

## Service Description: Dell On Call HelpDesk Service

This Service Description is between you (“**You**” or “**Customer**”) and Dell Canada Inc., (“**Dell**”, “**Our**” or “**We**”).

The below services provide consumer customers with 24x7 telephone support for quick and easy answers to common questions about Dell’s Supported Products\* (the “**Services**” or “**Dell On Call HelpDesk**”). Services include help with the following topics for Supported Products for the period of time, or on a per incident basis within the period of time, or an unlimited basis, as set forth on customer’s invoice:

By purchasing this Service, you agree to be bound by and accept all terms and conditions set forth in this Service Description for Dell On Call HelpDesk Service (the “**Service Description**”). Please read this document carefully and note that Dell may change the terms of Services at any time. Customer acknowledges and agrees that by using the Services after a change becomes effective indicates customer’s agreement to such change.

This Service Description incorporates the terms and conditions of the Customer Master Services Agreement (“**CMSA**”) available at <http://www.dell.ca/servicecontracts>\*). In the event of a conflict, the order of preference is as follows: (1) this Service Description; (2) the CMSA.

All capitalized terms and conditions not defined herein shall have the meaning specified in the CMSA.

**\* PLEASE CAREFULLY READ THE TERMS AND CONDITIONS IN THE CMSA. THE CMSA CONTAINS IMPORTANT INFORMATION ABOUT YOURS AND DELL’S RIGHTS AND OBLIGATIONS.**

General Areas of Telephone Support	Description of Telephone Support
Software Installation and “How to” Support	Help install and set-up common software applications. “How to” support for common Microsoft and Adobe Applications.
Internet and E-mail Setup and Support	Help set up internet and email accounts with Customer’s internet service; troubleshoot common internet and email issues on a Dell PC.
Peripheral Setup and “How To” Support	Help install popular printers, cameras, mice and keyboards; troubleshoot common issues.
Home Network Setup and Troubleshooting	Help set-up and/or diagnose peer-to-peer wireless and ethernet networks between 2 Dell systems and a printer.
Spyware and Virus Diagnosis and Removal	Help troubleshoot and remove most virus and spyware.
Security Setup and Support	Help with basic configuration and installation of key security software (purchased separately by customer); setup virus scan and personal firewall.
Operating System (“ <b>OS</b> ”) Installation and Support	Help installing, upgrading and setting up Windows Vista™ and XP operating systems not purchased with customer’s Dell PC. Help with re-installations as needed to resolve spyware or virus issues. Help with OS maintenance and “how to” questions.
PC Tune Up	Designed to help Customers optimize the performance of their system and reduce security risks to their system through an agent-assisted session in which the agent runs a set of customizable tasks on the Customer’s system.

General Areas of Telephone Support	Description of Telephone Support
Data Backup	Help backup customer data from Dell PC to customer-owned external media. Dell will not be responsible for any data loss.
Remote Third Party Software and Hardware Installation	Help installing supported 3rd Party webcams, modems, external storage, PDAs, Fax, iPods, other similar devices and help installing supported non-conflict software.

\*To view a list of all supported products and issues covered by Dell On Call HelpDesk Service (the “**Supported Products**”), see [www.dell.ca/Delloncall](http://www.dell.ca/Delloncall) or call 1-866-508-6719. Please note that Supported Products may change at any time without notice to Customers. Customer must have valid licenses to use the applicable Supported Product that it has purchased.

**Dell On Call HelpDesk Service DOES NOT INCLUDE:**

For hardware support including but not limited to labour and/or parts replacement for Dell branded or non-Dell branded hardware or peripherals. Please see Dell’s Limited Warranty Statement and the applicable Dell or third party service contract for details available online at [www.dell.ca/servicecontracts](http://www.dell.ca/servicecontracts) or by calling Dell at 1-800-847-4096.

- On-Site or At-Home Services. (these are separate contracts with unique terms and conditions.)
- Support when compatibility of the system to the software is in question or configuration is invalid.
- Third party plug-ins.
- Providing software upgrades or new software releases.
- Support for Supported Products located outside of Canada.
- Support for versions of Supported Products older than the current version (support on older versions is on a commercially reasonable basis).
- Support for freeware or shareware.
- Remote or on-site training services.
- Scripting, programming, database design or web development.
- Product keys for activation.
- Recovery of lost data or software.
- Support arising from accidental or intentional damage.
- Any activities not expressly described in this Service Description.

Additional exclusions may be applicable as determined by Dell from time to time and will be posted at [www.dell.ca/Delloncall](http://www.dell.ca/Delloncall).



## 1. Support Procedures

**Receiving Support.** Customer, or persons authorized by Customer should call **1-866-508-6719** to receive support. A Dell technician will ask for Customer's order number, relevant hardware and software brands, and model or version numbers. To receive Services, Customer must confirm that customer (a) has full access to the hardware and/or software that is the basis of the problem, and (b) has completed a back-up of any software or data that may be impacted by the Supported Product.

**Service Availability.** Dell will use commercially reasonable efforts to keep support available 7 days a week, 7 a.m. to 11 p.m. EST.

**Order Number.** Customer must maintain the confidentiality of the order number provided by Dell in connection with these Services. **Dell is not responsible for unauthorized use of a customer's contract or order number.**

**Spyware/Virus Removal.** Customer acknowledges that alteration or removal of some spyware and virus programs may impair the performance of certain programs. In addition, altering or removing such programs may be restricted by certain software licenses. It is Customer's responsibility to examine such licenses and to ensure that the procedures performed as part of these Services will not affect these licenses, or, if they do, that the effect on such licenses or system performance is acceptable to Customer. Customer further acknowledges that these Services cannot guarantee that additional spyware and viruses will not return to or appear on a customer's system after Services have been rendered.

**Copying of Files.** Dell is not permitted by law to copy pirated or copyrighted materials. Customer acknowledges that Customer owns the copyright or has a license to make copies to all of the files on their system and that Customer does not have any files on their system which would cause Dell to be liable for copyright infringement if those files were copied by Dell as part of the Services, including but not limited to, music files, motion picture files or photographic files that are subject to copyright restrictions. Customer accepts responsibility for, and agrees to indemnify and hold Dell harmless from, any and all liability, damages, claims or proceedings arising out of Customer's failure to remove any such files from their system prior to calling Dell for Services.

### **Complete a backup of all existing data and programs on affected Systems**

It is solely Customer's responsibility to complete a backup of all existing data, software, and programs on affected Systems before receiving Services (including telephone support). As per the Limitation of Liability section below, **DELL IS NOT RESPONSIBLE FOR LOSS OF, DAMAGE TO OR RECOVERY OF DATA, PROGRAMS OR LOSS OF USE OF SYSTEM(S) OR NETWORK(S).** Customer understands and agrees that under no circumstances will Dell be responsible for any loss of software, programs or data – even if technicians have attempted to assist Customer with their backup, recovery, or similar services. Any such assistance is beyond the scope of any Dell warranty and this Service Description; this assistance is provided in Dell's sole discretion and without any guarantee or warranty of any kind. Neither does Dell provide any guarantee or warranty of any kind with respect to any third party product that a technician may use in assisting customer.

**Limited Liability.** NEITHER DELL (INCLUDING ITS AFFILIATES AND AGENTS) OR CUSTOMER WILL BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND OR NATURE WHATSOEVER ARISING OUT OF OR IN CONNECTION WITH THE SERVICES OR THIS AGREEMENT, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. DELL (INCLUDING ITS AFFILIATES AND AGENTS) SHALL NOT HAVE LIABILITY FOR (I) LOSS OF INCOME OR PROFIT, OR FAILURE TO RECOGNIZE EXPECTED SAVINGS, WHETHER DIRECT OR INDIRECT, (II) LOST OR DAMAGE TO DATA OR SOFTWARE, OR (III) LOSS OF USE OF, OR NON-AVAILABILITY OF ANY COMPUTER OR NETWORK SYSTEMS. EXCEPT FOR CLAIMS THAT THE SERVICES CAUSED BODILY INJURY (INCLUDING DEATH), CUSTOMER'S SOLE AND EXCLUSIVE REMEDY SHALL BE THE PERFORMANCE OF THE SERVICES DESCRIBED UNDER THIS SERVICE DESCRIPTION AND DELL'S TOTAL LIABILITY ARISING OUT OF, OR IN CONNECTION WITH, ANY EVENT OR SERIES OF CONNECTED EVENTS OCCURRING IN CONNECTION WITH THIS SERVICE DESCRIPTION, SHALL BE LIMITED TO, IN THE AGGREGATE, THE TOTAL FEES PAID BY THE CUSTOMER TO DELL IN ACCORDANCE WITH THIS SERVICE DESCRIPTION WITHIN THE PREVIOUS TWELVE (12) MONTHS. THE FOREGOING LIMITATIONS APPLY REGARDLESS OF THE CAUSES

OR CIRCUMSTANCES GIVING RISE TO SUCH LIABILITY, EVEN IF SUCH LIABILITY IS BASED ON NEGLIGENCE OR OTHER TORTS OR BREACH OF CONTRACT INCLUDING, BUT NOT LIMITED TO, FUNDAMENTAL BREACH OR BREACH OF A FUNDAMENTAL TERM.

## 2. Important Additional Information

**Per Incident, Packages and Term.** Dell On Call HelpDesk Services can be purchased on a single incident basis, as a multiple incident package for a specified number of incidents that must be used within a set period of time, as an unlimited usage package for a trial period, or as an unlimited usage package on a month-to-month basis. Customer's invoice will confirm what support package has been purchased, including the number of incidents and time period, where applicable.

- **Per Incident and Multiple Incident Packages** – Services “per incident” mean that Dell on Call will address a single issue or problem for a Customer on a Supported System as set forth in this Service Description and include follow-up calls, as reasonable and necessary, on the same issue. Once a Customer has agreed that an incident is resolved, Customer will have 3 days (7:00 a.m. to 11:00 p.m. EST, 7 days a week) to call back and obtain assistance on the issue before it is officially closed out in Dell's systems. For multiple incident package purchases, Customer must use the number of incidents set forth in Customer's invoice or Welcome Letter within the indicated time period. Any incidents not used within the indicated time period will expire, and Customer will not be entitled to any further Services.
- **Month-to-Month Unlimited Usage Package** – This package means that Dell on Call Services will be provided for an unlimited number of incidents via a month-to-month billing agreement for services. Customer will be billed on a monthly recurring basis and all amounts paid will be pre-payments for the monthly billing period.
- **Trial Period Unlimited Usage Package** – This package is only available on a single product purchased with Dell On Call Helpdesk Services and provides a Customer with an unlimited number of incidents to use Dell on Call Services for a set time period.

Unlimited usage for a trial period or month-to-month is restricted to Services on a single product purchased with the Dell On Call Helpdesk Service and any supported peripherals used with the product.

**Refunds.** Any refund amount is subject to reduction based on a deduction for services rendered calculated by Dell on a pro-rated basis. The value of services rendered is based on the average retail price of single incidents offered by Dell on Call HelpDesk Service.

**Cancellation.** Dell, at its discretion, may terminate Services with 30 days notice to Customer, in which case, Customer will be entitled to a refund determined by Dell on a pro-rated basis taking into account a deduction for services rendered. Dell reserves the right to immediately suspend or terminate Services if Dell, in its sole discretion, determines that Services are being misused or abused and/or Customer has not complied with the terms and conditions of this Service Description.

**Not Transferable.** The Services are not transferable. Customer may not use the Services in connection with a service bureau or any other distributing or sharing arrangement, on behalf of any third parties or with respect to any hardware or software not personally owned by the Customer.

**Payment.** Customers must provide a valid payment method to complete purchase of Service under this Service Description. For Customers purchasing the month-to-month unlimited usage package, billing will occur on a monthly recurring basis pursuant to the Billing Agreement.

**Claims of Confidentiality or Proprietary Rights.** Customer agrees that any information or data disclosed or sent to Dell, over the telephone, electronically or otherwise, is not confidential or proprietary to customer.

**No Warranties.** CUSTOMER ACKNOWLEDGES AND AGREES THAT GIVEN THE NATURE OF THE SERVICES, THE SERVICES ARE PROVIDED "AS IS" AND DELL MAKES NO WARRANTIES REGARDING THE SERVICES OR THE RESULTS OF THE SERVICES. DELL DOES NOT WARRANT THIRD PARTY PRODUCTS. THE WARRANTY DISCLAIMERS SET FORTH IN THE CMSA APPLY TO THE SERVICES PROVIDED UNDER THIS SERVICE DESCRIPTION. DELL IS NOT LIABLE FOR ANY FAILURE OR DELAY IN PERFORMANCE DUE TO ANY CAUSE BEYOND ITS CONTROL.

Third-party software and peripheral products are covered by the warranties provided by the original manufacturer or the seller of the product. Third party warranties may vary from product to product. Customer should consult the applicable product documentation for specific warranty information.

**Commercially Reasonable Limits to Scope of Service.** In the course of providing the Services, Dell may determine that the issue is beyond the scope of the Services. Dell may use commercially reasonable efforts to refer Customer to the appropriate alternative resource; however, Dell will not transfer Customer directly to an alternate resource. Customer acknowledges that despite Dell's efforts, Dell may not be able to resolve customer's issue and in the event of same, customer's sole recourse is to request a refund from Dell for the unresolved incident subject to a reduction based on services rendered.

**Binding Arbitration.** ANY CLAIM, DISPUTE, OR CONTROVERSY (WHETHER IN CONTRACT, TORT, OR OTHERWISE, WHETHER PREEXISTING, PRESENT OR FUTURE, AND INCLUDING STATUTORY, COMMON LAW, INTENTIONAL TORT AND EQUITABLE CLAIMS CAPABLE IN LAW OF BEING SUBMITTED TO BINDING ARBITRATION) AGAINST DELL, its agents, employees, officers, directors, successors, assigns or affiliates (collectively for purposes of this paragraph, "Dell") arising from or relating to this Agreement, its interpretation, or the breach, termination or validity thereof, the relationships between the parties, whether pre-existing, present or future, (including, to the full extent permitted by applicable law, relationships with third parties who are not signatories to this Agreement), Dell's advertising, or any related purchase SHALL BE RESOLVED EXCLUSIVELY AND FINALLY BY BINDING ARBITRATION ADMINISTERED BY THE NATIONAL ARBITRATION FORUM ("NAF") under its Code of Procedure and any specific procedures for the resolution of small claims and/or consumer disputes then in effect (available via the Internet at <http://www.arb-forum.com>, or via telephone at 1-800-474-2371). The arbitration will be limited solely to the dispute or controversy between Customer and Dell. Any award of the arbitrator(s) shall be final and binding on each of the parties, and may be entered as a judgment in any court of competent jurisdiction. Information may be obtained and claims may be filed with the NAF at P.O. Box 50191, Minneapolis, MN 55405, or by e-mail at [file@arb-forum.com](mailto:file@arb-forum.com), or by online filing at <http://www.arb-forum.com>.