

Service Terms and Conditions Contract for Commercial Winter Service

1. Definitions

a. **Contractor** is [Company Name] and is the party who will be performing the snow maintenance work.

b. **Owner** is the party who will pay for the snow maintenance work and/or is the person who has authorization for decision making of the said Premise as denoted in the Agreement.

c. **Parties** are both groups who are entering into the Agreement and denoted as the Contractor and the Owner.

d. **Clearing** involves moving snow from the Snow Clearing Areas to the perimeter of those areas. Snow Clearing will be done through Plowing, Pushing and/or Shoveling as specified in the Drawings and/or specifications. "Clear" has a corresponding meaning.

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

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

g. **Shoveling** involves the Clearing of snow through the use of hand tools, including shovels and brooms, as well as, small equipment. "Shovel" has a corresponding meaning.

h. **Relocation** involves pushing snow from the perimeter of the Snow Clearing Areas to another location on the Premises. "Relocate" has a corresponding meaning.

i. **Removal** involves relocating snow from the Premises to a location outside the Premises. "Remove" has a corresponding meaning.

j. **Work** means such Clearing, Plowing, Pushing and/or Shovelling at the Snow Clearing Areas as selected by the Owner and specifically identified on the Package and Service Options document attaching to this Agreement.

2. Scope: The Contractor will perform the Work to all areas described in the drawing and/or specifications provided by the client and as attached in this agreement (the "**Snow Clearing Areas**") at the lands and premises municipally known as _____ (The Premises) for the period commencing the first day of 15th / Nov / _____, and ending the 15th day of Apr / _____. This Agreement is for a total of **250cm** accumulative of precipitation as recorded by Environment Canada. If this amount is reached a per-time charge will apply and Owner will be made aware. The Work shall be governed by the full terms and conditions of this Agreement, and shall specifically abide by the terms and options of the Owner's chosen Service Options as described in Package and Service Options on page 1 and 2 only and the Contractor shall not be required to perform any services save and except those specifically identified by the Owner and accepted by the Contractor

on the Package and Service Options (the “**Service Options**”). If on a multi-year term, service shall automatically commence on the 15th day of November and end on the 15th day of April of each consecutively contracted season.

3. Agreements: This Agreement constitutes the whole of the agreement between the Parties and supersedes all prior negotiations, representation or agreements. No act or failure to act shall constitute a waiver of any right or duty under this Agreement nor constitutes an approval of or acquiescence in any breach of this Agreement unless expressly agreed to in writing by both the Parties. The invalidity or unenforceability of any provisions of this Agreement by law shall not affect or pass judgment upon the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect throughout the entire duration of this Agreement.

4. Event Definitions: For the purposes of this Agreement, a "Snowfall" officially begins only when cm of snow has accumulated upon the Premises within a period of 24 hours, continues while snow accumulates upon the Premises, and ends only when the continuous accumulation of snow upon the Premises has ceased for a period of 3 hours. A Nuisance Event, which differs from a Snowfall and does not require the Contractor to perform any Work under this agreement, includes any widespread measurable (0-1.5cm or more) occurrence of the following weather conditions: Snow accumulation under cm, sleet, freezing rain, or flash freezing. Where the Owner and the Contractor cannot agree as to whether or not a Snowfall or Nuisance Event has occurred in any particular circumstance, the records, warning, and forecasts of Environment Canada for the location nearest the Premises will be utilized to determine event classification.

5. Conditional: Regardless of the Owner's chosen Service Options, in the event that accumulation of 20cm or more of snow occurs during any single Snowfall, if any single Snowfall persist for longer than 16 consecutive hours, or if any Snowfall begins within 24 hours following another Snowfall, the Contractor shall perform the Work as quickly as possible, however no time deadlines or performance guarantees can be given. In case of any such event, the Contractor will monitor widespread weather conditions and act in accordance with the standards and customs of the snow maintenance industry to perform the Work as quickly and safely as possible. Regardless of the Owner's chosen Service Options, the Contractor can make a maximum of three visits per any 48 hour period. Notwithstanding any of the Contractor's obligations as per this Agreement, the Owner must at all times monitor for and notify the Contractor of any localized adverse, unsafe, dangerous, impassable, slippery, melt and refreeze, or icy conditions arising at the Premises. The Owner agrees to hold the Contractor, its agents, and employees harmless from and against any damages, claims, or losses arising out of the Owner's failure to monitor the conditions of the Premises or failure to properly and timely alert the Contractor of the need for extra service. In classifying an event as a Nuisance Event in any particular circumstance, the Contractor shall monitor the public warnings and forecasts of Environment Canada for the location nearest the Premises and shall apply the meteorological standards and customs of the snow maintenance industry.

6. Service Specifications

a. The Owner acknowledges that application of ice control product and/or Clearing of snow at the Premises will not and cannot result in completely bare pavement surfaces, and that some residual snow or ice may remain depending on pavement type, weather, and site conditions. The Contractor provides no guarantee or warranty that the application of ice control product will be effective in eliminating ice in any particular circumstance.

b. Depending on the weather conditions, length and amount a Snowfall, expected number of visits per Snowfall, amount of traffic, and when performing the Work between the hours of 5:00 AM and 7:00 PM, the Contractor reserves the right to make its first visit to Clear main Plowing thoroughways and one main entrance only, then return to complete all of the Work as traffic and weather conditions allow. The contractor shall not be responsible to provide service for any minor Snowfall of less than cm or Nuisance Event during or after which the ambient surface level air temperature remains above freezing for a period of at least 3 hours, and reserves the right to apply ice control product in lieu of Clearing if weather conditions warrant. The Owner acknowledges that the application of ice control product will be effective in eliminating ice in any particular circumstance. The Contractor will not be responsible for applying any particular ice control products unless those particular Ice Control Products are commercially and reasonably available to, and approved by, the Contractor.

c. The Owner acknowledges that any vehicles left on the Premises may obstruct the Contractor's ability to perform the Work. The Contractor will Clear snow up to within 3 feet away from vehicles, structures, items, buildings, etc, and if any such item is blocking access to any Plowing or Shovelling Areas, the Contractor will only be responsible to Clear the accessible portion of the corresponding Areas.

d. The Owner understands that they must notify the Contractor of any localized adverse, unsafe, dangerous, impassable, slippery, melt and refreeze, or icy conditions, conditions arising at the Premises, and that this Agreement does not include monitoring or service for such conditions. Furthermore, this Agreement does not include the Clearing, removal, disposal, relocation, management, or monitoring of any snowbanks or piles created on the Premises, nor does it include the Clearing, removal, disposal, relocation, management, or monitoring of snowbanks or piles created by municipal snow plowing operations in, on, or near the Premises, nor can the Contractor guarantee any placement, location, size, or footprint of any snowbanks created on the Premises. The Owner acknowledges that it is not possible to perform the Work safely when temperature and wind conditions combine to create a wind-chill factor of below -20 degrees Celsius, or if Snowfall accumulation rates are greater than 1.25 cm per hour. Furthermore, the Owner acknowledges that the Contractor reserves the right to, at any time, in any instance, and at its own sole discretion, stop the Work during such severe conditions so as not to force unsafe conditions upon any of its agents, employees, or vehicles.

7. Delays:

a. If the Contractor is delayed or impeded in the performance of any portion of the Work by the presence of any vehicles, structures, or items on the Premises which interfere with the Contractor's ability to perform the Work, or by an act or omission of the Owner, the Contractor shall not be responsible to complete that portion of the Work. Furthermore, if the Contractor is delayed in the

performance of any portion of the Work by the application of a Municipal By-Law, or by a stop work order, or by any other circumstance reasonable beyond the Contractor's control including equipment malfunction, traffic, site or weather condition, then the time for the performance of that portion of the Work shall be extended until such time as the Contractor is no longer so delayed. The Contractor shall not be responsible for any damages, claims, or losses caused by the failure of the Contractor to perform that portion of the Work during such time that the Contractor was so delayed.

b. Holiday Service Provision: If a Snowfall occurs on the 24th, 25th, or 31st of December, or on the 1st of January, the Contractor shall perform the Work as quickly as possible, however no time deadlines or performance guarantees can be given for these dates regardless of the Owner's chosen Service Options or weather conditions.

c. Contractor assumes no responsibility for any act of God, pandemic, or otherwise that cause stoppage or delays in work performance.

8. Return Service Calls: If upon 24 hour inspection of the Premises after an event, the Owner deems any portion of the Work to be incomplete or inadequate, the Contractor shall return to the Premises within 24 hours of notice given by the Owner to view the Premises and if the Contractor deems the Work to be incomplete, to complete the Work free of charge. However, if upon arriving at and inspecting the Premises the Contractor deems the Work to be complete up to the terms of this Agreement, the Owner will be charged a repeat service fee of \$120.00 per occurrence. It is the sole responsibility of the Owner to ensure the Contractor has adequate access to the Premises at all times throughout the entire duration of this Agreement, and if access to the Premises is impeded, the Contractor may not be able to complete the Work in its entirety, if at all. In such cases, if a repeat service visit to complete the Work is requested by the Owner, it will be billed at a rate of \$120.00/hour with a minimum billable time of 1 hour. Contact via email shall constitute written notice in all cases.

9. Extra Service Requests: Extra ice control product applications for conditions not included in the scope of the Owner's chosen Service Options are available if deemed necessary by the Owner, must be scheduled in writing at least 12 hours in advance and will be billed according to the Contractor's per time billing. Extra Clearing services for conditions not included in the scope of the Owner's chosen Service Options are also available if deemed necessary by the Owner, must be scheduled in writing at least 12 hours in advance and will be billed at Contractor's per time billing with a minimum billable time of 1 hour. At the sole discretion of the Owner, snowbank removal and disposal from the Premises is available on a first come, first served basis, must be scheduled in writing at least 72 hours in advance and will be billed at the rate set out in the Service Options. If an extra service event occurs on dates outside of the terms of this Agreement, the Contractor shall not be responsible to provide any service unless directly requested to do so by the Owner, in writing at least 24 hours in advance and will be billed as per time services. The Contractor cannot provide guaranteed timing when performing any extra service requests, shall provide any such services on a first come, first served basis, and reserves the right to refuse, at the Contractor's sole discretion, any extra service requests or Service Package upgrades which were not originally included in the agreed upon flat rate price, even when adequate notice is given by the Owner.

10. Liability & Insurance

a. The Contractor shall have total control of the Work and shall provide all the labour, equipment and services necessary for its performance in accordance with this Agreement in a good and workmanlike manner. The Contractor shall comply with all laws, rules, regulations and building and fire codes which relate to the Work and shall obtain any permits or licenses necessary for the lawful performance of the Agreement. The Owner acknowledges that some damage is reasonably foreseeable as a normal consequence of the performance of Work of the nature performed by the Contractor and the Contractor shall not be liable for such damage provided that it has performed the Work in a good and workmanlike manner consistent with standard industry practices in the City of Ottawa. Such reasonably foreseeable damage also includes, but is not limited to, damage to concrete, asphalt, brick, tile, wood, metal, sod, grass, and plant materials due to the application of ice control products. Such reasonably foreseeable damage includes, but is not limited to, damage to curbs, concrete, asphalt, brick, tile, walls, fences, posts, signs, grass, plants, etc due to the Clearing or Plowing of snow and ice, and damage to any object which overhangs, abuts, adjoins, or is placed in, on, or over any Clearing areas, including damage to walls, overhangs, fences, curbs, windows, utility meters, exhaust vents and pipes, sprinklers, eaves troughs, rails, vehicles, etc. The Owner expressly waives the right to claim against the Contractor for, or be indemnified by the Contractor from and against, any and all loss, cost expense, damage, liability, claims, judgements, attorney's fees and costs, of every kind and nature arising out of the performance of the Agreement, and further agrees to indemnify and hold harmless the Contractor, its agents and employees from and against any claim for physical property damage which is not caused solely by the negligence of the Contractor. Furthermore, the Owner agrees indemnify and hold the Contractor harmless from and against any and all loss, cost expense, damage, liability, claims, judgments, attorney's fees and costs, of every kind and nature, whether groundless or not, arising out of bodily injury, sickness or disease (including death resulting at any time there from) which may be sustained or claimed by any person or persons, or the damage or destruction of any property, including the loss of use thereof, based on any act or omission, negligent or otherwise, of the Contractor, its agents, employees, or anyone acting on its behalf in connection with or incident to this Agreement. The Owner expressly acknowledges that they have physical possession of, are responsible for, and have control over the condition and maintenance of the Premises throughout the entire duration of this Agreement. If signed by a corporate officer, partner, or fiduciary on behalf of a corporation, the signing party has certified that they have the authority to legally bind the corporation, and that they are authorized to endorse this Agreement.

b. Save and except for reasonably foreseeable damages as described in Section 10(a) above, 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 the destruction of tangible personal property provided that the damages are caused solely by the negligence or breach of this Agreement by the Contractor, or by anyone for whom the Contractor is responsible in law, in the performance of the Agreement 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 claim against for, or be indemnified by the Contractor from and against, any other claims and further agrees to indemnify

and hold harmless the Contractor, its agents and employees from and against any claim for damages which are not caused by the sole negligence or breach of this Agreement by the Contractor, or by anyone for whom the Contractor is responsible in law or as otherwise excluded under this Agreement.

c. The Owner expressly acknowledges that it has physical possession of, is responsible for and has control over the condition of the Premises.

d. As per section 6 to this Agreement ice control products are not to be applied to the Premises at the sole discretion of the Contractor. The Owner acknowledges that it has the sole responsibility to engage a reasonable and effective system to review and monitor the Premises in order to determine during the Term of this Agreement whether or not ice control products should be applied to the Premises and to provide the Contractor with notice. The Contractor is not responsible for any damages or claims whatsoever relating to or caused in whole or in part by the failure of the Owner to do so and the Owner shall indemnify and hold harmless the Contractor and its agents and employees against any resulting claims or damages.

e. The Contractor shall maintain its insurance as provided in Section 10(f) below and its compliance with [WSIB] and the City of [City] Contractors, license #343811. Evidence of such compliance can be provided at Owner's request.

f. Throughout the entire duration of this Agreement, the Contractor shall maintain at its own expense Contractor's General Liability insurance in the minimum amount of per occurrence for bodily injury, death and property damage, as well as automobile liability insurance covering all vehicles, equipment and their operators, and evidence of such insurances shall be provided upon request. The Owner shall maintain, at its own expense, such liability and property insurance for the Premises as would be maintained by a reasonably prudent owner of a similar property in the City of [City] and upon request shall provide the Contractor with evidence of such insurance.

11. Termination: The Owner reserves the right to terminate this Agreement without penalty for unsatisfactory performance of the Work. The Contractor must first be given 30 days to respond and improve the service issue(s) or dispute such matter after written notification from the Owner. If such service issue(s) are not responded to or improved, this Agreement can be terminated within 30 days of the Owner's written notice of termination, provided that the account is in good-standing and paid up to the date of termination. The Contractor reserves the right to withhold performance of services pursuant to this Agreement in the event that the Owner is delinquent in payment by more than 15 days, and/or to terminate this Agreement with 30 days written notice in the event of the Contractor's inability or incapacity to provide service, payment delinquency, or breach of contract. The Contractor reserves the right to, at its sole discretion and without notice, withdraw this Agreement if not accepted by the Owner within 10 days of original draft date, or if the Contractor's service capacity is exceeded prior to the Owner notifying the Contractor of acceptance.

12. Payment Terms: Payments shall be made according to payment scheduled and agreed upon on page 2 by Owner and Contractor. All past-due or delinquent payments will be charged a . Any extra services ordered by the Owner must be paid for in full within 30 days of the performance of any such services.

Any NSF, bounced, or canceled cheques will be subject to a \$100 NSF administration fee, as well as a . The Work shall automatically cease within 15 days of any outstanding or late payments until such time that the account is brought into good-standing. The Owner agrees to indemnify the Contractor for all costs associated with collecting past due payments, including, but not limited to, any and all legal, professional, or collection agency fees. A one time fuel surcharge for the season of 15\$ will be implemented when fuel is above 1.80\$/litre for 14 days consecutively. No exceptions apply. 2% per month (24% annually) late payment interest charge

14. Governing Law & Jurisdiction: This Agreement shall be governed by and construed in accordance with the laws of the [location: city, province, state]. The Parties agree that any disputes shall be resolved in the courts of Ottawa, Ontario, unless otherwise resolved through mediation or arbitration as mutually agreed.

13. By signing below both Parties have read, understood, and will abide by the terms and Conditions:

<p>[Contractor]</p> <p>Per: _____ (Signature)</p> <p>_____</p> <p>(Name of person signing)</p> <p>_____</p> <p>Date Signed</p> <p>I have the authority to bind the corporation as a representative of Contractor.</p>	<p>[Owner]</p> <p>Per: _____ (Signature)</p> <p>_____</p> <p>(Name of person signing)</p> <p>_____</p> <p>Date Signed</p> <p>I have the authority to bind the corporation as a representative of _____.</p>
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To our EXT clients and friends:

****Please note this is not a legal document. This is an example provided for your reference. You should always have a lawyer review your service terms and conditions.**