

THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN

BY-LAW NO. 2011-37

Being a by-law to authorize an agreement
for e-waste processing with GEEP Canada.

WHEERAS the Council of the Corporation of the Municipality of Magnetawan deems it desirable to enter into an agreement with GEEP Canada for the processing of e-waste recycling services.

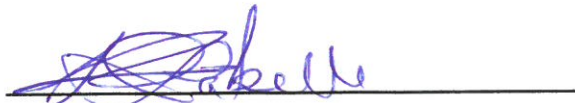
NOW THEREFORE the Council of the Corporation of the Municipality of Magnetawan enacts as follows:

1. That the Mayor and the Clerk be authorized to execute the attached agreement referred as Schedule 'A' to this by-law.
2. That this by-law be effective retroactive January 1, 2011.

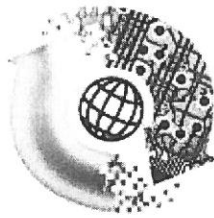
Read a first time, second and third time and adopted this
12th day of October 12, 2011.



Mayor



Clerk



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Schedule 'A' to
By-Law no. 2011-37

Services Agreement

This Recycling Services Agreement is made by and between GEEP, ("GEEP"), and *The Municipality of Magnetawan*. ("Client"). Client and GEEP are each referred to herein as a "Party" and collectively as the "Parties". In consideration of the mutual promises, terms, conditions, and provisions contained in and/or incorporated into this Agreement, and the other Appendices and/or Exhibits attached or otherwise incorporated herein (collectively, and as amended from time to time, the "Agreement"), the Parties agree as follows:

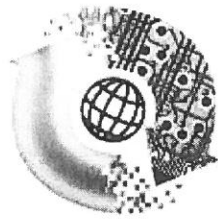
Recitals. GEEP provides asset management and recycling services to various industries and provides environmentally responsible end-of-life processing services. It reconditions, refurbishes, and remarkets computers, electronic systems and peripherals which meet or exceed technology cut lines. Client desires to provide GEEP with electronic equipment for asset management and recycling services on the terms and conditions described in this Agreement and the Statement of Work attached hereto as Appendix A and Appendix B.

Defined Terms. Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in Section 2, as the same may be amended from time to time

Appendices and Exhibits. The following Appendices, Exhibits and/or Schedules (and any documents or data referenced therein) are expressly incorporated into and are made an integral part of this Agreement:

- *Appendix A* – Statement of Work (Recycling), Pricing and Payment Terms.

- I. **Services.** Client engages GEEP to provide Services and GEEP agrees to provide Services from time to time by arranging shipments of Material and/or Equipment and/or accepting Client pick-up requests transmitted by Client. Any and all Services shall be and are subject to the terms and conditions of this Agreement. Services shall be rendered and under this Agreement only pursuant to the Statement of Work or pursuant to a GEEP purchase order or job order. If Client uses a purchase order or similar document in connection with any transaction hereunder, Client shall refer to this Agreement. The terms and conditions of Client's standard purchase order or any other document submitted by Client which conflict with or in any way purport to amend any of the terms and conditions of this Agreement are hereby specifically rejected by GEEP and shall be of no force or effect. The terms and conditions of any such standard purchase order or other Client document shall not govern in any way the subject matter of this Agreement or any part thereof unless the same refers to this Agreement, is agreed to in writing by both Parties and is executed by an authorized officer of GEEP and an authorized representative of Client. In the absence of such written modification of this Agreement, the terms of this Agreement shall govern the subject matter hereof in all respects.



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II. **Definitions.** Capitalized terms have the following meanings in the Agreement.

"Addressee" is defined in Section 12.

"Agreement" is defined in the introductory paragraph to these provisions, such term expressly including Appendix A and Appendix B.

"GEEP" is defined in the introductory paragraph to these provisions.

"Equipment" is defined in the Statement of Work.

"Environmental Laws" means any and all laws, statutes, regulations, orders, rules, and ordinances, and judicial and administrative interpretations thereof, whether existing as of the date of this Agreement, previously enforced, or subsequently enacted, of the Canada, any foreign country or of any province, locality or municipality of the Canada or any such foreign country in which Services under this Agreement are carried out or performed or in which transportation, storage or recycling of Hazardous Substances, as defined herein, occurs or of any other governmental or quasi-governmental or administrative authority having jurisdiction, that relate to the prevention, abatement or elimination of pollution.

"Export" or "exportation" shall mean the transfer Material or Equipment outside of the country where the Material is located.

"Export Laws" For Services provided or Material or Equipment sold by Client in other countries, Export Laws shall refer to those laws, rules and other regulations applicable to the export of Material or Equipment pursuant to the performance of the Services thereunder.

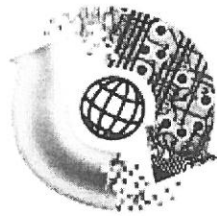
"Hazardous E-Waste" are materials that are classified as a hazardous waste or hazmat recyclable material under EIWHRMR.

"Hazardous Substance" means any substance, pollutant, toxic substance, hazardous waste, hazmat, or petroleum product now or hereafter defined in, denoted by or designated pursuant to the law of any state, locality or municipality, or any governmental or quasi-governmental authority having jurisdiction, or any state in which Services are to be carried out or performed, or in which transportation, storage or disposal of any substance or material related to, or arising from, or any other Environmental Laws, and as any or all of the foregoing may be amended, changed or supplemented.

"Indemnitee" means any Person who properly makes a claim for indemnification under the Agreement.

"Material" is defined in the Statement of Work.

"Notice" is defined in Section 12.



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"Party" and "Parties" are defined in the introductory paragraph to these provisions.

"Person" means an individual, corporation, partnership, limited liability company, firm, association, joint venture, trust, unincorporated organization, government, governmental body, agency, political subdivision or other entity.

"Services" means certain remarketing for reuse and/or recycling services all as more specifically described in the Statement of Work.

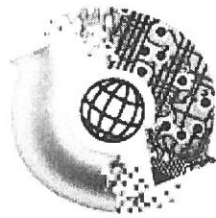
"Statement of Work" refers to Appendix A attached to the Agreement.

"Third Party Claim" is defined in Section XI.B.1.

"Client" is defined in the introductory paragraph to these provisions.

III. **GEEP Commitments.** GEEP warrants and covenants that it will:

- A. Perform, in a safe, responsible and workmanlike manner, the Services for Client regarding Material and or Equipment provided to it by Client (or through a third party for the benefit of Client) and not store Material or Equipment in an off-site location that has not been approved by Client;
- B. Recover or recycle, in a environmentally responsible manner, such Material and or Equipment in compliance with all Environmental Laws and in compliance with all Hazardous Substance laws and regulations;
- C. Ensure compliance with all applicable federal (and applicable provincial) Department of Transportation regulations and Occupational Safety and Health Administration regulations;
- D. (i) Use commercially available technology and reasonable efforts to recycle all Material and or Equipment and any elements, chemicals and/or compounds (in particular, Hazardous Substances) within 30 days of receipt and prevent disposal (landfills and/or incineration or otherwise) of Material and or Equipment to the extent commercially reasonable; (ii) ensure that it and its permitted subcontractors, either directly or through intermediaries, meet all applicable Environmental Laws and prevent shipping of Hazardous Substances to solid waste landfills or incinerators (or otherwise) for disposal or energy recovery; (iv) not export Hazardous Substances or Hazardous E-Waste from developed to developing countries for recycling or disposal (landfill and/or incineration); and (v) track, control and report Material and or Equipment weight throughout the recycling or recovery channel.
- E. Ensure that its representatives, agents, employees and independent contractors, if any, who are present on the premises of Client, will conduct themselves in accordance with the rules applicable to Client visitors and abide by all Client safety and environmental requirements.
- F. Render a Certificate of Destruction to Client for each shipment of



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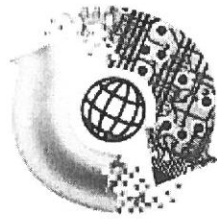
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Material and or Equipment under the Agreement within 30 days of GEEP ' receipt of Material and or Equipment, in the form of Appendix "C" to this Agreement;

- G. Not employ (i) prison labor, or (ii) persons under the legal working age, or (iii) foreign nationals that have not obtained government issued work permits.
- H. Obtain and maintain with reputable insurance companies the minimum insurance coverage's as follows (Canadian Dollars):

General Liability	\$1 million per occurrence \$5 million aggregate
Automobile Liability	\$1 million per occurrence
Workers' Compensation	Provincially Run
Employer's Liability	\$1 million per occurrence
Errors & Omission Liability	\$2 million per claim \$4 million aggregate
Directors & Officers Liability	\$2 million Limit
Environmental Impairment Liability	\$2 million per claim
Umbrella (not Environmental)	\$19 million Limit

- I. Prior to the commencement of any Services, GEEP shall upon request furnish Client insurance certificates, endorsements, or evidence of coverage signed by authorized representatives of the companies providing the coverage required under the terms hereof.
- J. GEEP acknowledges that the exportation of Material and or Equipment hereunder is subject to compliance with Export Laws and GEEP covenants and agrees that it will comply with all such Export Laws with respect to the Services hereunder including all sales of Material and or Equipment and byproducts thereof.
- K. GEEP confirms that it will not export or re-export Material and or Equipment directly or indirectly, either to (i) any countries that are subject to export restrictions or (ii) any end user who has been prohibited from participating in export transactions by any agency of government. GEEP warrants that Material and or Equipment will not be used to develop or produce weapons of mass destruction or sold or licensed to an end user who GEEP knows or has reason to know may utilize the Material and or Equipment directly or indirectly in connection with weapons of mass destruction or nuclear activities. For purposes of this section 3.11, the end user is the party who received the Materials and/or Equipment from GEEP.
- L. GEEP covenants and agrees that it shall screen the reliability of



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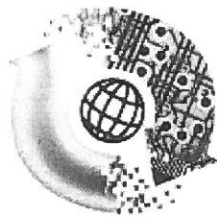
each end user so that the Material and/or Equipment will not be used in a manner which is prohibited under this Agreement, under Export Laws or otherwise, which end user is the party who received the Materials and/or Equipment from GEEP.

- M. Upon Client's request, GEEP shall execute, acknowledge, deliver and to cause to be duly filed all instruments and documents and take actions as Client may from time to time reasonably request to assure that the necessary export requirements have been met and that GEEP has complied with and it complying with all Export Laws.
- N. If required, GEEP will obtain prior authorization for export of the Material and or Equipment. GEEP or GEEP' carrier will prepare export documentation necessary for shipment to GEEP' specified location and GEEP will be responsible for assuring that the appropriate import permits and licenses with respect to the Equipment and/or Materials, including any markings needed for import are obtained. Client reserves the right to immediately terminate this Agreement if GEEP fails to comply with the Export Laws.
- O. GEEP shall comply with guidelines established by the Organization for Economic Cooperation and Development ("OECD") for the Transboundary Movements of Wastes Destined for Recovery Operations, as amended (the guidelines can be accessed at the OECD web site at www.oecd.org).

IV. **Confidentiality, Non-disclosure and Non-Circumvention.**

- A. Each of the Parties to this Agreement may, from time to time, disclose to the other Party information concerning its confidential know-how, trade secrets, business plans, operations and accounting data or other proprietary information ("Proprietary Information") as may be necessary to further the performance of this Agreement. All such Proprietary Information shall remain the sole property of the Party disclosing same. Each Party agrees to keep confidential and not to disclose to any other Person any such Proprietary Information disclosed to it by the other Party except for any disclosures to the disclosing Party's auditors, counsel or other professional advisors on a need to know basis. Each Party agrees that it will hold the Proprietary Information of the other Party with the same degree of care that it holds confidential and proprietary information belonging to it. Without limiting the foregoing, the Parties hereto expressly agree the Proprietary Information which, at the time of disclosure, is in the public domain or which, after disclosure by any person or entity other than the Parties hereto, becomes part of the public domain, shall not be subject to the confidentiality requirements of this Section.

- V. **Payment; Price.** As and when any Services provided hereunder are completed, any amounts due to either the Client or GEEP shall be determined in accordance with the price(s) and upon the terms set forth in the Statement of Work.



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VI. **Representations.**

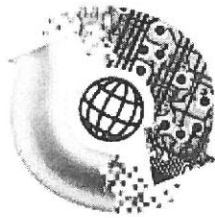
- A. Client represents and warrants Client has good and marketable title to the Material and Equipment. Client makes no representation or warranty as to the condition of the Material or Equipment. **ALL MATERIAL AND EQUIPMENT PROVIDED UNDER THIS AGREEMENT IS PROVIDED ON AN "AS IS" BASIS. CLIENT DISCLAIMS ALL WARRANTIES INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**
- B. Client acknowledges that the Material and Equipment may contain Hazardous Substances.

VII. **Term and Termination.**

- A. The Agreement commences on the date of its acceptance and execution by GEEP and continues until either Party provides the other with at least thirty (30) days prior notice of termination, provided, however, no termination shall effect the duty of one Party to the other Party with regard to any Material and or Equipment delivered or in transit to Client from GEEP or from Client to GEEP, the termination being delayed until all duties with respect to such Material or Equipment in transit have been completed in accordance with this Agreement.
- B. The obligations of the Parties in Sections 3, 4, 5, 8, and Sections 10 through 23, survive any termination or expiration of the Agreement.

VIII. **Shipment; Risk of Loss.** Shipment and risk of loss terms are specified in the Statement of Work.

IX. **Audit and Inspection of GEEP Facility(ies).** Client shall have the right at any time and from time to time during the term of this Agreement (and for a period of five years following the termination of this Agreement), to enter onto GEEP' premises, with reasonable notice, during normal business hours, for the purpose of auditing GEEP' compliance with the terms and conditions of this Agreement provided the conduct of the audit does not interrupt GEEP' normal business operations. GEEP shall make available to Client for purposes of such audits (i) GEEP' books and records of account, records relating to environmental laws and evidentiary records demonstrative compliance to applicable Laws and regulations, health and safety laws and regulations, and any other records reasonably requested by Client and (ii) GEEP' receiving, staging, storage, reconditioning, marketing and reselling and other facilities. Client's audit rights shall include, but not be limited to, physical inventories of Material and or Equipment received by GEEP directly or indirectly from, or otherwise received on behalf of, Client held by GEEP to determine GEEP' level of compliance with Environmental Law and compliance with the requirements of this Agreement. To the extent that GEEP obtains Client's consent pursuant to this Agreement to engage a third party to perform services covered by this Agreement, GEEP shall assure that Client will be provided access to the third party's facilities and operations to evaluate the third party's compliance with the standards established in this Agreement and the representations, warranties and covenants of this Agreement



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X. **Relationship of the Parties; Non-Exclusivity.** Each Party is an independent contractor in performing its obligations under this Agreement. Each Party's employees are not employees or agents of the other Party for any purpose. This is not a requirements contract and this Agreement is non-exclusive. GEEP may use third parties to provide services identical or similar to the Services. GEEP is specifically authorized to delegate any of its duties under this Agreement to any GEEP affiliate, joint venture partner, or entity certified by GEEP to process the Materials and Equipment in accordance with GEEP' operating standards. GEEP has not committed to provide any particular volume of Material and or Equipment or Services to Client.

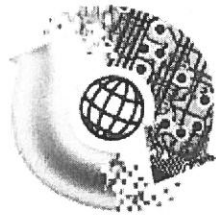
XI. **Indemnification.**

A. *General.* GEEP will indemnify and hold Client and its officers, directors, employees, agents and customers (Client and such Persons being collectively the "Indemnitees") harmless from any loss, damage (including, but not limited to, natural resource damages, and health and safety claims), claim, demand, suit, liability, civil penalties (including removal and remedial costs), cost or expense (including, without limitation, fines, penalties and attorneys' fees) arising out of or caused in whole or in part by:

1. performance of or failure to perform Services by GEEP or any of GEEP' subcontractors (or any of their employees, representatives, officers and/or directors);
2. any failure by GEEP to perform its obligations under this Agreement;
3. any claims of any type, kind or character made by GEEP' employees, representatives, subcontractors or contractors including, but not limited to, those relating to exposure to, or handling, storage or disposition of, Material and or Equipment or performance of Services pursuant to or subject to this Agreement (whether on or off the premises of GEEP or Client), other than any arising from intentional misconduct of Client or its employees. GEEP hereby waives all claims and causes of action against each and any Indemnitee for any and all injuries suffered by GEEP' employees, other than any arising from intentional misconduct of Client or its employees;
4. any arising under Environmental Laws; and
5. any breach of any representation, warranty or covenant in this Agreement by GEEP.

B. *Third Party Claims.*

1. *Notice of Third Party Claim.* If any third party makes any claim or brings any action, suit or proceeding against an Indemnitee (a "Third Party Claim") with respect to which GEEP may have liability, the Indemnitee must promptly notify GEEP in writing within fifteen (15) days of Client's knowledge of the existence of the Third Party Claim of the Third Party Claim and deliver to GEEP a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Receipt of this notice is a condition precedent to GEEP' liability with respect to the Third Party Claim.
2. *GEEP Assumption of the Defense.* If GEEP wishes to assume the defense of a Third Party Claim, it shall do so by sending notice of the assumption to the Indemnitee. GEEP' assumption of the defense acknowledges its obligation to indemnify. Promptly after sending the notice, GEEP shall choose and employ independent legal counsel of reputable standing, which counsel shall be reasonably satisfactory to Client (which consent shall not be unreasonably



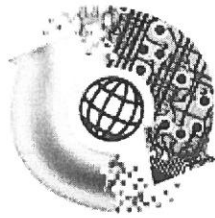
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withheld or delayed). After sending the notice, GEEP is entitled to contest, pay, settle or compromise the Third Party Claim as it determines, subject to the provisions of subsection XI.B.3.b

3. *Compromise and Settlement of Third Party Claims.*
 - a. *General Rule.* If GEEP assumes the defense of a Third Party Claim, it may not affect any compromise or settlement of the Third Party Claim without the consent of the Indemnitee, and the Indemnitee has no liability with respect to any compromise or settlement of a Third Party Claim affected without its consent.
 - b. *Exceptions.* Despite the provisions of subsection XI.B.3.b
 - i. GEEP may effect a compromise or settlement of a Third Party Claim without an Indemnitee's consent *if* the following three conditions are met:
 1. There is no finding or admission of any violation of law or any violation of the rights of any person and no effect on any other claim that may be made against the Indemnitee;
 2. The sole relief provided is monetary damages that are paid in full by GEEP or GEEP' insurance carrier; and
 3. The compromise or settlement includes, as an unconditional term, the claimant's or the plaintiff's release of the Indemnitee, from all liability in respect of the Third Party Claim.
4. *Insurance.* Any and all deductibles in insurance policies maintained by GEEP shall be assumed by, for the account of, and at the sole risk of GEEP. Neither having insurance coverage nor the lack thereof shall serve to reduce or limit GEEP' indemnification obligations herein.
- C. *Cross indemnification.* Client shall indemnify and hold GEEP harmless for any and all liabilities incurred by GEEP or Client as a result of any Third Party Claim made against GEEP or Client related to any hazardous material included with the Materials and/or Equipment not expressly identified in writing to GEEP prior to the processing of said items.

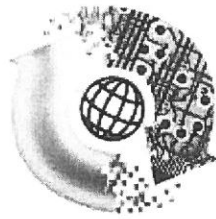
XII. **Notices.** Each Party giving or making any notice, request, demand, instruction or other communication (each, a "Notice") shall do so in writing and shall, except as described below, use one of the following methods of delivery, each of which, for purposes of the Agreement, is a writing: personal delivery, first-class mail, nationally recognized overnight courier (with all fees prepaid), or facsimile. Any Party giving a Notice shall address it to the appropriate person at the receiving Party (the "Addressee") at the address listed on the signature page to the Agreement or to another Addressee or at another address as designated by a Party in a Notice. Except as provided elsewhere in the Agreement, a Notice is effective only if the Party giving the Notice has complied with this Section and if the Addressee has received the Notice.



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- XIII. **Governing Law; Venue.** The laws of the Provinces of Canada (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to the Agreement and all of the transactions it contemplates, including, without limitation, its validity, interpretation, construction, performance and enforcement and any matters sounding in tort. The parties will attempt in good faith to resolve any controversy promptly by negotiations between executives of the parties (if appropriate, with their respective counsel), and if such negotiations fail, by binding arbitration (Arbitration and Mediation Institute of Canada Inc). The proper venue for the arbitration shall be in Barrie, Ontario, Canada. Each party shall select an arbitrator, which arbitrators shall then select a third arbitrator who shall hear the dispute. The determination of the arbitrator shall be binding upon all parties and which final determination shall be rendered by the arbitrator within one hundred eighty (180) days from the date the demand of arbitration is filed. This Agreement shall not limit a party's right to seek injunctive or equitable relief for breach of confidentiality obligations and proprietary rights.
- XIV. **Amendments.** The Parties may not amend the Agreement, except by written agreement of the Parties that identifies itself as an amendment to the Agreement.
- XV. **Severability.** If any provision of the Agreement is determined to be invalid, illegal or unenforceable, the remaining provisions of the Agreement remain in full force, if the essential terms and conditions of the Agreement for each Party remain valid, binding, and enforceable.
- XVI. **Merger.** The Agreement constitutes the final agreement between the Parties. It is the complete and exclusive expression of the Parties' agreement on the matters contained in the Agreement. All prior and contemporaneous negotiations and agreements between the Parties on the matters contained in the Agreement are expressly merged into and superseded by the Agreement. The provisions of the Agreement may not be explained, supplemented or qualified through any purchase order, bill of lading or similar document or evidence of trade usage or a prior course of dealings. There are no conditions precedent to the effectiveness of the Agreement.
- XVII. **Counterparts.** The Parties may execute the Agreement in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement. The signatures of all of the Parties need not appear on the same counterpart. One or more counterparts may be delivered by facsimile or PDF.
- XVIII. **Successors and Assigns.** The Agreement binds and benefits the Parties and their respective heirs, executors, administrators, legal representatives and permitted successors and assigns.
- XIX. **Assignment and Delegation; Subcontracts.** Either GEEP or Client may assign its rights and obligations hereunder without the other's approval pursuant to any merger, consolidation, reorganization, or a sale of substantially all of its assets; provided that any such assignment does not relieve either party of its obligations hereunder.



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- XX. **Number and Gender.** Any reference in the Agreement to the singular includes the plural where appropriate, and any reference in the Agreement to the masculine gender includes the feminine and neuter genders where appropriate.
- XXI. **Captions.** The descriptive headings of the Sections and subsections of the Agreement are for convenience only, do not constitute a part of the Agreement, and do not affect the Agreement's construction or interpretation.
- XXII. **Rights and Remedies Cumulative.** The enumeration of a Party's rights and remedies set forth in the Agreement is not intended to be exhaustive. The exercise by a Party of any right or remedy under the Agreement does not preclude the exercise of any other rights or remedies, all of which are cumulative and are in addition to any other right or remedy given under the Agreement or which may now or subsequently exist in law or in equity or by statute or otherwise.

Ron Catcher

From: Nora Gavarre - GEEP Canada <ngavarre@geepglobal.com>
Sent: Sunday, September 11, 2011 7:52 PM
To: roads@magnetawan.com
Subject: Agreement for ewaste processing
Attachments: Municipality of Magnetawan.doc

Hello,

My apologies for the oversight, I just realized I never got you the contract on the payment terms we discussed. Basically this contract states that Geep will pay back to the Municipality of Magnetawan .075/lb for all ewaste received for processing as long as the OES program is in place and provides funding for us to do so.

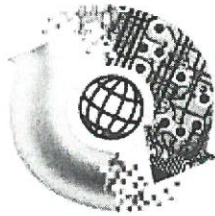
For your own records since we discussed this we have received the following two loads and the payment in Red is what is coming back to the municipality of Magnetawan.

Aug. 4th 9160lb-\$687.00
Aug. 25th 8740 lbs-\$655.50

Please let me know if you have any questions, when you have a chance please sign and scan back to me and we can keep on file.

Regards,
Nora G.

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Position:



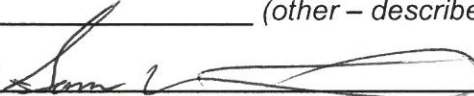
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IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives on the dates set forth below.

Client: Corporation of the Municipality of Magnetawan

(full and proper name of Client)
a _____ (state) corporation, limited liability company, limited partnership, general partnership, resident individual (circle one),
_____ (other - describe)

By: X 
(signature of authorized representative)

Name (print): SAM DUNNETT

Title: MAYOR

Date: OCTOBER 12, 2011

Email: _____
(Notice by email is not permitted)

GEEP,

By: _____

Name: Chris Gariepy

Title: Vice President

Date: _____

Email: cgariepy@geepglobal.com

Client Notice Address:
Attn (insert contact): _____
Fax: (____) _____

Client Pay/Remit To Address:

Attn (insert contact): _____

Fax: (705) 387-3844 / Tel.: (705) 347-3947



Roger Labelle, Clerk
Commissioner for taking Oaths,
Municipality of Magnetawan,
District of Parry Sound.

For GEEP Use Only:

* * *