

STANDARD AGREEMENT FOR THE MILAN INDUSTRIES VOIP SERVICE

Provided by Milan Industries Pty Ltd, Trading as Milan Industries (ABN 33 133 412 503)
Updated: 10th of May 2010

- 1.** These terms and conditions apply to the Milan Industries VoIP service (the "Service"). Please read this agreement (the "Agreement") before using the service in whole or in part. In this agreement, "We" or "Us" relates to Milan Industries or their agents and "You" or "Customer" relates to the person, person(s) or organisation receiving the Service. Also, acknowledge that these terms and conditions may vary from time to time. Customers should check on a regular basis to keep up to date with any amendments or changes that occur.
- 2.** You acknowledge that although we will take all reasonable steps to make sure you receive the voice service within the local calling areas, the voice service is not free from faults or interruptions. Certain factors, such as network congestion, maintenance, technical capabilities, geographic factors, obstructions or interference may mean you will not receive the voice service at certain times.
- 3.** When using this service, you will ensure that you and others comply at all times with all laws and obligations, regulations, codes or determinations or any other requirements of any government or statutory authority, including licence conditions, applicable to the services and their use. Failure to comply with any licence, permit or authorisation relating to the connection of equipment to the Service Delivery Point or use of the services may result in immediate termination of the agreement. In addition, you must not transmit, distribute or otherwise publish on the Service any libelous, defamatory, abusive material or material that could give rise to civil or criminal proceedings. If this occurs, Milan Industries will not be held liable for any charges incurred by these proceedings.
- 4.** The contents of the Service, including, but not limited to text, photographs, graphics, video and audio content (the "Content") is protected by copyright as a collective work or compilation under the copyright laws of Australia and other countries, and owned or controlled by Milan Industries, their affiliates or the party credited as the provider of the Content. All individual articles, content and other elements comprising the Content are also copyrighted works. You must abide by all additional copyright notices or restrictions contained in the Service. You may not copy, reproduce, distribute, publish, enter into a database, display, perform, modify, create derivative works, transmit, or in any way exploit any part of the Service. Without limiting the generality of the foregoing, the Milan Industries service may not be resold or otherwise resupplied by any account holder to any other person or entity without Milan Industries's prior written consent.
- 5.** Fees and charges applicable to your service will commence from the date of connection to Milan Industries. We will email an invoice to you no less frequently than monthly, and you must pay these fees and charges by the invoice due date, or next business day. All fees and charges will be billed to your nominated credit / charge card. If you cancel your credit / charge card authority, or if you do not pay your invoice by the invoice due date, Milan Industries will charge a fifteen dollar late fee. Charges for archive or hardcopy invoices may apply. Milan Industries can decide that you have a credit limit. If so, we will tell you what that credit limit is. If you exceed the credit limit, we may suspend the service until you pay all call charges owing on your account. Finally, we may ask you to

pay a deposit for some or all of the service charges in advance, in order to receive or continue receiving your service. You are still required to pay us your monthly charges by the invoice due date.

6. If you have authorized payments by credit card, debit authority or other similar methods, then payments shall be drawn against your authority when due without further notice to you unless you terminate the payment method by 14 days written notice to Milan Industries. Disconnection to the Service will occur in the event that your authorized payment method is refused or dishonoured by your nominated financial institution.

7. Your term begins when you are first connected to Milan Industries and continues for the period of time until you disconnect. Should your details change at any time, you must notify us immediately. If you want to discontinue your connection, you must give us 30 days notice by emailing the Milan Industries billing department and requesting a disconnection. A confirmation of disconnect email will be sent by return email. The confirmation email is your proof that we have received your cancellation request. Milan Industries may suspend, restrict or disconnect the service under varying circumstances. A final invoice will be issued after disconnection and you must pay all fees and charges you incurred using the service, up to the date of disconnection.

8. Milan Industries's records are prima face evidence of the Customers use of the service and the charges payable. Milan Industries allows customers to connect to the service using their own device. Milan Industries only charges for answered calls and ceases to charge when the call is terminated by the caller. Timed calls are calculated using the total network time used for each call. The Customer agrees that any calls from the Milan Industries number supplied to the Customer are deemed to be authorized by the Customer and the Customer will pay all charges accordingly. International, national and mobile timed calls are charged in one minute increments. If the value of your account in any calendar month is less than five dollars then a flat charge of five dollars will apply for that month's account.

9. Milan Industries will provide a voicemail service for each customer. There is no charge for this service however a local call charge will apply for voicemail retrieval. Milan Industries may provide Customers and Resellers with access to the Milan Industries billing software. This software may provide figures detailing total call costs and individual call details. Where the software is provided, it is provided as a guide only and records should be kept by the Customer to check that the total provided is correct. The software should serve only as a tool for verifying the Customers own records.

10. All Customers are assigned a unique Milan Industries identification number (USER ID) and password. The Customer should keep confidential all passwords the Customer is given in connection with the service. The Customer acknowledges that Milan Industries will disclose any information in connection with the customers accounts to any person who correctly quotes the Customers password.

11. Milan Industries can issue customers with three different types of phone numbers for their phone service.

Location Independent Communication Service Numbers (0550). 0550 Numbers are a number range introduced by the Australian Communications and Media Authority (ACMA) for use by innovative

communications services such as VoIP. All account holders with Milan Industries, except free accounts, who are not issued with a Local Geographic number, will be issued with an 0550 number.

Local Geographic Numbers. These are regular Australian geographic telephone numbers issued by the ACMA. They are the same numbers as you would receive on a regular phone service provided by Telstra, Optus, AAPT or other telecommunications provider. They are State based and start with 02, 03, 07 or 08. Your rights and obligations are regulated by the ACMA. This includes the ability to port your number between different carriers. Milan Industries can provide local numbers in most areas. To receive a local number you must provide a residential or business address in that local area where the telephone service is connected. Your local number can be listed in Sensis, plus the white and yellow pages.

Numbers from the Milan Industries incoming DID service. Milan Industries DIDs are direct in dial numbers owned by Milan Industries which are connected directly into our private branch exchanges (pbxs) in various cities around Australia. Milan Industries's incoming DID service gives you exclusive use of one or more of these numbers, so that any calls to the number will be automatically directed to your Milan Industries phone. You can further divert this call to any other fixed or mobile phone. Milan Industries DIDs are available in Brisbane, Sydney, Canberra, Melbourne, Adelaide, Perth and the Gold Coast. The benefit of having a DID is that callers in those cities will only pay a local call to access the DID number and the call will be directed to your Milan Industries phone anywhere in Australia or overseas. You can have as many DIDs directed to your service as you like, from as many cities as you like. These can be additional to any Local number and / or 0550 number you may have already connected to your service. Milan Industries DIDs are not listed in Sensis or the white or yellow pages. A DID number can be sent as your caller ID. The caller ID of the caller will be sent to your Milan Industries phone unless it has been withheld. Milan Industries DIDs always remain the property of Milan Industries and the use of these DIDs is a service offered by Milan Industries. You cannot port a Milan Industries DID to another provider.

12. When calling Emergency Services (000) from a Milan Industries phone, except a free account, your location details will be automatically transmitted to the operator. Because you are using a VoIP phone service, the operator will, when possible, verify your location details with you.

13. If, in Milan Industries's opinion, you breach any of the terms and conditions of this Agreement, we may suspend, terminate or limit your access to the Service and terminate this Agreement effective immediately. The termination of the Service shall not preclude Milan Industries from exercising any other rights Milan Industries may have against you under this Agreement.

14. These terms plus the terms of the chosen Service(s) constitute the entire Agreement between the Customer and Milan Industries in relation to Service(s). Any condition, warranty, representation or other term which might otherwise be implied into or incorporated into these terms and conditions, or any collateral contract, whether by statute, common law or otherwise, is hereby excluded. Neither party shall have any remedy in respect of any untrue statement made to it upon which it relied in entering into this Agreement (unless such untrue statement was made fraudulently) and each party's only remedy shall be for breach of contract as provided in this Agreement.

15. Termination of service on accounts paid yearly or quarterly in advance will receive a refund of 50% only of the unexpired portion of the amount paid.

16. Milan Industries may, at its discretion, charge a payment processing fee to offset charges for the processing of payments via its banking institution and accounting departments. The payment processing fee may vary from customer to customer.

17. These terms and conditions are governed by the laws and regulations of the State of Victoria.

18. Voicemail recordings are stored for a minimum of 90 days, Call monitoring recordings made by third parties are stored for a minimum of 60 days. After this time Milan Industries reserves the right to remove these messages without notice.

OUR CUSTOMER SERVICE GUARANTEE WAIVER

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In accordance with Parts 5 Telecommunication (Customer Protection and Service Standard) Act 1999 (Cth) [The Act], and the Telecommunications (Customer Service Guarantee) Standard 2000 (No. 2) [CSG], Milan Industries proposes that you waive your protection and rights in full. As a customer, you are not obliged to waive your protection or rights in full, however in certain circumstances you acknowledge that Milan Industries reserves its right not to provide you with a service.

In return, Milan Industries agrees to provide you with significantly lower call costs and technical support, all on the basis that Milan Industries is not required to meet the standards set out in the Customer Service Guarantee.

The Protection and Rights you are waiving include:

- a.** Damages for breach of performance standards, as per section 116 of the Act.
- b.** Time for payment if damages for breach of performance standards, as per section 117A of the Act.
- c.** Right of Contribution, as per section 118A of the Act.
- d.** Guaranteed maximum connection periods, as per the CSG.
- e.** Guaranteed maximum rectification period, as per the CSG.
- f.** Information to be given to Customers, as per the CSG.
- g.** Making and Changing Appointments, as per the CSG.

This waiver will take effect seven days from the date of purchase of the Milan Industries service, unless you notify Milan Industries of your intent not to be bound by this waiver within the given timeframe. Should you choose to notify Milan Industries of your intent to rescind this agreement, Milan Industries reserves the right not to provide you with a service.

For more information regarding your CSG rights, please visit:

<http://www.acma.gov.au/Citizen/Consumer-info/Rights-and-safeguards/Phone-connection-and-repair/customer-service-guarantee-csg>

DISCLAIMER OF WARRANTIES

The service is available "as is". We do not warrant that the service will be uninterrupted or error-free. There may be delays, omissions, interruptions, loss of data and inaccuracies in the service, information provided by the service or other materials available through the service.



IT SUPPORT | IT INFRASTRUCTURE | CLOUD SERVICES

LIMITATIONS OF LIABILITY

Milan Industries and their respective officers, directors, shareholders, employees, representatives, parents, subsidiaries, affiliates, agents, or licensors are not liable for losses or damages of any kind whether direct, indirect, incidental, consequential, special, punitive or exemplary, and whether tangible or intangible in nature including lost revenues or profits, loss of business or loss of data, in any way related to the service or for any claim, loss or injury based on errors, omissions, interruptions or other inaccuracies in the service (including without limitation as a result of breach of any warranty or other term of this agreement) even if such damages, claims, losses or injuries were foreseen or foreseeable. To the extent that any liability is not legally capable of being excluded, any claim against us arising out of contract, tort or otherwise shall be strictly limited to the amount you paid, if any, for use of the service.