

**AGREEMENT RELATING TO THE
CONSIGNMENT, RECOVERY AND RECYCLING
OF NON-REFILLABLE BEER
CONTAINERS**

**From January 1, 2001
to December 31, 2002**

TABLE OF CONTENTS

DOCUMENT	PAGE
1. PURPOSE OF THE AGREEMENT	2
2. DEFINITIONS	3
3. REGISTRATION AND WITHDRAWAL PROCESS.....	4
4. RIGHTS AND OBLIGATIONS OF REGISTRANTS.....	5
5. RIGHTS AND OBLIGATIONS OF RECOVERERS.....	7
6. RIGHTS AND OBLIGATIONS OF NON-RECOVERERS.....	9
7. REPORTS AND PAYMENTS OF RECOVERERS.....	9
8. REPORTS AND PAYMENTS OF NON-RECOVERERS.....	11
9. PUBLICITY	13
10. RECOVERY OBJECTIVES	13
11. SOCIÉTÉ QUÉBÉCOISE DE RÉCUPÉRATION ET DE RECYCLAGE (RECYC-QUÉBEC).....	14
12. BINDING FORCE.....	16
13. REMEDIES	16
14. TERM AND AMENDMENT.....	17
15. SEVERABILITY.....	17
16. NOTICES, REPORTS AND PAYMENTS.....	17
17. CONSULTATION COMMITTEE GROUP	18
18. ADVISORY COMMITTEE.....	18
19. RESULTS OF THE OPERATIONS OF THE PUBLIC CONSIGNMENT SYSTEM FOR NON-REFILLABLE BEER CONTAINERS	18
20. COMPENSATION FUND	19
21. CONTRIBUTION TOWARDS INFORMATION, EDUCATION AND AWARENESS WITH RESPECT TO RECYCLING	19

22.	AGREEMENT OF MAY 17, 1985	19
23.	ELECTION OF DOMICILE	20
24.	DATE OF AGREEMENT AND TRANSITIONAL MEASURES	20
25.	APPLICABLE LAW	20

Schedules

Schedule A	List of Recoverers
Schedule B	List of Non-Recoverers
Schedule C	Recovery Terms and Conditions Part 1: Non-reusable Secondary Packaging and Recovery Bags Part 2: Set-off and Adjustment Rules
Schedule D	Identification of Containers
Schedule E	Auditor's Report and Declaration
Schedule F	Special Quotas
Schedule G	Registration Form

AGREEMENT executed as of the 1st day of January 2001

BETWEEN : **THE MINISTER OF THE ENVIRONMENT**, The Honourable Paul Bégin, acting for and on behalf of the Government of Quebec,

(hereinafter referred to as the "Minister of the Environment")

AND : **SOCIÉTÉ QUÉBÉCOISE DE RÉCUPÉRATION ET DE RECYCLAGE (RECYC-QUÉBEC)**, a body corporate duly incorporated, with head office situated in Quebec, herein represented by its President, Mr. Alain Verreault, duly authorized for the purposes hereof,

(hereinafter referred to as "RECYC-QUÉBEC");

AND : **L'ASSOCIATION DES BRASSEURS DU QUÉBEC**, a body corporate duly incorporated, with head office situated in Montreal, herein represented by its President, Mr. Yvon Millette, duly authorized for the purposes hereof,

(hereinafter referred to as the "Association des brasseurs");

AND : **L'ASSOCIATION DES DÉTAILLANTS EN ALIMENTATION DU QUÉBEC**, a body corporate duly incorporated, with head office situated in Montreal, herein represented by its President and General Manager, Mr. Michel A. Gadbois, duly authorized for the purposes hereof,

(hereinafter referred to by the acronym "A.D.A.");

AND : **L'ASSOCIATION QUÉBÉCOISE DES DISTRIBUTEURS DE BIÈRES IMPORTÉES**, a body corporate duly incorporated, with a head office situated in Longueuil, herein represented by Mr. Bernard Mayrand, duly authorized for the purposes hereof,

(hereinafter referred to by the acronym "A.Q.D.B.I.");

AND : **LA BRASSERIE STROH**, a body corporate duly incorporated with head office situated in Laval, herein represented by its General Manager, Mr. Michel Pringle, duly authorized for the purposes hereof,

(hereinafter referred to as "Stroh");

AND : **THE REGISTRANTS**, whose names appear in either Schedule A or Schedule B hereof,

(hereinafter referred to, as a group, as the "Registrants" and, individually, as a "Registrant");

WHEREAS the functions of the Minister of the Environment are to supervise and preserve the quality of the environment and whereas for such purposes he may make an agreement with any person, in particular for purposes relating to recovery and recycling, the whole in accordance with paragraph 12(2) of the *Act Respecting the Ministère de l'Environnement* (R.S.Q., chapter M-15.2);

WHEREAS the Quebec Action Plan relating to the integrated management of residual materials, 1998-2008, establishes that the reduction at its source and the re-use, recycling, valorization and disposal of residual materials, shall be privileged in this ranking order in making management choices related to the integrated management of residual materials;

WHEREAS this Quebec action plan provides that manufacturers and importers of products are to assume a large measure of the responsibility and of the environmental effects of their products all along their life cycle;

WHEREAS the objects of RECYC-QUÉBEC are to promote, develop and encourage the reduction, re-use, recovery and recycling of containers, packaging, materials and products and their valorization with a view to conserving resources and whereas RECYC-QUÉBEC has for such purposes the powers set out in the *Act respecting the Société québécoise de récupération et de recyclage* (R.S.Q., chapter S-22.01);

WHEREAS pursuant to the *Act respecting the sale and distribution of beer and soft drinks in non-returnable containers* (R.S.Q., chapter V-5.001), except in the case of a retail sale or a delivery pursuant to such a sale, no person may sell or deliver in Quebec beer or soft drinks in non-returnable containers unless he holds a permit for that purpose, and a prerequisite for obtaining such a permit is that the applicant enters into an agreement complying with the regulations adopted pursuant to that Act with the Minister of the Environment and RECYC-QUÉBEC, or complies with the relevant regulations adopted pursuant to section 70 of the *Environment Quality Act* (R.S.Q., chapter Q-2), as the case may be;

WHEREAS in accordance with the *Act respecting the sale and distribution of beer and soft drinks in non-returnable containers* (R.S.Q., chapter V-5.001), such agreements were entered into successively on July 15, 1984, July 15, 1987, January 1, 1991, January 1, 1992, January 1, 1995, (the latter agreement, expiring on December 31, 1996 having however been renewed for a period of two months expiring on February 28, 1997) and January 1, 1998 ;

WHEREAS the Minister of the Environment deems it necessary for the protection of the environment and in the best interests of Quebec that certain measures be taken regarding the use of non-refillable containers in Quebec;

WHEREAS the parties hereto agree as to the necessity for the industry to collaborate with the Government of Quebec in order to protect and preserve the quality of the environment, while promoting the cleanliness thereof;

NOW, THEREFORE, the parties hereto mutually agree and covenant as follows:

1. Purpose of the Agreement

This Agreement is intended to further the public interest in Quebec by protecting the environment through the preservation of the use of Refillable Beer Containers, the consignment, recovery and recycling of non-refillable Beer containers, of distribution channels in such respect, and the limitation of the number of non-refillable containers in circulation.

2. Definitions

In this Agreement, the following terms shall have the meaning hereinafter indicated:

“Act respecting the sale and distribution of beer and soft drinks”: the *Act respecting the sale and distribution of beer and soft drinks in non-returnable containers* (R.S.Q., chapter V-5.001), as amended from time to time;

“Beer”: beer as that term is defined in the *Act respecting the sale and distribution of beer and soft drinks*;

“Boissons Gazeuses Environnement”: the non-profit corporation charged with administering the Agreement dated December 1, 1999 Relating to the Consignment, Recovery and Recycling of Non-Refillable Soft Drink Containers, or its duly authorized legal successor;

“Establishment”: a place of business, whether a Retail Establishment or Wholesale Establishment, within the meaning hereof;

“Non-Recoverer”: a party to this Agreement whose name appears in Schedule B;

“Number of Non-Refillable Containers”:

- i) **in the case of a Recoverer** : the total number of non-refillable Beer containers sold, delivered or given for which it is required to collect a deposit pursuant hereto ;
- ii) **in the case of a Non-Recoverer** : the total number of non-refillable Beer containers sold, delivered or given for which it is required to pay a non-refundable contribution in accordance with paragraph 8.1.3 (or would be required to pay such contribution if it were established by RECYC-QUÉBEC pursuant to subsection 11.6) ;

“Recoverer”: a party to this Agreement whose name appears in Schedule A;

“Recyclable Container”: a non-refillable container made of steel in a proportion of more than 99% in weight, or of aluminium in a proportion of more than 99% in weight, or primarily of glass, or primarily of plastic, or a container designated as recyclable by RECYC-QUÉBEC pursuant to subsection 11.1, and, in all cases, of which none of the components shall prevent recycling of the main body and, in the case of a “can-type” container, which has no detachable parts;

“Refillable Container”: a container of which the features and characteristics are such that it can be re-used a minimum of ten times for the same purposes for which it had been conceived originally and with respect to which it is demonstrated to RECYC-QUÉBEC that it shall, in actual fact, continuously throughout the term of the present Agreement, be re-used several times for the same purposes for which it had been conceived originally, thanks to an organized and structured system which implies more particularly the recovery of the container and allows to aim for such a result;

“Registrant”: a party to this Agreement whose name appears in Schedule A or Schedule B;

“Related”: the relationship between persons who do not deal with each other at arm’s length, as that term is defined and interpreted in the *Taxation Act* (R.S.Q., chapter I-3) as at the date hereof;

“Retail Establishment”: a place of business devoted exclusively to direct sales to consumers;

“Signatories”: the Minister of the Environment, RECYC-QUÉBEC, the Association des brasseurs, the A.D.A., the A.Q.D.B.I. and Stroh, as a group, with the exception of any such persons not having, in actual fact, signed the present Agreement around the same time as the other Signatories;

“Total Number of Sales of Containers”:

- i) **in the case of a Recoverer** : the total number of Beer containers sold, delivered or given for which it would be required to collect a deposit pursuant hereto if such sales, deliveries or gifts were made in Recyclable Containers, with the exception of the "draft" Beer sold, delivered or given;
- ii) **in the case of a Non-Recoverer** : the total number of Beer containers sold, delivered or given for which it would be required to pay a non-refundable contribution in accordance with paragraph 8.1.3 if such sales, deliveries or gifts were made in Recyclable Containers (and if such contribution was established by RECYC-QUÉBEC pursuant to subsection 11.6), with the exception of sales, deliveries or gifts of "draft" Beer ;

“Wholesale Establishment”: a place of business other than a Retail Establishment;

“Zone of Recovery”: the zone, in the Quebec territory, within which a Recoverer habitually delivers Beer to Retail Establishments in Refillable Containers.

3. Registration and Withdrawal Process

3.1 Any person applying for a permit to sell and deliver Beer in accordance with the *Act respecting the sale and distribution of beer and soft drinks* shall complete and sign a registration form to the present Agreement in conformity with Schedule G.

3.2 RECYC-QUÉBEC determines, in respect of any person who wishes to become a party hereto and who complies with subsection 3.1, whether such person is a Recoverer or a Non-Recoverer. Accordingly, RECYC-QUÉBEC shall list such person either in Schedule A as a Recoverer or in Schedule B as a Non-Recoverer. Such person shall thereupon become a party hereto as if he himself had signed this Agreement.

3.3 RECYC-QUÉBEC shall decide that a person referred to in subsection 3.2 is a Recoverer, unless, in the opinion of RECYC-QUÉBEC:

3.3.1 the production or distribution of Beer does not constitute the principal activity of such person;

3.3.2 such person does not have in Quebec a distribution and recovery network for Beer in Refillable Containers; or

3.3.3 such person does not have the capacity to fully perform the obligations of a Recoverer pursuant hereto,

in which cases RECYC-QUÉBEC shall decide that such person is a Non-Recoverer.

RECYC-QUÉBEC may, however, render the decision considered appropriate where it deems that the strict application of the criteria set out hereinabove would be contrary to the object of this Agreement or would have the effect of discharging, directly or indirectly, a party hereto from its obligations. RECYC-QUÉBEC may also change the status of Recoverer or Non-Recoverer of any person under this Agreement where it deems that the situation so warrants.

3.4 The information given in the registration form shall be kept up-to-date by the Registrant, who shall be bound, within 15 days following any change, to notify RECYC-QUÉBEC. As for Non-Recoverers, they shall be bound, within 30 days preceding any change, to provide RECYC-QUÉBEC with the information respecting any new container type or size.

3.5 RECYC-QUÉBEC may at any time amend Schedule A or Schedule B to make a new entry therein, change the status of any person, delete a Registrant or correct any clerical error therein.

Such an amendment shall take effect at the date when a notice is given to the person whose registration is made, changed or deleted, or at any subsequent date which may be indicated in the notice. In the case of a change of status, RECYC-QUÉBEC shall give the Registrant a prior notice of 15 days, except if the change is made at the request of the Registrant itself.

3.6 Any Registrant may, by notice to such effect, request that RECYC-QUÉBEC delete it from Schedule A or Schedule B, as the case may be. RECYC-QUÉBEC shall delete such Registrant as soon as it deems that the Registrant has met the obligations incumbent thereon pursuant hereto. However, such deletion shall in no manner affect the rights and recourses available to RECYC-QUÉBEC, as the case may be. From and after the deletion, the Registrant shall cease to be a party to this Agreement.

4. Rights and Obligations of Registrants

4.1 A Registrant shall collect from any person to whom it sells, delivers or gives in Quebec or for resale in Quebec Beer in non-refillable containers a deposit :

4.1.1 of \$0.05 for each container of 450 ml and less sold, delivered or given which is not made of glass;

4.1.2 of \$0.10 for each container of 450 ml and less sold, delivered or given which is made of glass; and

4.1.3 of \$0.20 for each container of more than 450 ml sold, delivered or given.

A Registrant shall collect the same deposit from any person to whom it sells, delivers or gives outside of Quebec, Beer in non-refillable containers, for each container that bears an “inscription that conforms with Schedule D”, namely an inscription identical or similar to that provided for in Schedule D or any other inscription which could lead someone to believe that the Recyclable Container is returnable in Quebec for refund of the deposit under the terms of the Agreement.

4.2 A Registrant may, however, refrain from collecting the deposit pursuant to subsection 4.1

with respect to non-refillable Beer containers:

- 4.2.1 which it sells, delivers or gives to a Recoverer;
- 4.2.2. which it sells, delivers or gives to air or maritime carriers not operating between airports or harbours in Quebec when the container sold, delivered or given does not bear an inscription that conforms with Schedule D;
- 4.2.3. if it has reasonable grounds to believe that such containers will only be resold, delivered or given outside Quebec when the container sold, delivered or given does not bear an inscription that conforms with Schedule D;
- 4.2.4 which it hands over to a carrier for delivery, when such delivery, if effected by the Recoverer, would be exempt under this subsection 4.2.

Any Registrant who, in the circumstances alluded to in paragraphs 4.2.2, 4.2.3, and 4.2.4, sells, delivers or gives Beer in non-refillable containers bearing an inscription that conforms with Schedule D, shall collect the deposit as if such deposit were collected and payable in accordance with subsection 4.1.

- 4.3 A Registrant shall not sell, deliver or give in Quebec or for resale in Quebec Beer in non-refillable containers purchased directly from a person whom it has reasonable grounds to believe did not hold a permit pursuant to the *Act respecting the sale and distribution of beer and soft drinks*.
- 4.4 A Registrant shall not sell, deliver or give Beer in Recyclable Containers in respect of which it must collect a deposit pursuant to this Agreement, unless such containers bear an inscription that conforms with Schedule D, indicating such deposit.
- 4.5 A Registrant shall comply with the terms and conditions of recovery set forth in Part 1 of Schedule C, which deals with non-reusable secondary packaging and recovery bags.
- 4.6 Except as set out in Schedule F hereto, the Number of Non-Refillable Containers of each Registrant shall not exceed 37.5% of the Total Number of Sales of Containers of this Registrant with respect to the period from January 1 to December 31 of each year, unless such Registrant pays the following indemnity:
 - 4.6.1 in the case of an excess of 10% or less of the maximum Number of Non-Refillable Containers authorized, an indemnity of \$0.15 for each container in excess of the quantity required to reach this quota of 37.5%;
 - 4.6.2 in the case of an excess of more than 10% of the maximum Number of Non-Refillable Containers authorized, an indemnity of \$0.15 for each container for the first 10% of excess and an additional \$0.15, namely \$0.30, for each container for any excess over this 10%;
- 4.7 A Registrant shall give to any authorized representative of RECYC-QUÉBEC, at all times during normal business hours, complete and unrestricted access to its installations and to all its books, records, contracts, accounting documents or other information which may be necessary or useful in order to verify any compliance with the provisions hereof. Any photocopies of such documents deemed necessary or useful by the authorized

representative of RECYC-QUÉBEC shall be provided immediately and free of charge to said representative.

- 4.8** A Registrant shall not sell, deliver or give in Quebec or for resale in Quebec, any Beer in non-refillable containers that may or could reasonably be confused with Refillable Beer Containers.
- 4.9** A Registrant shall not sell, deliver or give in Quebec or for resale in Quebec any Beer in non-refillable containers before and unless such containers have been approved, in writing, by RECYC-QUÉBEC. The approval or refusal shall be transmitted to the Registrant within 30 days after the receipt of said container by RECYC-QUÉBEC, failing which RECYC-QUÉBEC shall be deemed to have refused this container.

5. Rights and Obligations of Recoverers

- 5.1** A Recoverer shall not sell, deliver or give in Quebec or for resale in Quebec, Beer in non-refillable containers unless such containers are Recyclable Containers of a material, size and configuration that do not prevent the operation of the recovery system governed by the present Agreement.
- 5.2** A Recoverer shall maintain and continue to use a Refillable Beer Container distribution and recovery network throughout its Zone of Recovery and shall use such network to recover Recyclable Containers under this Agreement. A Recoverer shall recover Recyclable Containers at a frequency at least equal to the frequency of distribution or at such other reasonable frequency in order to prevent the accumulation of Recyclable Containers in Establishments.
- 5.3** A Recoverer shall recover all empty Beer Recyclable Containers tendered to it by any Establishment or any consumer to which it sells, delivers or gives Beer, directly or through a Wholesale Establishment, and shall refund the deposit amount determined pursuant to this Agreement, increased, in the case of a Retail Establishment (other than an Establishment which sells, delivers, or gives Beer for consumption on the premises such as, without limitation, a bar, a pub or a restaurant), by a fee for the encouragement of individual recovery of \$0.02 in respect thereof, when such containers:
- 5.3.1** bear an inscription that conforms with Schedule D; and
- 5.3.2** are of identical materials and of similar unit volume to the Recyclable Containers that it sold, delivered or gave to such Establishment or consumer,

the whole subject to the following terms and conditions:

- no Recoverer shall be required hereunder to accept from any Establishment or consumer, in any three-month period, more Recyclable Containers of a given packaging type and a given size than were sold, delivered or given to it by such Recoverer within such period;
- a Recoverer that sells, delivers or gives Beer in Recyclable Containers to a Wholesale Establishment shall recover, to the extent and according to the terms provided in this subsection 5.3, the Recyclable Containers tendered to

it by any Retail Establishment to which such Wholesale Establishment sold or delivered such Beer, as if such Beer had been sold, delivered or given directly by such Recoverer to such Retail Establishment.

- 5.4** A Recoverer who, during the period from January 1 to December 31 of each year, recovers pursuant hereto a number of Recyclable Containers departing from the proportions set out hereinbelow of such Recyclable Containers which it has sold, delivered or given during such period for sale or resale in Quebec shall pay to RECYC-QUÉBEC the non-reimbursable contribution set out hereinbelow for each container unit for which he must collect a deposit under the present Agreement, above or below such proportions:

	Recyclable aluminum Containers	Recyclable Containers made of steel, glass or plastic
Minimum quantity and non-reimbursable unit contribution	50% / \$0.00	50% / \$0.03
Maximum quantity and non-reimbursable unit contribution	125% / \$0.02	125% / \$0.00

RECYC-QUÉBEC may, if it so deems expedient in respect of the equitable sharing of the recovery obligations pursuant hereto and the inherent costs, exempt, on such conditions as it may determine, a Recoverer from an obligation incumbent thereon by reason of this subsection 5.4, notably when a Recoverer demonstrates that a surplus or a shortfall in the number of recovered containers is related in large part to market conditions or a configuration of the distribution channels which, in both cases, is not attributable to the Recoverer. An exemption request by the Recoverer must be forwarded no later than on February 28 of the year following the expiry of the twelve-month period and be accompanied by all relevant documents. RECYC-QUÉBEC shall then reduce the non-reimbursable contribution attributable to such portion of departing number of containers, resulting, in the opinion of RECYC-QUÉBEC, to such exceptional fluctuation in its sales. RECYC-QUÉBEC may reject any request that is considered to be late. A request for exemption shall not have, in itself, the effect of suspending the obligations of any Recoverer pursuant hereto.

- 5.5** When a Recoverer discovers that an Establishment or a consumer within its Zone of Recovery is encountering real difficulties in disposing of a surplus of empty Recyclable Containers for which a deposit was collected pursuant to this Agreement, it must inform RECYC-QUÉBEC, which shall take the necessary measures to remedy the situation.

- 5.6** A Recoverer shall not delegate the recovery obligation imposed hereto upon such Recoverer except to:

5.6.1 an organization approved by RECYC-QUÉBEC; or

5.6.2 a Recoverer, but only in respect of the Zone of Recovery of that Recoverer.

Nothing in this subsection 5.6 shall be interpreted so as to limit or diminish the obligations of any Recoverer pursuant hereto.

5.7 A Recoverer shall entrust for recycling or conditioning to an organization certified by RECYC-QUÉBEC any empty Recyclable Container that it has recovered pursuant hereto.

A Recoverer shall entrust the conditioning or recycling to a recycling or conditioning enterprise having its infrastructure in the Quebec territory if the unit price charged by this enterprise is similar or inferior to the unit price charged by an enterprise which does not have its infrastructure in the Quebec territory.

5.8 A Recoverer shall maintain all necessary controls in conformity with such standards as RECYC-QUÉBEC may enact and such instructions as it may give by notice, in order to ensure that no container recovered by it is retendered for refund of the deposit and that all reports contemplated pursuant hereto are complete, exact and true in all material respects.

6. Rights and Obligations of Non-Recoverers

6.1 A Non-Recoverer shall not sell, deliver or give in Quebec or for resale in Quebec Beer in non-refillable containers unless such containers are Recyclable Containers of a material, size and configuration that do not prevent the operation of the recovery system governed by the present Agreement.

6.2 A Non-Recoverer shall maintain all necessary controls in conformity with such standards as RECYC-QUÉBEC may enact and such instructions as it may give by notice, in order to ensure that all reports set out herein are complete, exact and true in all material respects.

7. Reports and Payments of Recoverers

7.1 By the 15th day of each month at the latest:

7.1.1 a Recoverer shall make a report to RECYC-QUÉBEC, in such form and in accordance with such terms as it may prescribe, regarding the non-refillable Beer containers which it has sold, delivered or given in accordance with section 4 during the previous month, as well as those it has entrusted for recycling or conditioning during the same month in accordance herewith;

7.1.2 subject to the set-off and adjustment rules provided for in Part 2 of Schedule C, a Recoverer shall pay to RECYC-QUÉBEC all amounts by which the total **i)** of all the deposits that such a Recoverer was required to collect during the preceding month, **ii)** of the amounts payable by such a Recoverer pursuant to section 21 of the present Agreement, applicable for each container for which a deposit was payable during the same period and **iii)** of the amounts payable by such a Recoverer pursuant to section 19 of the present Agreement, exceeds the total **a)** of deposits duly refunded and **b)** the fee for the encouragement of individual recovery duly paid by a Recoverer, in accordance with subsection 5.3, during the same month;

7.1.3 in the event that, for the period from January 1 to December 31 of the preceding

year, the indemnity payable by a Recoverer pursuant to subsection 4.6 is equal to or greater than \$25,000, such Recoverer shall pay to RECYC-QUÉBEC, from the month of January of the current year and for the entire duration of such year, an amount equal to one-twelfth (1/12) of the following amount (the “Reference Amount”):

- (i)** the total amount of the indemnity payable by such Recoverer in respect of the previous year; or
- (ii)** provided that the Recoverer notifies RECYC-QUÉBEC thereof by March 31 of the current year at the latest, the total amount of the indemnity which the Recoverer reasonably forecasts, on the basis of its estimated sales for the current year, to be due in respect of such period in accordance with subsection 4.6 hereof.

Each such monthly payment shall be paid as an instalment in respect of the indemnity which may be payable by such Recoverer pursuant to subsection 4.6 for the current year.

- 7.2** Subject to the set-off and adjustment rules provided for in Part 2 of Schedule C, RECYC-QUÉBEC shall refund to any Recoverer, within 30 days after the receipt of the report provided for in paragraph 7.1.1, all amounts by which the total **a)** of the deposits duly refunded and **b)** the fee for encouragement of individual recovery duly paid by such a Recoverer, in accordance with subsection 5.3, during the preceding month, exceeds the total **i)** of all the deposits that such a Recoverer was required to collect in accordance with the present Agreement during the same month, **ii)** of the amounts payable by such a Recoverer pursuant to section 21 of the present Agreement, applicable for each container for which a deposit was payable during the same period and **iii)** of the amounts payable by such a Recoverer in accordance with section 19 of the present Agreement.

RECYC-QUÉBEC shall also refund to any Recoverer, within 30 days after the receipt of the declaration provided for in paragraph 7.3.1, any amount by which the sums received from such Recoverer in accordance with paragraph 7.1.3 exceed the indemnity actually payable by such Recoverer for the corresponding period, pursuant to subsection 4.6.

- 7.3** By March 31 of each year at the latest:

7.3.1 in order to verify the application of the provisions of subsections 4.6 and 5.4, a Recoverer shall forward to RECYC-QUÉBEC a declaration, together with an auditor’s report issued by an independent chartered accounting firm, which conforms substantially with Schedule E, confirming:

- (i)** the Number of Non-Refillable Containers and the Total Number of Sales of Containers for the period from January 1 to December 31 of the previous year;
- (ii)** the total number of Recyclable Containers sold, delivered or given and the total number of Recyclable Containers recovered for the period from January 1 to December 31 of the previous year in accordance with the categories specified in subsection 5.4;

- 7.3.2** a Recoverer shall pay to RECYC-QUÉBEC the non-reimbursable contribution set out in subsection 5.4 as well as the indemnity set out in subsection 4.6;
- 7.3.3** a Recoverer referred to in paragraph 7.1.3 shall pay to RECYC-QUÉBEC any amount by which the total amount of the indemnity payable in accordance with subsection 4.6 for the year ended the previous December 31 exceeds the Reference Amount for such year, as well as the additional interest that would have been payable if the Reference Amount had been equal to the amount actually payable for the period.
- 7.4** Any amount owing to RECYC-QUÉBEC or payable by the latter under this section 7 shall bear interest at a rate equivalent to the rate determined for debts owed to the Crown in pursuance of section 28 of the *Act respecting the Ministère du Revenu* (R.S.Q., chapter M-31), as amended from time to time.

8. Reports and Payments of Non-Recoverers

- 8.1** By the 15th day of each month at the latest:
- 8.1.1** a Non-Recoverer shall make a report to RECYC-QUÉBEC in the form and pursuant to such other terms and conditions as it may prescribe, regarding the deposits paid upon purchase, on the origin of the Recyclable Beer Containers acquired by it, and the Recyclable Beer Containers sold, delivered or given by it in Quebec or for resale in Quebec in accordance with section 4, during the preceding month;
- 8.1.2** a Non-Recoverer shall pay to RECYC-QUÉBEC the total **i)** of all deposits that such a Non-Recoverer was required to collect in accordance with the present Agreement during the preceding month, **ii)** of the amounts payable by such a Non-Recoverer pursuant to section 21 of the present Agreement, applicable for each container for which a deposit was payable during the same period and **iii)** of the amounts payable by such a Non-Recoverer in accordance with section 19 of the present Agreement. A Non-Recoverer may refrain from paying to RECYC-QUÉBEC such amounts if it demonstrates, to the satisfaction of RECYC-QUÉBEC, that such amounts have already been paid by another Non-Recoverer with regard to the same containers or that such containers come directly or indirectly from a Recoverer which has sold, delivered or given them;
- 8.1.3** a Non-Recoverer shall pay to RECYC-QUÉBEC, for each Recyclable Container sold, delivered or given during the previous month, in addition to the applicable deposit, a non-refundable contribution of \$0.03 for each Recyclable Container made of steel, glass or plastic.

A Non-Recoverer may refrain from paying such contribution if it demonstrates, to the satisfaction of RECYC-QUÉBEC:

- (i)** that it was not bound pursuant to subsection 4.2 to collect the deposit; or
- (ii)** that the applicable contribution has already been paid by another Non-Recoverer in respect of such containers; or

(iii) that such containers come directly or indirectly from a Recoverer which has sold, delivered or given them;

8.1.4 in the event that, for the entire period from January 1 to December 31 of the previous year, the indemnity payable by a Non-Recoverer pursuant to subsection 4.6 was equal to or greater than \$25,000, such Non-Recoverer shall pay to RECYC-QUÉBEC, from the month of January of the current year and for the entire duration of such year, a sum equal to one-twelfth (1/12) of the following amount (the "Reference Amount"):

(i) the total amount of the indemnity payable by such Non-Recoverer in respect of the previous year; or

(ii) provided that the Non-Recoverer notifies RECYC-QUÉBEC thereof by March 31 of the current year at the latest, the total amount of the indemnity which the Non-Recoverer reasonably forecasts, on the basis of its estimated sales for the current year, to be due in respect of such period in accordance with subsection 4.6 hereof.

Each such monthly payment shall be paid as an instalment in respect of the indemnity which may be payable by such Non-Recoverer pursuant to subsection 4.6 for the current year.

8.2 RECYC-QUÉBEC shall refund to a Non-Recoverer, within 30 days after the receipt of the declaration referred to in paragraph 8.3.1, any amount by which the sums received from such Non-Recoverer in accordance with paragraph 8.1.4 exceed the indemnity actually payable by such Non-Recoverer for the corresponding period, pursuant to subsection 4.6.

8.3 By March 31 of each year at the latest:

8.3.1 in order to verify the provisions of subsection 4.6, a Non-Recoverer shall forward to RECYC-QUÉBEC a declaration, together with an auditor's report issued by an independent chartered accounting firm which conforms substantially with Schedule E, confirming the Number of Non-Refillable Containers and the Total Number of Sales of Containers for the period from January 1 to December 31 of the previous year, or, where applicable, confirming that it has paid the deposits to a Recoverer upon the purchase, with respect to all of the non-refillable Beer containers sold or delivered by it during this period;

8.3.2 a Non-Recoverer shall pay to RECYC-QUÉBEC the indemnity set out in subsection 4.6;

8.3.3 the Non-Recoverer referred to in paragraph 8.1.4 shall pay to RECYC-QUÉBEC any amount by which the total amount of the indemnity payable in accordance with subsection 4.6 for the year ended the previous December 31 exceeds the Reference Amount for such same year, as well as the additional interest which would have been payable if the Reference Amount had been equal to the amount actually payable for the period.

8.4 Any amount owing to RECYC-QUÉBEC or payable by the latter under this section 8 shall bear interest at a rate equivalent to the rate determined for debts owed to the Crown in

pursuance of section 28 of the *Act respecting the Ministère du Revenu* (R.S.Q., chapter M-31), as amended from time to time.

9. Publicity

The Signatories and Registrants hereto undertake to take the necessary measures so that no advertising which they authorize the broadcast in Quebec be, directly or indirectly, of a nature such as to encourage a behaviour incompatible with the purpose of the Agreement or its objectives as described in section 1.

10. Recovery Objectives

The Recoverers and RECYC-QUÉBEC, within their spheres of activity, shall make every effort necessary to ensure that the annual recovery rate of Beer and soft drinks Recyclable Containers bearing an inscription that conforms with schedule D sold, delivered or given in Quebec exceeds 80%. The following recovery objectives are established with regard to the recovery rate of Beer and soft drinks Recyclable Containers which have any deposit in virtue of an agreement or a regulation referred to in the *Act respecting the sale and distribution of beer and soft drinks* (hereafter referred to as the « Considered Containers » solely for the purposes of the present section 10), namely:

- a) for the twelve month period ending December 31, 2001, the base rate plus 0.75 %;
- b) for the twelve month period ending December 31, 2002, the base rate plus 1.50 %;
- c) for the twelve month period ending December 31, 2003 where applicable, the base rate plus 2.25 %.

For the purposes of the present section, the “base rate” is the recovery rate of the Considered Containers calculated as at December 31, 2000, as determined by RECYC-QUÉBEC.

Should the Recoverers fail to reach said recovery target, the Recoverers shall pay the following penalties to RECYC-QUÉBEC:

- 10.1** the Recoverers shall pay to RECYC-QUÉBEC on March 31, 2002, as the case may be, a provisional penalty of \$0.13 for each Considered Container that is below the recovery target set for the year 2001 (mentioned above in paragraph a)), calculated as at December 31, 2001, for the period ending on that date;
- 10.2** the Recoverers shall pay to RECYC-QUÉBEC on March 31 2003, as the case may be, a provisional penalty (or one which is acquired by RECYC-QUÉBEC if the Agreement is not renewed) of \$0.13 for each Considered Container that is below the recovery target set for the year 2002 (mentioned above in paragraph b)), calculated as at December 31, 2002, for the period ending on that date;
- 10.3** if the Agreement is renewed, the Recoverers shall pay to RECYC-QUÉBEC on March 31, 2004, as the case may be, a penalty, which is then acquired by RECYC-QUÉBEC, of \$0.13 for each Considered Container that is below the recovery target for the year 2003 (mentioned above in paragraph c)), calculated as at December 31, 2003, for the period ending on that date;
- 10.4** if, on December 31, 2002, the recovery target mentioned above in paragraph a) is reached,

even if the recovery target mentioned above in paragraph b) is not reached, RECYC-QUÉBEC shall nevertheless reimburse to the Recoverers, on March 31, 2003, the provisional penalty paid by the Recoverers to RECYC-QUÉBEC, as the case may be, on March 31, 2002. If, on December 31, 2002, the recovery target mentioned above in paragraph a) is not reached, RECYC-QUÉBEC may then keep the penalty paid by the Recoverers to RECYC-QUÉBEC, as the case may be, on March 31, 2002 as an acquired penalty;

- 10.5** if the Agreement is renewed and if, on December 31, 2003, the recovery target mentioned above in paragraph b) is reached, even if the recovery target mentioned above in paragraph c) is not reached, RECYC-QUÉBEC shall nonetheless reimburse to the Recoverers, on March 31, 2004, the provisional penalty paid by the Recoverers to RECYC-QUÉBEC, as the case may be, on March 31, 2003. If, on December 31, 2003, the recovery target mentioned above in paragraph b) is not reached, RECYC-QUÉBEC may then keep the penalty paid by the Recoverers to RECYC-QUÉBEC, as the case may be, on March 31, 2003, as an acquired penalty;
- 10.6** as long as a penalty paid by the Recoverers to RECYC-QUÉBEC is not kept by RECYC-QUÉBEC as an acquired penalty, RECYC-QUÉBEC shall keep it separate from its other funds and shall deposit the provisional penalty amount paid in an account with a financial institution authorized to receive deposits from the public in Quebec, or invest it in conformity with articles 1339 to 1344 of the *Civil Code of Quebec*; the interest earned on these investments shall be paid on March 31 of each year;
- 10.7** the sums payable by or to the Recoverers pursuant to the present section 10 are divided on a pro rata basis of the Number of Non-Refillable Beer Containers sold, delivered or given for which they were bound to collect a deposit pursuant to the present Agreement during the period in question.

11. Société québécoise de récupération et de recyclage (RECYC-QUÉBEC)

- 11.1** RECYC-QUÉBEC may designate as recyclable a container which does not strictly fulfill the conditions set out in section 2 of the present Agreement under the definition of “Recyclable Container”, when it deems that the conditioning or recycling services available and the market prospects and conditions allow the conditioning or recycling of the container on a reasonable commercial basis. RECYC-QUÉBEC may, at any time, revise and reverse this designation and prohibit the use of a container, in accordance with the above-mentioned criteria;
- 11.2** RECYC-QUÉBEC may increase or decrease the amount of the deposit provided for herein regarding any type of Recyclable Containers, by following the procedure established in subsection 11.11. In the event of such an increase or decrease, the set-off and adjustment rules set out in Part 2 of Schedule C shall be adjusted accordingly, in conformity with such terms and conditions as RECYC-QUÉBEC may determine.
- 11.3** RECYC-QUÉBEC may enact standards and require that non-reusable secondary packagings and recovery bags bear distinctive marks, in accordance with Part 1 of Schedule C. It shall, as provided for in such schedule, ensure that certain secondary packagings are available to the Registrants at a reasonable cost.

- 11.4** Throughout the term of the Agreement, RECYC-QUÉBEC shall certify the conditioning and recycling bodies contemplated herein in accordance with the “Recycler's Certification Policy” in effect on the day preceding the date on which the Agreement comes into force and in accordance with the existing practices at that date. Furthermore, RECYC-QUÉBEC shall enter into the required written agreements with these conditioning and recycling bodies according to the standard form that is used at that date, as amended, as the case may.
- 11.5** The procedures, deductions and samplings which must be undertaken by the conditioners and recyclers shall be determined by a common agreement between RECYC-QUÉBEC and the representatives of the Beer and soft drinks industries, in order to ensure their equity and flexibility. Beginning January 1, 2001, Boissons Gazeuses Environnement may amend these procedures, deductions and samplings, in accordance with the Agreement dated December 1, 1999, Relating to the Consignment, Recovery and Recycling of Non-Refillable Soft Drink Containers, provided that it reaches a prior agreement with RECYC-QUÉBEC concerning said modifications.

The inspections as to procedures, deductions and samplings of the conditioners and recyclers under the present Agreement shall continue to be carried out by employees of RECYC-QUÉBEC.

- 11.6** RECYC-QUÉBEC may establish or modify any non-reimbursable contribution that Non-Recoverers must pay pursuant to subsection 5.4 and paragraph 8.1.3 of the present Agreement.
- 11.7** RECYC-QUÉBEC may submit a quota increase or decrease on such terms as it deems appropriate and enter into any agreement to that effect with the Advisory Committee.
- 11.8** RECYC-QUÉBEC shall maintain a separate account called “Contribution Account”.
- 11.9** The amounts attributed to the “Contribution Account” shall, until they are distributed, be deposited with a financial institution authorized to receive deposits from the public in Quebec or otherwise invested in conformity with articles 1339 to 1344 of the *Civil Code of Québec*.
- 11.10** In its administration of the “Contribution Account”, RECYC-QUÉBEC shall observe the following rules:
- 11.10.1** any contribution received or to be received by RECYC-QUÉBEC under subsection 5.4 or paragraph 8.1.3, including a reasonable allocation for the interest collected, and any yield on the investment of such sums of money shall be credited to such account, within which separate items are provided for the contributions pertaining to each type of Beer container identified by RECYC-QUÉBEC;
- 11.10.2** the reasonable sums attributable to the management of such account, including any expenses incurred by RECYC-QUÉBEC to recover such contributions, shall be charged to such account on an annual basis;
- 11.10.3** within 90 days of the end of each financial year of RECYC-QUÉBEC, the latter

shall allocate among the Recoverers the balance showing in each item of such account at the end of such financial year (after deduction of the sums provided for in paragraph 11.10.2), proportionally to the Number of Non-Refillable Containers of the type contemplated by such item that have been recovered pursuant hereto, during such financial year by each of them respectively.

For the purposes of paragraph 11.10.3, the Number of Non-Refillable Containers of a Recoverer is established after deduction, if required, of the number of containers of the same type recovered which differs from a proportion set out in subsection 5.4.

- 11.11** RECYC-QUÉBEC may propose such amendment to this Agreement as it considers appropriate, by notifying each of the parties hereto of the text of such amendment and by inviting them to communicate by written notice, within 60 days of the sending date of such notice, any objection they may have concerning such amendment.

The proposed amendment shall come into force at the end of the 60-day period referred to in the preceding sub-paragraph, unless an objection has been raised during such 60-day period and has not been withdrawn during such period.

- 11.12** The powers provided for in Section 11 shall be in addition to those powers otherwise devolved upon RECYC-QUÉBEC.
- 11.13** Whenever it intends to exercise any one of the powers provided for in subsections 11.1, 11.3, 11.6 and 11.7, RECYC-QUÉBEC shall give the Signatories at least 14 days prior notice of its intention and, on request, give the latter a reasonable opportunity to make representations.

12. Binding Force

- 12.1** No party to this Agreement may assign or otherwise dispose of, in whole or in part, the rights that are conferred on it herein, nor may it waive such rights without the consent of all the other parties hereto.
- 12.2** The fact that one or more persons, mentioned herein or in a Schedule hereof as Signatories or Registrants in respect of this Agreement, have not signed this Agreement does not discharge the Signatories or Registrants who have signed it of their obligations hereunder.
- 12.3** Each of the parties hereto covenants that any person to whom it is Related shall respect this Agreement as though it were a party hereto.
- 12.4** Notwithstanding the foregoing provisions, RECYC-QUÉBEC may at any time assign its rights to a subsidiary and substitute the latter as debtor pursuant hereto, simply by notifying the other Signatories and Registrants. Such delegation shall effect novation as of the date thereof or as of such prior date as indicated in the notice, subject, in the latter case, to the rights acquired by a third party prior to the delegation.

13. Remedies

- 13.1** The rights conferred by this Agreement shall be particular to each of the parties hereto and it is agreed that each one of them shall have the right to require that the Agreement be respected by any other party hereto, by way of an injunction, without prejudice to any

other recourse.

- 13.2 No party may terminate this Agreement or justify its non-performance of an obligation hereunder by the default of another party to perform its obligations.

14. Term and Amendment

- 14.1 The term of this Agreement shall be of two (2) years and takes effect, notwithstanding its date of signature, on January 1, 2001 and terminates on December 31, 2002.

- 14.2 However, notwithstanding subsection 14.1, unless a written notice on or prior to June 30, 2002 by the Minister of the Environment or by RECYC-QUÉBEC indicates the contrary, this Agreement shall be automatically renewed, one time only, for an additional one year period beginning on January 1, 2003 and ending on December 31, 2003, under the same terms and conditions as those mentioned in this Agreement, except that there shall be no possibility of automatic or tacit renewal after December 31, 2003.

- 14.3 The Signatories of this Agreement may, with the unanimous and written consent thereof, make any correction, addition or amendment to this Agreement.

Such correction, addition or amendment shall come into force only upon the expiry of a 15-day prior notice given by RECYC-QUÉBEC to all the Registrants, or at such subsequent date as may be mentioned in the notice and to which the Signatories have unanimously agreed in writing. The prior notice shall contain a summary of the corrections, additions or amendment so made in this Agreement.

- 14.4 Notwithstanding its expiry, this Agreement shall continue to have effect in respect of any situation of fact or law which has arisen during its term from acts performed during such period. More particularly, without limiting the generality of the foregoing, RECYC-QUÉBEC will benefit fully and entirely of all rights and powers provided for in subsection 4.7 upon expiry of the Agreement in order to ensure that the Agreement is complied with, by the Registrants, during the initial term of the Agreement, or its renewal period, as the case may be.

RECYC-QUÉBEC shall be entitled to collect the amount of the deposits and the amounts payable pursuant to sections 19 and 21 of the present Agreement with respect to any container sold, delivered or given during the course of the Agreement, or its renewal period, as the case may be, and shall be bound to reimburse the deposits owed with respect to any container recovered by a Recoverer during the same period in accordance with the present Agreement.

15. Severability

In the event that any provision of this Agreement, or the application of any provision in a particular situation, is declared invalid, inoperable, illegal or non-enforceable, in whole or in part, by a court of competent jurisdiction, without possibility of appeal, all other provisions of this agreement shall remain in force to the extent that they are not affected by the decision.

16. Notices, Reports and Payments

- 16.1 Any notice, report or payment pursuant to this Agreement shall not be deemed given,

made or submitted in writing to RECYC-QUÉBEC until it is forwarded to the attention of RECYC-QUÉBEC to such address as the latter may have notified the Registrant during the term of this Agreement. Any notice must refer to this Agreement.

16.2 Any notice shall be deemed to have been given to any Signatory, other than RECYC-QUÉBEC, and to a Registrant, when forwarded in writing to the attention of the receiver, and in the case of a Registrant, to the address provided in Schedule A or B, as the case may be, or to any other address notified by the receiver to RECYC-QUÉBEC during the term of this Agreement.

16.3 It is the responsibility of the sender to demonstrate that his item has been duly delivered. However, notices and reports sent by registered mail, postage paid, duly addressed and deposited in a post office in Quebec, are deemed (unless there is a strike or a work slowdown) to be delivered on the fifth banking day following the sending thereof.

17. Consultation Committee

A Consultation Committee shall be established by RECYC-QUÉBEC for the purposes of discussing issues related to the deposit, the recovery and the recycling of non-refillable Beer and soft drinks Recyclable Containers, which Committee shall be made up of representatives of the Beer and soft drinks producers, distributors, Retail and Wholesale Establishments, conditioners, recyclers, consumers, the Minister of the Environment and Boissons Gazeuses Environnement.

18. Advisory Committee

18.1 An Advisory Committee made up of representatives of each Signatory shall be set up.

18.2 The said Committee shall be entrusted with discussing any question relating to the management, administration and consequences of this Agreement.

18.3 The Committee may formulate internal management rules. It must, however, sit at least once every three (3) months.

19. Results of the Operations of the Public Consignment System for Non-Refillable Beer Containers

19.1 The Registrants undertake to reimburse RECYC-QUÉBEC the amount of the deficit resulting from the consignment system for the non-refillable Beer containers governed by this Agreement. This amount shall be calculated by taking into account the deposits collected and reimbursed by the Registrants and all other amounts paid, assumed or payable by RECYC-QUÉBEC and attributable, or reasonably attributed by RECYC-QUÉBEC to such consignment system for non-refillable Beer containers. In the accounting of such other amounts, RECYC-QUÉBEC shall take into account, as precisely as possible, the costs attributable to this consignment system for non-refillable Beer containers. The amount of this annual deficit shall be payable on a monthly basis, or on any longer period of time as determined by RECYC-QUÉBEC from time to time, with the amounts payable by the Registrant pursuant to section 7 or section 8 of the present Agreement, as the case may be, or, if the period is other than monthly, according to any other method determined by RECYC-QUÉBEC. The amount payable by a Registrant pursuant to the present section shall be estimated by RECYC-QUÉBEC at the beginning of each calendar year. RECYC-QUÉBEC may, at all times, modify this estimate in

accordance with any real or anticipated deficits for the previous, current or following financial year. The amount of the annual deficit shall be communicated to the Registrants at the latest on March 31 following the end of such calendar year or within any other reasonable delay; if required, the difference between the amount payable a the Registrant in accordance with the present subsection 19.1 for the elapsed financial year, and the amount estimated for such calendar year by RECYC-QUÉBEC, shall be paid within thirty (30) days from the communication of such results.

19.2 If the annual results referred to in subsection 19.1 show a surplus instead of a deficit, such surplus shall be remitted by RECYC-QUÉBEC to the Registrants within thirty (30) days of the communication of such results, or within any other reasonable delay.

19.3 The annual deficits, if any, referred to in section 19 shall be divided between the Registrants on a pro rata basis of the Number of Non-Refillable Beer Containers sold, delivered or given for which a Registrant is required to collect a deposit under this Agreement during the period in question.

20. Compensation Fund

A compensation fund shall be established so as to provide for the required adjustments with respect to the amounts paid by RECYC-QUÉBEC and Boissons Gazeuses Environnement as regards the recovery of non-refillable Beer and soft Drinks containers, under the terms of this Agreement or the Agreement Relating to the Consignment, Recovery and Recycling of Non-Refillable Soft Drink Containers of December 1, 1999. This compensation fund is managed and administered by RECYC-QUÉBEC and is governed by section 22 of the Agreement Relating to the Consignment, Recovery and Recycling of Non-Refillable Soft Drink Containers of December 1, 1999.

21. Contribution towards Information, Education and Awareness with respect to Recycling

The Registrants shall pay to RECYC-QUÉBEC, with respect to each container for which they must collect a deposit pursuant to the present Agreement, with the amounts payable under section 7 or section 8 of the present Agreement, as the case may be, as a contribution towards information, education, and awareness with respect to recycling, the following amounts:

- a) 1.25 % of the deposits of \$ 0.05 collected or that should have been collected pursuant to the present Agreement;
- b) 0.625 % of the deposits of \$ 0.10 collected or that should have been collected pursuant to the present Agreement;
- c) 0.3125 % of the deposits of \$ 0.20 collected or that should have been collected pursuant to the present Agreement;

RECYC-QUÉBEC undertakes to use these contributions for the education, information and awareness and the development of markets and technology, the whole, in relation to recovery and recycling. RECYC-QUÉBEC shall report annually to the Advisory Committee of the use of these contributions.

22. Agreement of May 17, 1985

This Agreement shall not affect the settlement agreement entered into on May 17, 1985 between the A.D.A., the Quebec Wholesale Grocers' Association, the Conseil québécois du commerce au détail,

the Canadian Grocery Distributors' Institute, the Ferme Carnaval Inc., Épiciers Métro Richelieu Inc., the Groupe Servi, representing Les Aliments Servi Inc., Hudon et Deaudelin Ltée, Provigo Inc., Steinberg Inc., and the Comité spécial des détaillants; such agreement remains valid and any reference made within the scope of such agreement to the Agreement dated July 15, 1984 is henceforth deemed to constitute a reference to this Agreement.

23. Election of Domicile

For the purposes of any proceedings resulting from this Agreement, the Registrants elect domicile in the judicial district of Montreal.

24. Date of Agreement and Transitional Measures

This document bears witness to an Agreement coming into force on January 1, 2001, such that notwithstanding the actual date of signature, any reference to the date of said Agreement is considered to refer to January 1, 2001.

The agreement concluded on January 1, 1998, in accordance with the *Act respecting the sale and distribution of beer and soft drinks* continues to have effect in respect of any situation of fact or law which arose prior to the coming into force of this Agreement.

Notwithstanding any provision to the contrary, the first paragraph of subsection 4.1 of this Agreement shall apply and take effect only as of the date determined by the Advisory Committee, said date to be communicated by a prior notice of at least thirty (30) days from RECYC-QUÉBEC to the Registrants and not to be prior to March 1, 2001 or after June 30, 2001. In the interval:

- a Registrant shall collect from all persons to whom he sells, delivers or gives in Quebec or for resale in Quebec Beer in non-refillable containers, a deposit of \$0.05 for each container of 450 ml and less sold, delivered or given and a deposit of \$0.20 for each container of more than 450 ml sold, delivered or given; and
- a Registrant shall not sell, deliver or give Beer in Recyclable Containers that bear an inscription similar or analogous to that of Schedule D and which indicate a deposit of \$0.10.

Any agreement concluded, any statement made, any mandate given and any decision taken by RECYC-QUÉBEC or its predecessor, the Fonds québécois de récupération, to this day in reference to the Agreement dated July 15, 1984, the Agreement dated July 15, 1987, the Agreement dated January 1, 1991, the Agreement dated January 1, 1992 or the Agreement dated January 1, 1995, as renewed, and January 1, 1998 entered into pursuant to the *Act respecting the sale and distribution of beer and soft drinks* remain valid until modified, repealed or replaced and any reference made within the scope of such a document or decision to the Agreement entered into on July 15, 1984, the Agreement entered on July 15, 1987, the Agreement entered into on January 1, 1991, the Agreement entered into on January 1, 1992, the Agreement entered into on January 1, 1995 or the Agreement entered into on January 1, 1998 is henceforth deemed to constitute a reference to this Agreement.

25. Applicable Law

This Agreement is governed by the laws of the Province of Quebec and shall be interpreted in accordance therewith.

The Minister of the Environment

Paul Bégin

**Société québécoise de récupération
et de recyclage (RECYC-QUÉBEC)**

The President,

Alain Verreault

L'Association des brasseurs du Québec

The President,

Yvon Millette

La Brasserie Stroh

The General Director,

Michel Pringle

**L'Association québécoise des distributeurs de bières
importées**

Bernard Mayrand

Association des détaillants en alimentation du Québec

The President and General Manager,

Michel A. Gadbois

INTERVENTION

The Canadian Council of Grocery Distributors, a legal person duly incorporated according to law, represented by Mr. Michel Nadeau, hereby declares that it has taken cognizance of the terms and conditions of the Agreement and declares that it is satisfied therewith.

Canadian Council of Grocery Distributors

by:

Michel Nadeau

SCHEDULES

Schedule A	:	List of Recoverers
Schedule B	:	List of Non-Recoverers
Schedule C	:	Recovery Terms and Conditions Part 1 : Non-reusable Secondary Packaging and Recovery Bags Part 2 : Set-off and Adjustment Rules
Schedule D	:	Identification of Containers
Schedule E	:	Auditor's Report and Declaration
Schedule F	:	Special Quotas
Schedule G	:	Registration Form

SCHEDULE A

List of Recoverers
(available separately)

Name or Corporate Name
of Registrant

Home or Principal Place of
Business Address

Mailing Address

SCHEDULE B

List of Non-Recoverers
(available separately)

Name or Corporate Name
of Registrant

Home or Principal Place of
Business Address

Mailing Address

SCHEDULE C

Recovery Terms and Conditions

Part 1

Non-reusable Secondary Packagings and Recovery Bags

1. All non-reusable secondary packagings of the containers contemplated in the Agreement must be such that they may be used to return the containers (except where a bag or another type of secondary container is provided for such return), be recyclable and be of such size and configuration that containers of a similar unit volume may be accommodated therein.
2. RECYC-QUÉBEC shall ensure that bags to be used for the recovery of “can-type” containers are available to the Registrants, at a reasonable cost. A Registrant shall provide a sufficient number of such bags to the Retail Establishments it serves, free of charge or on the basis of reasonable terms of deposit at a reasonable cost.
3. Bags used for the recovery of containers shall meet such volume, resistance and colour standards as may be established by RECYC-QUÉBEC and bear such distinctive mark as the latter may require, for control purposes.
4. Where it deems that a type of non-reusable secondary packaging does not comply with section 1, RECYC-QUÉBEC may, in addition to the other remedies it may have, enact standards by which to render such type of packaging in compliance.
5. A standard requirement in accordance with section 3 or 4 shall come into force as soon as RECYC-QUÉBEC notifies the Signatories and Registrants thereof or as of such subsequent date as specified in the notice.

Part 2

Set-off and Adjustment Rules

1. The statement of accounts between RECYC-QUÉBEC and a Recoverer, as pertains to the sums due pursuant to paragraph 7.1.2 and subsection 7.2 of the Agreement, shall be reconciled monthly pursuant to the terms and conditions that RECYC-QUÉBEC may determine.
2. RECYC-QUÉBEC shall adjust any claim of a Recoverer on a quarterly basis relating to a difference between:
 - 2.1 the number of containers declared by the Recoverer as having been recovered pursuant to the Agreement during such three-month period; and

2.2 the number of containers that the Recoverer has entrusted for recycling or of which it has otherwise disposed pursuant to the Agreement during such period, as evaluated by RECYC-QUÉBEC according to its own accounts, weighings, measures, controls, samplings, examinations or statements or those of conditioning or recycling organizations certified by RECYC-QUÉBEC in accordance with the Agreement,

it being stipulated that the Recoverer is obliged to pay to RECYC-QUÉBEC, on notice of such adjustment, a sum equal to the result obtained when the unit amount of the deposit and the fee for encouragement is multiplied by the excess of the number referred to in subsection 2.1 over that which is contemplated in subsection 2.2.

3. RECYC-QUÉBEC may, if it so deems appropriate to the adequate control of the containers recovered pursuant to the Agreement, exempt, on the terms it establishes, a Recoverer from the obligation incumbent thereon by reason of any adjustment contemplated in section 2
4. All sums due because of an adjustment provided for hereinabove are payable immediately and shall bear interest at a rate equivalent to the rate determined for debts owed to the Crown in pursuance of section 28 of the *Act respecting the Ministère du Revenu* (R.S.Q., chapter M-31), as amended from time to time.

SCHEDULE D

Identification of Containers

1. All Recyclable Containers must indicate clearly and legibly (in characters of at least twelve points) by stamping or dying, with an indelible inscription, a label or another means solidly affixed to the container:
 - 1.1 the amount of deposit applicable to the container;
 - 1.2 the word “Québec”; and
 - 1.3 the terms “consignee” and “refund” or “deposit”.
2. Each of the required inscriptions pursuant to section 1 may not appear:
 - 2.1 under the container only; or
 - 2.2 on a part of the container, notably on a crown cap or a rotor cap or on a metallic or metallized cover, which may be removed or that is pushed in order to open it.

In the case of a can-type container, such inscriptions must appear on the cover.
3. The inscriptions must be in a colour that contrasts with the container colour or the background colour of any other label or inscription affixed to the container.
4. In respect of the deposit provided for in this Agreement, only the aforementioned inscriptions shall appear on the containers. Any other inscription in respect of any deposit or processing of such container or similar containers in the other jurisdictions is prohibited.

SCHEDULE E

Auditor's Report

To the Directors of _____

I (We) have verified the appended declaration in respect of the quotas of sales in non-refillable containers as well as the quantities of Recyclable Container sold and recovered for the period from January 1 to December 31, 20____, in accordance with subsections 4.6 and 5.4 of the Agreement relating to the Consignment, Recovery and Recycling of Non-Refillable Beer Containers (the "Agreement"). The responsibility of such financial information falls to the management of _____. My (Our) responsibility consists of expressing an opinion on such financial information on the basis of my (our) audit.

My (Our) audit was carried out in accordance with generally accepted standards. Such standards require that the audit be planned and executed so as to provide a reasonable assurance that the enclosed declarations are exempt from serious inaccuracies. The audit includes audit testing of audit evidence in support of the amounts and other information provided in the financial information. It also includes a valuation of the accounting principles followed and significant estimations made by management, as well as an assessment of the overall presentation of the financial information.

In my (our) opinion, such declarations present faithfully, in all material respects, a faithful image of the Number of Non-Refillable Containers and the Total Number of Sales of Containers (as such expressions are defined in the Agreement) as well as the quantities of Recyclable Containers sold and recovered during the period from January 1 to December 31, 20____, in accordance with the provisions of subsections 4.6 and 5.4 of the Agreement.

Chartered Accountant(s)

City: _____

Date: _____

DECLARATION COVERING THE PERIOD FROM JANUARY 1 TO DECEMBER 31, __1

SUBSECTION 5.4 OF THE AGREEMENT

I. Quantities of Recyclables Containers Sold, Delivered or Given and Recovered

		Recyclable aluminium containers	Recyclable plastic containers	Recyclable glass containers
<hr/>				
A)	<u>Total quantity of containers sold, delivered or given and recovered:</u>			
	Total quantity of containers sold, delivered or given	(500)	_____	_____
	Total quantity of containers recovered	(501)	_____	_____
B)	<u>Establishment of the quantities subject to indemnity calculation:</u>			
	Minimum recovery % (as per subsection 5.4 of the Agreement)	(521)	_____%	_____%
	Maximum recovery % (as per subsection 5.4 to the Agreement)	(522)	_____%	_____%
	Minimum required recovery quantity (line 500 x line 521)	(523)	_____	_____
	Maximum authorized recovery quantity (line 500 x line 522)	(524)	_____	_____
	Quantity differing from minimum threshold (line 523 - line 501) Positive balance only	(526)	_____	_____
	Quantity differing from maximum threshold (line 501 - line 524) Positive balance only	(527)	_____	_____

DECLARATION COVERING THE PERIOD FROM JANUARY 1 TO DECEMBER 31, __2

-
- 1 This declaration must be audited by an independent chartered accounting firm and appended to the Auditor's Report issued thereby.
 - 1 This declaration must be audited by an independent chartered accounting firm and appended to the Auditor's Report issued thereby.

SUBSECTION 5.4.OF THE AGREEMENT (continued)

I. Quantities of Recyclables Containers Sold, Delivered or Given and Recovered

	Recyclable aluminium containers	Recyclable plastic containers	Recyclable glass containers
<hr/>			
C) <u>Indemnity calculation:</u>			
Non-reimbursable unit contribution applicable to the minimum (as per subsection 5.4 of the Agreement)	(551) _____ \$	_____ \$	_____ \$
Total non-reimbursable contribution applicable to the minimum (line 526 x line 551)	(552) _____ \$	_____ \$	_____ \$
Maximum non-reimbursable unit contribution (as per subsection 5.4 of the Agreement)	(554) _____ \$	_____ \$	_____ \$
Total non-reimbursable contribution applicable to the maximum (line 527 x line 554)	(555) _____ \$	_____ \$	_____ \$
Total amount due to RECYC-QUEBEC (total of lines 552 and 555 amounts)		(556) _____ \$	

DECLARATION COVERING THE PERIOD FROM JANUARY 1 TO DECEMBER 31, ___3

SUBSECTION 4.6 OF THE AGREEMENT

II. QUOTAS

(A) Number of containers sold, delivered or given

Number of Non-Refillable Containers (400) _____ containers

Total Number of Sales of Containers (401) _____ containers

(B) Establishment of the Number of Non-Refillable Containers Subject to Calculation of the Indemnity

Quotas in force during the period
(in accordance with subsection 4.6
of the Agreement) (421) _____ %

Maximum Number of Non-Refillable Containers
Authorized (line 401 x line 421) (422) _____ containers

Number of Non-Refillable containers subject to
calculation of the indemnity (line 400 – line 422,
inscribe “0” if the result is negative) (423) _____ containers

(C) Calculation of the Indemnity to be paid

(1) If the line 423 balance represents 10% or less of the line 422 balance:

Calculation of the indemnity to be paid:
(line 423 _____ x \$0.15) (450) _____ \$

(2) If the line 423 balance represents more than 10% of the line 422 balance:

Calculation of the indemnity to be paid:
(line 422 _____ x 10%) (451) _____ containers

(line 451 _____ x \$0.15) (452) _____ \$

PLUS :
(line 423 _____ - line 451 _____) x \$0.30

Total (453) _____ \$

Total indemnity to be paid (line 452 plus line 453) (454) _____ \$

(3) Total indemnity due to RECYC-QUEBEC
(line 450 or 454) (455) _____ \$

1 This declaration must be audited by an independent chartered accounting firm and appended to the Auditor's Report issued thereby.

DECLARATION COVERING THE PERIOD FROM JANUARY 1 TO DECEMBER 31, ___ 4

SUBSECTION 4.6 OF THE AGREEMENT

III. Deposits paid at purchase

The Registrant confirms that it paid to a Recoverer, at the time of purchase, with respect to all non-refillable Beer containers it sold, delivered or gave during the period from January 1 to December 31, _____.

1 This declaration must be audited by an independent chartered accounting firm and appended to the Auditor's Report issued thereby.

SCHEDULE F

Special Quotas

1. The rate contemplated in subsection 4.6 of the Agreement is replaced by the following as regards sales or deliveries made to Retail Establishments in the areas indicated below:

Area	Rate
Abitibi Northwestern Quebec	48%
Northern Quebec (north of the 55th parallel)	95%

SCHEDULE G

Registration Form

Agreement dated January 1, 2001 concluded pursuant to the *Act respecting the sale and distribution of beer and soft drinks in non-returnable containers*

Name or Corporate Name of Registrant: _____

Legal Status:

Company or Partnership¹ _____

Sole Ownership

Date of Incorporation: _____

Principal Shareholders
or Partners:

Principal Directors:

Address of Domicile or Principal Place of Business in Quebec:

Mailing Address (if different): _____

List of principal activities of the Registrant (as a percentage of total business volume):

¹ If the Registrant is a company or a partnership, a certified resolution of the directors or of the partners must be annexed, authorizing the Signatory to sign this form.

The Registrant has a Beer distribution network for Refillable Containers (check):

No
Yes

If yes, in the following areas:

Brands of Beer distributed by the Registrant:

Description of containers (materials, size and configuration):

The undersigned (the "Registrant") intends to file with the Minister of Environment an application to obtain a permit pursuant to the *Act respecting the sale and distribution of beer and soft drinks in non-returnable containers* (R.S.Q., chapter V-5.001).

The Registrant declares that it has examined the Agreement dated January 1, 2001 entered into pursuant to said Act, and agrees to be bound by such Agreement, as though it had signed it originally, upon its being listed on Schedule A or B of the Agreement.

It declares that all information provided in this form and in the accompanying documents, if any, is true and complete.

It undertakes to notify RECYC-QUÉBEC of any change made to this form within 15 days. It also undertakes not to sell, deliver or give in Québec or for resale in Québec, Beer in Non-Refillable Containers before, and unless such containers have received prior approval, in writing, by RECYC-QUÉBEC.

Signature

Date

Name and title of signatory
(in block letters)

Telephone: () _____

Fax: () _____

**AN ACT RESPECTING THE SALE AND DISTRIBUTION OF BEER AND SOFT DRINKS
IN NON-RETURNABLE CONTAINERS (R.S.Q., c. V-5.001)**

- Interpretation, **1.** In this Act,
- “beer”; “beer” means the beverage obtained by the alcoholic fermentation in drinking water of an infusion or decoction of barley malt, hops or any other similar product;
- “soft drink”; “soft drink” means aerated water to which an essence or syrup has been added;
- “permit”; “permit” means a permit prescribed by section 2 of this Act.
- 1984, c. 30, s. 1.
- Non-returnable containers. **2.** Except in the case of a retail sale or a delivery made following such sale, no person may sell or deliver beer or soft drinks in non-returnable containers unless he holds a permit issued for that purpose by the Minister of the Environment and Wildlife.
- 1984, c. 30, s. 2; 1984, c. 36, s. 44; 1988, c. 41, s. 89; 1994, c. 16, s. 51; 1996, c. 9, s. 2.
- Permit. **3.** No permit may be issued unless the applicant is party to an agreement in conformity with the prescriptions of the regulations made under this Act, entered into with the Minister and the Société québécoise de récupération et de recyclage incorporated under the Act respecting the Société québécoise de récupération et de recyclage (chapter S-22.01), or unless he complies with the regulations adopted pursuant to section 70 of the Environment Quality Act (chapter Q-2) and respecting non-returnable containers for beer or soft drinks.
- 1984, c. 30, s. 3; 1990, c. 23, s. 38; 1994, c. 17, s. 75; 1996, c. 9, s. 3.
- Revocation or suspension. The Minister, on such conditions as he may determine, may revoke or suspend any permit if its holder fails to comply with the provisions of an agreement entered into under section 3, ceases to be a party to the agreement or does not comply with the regulations adopted pursuant to section 70 of the Environment Quality Act (chapter Q-2) and respecting non-returnable containers for beer or soft drinks.
- Observations. The Minister shall, before revoking or suspending any permit, notify the permit holder in writing as prescribed by section 5 of the Act respecting administrative justice (chapter J-3) and allow the holder at least 10 days to present observations.
- 1984, c. 30, s. 4; 1984, c. 36, s. 44; 1988, c. 41, s. 89; 1990, c. 23, s. 39; 1994, c. 16, s. 51; 1994, c. 17, s. 75; 1996, c. 9, s. 4; 1997, c. 43, s. 410.
- Non-returnable containers. **4.1.** No person may, as part of a retail sales operation, offer for sale or sell beer or soft drinks in non-returnable containers, or distribute beer or soft drinks free of charge in non-returnable containers, unless the containers are marked as required under an agreement or the regulations referred to in section 3.
- 1996, c. 9, s. 5.
- Non-returnable containers. **4.2.** Every person who, as part of a retail sales operation, offers for sale or sells beer or soft drinks in non-returnable containers, or distributes beer or soft drinks free of charge in non-returnable containers, must accept the return of empty containers that are marked as required under an agreement or the regulations referred to in section 3, and refund the refundable portion of the deposit.
- Applicability. The first paragraph does not apply where the beer or soft drinks are sold, offered for sale or distributed free of charge for consumption on the premises, or by means of an automatic

vending machine.

1996, c. 9, s. 5.

Regulations. The Government may make regulations. 1984, c. 30, s. 5.

Offences and penalties. **6.** Every person who contravenes any of sections 2, 4.1 or 4.2 is liable to a fine of not less than \$600 nor more than \$30_000 for a first offence;
(2) of not less than \$1_200 nor more than \$60_000 for any subsequent offence.

Offences and penalties. Every person who contravenes the provisions of an agreement entered into under section 3 is liable to the same penalties.
1984, c. 30, s. 6; 1990, c. 4, s. 635; 1992, c. 61, s. 433; 1994, c. 17, s. 75; 1996, c. 9, s. 6.

Offence continued. **7.** Where an offence described in section 6 continues for more than one day, it constitutes a separate offence for each day during which it continues.
1984, c. 30, s. 7.

8. (Repealed).

1984, c. 30, s. 8; 1990, c. 4, s. 636.

9. (Omitted).

1984, c. 30, s. 9.

Minister responsible. **10.** The Minister of the Environment and Wildlife is responsible for the administration of this Act.
1984, c. 30, s. 10; 1984, c. 36, s. 44; 1988, c. 41, s. 89; 1994, c. 16, s. 51; 1996, c. 9, s. 7.

11. (This section ceased to have effect on 27 June 1989).

1984, c. 30, s. 11; U. K., 1982, c. 11, Sch. B, Part I, s. 33.

12. (Omitted).

1984, c. 30, s. 12.

BEER AND SOFT DRINKS DISTRIBUTORS, PERMITS REGULATION (R.R.Q., chapter V-5.001, r. 1)

1. A permit issued under the *Act respecting beer and soft drink distributors, permits* (R.S.Q., c. V-5.001) shall be valid for a maximum duration of twelve months. A new permit may be issued at the end of such term.

2. A carrier delivering on behalf of the holder of a permit issued under the Act shall be exempted from holding such a permit.

3. In addition to what the Minister of the Environment and Wildlife may agree, the following principles and restrictions shall apply to an agreement covered by section 3 of the Act:

(1) non-returnable containers used for the sale or delivery of beer or soft drinks shall be suitable for recycling;

(2) a consignment system shall be set up in order to promote the recovery of non-returnable containers used for the sale or delivery of beer or soft drinks;

(3) a recovery system shall be set up for non-returnable containers used for the sale or delivery of beer or soft drinks, so that:

(a) each distributor of beer or soft drinks who is a party to an agreement entered into with the Minister of the Environment and Wildlife is identified as a recoverer or a non-recoverer, depending upon whether he is required by the terms of the agreement to recover empty beer or soft drink containers;

(b) the recovery zone of a recoverer shall correspond to the zone where he regularly delivers beer or soft drinks to retail stores in refillable containers;

(c) each recoverer shall be bound to recover as many empty non-refillable beer or soft drink containers within his recovery zone as he sells;

(d) no recoverer or non-recoverer may sell or deliver in Quebec or for resale in Quebec beer or soft drinks in non-refillable containers purchased from a person who he has reasonable grounds to believe does not hold a permit under the Act;

(e) no soft drink distributor who is a recoverer may sell or deliver in Quebec or for resale in Quebec soft drinks in non-refillable containers otherwise than:

i. directly to a distributor of soft drinks who is a recoverer;

ii. within his recovery zone, directly to any person, where he has no reasonable grounds for believing that such soft drinks are resold or delivered in Quebec or are liable to be resold or delivered in Quebec outside his recovery zone;

iii. directly to a retail store or an association of retail stores, where such sale or delivery involves soft drinks identified solely by mark belonging by that retail store or association of retail stores and that are resold to consumers exclusively by such retail store or chain of retail stores; or

iv. directly to a carrier for delivery, where such delivery, if he made it himself, would be permitted under this sub-paragraph (e);

(f) no non-recoverer may sell or deliver in Quebec or for resale in Quebec soft drinks in non-refillable containers purchased from a soft drink distributor who is a recoverer except:

i. in the manner covered by clause (i) or clause (iii) of sub-paragraph (e); or

ii. within the recovery zone of such distributor, directly to any person, where such non-recoverer has no reasonable grounds for believing that such soft drinks are resold or delivered in Quebec or are liable to be resold or delivered in Quebec outside the recovery zone of such distributor;

(g) a non-recoverer who used non-refillable containers to sell or deliver beer or soft drinks shall share the financial burden of recovering such containers;

(4) a procedure shall be laid down under which a contribution shall be payable above a certain volume of sales so as to check the number of non-returnable containers used for the sale or delivery of beer or soft drinks.

4. *(Omitted)*

D1542-84, (1984) O.G. II, 3566; D1777-84, (1984) O.G. II, 4017; D1683-97, (1997) 129 O.G. II, 8186.

NAME OF THE COMPANY OR THE PARTNERSHIP

RESOLUTION

RESOLVED:

“THAT the Company (or Partnership) be a party to the Agreement dated January 1st, 2001 entered into pursuant to the *Act Respecting the sale and distribution of beer and soft drinks in non-returnable containers*;

THAT the _____, Mr. (Mrs) _____
(title) (name)

be hereby authorized to complete and sign a Registration Form contemplated by Schedule G of the said Agreement and to do all such other things and sign all such other documents as may be necessary or useful to give effect to this Resolution.”

CERTIFICATE

I, the undersigned, secretary of _____ hereby certify that the preceding is the complete and exact text of the Resolution adopted by the Directors of the Company (or Partnership); I further certify that this Resolution is in full force and effect as at the date hereof, without modification.

(date)

(signature)

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