

[Insert contractor logo or letterhead]

Snow and Ice Maintenance Contract between Owner and Contractor

_____ (the "Contractor") and
_____ (the "Owner") by this
Agreement made this ____ day of _____, 200_ agree as follows:

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 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.

<u>[CONTRACTOR]:</u> <small>[insert full name of Contractor]</small> Date: _____ Per: _____ _____ I Have the Authority to Bind the Corporation	<u>[OWNER]:</u> <small>[insert full name of Owner]</small> Date: _____ Per: _____ _____ I Have the Authority to Bind the Corporation
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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*.

Ice Management Areas are those areas upon which *Ice Melting Products* are to be applied, through truck, machine and/or hand applications in accordance with the *Drawings and Specifications*.

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, for the purposes of this Agreement, include _____.

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 As *Additional Work*, the Contractor shall attend at the *Premises* to apply *Ice Melting Products* to the *Premises* in accordance with the *Drawings and Specifications* **only on an “On-Call Basis”**. When the *Owner* wishes *Ice Melting Products* to be applied at the *Premises*, the *Owner* will make a request that the Contractor do so by contacting the Contractor at _____ and by confirming the request to the Contractor in writing by fax at _____. The Contractor will attend to apply *Ice Melting Products* to the *Premises* once within a reasonable period of time following the request, 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 the *Additional Work* as per the rates set out in Schedule C.

2.3 During the entire Term of this Agreement it is the *Owner*’s sole responsibility to engage a reasonable and effective system to monitor the weather in the vicinity of the *Premises*, to determine when and in what quantities *Ice Melting Products* are to be applied to the *Premises*, and to make a request of the Contractor in that regard. Notwithstanding anything else in this Agreement, the Contractor will not be responsible for any damages or claims

Fixed Price with Ice Melting Product Applications on an On-Call Basis

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.

2.4 The Owner acknowledges that *Ice Melting Products*, which are not intended to provide traction, are freeze point depressants only, the effectiveness of which will depend on ground temperatures and weather conditions at, and following, the time of their application. The Owner further acknowledge that the application of *Ice Melting Products* will not and cannot result in the immediate or complete removal of ice or snow from the *Premises* and the Contractor provides no guarantee or warranty that the application of *Ice Melting Products* will be effective in eliminating ice or snow. The application of *Ice Melting Products* is towards managing, but not eliminating, the risks associated with snow and ice.

2.5 The Contractor will not be responsible to apply the *Ice Melting Products* if they are not commercially and reasonably available to the Contractor, at commercially reasonable rates. If the *Ice Melting Products* are not so available, the Contractor will advise the Owner promptly and the Owner and Contractor will negotiate the extent to which, upon a request being made, alternative ice melting products will be used (if available) and what other steps might be taken to address the issue.

2.6 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.

2.7 The Contractor will keep and maintain records to document its attendances on site and its application of *Ice Melting Products*, if performed under this Agreement, 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 with in 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* or *Additional 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 safe harmless the Contractor and its agents and employees from and against any such claims.

[CONTRACTOR]:

[OWNER]:

Fixed Price with Ice Melting Product Applications on an On-Call Basis

Date: _____

Date: _____

Fixed Price with Ice Melting Product Applications on an On-Call Basis

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 application of *Ice Melting Products* in accordance with the *Drawings and Specifications* as follows:

Spread By Truck

- Salt: \$_____ Per Application or \$_____ per ___ tonne; (*select one*)
- Sand: \$_____ Per Application or \$_____ per ___ tonne; (*select one*)
- Other: _____ \$_____ Per Application or \$_____ per ___ tonne; (*select one*)
- Other: _____ \$_____ Per Application or \$_____ per ___ tonne; (*select one*)

Spread By Machine

- Salt: \$_____ Per Application or \$_____ per ___ tonne/ kg; (*select one*)
- Sand: \$_____ Per Application or \$_____ per ___ tonne/ kg; (*select one*)
- Other: _____ \$_____ Per Application or \$_____ per ___ tonne/ kg; (*select one*)
- Other: _____ \$_____ Per Application or \$_____ per ___ tonne/ kg; (*select one*)

Spread By Hand

- Salt: \$_____ Per Application or \$_____ per ___ kg; (*select one*)
- Sand: \$_____ Per Application or \$_____ per ___ kg; (*select one*)
- Other: _____ \$_____ Per Application or \$_____ per ___ kg; (*select one*)
- Other: _____ \$_____ Per Application or \$_____ per ___ kg; (*select one*)

3. 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.

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

**Schedule "C" To The Snow and Ice Maintenance Contract Dated _____
Ice Melting Applications Paid Per Tonne, Per Application or On Call**

**Schedule “C” To The Snow and Ice Maintenance Contract Dated _____
Ice Melting Applications Paid Per Tonne, Per Application or On Call**