

Owner: Director of Finance	QP 26: Issue 1, Rev 5
Approver: CEO	Approval Date: May 15, 2018 / Effective Date: May 18, 2018

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

THIS AGREEMENT, including all Schedules and Exhibits attached hereto, (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 _____ corporation ("Participating Manufacturer"). GEC and Participating Manufacturer will be referred to individually as a "Party" and collectively as the "Parties."

RECITALS

GEC operates an on-line database (the "EPEAT Registry") containing the electronic products that meet the criteria associated with the trademarked name EPEAT and stylized marks EPEAT Bronze, EPEAT Silver, and EPEAT Gold. The EPEAT Registry is viewable to the public without charge at URL www.epeat.net (the "Website").

GEC also operates an EPEAT designated Conformity Assurance Body (a "CAB") which is responsible for fulfilling in all material respects the obligations of a Conformity Assurance Body as defined by the EPEAT Program Guidelines and related relevant documents (the "GEC CAB"). Participating Manufacturer wishes GEC CAB to provide Participating Manufacturer the conformity assurance services that are a necessary requirement for adding its products to the EPEAT Registry.

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 the products can appear on the EPEAT Registry.

Participating Manufacturer may enter products (once so entered, "Products") into the EPEAT Registry by (1) entering into a binding agreement with a GEC approved CAB, such as GEC CAB; (2) paying the CAB Fee; (3) declaring certain information related to the environmental and social characteristics of its products ("Product Information") to the CAB; (4) gaining approval of Product Information by the CAB; (5) entering into the GEC EPEAT License and Participating Manufacturer Agreement with GEC; and (6) paying the EPEAT License Fee as specified in the GEC EPEAT License and Participating Manufacturer Agreement.

AGREEMENT:

NOW, THEREFORE, the Parties agree as follows:

1. Term and Termination.

(a) Term and Fee. Participating Manufacturer agrees to pay GEC the fee associated with GEC conformity assurance services ("CAB Fee") in the amount that is published on the [Website](#) as of the Effective Date of this Agreement. The initial term of this Agreement will begin upon the date of GEC's receipt of the CAB Fee ("Receipt Date") and will continue for

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one year. If the CAB Fee is not received by GEC within 60 days of the Effective Date, this Agreement will become null and void.

(b) Renewal. The Agreement will automatically renew for successive 1 year terms (each a "Renewal Period") on each one-year anniversary of the Receipt Date ("Renewal Date"). Participating Manufacturer agrees to pay GEC the then-current CAB Fee in the amount that is published on the Website ("Renewal Fee") as of 30 days before the Renewal Date. If the Renewal Fee is not received by GEC within 30 days of the Renewal Date, GEC CAB will no longer be required to perform its obligations under Section 5 of this Agreement until it receives the Renewal Fee. If the Renewal Fee is not received by GEC within 180 days of the Renewal Date, this Agreement will terminate and such termination will be deemed for Cause for purposes of Section 1(c) below.

(c) Termination.

(i) By Participating Manufacturer. Participating Manufacturer may at any time and without cause terminate this Agreement by giving 30 days advance written notice of termination to GEC. In case of Participating Manufacturer's voluntary termination, GEC will refund a portion of the CAB Fee or Renewal Fee, prorated from the date that the CAB ceased providing services under this Agreement.

(ii) By GEC. GEC may terminate this Agreement for cause by giving thirty (30) days' advance written notice for Participating Manufacturer's (i) nonpayment of the applicable CAB Fee or Renewal Fee, (ii) breach of or noncompliance with this Agreement which remains uncured for more than 30 days after written notice thereof from GEC to Participating Manufacturer, (iii) bankruptcy or general assignment for the benefit of creditors, (each of (i) – (iii) will be referred to as "Cause"). A termination of this Agreement for Cause will not entitle Participating Manufacturer to the return of any portion of the Fee or Renewal Fee.

2. Renewal Fee and Invoicing. Participating Manufacturer agrees to pay the applicable Renewal Fee in the amount that is published on the Website as of 30 days before the Renewal Date of this Agreement. GEC will invoice Participating Manufacturer for the Renewal Fee at least 30 days before the Renewal Date. At GEC's request, Participating Manufacturer will provide data to substantiate, in GEC's sole judgment, that Participating Manufacturer is paying the correct Fee.

3. Payment. Failure to pay the Renewal Fee within 30 days after the Renewal Date will 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 Program 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 will make commercially reasonable efforts to:

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(a) Appoint a liaison (the "Participating Manufacturer Liaison") to interact with GEC CAB on behalf of Participating Manufacturer regarding the subject matter of 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 60 days of their publication on the Website;

(d) Provide to GEC CAB the information identified in the Verification Requirements (as defined in applicable standards or EPEAT documents) within the timeframe specified by GEC 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 GEC CAB may result in removal of the Product Information from the EPEAT Registry;

(e) Inform GEC 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 GEC 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 can only appear on the EPEAT Registry if and when the Product Information is declared to and approved by GEC CAB subject to the GEC CAB's rules and procedures;

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

(i) By declaring Product Information to GEC CAB, Participating Manufacturer is solely responsible for ensuring and hereby represents and warrants that all Product Information entered into 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 countries 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 GEC CAB will include a clear description of the Product that conforms to the Criteria indicated and should include product specific Energy Star Unique Product Identifier, when applicable;

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(k) By entering the Product Information into the EPEAT Registry, 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 GEC CAB;

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

(m) Participating Manufacturer will keep all Product Information declared to GEC CAB up to date and will remove the Product and its Product Information from the active EPEAT Registry 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 is accurate in all material respects for all units of the subject Product sold by Participating Manufacturer in the indicated countries while the Product Information appears on the EPEAT Registry.

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

(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 Manufacturer 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 will 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 will 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 Manufacturer Indemnatee to the extent that the claims, losses, damages, costs and expenses,

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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 or proprietary information to GEC CAB staff or to agents of or contractors to GEC CAB engaged in Product Verification.

(b) Confidential Treatment. GEC CAB 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 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 or any of its subsidiaries or affiliates (the "Confidential Information").

(c) Definition of Confidential Information. "Confidential Information" as defined in Section 7(b) above will include only that written documentation clearly marked "Confidential" on the face thereof, and will not include (i) information which is publicly available at the time of GEC CAB's receipt thereof from Participating Manufacturer; (ii) information which, after GEC CAB's receipt thereof from Participating Manufacturer, becomes publicly available through no act or fault of GEC CAB; (iii) information which GEC CAB can show was lawfully in GEC CAB's possession prior to the receipt thereof from Participating Manufacturer; (iv) information which was lawfully received by GEC CAB 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 CAB for release by GEC CAB without restriction; (vi) conformity decisions and information described in the GEC EPEAT License and Participating Manufacturer Agreement; and (vii) 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 CAB will not disclose Confidential Information except to the directors, officers, or employees of GEC having a need-to-know, or to agents of or contractors to GEC CAB having a need-to-know who are also subject to a written obligation of confidentiality with respect to such information. When GEC CAB is required by law or authorized by contractual commitments with Purchasing Manufacturer to release Confidential Information, Participating Manufacturer will, unless prohibited by law, be notified of the Confidential Information released.

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

8. Dispute Resolution.

(a) Informal Dispute Resolution. Subject to Section 7(g) 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 GEC each will notify the other in writing describing the Dispute. Thereafter the Participating Manufacturer Liaison and GEC will 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 GEC are unable to resolve the Dispute within 15 days after the referral of the Dispute to them, then each party will appoint one 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.

(b) Refund of the Fee. If the appointed senior executives are unable to resolve the Dispute within 15 days after referral of the Dispute to them, this Agreement may be terminated by GEC or Participating Manufacturer within 30 days after that referral. In that event, if the termination is without Cause, GEC will refund a portion of the CAB 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 15 days after referral of the Dispute to them, and neither Party terminates the Agreement pursuant to Section 8(b), 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) will apply. If the Parties do not otherwise agree on an arbitration service, arbitration services will be provided in Portland, Oregon pursuant to the rules of the International Chamber of Commerce. The costs of arbitration, including the fees and expenses of the arbitrator, will be shared equally by the Parties unless the arbitration award provides otherwise. Each party will bear the cost of preparing and presenting its case. The Parties agree that this section and the arbitrator's authority to grant relief will 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 will have no power or authority to make any award that provides for punitive or exemplary damages. The arbitrator's decision will be final, binding, and non-appealable. The award may be confirmed and enforced in any court of competent jurisdiction. All post-award proceedings will be governed by the USAA.

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(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, will 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.

9. Disclaimer of Warranties. ALL SERVICES ARE PROVIDED "AS IS" AND GEC HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHER, AND GEC SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE.

10. Limitation of Liability.

(a) IN NO EVENT WILL GEC BE LIABLE TO PARTICIPATING MANUFACTURER OR TO ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE, OR PROFIT, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT GEC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

(b) IN NO EVENT WILL GEC'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE LATEST CAB FEE OR RENEWAL FEE PAID BY PARTICIPATING MANUFACTURER. NOTWITHSTANDING THE FOREGOING, THIS LIMITATION OF LIABILITY WILL NOT APPLY TO GEC'S INDEMNIFICATION OBLIGATIONS UNDER THIS AGREEMENT.

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11. Miscellaneous Provisions.

(a) Notices. All notices required or permitted to be given under this Agreement will 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 will be deemed delivered 5 days after mailing, properly addressed. Couriered notices will be deemed delivered on the date that the courier warrants that delivery will occur. Personal delivery will be effective when accomplished. Unless a party changes its address by giving notice to the other party as provided herein, notices will be delivered to the Parties at the addresses set forth below:

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 will be governed by and construed in accordance with the laws of the State of Oregon, U.S.A., without respect to Oregon's rules governing conflicts of laws.

(d) Survival. Notwithstanding any provision to the contrary contained in this Agreement, Sections 6, 7, 8, 9, 10, and 11 will survive any termination of this Agreement.

(e) Severability. Any provision of this Agreement that is deemed invalid or unenforceable will 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. 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.

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(g) Waiver. No provision of this Agreement will 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, will constitute a waiver of any such breach, of such provision or of any other provision. No waiver of any provision of this Agreement will 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.

(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 will 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 will 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 will 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, and no person not a party to this Agreement will 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 will 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 will be deemed an original and will 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

Name: _____
 Title: _____
 Address: _____

Date: _____

Telephone: _____
 E-mail: _____

Date: _____