



CEPAP TERMS AND CONDITIONS OF SERVICE - REVISION 1.0

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1. THE PARTIES

This document "Cepap Terms and Conditions of Service", hereafter referred to as the "Agreement", is agreed between Cepap, with offices United States and Canada, hereafter referred to as "Cepap", and the person or party identified in the associated Registration Form or Reseller contract. In the case of a company application, this is the person signing on the company's behalf and who by registering acknowledges having power of representation for that company. This person is hereafter referred to as the "Customer". The "Customer" is required to provide the necessary identification and in the case of company applications, the registration number, as specified in the Registration Form on the Cepap website (www.cepap.com).

2. PRELIMINARY TERMS

Electronic Signatures and Agreement(s): The Customer hereby agrees to the use of electronic communication in order to enter into contracts, place orders and other records and to the electronic delivery of notices, policies and records of transactions initiated or completed through the www.cepap.com website. Furthermore, the Customer hereby waives any rights or requirements under any laws or regulations in any jurisdiction which require an original (non-electronic) signature or delivery or retention of non-electronic records, to the extent permitted under applicable mandatory law.

No Emergency Calls: by entering into this Agreement the Customer acknowledges and agrees that the Cepap infrastructure does not and does not intend to support or carry emergency calls.

No Callback Calls: by entering into this Agreement the Customer acknowledges and agrees that the phone numbers provided by Cepap cannot be used for callback applications.

Jurisdiction Restrictions: if the Customer is residing in a jurisdiction where it is forbidden by law to offer or use internet telephony, the Customer may not enter into this Agreement. By entering into this Agreement the Customer explicitly states that he has verified in his own jurisdiction if the use of internet telephony is allowed. The Customer shall be solely responsible, bear all costs (including reasonable lawyer's costs) and will hold Cepap harmless, if he breaches the Jurisdiction restrictions.

3. PURPOSE

This Agreement relates to communications services offered by Cepap for use by the Customer, and defines the terms and conditions under which these services are provided by Cepap and accepted and used by the Customer. These services are offered under the Cepap trading name. Cepap reserves the right to refuse an application:

- If the information provided is incomplete.
- If Cepap has reason to doubt the accuracy of the information, or it is not supported by the required identification or, in the case of company applications, the required authorization.
- If the Customer is known to have committed fraud, or is bankrupt, or has given any reason to doubt his or her ability to meet their commitments under this Agreement.

4. FORMATION OF CONTRACT

- 4.1.** Any error, omission or typographical error in any quotation, offer, sales information, invoice, or document supplied by Cepap shall be subject to correction on notice from Cepap and without liability.

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- 4.2. Cepap may vary any provision in this Agreement, without prior consent from the Customer, if such change is required because of regulatory, insurance, safety or statutory changes made after the date of this Agreement.

5. RESPONSIBILITIES AND OBLIGATIONS

5.1. Cepap

- 7.1.1. Cepap endeavors to provide the Customer with network service and service numbers, but notwithstanding this Cepap is not obliged to supply service numbers requested by the customer. It may also change numbers supplied to the Customer if this is required for regulatory, statutory or legal reasons, and in such instance shall notify the Customer as soon as is reasonably practical.
- 7.1.2. Cepap will make all reasonable efforts to maintain equipment suitable for handling and terminating calls.
- 7.1.3. Cepap shall notify the Customer as soon as reasonably practical, of any changes in rates payable, or modification to the service offered.
- 7.1.4. Cepap shall provide the Customer with reasonable technical and sales support, which Cepap in its sole discretion shall consider necessary and appropriate.
- 7.1.5. Cepap may from time to time make changes to equipment used to handle calls and provide the service. Such changes are at the sole discretion of Cepap, and may be made without prior consent from the Customer.

5.2. Customer

- 7.1.1. The Customer shall pre-pay their account to ensure that their account is at all times in credit. Should the Customer's account reach zero credit the service as prescribed shall automatically be suspended until a new payment is received and confirmed.
- 7.1.2. The Customer shall ensure that they have all necessary approvals, permissions or authorizations for the services operated through Cepap including those offered to its End Users. The Customer shall be responsible for the content, quality and delivery of services offered, and for ensuring that these services comply with the laws and this Agreement. Cepap may recover from the Customer, who will hold Cepap harmless, all fines, claims or administrative expenses resulting charged by any other regulatory body, resulting from a breach of the law or best practice.
- 7.1.3. The Customer shall provide Cepap on request with information or material regarding the service operated through Cepap, including those offered to its End Users or agents upon and to the extent of any request made by Cepap.
- 7.1.4. The Customer shall ensure that services provided are not used for any unlawful purpose whatsoever including the transmission or offering of any information or services which are unlawful, abusive, harmful, threatening, defamatory, or which in any way infringe copyright, intellectual property rights, trademarks, or which is pornographic, or any other material that may cause offence in any way.
- 7.1.5. The Customer specifically agrees to indemnify Cepap against all costs and liabilities arising out of all claims which result from, or involve an allegation of, any breach of clause 5.2.4.
- 7.1.6. The Customer shall co-operate with Cepap in relation to any complaints, enquiries or investigations regarding services offered by the Customer. The Customer shall, at the discretion of Cepap, without limitation bear in full any costs associated with such complaints, investigations, or enquiries or any action whether or not bought by or against Cepap.
- 7.1.7. The Customer shall ensure that any third party using its facilities shall be bound by the terms of this Agreement.

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- 7.1.8. The Customer is responsible for ensuring that no third party intellectual property right is infringed by its choice of telephone number for a particular service and will hold Cepap harmless against all costs and liabilities arising out of a breach or allegation of a breach of any such third party's intellectual property rights.
- 7.1.9. All notices, requests or other communications shall be in writing and addressed to the Customer by email. The Customer bears all responsibility concerning the reception of the Cepap mails, he agrees to keep his email address updated at all time, and he will inform Cepap of any modification of his email address within 24 hours of the moment of modification.

6. ASSIGNMENT

- 6.1. The Customer shall not assign the rights and obligations of this Agreement to any other party without the express permission in writing of Cepap.
- 6.2. Cepap may assign the rights and obligation of this Agreement to a third party without the prior consent of the Customer.

7. PROVISION OF SERVICES AND WARRANTIES

- 7.1. Cepap cannot provide a fault free service. Cepap gives no warranty that its network or services shall be continuous, or will be free from faults. Cepap will, however, take steps to ensure its network and services are reasonably fault free, and that service is reasonably uninterrupted.
- 7.2. In addition to clause 7.1, Cepap gives no warranty or guarantee that the service is satisfactory or suitable for the Customer's purposes. All warranties relating to the service from Cepap are excluded, even if implied by statute.
- 7.3. The parties acknowledge that no representations, warranties or statements made prior to concluding this Agreement forms any part of the contract, nor has induced either party.
- 7.4. The Customer acknowledges that:
 - 7.4.1. No representation, warranty or statement other that detailed in this Agreement, forms any part of a Contract, nor has induced the Customer to use Cepap.
 - 7.4.2. The service provided by Cepap was not designed for the Customer's individual requirements, and it is up to the Customer to decide if the service provided by Cepap is of satisfactory quality and fit for the purpose for which it is used
 - 7.4.3. Cepap is reliant on a third party for delivery of inbound calls, and therefore Cepap can have no liability of whatever nature for any delay in provision of the same or for concerning the use of the service by the Customer, moreover Cepap makes no warranty that its network or services shall be continuous, or will be free from faults.

8. RATES AND PAYMENTS

- 8.1. All accounts are to be pre-paid by and will operate on a 'run-down' basis. It is the sole responsibility of the Customer to ensure sufficient credit remains on the account for traffic. Credit will only be added to an account upon confirmation of cleared funds being in Cepap bank account.
- 8.2. Cepap may at any time vary the rates detailed in the order form, but shall give the Customer 30 days write notice of such change.
- 8.3. In the event that any sums due to Cepap under this Agreement are not paid by the due date then Cepap shall be entitled to charge interest at 7% over the base rate used by the European Central bank for her main refinancing operations, at that time.
- 8.4. All rates detailed in the order form and in the monthly reports shall be exclusive of all taxes or duties.

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- 8.5. The Customer's call minutes shall be calculated according to data logged by Cepap which shall be accepted, except in the case of manifest error, as being conclusive for the determination of revenues due to the Customer.
- 8.6. In case the Customer does not fulfill his payment obligation under this agreement after the date of a final notice, parties agree that Cepap will be entitled to the application of the article 15.4 of this agreement.

9. TECHNICAL SUPPORT

- 9.1. Cepap may without liability, prior warning or consent of the Customer, suspend the service, in the event that it wishes to carry out maintenance, upgrade works, or back-ups. Cepap will take steps to keep any consequent disruption to the service to a reasonable minimum.
- 9.2. In the event that the Customer becomes aware of any faults with the service, it shall notify Cepap as soon as is practicably possible.

10. INTELLECTUAL PROPERTY RIGHTS

- 10.1. All Intellectual Property Rights owned by one party shall remain vested in such party, and for clarity, and avoidance of doubt
 - 10.1.1. All rights of any nature, trade name, documents, drawings and information including any access codes provided to the Customer, and information in Cepap's database accessed by the End Users and the Customer remain vested in Cepap.
 - 10.1.2. Information provided to the Customer by Cepap pursuant to this Agreement, pertaining to the Customer's End Users is the property of the Customer.
- 10.2. The Customer shall not use Cepap's name, trademarks, or copyrights in any way that implies any approval or connection with the services or products offered by the Customer.
- 10.3. Any right to use the services, and/or any software related to the services, granted by Cepap to Customer will only be perceived as a personal, limited, non-exclusive and non transferable license of use by Cepap of the services, and/or any software related to the services, for the designated purpose only.

11. CONFIDENTIALITY

- 11.1. During and after the period while this Agreement remains in force, both parties shall not disclose to any third party the information gained in connection with this Agreement, nor the terms and payments due, but each parties may disclose to its officers and employees such information as may be required for them to fulfill their proper performance of their duties, and may be used in the proper exercise of its rights and obligations under this Agreement.
- 11.2. The obligations of confidence and restrictions on disclosure shall not apply in the following circumstances:
 - 11.2.1. Where such information was already known prior to this Agreement;
 - 11.2.2. Where such information was already in the public domain, save as a result of a breach of Clause 11.1.;
 - 11.2.3. Where a third party, who did obtain the same from the disclosing party, disclosed such information to it lawfully; or
 - 11.2.4. Where disclosure is required by law.
- 11.3. The Customer shall ensure that the confidentiality provisions of this Agreement bind all its employees and agents and shall indemnify Cepap against loss or damage suffered as a result of a breach of confidence by employees or agents.
- 11.4. Cepap shall have the unconditional and irrevocable right to disclose the identity and address of the Customer and any End User in the event of any complaint received from any regulatory or governmental body, or any licensed telecommunications carrier, in connection with services offered by the Customer.

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12. LIMITATION OF LIABILITY

- 12.1.** Cepap shall not be liable for any indirect, incidental, special or consequential damages or for interrupted communications, lost data, or loss of profit, or economic loss arising out of or in connection with this Agreement and in particular shall not be liable for any delay in rectification of any such problem.
- 12.2.** Direct damages. Cepap can only be held liable for direct damages resulting from an attributable and faulty failure to perform its obligations under these Terms of Service. Direct damages in this respect exclusively mean:
- 12.2.1. all reasonable costs incurred by the Customer in order to have Cepap perform its obligations under the Terms of Service;
 - 12.2.2. all reasonable costs incurred by the Customer in order to prevent or limit any direct damages as meant in this article;
 - 12.2.3. all reasonable costs incurred by the Customer in order to establish the nature and scope of the direct damages as meant in this article.
- 12.3.** Maximum amount. Direct damages caused as a result of Cepap's breaches of this Agreement shall in any event be limited to the previous 1 months revenue generated by the Customer, and received by Cepap, but in no event shall exceed 5,000 Euro for any one event or series of events.
- 12.4.** Cepap shall have no liability to the Customer in respect of any demand or claim where;
- 12.4.1. The demand or claim arises as a result of the Customer's and/or end-user's negligence, misconduct or breach of this Agreement;
 - 12.4.2. If the Customer does not immediately notify Cepap of any claim;
 - 12.4.3. If the Customer does not give Cepap full authority to deal with the claim, or does not provide all information requested by Cepap and complete and proper co-operation for Cepap to defend the claim.

13. FORCE MAJEURE

- 13.1.** Cepap shall not be liable for any interruption, delay or failure in service resulting from any matter or event outside of their control, to include, but not limited to any act of god, inclement weather, storm, flood, drought, lightning, fire, power failure, shortage of power, disturbance to power supplies, disconnection damage or disturbance to telecommunications connections and cables, trade dispute, government action, embargoes, termination of or refusal to grant a license, damage to or loss of equipment or interruption, failure or delay in any service provided to us by any third party including governmental or regulatory authority or telecommunications operator, war, military operations, or riot.
- 13.2.** Cepap will not accept any liability for the consequences arising out of a force majeure event.

14. INDEMNITY

- 14.1.** Without prejudice to any other indemnity referred to in this or any other Agreement, the Customer agrees to indemnify Cepap and its parent, subsidiaries, affiliates, officers and employees against any claim or demand, including any made by a third party, arising out of the Customer's or End User's use of the service and all costs relating thereto. The Customer agrees not to hold Cepap and its parent, subsidiaries, affiliates, officers and employees responsible for any direct or indirect damage resulting from the use of Cepap software or services, in particular, but not limited to; the use or impossibility to use the Service, confidence in information obtained, errors and omissions, defects, viruses, delay in transmission, interruption of service or loss of data.
- 14.2.** The Customer agrees to indemnify Cepap, and its parent, subsidiaries, affiliates, officers and employees against any claim or demand, arising from any act of the Customer or third party including but not limited to;
- 12.4.1. A breach or allegation of breach of the conditions of this Agreement;

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- 12.4.2. Negligence, misconduct or any allegation of negligence or misconduct by the Customer or by any third party;
- 12.4.3. The marketing or promotion undertaken by or on behalf of the Customer;
- 12.4.4. The service content provided or marketed by or on behalf of the Customer, and all costs relating thereto.

15. TERM AND TERMINATION

- 15.1.** Term. The Agreement will be effective as of the date of the Customer acceptance thereof, and will remain effective until terminated by either party as set forth in these Terms of Service.
- 15.2.** Either party shall be entitled to terminate this Agreement by giving to the other not less than two (2) months notice of termination
- 15.3.** Consequences of Termination. Upon termination of the Agreement for any reason all licenses and rights to use the VoIP service shall terminate and the Customer will cease any and all use of the VoIP service.
- 15.4.** Cepap may terminate this Agreement with immediate effect by giving notice at any time, if;
 - 15.4.1. The Customer does not comply with the terms of this Agreement;
 - 15.4.2. The Customer says, or appears to intend, that it will not abide by the terms of this Agreement;
 - 15.4.3. The Customer ceases trading, convenes a meeting of, or comes to an arrangement with its creditors, has distress or other seizure levied over any of its assets or does not satisfy any demand for payment from any legal person;
 - 15.4.4. Any step is taken to wind up or dissolve the Customer, a receiver, and/or manager or administrator appointed over any assets;
 - 15.4.5. Cepap believes the Customer has allowed services to be used for any unlawful purpose or any use prohibited by this Agreement;
- 15.5.** Either party may terminate this Agreement if;
 - 15.5.1. Either party has committed a breach of the Agreement, and fails to remedy the breach within 30 days of notice requiring it to do so, and;
 - 15.5.2. Either party takes any steps to wind up or dissolve, or a receiver and/or manager or administrator is appointed over any assets;
- 15.6.** Survival. All provisions which must survive in order to give effect to their meaning shall survive any expiration or termination of the Agreement, including without limitation, all of the Customer's representations, warranties and indemnification obligations.

16. MISCELLANEOUS

- 16.1.** This Agreement represents the entire understanding between the two parties. No other prior arrangements, representations or understandings, orally or in writing shall have any validity.
- 16.2.** New versions of these Terms and Conditions. Cepap reserves the right to modify this Agreement at any time by providing such revised Agreement to the Customer or by publishing the revised Agreement on the Website. If the Customer does not wish to accept this revised Agreement, he is entitled to terminate his account, in writing or by e-mail to sales@cepap.com, with effect from the date on which the revised Agreement would become effective. The continued use of the VoIP service by the Customer shall constitute his acceptance to be bound by the terms and conditions of the revised Agreement.
- 16.3.** Adjustment of the VoIP service. Cepap reserves the right to adjust the VoIP service at any time, for example to conform to legal and regulatory obligations. If the Customer does not wish to accept these adjusted VoIP service, he is entitled to terminate his account, in writing or by e-mail to sales@cepap.com, with effect from the date on which the adjusted VoIP service will be provided.

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- 16.4.** Ownership. All phone numbers leased and registered to Customer's by Cepap remain under Cepap's control, and may be reassigned at the termination of this Agreement.
- 16.5.** Changes in Communication Services and Tariffs. Cepap retains the right to modify its tariffs for the services it offers at any time. Cepap will give a written warning of these changes 15 days in advance.
- 16.6.** Cepap's rights and powers under this Agreement are not affected if it fails to or chooses not to enforce any of them at any time. If any part of this Agreement is not enforceable it will not affect the remainder.
- 16.7.** Applicable Law. The Agreement shall be governed by and construed in accordance with Canada Law.
- 16.8.** Competent Court. Any legal proceedings arising out of or relating to Agreement will be subject to the exclusive jurisdiction of the Canada Courts.
- 16.9.** Both parties agree that they have no joint venture, partnership, or agency relationship as a result of this Agreement. Neither party shall make any offer, guarantee, or warranty to any third party, in regard to the services, that purports to bind the other party.

17. RESIDENTIAL USE OF SERVICE AND DEVICE

- 17.1.** If you subscribe to Cepap residential services, the Services are provided to you solely for residential use. You may resell or transfer the Service or to another party without our prior written consent.
- 17.2.** When subscribing to a residential Flat-Rate Plan, you are prohibited from using the Service or the Device for auto-dialing, continuous or extensive call forwarding, calling cards, telemarketing (including, without limitation, charitable or political solicitation or polling), fax or voicemail broadcasting or fax or voicemail blasting. **NO BUSINESS PURPOSE WHATSOEVER SHALL BE DEEMED A VALID USE OF THE RESIDENTIAL FLAT-RATE PLAN** and Cepap reserves the right to immediately terminate or modify your Service if we determine, in our sole and absolute discretion, that your use of the Service or the Device is, or at any time was, inconsistent with normal residential usage patterns. In addition, you will be required to pay our higher rates for commercial service for all periods in which your use of the Service or the Device was inconsistent with normal residential use.

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