

## **Snow and Ice Maintenance Contract between Owner and Contractor**

1. In consideration of the payments described in Schedule "A" attached hereto, the Contractor shall perform the work (the "Work") described in Schedule "A", at the lands and premises municipally known as \_\_\_\_\_ (the "Premises") during the period commencing the first day of \_\_\_\_\_, 20\_\_\_\_ and ending the last day of \_\_\_\_\_, 20\_\_\_\_. Schedules "A", "B" and "C" are to be read into and form part of this Agreement.

2. If requested to do so by the Owner, the Contractor shall provide evidence of compliance with applicable workers' compensation legislation, including payments due thereunder. The Contractor shall maintain at its own expense Comprehensive General Liability insurance in the minimum amount of \$\_\_\_\_\_ per occurrence for bodily injury, death and property damage and evidence of such insurance shall be provided by the Contractor to the Owner upon the request of the Owner.

3. The Contractor shall be responsible for and shall restore at its expense all damage to the property of the Owner caused by the Contractor in the performance of the Work which damage was not reasonably foreseeable as a consequence of the Contractor's performance of this Agreement. The Owner acknowledges that some damage to the property of the Owner is reasonably foreseeable as a consequence of the Contractor's performance of this Agreement, which reasonably foreseeable damage includes, but is not limited to, damage to concrete, asphalt, sod, grass and planting materials due to the application of ice melting products and surface damage to curbs and asphalt due to the clearing of snow and ice.

4. The Contractor shall indemnify and hold harmless the Owner, its agents and employees from and against any claim for damages arising from an occurrence of bodily injury or death or the destruction of tangible personal property provided that the damages are caused by the negligence or breach of this Agreement of the Contractor or anyone for whom the Contractor is responsible in law and provided that the Contractor is given notice of the claim by the Owner within a reasonable time following the occurrence but in any event within 48 hours of the Owner first acquiring knowledge of the circumstances of the claim. The Owner expressly waives the right to be indemnified by the Contractor and agrees to indemnify and hold harmless the Contractor, its agents and employees from and against any claim for damages save and except those which arise due to the negligence or breach of this Agreement of the Contractor and as are described in this Article 4.

5. If there is a conflict within this Agreement, the *Site Map* (if any) takes precedence over the *Drawings and Specifications*, the *Drawings and Specifications* take precedence over Schedule "A" and Schedule "A" takes precedence over the remainder of the Agreement. This Agreement constitutes the whole of the agreement between the Parties and supersedes all prior negotiations, representations or agreements.

6. The Owner expressly acknowledges that it has physical possession of, is responsible for and has control over the condition of the Premises. If the Contractor is delayed in the performance of any portion of the Work by the application of a by-law, by a stop work order (providing the order was not issued as a result of an act or omission of the Contractor), by labour disputes, lock outs, fire, or by any other circumstance reasonably beyond the Contractor's control, including extremely heavy winter conditions, then the time for the performance of that portion of the Work shall be extended until the Contractor is no longer so delayed. If during any particular attendance the Contractor is unable to perform Work in an area of the Premises due to the presence of any vehicles, structures or equipment on the Premises, the Contractor will not be required to perform the Work in those areas until the Contractor's next attendance at the Premises.

7. Should the Contractor fail to comply with the requirements of this Agreement to a substantial degree, the Owner may notify the Contractor in writing that the Contractor is in default of its contractual obligations and instruct the Contractor to correct the default within 5 business days. If the Contractor fails to correct the default in the time specified or subsequently agreed upon, the Owner may correct the default and deduct the cost thereof from any payment due to the Contractor or terminate the Agreement. If the Owner so terminates the Agreement, the Contractor shall be entitled to be paid for the value of all Work performed to the date of the termination.

8. Notices under this Agreement must be in writing and must be delivered in person or sent by fax or registered mail to the Owner at \_\_\_\_\_ or to the Contractor at \_\_\_\_\_. A notice will be considered to have been given or made on the day that it is delivered, or, if mailed, five (5) business days after the date of mailing. Either party may give notice to the other of a change in the address set out above and if such notice is given the address specified in that notice will then apply for the purposes of giving notices under this Agreement.

<b>[CONTRACTOR]:</b> <i>(insert full name of Contractor)</i>	Date: _____	<b>[OWNER]:</b> <i>(insert full name of Owner)</i>	Date: _____
Per: _____	Per: _____	I Have the Authority to Bind the Corporation	

# **Schedule “A” To The Snow and Ice Maintenance Contract Between Owner and Contractor Dated \_\_\_\_\_.**

## **1. Definitions**

The *Drawings and Specifications* are attached as Schedule “B”, form part of this Agreement and also include any site map prepared by the Contractor and approved, before or after execution of this Agreement, by the Owner (the “*Site Map*”).

The *Snow Clearing Areas* are described in the *Drawings and Specifications* and are those areas upon which snow *Clearing* is to occur.

*Snow Stockpiling Areas* are those areas to be determined at the discretion of the Contractor where *Cleared* snow will be accumulated, subject to *Relocation* or *Removal*.

*Clearing* involves moving snow from the *Snow Clearing Areas* to the *Snow Stockpiling Areas* through *Plowing*, *Pushing* or *Shoveling* as specified in the *Drawings and Specifications*. “*Clear*” has a corresponding meaning.

*Plowing* involves the *Clearing* of snow through the use of a plow or blade attached to truck vehicle. *Plow* has a corresponding meaning.

*Pushing* involves the *Clearing* of snow through the use of a plow attached to a vehicle or motorized piece of equipment which is not a truck vehicle, including a front-end loader. *Push* has a corresponding meaning.

*Shoveling* involves the *Clearing* of snow through the use of hand tools, including shovels pushers, blowers and brooms. *Shovel* has a corresponding meaning.

*Relocation* involves relocating snow from the perimeter of the *Snow Clearing Areas* to another location on the *Premises* in accordance with the *Drawings and Specifications* or as directed by the Owner. *Relocate* has a corresponding meaning.

*Removal* involves relocating snow from the perimeter of the *Snow Clearing Areas* to a location outside the *Premises* in accordance with the *Drawings and Specifications* or as directed by the Owner. *Remove* has a corresponding meaning.

*Ice Melting Products* are products such as salt and other non-chlorides which are generally applied to reduce the risk of a slip and fall. The Contractor is NOT being retained to apply *Ice Melting Products* under this Agreement.

*Ice Management Services* our services and processes designed to address ice accumulation and to manage the risk of the slip and fall, which include but are not limited to the application of *Ice Melting Products*. The Contractor is NOT being retained to provide *Ice Management Services* under this Agreement.

A *Snowfall* commences when snow begins to accumulate upon the *Premises* and ends when the continuous accumulation upon the *Premises* ceases.

## **2. Description of the Work**

2.1 The Contractor will attend at the *Premises*, within \_\_\_\_ hours of the first accumulation of \_\_\_\_” of snow during a *Snowfall*, to commence snow *Clearing* once in accordance with the *Drawings and Specifications*. If a further accumulation 2” occurs during a *Snowfall*, the Contractor will return to commence a second pass to again *Clear* the snow within \_\_\_\_ Hours of the end of that *Snowfall*. The first \_\_\_\_\_ *Snowfalls* will be included as part of the *Fixed Price Work*, after which the Contractor will be paid for each additional *Snowfall*, as *Additional Work*, the sum of \$\_\_\_\_\_ not including applicable taxes. (insert “unlimited” and “nil” if applicable)

2.2 The Owner acknowledges that there are *Ice Melting Products* and standards of *Ice Management Services* available which are designed to manage the risk of a slip and fall. The Owner shall at its sole discretion determine if, when and to what extent such *Ice Melting Products* or *Ice Management Services* will be utilized at the *Premises* during the entire Term of this Agreement. In that regard the Owner will have the sole responsibility to engage a reasonable and effective system to monitor and manage the potential and actual accumulation of ice on the *Premises*. The Contractor will not be responsible for any damages or claims whatsoever relating to or caused in whole or in part by the failure to provide *Ice Melting Products* or *Ice Management Services* to the *Premises* and the Owner will indemnify and save the Contractor and its agents and employees harmless from and against any such claims.

**Fixed Price with Ice Melting Product Applications NOT Included**

2.3 Unless the *Drawings and Specifications* provide otherwise, neither *Snow Removal* nor *Snow Relocation* are included as part of the *Fixed-Price Work* but must be requested by the *Owner* as *Extra Work* in accordance with paragraph 3, below. The Contractor will advise the Owner if, in the Contractor's opinion, *Snow Removal* or *Snow Relocation* should be performed and, should no approval for *Extra Work* in that regard be provided, the Contractor will not be responsible for losses or damages which might have been prevented had the *Snow Removal* or *Snow Relocation* occurred.

2.4 The Contractor will keep and maintain records to document its attendances on site, and will make those records available to the Owner upon reasonable request if the Owner pays the reasonable photocopying charges associated with the request.

### **3. Extra Work**

3.1 It is not intended that the Contractor should perform any work or services not described in or properly inferable from this Agreement. The Owner may request that the Contractor perform extra work or services ("Extra Work") by contacting the Contractor at \_\_\_\_\_ and by confirming the request to the Contractor in writing by fax at \_\_\_\_\_. The Contractor will not unreasonably withhold its agreement to perform *Extra Work*. If the Contractor agrees to perform *Extra Work*, the Contractor will do so within a reasonable period of time having regard to the timing of the request and the volume of work the Contractor is otherwise committed to. The Contractor will be paid for *Extra Work* an amount as agreed, or as set out in Schedule C.

### **4. Payment**

4.1 In consideration of the performance of the *Fixed Price Work* the Owner will pay the Contractor the price of \_\_\_\_\_ Canadian dollars (\$\_\_\_\_\_), plus applicable taxes, by way of \_\_\_\_ monthly payments of \$\_\_\_\_ + H.S.T. payable from \_\_\_\_\_, 20\_\_ to \_\_\_\_\_, 20\_\_. The Contractor will also invoice the Owner for items of *Additional Work* and *Extra Work*, if any, monthly. All invoices are due and owing within thirty (30) days of the date thereon and unpaid invoices will attract interest at a rate of 2% per month, 24% per annum.

4.2 Should the Owner default in any payment of a monthly installment of the *Fixed Price Work* or invoice for *Extra Work* as aforesaid, the Contractor may give Notice of said default to the Owner and should said default remain uncorrected for a period of (5) five days thereafter, the Contractor without further notice to the Owner may stop work under this Agreement such that all of the Contractor's obligations hereunder will be suspended without limitation, the Owner will have the sole responsibility to engage a reasonable and effective system to monitor and manage the condition of the Premises, the Contractor will not be responsible for any damages or claims whatsoever relating to or caused in whole or in part by the failure to perform services to the Premises and the Owner will indemnify and save harmless the Contractor and its agents and employees from and against any such claims.

<b>[CONTRACTOR]:</b>	<b>[OWNER]:</b>
Date: _____	Date: _____

## Schedule “C” To The Snow and Ice Maintenance Contract Between Owner and Contractor Dated \_\_\_\_\_.

1. Snow *Clearing* for the first \_\_\_\_\_ *Snowfalls* is included as part of the *Fixed Price Work*, after which the Contractor will be paid for each additional *Snowfall*, as *Additional Work*, the sum of \$\_\_\_\_\_ not including applicable taxes. (*insert “unlimited” and “nil” if applicable*)
2. The Contractor will be paid for the performance of *Extra Work*, including *Snow Relocation* and *Snow Removal*, as follows:

Worker Engaged in Snow Shovelling .....	\$ ____ Per Hr. -- ( ____Hr. Min.)
Skid Steer Tractor/Loader with Operator.....	\$ ____ Per Hr. -- ( ____Hr. Min.)
5 Ton Dump Truck with Operator .....	\$ ____ Per Hr. -- ( ____Hr. Min.)
1 Yd Tractor/Loader with Operator .....	\$ ____ Per Hr. -- ( ____Hr. Min.)
¾ -1 Ton Truck with Plow and Operator .....	\$ ____ Per Hr. -- ( ____Hr. Min.)
5 Yd Tractor/Loader with Operator .....	\$ ____ Per Hr. -- ( ____Hr. Min.)
Tandem Dump Truck with Operator .....	\$ ____ Per Hr. -- ( ____Hr. Min.)
Tri Axle Dump Truck with Operator .....	\$ ____ Per Hr. -- ( ____Hr. Min.)
Tipping fees associated with <i>Snow Removal</i>	Actual Cost, plus 10%
Mileage associated with <i>Snow Removal</i>	\$ ____ per km

If rates are not inserted for these items, and in relation to all other items of *Extra Work* , the Contractor will be paid an amount as agreed between the Owner and Contractor.

Notwithstanding that this Agreement does not include for the Application of *Ice Melting Products* by the Owner, should the Owner request that the Contractor apply *Ice Melting Products* to the Premises as *Extra Work*, and should the Contractor agree to that request, the Contractor will nonetheless not be responsible for any damages or claims whatsoever relating to or caused in whole or in part by the failure to provide *Ice Melting Products* to the Premises and the Owner will indemnify and save the Contractor and its agents and employees harmless from and against any such claims.

<b><u>[CONTRACTOR]:</u></b>	<b><u>[OWNER]:</u></b>
Date:_____	Date:_____

**Schedule “C” To The Snow and Ice Maintenance Contract Dated \_\_\_\_\_  
Ice Melting Products and Ice Maintenance Services NOT Included**