

Owner: Director of Finance	QP 26: Issue 1, Rev 1
Approver: CEO	Date of Approval: May 15, 2017

**GREEN ELECTRONICS COUNCIL  
CONFORMITY ASSESSMENT BODY PRODUCT REGISTRATION AND  
MAINTENANCE AGREEMENT**

THIS AGREEMENT, including all Schedules and Exhibits attached hereto, if any, (this “Agreement”), is entered into as of the date indicated below (the “Effective Date”), between Green Electronics Council, an Oregon, USA, not-for-profit corporation (“GEC”), and \_\_\_\_\_, a \_\_\_\_\_ (state or country) corporation (“Participating Manufacturer”). GEC and Participating Manufacturer may be referred to as the “Parties”.

**RECITALS**

GEC operates an on-line database of environmentally and/or socially preferable electronic products (the “EPEAT Registry”) that is viewable to the public without charge at URL [www.epeat.net](http://www.epeat.net) (the “Website”). GEC operates an EPEAT designated Conformity Assurance Body (the “CAB”) which is responsible to fulfill in all material respects the obligations of a CAB as defined by EPEAT Program Guidelines and related relevant documents. CAB wishes to offer to EPEAT participating electronics manufacturers (“Participating Manufacturers”) the ability to add their products to the EPEAT Registry. Participating Manufacturer may enter products (once so entered, “Products”) into the EPEAT Registry by 1) entering into the GEC EPEAT License and Participating Manufacturer Agreement with GEC, 2) paying the EPEAT License Fee as specified in the GEC EPEAT License and Participating Manufacturer Agreement, 3) entering into a binding agreement with a GEC approved Conformity Assessment Body (e.g. the “GEC Conformity Assessment Body Product Registration and Maintenance Agreement”), 4) paying the CAB Fee (the “Fee”) as specified in this Agreement, 5) declaring certain information related to the environmental and social characteristics of products (“Product Information”) to CAB and 6) gain approval of Product Information by CAB. Participating Manufacturer is in the business of designing and marketing one or more unique brands of electronic products and would like to engage the GEC CAB to review and approve their Product Information so that it can appear on the EPEAT Registry. This Agreement may be updated as reflected on the Website, which updates shall be binding on the Parties as of the Renewal Date.

**AGREEMENT:**

NOW, THEREFORE, the Parties agree as follows:

1. Term and Termination.

(a) Term. The term of this Agreement shall begin on the Effective Date, upon condition of payment of the “Fee”, and continue for a period of one (1) year (the “Term”). The Agreement shall automatically renew for successive one (1) year terms subject to the conditions set forth in Section 1(b) below, each such renewal commencing on each one year anniversary after the Effective Date (the “Renewal Date”) and ending one year thereafter (the “Renewal Period”).

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(b) Renewal. The Agreement shall automatically renew for successive one year Terms under the then-current GEC CAB Product Registration and Maintenance Agreement (the “Renewal Agreement”) on Participating Manufacturer’s payment of the then-current Fee. The fee for renewal (“Renewal Fee”) along with the Renewal Agreement will be published on the Website. Participating Manufacturer’s payment of the Renewal Fee to GEC shall constitute Participating Manufacturer’s acceptance of the terms and conditions of the Renewal Agreement as posted on the Website on the Renewal Date. Participating Manufacturer understands and agrees that the Renewal Agreement and Renewal Fee in any given year may differ from the terms of this Agreement and its associated Fee. The Renewal Agreement and Renewal Fee published on the Website and identified as being effective as of Participating Manufacturer’s Renewal Date shall apply to any Renewal Period.

(c) Termination. Participating Manufacturer may at any time and without cause terminate this Agreement by giving thirty (30) days advance written notice of termination to GEC. In case of Participating Manufacturer’s voluntary termination, GEC will refund a portion of the Fee, prorated from the date that the CAB ceased providing services under this Agreement. GEC may terminate this Agreement for cause by giving thirty (30) days’ advance written notice for Participating Manufacturer’s (i) nonpayment of the applicable Fee or Renewal Fee, (ii) breach of or noncompliance with this Agreement which remains uncured for more than thirty (30) days after written notice thereof from GEC to Participating Manufacturer, (iii) bankruptcy or general assignment for the benefit of creditors, (iv) disqualification, as determined by and recommended by CAB to GEC, (v) disqualification, as determined by GEC, for causes not otherwise here described, the criteria for which shall be made known to all Participating Manufacturers ninety (90) days before any such disqualification (each of (i) – (v) are hereafter referred to as “Cause”). A termination of this Agreement for Cause shall not entitle Participating Manufacturer to the return of any portion of the Fee or Renewal Fee.

2. Fee, Renewal Fee, and Invoicing. Participating Manufacturer agrees to pay the applicable Fee or Renewal Fee in the amount that is published on the Website as of the Effective Date or Renewal Date of this Agreement, as applicable. In the case of renewal, GEC should invoice Participating Manufacturer for the Renewal Fee forty-five (45) days before the Renewal Date. At GEC’s request, Participating Manufacturer shall provide data to substantiate, in GEC’s sole judgment, that Participating Manufacturer is paying the correct Fee.

3. Payment. The Fee or Renewal Fee shall be paid to GEC upon the Effective Date or Renewal Date of this Agreement, as applicable. Failure to pay the Fee or Renewal Fee within thirty (30) days of the Effective Date or Renewal Date shall authorize GEC, at its sole discretion, to revoke and terminate this Agreement or any Renewal Agreement and cease providing CAB services as required by EPEAT which could result in the removal of the Participating Manufacturer’s Products from the EPEAT Registry.

4. Obligations of Participating Manufacturer. During the Term of this Agreement, and any Renewal Periods thereafter, Participating Manufacturer will bear sole responsibility to and shall make commercially reasonable efforts to:

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(a) Appoint a liaison (the “Participating Manufacturer Liaison”) to interact with CAB on behalf of Participating Manufacturer as respects this Agreement;

(b) Comply with EPEAT Program Guidelines published on the Website, including P4 EPEAT Product Registration system and P15 Verification Procedure.

(c) Comply with any new or revised requirements in the EPEAT Program Guidelines, P4 EPEAT Product Registration system, P15 Verification Procedure or other relevant EPEAT program documents within sixty (60) days of their publication on the Website;

(d) Provide to CAB the information identified in the Verification Requirements (as defined in applicable standards or EPEAT documents) within the timeframe specified by the CAB to meet the requirements in the EPEAT Program Guidelines and P15 Verification Procedure, published on the Website. Failure to provide the information in the timeline set by the CAB may result in removal of the Product Information from the EPEAT Registry;

(e) Inform CAB of any material changes to Participating Manufacturer’s organization or operations that may affect its ability to meet the requirements of the EPEAT Program Guidelines;

(f) Follow CAB’s QP 10 Complaints and Appeals Procedure for all controversies, disagreements and claims relating to or arising out of CAB’s decisions on Desk Review or recommendations on Verification Investigations as per Section 8(e) in this Agreement.

Participating Manufacturer also understands and agrees that:

(g) Participating Manufacturer’s Product Information will appear on the EPEAT Registry only when the Product Information is declared to and approved by CAB subject to CAB’s rules and procedures;

(h) Participating Manufacturer may declare to CAB only Product Information related to Products as they are sold in one or more specific countries;

(i) By declaring Product Information to CAB, Participating Manufacturer is solely responsible for ensuring and hereby represents and warrants that all Product Information uploaded to the EPEAT Registry is accurate in all material respects and that all units that are sold by Participating Manufacturer of the subject Product in the applicable country(ies) conform with each of the criteria, as published on the Website, (the “Criterion(a)”) entered for the Product in that country by the Participating Manufacturer;

(j) The Product Information declared to CAB shall include a clear description of the Product that conforms to the Criteria indicated and should include Product Energy Star Unique Product Identifier, when applicable;

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(k) By uploading the Product Information, Participating Manufacturer acknowledges that all such Product Information relating to the Criterion(a) claimed for such Product in each country is subject to verification by CAB;

(l) Participating Manufacturer is obligated to provide only the information identified in the Criterion(a) during conformity assurance activities, but CAB may use any available information in verifying the accuracy of Product Information;

(m) Participating Manufacturer shall keep all Product Information declared to CAB up to date and shall remove the Product and its Product Information when the Product is no longer available for sale in the countries specified with the Product Information. “Up to date” means that the declared Product Information shall be accurate in all material respects for all units of the subject Product sold by Participating Manufacturer in the indicated country(ies) while the Product Information appears on the EPEAT Registry.

5. Obligations of GEC. During the Term of this Agreement, and any Renewal Periods, GEC will bear sole responsibility to and shall:

(a) Fulfill in all material respects the obligations of a Conformity Assurance Body, including the conditions in the EPEAT Program Guidelines, P5 Requirements of CABs and P16 CAB Manual: EPEAT Conformity Assurance Requirements, as published on the Website;

(b) Make commercially reasonable efforts to assist Participating Manufacturers in entering Product Information in the EPEAT Registry that is complete and accurate; and

(c) Conduct Desk Review and Verification Investigations in line with EPEAT Program Guidelines, including P15 Verification Procedure, P16 CAB Manual and all applicable references.

6. Indemnification.

(a) Subject to the terms of this Agreement, Participating Manufacturer shall protect, defend, indemnify, and hold GEC, and its executors, successors and assigns, and their respective officers, directors, agents, shareholders and employees, if any (each, a “GEC Indemnatee”) harmless from and against any claims, losses, damages, costs and expenses, including reasonable attorneys’ fees, suffered by a GEC Indemnatee to the extent that the claims, losses, damages, costs and expenses, including reasonable attorneys’ fees, result from or relate to any breach of any of the representations, warranties, covenants or agreements of Participating Manufacturer in this Agreement.

(b) Subject to the terms of this Agreement, GEC shall protect, defend, indemnify, and hold Participating Manufacturer, and its executors, successors and assigns, and their respective officers, directors, agents, shareholders and employees, if any (each, a “Participating Manufacturer Indemnatee”) harmless from and against any claims, losses, damages, costs and expenses, including reasonable attorneys’ fees, suffered by a Participating

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Manufacturer Indemnitee to the extent that the claims, losses, damages, costs and expenses, including reasonable attorneys' fees, result from or relate to any breach of any of the representations, warranties, covenants or agreements of GEC in this Agreement.

7. Confidentiality.

(a) Disclosure by Participating Manufacturer. It is anticipated that Participating Manufacturer in performance of this Agreement may disclose certain confidential and/or proprietary information to GEC or to agents of or contractors to GEC engaged in Product Verification.

(b) Confidential Treatment. GEC will treat as confidential any information disclosed to or obtained by it from Participating Manufacturer, whether disclosed or obtained before or after the Effective Date, which relates to Participating Manufacturer and/or any of its subsidiaries or affiliates, including, information relating to the services, software, products, sales data, customers, potential customers, procedures, strategies or other business information respecting Participating Manufacturer and/or any of its subsidiaries or affiliates (the "Confidential Information").

(c) Definition of Confidential Information. "Confidential Information" as defined in Section 7(b) above shall include only that written documentation clearly marked "Confidential" on the face thereof, and shall not include (i) information which is publicly available at the time of GEC's receipt thereof from Participating Manufacturer; (ii) information which, after GEC's receipt thereof from Participating Manufacturer becomes publicly available through no act or fault of GEC; (iii) information which GEC can show was lawfully in GEC's possession prior to the receipt thereof from Participating Manufacturer; (iv) information which was lawfully received by GEC from a third party who was lawfully in possession of such information and under no obligation of secrecy with respect thereto; (v) information which Participating Manufacturer has approved in writing to GEC for release by GEC without restriction; (vi) Product Information Participating Manufacturer declares to CAB; (vii) conformity decisions and information described in the GEC EPEAT License and Participating Manufacturer Agreement; and (viii) information required to be disclosed by service of a subpoena or other governmental process, but only after notification to the owner of such information and an opportunity for that owner to seek protection from disclosure .

(d) Disclosure Restrictions. GEC shall not disclose Confidential Information except to the CAB Liaison, and directors, officers, or employees of GEC having a need-to-know, or to agents of or contractors to GEC having a need-to-know who are also subject to a written obligation of confidentiality with respect to such information. When GEC is required by law or authorized by contractual commitments to release Confidential Information, Participating Manufacturer shall, unless prohibited by law, be notified of the information provided.

(e) Compliance Procedure. GEC agrees to advise any Parties to whom Participating Manufacturer's Confidential Information is disclosed of their obligations hereunder and to ensure compliance by such Parties with the terms hereof.

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(f) Retention and Return. Upon termination of this Agreement by either party, GEC may destroy, retain or return to Participating Manufacturer, at GEC's option, all documents and materials provided by Participating Manufacturer, together with any copies or notes derived therefrom.

(g) Indemnification. Subject to the terms of this Agreement, GEC shall indemnify and hold Participating Manufacturer harmless from and against all losses and damages of any nature and kind suffered by Participating Manufacturer (including legal costs and attorneys' fees) as a result of any breach by GEC or any individual or entity described in Section 7(d) of the terms and covenants of this Section 7.

(h) Injunctive Relief. As monetary damages may be insufficient to remedy any breach of this Section 7, Participating Manufacturer and GEC shall be entitled to immediate equitable relief, including injunctive relief and specific performance, as remedies for any such breach. Such remedies shall not be the exclusive remedies for any breach but shall be in addition to all other remedies available at law or equity.

#### 8. Dispute Resolution.

(a) Informal Dispute Resolution. Subject to Section 7(h) above, in the event that any dispute, controversy or claim arises under or in connection with this Agreement (a "Dispute"), the Participating Manufacturer Liaison and the GEC CAB Liaison each shall notify the other in writing describing the Dispute. Thereafter the Participating Manufacturer Liaison and the GEC CAB Liaison shall meet or converse to discuss the Dispute and negotiate in good faith in an effort to resolve the Dispute. If the Participating Manufacturer Liaison and the GEC CAB Liaison are unable to resolve the Dispute within fifteen (15) days after the referral of the Dispute to them, then each party will appoint one (1) senior executive who is not involved on a day-to-day basis with the subject matter of this Agreement. Such senior executives will meet to discuss the Dispute and negotiate in good faith in an effort to resolve the Dispute. If the senior executives are unable to resolve the Dispute within fifteen (15) days, the Dispute will be submitted for arbitration.

(b) Refund of the Fee. If the appointed senior executives are unable to resolve the Dispute within thirty (30) days after referral of the Dispute to them by the Participating Manufacturer Liaison and the GEC CAB Liaison, this Agreement may be terminated by GEC or Participating Manufacturer. In that event, if the termination is found to be without Cause, GEC shall refund a portion of the Fee or Renewal Fee, prorated over the remainder of the then Term or Renewal Term of this Agreement.

(c) Arbitration. If the appointed senior executives are unable to resolve the Dispute within thirty (30) days after referral of the Dispute to them, and both Parties agree to arbitrate the Dispute, then either party may submit the Dispute to binding arbitration in Portland, Oregon with a professional arbitration service selected by the Parties and, in that event only, the further conditions set forth in this paragraph 8(c) shall apply. If the Parties do not otherwise agree on an arbitration service, arbitration services shall be provided in Portland, Oregon pursuant to the rules of the International Chamber of Commerce. The costs of arbitration,

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including the fees and expenses of the arbitrator, shall be shared equally by the Parties unless the arbitration award provides otherwise. Each party shall bear the cost of preparing and presenting its case. The Parties agree that this section and the arbitrator's authority to grant relief shall be subject to the United States Arbitration Act, 9 U.S.C. §§ 1-6, et seq. ("USAA"), the provisions of this Agreement, and the ABA-AAA Code of Ethics for Arbitration in Commercial Disputes. The Parties agree that the arbitrator shall have no power or authority to make any award that provides for punitive or exemplary damages. The arbitrator's decision shall be final, binding and non-appealable. The award may be confirmed and enforced in any court of competent jurisdiction. All post-award proceedings shall be governed by the USAA.

(d) Equitable Relief. The provisions of this Section will not be construed to prevent a party from seeking a temporary restraining order or injunctive or other equitable relief in appropriate cases or instituting litigation to compel compliance with this informal dispute resolution process.

(e) Exclusive Remedy. The Parties do not intend the remedies contained in this Section 8, to be exclusive of other remedies that may be available to them at law or equity, and to obtain damages (subject to the limitations herein) or equitable relief. However, the Parties intend that all controversies, disagreements and claims relating to or arising out of Desk Review or Verification Investigations, subject to modification by GEC, shall be finally and conclusively resolved by GEC as per EPEAT Program Guidelines, P5 Requirements of CABs and P16 CAB Manual: EPEAT Conformity Assurance Requirements, as published on the Website, and such matters are not subject to arbitration or litigation in federal or state court.

(f) Court. The Parties agree to submit to the jurisdiction of the U.S. District Court for the District of Oregon. If the U.S. District Court for the District of Oregon refuses to take jurisdiction, then the Parties agree to submit to the jurisdiction of the state and/or federal courts where jurisdiction and venue is proper.

(g) LIMITATION OF LIABILITY. GEC'S LIABILITY, WHETHER BASED IN CONTRACT, TORT OR OTHERWISE, MAY NOT EXCEED UNDER ANY CIRCUMSTANCES THE LATEST FEE OR RENEWAL FEE PAID BY PARTICIPATING MANUFACTURER. THIS LIMITATION OF LIABILITY SHALL APPLY TO GEC'S INDEMNIFICATION OBLIGATIONS UNDER THIS AGREEMENT.

## 9. Miscellaneous Provisions.

(a) Notices. All notices required or permitted to be given under this Agreement shall be in writing. Notices may be served by certified or registered mail, postage paid with return receipt requested; by private courier, prepaid; or personally. Mailed notices shall be deemed delivered five (5) days after mailing, properly addressed. Couriered notices shall be deemed delivered on the date that the courier warrants that delivery will occur. Personal delivery shall be effective when accomplished. Unless a party changes its address by giving notice to the other party as provided herein, notices shall be delivered to the Parties at the addresses set forth below:

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For GEC:

GEC  
c/o CEO  
227 SW Pine Street Suite 300  
Portland, Oregon 97204  
Telephone: 503-279-9383

For Participating Manufacturer:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
E-mail: \_\_\_\_\_

(b) Section Headings. The section headings in this Agreement are for convenience only; they do not give full notice of the terms of any portion of this Agreement and are not relevant to the interpretation of any provision of this Agreement.

(c) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, U.S.A., without respect to New York’s rules governing conflicts of laws.

(d) Survival. Notwithstanding any provision to the contrary contained in this Agreement, Sections 7, 8 and 9 shall survive any termination of this Agreement.

(e) Severability. Any provision of this Agreement that is deemed invalid or unenforceable shall be ineffective to the extent of such invalidity or unenforceability, without rendering invalid or unenforceable the remaining provisions of this Agreement.

(f) Integration; Amendment. This Agreement constitutes the entire agreement of the Parties relating to the subject matter of this Agreement. If there are any conflicts or inconsistencies between the GEC EPEAT License and Participating Manufacturer Agreement and this Agreement, the terms of the GEC EPEAT License and Participating Manufacturer Agreement shall control. There are no promises, terms, conditions, obligations, or warranties other than those contained in this Agreement. This Agreement supersedes all prior communications, representations, or agreements, verbal or written, among the Parties relating to the subject matter of this Agreement. This Agreement may not be amended except in writing executed by the Parties.

(g) Waiver. No provision of this Agreement shall be waived unless the waiver is in writing signed by the waiving party. No failure by any party to insist upon the strict performance of any provision of this Agreement, or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach, of such provision or of any other provision. No waiver of any provision of this Agreement shall be deemed a waiver of any other provision of this Agreement or a waiver of such provision with respect to any subsequent breach, unless expressly provided in writing.



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(h) Attorneys' Fees. If any suit, action or arbitration proceeding arising out of or related to this Agreement is brought by any party, the prevailing party or Parties shall be entitled to recover reasonable attorneys' fees and costs incurred by such party or Parties in such suit, action or proceeding, including without limitation any post-trial or appellate proceeding, or in the collection or enforcement of any judgment or award entered or made in such suit, action or proceeding.

(i) Binding Effect. This Agreement shall bind and inure to the benefit of, and be enforceable by, the Parties and their respective successors, heirs, and permitted assigns. Neither party may assign its rights and obligations under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed.

(j) No Third-Party Beneficiary Rights. No person not a party to this Agreement is an intended beneficiary of this Agreement, no person not a party to this Agreement shall have any right to enforce any term of this Agreement.

(k) Counterparts. This Agreement may be executed in counterparts, all of which when taken together shall constitute one agreement binding on both Parties, notwithstanding that both Parties are not signatories to the same counterpart.

(l) Electronic or Facsimile Signatures. This Agreement may be executed by electronic or facsimile signatures, each of which shall be deemed an original and shall be binding upon each of the undersigned as if signed in the original.

(m) Authorized Signature. Each individual signing this Agreement below represents and warrants, on behalf of their respective principals, that they are duly authorized to sign this Agreement and to bind GEC or Participating Manufacturer, as applicable, to the terms and conditions of this Agreement as set forth herein.

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**IN WITNESS WHEREOF**, the Parties hereto have entered into this Agreement as of \_\_\_\_\_, 20\_\_ (the “Effective Date”).

**Green Electronics Council**

**PARTICIPATING MANUFACTURER**

By: \_\_\_\_\_

By: \_\_\_\_\_

Nancy Gillis  
 CEO  
 227 SW Pine St., Suite 300  
 Portland, OR 97204  
 Telephone: 503-279-9383  
 E-mail: [ngillis@greenelectronicscouncil.org](mailto:ngillis@greenelectronicscouncil.org)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

Telephone: \_\_\_\_\_

E-mail: \_\_\_\_\_

Date: \_\_\_\_\_