

General Terms and Conditions: TRONAK

IMPORTANT-READ CAREFULLY:

1. The Agreement

I. This is a legal agreement between you, the customer, as an individual or as a single entity, (the "Customer") and TRONAK VoIP Services ("TRONAK"). This agreement outlines the terms and conditions that apply to Customer's use of the TRONAK Voice Over Internet Service (the "TRONAK Services"). Customer will be asked to review and either accept or decline this TRONAK Services terms and conditions agreement (the "Agreement").

II. Customer's opening of or use of a TRONAK Services account or use of the TRONAK Services signifies Customer's agreement to be legally bound by, and Customer's acceptance of, the terms of this Agreement. Customer may be subject to additional terms, conditions, rules or policies while accessing, using or accepting the TRONAK Services or other TRONAK products or services through web sites, web pages or web services operated by TRONAK or any TRONAK affiliate and/or partner (the "TRONAK Sites"). Customer agrees to comply with all applicable laws; the failure to comply may result in termination.

III. BY ACCEPTING THE AGREEMENT, CUSTOMER AGREES TO BE BOUND BY AND TO PERIODICALLY REVIEW THE TRONAK SERVICES' TERMS AND CONDITIONS. CUSTOMER'S USE OF THIS SITE OR THE TRONAK SERVICES SHALL BE DEEMED CUSTOMER'S CONCLUSIVE ACCEPTANCE OF THE AGREEMENT. IF CUSTOMER DOES NOT ACCEPT THE TERMS AND CONDITIONS SET FORTH HEREIN OR DOES NOT AGREE TO BE BOUND BY THIS AGREEMENT, CUSTOMER MAY NOT REGISTER FOR, ACCESS, OR USE THE TRONAK SERVICES.

2. Agreement Updates

The Agreement may be amended by TRONAK from time to time, with or without notice to Customer. Customer must periodically review the TRONAK Services' web site <http://www.Tronak.com> (the "TRONAK Services' Web Site") to view the most recent version of the Agreement. In the event Customer does not accept the Agreement, as may be amended, Customer must terminate its TRONAK Services account (the "Customer Account"). TRONAK will not be liable to Customer or any third party for damages of any kind (e.g., direct, indirect or consequential) if Customer does not accept an amended Agreement. An amended Agreement will be considered "accepted" by Customer unless Customer terminates the Customer Account.

3. TRONAK Services

I. The TRONAK Services will allow the Customer to make "telephone" calls from Customer's personal computer or other telephony devices to telephones virtually anywhere in the world.

II. TRONAK, at its sole discretion, reserves the right to change the TRONAK Services, including its: charges, features, equipment and/or software requirements, and any other aspect of the TRONAK Services, at any time, with or without notice, and without liability. If Customer does not agree with any such change, Customer's only remedy is the voluntary termination of the Customer Account (as defined hereinafter).

III. The technical processing and transmission of the TRONAK Services, including without limitation the Information (as defined hereinafter), may involve the transmission over various networks (including non-TRONAK networks) or changes to conform and adapt to the technical requirements of connecting differing networks or devices.

4. TRONAK Services' Limitations

I. The TRONAK Services are provided "as is" and "as available" and are subject to the availability of suitable equipment and facilities; consequently the TRONAK Services are not available in all locations or at all times.

II. It is Customer's responsibility to ensure that the equipment (i.e., hardware and software) used by Customer to access the TRONAK Services (the "Equipment") meets the current minimum system requirements may be specified by TRONAK from time to time. In the event Customer's Equipment ceases to be adequate in accessing the TRONAK Services, Customer, at its own risk and expense, may upgrade or replace the Equipment, as necessary, or Customer may terminate the Customer Account. Customer agrees that TRONAK shall not be liable for any loss, damages, expenses, or costs, of any kind, as a result of Customer or Customer's Equipment inability to access or utilize the TRONAK Services.

III. Customer acknowledges and agrees that TRONAK is not responsible or liable for the installation, operation, maintenance or support of any Equipment owned or operated by Customer including, without limitation, any equipment, hardware or software used by Customer in connection with Customer's use of the TRONAK Services.

IV. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, THE TRONAK SERVICES CANNOT BE USED TO MAKE EMERGENCY OR PREMIUM CALLS (INCLUDING BUT NOT LIMITED TO: 911/900, U.S.; 110/0990, JAPAN; 112/90XX, DENMARK, OR 999/09, UK, FINLAND). NEITHER TRONAK, NOR ITS PARENT COMPANY, SUBSIDIARIES, AFFILIATES OR THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, SHALL BE LIABLE FOR THE INABILITY TO PLACE EMERGENCY AND/OR PREMIUM CALLS USING THE TRONAK SERVICES.

5. Customer Information

In order to register for a Customer Account and to use the TRONAK Services, Customer will be required to provide and maintain certain information in Customer's Account (the "Customer Information"). Customer agrees that the Customer Information will be complete, accurate and current. Customer agrees to promptly update Customer Information in the event of any changes to such information.

6. Privacy Policy

The Customer Information and certain other Customer information is subject to TRONAK's privacy policy. Please read TRONAK's complete privacy policy here (the "Privacy Policy") prior to accepting this Agreement and its terms and conditions. By accepting this Agreement or using the TRONAK Services, Customer acknowledges that it has read the Privacy Policy. In addition to those rights, terms and conditions as may be set forth in the Privacy Policy, TRONAK may retain or disclose the Customer Information if required to do so by law or in the good faith belief that such retention or disclosure is reasonably necessary to: (i) comply with a legal process; or (ii) enforce this Agreement; or (iii) respond to a claim that the Customer Information violates the rights of a third party. The Privacy Policy may be amended from time to time without notice.

7. Customer Account

I. Customer represents and warrants that Customer possesses the legal right and the ability to enter into the Agreement on behalf of Customer. Customer agrees to use Customer's Account and the TRONAK Services in accordance with this Agreement. In addition, Customer agrees to comply with all applicable laws, rules and regulations with respect to the Customer Account and its use of the TRONAK Services. Failure to follow such laws, rules or regulations may result in the termination of Customer's Account.

II. Customer is responsible for maintaining the confidentiality of Customer's Account, including but not limited to any password or access code required for Customer's use of the TRONAK Services. Customer is fully responsible and liable for all usage that occurs on the Customer Account. Customer must immediately notify TRONAK of any unauthorized use of, or access to, the Customer Account.

8. TRONAK Service Rates and Customer Payment

I. The usage rates for the TRONAK Services are posted on the TRONAK Services email and are designated in USD (USD) per minute (the "Rates"). The Rates are exclusive of taxes; provided, however, additional fees, surcharges or taxes may apply in certain circumstances, including, without limitation, local regulations, or additions set forth by the issuer of Customer's credit card.

II. The Rates do not include any Internet access charges or any additional charges related to Customer's obtaining access to or use of an Internet Service Provider. Customer is responsible for obtaining and maintaining Customer's Internet access.

III. Customer must use a valid credit card (Visa or MasterCard) to prepay for the TRONAK Services ("Customer Account Prepayment"). TRONAK may revise the means of payment from time to time, at its sole discretion. TRONAK will debit the Customer Account Prepayment, on a monthly basis, in arrears, as Customer utilizes the TRONAK Services.

IV. TRONAK will provide Customer access to Customer's Account via Customer's on-line Customer Account activity record (the "Customer Account Record"). Customer must notify TRONAK, in writing, of any errors, discrepancies or irregularities in any Customer Account charges within thirty (30) days of said charges first appearing on the Customer Account Record. Customer agrees to release TRONAK from any and all liabilities and claims of loss resulting from any errors, discrepancies or irregularities in Customer's Account Record that are not reported to TRONAK within thirty (30) days of the posting of said information in Customer's Account.

9. Customer Conduct and Acceptable Use of the TRONAK Services

I. The TRONAK Services may be used only for lawful purposes.

II. Customer understands and agrees that all information, including but not limited to data, text, or messages, transmitted via the TRONAK Services (the "Information") is the sole responsibility of the source (i.e., person) from whom such Information originated.

III. Customer understands and agrees that it will not use the TRONAK Services:

- a. for solicitations, commercial or otherwise; or
- b. for incorporation into a commercial product or service; or
- c. to reproduce, distribute or otherwise transmit unauthorized or unsolicited commercial messages; or
- d. to engage in unauthorized "auto-dialing"; or
- e. for the purposes of threatening, offending, stalking, abusing or harassing any person or persons; or
- f. to engage in unauthorized computer or network trespass, including obstruction or bypass of a computer network, the TRONAK Services' network; or
- g. to intentionally or unintentionally violate any applicable international, national, state, provincial or local law; or
- h. to reproduce, distribute or otherwise transmit communications, information or materials where such activity gives rise to civil liability, or otherwise violates the rights or assists others to violate the rights of TRONAK or any third party; such violations include but are not limited to engaging in copyright infringement and defamation; or
- i. to reproduce, distribute, or otherwise transmit communications, information or materials where such activity constitutes a criminal offence, or otherwise engage in or assist others to engage in any criminal offense; such offenses include, but are not limited to, communicating hatred, pyramid selling, unauthorized use of a computer, mischief in relation to data, fraud, obscenity and child pornography; or
- j. interfere with or disrupt the TRONAK Services or the servers or networks connected to the TRONAK Services, or disobey any requirements, procedures, policies or regulations of networks connected to the TRONAK Services; or
- k. share, resell, reproduce, reengineer, copy, distribute, redistribute, or exploit for any commercial purposes, any portion of, use of or access to, the TRONAK Services, except where expressly authorized by TRONAK; or
- l. allow any other person or entity to engage in any of the foregoing activities while using the Customer Account.

IV. Customer will promptly notify TRONAK if Customer becomes aware of a violation, by any individual or entity, of any of the acceptable use rules set forth in this Section 9.

V. Without limiting any of TRONAK's rights to suspend, restrict or terminate the Customer Account, as described elsewhere in this Agreement, TRONAK may suspend, restrict or terminate Customer's Account without notice if, in TRONAK's sole and absolute discretion, Customer has violated any of the acceptable use rules set forth in this Section 9.

VI. TRONAK shall not be responsible or liable to Customer or any third party with respect to any suspension, restriction or termination of Customer's Account as set forth in this Section 9.

10. Support

I. TRONAK will provide web-based support and support contact information for the TRONAK Services. TRONAK's technical assistance is limited to problems regarding the use of the TRONAK Services and may exclude issues related to the Equipment used to access the TRONAK Services. TRONAK does not warrant the resolution of any problem with respect to the TRONAK Services, including but not limited to interruption of, or inability of, access to the TRONAK Services.

II. TRONAK may, on occasion, e-mail notices to Customer regarding the use or status of the TRONAK Services or Customer's Account.

11. Proprietary Rights

I. Customer acknowledges and agrees that the TRONAK Services, and any necessary equipment, materials, services, processes, designs or software used in connection with the TRONAK Services, contain proprietary and confidential information that is protected by applicable intellectual property, copyright, trade-mark or other laws. Unless otherwise stated, all such proprietary and confidential information comprising the TRONAK Services is owned by TRONAK, its licensors or its suppliers.

II. TRONAK does not claim ownership or responsibility for the Information that Customer or a third party may transmit to a third party, accessing the TRONAK Services via Customer's Account.

12. Compliance

I. TRONAK has no duty to censor or monitor the use or transmission of Information via Customer's Account. Provided, however, TRONAK has the right, without notice, to monitor the use of the TRONAK Services or the Information if TRONAK believes, in good faith, that such activity is reasonably necessary to provide the TRONAK Services to other customers or to ensure adherence to or enforcement of this Agreement and, in addition, to comply with any laws, legal orders or regulations, to respond to any allegation of illegal conduct, or a claimed violation of third party rights.

II. TRONAK may, in its sole discretion and without notice or liability, investigate complaints regarding Customer's use of the TRONAK Services and take any action TRONAK deems appropriate.

III. TRONAK may, without notice or liability, disclose to third parties any Customer information or any content, Information or materials associated with a TRONAK Services account, if TRONAK believes, in good faith, that such disclosure is reasonably necessary to provide the TRONAK Services to other customers, ensure adherence to or enforce the terms of this Agreement, comply with any laws or regulations, respond to any allegation of illegal conduct or claimed violation of third party rights, or protect itself or others.

13. DISCLAIMERS; DISCLAIMER OF WARRANTIES

I. Customer agrees and understands that TRONAK exercises no control over the Information delivered or received through the TRONAK Services. Customer assumes total responsibility for Customer's use of the TRONAK Services, whether or not they are actually provided by TRONAK or its designee. Customer acknowledges that the TRONAK Services are accessible by persons who may attempt to breach the security of TRONAK's network and/or Customer's account, and TRONAK expressly disclaims any responsibility for such actions. Customer accesses the TRONAK Services at its own risk.

II. EXCEPT AS SPECIFICALLY SET FORTH HEREIN OR IN AN ATTACHMENT, THE TRONAK SERVICES, AND ANY RELATED SOFTWARE AND/OR HARDWARE PROVIDED BY TRONAK ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS, IMPLIED, WRITTEN, ORAL, OR STATUTORY, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, NONINFRINGEMENT OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

III. TRONAK DOES NOT WARRANT THAT THE TRONAK SERVICES WILL BE ERROR FREE OR THAT THEY WILL OPERATE WITHOUT INTERRUPTION, OR THAT DEFECTS IN THE TRONAK SERVICES WILL BE CORRECTED.

14. Limitation of Liability

TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL TRONAK, ITS AFFILIATES, OR ANY OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS OF TRONAK BE LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS OR REVENUES, LOST DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES RELATED TO THE USE OF OR THE INABILITY TO USE THE TRONAK SERVICES OR THIS AGREEMENT WHETHER FOR, AMONG OTHER THINGS, BREACH OF WARRANTY OR ERRORS, OMISSIONS, OR OTHER INACCURACIES IN THE TRONAK SERVICES, AND WHETHER UNDER ANY THEORY OR CAUSE OF ACTION WHETHER IN TORT, CONTRACT OR OTHERWISE, REGARDLESS OF WHETHER THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TRONAK'S TOTAL AGGREGATE LIABILITY HEREUNDER SHALL IN NO EVENT EXCEED AN AMOUNT EQUAL TO THE USAGE CHARGES PAID TO TRONAK BY CUSTOMER FOR THE AFFECTED TRONAK SERVICES WHICH GIVES RISE TO SUCH LIABILITY. CUSTOMER HEREBY WAIVES ANY CLAIM THAT THESE EXCLUSIONS DEPRIVE IT OF AN ADEQUATE REMEDY OR CAUSE THIS AGREEMENT TO FAIL OF ITS ESSENTIAL PURPOSE. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, SO THE ABOVE LIMITATION MAY NOT APPLY TO CUSTOMER.

15. Indemnity

Customer agrees to indemnify, defend, and hold harmless TRONAK, its officers, directors, employees, agents, shareholders, licensors, and any third party providers or suppliers from and against all losses, damages or expenses of any kind, including reasonable attorneys' fees and costs of litigation, arising from claims of a third party (including claims, assertions and investigations of a governmental agency), which claims arise in whole or part from (i) the negligence or willful misconduct of Customer, its employees, or agents, or (ii) Customer's breach of an obligation under this Agreement, (iii) the use of the TRONAK Services by Customer; (iv) infringement of any third party right arising from the use of any services, equipment and software not provided by TRONAK.

16. Termination

I. The termination of Customer's Account by either Party automatically terminates this Agreement; provided, however such termination shall not relieve Customer from any amounts owing or other liability accruing under this Agreement prior to the time that such termination becomes effective.

II. TRONAK shall not be liable to Customer or any third party for any termination of the Customer Account or the limitation of Customer access to the TRONAK Services.

III. Customer may stop using the TRONAK Services at any time by sending us email.

IV. TRONAK may, in its sole discretion, suspend, restrict or terminate the Customer Account, effective at any time, without notice and for any reason including, without limitation, the operation or efficiency of the TRONAK Services is impaired by Customer's use thereof; or the Customer Account has been inactive or not recharged for a period of six (6) months; or Customer is in breach of this Agreement; or TRONAK has received a third party complaint which relates to the use or misuse of the TRONAK Services by Customer or from the Customer Account.

V. In the event that Customer's Account is suspended, restricted or terminated, reconnection charges may apply.

VI. TRONAK shall have no responsibility to notify any third party, including any third party providers of the TRONAK Services, of any suspension, restriction or termination of the Customer Account. In the event the Customer Account is suspended, restricted or terminated, TRONAK shall have no obligation to maintain any messages, information or other content related to the Customer Account including, without limitation, account activity details, and you acknowledge that all such messages, information and content may be immediately deleted.

17. Miscellaneous

II. Cause of Action: Any cause of action Customer may have with respect to this Agreement or the TRONAK Services must be commenced within one (1) month after the claim or cause of action arose, or it shall be barred.

III. Assignment: This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns. TRONAK may assign or subcontract its rights, duties and obligations under this Agreement, in whole or in part, without notice to Customer. Customer may not assign this Agreement.

IV. Waiver: The delay or failure of TRONAK to enforce or insist upon strict compliance with any of the terms or conditions of this Agreement shall not constitute a waiver of TRONAK's rights hereunder.

V. Survival: All terms and provisions which, by their nature, should survive the termination of this Agreement, shall so survive.

VI. Severability: In the event that any provision of this Agreement is held to be invalid or unenforceable, the invalid or unenforceable portion shall be construed as nearly as possible to reflect the original intent of the parties and the remainder of the provisions shall remain in full force and effect.

VII. Headings: Headings contained herein are provided for convenience and reference only. Headings in no way affect or limit the interpretation, contents, or terms of this Agreement.

VIII. Third Parties: Nothing contained in this Agreement shall be created, or be deemed to have been executed, for the benefit of any third party.

IX. Entire Agreement: This Agreement, including any and all web sites, documents, terms, conditions, and policies referenced herein, constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements, whether electronic, written or oral, between TRONAK and Customer.

X. All references to TRONAK web site addresses in this Agreement shall also include any successor or replacement web sites containing substantially similar information as the referenced web site(s).

XI. The rights, powers and remedies of TRONAK in this Agreement, including without limitation the right to suspend, restrict or terminate any TRONAK Services account, are cumulative and in addition to and not in substitution for any right, power or remedy that may be available to TRONAK at law or in equity.

XII. You agree that no joint venture; partnership, employment or agency relationship exists between TRONAK and you as a result of this Agreement or use of the TRONAK Services.