

# TERMS OF SERVICE

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5.03 Entry is not subject to sub-section 5.01 and 5.02 in cases of emergency or where entry is pursuant to a court order.

5.04 Upon request, Company's agent or employee must show valid Company identification prior to entering premises.

## 6. TWO-PARTY AND FOUR-PARTY SERVICE

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### DESTANDARDIZED

6.01 At the time a person applies for residential telephone service, the Company must state the rate for twoparty and four-party service, where available.

6.02 Customers who wish to change to a lower grade of service that is available may do so without charge.

## 7. DEPOSITS AND ALTERNATIVES

7.01 Except as otherwise stipulated in its Tariffs, the company cannot require deposits from an applicant or customer at any time unless the applicant or customer:

(a) has no credit history with the Company and will not provide satisfactory credit information;

(b) has an unsatisfactory credit rating with the Company due to payment practices in the previous two years regarding the Company's services; or

(c) clearly presents an abnormal risk of loss.

7.02 The Company shall inform the applicant or customer of the specific reason for requiring a deposit, and of the possibility of providing an alternative to a deposit, such as arranging for third party payment, a bank letter of credit or a written guarantee from a third person whose credit is established to the satisfaction of the Company.

7.03 An applicant or customer may provide an alternative to a deposit provided it is reasonable in the circumstances.

7.04 At no time may the total amount of all deposits and alternatives provided by or for an applicant or customer exceed three months' charges for all services, including anticipated long distance charges.

7.05 The Company shall credit interest on customer cash deposits held by the Company for the period during which the deposit is retained and the interest rate shall be the Canadian chartered bank deposit rate for non-chequable savings deposits as published in the most recent Bank of Canada Review, Schedule F1.

7.06 The Company must show on the customer's

monthly billing statement, the telephone number of a company representative

to whom any inquiry regarding a customer's deposit may be directed. The Company shall provide a written statement to the customer of the total amount of the deposit held with accrued interest upon customer request or at the time of refunding the deposit.

7.07 The Company must review the continued appropriateness of deposits and alternative arrangements at six month intervals. When service is terminated or the conditions which originally justified them are no longer present, the Company must promptly refund the deposit, with interest, or return the guarantee or other written undertaking, retaining only any amount then owed to it by the customer.

## 8. RESTRICTIONS ON USE OF SERVICE

8.01 Service may be used by the customer and all persons having the customer's permission to use it. In the case of business telephone service, joint use within the meaning of the Company's tariffs shall be permitted only upon approval by the Company in accordance with the applicable provisions of its tariffs.

8.02 Customers are prohibited from using the Company's services or permitting them to be used for a purpose or in a manner that is contrary to Law or for the purpose of making annoying or offensive calls.

8.03 Customers are prohibited from using the Company's services or permitting them to be used so as to prevent a fair and proportionate use by others. For this purpose, the Company may limit use of its services as necessary. In the case of any party line customer who

### **38 DMTS Terms of Service www.dmts.biz**

unduly interferes with the use of any other service on the same line, the Company may require the customer to obtain a higher grade of service, where facilities are available.

8.04 The Company's facilities must not be re-arranged, disconnected, removed, repaired or otherwise interfered with except in cases of emergency, where specified in the Company's tariffs or by special agreement. Terminal equipment provided by the customer may be connected with Company facilities, pursuant to the provisions of the General Tariff or by special agreement.

8.05 No payment may be exacted, directly or indirectly from any person by any party other than the Company for the use of any of the Company's services, except where otherwise stipulated in the Company's tariffs or by special agreement.

### **9. CUSTOMER LIABILITY FOR CALLS**

9.01 Customers are responsible for paying for all calls originating from, and charged calls accepted at, their telephones, regardless of who made or accepted them.

### **10. DISPUTE PROCEDURE**

10.01 Customers may dispute charges for calls which they do not believe originated from or were accepted at their telephones. The dispute procedure set out in the introductory pages of the telephone directory should be followed and customers must pay the undisputed portion of the bill.

### **11. CONFIDENTIALITY OF CUSTOMER RECORDS**

11.01 Unless a customer consents in writing or disclosure is pursuant to a legal power, all information kept by the Company regarding the customer, other than the customer's name, address and listed telephone number, are confidential and may not be disclosed by the Company to anyone other than:

- the customer;
- a person who, in the reasonable judgement of the Company, is seeking the information as an agent of the customer;
- another telephone company, provided

the information is required for the efficient and cost-effective provision of telephone service and disclosure is made on a confidential basis with information to be used only for that purpose;

- a company involved in supplying the customer with telephone or telephone directory related services, provided the information is required for that purpose and disclosure is made on a confidential basis with the information to be used only for that purpose; or
- an agent retained by the Company to evaluate the customer's credit worthiness or to collect the customer's account provided the information is required for, and is to be used only for, that purpose; or
- a public authority or agent of a public authority, if in the reasonable judgement of the Company, it appears that there is imminent danger to life or property, which could be avoided or minimized by disclosure of the information.

11.01 (a) Express consent may be taken to be given by a customer where the customer provides:

- written consent;
- oral confirmation by an independent third party;
- electronic confirmation through the use of a toll-free number; or
- electronic confirmation via the internet

11.02 The Company's liability for disclosure of information contrary to sub-section 11.01 is not limited by sub-section 16.01.

11.03 Upon request, customers are permitted to inspect Company records regarding their service.

### **12. DIRECTORIES**

12.01 Customers are entitled to receive, without charge, as many copies of the most recent telephone directory for their district, both white and yellow pages, and as many copies of subsequent updated directories as they are published, as **www.dmts.biz DMTS Terms of Service 39** are reasonably required, up to a maximum of one per telephone, whether

provided by the customer or Company.

12.02 The Company must provide, without charge, replacement directories required as a result of reasonable wear and tear.

12.03 The contents of the Company's directories may not be published or reproduced in any form without the Company's written consent.

### **13. DIRECTORY ERRORS AND OMISSIONS**

13.01 In the case of errors or omissions in directory white and yellow page listings, whether or not the error or omission is with regard to a telephone number, the Company's liability is limited to making a refund or cancelling any charge associated with such listings for the period during which the error or omission occurred. However, where the error or omission is occasioned by Company negligence, the Company is also liable for the amount calculated in accordance with sub-section 16.01.

13.02 In the case of errors in telephone numbers in directory white and yellow page listings, unless central office facilities are unavailable, the Company must provide reference of call service, free of charge, until termination of the customer's service or distribution of updated directories for that district in which the number or listing is correct.

### **14. COMPANY-INITIATED CHANGES IN TELEPHONE NUMBERS AND SERVICE ARRANGEMENTS**

14.01 Customers do not have any property rights in telephone numbers assigned to them. The Company may change such numbers, provided it has reasonable grounds for doing so and has given reasonable advance written notice to the customers in question, stating the reason and anticipated date of change. In cases of emergency, oral notice with subsequent written confirmation is sufficient.

14.02 Whenever the Company changes a customer's telephone number on its own initiative, it must, unless there are insufficient central office terminations available, provide reference of call service without charge until termination of the customer's service or distribution of

updated directories for that district showing the new number, whichever occurs first.

### **15. REFUNDS IN CASES OF SERVICE PROBLEMS**

15.01 Where there are omissions, interruptions, delays, errors or defects in transmission, or failures or defects in Company facilities, the Company's liability is limited to a refund of charges, on request, proportionate to the length of time the problem existed. With regard to long distance service and short period private line service, the refund shall be computed in a similar manner, provided the Company is advised promptly of the problem. No request is necessary where a problem in primary exchange service lasts twenty-four hours or more from the time the Company is advised of the problem. However, where the problem is occasioned by the Company's negligence, the Company is also liable for the amount calculated in accordance with sub-section 16.01.

### **16. LIMITATION OF COMPANY LIABILITY**

16.01 Except with regard to physical injuries, death or damage to customer premises or other property occasioned by its negligence, the Company's liability for negligence, including negligence with regard to intercept, reference of call service and emergency service from coin telephones, and also for breach of contract where the breach results from the negligence of the Company, is limited to the greater of twenty dollars (\$20.00) and three times the amounts refunded or cancelled in accordance with sub-sections 13.01 and 15.01, as applicable.

16.02 The Company is not liable for:  
(a) any act or omission of a telecommunications carrier whose facilities are used in establishing connections to points which the Company does not directly serve;  
(b) defamation or copyright infringement arising from material transmitted or received over the Company's facilities;

**40 DMTS Terms of Service [www.dmts.biz](http://www.dmts.biz)**

(c) infringement of patents arising from combining or using customer-provided facilities with the Company's facilities; or  
(d) copyright or trademark infringement, passing off or acts of unfair competition arising from directory advertisements furnished by a customer or a customer's directory listing, provided such advertisements or the information contained in such listings were received in good faith in the ordinary course of business.

#### **17. PAYMENT TIME LIMIT**

17.01 Subject to sub-section 17.02 and 17.03, charges cannot be considered past due until the time prescribed in the Company's Late Payment Charge Tariff has expired.

17.02 In exceptional circumstances, for example when a customer has incurred a significant amount of long distance charges and presents an abnormal risk of loss to the Company, prior to the normal billing date the Company may request payment from the customer on an interim basis for the non-recurring charges that have accrued, providing the customer with details regarding the services and charges in question. In such cases, subject to 17.03, the charges can be considered past due three days after they are incurred or three days after the Company demands payment, whichever occurs later.

17.03 No charge disputed by a customer can be considered past due unless the Company has reasonable grounds for believing that the purpose of the dispute is to evade or delay payment.

17.04 The Company may request immediate payment in extreme situations, provided that a notice has been issued pursuant to 17.02 and the abnormal risk of loss has substantially increased since that notice was given or the Company has reasonable grounds for believing that the customer intends to defraud the company.

#### **18. LIABILITY FOR UNBILLED AND UNDERBILLED CHARGES**

18.01 Unless there has been customer deception with regard to a charge, customers

are not responsible for paying a previously unbilled or underbilled charge except where:

(a) in the case of a recurring charge or a charge for an international long distance message, it is correctly billed within a period of one year from the date it was incurred; or  
(b) in the case of a non-recurring charge other than for an international long distance message, it is correctly billed within a period of 150 days from the date it was incurred.

18.02 In the circumstances described in subsection

18.01, unless there has been customer deception, the Company can not charge the customer interest on the amount of the correction. If the customer is unable to promptly pay the full amount owing, the Company must attempt to negotiate a reasonable deferred payment agreement.

#### **19. LIABILITY FOR CHARGES THAT SHOULD NOT HAVE BEEN BILLED AND THOSE THAT WERE OVERBILLED**

19.01 In the case of a recurring charge that should not have been billed or that was overbilled, a customer must be credited with the excess back to the date of the error, subject to applicable limitation period provided by law. However, a customer who does not dispute the charge within one year of the date of an itemized statement which shows that charge correctly, loses the right to have the excess credited for the period prior to that statement.

19.02 Non-recurring charges that should not have been billed or that were overbilled must be credited, provided that the customer disputes them within 150 days of the date of the bill.

19.03 A customer who is credited with any amount that should not have been billed or that was overbilled shall also be credited with interest on that amount calculated as the Canadian chartered bank deposit rate for non-chequable savings deposits as published in the most recent Bank of Canada Review, Schedule F1, for the period during which the error occurred.

**www.dmts.biz DMTS Terms of Service 41**

## **20. MINIMUM CONTRACT PERIOD AND CANCELLATION BEFORE SERVICE COMMENCEMENT**

20.01 The minimum contract period for Company services shall be one month commencing from the date the service is provided, except where otherwise stipulated in the Company's tariffs or where the Company has stipulated a longer period in instances in which special construction is necessary or special assemblies are installed.

20.02 A customer who cancels or delays a request for service before installation work has started cannot be charged by the Company. Installation work is considered to have started when the customer has advised the Company to proceed, and the Company has incurred any related expense. A customer who cancels or delays a request for service after installation work has started, but before service has started, will be charged the lesser of the full charge for the entire minimum contract period plus installation charge and the estimated costs incurred in installation less estimated net salvage. The estimated installation costs include the cost of unsalvaged equipment and materials specifically provided or used plus the cost of installing, including engineering, supply expense, labour and supervision and any other disbursements resulting from the installation and removal work.

## **21. CUSTOMER-INITIATED TERMINATION OF SERVICE**

21.01 Customers who give the Company reasonable advance notice may terminate their service after expiry of the minimum contract period, in which case they must pay charges due for service which has been furnished.

21.02 Before expiry of the minimum contract period, customers may terminate their service in which case they must pay the full charges for the entire minimum contract period or, in the following circumstances, charges due for service which has been furnished:

(a) in the event of the death of the customer during the minimum contract

period, the termination is effective from the date the Company is notified of the death;

(b) where the customer's premises are destroyed, damaged or condemned by reason of fire or other causes beyond the customer's control, so that they must be abandoned, the termination is effective from the date the Company is notified;

(c) in the case of directory listings for which a specific charge applies and in the case of directory listings with regard to joint user of service in the event of the death of the listed party or any joint user or when either acquires separate telephone service, the termination is effective from the date the Company is notified of the death or from the date of the commencement of the separate service;

(d) where a change to the base rate, exchange or local service area affects the customer's service, the termination is effective from the date the Company is notified of the customer's desire to terminate service;

(e) where a customer replaces any Company service with another Company service, the termination is effective from the date of the replacement, subject to the terms of the Company's tariffs and, notwithstanding sub-section 1.03 item (c) the terms of the contract for the service in question;

(f) where a customer's service is taken over without lapse by a new customer at the same location, the termination with respect to the original customer is effective from that date.

However, if at that time the new customer discontinues any of the original service or facilities, the original customer must pay the full charge for such discontinued service or facilities for the entire minimum contract period;

(g) where the circumstances specified in sub-section 21.02 items (a) through (f) do not apply, the minimum contract period is greater than

**42 DMTS Terms of Service [www.dmts.biz](http://www.dmts.biz)**  
one month at the same location,

and the customer has given the Company advance notice, the termination is effective when the customer pays the termination charge specified in the contract for the service in question or, where such charge is not specified, a termination charge of one-half of the charges remaining for the unexpired portion of the minimum contract period; and

(h) in the case of directory listings for which a specific charge applies and in the case of directory listings with regard to joint use of service, where the listing has appeared in a directory and the customer's service is terminated or the listed party or joint user moves to another location, and the customer has given the Company advance notice, the termination is effective on the date of that service termination or move, subject to a minimum charge of one month, and as of such time as no reference of call service is provided from the old to the new number.

## **22. COMPANY-INITIATED SUSPENSION OR TERMINATION OF SERVICE**

22.01 The Company may suspend or terminate a customer's service only where the customer:

- (a) fails to pay an account of the customer that is past due, provided it exceeds fifty dollars or has been past due for more than two months;
- (b) fails to provide or maintain a reasonable deposit or alternative when required to do so pursuant to these Terms;
- (c) fails to comply with the terms of a deferred payment agreement;
- (d) repeatedly fails to provide the Company with reasonable entry and access in conformity with items 5.01 and 5.02;
- (e) uses or permits others to use any of the Company's services so as to prevent fair and proportionate use by others;
- (f) uses or permits others to use any of the Company's services for a purpose or in a manner that is contrary

to the tariff of the Company or is otherwise contrary to Law or for the purpose of making annoying or offensive calls;

(g) contravenes sub-section 8.04 or 8.05; or

(h) fails to provide payment when requested by the Company pursuant to sub-section 17.04.

22.02 The Company shall not suspend or terminate service in the following circumstances:

- (a) failure to pay non-tariffed charges;
- (b) failure to pay charges for a different class of service at different premises or for service in the name of another customer, including failure to pay the account of another customer as a guarantor;
- (c) where the customer is prepared to enter into and honour a reasonable deferred payment agreement; or
- (d) where there is a dispute regarding the basis of the proposed suspension or termination, provided payment is being made for undisputed outstanding amounts and the Company does not have reasonable grounds for believing that the purpose of that dispute is to evade or delay payment.

22.03 Prior to suspension or termination, the company must provide the customer with reasonable advance notice, stating:

- (a) the reason for the proposed suspension or termination and the amount owing (if any);
- (b) the scheduled suspension or termination date;
- (c) that a reasonable deferred payment agreement can be entered into (where the reason for suspension or termination is failure to pay);
- (d) the reconnection charge;
- (e) the telephone number of a Company representative with whom any dispute may be discussed;
- (f) that disputes unresolved with this representative may be referred to a senior Company manager.

Where repeated efforts to contact the customer have failed, the Company

must deliver such advance notice to the billing address.

For the purposes of sub-section 22.03, reasonable advance notice for the termination or suspension of the service of a customer that is a competitor will generally be at least 30 calendar days.

22.04 In addition to the notice required by 22.03, the Company, must, at least twenty-four hours prior to suspension or termination, advise the customer or another responsible person that suspension or termination is imminent, except where:

(a) repeated efforts to so advise have failed; or

(b) immediate action must be taken to protect the Company from network harm resulting from customer-provided equipment; or

(c) the suspension or termination occurs by virtue of a failure to provide payment when requested by the

Company pursuant to sub-section 17.04.

22.05 Except with customer consent or in exceptional circumstances, suspension or termination may occur only on business days between 8 a.m. and 4 p.m., unless the business day precedes a non-business day in which case disconnection may not occur after 12 noon.

22.06 Suspension or termination does not affect the customer's obligation to pay any amount owed to the Company.

22.07 In the case of services that have been suspended, unless suspension occurs during the minimum contract period, the Company must make a daily pro rata allowance based on the monthly charge for such services.

22.08 The Company must restore service, without undue delay, where the grounds for suspension or termination no longer exist or a payment or deferred payment agreement has been negotiated.

22.09 Where it becomes apparent that suspension or termination occurred in error or was otherwise improper, the Company must restore service during business hours on the next working

day, at the latest, unless exceptional circumstances do not permit this, and no reconnection charges shall be levied.