

MACPASS Customer Agreement

THESE terms and conditions, along with your application, constitute your *MACPASS* CUSTOMER AGREEMENT, made and entered into by and between you (the "User") and the Halifax-Dartmouth Bridge Commission through its *MACPASS* Customer Service Centre ("HDBC").

Failure to abide by the provisions herein may result in the cancellation of the User's privileges to use the HDBC electronic toll collection system known as *MACPASS* ("*MACPASS*"). Nothing in this agreement releases the User from fines resulting from failure to abide by applicable Provincial or local laws or HDBC's by-laws or regulations.

1. AGREEMENT

Subject to the terms of this Agreement, HDBC agrees to provide the *MACPASS* standard transponder (the "Transponder") to the User free of charge, which may be used to obtain passage on toll facilities operated by HDBC. Should any User request a special non-reusable sticker Transponder, then the User shall pay HDBC the current cost for each such Transponder.

2. USE OF THE TRANSPONDER

User agrees:

- To mount, display, and use the Transponder in accordance with Transponder mounting instructions received from HDBC.
- Not to proceed through any traffic lane if the patron fare display indicates stop and the toll gate is down. If the patron fare display continues to indicate stop and the toll gate is down, User must pay the toll by use of cash in order to proceed.
- Not to exceed a speed of twenty-five (25) kilometres per hour through traffic lanes designated for *MACPASS* use.
- Not to assign or in any way transfer this Agreement and the Transponder.
- To be fully responsible for any and all charges arising from the use of each Transponder until such time as User surrenders it to HDBC.
- To use the Transponder only on a vehicle for which it is valid.
- That each standard Transponder shall remain the property of HDBC.
- When operating a motorcycle or moped to not use the *MACPASS* only lanes and the User must come to a complete stop when reaching the toll basket before swiping the Transponder across the *MACPASS* reader.

3. DEFAULT

The following events shall constitute an event of default:

- User fails to make any payments owed under this Agreement when due;
- User fails to perform or observe any terms or conditions under this Agreement;
- User has provided incorrect information to HDBC under this Agreement, Application form, or in any document or certificate furnished to HDBC or does not report any changes of such information to HDBC within the specified time; or
- User becomes insolvent or bankrupt.

HDBC can terminate this Agreement immediately without notice upon the occurrence of one or more of the foregoing events of default.

4. PREPAID ACCOUNT

User agrees to maintain a prepaid account with HDBC to cover User's applicable tolls, charges and fees as described in this Agreement (the "Prepaid Account"). No interest shall be paid on Prepaid Account balances or deposits.

5. OPENING A PREPAID ACCOUNT

- User must open a Prepaid Account by payment to HDBC by credit card, debit card or cash in an amount not less than \$15.00 per Transponder. However, a User opting to replenish a Prepaid Account using pre-authorized debit/electronic funds transfer shall place an amount in their account that represents a minimum of one month's worth of prepaid tolls should that amount exceed \$15.00 per Transponder.
- Commercial Users may prepay using a company cheque for a minimum toll prepayment of an amount equal to two months of the average monthly usage.

6. LOW ACCOUNT LEVEL

A Prepaid Account is considered by HDBC to be at a low account level whenever its balance falls to less than 1/3 of the User's average monthly usage ("Low Account Level"). User will be notified of a Low Account Level by a LOW ACC signal in the toll lane and by email or mail where applicable.

7. ACCOUNT REPLENISHMENT

- Automatic account replenishment. Whenever the prepaid balance falls below the Low Account Level, the User's credit card account will be charged the dollar value of the User's average monthly usage or \$15.00, whichever is greater, as determined by HDBC, to replenish the Prepaid Account. Users of pre-authorized debit/electronic transfer will have their Prepaid Account replenished on the same day of the month as they specified when they opened the account and not when their Prepaid Account reaches a Low Account Level.
- Manual replenishment. Whenever the prepaid balance falls below the Low Account Level, the User must promptly replenish the Prepaid Account using cash, debit card, credit card, or online at www.mymacpass.com. The minimum amount to replenish the Prepaid Account shall not be less than \$15.00. Users choosing to use manual replenishment shall be charged a \$1.00 monthly administrative fee.
- Commercial Users may replenish by company cheque and will be advised by email or mail of the amount required to replenish the Prepaid Account. Commercial Users must ensure that a company cheque is sent promptly to the HDBC upon receipt of a Low Account Level notice. Commercial Users choosing to use manual replenishment shall be charged a \$1.00 monthly administrative fee.

FORFEITURE OF PREPAID BALANCE

If there is no activity recorded on User's Prepaid

- Account for a period of 24 consecutive months, the Prepaid Account shall be terminated and the balance of User's account shall be considered as payment of an account maintenance charge and be deducted from the account. Written notice of this proposed forfeiture will be given to the User at their last known address following the expiration of 18 consecutive months of no activity being recorded on User's Prepaid Account.

TOLLS, CHARGES AND FEES

User's Prepaid Account will be reduced by charges for

- applicable tolls charged each time the User's Transponder is used to obtain passage on, continue upon, or exit from a *MACPASS* collection area.

ADDITIONAL CHARGES

- User requesting a printed statement of account or trip record shall be charged 50¢ per page with a minimum charge of \$3.00 per request. All such charges shall be automatically deducted from the User's Prepaid Account.

User's Prepaid Account will be charged \$10.00 for NSF fees related to pre-authorized debit/electronic funds transfer accounts and \$30.00 for an NSF cheque. In the event a User has two failed pre-authorized debt/electronic funds transfer transactions or two NSF cheque transactions, User shall no longer be eligible to use this form of payment on their Prepaid Account.

INTER-OPERABILITY

- User's Transponder may be used at other toll facilities or other locations bearing the *MACPASS* or *MACPASS* Plus logo with whom HDBC has entered into an agreement to accept charges for that facility or location. If a User drives their vehicle with Transponder attached through such other toll facility or location, then the User's Transponder may be read by the electronic processing equipment and a record of the User's transaction may be created. Such transactions may be charged in accordance with the rules, regulations and procedures of such other toll facilities or other locations. By using the Transponder on another toll facility or other location, the User agrees that HDBC may deduct any such charges arising from such use from the User's Prepaid Account, and the User will be responsible to HDBC for all such charges. The User further agrees that HDBC may share any information contained in the User's application and in the *MACPASS* Customer Agreement for purposes of processing and collecting



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tolls, charges and violations.

LOST OR STOLEN TRANSPONDERS

12. User must notify HDDB immediately of any lost or stolen Transponder(s), identifying such Transponder(s) by serial number. Until HDDB is notified, USER WILL CONTINUE TO BE RESPONSIBLE FOR CHARGES RESULTING FROM USAGE. Once notified, HDDB will invalidate the Transponder. HDDB will issue User a replacement Transponder(s) upon request and upon payment of \$25.00 for each lost or stolen Transponder.

TERMINATION

13. a) HDDB and/or User may terminate this Agreement at any time.
 b) The standard Transponder is to be returned to HDDB in good operating condition. The User will be charged \$25.00 for the Transponder in the event the Transponder is not returned to HDDB in good operating condition.
 c) Upon termination, a refund of any balance remaining in the User's Prepaid Account less any amounts owed under this Agreement will be processed within 30 days from the return of the Transponder, subject to the provisions of Section 8 herein.

ACCOUNT DEACTIVATION AND REACTIVATION

14. The User's MACPASS Transponder shall be deactivated immediately upon the Transponder being used when there are insufficient funds in the Prepaid Account. In order to reactivate the Transponder, the User shall attend at the HDDB and pay a reactivation fee of \$10.00, plus an amount sufficient to bring the Prepaid Account up to the minimum required balance. All unpaid tolls shall be automatically deducted from the Prepaid Account upon reactivation.

DEFECTIVE MACPASS TRANSPONDERS

15. If a Transponder is defective for any reason, other than as a result of abuse or improper use, and is returned to HDDB, it will be replaced at no charge.

PRE-AUTHORIZED PAYMENTS

16. It is expressly understood and agreed that User authorizes HDDB to access User's credit card, chequing account, or pre-authorized debit/electronic funds transfer and make charges authorized under this Agreement. User expressly understands and agrees that HDDB shall not be liable to User for any damages resulting from these actions.

INDEMNIFICATION AND LIABILITY

17. a) User releases HDDB, its Commissioners, officers, employees, commissionaires or agents (collectively in this Article "HDDB") from all loss, damage, or injury whatsoever from the use or performance of MACPASS and the Transponder. HDDB shall not have any obligation or liability to the User with respect to the use or the performance of MACPASS and the Transponder. The only recourse available to the User shall be the replacement by HDDB of any defective Transponder. User agrees to indemnify, protect, and hold harmless HDDB from liability for all loss, damage, or injury to persons or property arising from or related to the use of MACPASS and the Transponder.
 b) Additionally, HDDB shall not be liable for (a) any incidental, indirect, special or consequential damages, including but not limited to, loss of use, revenues, profits or savings, even if HDDB knew or should have known of the possibility of such damages, or, (b) claims, demands, or actions against User by any person, corporation, or other legal entity resulting from the use of MACPASS, Transponder(s), credit report inquiry, check authorization and/or charging of User's credit card.

ALTERATION OF TERMS

18. HDDB may change the terms of this Agreement at any time by providing written notice to User. If the Transponder is used after User receives notice of the new terms of this Agreement, then User shall be bound by the new terms.

DEEMED NOTICE

For purposes of this Agreement, User shall be deemed

19. to have received notice 10 days after any notice is deposited with Canada Post postage prepaid, addressed to User at the last address that appears on HDDB's records. [or confirmed email]

WAIVER

20. User or Commercial User selecting to use pre-authorized debit/electronic funds transfer for automatic account replenishment hereby specifically waives any pre-notification requirements for periodic changes in the amount of a pre-authorized debit/electronic funds transfer by HDDB.

PAYMENT OF COSTS OF ENFORCEMENT

21. User agrees to pay all costs, including legal fees, incurred by HDDB in enforcing this Agreement.

INSUFFICIENT FUNDS

22. If, for any reason, User's Prepaid Account is insufficient to pay any amounts owed to HDDB, User will remain liable to HDDB for such amounts.

CHANGES IN USER INFORMATION

23. User shall inform HDDB, in writing, of any changes in the information set forth in the MACPASS Application and, specifically, shall immediately notify HDDB of any changes in address or make such changes electronically using MACPASS website.

CONFIDENTIALITY

24. HDDB agrees not to disclose the User's name and address for any commercial purpose. All personal account information is considered private, and will remain confidential.

HDDB ADDRESS

25. For the purpose of giving any and all notice(s) to HDDB required under the provisions of this Agreement, User shall use the following address:

MACPASS Customer Service Centre
 P. O. Box 39,
 Dartmouth, Nova Scotia
 B2Y 3Y2

Phone No. 463-3100
 Fax No. 463-3101
 www.macpass.com

CAPTIONS

26. The captions used in this Agreement have been inserted for convenience and for reference only and shall not be deemed to limit or define the text of this Agreement.

PROVISIONS SEVERABLE

27. The provisions of this Agreement are severable, and if any provision or part of this Agreement or the application thereof to any person or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provision or part of this Agreement to other persons or circumstances shall not be affected thereby.

GOVERNING LAW

28. This Agreement shall be governed and construed in accordance with the laws of the Province of Nova Scotia and the laws of Canada applicable in Nova Scotia.

COMPLETE AGREEMENT

29. The Agreement and the Application attached to this Agreement constitute the entire agreement between the User(s) and HDDB.

The transmittal of signatures or of signed copies of this Agreement by facsimile machine or other mechanical or electronic form constitutes good and valid execution respecting this Agreement and is legally binding on the parties.

