

**The following standard terms and conditions (“Terms of Service”) apply to all services provided to you, the “Customer”, by Shaw Telecom G.P. and/or Shaw Business U.S., Inc., as applicable (hereinafter, “Shaw Business”).**

The Shaw Cable Joint Terms of Service, as amended, located at <http://www.shaw.ca/terms-of-use/>, apply to all cable television and video services provided to Customer by Shaw Cablesystems G.P., an affiliate of Shaw Business.

By activating and using the Services (as herein defined), Customer agrees that it has read, understood, and is bound by the Terms of Service. Shaw Business may amend the Terms of Service from time to time and will update the revision date on this website to indicate when changes have been made. All changes will take effect within 30 days of the date of being posted. Customer is responsible for regularly reviewing information posted on this website, or supplied to Customer by Shaw Business, in order to obtain timely notice of such changes.

**CUSTOMER’S NON-TERMINATION OR CONTINUED USE OF THE SERVICE(S) AFTER CHANGES ARE POSTED ON THIS WEBSITE SHALL CONSTITUTE CUSTOMER’S ACCEPTANCE OF THE TERMS OF SERVICE AS MODIFIED BY THE POSTED CHANGES.**

- See more at: [business.shaw.ca/terms-of-service/](http://business.shaw.ca/terms-of-service/)

## 1. DEFINITIONS:

For the purposes of the Terms of Service, the following capitalized words have the following meanings:

- a) **“Affiliate”** means any entity that directly or indirectly controls, is controlled by, or is under common control with a Party;
- b) **“Cross-Border Services”** means Services that originate in Canada and terminate in the USA and vice versa;
- c) **“Demarcation Point”** means the operational interface and location to which the Services are delivered;
- d) **“Equipment”** means the cable, circuits, instruments, equipment and other facilities owned by Shaw Business and required for the purposes of providing the Services to Customer;
- e) **“Inter-State Services”** means Services provided solely within the territory of the United States of America (USA) that originate in one USA State and terminate in another, irrespective of the number of USA States or Canadian Provinces it traverses; or as may otherwise be defined by Federal Communications Commission regulations;
- f) **“Intra-State Services”** means Services that originate and terminate within one State of the USA; or as may otherwise be defined by Federal Communications Commission regulations;
- g) **“Off-Net Location”** means any location where Shaw Business uses a third party carrier to provide local access circuits to the Shaw Business backbone network or where Shaw Business is required to do a fibre build to the location;
- h) **“On-Net Location”** means any location where Shaw Business owns local access circuits which are directly connected to the Shaw Business backbone network;

- i) **“Parties” means Shaw Business and the Customer and “Party” means either one of them;**
- j) **“Services” means any services** provided by Shaw Business to Customer pursuant to a Service Order, which services shall include, without limitation, installation and maintenance of the Equipment and any temporary services provided while installation and/or maintenance is taking place;
- k) **“Service Location”** means the building or premises at which the Demarcation Point is located, as more particularly described in a Service Order;
- l) **“Service Order(s)”** means one or more service order form(s) setting out the Services that Customer has requested Shaw Business to provision; and
- m) **“Taxes” means all taxes, levies, fees, imposts, duties, charges, surcharges, assessments or withholdings of** any kind or nature levied or imposed upon Shaw Business, its network, Equipment, facilities, or arising from or relating to the provision by Shaw Business of the Services or use thereof by Customer (including, without limitation, universal service fund, sales and excise taxes, real property, gross receipts, and license fees), together with any penalties, fines or interest thereon by any Canadian or U.S. federal, state, provincial or local government, public authority, including its agencies, commissions and tribunals, having jurisdiction.

## 2. PROVISION OF SERVICES:

- a) In consideration of the mutual covenants and agreements contained herein and in each Service Order, Shaw Business shall provide the Services to the Customer.
- b) Customer acknowledges that certain Services delivered entirely in Canada may be provided on behalf of Shaw Business by Shaw Envision Inc., Shaw Cablesystems G.P., including its partners, or other affiliates or **agents of Shaw Business (collectively, “Shaw Providers”)**. Notwithstanding that the Services may be provided by Shaw Providers, Shaw Business will be solely responsible for ensuring all of its obligations set forth in this Agreement are met.
- c) Customer acknowledges that Services provided in the USA, whether Cross-Border Services and/or Inter-State Services, will be provided directly by Shaw Business U.S., Inc., and in such event:
  - i) Shaw Business U.S., Inc. shall be a party to the applicable Service Order in relation to all Services provided in the USA;
  - ii) Shaw Business U.S., Inc. shall be solely responsible for all of the obligations of Shaw Business set forth in the applicable Service Order or in the Terms of Service as they relate to Services provided in the USA; and
  - iii) each monthly invoice to Customer shall allocate the amounts owing as between the Services provided in the USA and Canada.
- d) Customer acknowledges that for any Services provided in the USA, the Services must be used by Customer for Inter-State Services and/or Cross Border Services only. The Customer shall ensure that at no time will the Services be considered as Intra-State Services by any applicable governmental authority.

## 3. CHARGES AND PAYMENTS:

- a) **Charges:** The charges for the Services are as set out in the applicable Service Order. Once the service installation provided by Shaw Business is complete in all respects and the Services are ready to be delivered pursuant to a Service Order, Shaw Business shall notify Customer in writing or via electronic transmission. Shaw Business shall then have the right to initiate billing within 48 hours.
- b) **Taxes:** Customer shall be responsible for all applicable Taxes which are related to the Services. If a Customer

is entitled to an exemption from any applicable Taxes, Customer is responsible for presenting Shaw Business with a valid exemption certificate (in a form reasonably acceptable to Shaw Business). Shaw Business will give effect to any valid exemption certificate provided in accordance with the foregoing sentence to the extent it applies to any Services billed by Shaw Business to Customer following Shaw **Business' receipt of such exemption certificate.**

- c) Payments: Shaw Business shall invoice Customer for the Services, as described in each Service Order, and payments shall be due and payable to Shaw Business within forty (40) days after the date of the Shaw Business invoice to Customer. Amounts owing after the due date are subject to a late payment interest charge calculated on the outstanding amount at 2% per month (26.8% per year) until paid in full. Customer shall have ninety (90) days following receipt of each invoice within which to dispute any sums appearing in that invoice; failure on **the part of Customer to do so shall be deemed a waiver of Customer's right to dispute such sums.** Unless otherwise specified in a Service Order, all amounts due for Services shall be billed in Canadian dollars.
- d) Creditworthiness: Customer consents and agrees **that Shaw Business has the right to check Customer's** credit rating from time to time. Customer consents to the receipt and provision of account information from and to credit grantors, credit bureau and suppliers of services. Shaw Business reserves the right to require Customer to provide a deposit in an amount not to exceed three (3) months recurring monthly charges for the Services set out in each Service Order prior to the installation of Services if Customer: (i) has no credit history with Shaw Business; (ii) a credit check shows an unsatisfactory credit rating; or (iii) in the sole discretion of Shaw Business, due to payment practices in the previous two (2) years regarding services provided by Shaw Business or its Affiliates, Customer presents an abnormal risk of loss. The deposit will be held by Shaw Business as security for payment of any amounts owing to Shaw Business by Customer. When the Services provided to Customer are terminated, the amount of the deposit will be credited to Customer's account and any remaining credit balance will be refunded within sixty (60) days of such termination. Any amount owed to Shaw Business in excess of the amount of the deposit shall immediately be paid to Shaw Business by Customer pursuant to the terms herein.

#### 4. CUSTOMER OBLIGATIONS: Customer agrees as follows:

- a) Service Location: Customer will obtain and maintain in place access to the Service Location, including the Demarcation Point, to Shaw Business, its employees, agents, contractors and subcontractors for the purpose of providing the Services as well as providing electrical power and outlets at the Service Location as Shaw Business shall reasonably require for the provision of the Services. Customer is solely responsible for the payment of any and all electrical charges associated with the Services and access charges at the Service Location.
- b) Equipment: The location of any parts of the Services to be installed at the Service Location shall be determined by Shaw Business in consultation with Customer. Customer shall take all steps reasonably required in order to protect the Equipment from trespass or damage by Customer or other persons where such Equipment is located at the Service Location.
- c) Cable Wiring: Customer shall be responsible for and shall pay for any and all cable wiring and equipment required to interconnect the Equipment from the Demarcation Point to Customer's equipment or to **Customer's customer equipment, if applicable, to permit Customer to use the Services.** Customer will be responsible for use of the Services beyond the Demarcation Point.
- d) Property Ownership: Unless a Service Order specifically indicates that the equipment is being sold to Customer, any and all equipment provided by Shaw Business in connection with the provision of the Services at or to the Service Location shall remain the property of Shaw Business and shall not by reason of the attachment, installation or connection of any part thereof to any realty become or be deemed a fixture appurtenant to such realty. Shaw Business shall remove the terminating equipment from the Service Location upon termination or expiry of the term for the provision of any Services.
- e) Responsibility: If the equipment is damaged or destroyed by the negligence or willful acts or omissions of Customer, its employees, agents or contractors, then Customer will be responsible for any such damage.

## 5. USE OF SERVICES:

- a) Customer will not permit any of the Equipment to be re-arranged, disconnected, removed, repaired or otherwise interfered with, except with Shaw Business' prior approval.
- b) Customer will not use the Services, nor permit them to be used, for any purpose contrary to law.
- c) Customer will be allowed to resell the Services under its own branding. Customer shall be responsible for **all customer care matters associated with Customer's customers.**
- d) **Customer shall not have the right to use Shaw Business' trademarks or trade names in any manner unless Shaw Business gives prior written consent and/or grants the appropriate license. Shaw Business shall not have the right to use Customer's trademarks or trade names in any manner without Customer's prior written consent.**
- e) Customer shall not have the right to use Shaw Business' registered or pending patents unless Shaw Business authorizes such use through license.
- f) For any Services provided in the USA, Customer understands that the Services are interstate telecommunications services, as defined by Federal Communications Commission regulations, and represents and warrants that during the term for the provision of the Services more than ten percent (10%) of its usage will be Inter-State Services usage.
- g) In the event that Customer should require any changes to the Services after installation, Customer shall follow the guidelines in the Shaw Business Change Management Policy set out at [http://business.shaw.ca/Change\\_Management/](http://business.shaw.ca/Change_Management/), a copy of which is available upon request.
- h) Customer shall at all times ensure that the Services are used by it and its customers and end-users in accordance with the Shaw Business Data Acceptable Use Policy and Voice Acceptable Use Policy set out at <http://business.shaw.ca/Acceptable-Use-Policy>, copies of which are available upon request.

## 6. CUSTOMER RESPONSIBILITIES:

- a) The Customer is responsible for, and shall indemnify Shaw Business against, all losses, liability, claims, damages, judgments, expenses and costs, of any kind whatsoever, including reasonable legal fees and disbursements, suffered or incurred by Shaw Business arising from claims of any third party (including **Customer's customers and end-users**) on any basis whatsoever and arising from or in connection with any event, including but not limited to:
  - i) use of the Services by Customer or its customers or end-users or by any third party authorized by Customer;
  - ii) **the Customer's (or its customer's or end-user's) data, equipment**, computer network and other facilities;
  - iii) breach of any covenant, term, representation or warranty contained in the Terms of Service or a Service Order by Customer or by any third party authorized by Customer;
  - iv) the negligence or willful misconduct of Customer, its customers, end-users or any third party authorized by Customer in connection with use of the Services;
  - v) claims made by Customer against any third party who in turn claims contribution or indemnity from Shaw Business; and

- vi) claims by any third party for libel, slander, passing off or infringement of copyright, trademark or patent, illegal, improper or unauthorized use of the Services arising from the content of the video, voice or data carried by Customer, or its customers or end-users.
- b) Customer, furthermore, indemnifies Shaw Telecom G.P. and Shaw Business U.S., Inc. separately against all losses, liability, claims, damages, judgments, expenses and costs, of any kind whatsoever, including reasonable legal fees and disbursements, suffered or incurred by Shaw Telecom G.P. and Shaw Business U.S, Inc arising from the breach of Clause 7 (a) below.

## 7. LIMITATION OF LIABILITY:

- a) Customer acknowledges and agrees that Shaw Telecom G.P., and its partners, shall not be liable for any Services delivered in the territory of the USA and that Shaw Business U.S, Inc shall not be liable for any Services delivered in the territory of Canada and Customer warrants that it shall not seek recourse and remedies in contravention of this stipulation. Further, Customer acknowledges and agrees that the Shaw Providers shall not be liable for any Service and the Customer warrants that it shall not seek recourse and remedies in contravention of this stipulation.
- b) Except with respect to loss or damage caused as **a direct result of Shaw Business' negligence, Customer** agrees that Shaw Business will not be liable to Customer in relation to: i) any act or omission of any carrier or person other than Shaw Business; ii) any act or omission of the Customer or its customers or end-users; iii) any claims related to defamation, copyright or trademark infringement or the violation of any third party rights arising from use of the Services; iv) infringement of patents arising from combining or using Customer-provided facilities with the Services or the Equipment where the Services or the Equipment would pose no infringement in the absence of such combination or use; or v) any unauthorized use of the Services.
- c) **Shaw Business' total cumulative liability, if any, to Customer** for damages related to the provision of Services pursuant to any Service Order (including fundamental breach or otherwise), negligence, any act or omission by Shaw Business or its representatives, or under any other theory of law or equity will be limited to those damages actually proven as directly attributable to Shaw Business and will in no event exceed the aggregate of three (3) months of fees and charges for the affected Services under such Service Order.
- d) NOTWITHSTANDING ANYTHING IN THESE TERMS OF SERVICE OR ANY SERVICE ORDER, IN NO EVENT WILL ANY PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR PUNITIVE, SPECIAL, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOST PROFITS OR LOSS OR DAMAGE TO DATA, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- e) EXCEPT AS EXPRESSLY STATED IN A SERVICE ORDER, SHAW BUSINESS MAKES NO WARRANTY OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE IN RELATION TO THE SERVICES AND, WITHOUT LIMITATION ALL IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY QUALITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT ALL REQUIREMENTS OF CUSTOMER WILL BE MET WITH RESPECT TO ANY SERVICES PROVIDED BY SHAW BUSINESS HEREUNDER, ARE HEREBY DISCLAIMED BY SHAW BUSINESS AND EXCLUDED FROM THE AGREEMENT BETWEEN THE PARTIES.

## 8. TERMINATION:

- a) Either Party may terminate any and all Service Order(s) without penalty on written notice to the other Party if the other Party has filed a petition in or has been assigned into bankruptcy or insolvency legislation, or makes an assignment for the benefit of creditors or makes any arrangements or otherwise becomes subject to any proceedings under applicable bankruptcy laws with a trustee, or receiver appointed in respect of a substantial portion of the property of the other Party, or in the event the other Party liquidates or winds up its daily operations for any reason whatsoever.
- b) Customer may terminate the Services before delivery of the Services, upon thirty (30) days written notice to Shaw Business provided that Customer pays Shaw Business upon demand, in one lump sum, as a

genuine pre-estimate of liquidated damages, an amount equal to fifty percent (50%) of the monthly service charges set out in the applicable Service Order for such terminated Services for the balance of the term.

- c) Customer may terminate the Services connecting any Customer On-Net Location upon thirty (30) days written notice to Shaw Business, provided that Customer pays Shaw Business upon demand, in one lump sum, as a genuine pre-estimate of liquidated damages, an amount equal to fifty percent (50%) of the monthly service charges set out in the applicable Service Order for such terminated Services for the balance of the term.
- d) Customer may terminate the Services connecting any Customer Off-Net Location upon thirty (30) days written notice to Shaw Business, provided that Customer pays Shaw Business upon demand, in one lump sum, as a genuine pre-estimate of liquidated damages, an amount equal to one hundred percent (100%) of the monthly service charges set out in the applicable Service Order for such terminated Services for the balance of the term.
- e) Shaw Business may suspend delivery of the Services, or terminate any or all Service Order(s), at its option and without penalty if:
  - i) Customer fails, within the time set forth in any written notification to Customer by Shaw Business, to make full payment of any invoice that remains unpaid in accordance with the terms of payment set out in a Service Order or the Terms of Service (other than charges which are being disputed by Customer in good faith); or
  - ii) Customer has failed within five (5) days following written notification to Customer by Shaw Business to remedy any breach of a material term or condition of a Service Order or the Terms of Service to be performed or fulfilled by Customer.
- f) If Shaw Business has terminated any or all Service Order(s) in accordance with Section 8 (e), then Shaw Business shall cease providing the applicable Services and Customer shall pay to Shaw Business forthwith upon demand, in one lump sum, as a genuine pre-estimate of liquidated damages, an amount equal to:
  - i) **fifty percent (50%) of the monthly service charges for the Services connecting Customer's On-Net Location(s)** which would otherwise have been payable by Customer to Shaw Business had the applicable Service Order(s) not been terminated and had the Services been provided as contemplated in the Service Order(s) for the balance of the applicable term; and/or
  - ii) one hundred percent (100%) of the total monthly service charges for the Services connecting **Customer's Off-Net Location** which would otherwise have been payable by Customer to Shaw Business had the applicable Service Order(s) not been terminated and had the Services been provided as contemplated in the Service Order(s) for the balance of the applicable term.

## 9. GENERAL:

- a) **Governing Law:** Any dispute between Shaw Business and Customer, with respect to a Service Order, shall be governed by, and construed in accordance with, the laws in force in the Province of Alberta, and the laws of Canada applicable therein. Customer agrees to attorn to the jurisdiction of the Courts of Alberta, and agree that any action or proceeding brought by either Shaw Business or Customer to enforce any provision of a Service Order shall be commenced in Alberta.
- b) **Successors and Assigns:** A Service Order may not be assigned by Customer without the prior written consent of Shaw Business, such consent not to be unreasonably withheld. Shaw Business may, without consent, assign any Service Order(s) in connection with a corporate reorganization or merger or to any entity that controls, is controlled by or is under common control with Shaw Business or to a purchaser of all or substantially all of its assets or business, and in any such event, Shaw Business shall be released from its obligations hereunder to the extent they are assumed by the assignee.

- c) Force Majeure: Any delay or failure of either Party to perform its obligations under a Service Order or the Terms of Service shall be excused, to the extent that the delay or failure is caused by an event or occurrence beyond the reasonable control of the Party and without its fault or negligence, such as by way of example and not by way of limitation, acts of God, action by any governmental authority, fires, floods, war, acts of terrorism, insurrection, revolution, nuclear reaction, windstorms, explosions, riots, natural disasters, inability to obtain power, material, labour, Equipment or transportation, or court injunction provided that, written notice of the delay shall be given by the affected Party to the other Party within ten (10) days.
- d) Purchase Orders: Notwithstanding any contrary language in any purchase order or similar document issued by the Customer to Shaw Business with respect to the Services, any such purchase order or similar document shall be deemed for the Customer's internal use only and the provisions thereof shall have no affect whatsoever upon the provisions of the applicable Service Order or the Terms of Service.
- e) Severability: Each provision of any applicable Service Order(s) or the Terms of Service shall be severable. If any provision of a Service Order or the Terms of Service is illegal or invalid, the illegality or invalidity shall not affect the validity of the remainder of such Service Order or the Terms of Service. In the event that a Service Order is a tripartite agreement, then such Service Order shall be divisible in relation to the Parties insofar as the Service Order can be performed without the collaboration of the excluded Party.
- f) Rights Arising from Service Order(s): Nothing herein expressed or implied is intended nor shall be construed to confer on or to give any person, other than the Parties and their respective successors and permitted assigns, any rights or remedies under or by reason of any Service Order(s) or the Terms of Service.
- g) Agency Limitations: Any Service Order(s) does not constitute any Party a partner, employee, agent or legal representative or joint venturer with the other, and no Party may act on behalf of the other in any manner nor assume or create any obligation of any kind express or implied, on behalf of the other Party nor bind the other Party in any respect whatsoever, except in accordance with such Service Order(s).
- h) Waiver and Indulgence: Waiver by any Party of any violation or breach of a Service Order or the Terms of Service in any instance shall not be taken or held to be a waiver of any subsequent violation or breach or as a waiver of the provision itself that is breached, nor shall any delay or omission on the part of any Party to exercise any right arising from such violation or breach alter or **impair that Party's right as to the same** or any future violation or breach. Similarly, no indulgence or goodwill of any kind by a Party not contemplated by a Service Order or the Terms of Service shall be taken or construed as a right that can be enforced against such Party by the other.
- i) Notices: Any notice or other written communication provided or permitted hereunder shall be in writing and given by personal delivery (against receipt), or sent by registered mail (against receipt) postage prepaid, or transmitted by facsimile, addressed to the other Party as set out on the applicable Service Order(s). Any notice so given shall be deemed to have been received on the date on which it was delivered in person, or, if transmitted by facsimile during the regular business hours of the party receiving the notice, on the date it was transmitted, or if transmitted after business hours, on the next business day, or if sent by registered mail on the fifth business day thereafter.
- j) Confidentiality: Each Party (the "Receiving Party") agrees to protect the confidentiality of any information disclosed by the other Party (including the existence and terms of this Agreement) and shall not disclose, copy or use any such confidential information except as contemplated by this Agreement. Without limiting the generality of the foregoing, no public announcement, advertising or any other form of public release (including any disclosure to obtain financing) regarding the existence or the contents of this Agreement shall be made by any Party without the prior written consent of the other Party. The foregoing shall not apply to information which is or becomes publicly known otherwise than by reason of a breach of this Agreement by the Receiving Party or has been independently developed outside the scope of this Agreement. Notwithstanding the above, the Parties acknowledge that disclosure of this Agreement will be required to certain of their respective employees, agents or representatives to effectuate the purposes hereof, or as is necessary to comply with federal, provincial or local regulatory



requirements, including disclosure requirements of public corporations, in Canada and/or the USA, as applicable, and any such disclosure shall not require the prior written consent of the other Party. Each Party shall be entitled to all remedies available at law, including the right to injunctive relief and specific performance.

- k) Regulatory Approval: In the event that a Service Order or the Terms of Service become subject to regulatory approval by various local, state or federal agencies in Canada and/or the USA, as applicable, the Parties shall cooperate, to the extent reasonable and lawful, in providing such information as is necessary to complete any required filing or in obtaining any required regulatory approval.
- l) Legality: Nothing contained in any Service Order or the Terms of Service shall be construed so as to require the commission of any act or the payment of any compensation which is contrary to law, whether Canadian and/or USA law, as applicable, which may, from time to time, be in effect and by its terms controlling of the applicable Service Order(s). If there is any conflict between any provision of Service Order and any such applicable law the latter shall prevail and the provisions of such Service Order affected shall be modified to the extent (but only to the extent) necessary to remove such conflict and permit such compliance with the law.
- m) Cumulative Remedies: No remedy conferred upon or reserved in favour of a Party shall exclude any other remedy herein or existing in law or in equity or by statute, but each shall be cumulative and in addition to every other remedy given hereunder or now hereafter existing.
- n) Non-Variation: No amendment or consensual cancellation of a Service Order or any provision or term thereof or of any agreement, bill of exchange or other document issued or executed pursuant to or in connection with a Service Order shall be binding unless recorded in a written document signed by a duly authorized representative from all Parties. The Parties acknowledge having read and understood each Service Order and are not entering into such Service Order on the basis of any representations not expressly set forth in it. No Party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded in a Service Order or the Terms of Service whether it induced the contract between the Parties or not.



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