

Fusion Supplemental End User License Agreement and Application  
Terms of Use – Fusionworks

Revised July 26, 2016



This End User License Agreement shall apply to Fusion Customers using the following software applications (“the Applications”):

- FUSIONWORKS SALESFORCE CONNECTOR.

1. Use the Applications shall be conditioned on adherence to the following terms of service (the “Application Terms”). The Application is available for use by individuals who are customers of Network Billing Systems LLC (d/b/a “Fusion”) and who are using the Applications for individual or personal use and not for further resale or distribution (“You” or “Your”). Fusion grants you a limited non-exclusive, non-transferrable right to use the Applications pursuant to these Terms and the terms of any customer agreement between you and Fusion related to the Applications.

2. IN THE EVENT OF A CONFLICT BETWEEN THESE TERMS AND ANY SUPPLEMENTAL TERMS SPECIFIED BY THE PARTICULAR DEVELOPER OF THE SOFTWARE IDENTIFIED ABOVE UNDER APPLICATIONS (HEREINAFTER INDIVIDUALLY REFERRED TO AS THE “APPLICATION DEVELOPER”), THESE TERMS SHALL CONTROL, EXCEPT WHERE EXPRESSLY PROVIDED IN THESE TERMS.

3. EACH TIME YOU USE AN APPLICATION, YOU ARE ACCEPTING THESE TERMS AND ANY SUPPLEMENTAL TERMS PROVIDED BELOW FOR SUCH APPLICATIONS. IF YOU DO NOT AGREE TO ALL OF THE TERMS, APPLICATION DEVELOPER IS UNWILLING TO GRANT YOU THE RIGHT TO USE ITS APPLICATION, AND YOU MUST CEASE USING THE APPLICATION IMMEDIATELY. YOU ACCEPT THESE TERMS BY EITHER (1) CLICKING TO AGREE OR ACCEPT WHERE THESE OPTIONS ARE PRESENTED TO YOU, OR (2) ACTUALLY USING THE APPLICATION. IF YOU ARE ACCEPTING ON BEHALF OF YOUR EMPLOYER OR ANOTHER ENTITY, YOU REPRESENT AND WARRANT THAT: (I) YOU HAVE FULL LEGAL AUTHORITY TO BIND YOUR EMPLOYER OR SUCH ENTITY TO THESE TERMS; (II) YOU HAVE READ AND UNDERSTAND THESE TERMS; AND (III) YOU AGREE, ON BEHALF OF THE PARTY THAT YOU REPRESENT, TO THESE TERMS. IF YOU DON'T HAVE THE LEGAL AUTHORITY TO BIND, PLEASE DO NOT CLICK THE "I ACCEPT" BUTTON OR USE THE APPLICATION.

4. You acknowledge and agree that Fusion is not responsible for any Applications sold to you. By purchasing the Applications, you acknowledge that Fusion does not warrant or endorse, nor does Fusion assume or have any liability or responsibility for, any Applications, or for any other materials, products, or services of third parties, even though Fusion has made such Applications available to you.

5. YOU EXPRESSLY UNDERSTAND AND AGREE THAT FUSION SHALL NOT BE LIABLE TO YOU UNDER ANY THEORY OF LIABILITY (REGARDLESS OF WHETHER SUCH DAMAGES ARE BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), WARRANTY, OR OTHERWISE) FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES THAT MAY BE INCURRED BY YOU THROUGH YOUR USE OF THE APPLICATIONS, INCLUDING ANY LOSS OF DATA, WHETHER OR NOT FUSION, OR ITS REPRESENTATIVES, HAVE BEEN ADVISED OF OR SHOULD HAVE BEEN AWARE OF THE POSSIBILITY OF ANY SUCH LOSSES ARISING. YOU ALSO EXPRESSLY UNDERSTAND AND AGREE THAT THE APPLICABLE APPLICATION DEVELOPER SHALL NOT BE LIABLE TO YOU UNDER ANY THEORY OF LIABILITY

(REGARDLESS OF WHETHER SUCH DAMAGES ARE BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), WARRANTY, OR OTHERWISE) FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES THAT MAY BE INCURRED BY YOU THROUGH YOUR USE OF THE APPLICATION, INCLUDING ANY LOSS OF DATA, WHETHER OR NOT THE APPLICATION DEVELOPER HAS BEEN ADVISED OF OR SHOULD HAVE BEEN AWARE OF THE POSSIBILITY OF ANY SUCH LOSSES ARISING.

6. THE COLLECTIVE AND AGGREGATE LIABILITY OF THE APPLICATION DEVELOPER AND FUSION TO YOU FOR ALL CLAIMS ARISING FROM OR RELATED TO THE APPLICATION IS LIMITED TO THE GREATER OF: (A) THE AMOUNT OF FEES ACTUALLY RECEIVED BY SUCH PARTY FROM YOUR PURCHASE OF THE APPLICATION; OR (B) FIFTY DOLLARS (U.S. \$50.00). In the event of a conflict between this Section 6 and any supplemental terms in regards to the Application Developer's limitation of liability, the supplemental terms shall control, but only to the extent such supplemental terms apply to the Application Developer. The supplemental terms shall in no way modify any limitation of liability as such limitation relates to Fusion.

7. You agree to indemnify, defend, and hold Fusion harmless with respect to any claims arising out of or relating to the Applications.

8. Your use of, or inability to use, the Applications is at your sole risk. NEITHER FUSION NOR BROADSOFT, INC. ("BROADSOFT") GUARANTEES, REPRESENTS, OR WARRANTS THAT YOUR USE OF THE APPLICATION WILL BE UNINTERRUPTED OR ERROR-FREE. BroadSoft or Fusion may suspend Your use of the Application in the event the Application detrimentally impact BroadSoft, Fusion, and other users who have purchased the Application, or other BroadSoft software, solely as determined in BroadSoft's sole discretion.

9. You agree that BroadSoft is an intended third-party beneficiary under these Terms, and BroadSoft has standing to enforce these Terms in respect of all intellectual property rights and licenses, representations, disclaimers and other benefits accruing to BroadSoft under these Terms.

10. These Terms and any supplemental terms under which you are provided the Applications may change from time to time. You agree to cooperate reasonably and in good faith with the Application Developer in the event that BroadSoft requires that Fusion modify these Terms.

11. Application Developer owns and retains all proprietary rights in the Application (including the software). The Application contains the copyrighted material, trademarks, and other proprietary information of Application Developer and its licensors. The provision of the Application does not transfer to you or any third party any rights, title or interest in or to such intellectual property, including, without limitation, any intellectual property rights in any Application Developer or third-party content.

12. Application Developer may suspend your access to its Application before cancelling such Application because you are in material breach of these Terms or any other terms under which the Application Developer provides, or because the Application Developer is contractually required to

do so by Fusion. If your access is suspended in this way, you must continue to pay all charges for your service during the period of suspension.

13. If Your Application is terminated for any reason, you must immediately delete all copies of such Application (including the software) in your possession or under your control.

14. Unless otherwise set forth in the supplemental terms provided with the Application, these Terms will be governed by the laws of the State of New York without giving effect to any choice of laws principles that would require the application of the laws of a different country or state.

15. These Terms are personal to you, and you may not transfer, assign or delegate your right and/or duties under these Terms to anyone else and any attempted assignment or delegation is void. You acknowledge that Application Developer has the right hereunder to seek an injunction, if necessary, to stop or prevent a breach of your obligations hereunder. Any delay or failure by Application Developer to exercise or enforce any right or provision of these Application Terms will not constitute a waiver of such right or provision. No waiver by Application Developer shall have effect unless such waiver is set forth in writing, signed by Application Developer; nor shall any such waiver of any breach or default constitute a waiver of any subsequent breach or default.

16. These Terms, together with any supplemental terms provided by Application Developer, constitute the complete and exclusive agreement between you and Application Developer with respect to the subject matter hereof, and supersedes all prior oral or written understandings, communications or agreements. If for any reason a court of competent jurisdiction finds any provision of these Terms, or portion thereof, to be unenforceable, that provision of these Terms will be enforced to the maximum extent permissible so as to effect the intent of the parties, and the remainder of these Terms will continue in full force and effect.