



**MASTER SERVICES AGREEMENT**

<b>COMPANY:</b> <b>[Company Name]</b> [Address] [Address]  Primary Contact: <b>[Name of Contact Person]</b> [Phone Number] [Email]	<b>VENDOR:</b> <b>McDonald Services, LLC</b> 1032 Bay Beach Road Green Bay, WI 54302  Primary Contact: <b>[Name of Contact Person]</b> [Phone Number] [Email]
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**THIS MASTER SERVICES AGREEMENT** sets out the terms and conditions upon which Vendor will provide to Company certain Work (as defined below). As a condition to the retention of Vendor and Vendor’s performance of the Work, Company and Vendor agree to be bound by the Terms and Conditions set forth in the attached **Exhibit A** (collectively, this Master Services Agreement, each Quote (as defined below) and all Exhibits referenced herein, this “**Contract**”). In the event of any conflict between any provision set forth in this Master Services Agreement, and any provision set forth in a Quote, the provisions set forth in the Quote shall control. In the event of any conflict between any provision set forth in this Master Services Agreement or a Quote and any provision set forth in **Exhibit A**, the provisions set forth in this Master Services Agreement or the Quote shall control.

<b>Effective Date:</b>	[●]
<b>Term:</b>	The term of this Contract begins on the Effective Date and continues thereafter [for a period of [●] / until completion of the Work under all Quotes], unless sooner terminated pursuant to this Contract, and [may only be extended by mutual written agreement of the parties / shall automatically renew for additional one (1) year periods until either party provides written notice of termination to the other party no later than ninety (90) days prior to the end of the then current term] (the “ <b>Term</b> ”).
<b>Description of Work:</b>	Vendor shall perform certain services (the “ <b>Work</b> ”) set forth in one or more quotes or other statements of work or written proposals signed by an authorized representative of each party and attached hereto as <b>Exhibit B</b> (each, a “ <b>Quote</b> ”), in accordance with the terms and subject to the conditions set forth in this Contract. Company may enter contracts (each, an “ <b>Underlying Contract</b> ”) with certain end customers (each, a “ <b>Customer</b> ”) for the provision by Company of the Work, in which case Company shall subcontract to Vendor the Work.

This Contract may be executed in counterparts, each of which shall constitute an original, but all of which taken together shall constitute one and the same instrument. This Contract may be executed in facsimile, portable document format (.pdf) or other electronic copy with the same binding effect as the original.

[Signature page follows]

IN WITNESS WHEREOF, the parties have executed this Contract as of the Effective Date.

**[COMPANY:]**

**[NAME OF COMPANY]**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**OR**

**[COMPANY:]**

\_\_\_\_\_  
**[NAME OF COMPANY], individually]**

**VENDOR:**

MCDONALD SERVICES, LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBITS:**

Exhibit A: Terms and Conditions of Service  
Exhibit B: Quotes

## EXHIBIT A

### MCDONALD SERVICES, LLC (“VENDOR”)

#### Terms and Conditions of Sale

1. **GENERAL.** These Terms and Conditions (the “Terms”) shall apply to and govern the Work provided by Vendor under the Master Services Agreement to which these Terms are attached. The provision of the Work is expressly conditioned upon Company’s acceptance of these Terms, which acceptance may be express or implied. Company’s or Customer’s receipt and acceptance of the Work or Company’s full or partial payment shall constitute acceptance of these Terms. THIS CONTRACT IS AN OFFER BY VENDOR TO SELL THE WORK IN ACCORDANCE WITH THESE TERMS, IS NOT AN ACCEPTANCE OF ANY OFFER MADE BY COMPANY AND IS EXPRESSLY CONDITIONED UPON COMPANY’S ASSENT TO THESE TERMS. VENDOR EXPRESSLY OBJECTS TO, AND IS NOT BOUND BY, ANY TERMS OR CONDITIONS CONTAINED IN ANY UNDERLYING CONTRACT, PROPOSAL, ORDER, CONFIRMATION FORMS OR OTHER DOCUMENTS OR COMMUNICATIONS WHICH ATTEMPT TO IMPOSE UPON VENDOR TERMS AND CONDITIONS WHICH DIFFER FROM OR ARE IN ADDITION TO VENDOR’S TERMS AND CONDITIONS SET FORTH HEREIN. NO SUCH ADDITIONAL OR DIFFERENT TERMS OR CONDITIONS WILL BE OF ANY FORCE OR EFFECT. VENDOR’S PERFORMANCE OR FAILURE TO OBJECT TO ANY SUCH ADDITIONAL, DIFFERENT AND/OR INCONSISTENT TERMS SHALL NOT BE DEEMED TO WAIVE ANY PROVISION HEREIN OR CONSTITUTE ASSENT TO ANY SUCH TERMS. These Terms apply in lieu of any course of dealing between the parties or usage of trade in the industry. Capitalized terms used but not otherwise defined in these Terms shall have the meanings set forth in this Contract.
2. **FEES.** In consideration of Vendor’s performance of the Work, Company shall pay to Vendor the fees (the “Fees”) set forth in the applicable Quote, which are based on the scope of the Work outlined in the applicable Quote and subject to adjustment by Vendor as set forth in Section 5, below. Except as otherwise expressly set forth in the Quote, fees for the Work are exclusive of federal, state or other sales, use or similar taxes due and payable by reason of this sale. Such taxes shall be the responsibility of Company and may be added to the invoice as a separate item or may be separately invoiced.
3. **PAYMENT.** Unless otherwise agreed by Vendor in writing, Company agrees to pay the Fee according to the payment terms set forth in the applicable Quote. Company’s obligation to pay the Fees shall apply regardless of whether Company receives payment from the Customer under any Underlying Contract. A DELINQUENCY CHARGE OF ONE AND ONE-HALF PERCENT (1-1/2%) PER MONTH OR EIGHTEEN PERCENT (18%) PER ANNUM OF ANY OUTSTANDING BALANCE NOT PAID WHEN DUE WILL BE ADDED UNTIL PAYMENT IS MADE IN FULL; provided, however, that the delinquency charge shall not exceed the maximum interest rate allowable by law. Vendor’s receipt of any payment less than the full amount due shall not waive any rights of Vendor. Vendor may set off any amount due from Company, whether or not under this Contract, against any amount due Company hereunder. All costs and expenses, including but not limited to collection fees and reasonable attorneys’ fees, for the collection of any overdue amount due Vendor shall be paid by Company.
4. **PROPERTY.** Vendor shall perform the Work at the property or properties set forth in the applicable Quote (the “Property”).
5. **SCOPE OF WORK; CHANGES.** The scope of the Work to be provided by Vendor is limited to that expressly set forth in this Contract. Each Quote shall be subject to and exclusively governed by the terms and conditions of this Contract. Unless otherwise explicitly set forth in a Quote, (a) Vendor shall not assume any obligations or responsibilities under any Underlying Contract, and (b) Company shall not have the benefit of any rights, remedies or redress against Vendor that Customer has against Company under the Underlying Contract. Company shall furnish Vendor with copies of all Underlying Contracts. Vendor may adjust the Fees, project schedules and any other affected terms and conditions to account for changes to the scope or nature of the Work arising from or related to conditions that Vendor determines, in its sole discretion, would make such changes necessary (including without limitation identification, relocation, or modification of utilities or private locates) by providing written notice to Company, detailing the nature of the changes and the corresponding impact on the Fees, project schedule and other affected terms and conditions. Company may not make any changes to the scope or nature of the Work, the Fees, project schedules and other terms and conditions without Vendor’s prior written consent.
6. **SPECIFICATIONS.** Except as specifically set forth in a separate written agreement signed by the parties, Company is responsible for providing Vendor with all necessary designs, specifications, limits and restrictions relating to the Work (the “Specifications”). Company acknowledges and agrees that Vendor shall not be liable for any damages or losses arising out of any Specifications, products or materials furnished or specified by Company or sourced from third parties at the direction of Company (including, without limitation, any liability for defects in design, material or workmanship of such Specifications, products or materials). Any express or implied warranty or indemnity obligations applicable to such Specifications, products and materials shall be limited solely to the warranty or indemnities, if any, extended by the applicable manufacturer or vendor (other than Vendor). COMPANY SHALL INDEMNIFY VENDOR AGAINST ALL SUCH WARRANTY CLAIMS AT COMPANY’S SOLE EXPENSE.
7. **EQUIPMENT.** Unless otherwise set forth in the Quote, Vendor shall provide all necessary personnel, materials, tools, equipment and vehicles necessary to perform the Work at the Property. Company and Customer may not dictate the type of materials, tools, equipment or vehicles used in connection with the Work at the Property. Company acknowledges that product and material shortages or other circumstances beyond Vendor’s reasonable control may require Vendor to make material substitutions or modifications. Vendor may add or pass-through any surcharges that it incurs on materials due to shortage or shipment from other markets.
8. **VENDOR OBLIGATIONS.** Vendor shall commence the Work in a reasonable manner and in a reasonable time frame based on industry standards. When the Work consists of lawn mowing, fertilization, landscape bed maintenance and clean-up services (“Lawn Services”), Vendor shall continue to provide Lawn Services on a reasonable basis to maintain the safety and physical appearance of the Property based on the geographic location, growing season and type of Work required at the Property. When the Work consists of snow clearing, snow relocation, de-icing or ice control services (“Snow Services”), Vendor shall continue to provide Snow Services on a reasonable basis throughout each snow and ice storm event. For Snow Services, “reasonable” will not be determined based on the snow or ice accumulation reaching a certain depth. Company understands that snow and ice accumulations may vary throughout a region and that drifting snow may necessitate Snow Services for a particular Property, regardless of the total snowfall totals. Vendor, in its sole discretion, shall determine when Snow Services and Lawn Services are necessary at any Property.
9. **COMPANY AND CUSTOMER OBLIGATIONS.** Vendor’s performance of the Work is contingent upon Company and Customer complying with the following obligations: (a) respond promptly to any reasonable requests from Vendor for instructions, information or approvals required by Vendor to provide the Work; (b) cooperate with Vendor in its performance of the Work and provide access to Company’s and Customer’s Property, employees, contractors and equipment as requested by Vendor to enable Vendor to provide the Work; (c) take all steps necessary, including obtaining any required licenses or consents, to prevent delays in Vendor’s provision of the Work; (d) notify Vendor immediately of any changes to Company’s or Customer’s personnel or Property that may affect the ability of Vendor to provide the Work; and (e) supply Vendor with all technical documentation and materials required by Vendor for providing the Work.
10. **CONCEALED OR UNKNOWN CONDITIONS.** If Vendor encounters conditions at the Property that are: (a) subsurface or otherwise conceal physical conditions differing materially from those indicated or anticipated in the Quote or (b) that otherwise differ materially from those ordinarily found under similar circumstances, and those conditions make changes to the scope or nature of the Work, as described in the Quote, necessary, then such changes shall be subject to Vendor’s adjustments in the Fees, scheduling and other affected terms and conditions or specifications in the Quote. Vendor does not assume and is given no responsibility for compliance of the Property or any building thereon or any equipment therein with the requirements of any building codes or with any statute, ordinance, law or regulation of any governmental body or of any public authority or official thereof having jurisdiction.
11. **SNOW SERVICES.** Based on temperatures and type of precipitation, it may take varying amounts of time for de-icing and snow melt materials to have effect and mitigate conditions. The use of salt or other de-icing material is meant to expedite the process of melting ice and snow in target areas. Its application may not provide instant or complete attainment of these goals and will be affected by such variables such as air and ground temperature and moisture content of precipitation (among others). Company acknowledges that Snow Services may not clear a particular area to “bare pavement” and that slippery or dangerous conditions may continue even after performance of the Work hereunder. Slip, trip and fall hazards or conditions may be present or remain before, during and after Vendor has performed the Work required under this Contract. Vendor will not be liable for any “slip and fall” claims and assumes no liability with respect to naturally occurring hazardous conditions, including without limitation, those that result from melting and refreezing conditions, and Company will defend, indemnify and hold the Vendor Parties (as defined below) harmless from and against any Losses (as defined below) arising out of or relating to these naturally occurring conditions. Unless directly caused by the sole negligence or willful misconduct of any Vendor Parties, Vendor shall in no event be liable or responsible for (a) any ordinary course damage to plant material or turf or grass caused by de-icing products or clean-up of debris required following melting of snow piles; (b) any damage to turf or grass caused by Vendor’s mechanical equipment, including without limitation snowplows and shovels; (c) any turf or rut repair due to location of snow piles located on any non-paved portion of the Property; (d) any spalling or flaking of concrete surfaces or any scratches, scrapes, nicks or gouges (or other similar types of damage) to curbs, drive lanes, gutters, concrete protrusions or speed bumps or other unknown or unmarked objects or items at the Property; (e) Company’s or Customer’s inadequate maintenance of, or the existence of unsafe or unsuitable conditions at, any Property (including, without limitation, poor site drainage, disrepair of cement or asphalt or unsafe conditions resulting from melting or falling snow or ice from building overhangs, roof drains or awnings); (f) lack of storage space for snow, loss of parking spaces or reduced driving areas at the Property; or (g) Company’s or Customer’s failure to notify tenants, customers or invitees that their property, parked vehicles or loose

items located at the Property may be damaged by Vendor's performance of the Work. Company acknowledges that excessive snow accumulation may result in the loss of parking spaces and/or reduce driving areas in, on and about the Property.

12. **TERMINATION/DEFERRED PERFORMANCE.** Either party may terminate this Contract without cause at any time upon ninety (90) days prior written notice to the other party. Vendor may, in its sole discretion and without prejudice as to its other lawful remedies, terminate or defer performance and/or demand immediate payment of all of Company's outstanding invoices or account balances (plus any additional costs, expenses, losses or damages, including without limitation, lost profits, incurred by it as a result of such termination, delay, default or bankruptcy) if (a) Company defaults in any payment when due or, in Vendor's discretion, there is doubt as to Company's financial stability, (b) Company becomes the subject of any bankruptcy or insolvency proceeding, (c) the Property is destroyed or there is substantial damage to the Property by any cause or a substantial portion of the Property is taken by eminent domain, in any case making it impossible or impracticable to continue performance of the Work, or (d) the Property is sold. Vendor may also decline to perform Work under any accepted Quote (unless payment is received in advance), and condition future performance against payment of cash in advance. Quotes may not be terminated or deferred by Company unless agreed in advance in writing by Vendor. Upon expiration or termination of this Contract for any reason, Company shall pay Vendor for the Work completed and accepted by Company prior to the termination or expiration.

13. **PROPERTY CONDITIONS.** Company shall be responsible for taking, or ensuring Customer takes, any and all measures necessary to provide Vendor with a safe and suitable work environment, including, without limitation, (a) adequately maintaining the Property without defects, (b) clearing the Property of any materials or obstructions and ensuring the Property is fully accessible to Vendor and its equipment and materials, (c) complying with any safety precautions reasonably requested by Vendor prior to the provision of the Work, and (d) if the Work consists of Snow Services, marking the boundaries of all parking lots, islands, curbs and other obstacles at the Property, and maintaining such markings. Company acknowledges that a safe and suitable work environment is necessary for the performance of the Work and that Vendor may, at Vendor's sole discretion, refuse to perform the Work in a work environment that it reasonably determines to be unsafe or unsuitable. Company shall monitor, or ensure Customer monitors, the conditions at the Property and promptly report to Vendor in writing any issues that could affect the safety and performance of the Work. Vendor shall not be liable for any delay in the completion of the Work resulting from Company's or Customer's failure to provide a safe or suitable work environment. Vendor shall not be liable for any damages to any equipment, materials and other property (whether owned by Company, Customer, or any third party) that is located in, on or about any portion of the Property in violation of this Section 13, or any other damages or liability that arises from Company's or Customer's failure to provide a safe and suitable work environment. Company acknowledges that the Work may be delayed or unavailable in the event of extreme weather conditions (such as blizzard type conditions or temperatures below -20°F or above 90°F), and Vendor may delay or stop Work during such extreme conditions so as not to create unsafe work conditions for its employees and contractors.

14. **INSPECTION AND ACCEPTANCE OF WORK.** Except when the Work consists of Snow Services or Lawn Services, Company will have three (3) days after performance of the Work to inspect the same and to provide written notice to Vendor of any defects in the Work. If Company does not notify Vendor during this period, the Work shall be deemed accepted by Company (it being expressly agreed that Company shall have waived all claims based on any defects that were or would have been discovered upon reasonable inspection during this period) and shall be obligated to pay for the Work in accordance with these Terms. Such acceptance shall be deemed to have been made with knowledge of any defects that such an inspection reasonably would have revealed.

15. **COMPLIANCE WITH LAWS; PERMITS AND LICENSES.** Company will be responsible for all licenses, permits, clearances or Property access rights required for Vendor's performance or provision of the Work, excepting only licenses or permits required by law to be taken out in Vendor's name for Work to be performed or provided by Vendor (including its employees and subcontractors). Each party shall at all times comply with all applicable laws, regulations and ordinances applicable to such party in connection with this Contract and the Work.

16. **INDEPENDENT CONTRACTOR.** Vendor is, and shall act in all respects as, an independent contractor and shall have exclusive control over the manner and method of performing the Work. Nothing herein shall authorize or empower either party to assume or create any obligation or responsibility whatsoever, express or implied, on behalf or in the name of the other party, or to bind the other party in any manner, or make any representation, warranty or commitment on behalf of the other party.

17. **EXCLUSIVE LIMITED WARRANTY.** Vendor represents and warrants to Company, and to Company alone, for a period of twelve (12) months from the date that the Work is completed (the "Warranty Period"), that the Work will be performed in a workmanlike manner and that all products and materials used to complete the Work will be free from defects and workmanship (other than the Specifications, products and materials described in Section 6 of these Terms); provided, however, that Vendor makes no warranty whatsoever with respect to Snow Services and Lawn Services, and nothing in this Contract shall constitute an agreement, commitment or guarantee by Vendor to obtain or maintain at any time a one hundred percent (100%) snow-free or ice-free environment at the Property. THE WARRANTIES AND REMEDIES SET FORTH IN 31283530.2

THIS SECTION ARE EXCLUSIVE, AND IN LIEU OF ALL OTHER WARRANTIES AND REMEDIES WHATSOEVER, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT OF THIRD-PARTY RIGHTS AND WARRANTIES AGAINST LATENT DEFECTS. VENDOR NEITHER ASSUMES (NOR HAS AUTHORIZED ANY PERSON TO ASSUME) ANY OTHER WARRANTY OR LIABILITY IN CONNECTION WITH THE PROVISION OF THE WORK. VENDOR'S WARRANTIES CONTAINED IN THESE TERMS SHALL AUTOMATICALLY BECOME NULL AND VOID IN THE EVENT OF (A) ANY UNAUTHORIZED MODIFICATION TO ANY WORK COMPLETED BY VENDOR, OR (B) IMPROPER MAINTENANCE OR REPAIRS ARE MADE TO ANY PART OF THE WORK PROVIDED BY VENDOR. FAILURE OF COMPANY TO PAY THE FULL PRICE FOR THE WORK ACCORDING TO THIS CONTRACT SHALL AUTOMATICALLY VOID ANY OF VENDOR'S WARRANTY OBLIGATIONS CONTAINED HEREIN. Vendor's sole obligation for Work which does not comply with the limited warranty set forth in this Section 17 shall be, at Vendor's sole discretion, to: (a) re-perform the Work; or (b) issue to Company a refund of the Fees paid for such Work.

18. **LIMITATION OF LIABILITY.** IN NO EVENT SHALL VENDOR BE LIABLE TO COMPANY, CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES OF ANY NATURE, WHETHER ARISING IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE) OR STRICT LIABILITY, INCLUDING, WITHOUT LIMITATION, DELAY, LOST REVENUE, LOST PROFITS OR LOSS OF GOODWILL, EVEN IF VENDOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. COMPANY'S AGGREGATE RECOVERY FROM VENDOR FOR ANY CLAIM OTHER THAN THOSE EXCLUDED HEREIN SHALL NOT EXCEED THE FEES PAID BY COMPANY FOR THE WORK GIVING RISE TO SUCH CLAIM IRRESPECTIVE OF THE NATURE OF THE CLAIM, WHETHER IN CONTRACT, TORT, WARRANTY OR OTHERWISE. IF FOR ANY REASON, THE FOREGOING LIMITATIONS ARE FOUND BY A COURT TO BE INVALID OR INAPPLICABLE UNDER ANY APPLICABLE STATE OR FEDERAL LAW, COMPANY AGREES THAT VENDOR'S TOTAL LIABILITY FOR ALL LOSSES (AS DEFINED BELOW) OF ANY KIND OR NATURE SHALL BE LIMITED TO ACTUAL DAMAGES WITHOUT REGARD TO ANY PUNITIVE OR EXEMPLARY DAMAGES PROVIDED BY ANY APPLICABLE LAW.

19. **FORCE MAJEURE.** Vendor shall not be liable to Company, Customer or third parties for any delay in, or failure of, performance caused by acts or circumstances beyond its direct control, including but not limited to acts of God, fire, flood, explosion, war, governmental action, terrorist threats or acts, civil unrest, major equipment failure, accident, labor disputes, strikes, non-performance by a third party or shortage or inability to obtain materials, equipment, power or transportation. If delay or failure is caused by any such circumstances, Vendor shall have the option to terminate all or any portion of this Contract and/or extend any date upon which performance hereunder is due, without liability.

20. **INDEMNIFICATION.** To the maximum extent allowed by law, Company shall defend, indemnify, and hold Vendor and its members, officers, directors, managers, employees, agents, representatives, successors and assigns (collectively, the "Vendor Parties") and each individually, a "Vendor Party") harmless from and against any claims, losses, liabilities, damages, deficiencies, suits, actions, demands, judgments, penalties, fines, costs or expenses, including, but not limited to, attorneys' fees (collectively, "Losses"), incurred by any Vendor Party arising out of or relating to: (a) any Specifications, products or materials (as described in Section 6 of these Terms); (b) the site conditions at the Property, including without limitation naturally occurring hazardous conditions; (c) the acts, omissions or negligence of any pedestrians, motorists or other third parties in, on or about the Property; (d) any claims for personal injury or property damage relating to the Work completed by Vendor; (e) any pre-existing or migratory contamination, hazardous conditions or substances on the Property (unless and to the extent such condition or release is exacerbated by Vendor's negligence or willful misconduct); (f) any negligence or willful misconduct of, or violation of any applicable laws or regulations by, Company or its employees, agents or representatives; or (g) Company's breach of any term, covenant, representation or warranty contained in this Contract; provided, however, that Company shall not be liable for such Losses to the extent that such Losses are caused by the negligence or willful misconduct of Vendor. Vendor's remedies under these Terms are cumulative and in addition to any other remedies available at law, in equity, by contract or otherwise. No purported limitation on Vendor's remedies contained in any other Company form or document shall operate to reduce this indemnification obligation. If any claim is asserted or action commenced against a Vendor Party for which such Vendor Party is entitled to indemnification hereunder, Company shall, upon Vendor's demand, promptly undertake the defense thereof, employing counsel satisfactory to Vendor or agrees that Vendor may elect to defend the same on its own behalf. In either case, Company will, upon demand, pay all reasonable attorneys' fees and other costs or expense incurred by Vendor in connection with such defense, including, but not limited to, any judgment or award resulting from any such claim or action and any settlement paid by Company with Vendor's consent.

21. **CONFIDENTIALITY.** All non-public, confidential or proprietary information of Vendor, including, without limitation, information relating to its products, specifications, technology, designs, processes, machinery, equipment, plans, policies, procedures,

employees, assets, discoveries, know-how, trademarks, patents, copyrights, trade secrets, prices, marketing, expenses, business plans, financial statements, customers and suppliers and any other proprietary business and technical information, documents or data disclosed by Vendor to Company or Customer, whether disclosed orally or in writing or electronic or other form or media, and whether or not marked, designated or otherwise identified as confidential in connection with this Contract is confidential, solely for the use in connection with this Contract and may not be disclosed or copied unless Company or Customer receive advance written authorization from Vendor. Upon Vendor's request, Company shall promptly return, and shall ensure Customer promptly returns, all documents and other materials received from Vendor. This Section does not apply to information that (a) is publicly available or becomes publicly available through no fault of Company or Customer; (b) is already known to Company or Customer at the time of disclosure; or (c) is rightfully obtained by Company or Customer from a third party not obligated by an existing duty of confidentiality with respect to the information. Vendor will be entitled to injunctive relief for any violation of this Section.

22. **INTELLECTUAL PROPERTY.** All intellectual property rights, including copyrights, patents, patent disclosures and inventions (whether patentable or not), trademarks, service marks, trade secrets, know-how and other confidential information, trade dress, trade names, logos, corporate names and domain names, together with all of the goodwill associated therewith, derivative works and all other rights (collectively, "Intellectual Property Rights") in and to all documents, work product and other materials that are delivered to Company or Customer under this Contract or prepared by or on behalf of Vendor in the course of performing the Work, including any items identified as such in the Quote (collectively, the "Deliverables") shall be owned by Vendor. Vendor hereby grants Company and the applicable Customer a license to use all Intellectual Property Rights in the Deliverables free of additional charge and on a non-exclusive, worldwide, non-transferable, non-sublicensable, fully paid-up, royalty-free and perpetual basis to the extent necessary to enable Company and the applicable Customer to make reasonable use of the Deliverables and the Work. Company and Customer may not use any Intellectual Property Rights of Vendor in advertising without the prior written consent of Vendor.

23. **BINDING EFFECT; ASSIGNMENT.** This Contract shall be binding upon and inure to the benefit of Company, Vendor and their respective successors and permitted assigns. Company may not assign any of its rights, duties or obligations under this Contract without Vendor's prior written consent. Any attempted assignment by Company without such consent, even if by operation of law, shall be void. Vendor may hire, and delegate its obligations under this Contract to, subcontractors to perform the Work. This Contract confers no rights on third parties.

24. **GOVERNING LAW; VENUE.** All transactions between Vendor and Company shall be governed by and construed in accordance with the laws of the State of Wisconsin, without regard to any conflicts of law principles. Any action or proceeding involving any dispute relating to or arising from this Contract or the Work shall be commenced exclusively in the federal or state courts located within Brown County, Wisconsin, and the Company and Vendor each hereby consent to the exclusive jurisdiction of such courts and each hereby waive any objection relating to such jurisdiction and venue.

25. **WAIVER; SEVERABILITY.** The failure of Vendor, at any time, to assert any right or require performance of any obligation contained in this Contract will not affect Vendor's right to assert such right or to require such performance at any time thereafter; nor shall the waiver be construed in any way as a waiver of any future breach of the

provision so waived or waiver of the provision itself. In the event that any provision of this Contract is found invalid or unenforceable, whether in whole or in part, for any reason, such provision shall be changed and interpreted so as to best accomplish the objectives of such provisions within the limits of applicable law or applicable court.

26. **ENTIRE AGREEMENT; SURVIVAL.** This Contract, including these Terms and the Quote, constitute and represent the complete and entire agreement between Vendor and Company relating to the subject matter hereof (including, the Work), and all prior agreements, discussions, negotiations, communications, understandings and representations of the parties relating to the subject matter hereof (including, the Work), whether written or verbal, are merged into and superseded by this Contract. No modification or amendment of this Contract shall be binding on the Vendor unless made in writing and signed by each party hereto. The provisions of this Contract which by their essential nature are reasonably meant to survive termination, shall survive and remain in force after any termination of this Contract.

27. **INSURANCE.** Company shall maintain and carry, at its own cost and expense, such insurance coverages and limits as the Vendor reasonably requires, with reputable insurers satisfactory to Vendor. Upon Vendor's request, Company shall provide Vendor with a certificate of insurance from Company's insurer(s) evidencing the insurance coverage required by Vendor. To the fullest extent permitted by applicable laws, Company, for itself and its insurers, shall and does hereby waive any right of subrogation that Company or such insurers may have arising out of insured claims under any insurance policies that Company is required to carry by Vendor, and each such policy of insurance shall contain a waiver of the right of subrogation.

28. **ATTORNEY FEES.** In the event either party shall be successful in any action or proceeding involving any dispute relating to or arising from this Contract or the Work, the prevailing party shall to the maximum extent permitted by law, be entitled to recover its reasonable legal fees, costs and expenses in bringing and maintaining any such action or proceeding.

29. **CONSTRUCTION LIEN NOTICE.** IN THE EVENT VENDOR IS THE SUBCONTRACTOR UNDER SEC. 779.02(2)(b), WIS. STATS., AS REQUIRED BY WISCONSIN CONSTRUCTION LIEN LAW, VENDOR HEREBY NOTIFIES COMPANY AND CUSTOMER THAT PERSONS OR COMPANIES PERFORMING, FURNISHING OR PROCURING LABOR, SERVICES, MATERIALS, PLANS OR SPECIFICATIONS FOR THE CONSTRUCTION ON THE PROPERTY MAY HAVE LIEN RIGHTS ON THE PROPERTY AND THE BUILDINGS AND OTHER IMPROVEMENTS LOCATED THEREON, IF SUCH PERSONS OR COMPANIES ARE NOT PAID. THOSE ENTITLED TO LIEN RIGHTS, IN ADDITION TO VENDOR, ARE THOSE WHO CONTRACT DIRECTLY WITH COMPANY OR CUSTOMER OR THOSE WHO GIVE COMPANY OR CUSTOMER NOTICE WITHIN SIXTY (60) DAYS AFTER THEY FIRST PERFORM, FURNISH OR PROCURE LABOR, SERVICES, MATERIAL, PLANS OR SPECIFICATIONS FOR THE CONSTRUCTION. ACCORDINGLY, COMPANY OR CUSTOMER WILL PROBABLY RECEIVE NOTICES FROM THOSE WHO PERFORM, FURNISH OR PROCURE LABOR, SERVICES, MATERIALS, PLANS OR SPECIFICATIONS FOR THE CONSTRUCTION AND, SHOULD GIVE A COPY OF EACH NOTICE RECEIVED TO COMPANY'S AND CUSTOMER'S MORTGAGE LENDER, IF ANY. VENDOR AGREES TO COOPERATE WITH COMPANY AND CUSTOMER AND COMPANY'S AND CUSTOMER'S LENDER, IF ANY, TO SEE THAT ALL POTENTIAL LIEN CLAIMANTS ARE DULY PAID.

**EXHIBIT B**

**QUOTES**

Work:

Property:

Fees:

Payment Terms:

Property Conditions:

Additional Terms:

IN WITNESS WHEREOF, the parties have executed this Exhibit B as of \_\_\_\_\_.

**[COMPANY:]**

**[NAME OF COMPANY]**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**VENDOR:**

MCDONALD SERVICES, LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**OR**

**[COMPANY:]**

\_\_\_\_\_  
**[NAME OF COMPANY], individually**