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

1. Black & McDonald agrees to comply with all applicable safety and environmental regulations, and further agrees to assign tasks to personnel who are licensed, authorized and qualified to perform them. Customer agrees to accept the professional judgment of Black & McDonald as to the best means and methods to be employed for any work provided for under this Agreement.
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, all work under this Agreement, except repairs or adjustments furnished on an emergency service basis, will be performed during Black & McDonald's regular working hours, which are 8:00am to 4:30pm Monday through Friday except statutory holidays. If Customer requests that non-emergency work under this Agreement be performed outside Black & McDonald's regular working hours, Customer agrees to pay the difference between Black & McDonald's local regular and premium labour rates.
4. Under this Agreement, the equipment recorded in Schedule B must be inspected by Black & McDonald and condition approved. Such inspection and report of any deficiencies will be made upon initial inspection or initial seasonal start-up of the equipment recorded in Schedule B. Within a reasonable period, reported deficiencies shall be remedied at Customer's expense, or involved equipment shall be reduced to maintenance-only service with the Agreement value adjusted accordingly.
5. Extra to this Agreement are labour and material to repair or replace the following items: mounts and structural supports; cabinets, ducts, grills, diffusers, stacks and chimneys; insulating materials and boiler refractory; circuit boards and electrical disconnect switches; fuses and electrical wiring beyond any unit disconnect switch; metal and plastic pipes and tubes; all valves other than refrigerant or gas-supply valves; storage and expansion tanks; mufflers; humidifier bottles; oil separators and accumulators; cooling tower basins, baffles, eliminators and fill; heat exchangers; condenser and evaporator coils; boiler and chiller shell and tubes; and any refrigerant lost due to failure of any pipe, tube or coil identified in this paragraph.
6. When equipment becomes obsolete, so as not to be maintainable in reasonably good repair, or when new or reconditioned parts are not reasonably obtainable, replacement of such equipment shall be made at Customer's expense, and if not so replaced, such equipment shall, at Black & McDonald's option, be removed from Agreement coverage, or reduced to maintenance-only service, with the Agreement value adjusted accordingly.
7. Customer agrees to pay invoices rendered pursuant to this Agreement within thirty (30) days of receipt. Should any payment due by Customer become sixty days or more delinquent, Black & McDonald may, at its option, suspend all services without penalty or liability until all overdue amounts have been paid, or terminate this Agreement pursuant to paragraph 16 below, in which case all amounts owed to Black & McDonald by Customer shall be immediately payable upon demand.

8. In addition to the Agreement value, Customer shall pay all applicable sales, use, excise, value-added or similar tax applicable to the value, sale or delivery or 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.
9. Unless otherwise provided for in writing, the Agreement value shall be adjusted yearly based on Black & McDonald's prevailing costs of labour compared to same at the beginning of the immediately preceding Agreement year.
10. 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.
11. If any alteration, addition, adjustment or repair is made by another party without the Black & McDonald's prior written consent, Black & McDonald may, at its option, reduce involved equipment to maintenance-only service and adjust the value accordingly, or terminate this Agreement by written notice.
12. If Black & McDonald is required to make any emergency call, repair, correction, adjustment or replacement due to Customer's negligence, Customer's improper operation or misuse of equipment, faulty equipment design or installation by any party other than Black & McDonald or Black & McDonald's agent, or any other cause reasonably beyond Black & McDonald's control, Customer shall pay Black & McDonald for all labour and material incurred at Black & McDonald's prevailing rates.
13. Black & McDonald shall not be subject to any liability or penalty for delayed or interrupted service due to fire, flood, severe weather, accident, riot, commotion, strike, inability to obtain replacement parts through normal channels of distribution, or any other cause reasonably beyond Black & McDonald's control.
14. Black & McDonald's liability for injury to persons or damage to property shall be limited to that caused directly by Black & McDonald's negligence. In no event shall Black & McDonald be liable for any consequential, indirect or incidental damages, including but not limited to loss of profits, business interruption and inconvenience. Furthermore, Customer acknowledges that Black & McDonald is not an insurer, and agrees to hold Black & McDonald harmless from the cost of replacing any goods damaged or spoiled due to interrupted or insufficient refrigeration.
15. This Agreement may be transferred or assigned with the written consent of both Black & McDonald and Customer.
16. Customer or Black & McDonald may terminate this Agreement prior to the end of the Agreement term under the conditions set out below. In the event Customer must vacate the premises identified in this Agreement, or completely cease business operations there, Customer may terminate this Agreement upon ninety (90) days written notice and payment of all invoices for services rendered and goods furnished up to the termination date. 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 7 above, that party may terminate this Agreement upon five (5) days written notice, which shall include a detailed description of the breach, if the other party has not remedied the

described breach before the end of the five-day notice period.

17. All notices required under this Agreement shall be in writing and shall be mailed 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 or on the second business day following the mailing thereof. The address of either party may be changed by giving to the other party written notice of the new address.
18. 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.