



Light Vehicle Towing and Storage Master Service Agreement - Legal Terms and Conditions

Table of Contents:

- [1.0 Definitions](#)
 - [2.0 Scope of Services to be Provided](#)
 - [3.0 Vendor Requirements](#)
 - [4.0 Performance of Vendor's Obligations](#)
 - [5.0 Vendor Fees](#)
 - [6.0 Performance Management](#)
 - [7.0 Suspension](#)
 - [8.0 Termination](#)
 - [9.0 Restriction on Other Work](#)
 - [10.0 Independent Contractor](#)
 - [11.0 Confidentiality and Information Security](#)
 - [12.0 Accessibility](#)
 - [13.0 Ownership of Information](#)
 - [14.0 Indemnification of Manitoba Public Insurance](#)
 - [15.0 General Terms](#)
- [Schedule A1 - Area Maps](#)



1.00 **DEFINITIONS**

1.01 In this Agreement, the following terms shall have the following meanings:

- (a) **“Additional Towing Services”** are services that require additional pictures from the Mandatory Photos and are not the Basic Towing Services.
- (b) **“Agreement”** is defined on the signing page of this Agreement.
- (c) **“Basic Towing Services”** are services that do not require additional photos to the Mandatory Photos. They include but are not limited to, hook up, KM charge, dollies, and storage.
- (d) **“Claim Vehicles”** means all Manitoba or out-of-province vehicles which may have an existing claim or may become subject to a valid MPI claim.
- (e) **“Direct Tow”** means tows that are brought directly to a repair shop rather than being towed to a Storage Yard or compound.
- (f) **“IAA”** is an MPI partner who powers the Tow App & Tow Manager.
- (g) **“Light Vehicle”** means any vehicle less than 4540 kg and camper trailers measuring less than 35 feet.
- (h) **“Limited Area Tows”** has the meaning given to it in Section 2.01.
- (i) **“Mandatory Photos”** are the photos that must be taken on every Tow App assignment. The photos required are four (4) corner shots, one (1) picture of the VIN, one (1) picture of the key (if available), and one (1) picture of the hook up.
- (j) **“Manitoba Public Insurance”** or **“MPI”** is defined on the signing page of this Agreement.
- (k) **“PDC”** means MPI’s Physical Damage Centre at 1981 Plessis Road, Winnipeg, Manitoba.
- (l) **“Remote CR”** is a function of the Tow App that allows towers to only take ten (10) pictures of vehicles of salvage sale vehicles.
- (m) **“Representatives”** shall mean the directors, officers, shareholders, employees, subcontractors, partners, volunteers, affiliates, agents, delegates and other such representatives of a party.
- (n) **“Storage Yard”** is an MPI approved location, that can either be fenced or open, for the purposes of storing Claim Vehicles.
- (o) **“Sublet Tow”** means a tow from a repair shop to a repair shop.
- (p) **“Tow App”** means a free mobile application from IAA that drivers will use to take pictures of the vehicles they pick up, answer questions regarding the state or the vehicle, as well as mark when pick up and drop off have occurred.
- (q) **“Tow Manager”** means an online website through which the Vendor will assign the tows dispatched to them by MPI to their drivers.
- (r) **“Towing & Storage Tool”** is a portion of MPI’s website that lists all tower and storage facilities by area.
- (s) **“Vendor”** or **“you”** is defined on the signing page of this Agreement.



2.00 SCOPE OF SERVICES TO BE PROVIDED

2.01 **Retention of Services**

MPI agrees to retain the Vendor to perform the Services, which are further detailed below. The Vendor agrees to perform such Services during the Term, on the terms and conditions set out in this Agreement and as directed by MPI, to its reasonable satisfaction. **FOR CLARITY THE SERVICES ARE TO BE PERFORMED IN MANITOBA AND EXCLUDE THE WINNIPEG AND BRANDON AREAS OUTLINED IN SCHEDULE A1, UNLESS SUCH SERVICES ARE REQUESTED BY MPI IN THOSE AREAS (“LIMITED AREA TOWS”).** Any Limited Area Tows collected:

- (a) on the Winnipeg perimeter or inside the Winnipeg perimeter must be towed to MPI’s PDC location at 1981 Plessis Road; and
- (b) within the Brandon towing radius must be towed to 1503 Moreland in Brandon, or another location preapproved by MPI prior to the tow.

2.02 **Gratuitous Work**

MPI and the Vendor agree that any work performed by the Vendor outside the scope of the Services without prior written approval of MPI may be deemed to be gratuitous on the Vendor’s part, and MPI has no liability with respect to such work.

2.03 **Changes to Services**

MPI reserves the right to change, modify, delete or add to the Services, if necessary. In addition to the foregoing, the Vendor shall provide to MPI any other services, documentation, or data related to the Services as may be reasonably required by MPI.

2.04 **No Guaranteed Service Volume or Exclusivity**

MPI cannot guarantee that any Services will be required during the Term. Unless specifically stated to the contrary, nothing in this Agreement grants the Vendor exclusivity in providing the Services to MPI.

3.00 VENDOR REQUIREMENTS

3.01 **Light Vehicle Tows and Priority**

MPI requested tows will be dispatched through the Tow App, or in some cases tows will be requested directly from the customer or from first responders at the scene. The Vendor will be responsible for completing the following tows of Claim Vehicles on MPI’s behalf.

- (a) Tows to a Storage Yard which includes from the shop, the accident scene, a residence, service centre and any other location;
- (b) Tows to a shop, which include from a Storage Yard, from the service centre, from a residence, from another shop, or any other location. All tows to a shop will be received through Tow Manager and dispatched to drivers via the Tow App, unless MPI requests another method;
- (c) Tows will be given priority as follows:
 - (i) Tows from accident scenes (for safety) - immediate action;
 - (ii) Shop to shop tows (Sublet Tow, then Direct Tows) - Within four (4) business hours of dispatch;
 - (iii) All other tows from a shop – one (1) business day [eight (8) business hours]; and
 - (i) Tows from a Storage Yard - one (1) business day [eight (8) business hours]; and
- (d) MPI will endeavor to provide the Vendor who completed the initial tow request with all subsequent tow requests for the Claim Vehicle on the same claim, however, MPI cannot guarantee this will be the case and reserves the right to allow other vendors to provide such services.

3.02 **Vendor Responsibilities**

The Vendor shall:

- (a) provide prompt, safe and efficient recovery and towing of Claim Vehicles under Section 3.01.
- (b) provide tow responses to MPI dispatched tows as outlined in Section 3.01;



- (c) provide general clean-up of spills and removal of debris from accident scenes;
- (d) where the Vendor is called upon an accident scene where hazardous materials and/or escaped cargo are present, the Vendor shall forthwith call the applicable authority responsible for removal of such cargo and/or hazardous materials;
- (e) provide a safe and efficient service regarding any other towing or hauling required by MPI;
- (f) take all Mandatory Photos and complete all required fields on the Tow App;
- (g) take pictures to support any Additional Services that will be required to tow the Claim Vehicle;
- (h) indicate on the Tow App when they pick up and drop off a vehicle.
- (i) provide or ensure that their Representatives responding to towing requests, have access to a smart device capable of supporting the Tow App;
- (j) follow MPI's key transfer process;
- (k) complete Remote CRs as outlined in Section 3.03; and,
- (l) not tow outside of your radius unless shop or other exceptions exist, as pre-approved by MPI.

3.03 Remote CR

- (a) Upon request from MPI's Salvage department, the Vendor will use the Remote CR function within the Tow App to take and upload ten (10) photos of total loss vehicles for auction purposes.
- (b) The Vendor will ensure that clear and correct photos are uploaded within forty-eight (48) hours of initial request, and that the photos taken follow the Remote CR template and process.
- (c) If photos are incorrect or are blurry, MPI will request for retakes to be completed, and these must be completed within the original time frame to ensure full payment.
- (d) If the Remote CR photos are not completed within 48 hours, the request may be rejected from the Salvage department and the Vendor will not be paid for those photos.

3.04 Vendor's Representatives' Actions

The Vendor shall be responsible for the actions and demeanor of its Representatives while performing Services for MPI. At the sole discretion of MPI, MPI may instruct the Vendor to prohibit any Representatives of the Vendor from providing Services under the Agreement as a result of unacceptable performance such as, but not limited to:

- (a) Behaviour towards MPI customers and business partners which MPI deems inappropriate;
- (b) Equipment in poor mechanical condition;
- (c) Poor operator attitude, appearance, ability, or actions;
- (d) Failure to bring equipment in for inspection, if called to do so;
- (e) Failure to properly follow instructions;
- (f) Failure to comply with rules at PDC may result in driver suspension from entering PDC for a time period to be determined by MPI;
- (g) Dropping Claim Vehicles poorly at PDC (misaligned with other vehicles, triple parked are examples of this) will require the Vendor to correct the drop issue within 24 hours of request;
- (h) Failure to comply with posted speed limits; or
- (i) Failure to comply with any applicable laws, including traffic laws.

3.05 Required Licenses to Conduct Business

During the Term the Vendor shall obtain and maintain in good standing any licence, certificate, or permit required:

- (a) to conduct your business;
- (b) that your Representatives are required to have to be able to perform the Services; or
- (c) that is required by law;

collectively called the "Required Licenses", and you shall provide all such Required Licenses for inspection at MPI's request. You shall immediately inform MPI of any cancellation, loss, or suspension of any Required Licenses, or the placement of any conditions or limitations on the Required Licenses, and will endeavor to resolve any issues in order to reobtain and maintain in good standing the Required Licenses.

3.06 Minimum Storage Yard Requirements

- (a) If the Vendor is approved for storing Claim Vehicles on MPI's behalf, the Vendor shall provide and maintain a Storage Yard that is properly zoned for the storage of damaged or undamaged motor vehicles in the event it



- is required by MPI;
- (b) The Storage Yard must be located within the same geographical area that the Vendor will be providing the Services; and
- (c) The Storage Yard must be able to allow MPI claimants, MPI's Representatives, law enforcement, and salvage buyers to attend during normal business hours.

3.07 Personnel Requirements

- (a) The Vendor agrees that the Services shall be performed by fully bonded personnel who shall be totally versed in all proper towing and recovery techniques, and who shall each maintain the proper Class of Driver's licence required to adequately render the Services;
- (b) MPI shall have the right of prior approval of any Representatives designated to provide the Services. MPI shall have the right to request the removal of any Representatives so designated and the Vendor shall immediately comply with all such requests for removal;
- (c) The Vendor, its Representatives shall be subject to whatever security checks MPI deems necessary. Failure to consent to such security checks may result in a request by MPI to prohibit such Representatives who do not consent to such checks from conducting further Services under this Agreement;
- (d) All Representatives who conducts the Services must have a clean criminal record check that is dated no more than five years from the current date on file. Only criminal record checks from a police agency or another equivalent agency pre-approved by MPI are acceptable, and they must be made available to MPI upon reasonable request. Any convictions appearing on the criminal record check must be reported to MPI immediately. You must provide MPI with written notification immediately upon becoming aware of you or any of your Representatives being charged or convicted of a crime; and
- (e) The Vendor shall not subcontract any portion of the Services without the prior written consent of MPI, which consent may be granted or withheld at MPI's sole unfettered discretion. All subcontractors are subject to MPI's ongoing approval. Performance by subcontractors shall meet, at a minimum, the same standards as required for performance by the Vendor, and the Vendor shall be responsible for such performance. The Vendor shall ensure that the terms and conditions of the agreements it has with its subcontractors do not in any way prevent the subcontractors from providing towing services to MPI upon the expiration, suspension or termination of this Agreement.

3.08 Insurance

The vendor shall maintain the following minimum insurance policies (collectively called the "Required Insurance") during the Term of this Agreement:

- a) **Commercial General Liability Insurance**
The Vendor shall ensure that it maintains a comprehensive general liability policy with a minimum limit of five million (\$5,000,000.00) Canadian Dollars (per occurrence), which covers MPI as an additional insured and specifically contains the following coverage at minimum:
 - (i) Death and/or bodily injury including, but not limited to, disease of one or more persons arising out of the performance of the Agreement;
 - (ii) Property damage arising out of the performance of the Agreement;
 - (iii) Personal and advertising injury; and
 - (iv) Non-owned automobile liability.In addition to the endorsement required by Subsection 3.10(c) below, the Vendor must also provide MPI with no less than thirty (30) days of notice prior to cancellation or modification of the comprehensive commercial general liability policy.
- (b) Garage or Dealers Liability policy which includes a minimum third party liability limit of five million Canadian dollars (\$5M), as well as coverage for damage to Customers' vehicles which are in your care, custody, or control (collision or upset and specified perils).
- (c) Standard Automobile Insurance on all towing vehicles, either owned by or under contract to the Vendor, with third party liability limits that are not less Five Million (\$5,000,000.00) Dollars per occurrence.

MPI, acting reasonably, may require additional insurance coverage or policy limit amounts and shall provide the Vendor with notice of such new requirements in accordance with the terms of this Agreement.



3.09 Worker's Compensation

The Vendor shall have a valid certificate of good standing with the Worker's Compensation Board of Manitoba, and shall be responsible for all Worker's Compensation arrangements, payments, and assessments pursuant to *The Worker's Compensation Act* (Manitoba). In addition to Article 14, the Vendor shall indemnify and save harmless MPI and its Representatives against any and all claims resulting therefrom.

3.10 Certificates

- (a) Upon request, the Vendor shall provide certified copies of its original letter of clearance from Workers Compensation and certificates of insurance to MPI prior to commencing the Services.
- (b) If requested, the Vendor shall continue to provide updated insurance certificates to MPI, evidencing the renewal of the required insurance and bonding coverage, for the duration of the Term.
- (c) The Vendor agrees that each such bond, policy, or renewal shall be endorsed so that MPI shall be advised if altered or cancelled prior to expiry.

3.11 Reporting Requirements

- (a) The Vendor shall immediately provide the information below of any potential Claim Vehicles that have been brought in or out of the Vendor's Storage Yard on behalf of MPI that were not dispatched to the Vendor (or another Vendor) via the Tow App, including any Claim Vehicles towed in by another tower. This information should include:
 - (i) VIN, Plate & stock number when available;
 - (ii) Name of the tower who dropped it (if they are not the Vendor); and
 - (iii) Pick up location;
- (b) The Vendor shall provide the following information upon occurrence and/or upon MPI's request:
 - (i) A copy of any and all correspondence received from a regulatory body dealing with a consumer complaint on any tow, recovery, or other duty assigned as part of this Agreement. The Vendor shall also provide MPI with a copy of any and all written responses to a regulatory body as a result of such a consumer complaint, as well as information pertaining to the resolution and conclusion of such a consumer complaint; and
 - (ii) Changes to the Vendor's hours of operation.
- (c) The Vendor shall provide the following information upon signing and upon MPI's request:
 - (i) A full list of all MPI Claim Vehicles currently in the Vendor's Storage Yard, including date of arrival, VIN, Plate and claim number (if known).

3.12 Cooperation and Assistance

You will promptly cooperate with and assist MPI in any matter related to the Services and/or this Agreement, including but not limited to, verifying that you are complying with this Agreement.

3.13 General Inspection Rights

- (a) The records you are required to maintain under this Agreement shall, at all times, be open to the examination and inspection of MPI and you shall provide them upon request. You may be required to provide records in physical and/or electronic format. These inspections will occur during normal business hours with or without prior notice. MPI will follow up with you in order to go over any issues uncovered during the inspection.
- (b) MPI shall have the right to inspect any or all tow trucks, premises and equipment, on forty eight (48) hours' notice for conformity to the Agreement.

4.00 PERFORMANCE OF VENDOR'S OBLIGATIONS

4.01 The Vendor represents and warrants that:

- (a) it possess the necessary skills, expertise and experience to perform the Services in accordance with this Agreement;
- (b) the Services shall be provided in a professional manner and as outlined in this Agreement unless MPI and the Vendor agree otherwise in writing;
- (c) the Services shall be provided in compliance with every federal, provincial, and municipal law which is or could



be applicable to the Services. Without limiting the generality of the foregoing, the Vendor must ensure that all statutory deductions (including all income tax, Canada Pension Plan, and Employment Insurance payroll deductions) are properly applied and filed. The Vendor shall adhere to and comply with, and shall ensure that all of its Representatives adhere to and comply with, all applicable provisions of The Employment Standards Code (Manitoba), including (without limitation) those respecting wages, rates of pay, hours of work, remittances, and conditions of employment, and the Vendor shall comply with *The Workplace Safety and Health Act* (Manitoba);

- (d) the Representatives designated to perform the Services shall devote the time, attention, abilities, and expertise necessary to properly perform the Vendor's obligations;
- (e) it shall comply with all reasonable directions and requests of MPI within the scope of the Services as set out in this Agreement;
- (f) all representations and warranties contained in this Agreement are true and correct and shall so remain throughout the Term of this Agreement;
- (g) it shall conduct itself in a manner that does not negatively affect the public perception, business reputation, community standing, or business operations of MPI (collectively, "**Reputation**"); and,
- (h) it has full right and authority to enter into this Agreement.

4.02 The Vendor shall provide written progress reports at such intervals as MPI may reasonably request. Such progress reports shall be in form and content satisfactory to MPI acting reasonably.

5.00 **VENDOR FEES**

5.01 **Light Vehicle Towing and Storage Master Services Agreement – Towing Rate Card**

Subject to the following subsections, in consideration of Services performed to the reasonable satisfaction of MPI during the Term, MPI agrees to only pay to the Vendor the applicable fees in the Towing and Storage Master Services Agreement – Towing Rate Card. Any other fees or charges not outlined in the Towing and Storage Master Services Agreement – Towing Rate Card are subject to approval by MPI. Failure to obtain approval prior to rendering services on behalf of MPI may result in forfeiture of payment for said services. Forfeited payments may not be levied or imposed by the Vendor on MPI or any member of the public regarding any aspect of the Services. The Vendor acknowledges that no escalator clauses will be accepted. Notwithstanding anything else in this Agreement, MPI is not obligated to spend a minimum or base amount of fees. The Vendor is responsible for any deductions or remittances, which may be required by law. Towing and Storage Master Services Agreement – Towing Rate Card rates will be reviewed every three (3) years. No fees for storage will be charged by the Vendor or paid by MPI for Limited Area Tows unless pre-approved by MPI. The Vendor can bill for unloaded kilometers for Sublet Tows and Direct Tows.

5.02 **Fees, Permits, Licenses, and Certificates**

The Vendor will be responsible for the procurement and costs of all fees, permits, licences, and certificates which are necessary for the performance of the Services. These fees include, but are not restricted to fuel surcharge, dumping, environmental recycling, and recyclable materials offset fees, and environmental levies.

5.03 **Storage Fees**

Storage fees incurred by the Vendor prior to the Vendor advising MPI of receipt of a Claim Vehicle may not be covered by MPI and may not be levied or imposed by the Vendor on MPI or any member of the public regarding any aspect of the Services.

5.04 **Invoicing**

The Vendor shall provide electronic reports evidencing all tows provided under this Agreement to MPI. The information contained in the report shall be in detail satisfactory to MPI as communicated to the Vendor. MPI reserves the right to modify the amount or type of information provided by the Vendor at any point during the Term acting reasonably. The Vendor shall also provide to MPI such supporting documents, photos, statements and receipts as may be requested by MPI acting reasonably. Tow bills should be submitted through the Tow App wherever possible; where not possible, tow bills can be emailed to towingservices@mpi.mb.ca with VIN, Plate and stock/claim number.



5.05 Payment of Invoice

MPI shall pay the invoice within thirty (30) days after the receipt and approval of an invoice and any supporting materials requested under Section 5.04. In the event any invoice is not satisfactory, MPI shall notify the Vendor of the problem within seven (7) days of receipt of invoice.

5.06 Invoicing Disputes and Holdback

- (a) If MPI in good faith (i) disputes any tows or fees on the grounds that there is an objectively verifiable error; or (ii) disputes the adequacy or correctness of any supporting documentation provided, or (iii) the Vendor has materially breached this Agreement, then MPI may withhold, in the case of (i) and (ii), the disputed portion until the dispute is resolved, and in the case of (iii), all outstanding balances until the dispute is resolved. The parties shall work promptly to resolve any such disputes. MPI will advise the Vendor of the amount MPI considers to be in dispute and the basis for such dispute, and will pay any undisputed portion in accordance with this Article 7.00. Payment by MPI shall not preclude MPI from questioning any fees or charges MPI believes to be improper or incorrect.
- (b) If the Vendor in good faith disputes MPI's determination of the applicable fees for the applicable Services the Vendor has performed, they may contact towingservices@mpi.mb.ca. The parties shall work promptly to resolve any such disputes. Disputes that cannot be resolved through Towing Services will be escalated to the Manager, Salvage and Compound Operations for resolution.
- (c) The Vendor shall still perform the Services during any dispute.

5.07 Tax Exemption

Where not tax-exempt, MPI shall also pay all applicable sales and use taxes. MPI is exempt from the Goods and Services Tax and the Harmonized Sales Tax. The applicable Goods and Services Tax and Harmonized Sales Tax exemption information is attached hereto as Schedule C.

5.08 Non-Residents

The Vendor shall advise MPI if any non-resident of Canada will be, or has performed any of the Services in Canada. MPI may withhold and/or remit any taxes or duties required by federal, provincial, or municipal law in relation to the purchase or performance of the Services.

5.09 Recovery

In addition to Section 5.06, MPI incurs costs when it takes actions to correct your errors or breaches of this Agreement. If you fail to comply with any part of this Agreement, or if MPI reasonably suspects you have failed to comply with any part of this Agreement, or if there has been any loss, theft, or damage to MPI's customers or their property, or the Claim Vehicles then MPI may:

- (a) withhold any or all payments to you under this Agreement; and/or
- (b) offset or recover against any payments to you for any and all losses incurred by MPI which resulted from your non-compliance or the loss, theft, or damage to MPI's customers or their property, or the Claim Vehicles. If there are insufficient payments amounts to offset this indebtedness you agree that any amount owing shall be payable to MPI on demand. The amount of recovery shall be determined on a case-by-case basis; and/or
- (c) charge any applicable fees, or interest for your non-compliance or the loss, theft, or damage to MPI's customers or their property, or the Claim Vehicles; and/or
- (d) use any other remedies or sections of this Agreement,

until such non-compliance has been adequately addressed in MPI's sole discretion, provided that MPI will not arbitrarily withhold payments. The parties shall work promptly to resolve any such issues. MPI shall provide you with the reasons for using this section prior to using any of these remedies. Payment by MPI of any amounts shall not preclude MPI from further questioning the issue or using any other remedies regarding the issue.

5.10 Towing & Storage Tool

All towing and storage vendors who have signed this Agreement will be displayed on MPI's website under the Towing & Storage Tool. The Towing & Storage Tool is used to distribute tows evenly when the claimant does not choose a tower. Vendors will be identified by services provided and geographical location. MPI will endeavor to provide fair and equitable distribution of work and will support customer's choice of vendor. Being on the Towing & Storage Tool is a privilege you have by signing and staying in good standing with this Agreement. Vendors will not be displayed on the Towing & Storage Tool for Limited Area Tows.



6.00 PERFORMANCE MANAGEMENT

6.01 **Vendor Performance Standards**

The Vendor performance standards are in development and will be a series of tools and processes for improving the performance and productivity of Vendors. On a regular basis, MPI may provide you with information presented as a Vendor performance scorecard allowing you to trend your performance.

6.02 **Exceptions**

MPI recognizes that special circumstances may exist from time-to-time, particularly for public service reasons. MPI reserves the right to grant exceptions to full compliance with the provisions of this Agreement in special circumstances.

6.03 **User Access**

MPI may temporarily or permanently suspend all of your access, and/or any of your Representative's user access to any of MPI's electronic or online applications, or the Tow App, if you or your Representative(s) have failed to comply with the terms and conditions set out in this Agreement or any other instructions published by MPI and circulated to you.

7.00 SUSPENSION

7.01 MPI may, at its sole option, from time to time, delay or suspend the Services being provided under this Agreement, in whole or in part, for such period of time as may, in the opinion of MPI, be necessary. Unless another notice period has been provided elsewhere in this Agreement, MPI will provide five (5) days prior written notice to the Vendor of its intention to delay or suspend the Services. MPI shall not be obliged to make payments to the Vendor except with respect to those Services already satisfactorily performed prior to such delay or suspension.

7.02 Where there is a delay or suspension under Section 7.01, all terms and conditions of this Agreement shall continue in full force and effect against the Vendor. The Vendor shall not be entitled to make any claim for damages by reason of the delay or suspension.

8.00 TERMINATION

8.01 Either party may terminate this Agreement at any time for any reason by giving the other party fourteen (14) days prior written notice.

8.02 Neither party shall be responsible for any failure to comply with, or for any delay in performance of the terms of this Agreement where such failure or delay is directly or indirectly caused by, or results from events of force majeure beyond the control of either party. The time in which the Services are to be provided shall be extended by a period of time at least equal to the length of the force majeure event, provided that in the event the extended period of time exceeds, or is reasonably anticipated to exceed a period of fourteen (14) days, then MPI may terminate this Agreement and pay the Vendor for all Services performed to the date of the force majeure event.

8.03 In addition to its rights under Sections 7.01, 8.01 and 8.02 above, and without restricting any other remedies available, MPI may immediately terminate, or immediately suspend this Agreement in writing if:

- (a) the Vendor makes an assignment for the benefit of creditors, takes any other action for the benefit of creditors, becomes bankrupt or insolvent, or takes the benefit of or becomes subject to any legislation in force relating to bankruptcy and insolvency;
- (b) in the opinion of MPI, the Services provided by the Vendor or its Representatives are unsatisfactory, inadequate, or otherwise improperly performed;
- (c) in the opinion of MPI, the Vendor or its Representatives have failed to comply with, or breached any term or condition of this Agreement;
- (d) in the opinion of MPI, continuing to engage the Vendor under this Agreement may adversely affect its Reputation;
- (e) you make false statements on any applications or required submissions, or attempt to falsify any records



- required under this Agreement;
- (f) you fail to maintain the Required Licenses or the Required Insurance;
- (g) you fail to produce to MPI any requested records required under this Agreement within the required time;
- (h) you fail to pay to MPI any monies owed under this Agreement or for which you are liable to pay to MPI in the timeframe they are required to be paid;
- (i) you make any attempt to defraud MPI or appropriate or improperly use any of MPI's monies;
- (j) you commit any gross or willful misconduct;
- (k) you are charged with or convicted of any criminal offence or of fraud;
- (l) one of your Representatives has been convicted of a criminal offence or fraud in connection to the Services related to this Agreement;
- (m) there has been a Confidentiality Breach; or
- (n) in the opinion of MPI, there has been some other material breach of this Agreement.

8.04 Upon suspension or termination of this Agreement, the Vendor shall cease to perform any further Services, and release any MPI Claim Vehicles on the Vendor's properties to MPI, or to a designate acting on MPI's behalf. MPI shall be under no obligation to the Vendor other than to pay, upon receipt of an invoice or statement and supporting documentation satisfactory to MPI acting reasonably, such compensation as the Vendor may be entitled to receive under this Agreement for Services satisfactorily completed up to the date of suspension or termination. Upon MPI's request, the Vendor will work in good faith to facilitate the orderly transition of the Services, in whole or in part, to MPI or to a successor service provider. **If this Agreement is terminated you will not be paid at the same rates as provided under this Agreement.**

9.00 RESTRICTION ON OTHER WORK

9.01 While this Agreement is in effect, the Vendor and its Representatives shall not provide services to any other person, corporation, or entity in a manner that interferes or conflicts with the proper performance of the Vendor's obligations under this Agreement.

10.00 INDEPENDENT CONTRACTOR

10.01 The Vendor is an independent contractor, and this Agreement does not create the relationship of employer and employee, of principal and agent, of joint venture, or of partnership between MPI and the Vendor or between MPI and any Representatives of the Vendor. The Representatives of one party shall not be deemed or construed to be the Representatives of the other party for any purpose whatsoever.

10.02 The Vendor is responsible for any deductions or remittances, which may be required by law.

10.03 Except as authorized in this Agreement, the Vendor shall not incur any expenses or debts on behalf of, nor make any commitments for MPI without first obtaining written permission from MPI.

11.00 CONFIDENTIALITY AND INFORMATION SECURITY

11.01 The Vendor acknowledges that *The Freedom of Information and Protection of Privacy Act* ("**FIPPA**") and *The Personal Health Information Act* ("**PHIA**") each impose obligations on MPI to collect, use, or disclose "personal information" and "personal health information", as those terms are defined in FIPPA and PHIA (collectively called "**Personal Information**"), in the strictest of confidence, and in accordance with those Acts. In performing the Services under this Agreement, the Vendor acknowledges that they may collect, use, or have access to Personal Information.

11.02 While this Agreement is in effect, and at all times thereafter, the Vendor agrees to treat as confidential all information and materials acquired by it, or to which it has been given access, in the course of the performance of this Agreement (collectively called "**Confidential Information**"), excluding information that is in the public domain (for greater certainty, this does not include information in the public domain which was made public as a result of an unauthorized disclosure by a third party). For the purposes of this Agreement, Personal Information shall be considered to be Confidential Information.

- 11.03 The Vendor agrees that during the Term of this Agreement and at all times thereafter:
- (a) the Personal Information disclosed to the Vendor by MPI may only be used by the Vendor in a manner expressly permitted by FIPPA or PHIA (as the case may be);
 - (b) it shall not disclose or permit the disclosure of Confidential Information, including any photos, or any copies of it, in any format, to any third party without the express prior written consent of MPI;
 - (c) it shall comply with all directives given to it by MPI with respect to safeguarding, or otherwise ensuring the confidentiality, of any Confidential Information disclosed to it by MPI;
 - (d) it shall ensure that access to the Confidential Information by the Representatives of the Vendor is restricted to a “need-to-know” basis, and that access, when given, shall be to the minimum amount of Confidential Information necessary to accomplish the task;
 - (e) it shall use the Confidential Information only for those purposes that have been expressly permitted by MPI;
 - (f) it shall not reproduce Confidential Information, in any format, without the express prior written consent of MPI provided that it shall be able to reasonably reproduce the Confidential Information for internal use only in the normal performance of the Services;
 - (g) it shall ensure that it, or its Representatives, do not transport or store any Confidential Information outside of Canada without the express prior written consent of MPI. Without limiting the generality of the foregoing, in MPI’s sole discretion, the Vendor may be permitted to remotely access Confidential Information if required to provide the Services, provided that the Vendor follows all of MPI’s policies regarding remote access; and,
 - (h) after the Confidential Information has been used for its authorized purpose, or upon termination or expiration of this Agreement for any reason, or where destruction of the Confidential Information is requested by MPI or is required by this Agreement, the Vendor shall destroy the Confidential Information (and all copies of the Confidential Information in any form) in a manner which adequately protects the confidentiality of the Confidential Information. The Vendor shall ensure that the Confidential Information that is destroyed cannot be reconstructed (whether physical or electronic, or any other form).
- 11.04 The Vendor represents and warrants that it has established an information security management practice that follows its industry standards and best practices. During the Term of this Agreement and at all times thereafter, the Vendor shall take reasonable precautions to prevent any unauthorized disclosure of the Confidential Information. The standard of such precautions taken by the Vendor shall be the greater of:
- (a) the standards the Vendor has in place to protect its own confidential information; or,
 - (b) the standards imposed on the Vendor by MPI.
- 11.05 The Vendor shall immediately notify MPI in writing upon becoming aware of any actual or suspect unauthorized use, disclosure, or destruction of, or any unauthorized access to, Confidential Information (a “**Confidentiality Breach**”). The written notification must include full details of the Confidentiality Breach. The Vendor shall immediately take all reasonable steps to prevent the recurrence of any such Confidentiality Breach and shall notify MPI in writing of the steps taken. In the event of a Confidentiality Breach, MPI may do any combination of the following: (i) impose increased standards on the Vendor related to its treatment of the Confidential Information and the Vendor shall comply with such increased standards, and/or (ii) if applicable, limit the Vendor’s access to the MPI’s systems, and/or (iii) enforce or use any other applicable section of this Agreement.
- 11.06 The Vendor shall inform its applicable Representatives of the obligations imposed upon it in this Agreement with respect to Confidential Information, and shall take whatever steps are necessary to ensure that all of its applicable Representatives comply with those obligations.
- 11.07 The Vendor acknowledges that monetary damages may not be a sufficient remedy for a Confidentiality Breach, and that MPI may, without waiving any other rights or remedies, seek appropriate injunctive or equitable relief from a court of competent jurisdiction.
- 11.08 If the Vendor receives a subpoena or other validly issued administrative or judicial order seeking Confidential Information, the Vendor shall provide prompt notice to MPI and deliver to MPI a copy of its proposed response to the demand. Unless the demand has been time-limited, quashed, or extended, the Vendor shall thereafter be entitled to comply with the demand to the extent permitted or required by law. If requested by MPI, the Vendor shall cooperate

with MPI in the defence of the demand, at MPI's expense.

- 11.09 The Vendor undertakes not to publish any public statement or advertisement with respect to this Agreement, and further undertakes not to seek publicity of this Agreement without the express prior written consent of MPI, except as otherwise required by law or by this Agreement.
- 11.10 In the event that the Vendor or its Representatives use any of MPI's premises, the Vendor and such Representatives shall comply with all of such premises' security requirements as may be in effect from time to time.
- 11.11 The Vendor shall cooperate with MPI so that MPI can verify that the Vendor has complied, and is complying, with the provisions of this Article 11.00.

12.00 ACCESSIBILITY

- 12.01 The Vendor acknowledges that *The Accessibility for Manitobans Act* ("**AMA**") and the regulations made under the AMA, impose obligations on MPI to prevent and remove barriers that disable people in its business and administrative practices ("**Accessibility Obligations**") in accordance with the following principles:
- (a) Access: Persons should have barrier-free access to places, events and other functions that are generally available in the community;
 - (b) Equality: Persons should have barrier-free access to those things that will give them equality of opportunity and outcome;
 - (c) Universal design: access should be provided in a manner that does not establish or perpetuate differences based on a person's disability; and
 - (d) Systemic responsibility: the responsibility to prevent and remove barriers rests with the person or organization that is responsible for establishing or perpetuating the barrier.
- 12.02 Throughout the Term of this Agreement, the Vendor agrees to comply with the Accessibility Obligations under the AMA and regulations, and further agrees that when providing the Services or otherwise acting on MPI's behalf, the Vendor shall comply with all obligations under the AMA and regulations applicable to public sector bodies.

13.00 OWNERSHIP OF INFORMATION

- 13.01 Unless otherwise explicitly stated in this Agreement, upon payment of all amounts due, all goods, data, and materials that are submitted or required to be submitted by the Vendor or its Representatives to MPI in the performance of this Agreement, and all copyright therein (collectively referred to as the "**Submitted Materials**") shall be the exclusive property of MPI and shall be forthwith delivered to MPI, at no further cost to MPI. The Vendor agrees to execute all documents that may be necessary to transfer ownership of, or waive moral rights to the submitted Materials to MPI.
- 13.02 In the event that the Vendor is licensing or reselling to MPI a license for the goods or Services, the goods and Services shall be subject to the specific licensing terms and conditions agreed to between MPI and the licensor of such goods and Services.
- 13.03 Any property provided by MPI to the Vendor under this Agreement is only provided for the limited use in the performance of the Services, shall remain the property of MPI, and shall be returned, without cost, to MPI upon request or upon termination of this Agreement. The foregoing shall not give the Vendor or its Representatives any rights in any of MPI's intellectual property.

14.00 INDEMNIFICATION OF MANITOBA PUBLIC INSURANCE

- 14.01 The Vendor shall indemnify and save harmless MPI and its Representatives from all losses, damages, costs, causes of action, claims, liabilities, or demands of any kind with respect to any injury to persons (including, without limitation, death), damage to or loss of property, economic loss, incidental or consequential damages, or infringement of rights (including, without limitation, privacy rights) caused by, or arising directly or indirectly from:



- (a) the default of the Vendor or its Representatives of any term of this Agreement; or,
- (b) any negligent or willful act or omission of the Vendor or its Representatives; or
- (c) the theft of or any loss or damage to a MPI customer's vehicle, including the theft of or any loss or damage relating to the contents thereof, while the vehicle is in the possession or control of the Vendor or its Representatives.

The above includes all costs and expenses associated therewith, including reasonable solicitors' fees.

14.02 The Vendor shall immediately notify MPI in writing upon the Vendor becoming aware that it (or its Representatives) has, or will soon be likely to have committed a breach or is under default of this Agreement. The written notification must include full details of the actual or potential breach or default. The Vendor shall immediately take all reasonable steps to prevent the breach or the recurrence or continuation of the breach or default and shall notify MPI in writing of the steps taken. Nothing in this section shall be construed as waiving or reducing MPI's rights of termination or other applicable remedies at law.

15.00 GENERAL TERMS

15.01 The terms and conditions contained in this Agreement that by their sense and context are intended to survive the performance of this Agreement by the parties shall so survive the completion and performance, suspension, or termination of this Agreement.

15.02 The Vendor shall not assign or transfer this Agreement or any of its rights or obligations under this Agreement without first obtaining written permission from MPI. This Agreement shall be binding upon the executors, administrators, heirs, successors, and any permitted assigns of the parties.

15.03 This Agreement contains the entire agreement between the parties with respect to the subject matter hereof. There are no undertakings, representations, or promises, either express or implied, other than those contained in this Agreement and none have been relied on.

15.04 No amendment or change to, or modification of, this Agreement shall be valid unless it is in writing and signed by both parties.

15.05 This Agreement shall be interpreted, performed, and enforced in accordance with the laws of Manitoba and the laws of Canada applicable therein. The parties hereby irrevocably and unconditionally submit to the exclusive jurisdiction of the courts of the Province of Manitoba and all courts competent to hear appeals therefrom.

15.06 Any failure or delay by either party to exercise or partially exercise any right hereunder shall not be deemed a waiver of any of the rights under this Agreement. The waiver by either party of a breach of any provision of this Agreement shall not operate as, or be construed as, a waiver of any subsequent breach thereof. The election of any one or more remedies by either party shall not constitute a waiver of that party's right to pursue other available remedies.

15.07 The Vendor agrees to perform any further acts and execute and deliver any documents that may be reasonably necessary to carry out the provisions of this Agreement.

15.08 The signature page to this Agreement may be executed in any number of parts. Each such part will have the same effect as if both parties had signed the same document. All parts shall be construed together and shall constitute one agreement. The execution and delivery of the signature page to this Agreement by facsimile or other electronic transmission shall be sufficient to constitute proper execution and delivery of this Agreement.

15.09 Any notice or other communication under this Agreement shall be delivered:

To the Vendor:

Personally, or at the email, fax, or mailing address in your towing profile, or in the last contact information MPI has on file for you.



To Manitoba Public Insurance:

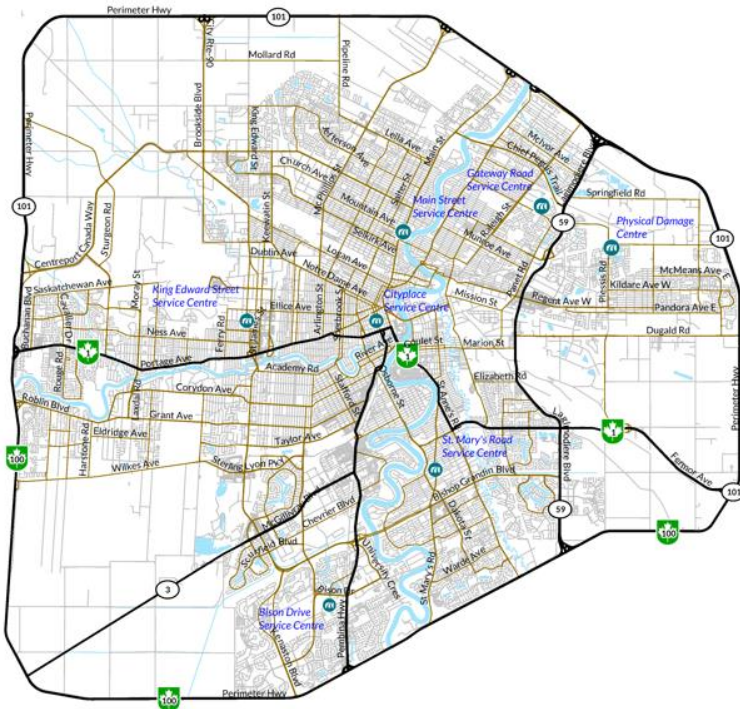
Attention: Manager, Salvage & Compound Operations
Manitoba Public Insurance
1981 Plessis Road, Building B, Winnipeg MB R2C 57C
Email: Towingservices@mpi.mb.ca

15.10 Any notice or communication:

- (a) sent by registered mail shall be deemed to have been received on the third business day following the date of mailing;
- (b) sent by facsimile or other electronic transmission (including email) shall be deemed to have been received on the day of transmission; and,
- (c) sent by courier or personal delivery shall be deemed to have been received on the day that it was delivered.

Schedule A1:

Winnipeg Contracted Towing Radius – Includes Winnipeg Perimeter and City of Winnipeg.



Brandon Contracted Towing Radius – Includes City of Brandon plus 30 kilometres outside Brandon.

