the Waste Diversion Transition Act (“WDTA”), OES prepared a wind-up plan (the “Wind-Up Plan”), which was approved with conditions by the Resource Productivity and Recovery Authority (“RPRA”). The Wind-Up Plan contemplates that remaining residual funds of OES will be transferred to RPRA. OES ceased operations on December 31, 2020.
- Deloitte Restructuring Inc. (“Deloitte”) was appointed as liquidator (the “Liquidator”) of OES pursuant to a resolution of the board of directors of OES effective April 1, 2021. The Liquidator’s role is to realize on the assets of OES, settle its financial obligations, implement the Wind-Up Plan and take other steps as set out under the Wind-Up Plan to wind up OES as a corporate entity.
- The Liquidator has identified a potential conflict between the terms of the Wind-Up Plan and rules created by OES pursuant to the WDTA that deal with the payment of fees by stewards (the “Steward Rules”). In order to carry out its obligations under the Wind-Up Plan, the Liquidator is proposing a change to the Steward Rules, and is conducting this consultation as required by the WDTA.

## Consultation Process and Next Steps

- On May 7, 2021, the Liquidator distributed a notice of consultation to stewards and posted this slide deck to its case website at <https://www.insolvencies.deloitte.ca/en-ca/Pages/OntarioElectronicStewardship.aspx?searchpage=Search-Insolvencies.aspx>
- Interested stakeholders are invited to submit questions or comments in writing by May 18, 2021. Submissions should be made via email to [oeswindup@ontarioes.ca](mailto:oeswindup@ontarioes.ca)
- Questions and comments will be addressed at webinars to be held on May 20, 2021 at 11:00 am EST and on May 21, 2021 at 2:00 pm EST.
- Following the consultation, stakeholders will have an opportunity to make written submissions, which must be received at the email address above no later than 5:00 pm EST on May 25, 2021.
- The Liquidator intends to seek an order (the “Appointment Order”) from the Ontario Superior Court of Justice on June 11, 2021 to, among other things, authorize the Liquidator, in the name and on behalf of OES, to amend the Steward Rules.
- RPRA will consider the amendment for approval at a meeting of its board of directors on June 22, 2021.
- Assuming the Appointment Order is made and the amendment is approved, the Liquidator intends to make an interim distribution to RPRA on or about July 12, 2021.

## The Wind-Up Plan

- The Wind-Up Plan was prepared by OES in December 2018. Following a number of revisions, as well as extensive stakeholder consultations, a final draft of the Wind-Up Plan was approved with conditions by RPRA in July 2019. The Wind-Up Plan includes the following provisions:
  - The elimination of steward fees for the period from February 1, 2019 to December 31, 2020 in accordance with Ministerial direction that OES' operating surplus be eliminated in a manner that benefits Ontario consumers; and
  - The transfer to RPRA of any residual funds remaining after the resolution of OES' financial obligations and the completion of wind-up activities.
- The Wind-Up Plan estimated that approximately \$3.1 million would be transferred to RPRA following the completion of wind-up activities, which RPRA would use to offset RRCEA Registry-related expenses.

## The Wind-Up Plan (continued)

- OES had cash on hand of approximately \$4.5 million at the time of the Liquidator's appointment. The exact amount transferred to RPRA will depend on the quantum of OES' financial obligations, the proceeds of realization of OES' assets and the costs of the liquidation.
- The Liquidator intends to run a Court-approved claims process in order to identify any remaining financial obligations of OES. OES management has advised the Liquidator that substantially all the claims of service providers were settled by OES prior to the Liquidator's appointment.
- In addition to cash on hand, the Liquidator is investigating a potential recovery of HST remitted by OES during the period in which steward fees were eliminated. While the exact dollar amount has not been determined, the Liquidator believes the recovery could exceed \$4 million.
- The costs of liquidation will depend on several factors, including the number and quantum of claims identified pursuant to the claims process and the costs of pursuing the HST recovery. As such, it is not possible at this time to provide a reliable estimate of costs or a final transfer to RPRA.

## The Steward Rules

- Section 33 of the WDTA permits OES to make and amend rules governing the payment of fees by stewards. Section 4(3) of the Steward Rules currently in effect states that, where a steward has paid more fees than is required by the Steward Rules, any excess amount must be either credited against fees payable or refunded to the steward.
- Steward fees are remitted to OES directly by stewards, and indirectly by wholesalers and retailers who are party to remitter and sub-remitter agreements with stewards and OES.
  - OES' records reflect amounts remitted directly to OES by retailers, wholesalers and other parties.
  - OES' records do not contain an allocation of these amounts by steward.
- As such, and as the program is no longer operational, there is no practical way for the Liquidator to return excess amounts to individual stewards.

## Proposed Amendment to Steward Rules

- Given the provision in the Wind-Up Plan that residual funds be transferred to RPRA, the requirement in the Steward Rules that OES refund or credit stewards for excess amounts, and the practical difficulties associated with a return of excess amounts directly to stewards, the Liquidator has concluded that an amendment to Steward Rules is required to carry out its obligations under the Wind-Up Plan.
- The Liquidator proposes the following amendment to the Steward Rules:

*4 (7) Nothing in these Rules shall prevent the distribution of residual funds, whether or not comprised of any amounts determined under section 4(3) above, to the Resource Productivity and Recovery Authority consistent with a Wind-Up Plan approved under section 14 of the Waste Diversion Transition Act, 2016.*

## Proposed Amendment to Steward Rules

The Liquidator believes that the proposed amendment is appropriate in the circumstances, as:

1. It will allow the completion of the OES wind-up;
2. It will remove any ambiguity and ensure consistency with the approved Wind-Up Plan;
3. The mechanism contemplated in the Steward Rules with respect to steward refunds or credits is not capable of being implemented at this point;
4. The approved Wind-Up Plan describes that remaining OES residual funds transferred to RPRA will be used to offset RRCEA Registry-related expenses; and
5. RPRA has expressed its intention to consult further on the use of OES residual funds for RRCEA Registry-related expenses.

# Questions and Comments



This document is confidential and prepared solely for your information. Therefore you should not, without our prior written consent, refer to or use our name or this document for any other purpose, disclose them or refer to them in any prospectus or other document, or make them available or communicate them to any other party. No other party is entitled to rely on our document for any purpose whatsoever and thus we accept no liability to any other party who is shown or gains access to this document.

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THIS 31<sup>ST</sup> DAY OF MAY, 2021**

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A commissioner for taking affidavits  
Katherine Yurkovich  
LSO#80396R



## ONTARIO ELECTRONIC STEWARDSHIP

### Stakeholder Consultation Summary

Deloitte Restructuring Inc., in its capacity as liquidator (the "Liquidator") of Ontario Electronic Stewardship ("OES"), conducted a stakeholder consultation in respect of proposed amendments to certain rules governing the payment of steward fees.

On May 10, 2021 the Liquidator, on behalf of OES, distributed a notice of consultation to Stewards together with a presentation providing an overview of the Proposed Steward Rules Amendment. The Notice of Consultation provided details on the Proposed Steward Rules Amendment, notified stakeholders of consultations, including webinars to be held on May 20 and 21, 2021, and invited stakeholders to submit questions or comments in writing in advance of the webinars.

On May 14, 2021, an email was sent to stakeholders, advising recipients that an updated presentation had been posted to the Liquidator's case website, and extending the deadline to submit questions and comments until May 18, 2021.

The following is a summary of questions submitted by stakeholders to the Liquidator, along with the Liquidator's response. Stakeholders are encouraged to submit any additional questions to [oeswindup@deloitte.ca](mailto:oeswindup@deloitte.ca).

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**Q: Will organizations that were formerly stewards, but are no longer stewards, receive a refund of fees under the liquidation?**

A: As set out in the consultation materials, the approved Wind Up Plan states that residual funds will be transferred to the Resource Productivity & Recovery Authority ("RPRA"). No refunds will be issued to stewards, past or present.

---

**Q: Will the amendment to the steward rules impact disputes between stewards and EPRA with respect to fees owing to EPRA?**

A: The Electronic Products Recycling Association ("EPRA") is a separate and distinct entity from OES. The consultation and the amendment to the Steward Rules relate solely to residual funds held by OES. The Liquidator is unable to advise on the impact of any amendment to the Steward Rules on your obligations to (or claims against) EPRA, as they are outside the scope of the liquidation.

---

**Q: Will RPRA publish how exactly they will offset the registry-related expense?**

A: As set out in the consultation materials, RPRA has committed to consulting with stakeholders on the application of residual funds to offset RRCEA registry-related expenses. The Liquidator is unable to comment on the form or content of RPRA's consultations.

---

In addition to the questions above, the Liquidator received a written submission from Electronics Product Stewardship Canada ("EPSC"). While EPSC was supportive of the proposed amendment to the Steward Rules, and of a transfer to RPRA of funds currently available to the Liquidator, it requested further discussion in the event that tax litigation contemplated by the Liquidator resulted in additional residual funds.

Court File No:

IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF ONTARIO  
ELECTRONIC STEWARDSHIP  
APPLICATION UNDER SS. 243, 244 and 246 OF THE *CORPORATIONS ACT*, R.S.O.  
1990, C. C.38  
DELOITTE RESTRUCTURING INC.

Applicant

---

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

---

**AFFIDAVIT OF RICHARD WILLIAMS  
(Sworn May 31, 2021)**

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**GOWLING WLG (CANADA) LLP**  
1 First Canadian Place  
100 King Street West, Suite 1600  
Toronto ON M5X 1G5

**Virginie Gauthier (LSO#: 41097D)**  
**Tel:** 416-844-5391  
**Email:** [virginie.gauthier@gowlingwlg.com](mailto:virginie.gauthier@gowlingwlg.com)

**Kate Yurkovich (LSO#: 80396R)**  
**Tel:** 416-862-4342  
**Email:** [kate.yurkovich@gowlingwlg.com](mailto:kate.yurkovich@gowlingwlg.com)

Lawyers for the Applicant, Deloitte Restructuring Inc.

# TAB 4

*ONTARIO*  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

BETWEEN:

IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF  
ONTARIO ELECTRONIC STEWARDSHIP

APPLICATION UNDER SS. 243, 244 and 246 OF THE *CORPORATIONS ACT*, R.S.O. 1990,  
C. C.38

DELOITTE RESTRUCTURING INC.

Applicant

**CONSENT**

Deloitte Restructuring Inc. consents to act as Court-appointed liquidator, without security, of all of the assets, undertakings and properties of Ontario Electronic Stewardship.

DATED AT TORONTO, ONTARIO this 31<sup>st</sup> day of May, 2021

**Deloitte Restructuring Inc.**

Per:



---

Jorden Sleeth CPA, CIRP LIT  
Senior Vice President

IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF ONTARIO ELECTRONIC  
STEWARDSHIP  
APPLICATION UNDER SS. 243, 244 and 246 OF THE CORPORATIONS ACT, R.S.O. 1990, C. C.38  
DELOITTE RESTRUCTURING INC.

Applicant

**ONTARIO**  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT  
TORONTO

CONSENT TO ACT AS LIQUIDATOR

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# TAB 5

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR. )  
 )  
JUSTICE DUNPHY )  
 )  
FRIDAY, THE 11<sup>TH</sup>  
DAY OF JUNE, 2021

IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF  
ONTARIO ELECTRONIC STEWARDSHIP

APPLICATION UNDER SS. 243, 244 and 246 OF THE *CORPORATIONS ACT*, R.S.O. 1990,  
C. C.38

DELOITTE RESTRUCTURING INC.

Applicant

**ORDER**  
**(Wind Up and Appointment of a Liquidator)**

**THIS APPLICATION** made by the Applicant for an Order pursuant to sections 243(b), (d) and 246 of the *Corporations Act*, R.S.O. 1990, c. C. 38, as modified by Ontario Regulation 357/17 (the “*Corporations Act*”) appointing Deloitte Restructuring Inc. as Court-appointed liquidator (in such capacity, the “**Liquidator**”) without security, of all of the assets, undertakings and properties of Ontario Electronic Stewardship (“**OES**” or the “**Corporation**”) was heard this day by judicial videoconference via Zoom in Toronto, Ontario due to the COVID-19 pandemic.

**ON READING** the affidavit of Richard Williams sworn May 31, 2021 (the “**Williams Affidavit**”) and the Exhibits thereto and the consent of Deloitte Restructuring Inc. to act as the Liquidator, and on hearing the submissions of counsel for the Applicant, no one appearing for any other person on the service list, although duly served as appears from the affidavit of service of [NAME] sworn [DATE] and on reading the consent of Deloitte Restructuring Inc. to act as the Liquidator,

## WINDING UP AND APPOINTMENT

1. **THIS COURT ORDERS** that pursuant to sections 243 and 246 of the *Corporations Act*, Deloitte Restructuring Inc. is hereby appointed Liquidator, without security, of all of the assets, undertakings and properties of the Corporation including all proceeds thereof or any sum or balance due from any contributory to which the Corporation is entitled (the “**Property**”) for the purpose of winding up the Corporation’s business and affairs and distributing its Property. The winding up shall be completed in accordance with the terms of the Corporation’s plan to wind up the Corporation attached as Exhibit F to the Williams Affidavit (the “**Wind Up Plan**”), or pursuant to directions received from the Minister of the Environment, Conservation and Parks, and as approved by the Resource Productivity and Recovery Authority (“**RPRA**”), or as otherwise ordered by the Court.

## LIQUIDATOR’S POWERS

2. **THIS COURT ORDERS** that the Liquidator, in exercising its powers and performing its functions, including, without limitation, all such powers under the *Corporations Act*, shall act as the agent of the Corporation and shall be empowered to exercise all powers and authorities in lieu, and in stead, of the officers and directors of the Corporation, including the Corporation’s power and authority to make or amend rules pursuant to the *Waste Diversion Transition Act*, 2016, S.O. 2016, c.12, Sched 2 (the “**WDTA**”), and in exercising and performing any such powers pursuant to this order, or any further order of this Court made in this proceeding, only the Corporation shall be liable for any act performed or thing done by the Liquidator pursuant to the powers conferred upon it by this order or any other order of this Court made in this proceeding and the Liquidator shall have no personal liability therefore.

3. **THIS COURT ORDERS** that the Liquidator shall review all of the Property and shall make inquiries as to any security, rights, claims or other interests asserted in, to or against any of the Property.

4. **THIS COURT ORDERS** that Liquidator may, in the course of its determination as to the assets, liabilities and claims against the Property, apply to this Court for directions as to any process or processes for the determination of the claims and entitlements of all persons who may have rights as creditors, claimants to interests in the Property, or against the Corporation or any

of its Property and, subject to such claims process, may request any other directions concerning any further steps to realize upon the Property and to complete the liquidation of the Corporation.

5. **THIS COURT ORDERS** that the Liquidator is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Liquidator is hereby expressly empowered and authorized to do any of the following where the Liquidator considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons, including without limitation Deloitte LLP and Deloitte Legal in connection with potential tax litigation work, from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Liquidator's powers and duties, including without limitation those conferred by this Order;
- (d) to receive and collect all monies and accounts now owed or hereafter owing to the Corporation and to exercise all remedies of the Corporation in collecting such monies, including, without limitation, to enforce any security held by the Corporation;
- (e) to settle, extend or compromise any indebtedness owing to the Corporation;

- (f) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Liquidator's name or in the name and on behalf of the Corporation, for any purpose pursuant to this Order;
  - (g) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Corporation, the Property or the Liquidator, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
  - (h) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Liquidator in its discretion may deem appropriate;
  - (i) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
    - (i) without the approval of this Court in respect of any transaction not exceeding \$50,000, provided that the aggregate consideration for all such transactions does not exceed \$100,000; and
    - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;
- and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, shall not be required.
- (j) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;

- (k) to report to, meet with and discuss with such affected Persons (as defined below) as the Liquidator deems appropriate on all matters relating to the Property and the wind up, and to share information, subject to such terms as to confidentiality as the Liquidator deems advisable;
- (l) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (m) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Liquidator, in the name of the Corporation;
- (n) to exercise any shareholder, partnership, joint venture or other rights which the Corporation may have;
- (o) to apply the Property of the Corporation in satisfaction of all its debts, obligations and liabilities;
- (p) to facilitate the transfer to RPRA of all commercial data and information in the possession of the Corporation in accordance with the terms of the Corporation's Wind Up Plan; and
- (q) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Liquidator takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Corporation, and without interference from any other Person. For avoidance of doubt, nothing in this Order will detract from, or diminish, the obligation of the Liquidator, in the name of the Corporation, to continue to pay any and all amounts that the Corporation is required to pay under the *WDTA*.

**DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE LIQUIDATOR**

6. **THIS COURT ORDERS** that the Corporation, all of its current and former directors, officers, employees, agents, accountants, legal counsel and members, and all other persons acting on its instructions or behalf, and all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the Liquidator of the existence of any Property in such Person’s possession or control, shall grant immediate and continued access to the Property to the Liquidator, and shall deliver all such Property to the Liquidator upon the Liquidator’s request.

7. **THIS COURT ORDERS** that all Persons shall forthwith advise the Liquidator of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Corporation, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person’s possession or control, and shall provide to the Liquidator or permit the Liquidator to make, retain and take away copies thereof and grant to the Liquidator unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 8 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Liquidator due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

8. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Liquidator for the purpose of allowing the Liquidator to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Liquidator in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Liquidator. Further, for the purposes of this paragraph, all Persons shall provide the Liquidator with all such assistance in

gaining immediate access to the information in the Records as the Liquidator may in its discretion require including providing the Liquidator with instructions on the use of any computer or other system and providing the Liquidator with any and all access codes, account names and account numbers that may be required to gain access to the information.

#### **NO PROCEEDINGS AGAINST THE LIQUIDATOR**

9. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Liquidator except with the written consent of the Liquidator or with leave of this Court.

#### **NO PROCEEDINGS AGAINST THE CORPORATION OR THE PROPERTY**

10. **THIS COURT ORDERS** that, no Proceeding against or in respect of the Corporation or the Property shall be commenced or continued except with the written consent of the Liquidator or with leave of this Court and any and all Proceedings currently under way against or in respect of the Corporation or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

11. **THIS COURT ORDERS** that all rights and remedies against the Corporation, the Liquidator, or affecting the Property, are hereby stayed and suspended except with the written consent of the Liquidator or leave of this Court, and further provided that nothing in this paragraph shall (i) empower the Liquidator or the Corporation to carry on any business which the Corporation is not lawfully entitled to carry on, (ii) exempt the Liquidator or the Corporation from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

#### **NO INTERFERENCE WITH THE LIQUIDATOR**

12. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Corporation, without written consent of the Liquidator or leave of this Court.

### **CONTINUATION OF SERVICES**

13. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Corporation or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Corporation are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Liquidator, and that the Liquidator shall be entitled to the continued use of the Corporation's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Liquidator in accordance with normal payment practices of the Corporation or such other practices as may be agreed upon by the supplier or service provider and the Liquidator, or as may be ordered by this Court.

### **LIQUIDATOR TO HOLD FUNDS**

14. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Liquidator from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property, the pursuit of any claim of OES, and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Liquidator (the "**Liquidation Accounts**") and the monies standing to the credit of such Liquidation Accounts from time to time, net of any disbursements provided for herein, shall be held by the Liquidator to be paid in accordance with the terms of this Order or any further Order of this Court.

### **PIPEDA**

15. **THIS COURT ORDERS** that, to facilitate the transfer of personal information held by the Corporation to RPRA as required under sub-section 14(12) of the *WDTA*, pursuant to clauses 7(3)(c) and 7(3)(i) of the *Canada Personal Information Protection and Electronic Documents Act*, the Liquidator shall disclose personal information of identifiable individuals to RPRA and its advisors, but only to the extent desirable or required to carry out the Corporation's Wind Up

Plan, as prepared or amended in accordance with the requirements of section 14 of the *WDTA*, the terms of the Wind Up Plan, or pursuant to directions received from the Minister of Environment, Conservation and Parks, and as approved by RPRA. RPRA shall be entitled to continue to use the personal information provided to it in implementing its mandate under the *Resource Recovery and Circular Economy Act, 2016*, S.O. 206, c. 12, Sched 1.

#### **TRANSFER OF DATA TO RPRA**

16. **THIS COURT ORDERS** that, subject to the provisions of paragraph 15 above, the Liquidator shall be authorized and directed to transfer all electronic data of OES to RPRA.

#### **LIMITATION ON THE LIQUIDATOR'S LIABILITY**

17. **THIS COURT ORDERS** that the Liquidator, as well as any and all consultants properly engaged as contemplated under this Order, shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part.

#### **LIQUIDATOR'S ACCOUNTS**

18. **THIS COURT ORDERS** that the costs, charges and expenses of the winding up, including the remuneration of the Liquidator and its counsel, are payable out of the Property of the Corporation in priority to all other claims. In connection therewith, the Liquidator and counsel to the Liquidator shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Liquidator and counsel to the Liquidator shall be entitled to and are hereby granted a charge (the "**Liquidator's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Liquidator's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person.

19. **THIS COURT ORDERS** that the Liquidator and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Liquidator and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

20. **THIS COURT ORDERS** that prior to the passing of its accounts, the Liquidator shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Liquidator or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

### **SERVICE AND NOTICE**

21. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL ‘<https://www.insolvencies.deloitte.ca/en-ca/Pages/default.aspx>’.

22. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Liquidator is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Corporation's creditors or other interested parties at their respective addresses as last shown on the records of the Corporation and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

### **GENERAL**

23. **THIS COURT ORDERS** that the Liquidator may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

24. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Liquidator and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Liquidator, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Liquidator and its agents in carrying out the terms of this Order.

25. **THIS COURT ORDERS** that the Liquidator be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Liquidator is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

26. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than ten (10) days' notice to the Liquidator and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

27. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order and is enforceable without any need for entry and filing.

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IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF ONTARIO  
ELECTRONIC STEWARDSHIP  
APPLICATION UNDER SS. 243, 244 and 246 OF THE *CORPORATIONS ACT*,  
R.S.O. 1990, C. C.38  
DELOITTE RESTRUCTURING INC.

Applicant

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

**ORDER  
(Wind Up and Appointment of a Liquidator)**

**GOWLING WLG (CANADA) LLP**

1 First Canadian Place  
100 King Street West, Suite 1600  
Toronto ON M5X 1G5

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**Kate Yurkovich (LSO#: 80396R)**

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Lawyers for the Applicant, Deloitte Restructuring Inc.

# TAB 6

Revised: January 21, 2014  
s.243(1) BIA (National Receiver) and s. 101 CJA (Ontario) Receiver

Court File No. \_\_\_\_\_

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE ~~\_\_\_\_\_~~ MR. ) ~~WEEKDAY~~ FRIDAY, THE # 11<sup>TH</sup>  
JUSTICE ~~\_\_\_\_\_~~ DUNPHY ) DAY OF ~~MONTH~~ JUNE, ~~20YR~~ 2021

IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF  
ONTARIO ELECTRONIC STEWARDSHIP

**~~PLAINTIFF~~<sup>†</sup>**

**Plaintiff**

~~-and-~~

**~~DEFENDANT~~**

**Defendant**

APPLICATION UNDER SS. 243, 244 and 246 OF THE *CORPORATIONS ACT*, R.S.O. 1990,  
C. C.38

DELOITTE RESTRUCTURING INC.

Applicant

**ORDER**

**(~~appointing Receiver~~ Wind Up and Appointment of a Liquidator)**

<sup>†</sup> ~~The Model Order Subcommittee notes that a receivership proceeding may be commenced by action or by application. This model order is drafted on the basis that the receivership proceeding is commenced by way of an action.~~

**THIS MOTION APPLICATION** made by the **Plaintiff<sup>2</sup> Applicant** for an Order pursuant to ~~section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA")~~ sections 243(b), (d) and section 101246 of the *Courts of Justice Corporations Act*, R.S.O. 1990, c. C.43 38, as ~~amended~~ modified by Ontario Regulation 357/17 (the "~~CJA~~" "Corporations Act") appointing [RECEIVER'S NAME] as receiver [and manager] Deloitte Restructuring Inc. as Court-appointed liquidator (in such ~~capacities~~ capacity, the "~~Receiver~~" "Liquidator") without security, of all of the assets, undertakings and properties of [DEBTOR'S NAME] (the "Debtor") ~~acquired for, or used in relation to a business carried on by the Debtor,~~ Ontario Electronic Stewardship ("OES" or the "Corporation") was heard this day ~~at 330 University Avenue,~~ by judicial videoconference via Zoom in Toronto, Ontario due to the COVID-19 pandemic.

**ON READING** the affidavit of [NAME] Richard Williams sworn [DATE] May 31, 2021 (the "Williams Affidavit") and the Exhibits thereto and the consent of Deloitte Restructuring Inc. to act as the Liquidator, and on hearing the submissions of counsel for [NAMES] the Applicant, no one appearing for [NAME] any other person on the service list, although duly served as appears from the affidavit of service of [NAME] sworn [DATE] and on reading the consent of [RECEIVER'S NAME] Deloitte Restructuring Inc. to act as the Receiver Liquidator,

## **SERVICE**

1. ~~THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion is hereby abridged and validated<sup>3</sup> so that this motion is properly returnable today and hereby dispenses with further service thereof.~~

## **WINDING UP AND APPOINTMENT**

1. ~~2.~~ **THIS COURT ORDERS** that pursuant to ~~section 243(1) of the BIA~~ sections 243 and section 101246 of the ~~CJA,~~ [RECEIVER'S NAME] Corporations Act, Deloitte Restructuring Inc.

<sup>2</sup> Section 243(1) of the BIA provides that the Court may appoint a receiver "on application by a secured creditor".

<sup>3</sup> If service is effected in a manner other than as authorized by the Ontario *Rules of Civil Procedure*, an order validating irregular service is required pursuant to Rule 16.08 of the *Rules of Civil Procedure* and may be granted in appropriate circumstances.

is hereby appointed ~~Receiver~~Liquidator, without security, of all of the assets, undertakings and properties of the ~~Debtor acquired for, or used in relation to a business carried on by the Debtor,~~Corporation including all proceeds thereof or any sum or balance due from any contributory to which the Corporation is entitled (the "Property") for the purpose of winding up the Corporation's business and affairs and distributing its Property. The winding up shall be completed in accordance with the terms of the Corporation's plan to wind up the Corporation attached as Exhibit F to the Williams Affidavit (the "Wind Up Plan"), or pursuant to directions received from the Minister of the Environment, Conservation and Parks, and as approved by the Resource Productivity and Recovery Authority ("RPR"), or as otherwise ordered by the Court.

### **RECEIVERLIQUIDATOR'S POWERS**

2. THIS COURT ORDERS that the Liquidator, in exercising its powers and performing its functions, including, without limitation, all such powers under the *Corporations Act*, shall act as the agent of the Corporation and shall be empowered to exercise all powers and authorities in lieu, and in stead, of the officers and directors of the Corporation, including the Corporation's power and authority to make or amend rules pursuant to the *Waste Diversion Transition Act*, 2016, S.O. 2016, c.12, Sched 2 (the "WDTA"), and in exercising and performing any such powers pursuant to this order, or any further order of this Court made in this proceeding, only the Corporation shall be liable for any act performed or thing done by the Liquidator pursuant to the powers conferred upon it by this order or any other order of this Court made in this proceeding and the Liquidator shall have no personal liability therefore.

3. THIS COURT ORDERS that the Liquidator shall review all of the Property and shall make inquiries as to any security, rights, claims or other interests asserted in, to or against any of the Property.

4. THIS COURT ORDERS that Liquidator may, in the course of its determination as to the assets, liabilities and claims against the Property, apply to this Court for directions as to any process or processes for the determination of the claims and entitlements of all persons who may have rights as creditors, claimants to interests in the Property, or against the Corporation or any

of its Property and, subject to such claims process, may request any other directions concerning any further steps to realize upon the Property and to complete the liquidation of the Corporation.

5. ~~3.~~ **THIS COURT ORDERS** that the ~~Receiver~~Liquidator is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the ~~Receiver~~Liquidator is hereby expressly empowered and authorized to do any of the following where the ~~Receiver~~Liquidator considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- ~~(c) — to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;~~
- (c) ~~(d)~~ to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons, including without limitation Deloitte LLP and Deloitte Legal in connection with potential tax litigation work, from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the ~~Receiver~~Liquidator's powers and duties, including without limitation those conferred by this Order;

- ~~(e) — to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;~~
- (d) ~~(f)~~ to receive and collect all monies and accounts now owed or hereafter owing to the ~~Debtor~~Corporation and to exercise all remedies of the ~~Debtor~~Corporation in collecting such monies, including, without limitation, to enforce any security held by the ~~Debtor~~Corporation;
- (e) ~~(g)~~ to settle, extend or compromise any indebtedness owing to the ~~Debtor~~Corporation;
- (f) ~~(h)~~ to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the ~~Receiver~~Liquidator's name or in the name and on behalf of the ~~Debtor~~Corporation, for any purpose pursuant to this Order;
- (g) ~~(i)~~ to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the ~~Debtor~~Corporation, the Property or the ~~Receiver~~Liquidator, and to settle or compromise any such proceedings.<sup>4</sup> The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (h) ~~(j)~~ to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and

<sup>4</sup> ~~This model order does not include specific authority permitting the Receiver to either file an assignment in bankruptcy on behalf of the Debtor, or to consent to the making of a bankruptcy order against the Debtor. A bankruptcy may have the effect of altering the priorities among creditors, and therefore the specific authority of the Court should be sought if the Receiver wishes to take one of these steps.~~

negotiating such terms and conditions of sale as the ~~Receiver~~Liquidator in its discretion may deem appropriate;

- (i) ~~(k)~~ to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
- (i) without the approval of this Court in respect of any transaction not exceeding \$~~\_\_\_\_\_~~50,000, provided that the aggregate consideration for all such transactions does not exceed \$~~\_\_\_\_\_~~100,000; and
- (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, ~~[or section 31 of the Ontario *Mortgages Act*, as the case may be,]<sup>5</sup>~~ shall not be required, ~~and in each case the Ontario *Bulk Sales Act* shall not apply.~~

- (j) ~~(l)~~ to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (k) ~~(m)~~ to report to, meet with and discuss with such affected Persons (as defined below) as the ~~Receiver~~Liquidator deems appropriate on all matters relating to the Property and the ~~receivership~~wind up, and to share information, subject to such terms as to confidentiality as the ~~Receiver~~Liquidator deems advisable;

<sup>5</sup> ~~If the Receiver will be dealing with assets in other provinces, consider adding references to applicable statutes in other provinces. If this is done, those statutes must be reviewed to ensure that the Receiver is exempt from or can be exempted from such notice periods, and further that the Ontario Court has the jurisdiction to grant such an exemption.~~

- (l) ~~(n)~~ to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (m) ~~(o)~~ to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the ~~Receiver~~Liquidator, in the name of the ~~Debtor~~;
- ~~(p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor~~Corporation;
- (n) ~~(q)~~ to exercise any shareholder, partnership, joint venture or other rights which the ~~Debtor~~Corporation may have;
- (o) to apply the Property of the Corporation in satisfaction of all its debts, obligations and liabilities;
- (p) to facilitate the transfer to RPRA of all commercial data and information in the possession of the Corporation in accordance with the terms of the Corporation's Wind Up Plan; and
- (q) ~~(r)~~ to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations;

and in each case where the ~~Receiver~~Liquidator takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the ~~Debtor~~Corporation, and without interference from any other Person. For avoidance of doubt, nothing in this Order will detract from, or diminish, the obligation of the Liquidator, in the name of the Corporation, to continue to pay any and all amounts that the Corporation is required to pay under the WDTA.

**DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE  
~~RECEIVER~~LIQUIDATOR**

6. ~~4.~~ **THIS COURT ORDERS** that ~~(i)~~ the ~~Debtor,~~ (ii) Corporation, all of its current and former directors, officers, employees, agents, accountants, legal counsel and ~~shareholders~~members, and all other persons acting on its instructions or behalf, and ~~(iii)~~ all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the ~~Receiver~~Liquidator of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the ~~Receiver~~Liquidator, and shall deliver all such Property to the ~~Receiver~~Liquidator upon the ~~Receiver~~Liquidator's request.

7. ~~5.~~ **THIS COURT ORDERS** that all Persons shall forthwith advise the ~~Receiver~~Liquidator of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the ~~Debtor~~Corporation, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the ~~Receiver~~Liquidator or permit the ~~Receiver~~Liquidator to make, retain and take away copies thereof and grant to the ~~Receiver~~Liquidator unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph ~~5 or in paragraph 6~~8 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the ~~Receiver~~Liquidator due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

8. ~~6.~~ **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the ~~Receiver~~Liquidator for the purpose of allowing the ~~Receiver~~Liquidator to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving

and copying the information as the ~~Receiver~~Liquidator in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the ~~Receiver~~Liquidator. Further, for the purposes of this paragraph, all Persons shall provide the ~~Receiver~~Liquidator with all such assistance in gaining immediate access to the information in the Records as the ~~Receiver~~Liquidator may in its discretion require including providing the ~~Receiver~~Liquidator with instructions on the use of any computer or other system and providing the ~~Receiver~~Liquidator with any and all access codes, account names and account numbers that may be required to gain access to the information.

~~7. THIS COURT ORDERS that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.~~

#### NO PROCEEDINGS AGAINST THE ~~RECEIVER~~LIQUIDATOR

9. ~~8.~~ **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the ~~Receiver~~Liquidator except with the written consent of the ~~Receiver~~Liquidator or with leave of this Court.

#### NO PROCEEDINGS AGAINST THE ~~DEBTOR~~CORPORATION OR THE PROPERTY

10. ~~9.~~ **THIS COURT ORDERS** that, no Proceeding against or in respect of the ~~Debtor~~Corporation or the Property shall be commenced or continued except with the written consent of the ~~Receiver~~Liquidator or with leave of this Court and any and all Proceedings currently under way against or in respect of the ~~Debtor~~Corporation or the Property are hereby stayed and suspended pending further Order of this Court.

**NO EXERCISE OF RIGHTS OR REMEDIES**

11. ~~10.~~ **THIS COURT ORDERS** that all rights and remedies against the ~~Debtor~~Corporation, the ~~Receiver~~Liquidator, or affecting the Property, are hereby stayed and suspended except with the written consent of the ~~Receiver~~Liquidator or leave of this Court, ~~provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA,~~ and further provided that nothing in this paragraph shall (i) empower the ~~Receiver~~Liquidator or the ~~Debtor~~Corporation to carry on any business which the ~~Debtor~~Corporation is not lawfully entitled to carry on, (ii) exempt the ~~Receiver~~Liquidator or the ~~Debtor~~Corporation from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

**NO INTERFERENCE WITH THE ~~RECEIVER~~LIQUIDATOR**

12. ~~11.~~ **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the ~~Debtor~~Corporation, without written consent of the ~~Receiver~~Liquidator or leave of this Court.

**CONTINUATION OF SERVICES**

13. ~~12.~~ **THIS COURT ORDERS** that all Persons having oral or written agreements with the ~~Debtor~~Corporation or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the ~~Debtor~~Corporation are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the ~~Receiver~~Liquidator, and that the ~~Receiver~~Liquidator shall be entitled to the continued use of the ~~Debtor~~Corporation's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the ~~Receiver~~Liquidator in accordance with normal payment practices of the ~~Debtor~~Corporation or such other practices as

may be agreed upon by the supplier or service provider and the ~~Receiver~~Liquidator, or as may be ordered by this Court.

### **RECEIVERLIQUIDATOR TO HOLD FUNDS**

14. ~~13.~~ **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the ~~Receiver~~Liquidator from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property, the pursuit of any claim of OES, and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the ~~Receiver~~Liquidator (the "~~Post Receivership Liquidation~~ Accounts") and the monies standing to the credit of such ~~Post Receivership Liquidation~~ Accounts from time to time, net of any disbursements provided for herein, shall be held by the ~~Receiver~~Liquidator to be paid in accordance with the terms of this Order or any further Order of this Court.

### **EMPLOYEES**

~~14. THIS COURT ORDERS that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.~~

### **PIPEDA**

15. **THIS COURT ORDERS** that, to facilitate the transfer of personal information held by the Corporation to RPRA as required under sub-section 14(12) of the WDTA, pursuant to ~~clause~~clauses 7(3)(c) and 7(3)(i) of the *Canada Personal Information Protection and Electronic Documents Act*, the ~~Receiver~~Liquidator shall disclose personal information of identifiable individuals to ~~prospective purchasers or bidders for the Property~~RPRA and ~~to their~~its advisors, but only to the extent desirable or required to ~~negotiate and attempt to complete one or more~~

~~sales of the Property (each, a "Sale"). Each prospective purchaser~~ carry out the Corporation's Wind Up Plan, as prepared or amended in accordance with the requirements of section 14 of the WDTA, the terms of the Wind Up Plan, or bidder pursuant to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit directions received from the use Minister of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property Environment, Conservation and Parks, and as approved by RPRA. RPRA shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed in implementing its mandate under the Resource Recovery and Circular Economy Act, 2016, S.O. 206, c. 12, Sched 1.

## ~~LIMITATION ON ENVIRONMENTAL LIABILITIES~~

### TRANSFER OF DATA TO RPRA

16. ~~THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the Canadian Environmental Protection Act, the Ontario Environmental Protection Act, the Ontario Water Resources Act, or the Ontario Occupational Health and Safety Act and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually~~

~~in possession.~~ THIS COURT ORDERS that, subject to the provisions of paragraph 15 above, the Liquidator shall be authorized and directed to transfer all electronic data of OES to RPRA.

#### LIMITATION ON THE ~~RECEIVER~~LIQUIDATOR'S LIABILITY

17. **THIS COURT ORDERS** that the ~~Receiver~~Liquidator, as well as any and all consultants properly engaged as contemplated under this Order, shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, ~~or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the Wage-Earner Protection Program Act. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.~~

#### ~~RECEIVER~~LIQUIDATOR'S ACCOUNTS

18. **THIS COURT ORDERS** that the ~~Receiver~~costs, charges and ~~counsel to the Receiver~~expenses of the winding up, including the remuneration of the Liquidator and its counsel, are payable out of the Property of the Corporation in priority to all other claims. In connection therewith, the Liquidator and counsel to the Liquidator shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the ~~Receiver~~Liquidator and counsel to the ~~Receiver~~Liquidator shall be entitled to and are hereby granted a charge (the "~~Receiver~~"Liquidator's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the ~~Receiver~~Liquidator's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person; ~~but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.~~<sup>6</sup>

19. **THIS COURT ORDERS** that the ~~Receiver~~Liquidator and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the ~~Receiver~~Liquidator and its

<sup>6</sup> Note that subsection 243(6) of the BIA provides that the Court may not make such an order "unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations".

legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

20. **THIS COURT ORDERS** that prior to the passing of its accounts, the ~~Receiver~~Liquidator shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the ~~Receiver~~Liquidator or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

### ~~FUNDING OF THE RECEIVERSHIP~~

~~21. — THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$\_\_\_\_\_ (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.~~

~~22. — THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.~~

~~23. — THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.~~

~~24. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.~~

## SERVICE AND NOTICE

21. ~~25.~~ **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL '<https://www.insolvencies.deloitte.ca/en-ca/Pages/default.aspx>'.

22. ~~26.~~ **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the ~~Receiver~~Liquidator is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the ~~Debtor~~Corporation's creditors or other interested parties at their respective addresses as last shown on the records of the ~~Debtor~~Corporation and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

## GENERAL

23. ~~27.~~ **THIS COURT ORDERS** that the ~~Receiver~~Liquidator may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

~~28.— THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.~~

24. ~~29.~~ **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the ~~Receiver~~Liquidator and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the ~~Receiver~~Liquidator, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the ~~Receiver~~Liquidator and its agents in carrying out the terms of this Order.

25. ~~30.~~ **THIS COURT ORDERS** that the ~~Receiver~~Liquidator be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the ~~Receiver~~Liquidator is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

~~31.— THIS COURT ORDERS that the Plaintiff shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Plaintiff's security or, if not so provided by the Plaintiff's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.~~

26. ~~32.~~ **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than ~~seventen~~ (710) days' notice to the ~~Receiver~~Liquidator and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

27. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order and is enforceable without any need for entry and filing.

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SCHEDULE "A" Court File No:**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. ~~THIS IS TO CERTIFY that [RECEIVER'S NAME], the receiver (the "Receiver") of the assets, undertakings and properties [DEBTOR'S NAME] acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the \_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Order") made in an action having Court file number \_\_\_ CL \_\_\_\_\_, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.~~

2. ~~The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the \_\_\_\_\_ day of each month] after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of Bank of \_\_\_\_\_ from time to time.~~

3. ~~Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.~~

4. ~~All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.~~

5. ~~Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.~~

~~6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.~~

~~7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.~~

DATED the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

	<del>[RECEIVER'S NAME], solely in its capacity as Receiver of the Property, and not in its personal capacity</del>
	Per: _____
	Name: _____
	Title: _____

IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF ONTARIO  
ELECTRONIC STEWARDSHIP  
APPLICATION UNDER SS. 243, 244 and 246 OF THE *CORPORATIONS ACT*, R.S.O.  
1990, C. C.38  
DELOITTE RESTRUCTURING INC. Applicant

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

**ORDER**  
**(Wind Up and Appointment of a Liquidator)**

**GOWLING WLG (CANADA) LLP**  
1 First Canadian Place  
100 King Street West, Suite 1600

Toronto ON M5X 1G5

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Lawyers for the Applicant, Deloitte Restructuring Inc.

Document comparison by Workshare Compare on June 1, 2021 1:32:09 PM

Input:	
Document 1 ID	file://\gowlings.corp\PersonalDrives\TOR\yurkovik\Desktop\receivership-order-EN (3).doc
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Description	#44280525v13<gowlings-wlg-mobility-ca.imanage.work> - Deloitte, OES - Order Appointing Liquidator (Draft)
Rendering set	Firm Standard

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Padding cell	

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Moved to	0
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Format changes	0
Total changes	520

# TAB 7

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE ) FRIDAY, THE 11<sup>TH</sup>  
 )  
MR. JUSTICE DUNPHY ) DAY OF JUNE, 2021

IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF  
ONTARIO ELECTRONIC STEWARDSHIP

APPLICATION UNDER SS. 243, 244 AND 246 OF THE *CORPORATIONS ACT*, R.S.O. 1990,  
C. C.38

DELOITTE RESTRUCTURING INC.

Applicant

**CLAIMS PROCEDURE ORDER**

**THIS MOTION**, made by the Applicant pursuant to the *Corporations Act*, R.S.O. 1990, c. C.38, as amended (the “**Corporations Act**”) for an order (the “**Claims Procedure Order**”) approving a procedure for the identification, quantification, and resolution of claims of creditors of Ontario Electronic Stewardship (“**OES**”), was heard this day by way of judicial videoconference via Zoom in Toronto, Ontario due to the COVID-19 pandemic.

**ON READING** the Notice of Motion, the affidavit of Richard Williams sworn May 31, 2021 and the Exhibits thereto, and on hearing the submissions of counsel for the Applicant and those other parties that were present as listed on the counsel slip, no other party appearing although duly served as appears from the affidavit of service of [●] dated [●], filed.

## INTERPRETATION

1. **THIS COURT ORDERS** that, in addition to terms defined elsewhere herein, the following terms shall have the following meanings:

- (a) **“Appointment Order”** means the Order of Mr. Justice Dunphy made June 11, 2021 in these Proceedings;
- (b) **“Business Day”** means a day, other than a Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario;
- (c) **“Claim”** means any right of claim of any Person that may be asserted or made in whole or in part against OES, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, including by reason of the commission of a tort (international or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive, or otherwise), and whether or not such indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present or future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any right or ability of any Person to advance a claim for contribution or indemnity or otherwise against OES with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation, and any interest accrued thereon or costs payable in respect thereof;

- (d) “**Claimant**” means any Person asserting a Claim and includes the transferee or assignee of a Claim, transferred and recognized in accordance with paragraphs 23 and 24 hereof or a trustee, executor, liquidator, receiver, receiver and manager, or other Person acting on behalf of or through such Person;
- (e) “**Claims Bar Date**” means 5:00 p.m. (Eastern Time) on August 31, 2021;
- (f) “**Claims Package**” means the Pre-Populated Proof of Claim, the Proof of Claim form, the Notice to Claimants, the Instruction Letter, and any other documentation the Liquidator may deem appropriate;
- (g) “**Claims Procedure**” means the procedures outlined in this Claims Procedure Order, including the Schedules hereto;
- (h) “**Corporations Act**” means the *Corporations Act*, R.S.O. 1990, c. C.38, as amended;
- (i) “**Court**” means the Ontario Superior Court of Justice (Commercial List);
- (j) “**Court Appointment Date**” means June 11, 2021;
- (k) “**Instruction Letter**” means the instruction letter to Claimants, substantially in the form attached as Schedule “B” hereto, regarding the completion of a Proof of Claim by a Claimant and the Claims Procedure described herein;
- (l) “**Known Claimants**” has the meaning given to it in paragraph 10 hereof;
- (m) “**Liquidator**” means Deloitte Restructuring Inc., in its capacity as the Court-appointed liquidator of OES;

- (n) “**Liquidator’s Website**” means the case website established by the Liquidator with the following URL: <https://www.insolvencies.deloitte.ca/en-ca/Pages/OntarioElectronicStewardship.aspx?searchpage=Search-Insolvencies.aspx>
- (o) “**Notice to Claimants**” means the notice for publication by the Liquidator as described in paragraph 12 hereof, in the form attached as Schedule “A”;
- (p) “**Notice of Revision or Disallowance**” means the notice referred to in paragraph 21 hereof, substantially in the form of Schedule “D” hereto, advising a Claimant that the Liquidator, has revised or rejected all or part of such Claimant’s Claim as set out in its Proof of Claim;
- (q) “**Orders**” means any and all orders issued by the Court within these Proceedings, including the Appointment Order;
- (r) “**Person**” means any individual, corporation, firm, limited or unlimited liability company, general or limited partnership, association (incorporated or unincorporated), trust, unincorporated organization, joint venture, trade union, government authority or any agency, regulatory body or officer thereof or any other entity, wherever situate or domiciled, and whether or not having legal status, and whether acting on their own or in a representative capacity;
- (s) “**Pre-Populated Proof of Claim**” means the proof of claim pre-populated by the Liquidator stating the amount owing, if any, by OES to the Known Claimant based on the books and records of OES;
- (t) “**Proceedings**” means the within proceedings;
- (u) “**Proof of Claim**” means the Proof of Claim referred to in paragraph 16 hereof to be filed by Claimants, substantially in the form attached as Schedule “C”; and

(v) **“Proven Claim”** means the amount of a Claim of a Claimant as finally determined in accordance with this Claims Procedure Order.

2. **THIS COURT ORDERS** that all references to time herein shall mean local time in Toronto, Ontario, Canada, and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day unless otherwise indicated herein.

3. **THIS COURT ORDERS** that all references to the word “including” shall mean “including without limitation”.

4. **THIS COURT ORDERS** that all references to the singular herein include the plural, the plural include the singular, and any gender includes all genders.

#### **GENERAL PROVISIONS**

5. **THIS COURT ORDERS** that the Liquidator is hereby authorized (i) to use reasonable discretion as to the adequacy of compliance with respect to the manner in which forms delivered hereunder are completed and executed, and may, where it is satisfied that a Claim has been adequately proven, waive strict compliance with the requirements of this Claims Procedure Order as to completion and execution of such forms, and (ii) to request any further documentation from a Claimant that the Liquidator may reasonably require in order to determine a Claim.

6. **THIS COURT ORDERS** that notwithstanding any other provisions of this Claims Procedure Order, the receipt of a Pre-Populated Proof of Claim by a Claimant, solicitation by the Liquidator of Claims or the filing by any Claimant of any Claims shall not, for that reason only, grant any Person standing in these Proceedings.

7. **THIS COURT ORDERS** that all Claims filed shall be denominated in the original currency of the Claim. Where no currency is indicated, the Claim shall be presumed to be in Canadian Dollars. Any Claims

denominated in a foreign currency shall be converted to Canadian Dollars based on the Bank of Canada's daily average exchange rate for that currency against the Canadian Dollar on the Court Appointment Date.

### **LIQUIDATOR'S ROLE**

8. **THIS COURT ORDERS** that the Liquidator, in addition to its prescribed rights, duties, responsibilities and obligations under the Corporations Act and under the Appointment Order, shall administer the Claims Procedure, including the determination of Claims of the Claimants, and is hereby directed and empowered to take such other actions and fulfill such other roles as are contemplated by this Claims Procedure Order or incidental thereto.

9. **THIS COURT ORDERS** that (i) in carrying out the terms of this Claims Procedure Order, the Liquidator shall have all of the protections given to it by the Corporations Act, the Appointment Order, and this Claims Procedure Order, and as an officer of this Court, including the stay of proceedings in its favour, (ii) the Liquidator shall incur no liability or obligation as a result of the carrying out of the provisions of this Claims Procedure Order, except to the extent that the Liquidator has acted with gross negligence or willful misconduct, (iii) the Liquidator shall be entitled to rely on the books and records of OES and any information provided by OES or its agents, all without independent investigation, and (iv) the Liquidator shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information or in any information provided by any Claimant, except to the extent that the Liquidator has acted with gross negligence or willful misconduct.

### **NOTICE TO CLAIMANTS AND CLAIMS PACKAGES**

10. **THIS COURT ORDERS** that the Liquidator shall compile a list of known potential Claimants from the books and records of OES (the "**Known Claimants**" and each a "**Known Claimant**") as at the Court Appointment Date, showing for each Known Claimant, their name, address, email address (where available) and amount owed pursuant to OES' books and records.

11. **THIS COURT ORDERS** that the Liquidator shall send a Claims Package to each Known Claimant by email to the last known email address of the Known Claimant set out in the books and records of OES, or by ordinary mail, courier or facsimile to the last known mailing address or facsimile number of the Known Claimant if an email address for such Known Claimant is not known, by no later than June 30, 2021.

12. **THIS COURT ORDERS** that as soon as practicable, but no later than 5:00 p.m. on June 30, 2021, the Liquidator shall cause the Notice to Claimants to be published, for at least one (1) Business Day, in *The Globe and Mail* (National Edition).

13. **THIS COURT ORDERS** that the Liquidator shall cause the Notice to Claimants, the Claims Package and the Claims Procedure Order to be posted to the Liquidator's Website as soon as reasonably practicable and cause it to remain posted thereon until its discharge as Liquidator of OES.

14. **THIS COURT ORDERS** that upon request by a Claimant for a Claims Package or documents or information relating to the Claims Procedure prior to the Claims Bar Date, the Liquidator shall forthwith send a Claims Package, direct such Person to the documents posted on the Liquidator's Website, or otherwise respond to the request for information or documents as the Liquidator considers appropriate in the circumstances.

15. **THIS COURT ORDERS** that the form and substance of each of the Notice to Claimants, Proof of Claim, Instruction Letter and Notice of Revision or Disallowance, substantially in the forms attached as schedules hereto, are hereby approved. Despite the foregoing, the Liquidator may, from time to time, make such minor changes to such forms as the Liquidator considers necessary or desirable.

#### **PROOFS OF CLAIM TO BE FILED PRIOR TO CLAIMS BAR DATE**

16. **THIS COURT ORDERS** that any Person who (i) disagrees with, or wishes to assert a Claim in addition to the Claim stated in the Pre-Populated Proof of Claim received by such Person, or (ii) wishes to

assert a Claim, must deliver to the Liquidator, on or before the Claims Bar Date, a completed Proof of Claim, including all relevant supporting documentation in respect of such Claim, in the manner set out in this Claims Procedure Order.

17. **THIS COURT ORDERS** that if any Person who received a Pre-Populated Proof of Claim in accordance with paragraph 11 does not return a Proof of Claim in accordance with paragraph 16 of this Claims Procedure Order, such Claim shall be deemed to be as set out in the Pre-Populated Proof of Claim and the Claimant will be barred from disputing or appealing same, and the balance of such Claimant's Claim, if any, shall be forever barred and extinguished.

18. **THIS COURT ORDERS** that any Person who has not received a Pre-Populated Proof of Claim and has not filed a Proof of Claim in accordance with paragraph 16 of this Claims Procedure Order with the Liquidator by the Claims Bar Date shall:

- (a) not be entitled to receive further notice with respect to, and shall not be entitled to participate as a Claimant or creditor in, the Claims Procedure or these Proceedings in respect of such Claim; and
- (b) be forever barred, estopped and enjoined from asserting or enforcing such Claim against OES and OES shall not have any liability whatsoever in respect of such Claim and such Claim shall be extinguished without any further act or notification by the Liquidator.

#### **ADJUDICATION OF CLAIMS**

19. **THIS COURT ORDERS** that the Liquidator shall review all Proofs of Claim filed in accordance with this Claims Procedure Order, and at any time may:

- (a) request additional information from a Claimant;
- (b) request that a Claimant file a revised Proof of Claim;

- (c) attempt to resolve and settle any issue arising in a Proof of Claim or in respect of a Claim;
- (d) accept (in whole or in part), any Claim and so notify the Claimant in writing; and
- (e) revise or disallow (in whole or in part) any Claim and so notify the Claimant in writing.

20. **THIS COURT ORDERS** that where a Claim has been accepted by the Liquidator in accordance with this Claims Procedure Order, such Claim shall constitute such Claimant's Proven Claim. The acceptance of any Claim or other determination of same in accordance with this Claims Procedure Order, in full or in part, shall not constitute an admission of any fact, thing, liability, or quantum or status of any claim by any Person, save and except in the context of these Proceedings. In these Proceedings, a Claim shall be deemed accepted by the Liquidator (i) if included in a Pre-Populated Proof of Claim, (ii) if, following the receipt of a Proof of Claim, the Liquidator does not issue a Notice of Revision or Disallowance pursuant to paragraph 21 hereof, or (iii) as resolved in accordance with paragraphs 21 and 22 hereof.

#### **RESOLUTION OF CLAIMS**

21. **THIS COURT ORDERS** that as soon as practicable after a Proof of Claim is received by the Liquidator in accordance with this Claims Procedure Order, the Liquidator may attempt to resolve and settle the Claim with the Claimant. If, in the Liquidator's determination, the Claim cannot be resolved or settled, the Liquidator shall issue a Notice of Revision or Disallowance in respect of such Claim.

22. **THIS COURT ORDERS** that any Claimant who wishes to dispute a Claim as stated in a Notice of Revision or Disallowance, shall bring, within 30 days of the deemed receipt of the Notice of Revision or Disallowance in respect of such Claim, a motion to the Court to seek a determination by the Court of the disputed Claim.

**NOTICE OF TRANSFEREES**

23. **THIS COURT ORDERS** that the Liquidator shall not be obligated to give notice to or otherwise deal with the transferee or assignee of a Claim unless and until actual notice of the transfer or assignment, together with satisfactory evidence of the existence and validity of such transfer or assignment, shall have been received and acknowledged by the Liquidator in writing. Thereafter, such transferee or assignee shall, for all purposes hereof, constitute the “Claimant” in respect of such Claim. Any such transferee or assignee of a Claim shall be bound by any notices given or steps taken in respect of such Claim in accordance with this Claims Procedure Order prior to the receipt and acknowledgment by the Liquidator of satisfactory evidence of such transfer or assignment. A transferee or assignee of a Claim takes the Claim subject to any right of set-off to which OES may be entitled with respect to such Claim. For greater certainty, a transferee or assignee of a Claim is not entitled to set off, apply, merge, consolidate or combine any Claims assigned or transferred to it against or on account or in reduction of any amounts owing by such Person to OES.

24. **THIS COURT ORDERS** that if a Claimant or any subsequent holder of a Claim, who in any such case has previously been acknowledged by the Liquidator as the holder of the Claim, transfers or assigns the whole of such Claim to more than one Person or part of such Claim to another Person, such transfers or assignments shall not create separate Claims and such Claims shall continue to constitute and be dealt with as a single Claim notwithstanding such transfers or assignments. The Liquidator shall not, in each case, be required to recognize or acknowledge any such transfers or assignments and shall be entitled to give notices to and to otherwise deal with such Claim only as a whole and then only to and with the Person last holding such Claim, provided such Claimant may, by notice in writing delivered to the Liquidator, direct that subsequent dealings in respect of such Claim, but only as a whole, shall be dealt with by a specified Person and in such event, such Person shall be bound by any notices given or steps taken in respect of such Claim with such Claimant or in accordance with the provisions of this Claims Procedure Order.

**SERVICE AND NOTICES**

25. **THIS COURT ORDERS** that the forms of notice to be provided in accordance with this Claims Procedure Order shall constitute good and sufficient service and delivery of notice of this Claims Procedure Order and the Claims Bar Date on all Persons who may be entitled to receive notice and who may assert a Claim and no other notice or service need be given or made and no other documents or material need be sent to or served upon any Person in respect of this Claims Procedure Order.

26. **THIS COURT ORDERS** that the Liquidator may, unless otherwise specified by this Claims Procedure Order, serve and deliver the Claims Package, and any letters, notices or other documents to the Claimants or any other interested Person by forwarding true copies thereof by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email to such Persons at the physical or electronic address, as applicable, last shown on the books and records of OES or set out in such Claimant's Proof of Claim. Any such service and delivery shall be deemed to have been received: (a) if sent by ordinary mail or registered mail, on the third Business Day after mailing; (b) if sent by courier or personal delivery, on the next Business Day following dispatch; and (c) if delivered by facsimile transmission or email by 5:00 p.m. on a Business Day, on such Business Day and if delivered after 5:00 p.m. or other than on a Business Day, on the following Business Day.

27. **THIS COURT ORDERS** that any notice or communication (including Proofs of Claim) to be given under this Claims Procedure Order by any Person to the Liquidator shall be in writing in substantially the form provided for in this Claims Procedure Order and will be sufficiently given only if delivered by email, or if it cannot be given by email by prepaid registered mail, courier or personal delivery, addressed to:

Deloitte Restructuring Inc.  
Court-appointed Liquidator of Ontario Electronic Stewardship  
8 Adelaide Street West, Suite 200  
Toronto ON M5J 0A9

Attention: Richard Williams CIRP, LIT  
Email: [oeswindup@deloitte.ca](mailto:oeswindup@deloitte.ca)  
Phone: 416-607-1392

Any such notice or communication delivered by a Claimant shall be deemed to be received upon actual receipt thereof during normal business hours on a Business Day or if delivered outside of normal business hours, the next Business Day.

28. **THIS COURT ORDERS** that if during any period during which notices or other communications are being given pursuant to this Claims Procedure Order, a postal strike or postal work stoppage of general application should occur, such notices, notifications or other communications sent by ordinary or registered mail and then not received shall not, absent further order of this Court, be effective and notices and other communications given hereunder during the course of any such postal strike or work stoppage of general application shall only be effective if given by courier, personal delivery, facsimile transmission or email in accordance with this Claims Procedure Order.

29. **THIS COURT ORDERS** that in the event that this Claims Procedure Order is later amended by further order of the Court, the Liquidator shall post such further order on the Liquidator's Website, and such posting shall constitute adequate notice to Claimants of such amended Claims Procedure.

#### **MISCELLANEOUS**

30. **THIS COURT ORDERS** that notwithstanding the terms of this Claims Procedure Order, the Liquidator may apply to this Court from time to time for directions from this Court with respect to this Claims Procedure Order, or for such further order or orders as it may consider necessary or desirable to amend, supplement or clarify the terms of this Claims Procedure Order.

31. **THIS COURT ORDERS** that this Claims Procedure Order shall have full force and effect in all provinces and territories in Canada, outside Canada and against all Persons against whom it may be enforceable.

32. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, or abroad, to give effect to this Claims Procedure Order and to assist the Liquidator and its respective agents in carrying out the terms of this Claims Procedure Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Liquidator, as an officer of this Court, as may be necessary or desirable to give effect to this Claims Procedure Order, to grant representative status to OES in any foreign proceeding, or to assist the Liquidator and its respective agents in carrying out the terms of this Claims Procedure Order.

33. **THIS COURT ORDERS** that the Liquidator be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Claims Procedure Order and for assistance in carrying out the terms of this Claims Procedure Order.

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**SCHEDULE "A"****NOTICE TO CREDITORS OF ONTARIO ELECTRONIC STEWARDSHIP****RE: NOTICE OF CLAIMS BAR DATE IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF ONTARIO ELECTRONIC STEWARDSHIP**

**NOTICE IS HEREBY GIVEN** that pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) made June 11, 2021 (the "**Claims Procedure Order**"), a claims procedure has been commenced for the identification, quantification, and resolution of claims of creditors of Ontario Electronic Stewardship ("**OES**"). Capitalized terms that are not defined herein have the meanings ascribed thereto in the Claims Procedure Order.

**PLEASE TAKE NOTICE** that any Person who wishes to assert a Claim, must deliver to Deloitte Restructuring Inc., in its capacity as the court-appointed liquidator of OES (the "**Liquidator**"), on or before the Claims Bar Date stated below, a completed Proof of Claim, including all relevant supporting documentation in respect of such Claim, in the manner set out in the Claims Procedure Order.

**Pursuant to the Claims Procedure Order, the Claims Bar Date is 5:00 p.m. (Eastern Time) on August 31, 2021.** Proofs of Claim must be completed and filed with the Liquidator so as to be received on or before the Claims Bar Date.

**CLAIMS THAT ARE NOT RECEIVED BY THE CLAIMS BAR DATE WILL BE BARRED AND EXTINGUISHED FOREVER.**

**PLEASE TAKE NOTICE** that the Liquidator will cause Claims Packages including a Pre-Populated Proof of Claim to be sent to all Known Claimants on or before June 30, 2021. If you have received a Pre-Populated Proof of Claim and you (i) disagree with the Claim as stated in the Pre-Populated Proof of Claim, or (ii) wish to assert a further Claim, you must complete and file a Proof of Claim form with the Liquidator so as to be received on or before the Claims Bar Date.

**IF YOU HAVE RECEIVED A PRE-POPULATED PROOF OF CLAIM AND YOU DO NOT RETURN A PROOF OF CLAIM ON OR BEFORE THE CLAIMS BAR DATE IN THE MANNER INDICATED ABOVE, YOUR CLAIM WILL BE DEEMED TO BE AS SET OUT IN THE PRE-POPULATED PROOF OF CLAIM AND YOU WILL BE BARRED FROM DISPUTING OR APPEALING SAME, AND THE BALANCE OF YOUR CLAIM, IF ANY, SHALL BE FOREVER BARRED AND EXTINGUISHED.**

A copy of the Claims Procedure Order and the Claims Package is available at the following website: <https://www.insolvencies.deloitte.ca/en-ca/Pages/OntarioElectronicStewardship.aspx?searchpage=Search-Insolvencies.aspx>

**CREDITORS REQUIRING INFORMATION** or claim documentation may contact the Liquidator at the following address by prepaid registered mail, courier, personal delivery, facsimile transmission, email or telephone:

Deloitte Restructuring Inc., Court-appointed Liquidator of OES

Claims Process

8 Adelaide Street West, Suite 200

Toronto ON M5J 0A9

Attention: Richard Williams CIRP, LIT

Email: [oeswindup@deloitte.ca](mailto:oeswindup@deloitte.ca)

Phone: 416-607-1392

**SCHEDULE “B”****INSTRUCTION LETTER  
FOR THE CLAIMS PROCEDURE  
OF ONTARIO ELECTRONIC STEWARDSHIP****CLAIMS PROCEDURE**

By Order of the Ontario Superior Court of Justice (Commercial List) dated June 11, 2021 (as such Order may be amended from time to time, the “**Claims Procedure Order**”) Deloitte Restructuring Inc., in its capacity as the Court-appointed liquidator (the “**Liquidator**”) of Ontario Electronic Stewardship (“**OES**”) , has been authorized to conduct a claims procedure (the “**Claims Procedure**”). A copy of the Claims Procedure Order and other public information concerning this proceeding is available on the Liquidator’s website at <https://www.insolvencies.deloitte.ca/en-ca/Pages/OntarioElectronicStewardship.aspx?searchpage=Search-Insolvencies.aspx>.

This letter provides general instructions for completing a Proof of Claim form. Capitalized terms not defined within this instruction letter shall have the meaning ascribed thereto in the Claims Procedure Order.

The Claims Procedure serves to identify and determine the amount of any claims against OES. Please review the Claims Procedure Order for the full terms of the Claims Procedure.

Please direct all forms and inquiries with respect to the Claims Procedure to the Liquidator by prepaid registered mail, courier, personal delivery, facsimile transmission, email, or telephone at the address below:

Deloitte Restructuring Inc., Court-appointed Liquidator of OES  
Claims Process  
8 Adelaide Street West, Suite 200  
Toronto ON M5J 0A9  
Attention: Richard Williams CIRP, LIT  
Email: [oeswindup@deloitte.ca](mailto:oeswindup@deloitte.ca)  
Phone: 416-607-1392

**FOR CREDITORS SUBMITTING A PROOF OF CLAIM**

If you believe that you have a Claim against OES and you have not received a Pre-Populated Proof of Claim, you must complete and file a Proof of Claim form with the Liquidator. All Proofs of Claim **must be received by the Liquidator before 5:00 p.m. (Toronto Time) on August 31, 2021** (the “**Claims Bar Date**”). If you do not file a Proof of Claim in respect of such Claim by the Claims Bar Date, you shall not be entitled to receive further notice with respect to, and shall not be entitled to participate as a Claimant or creditor in the Claims Procedure or these Proceedings in respect of such Claim and you will be forever barred, estopped and enjoined from asserting or enforcing such Claim against OES and OES shall not have any liability whatsoever in respect of such Claim and such Claim shall be extinguished without any further act or notification by the Liquidator.

If you have received a Pre-Populated Proof of Claim and you (i) disagree with the Claim as stated in the Pre-Populated Proof of Claim, or (ii) wish to assert an additional Claim, you must complete and file a Proof of Claim form with the Liquidator. All Proofs of Claim **must be received by the Liquidator before 5:00 p.m. (Toronto Time) on August 31, 2021** (the “**Claims Bar Date**”). If you have received a Pre-Populated Proof of Claim and you do not return a Proof of Claim, your Claim will be deemed to be as set out in the Pre-Populated Proof of Claim and you will be barred from disputing or appealing same, and the balance of your Claim, if any, shall be forever barred and extinguished.

**ADDITIONAL FORMS**

Additional Proof of Claim forms are available on the Liquidator's website at <https://www.insolvencies.deloitte.ca/en-ca/Pages/OntarioElectronicStewardship.aspx?searchpage=Search-Insolvencies.aspx> or by contacting the Liquidator.

DATED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**SCHEDULE "C"  
PROOF OF CLAIM FORM**

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**COMMERCIAL LIST**

**IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF**

**ONTARIO ELECTRONIC STEWARDSHIP**

**APPLICATION UNDER SS. 243, 244 AND 246 OF THE *CORPORATIONS ACT*, R.S.O. 1990, C. C.38**

**DELOITTE RESTRUCTURING INC.**

**Applicant**

**PROOF OF CLAIM**

**1. PARTICULARS OF CREDITOR**

Full Legal Name of Creditor:

Full Mailing Address of Creditor:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone Number of Creditor:

\_\_\_\_\_

Facsimile Number of Creditor:

\_\_\_\_\_

E-mail Address of Creditor:

\_\_\_\_\_

Attention (Contact Person):

\_\_\_\_\_

**2. PARTICULARS OF ORIGINAL CREDITOR FROM WHOM YOU ACQUIRED CLAIM, IF APPLICABLE:**

Have you acquired this Claim by assignment? Yes  No

(if yes, attach documents evidencing assignment)

Full Legal Name of original creditors(s): \_\_\_\_\_

3. **PROOF OF CLAIM**

**THE UNDERSIGNED CERTIFIES AS FOLLOWS:**

That I am a Creditor of Ontario Electronic Stewardship (“OES”) / I hold the position of \_\_\_\_\_ of the Creditor;

That I have knowledge of all the circumstances connected with the Claim described and set out below; and

OES was and still is indebted to the Creditor as follows:<sup>1</sup>

Debtor	Claim Amount
Ontario Electronic Stewardship	

4. **PARTICULARS OF CLAIM:**

The particulars of the undersigned’s Claims are attached.

*(Provide full particulars of the Claim and supporting documentation, including amount, description of transaction(s) or agreement(s) giving rise to the Claim, name of any guarantor(s) which has guaranteed the Claim, particulars and copies of any security and amount of Claim allocated thereto, date and number of all invoices, particulars of all credits, discounts, etc. claimed).*

5. **FILING OF CLAIM**

This Proof of Claim must be returned to, and received by, the Liquidator by **5:00 p.m. (Toronto Time) on the Claims Bar Date (August 31, 2021)**.

Completed forms must be delivered by prepaid registered mail, courier, personal delivery, facsimile transmission or email at the address below to the Liquidator at the following address:

Deloitte Restructuring Inc., Court-appointed Liquidator of OES

Claims Process

8 Adelaide Street West, Suite 200  
Toronto ON M5J 0A9

Attention: Richard Williams CIRP, LIT  
Email: [oeswindup@deloitte.ca](mailto:oeswindup@deloitte.ca)  
Phone: 416-607-1392

<sup>1</sup> Any Claims denominated in a foreign currency shall be converted to Canadian Dollars based on the Bank of Canada’s daily average exchange rate for that currency against the Canadian Dollar on the Court Appointment Date

DATED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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*(signature of creditor or its authorized  
representative)*

*Name:*

*Title:*

*Capitalized terms that are not defined herein have the meanings ascribed thereto in the Claims Procedure Order.*

**SCHEDULE “D”  
NOTICE OF REVISION OR DISALLOWANCE**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF**

**ONTARIO ELECTRONIC STEWARDSHIP**

**APPLICATION UNDER SS. 243, 244 AND 246 OF THE *CORPORATIONS ACT*, R.S.O. 1990, C.  
C.38**

**DELOITTE RESTRUCTURING INC.**

**Applicant**

**NOTICE OF REVISION OR DISALLOWANCE**

TO: **[insert name and address of creditor]**

Capitalized terms not defined in this Notice of Revision or Disallowance have the meaning ascribed to them in the Claims Procedure Order of the Ontario Superior Court of Justice (Commercial List) dated June 11, 2021 (the “**Claims Procedure Order**”).

Pursuant to the Claims Procedure Order, Deloitte Restructuring Inc. in its capacity as the court-appointed liquidator (the “**Liquidator**”) of Ontario Electronic Stewardship hereby gives you notice that it has reviewed your Proof of Claim and has revised or disallowed all or part of your Claim. Subject to further dispute by you in accordance with the Claims Procedure Order, your Proven Claim will be as follows:

<b>Debtor</b>	<b>Amount of Claim per Proof of Claim</b>	<b>Amount of Claim Allowed per this Notice of Revision or Disallowance</b>
ONTARIO ELECTRONIC STEWARDSHIP	CAD \$	CAD \$

Reasons for Revision or Disallowance

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**PROCEDURE TO APPEAL THIS NOTICE OF REVISION OR DISALLOWANCE**

If you disagree with the amount of your Claim allowed pursuant to this Notice of Revision or Disallowance, you must, **within thirty (30) days** after you have been deemed to have received the Notice of Revision or Disallowance under the Claims Procedure Order, bring a motion in the Proceedings to seek a determination by the Court of the disputed Claim.

If you do not bring a motion for the determination by the Court of the disputed Claim, your Claim shall be deemed to be as set out in this Notice of Revision or Disallowance.

**IF YOU FAIL TO TAKE ACTION WITHIN THE PRESCRIBED TIME PERIOD, THIS NOTICE OF REVISION OR DISALLOWANCE WILL BE BINDING UPON YOU.**

DATED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF ONTARIO  
ELECTRONIC STEWARDSHIP  
APPLICATION UNDER SS. 243, 244 and 246 OF THE *CORPORATIONS ACT*,  
R.S.O. 1990, C. C.38  
DELOITTE RESTRUCTURING INC.

Applicant

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

**CLAIMS PROCEDURE ORDER**

**GOWLING WLG (CANADA) LLP**

1 First Canadian Place  
100 King Street West, Suite 1600  
Toronto ON M5X 1G5

**Virginie Gauthier (LSO#: 41097D)**

**Tel:** 416-844-5391

**Email:** [virginie.gauthier@gowlingwlg.com](mailto:virginie.gauthier@gowlingwlg.com)

**Kate Yurkovich (LSO#: 80396R)**

**Tel:** 416-862-4342

**Email:** [kate.yurkovich@gowlingwlg.com](mailto:kate.yurkovich@gowlingwlg.com)

Lawyers for the Applicant, Deloitte Restructuring Inc.

IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF ONTARIO ELECTRONIC  
STEWARDSHIP  
APPLICATION UNDER S. 243, 244 and 246 OF THE CORPORATIONS ACT, R.S.O. 1990, C. C38  
DELOITTE RESTRUCTURING INC.

Applicant

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT  
TORONTO

**APPLICATION RECORD**

**GOWLING WLG (CANADA) LLP**

1 First Canadian Place  
100 King Street West, Suite 1600  
Toronto ON M5X 1G5

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