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## **Standard Terms & Conditions – Service Maintenance Agreement GM2**

1. Black & McDonald agrees to comply with all applicable safety and environmental regulations, and further agrees to assign aspects of the Maintenance Program to personnel and/or subcontractors who are licensed, authorized and qualified to perform them.
2. Customer agrees to provide reasonable access to work areas and equipment covered by this Agreement. Customer shall be responsible for removing, replacing, repairing or refinishing any barrier or building structure obstructing the performance of Black & McDonald's obligations under this Agreement.
3. Unless otherwise provided for in writing, the Maintenance Program will be performed during Black & McDonald's regular working hours, which are 8:00am to 4:30pm Monday through Friday except statutory holidays. If any aspect of the Maintenance Program needs to be performed outside of Black & McDonald's regular working hours, Customer agrees to pay the difference between Black & McDonald's local regular and premium labour rates.
4. Customer agrees to pay invoices rendered pursuant to this Agreement within thirty (30) days of receipt. Should any payment due by Customer become thirty days or more delinquent, Black & McDonald may, at its option, suspend the Maintenance Program without penalty or liability until all overdue amounts have been paid, or terminate this Agreement pursuant to paragraph 11 below, in which case all amounts owed to Black & McDonald by Customer shall be immediately payable upon demand. Black & McDonald may charge interest on overdue amounts at the rate of 2% per annum above the base lending rate of the Bank of Canada.
5. In addition to the Maintenance Value, Customer shall pay all applicable sales, use, excise, value-added or similar tax applicable to the value, sale or delivery of any products, services or work furnished hereunder, or for their use by Black & McDonald on behalf of Customer, whether such tax be municipal, provincial or federal. Customer shall also reimburse Black & McDonald for any tax or duty imposed on Black & McDonald to recover, recycle, reclaim, handle or dispose of any oil, refrigerant or other environmentally sensitive substance.
6. Customer shall be responsible for all costs incurred to conduct any safety test or equipment modification required by any insurance company, laboratory or governmental authority.
7. Black & McDonald's total liability under this Agreement is limited to the total amount paid by Customer to Black & McDonald for the Maintenance Plan in the fiscal year in which the liability arose. In no event shall Black & McDonald be liable for any consequential, indirect or incidental damages, losses, costs or expenses, including but not limited to loss of profits, loss of anticipated profits, loss of business, loss of data, loss of use, loss of production, loss of reputation or goodwill, business interruption or inconvenience whether arising by contract, statute, tort or otherwise, whether or not Black & McDonald was notified of the possibility of such loss or damages occurring. Black & McDonald's liability for injury to persons or damage to property shall be limited to that caused directly by its negligent acts or omissions.
8. Neither party is liable for any failure or delay in performing its obligations where such failure or delay results from any cause that is beyond the reasonable control of the Party. Such causes include, but are not limited to, fire, flood, storms, earthquakes, acts of terrorism, acts of war, pandemic, labour strike, civil unrest and power failure. If the delay continues for a period of 90 days, either party may terminate this Agreement or any portion of the Maintenance Plan with written notice.

9. During the term of this Agreement and until the date that is six months from the date of termination of this Agreement, the Customer shall not, without the prior written consent of Black & McDonald, solicit, hire or otherwise retain in any capacity, any employee of Black & McDonald who the Customer is dealing with or has dealt with in its relationship with Black & McDonald to facilitate the performance of this Agreement. If Customer breaches the foregoing, it shall pay within 30 days, as liquidated damages and not as a penalty for breach, an amount equal to two times the annual salary of such employee.
10. This Agreement may only be transferred or assigned with the written consent of both Black & McDonald and Customer.
11. In the event Customer must vacate the Facility, or completely cease business operations at the Facility, Customer may terminate this Agreement upon sixty (60) days written notice. In the event either Party has just cause, which for the purposes of this Agreement shall be restricted to a material breach of a material obligation, including default under paragraph 4 above, that party may terminate this Agreement upon thirty (30) days written notice, which shall include a detailed description of the breach, if the other party has not remedied the breach before the end of the thirty-day notice period. If Customer is or, in Black & McDonald's reasonable opinion, is about to become bankrupt or insolvent, then Black & McDonald may terminate this Agreement immediately.
12. Should this Agreement be terminated for any reason Customer agrees to pay Black & McDonald within 5 business days the prorated Maintenance Value up to the date of termination and any costs related to such termination.
13. All notices required by this Agreement shall be made in writing and shall be sent by registered mail or email to the address of the party as shown in this Agreement. All notices so sent shall be deemed to have been received by the recipient on the date of delivery. The address of either party may be changed by giving to the other party written notice of the new address.
14. There are no representations, conditions, understandings or agreements except those contained in this Agreement, and there shall be no modifications, alterations or amendments thereof in any respect unless made in writing and signed by both Black & McDonald and Customer.
15. No delay, act or omission by a party in exercising any right or remedy will be deemed a waiver of that, or any other right or remedy, nor stop further exercise of any other right or remedy.
16. If any part of this Agreement is found to be unlawful, invalid or otherwise unenforceable, such provisions are deemed severed from the remainder of the Agreement, which shall remain valid and enforceable.
17. This Agreement is governed by and interpreted according to the laws of the jurisdiction in which the Maintenance Program is performed. All disputes arising under this Agreement shall be heard by a court in the province in which the Maintenance Program was performed, unless Black & McDonald provides written notice to the Customer that it wishes that dispute be heard by final and binding arbitration in same jurisdiction.
18. This Agreement may be signed in one or more counterpart and signature may be transmitted by pdf or facsimile.