

## **CALLATION - TERMS OF SERVICE**

This Terms of Service (hereinafter referred to as "TOS") is entered into by and between the Client (hereinafter referred to as "You") and Callation (hereinafter referred to as the "Company", "We", "Our", or "Us").

You are deemed to have accepted the provisions of this TOS by availing of our hosted software to provide phone system reporting and call accounting services (hereinafter referred to as "SaaS Products and Services" or "Service"). This TOS is made up of the terms below, plus any other policies and materials specifically referred hereto in this TOS. Hence, we encourage you to please read our TOS carefully.

### **I. GENERAL DESCRIPTION**

We are engaged in the business of offering hosted software for phone system reporting and call accounting services. In the event you avail of our SaaS products and services, we will provide you with a small appliance or piece of software that you will run on your premises. This will enable you to take call statistics from your PABX encrypt the data and forward it on to our hosted servers. The data will then be stored on our server, where you can log into a web portal and run various reports based on this data.

You can purchase from us such appliance or software, which shall be covered by a 12-month warranty. Apart from this express representation, we do not make any other guarantees concerning our services. Hence, any breakage, replacement or repair costs shall be at your expense and chargeable to you.

### **II. DESCRIPTIVE AND TECHNICAL INFORMATION**

We may provide you with catalogues, product brochures, photographs and other illustrations as a general representation of our services, but these information shall not be taken as an exact representation and shall not form part of the TOS, except as specifically set forth. We reserve the right to make changes in design, specifications or materials that in our opinion are an improvement or necessary modification.

Any description of our services including, but not limited to, samples, literature, models, bulletins, drawings, diagrams, or similar materials are intended for the sole purpose of identifying and describing our services and shall not be construed as an express warranty.

### **III. LIMITED LIABILITY**

WE DO NOT LEGALLY GUARANTEE THAT OUR SERVICES ARE ONE HUNDRED PERCENT ACCURATE. THOUGH WE HAVE REASONABLE GROUND TO BELIEVE THAT OUR REPORTING AND ACCOUNTING ENGINES ARE IN

THEMSELVES SOLID, THE SAME ARE HEAVILY RELIANT ON YOUR ACT OF PROVIDING THE CORRECT CALL RATES, AMONG OTHERS. AS SUCH, THERE IS A LOGICAL DEGREE OF RISK IN THESE CIRCUMSTANCES.

FURTHERMORE, WE ASSUME NO RESPONSIBILITY FOR THE INTEGRITY OR COMPLETENESS OF THE PROVIDED DATA DELIVERED FROM YOUR OWN SITE, OR BY MEANS OF ANY ERROR WITHIN THE REPORT CALCULATION.

FINALLY, WE DO NOT WARRANT THAT OUR OPERATIONS SHALL BE UNINTERRUPTED OR ERROR-FREE. EXCEPT FOR THE 12-MONTH WARRANTY IN SECTION 1 HEREIN, WE SHALL PROVIDE OUR SERVICES ON AN "AS IS" BASIS WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

#### IV. CLIENT'S UNDERTAKING

You agree that you are responsible and liable for all other users who utilize our SaaS products and services through you, with or without your authorization.

While we make every effort to ensure that the data is secure at all times, you likewise recognize that there are instances that may damage, corrupt, delete or in any way alter your data that are beyond our control. Therefore, you accept responsibility for backing up any data, software, information and any other files. Under no circumstance shall we be held responsible for any server breaches, intercepted data, loss of data or any other analogous circumstances.

#### V. RESTRICTIONS

You acquiesce to refrain from the following acts:

- (i) Using our services in excess of or beyond the agreed purpose;
- (ii) Distributing, selling, licensing, providing or otherwise making available our services or any portion of the foregoing to third parties without our consent;
- (iii) Using our services to store or transmit infringing, libelous, other unlawful or tortious material, or other material in violation of any third party privacy or other rights;
- (iv) Using our services to interfere or disrupt the integrity or performance of any other SaaS product or software; or,
- (v) Utilizing our services in any way that is in violation of any applicable law, rule or regulation.

#### VI. TERM AND TERMINATION

The term of this Agreement shall commence on the effective date and shall continue indefinitely, unless terminated as expressly set forth below.

Termination may occur in the following circumstances: (i) upon thirty (30) days written notice, if one of us materially breaches any provision of this Agreement and such breach remains uncured after such thirty (30) day notice period expires; (ii) effective immediately, if one of us ceases to do business, or otherwise terminates our business operations without a successor; or (iii) effective immediately, if one of us becomes insolvent or seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding, or if any such proceeding is filed against us and not dismissed within ninety (90) days.

Upon any termination or expiration of this TOS: (i) all access, rights and licenses granted to you hereunder shall terminate; (ii) you shall cease using all our services; and (iii) you shall destroy all copies of our software, if any; and (iv) upon written request, you shall return all Confidential Information in your possession or control.

If we opt to terminate the service, we will offer your data on a portable storage device free of charge. However, you only have a maximum of 30 days to submit a request for such data.

## VII. MONITORING; PRIVACY

We reserve the right, but are not obligated, to monitor the use of our services, whether published or unpublished, in the interests of security. You acknowledge that you have no expectation of privacy with respect to any such communications or postings, and you expressly consent to such monitoring.

By using our services, you consent to any transfer of personal information for the purposes of storing the information where our company and/or our agents maintain their facilities. You are responsible for protecting and enforcing your rights.

## VIII. INTELLECTUAL PROPERTY RIGHTS

You acknowledge that we own all right, title, and interest in and to our services, including all intellectual property rights. Accordingly, you agree that you will not copy, reproduce, alter, modify, or create derivative works from our SaaS products and services.

In the event you intend to request for a copy of the raw stored data, such information shall only be available up to 30 days after any service termination. We shall accede to this request by way of a mailed portable storage device at a cost chargeable to you.

## IX. INDEMNIFICATION

You agree to hold harmless and indemnify our Company and our subsidiaries, affiliates, officers, agents and employees from and against any third party claim arising from or in any way related to your use of our services, including any liability or expense arising from all claims, losses, damages (actual or consequential), suits, judgments, litigation costs and attorneys' fees, of every kind and nature.

## X. LIABILITY DISCLAIMER

THE INFORMATION, CONTENT, SOFTWARE, PRODUCTS, AND SERVICES INCLUDED IN OR AVAILABLE THROUGH OUR SERVICES MAY INCLUDE INACCURACIES OR TYPOGRAPHICAL ERRORS. CHANGES ARE PERIODICALLY ADDED TO THE INFORMATION HEREIN. OUR COMPANY MAY MAKE IMPROVEMENTS AND/OR CHANGES IN THE SITE AT ANY TIME. ANY GENERAL ADVICE THAT YOU MAY ACQUIRE FROM US SHOULD NOT BE RELIED UPON FOR PERSONAL, LEGAL OR FINANCIAL DECISIONS AND YOU SHOULD CONSULT AN APPROPRIATE PROFESSIONAL FOR SPECIFIC ADVICE TAILORED TO YOUR SITUATION.

FURTHER, WE MAKE NO REPRESENTATIONS ABOUT THE SUITABILITY, RELIABILITY, AVAILABILITY, TIMELINESS AND SAFETY OF OUR SERVICES FOR ANY PURPOSE.

## XI. GOVERNING LAW

To the maximum extent permitted by law, the laws of Australia shall govern this TOS and you hereby consent to Australia being the exclusive jurisdiction and venue of courts in all disputes arising out of or relating to the service. The SaaS service is unauthorized in any jurisdiction that does not give effect to all provisions of this TOS, including without limitation this paragraph.

## XII. CONTRACTUAL RELATIONSHIP

You agree that no joint venture, partnership, employment, or agency relationship exists between you and our Company as a result of this TOS.

## XIII. SEVERABILITY

If any part of this agreement is determined to be invalid or unenforceable pursuant to applicable law including, but not limited to, the warranty disclaimers and liability limitations set forth above, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of the TOS shall continue in effect.