



## FUSION'S ACCEPTABLE USE POLICY

### I. Introduction

This Acceptable Use Policy (“**AUP**”) governs the use of Fusion’s products and services, websites, systems, facilities and network(s) (collectively, the “**Services**”), by Fusion’s customers and by users that have gained access to the Services through a customer’s account (collectively, “**Users**”). The Services must be used in a manner that is consistent with the intended purposes and the terms of the applicable agreement between the User and Fusion, which incorporates by reference this AUP. For purposes of this AUP, “**Fusion**” means Fusion Connect, Inc. and each of its direct and indirect subsidiaries.

By using a Service, User agrees to comply with this AUP. Fusion reserves the right to modify this AUP at any time and from time-to-time, and such changes shall be effective when posted to Fusion’s website at [www.fusionconnect.com/AUP](http://www.fusionconnect.com/AUP). A User’s continued use of the Service after changes to the AUP are posted shall constitute acceptance of any changed or additional terms.

Violations of this AUP may be reported to [abuse@fusionconnect.com](mailto:abuse@fusionconnect.com).

### II. Prohibited Conduct

**General.** Users may not use the Services to transmit, distribute or store material in a manner that (a) violates any applicable law, rule or regulation, (b) may adversely affect the Services or other Users, (c) may expose Fusion to criminal or civil liability, or (d) violate, infringe upon, or otherwise misappropriate any third party rights, including intellectual property rights, rights of publicity and privacy rights.

If a User has any questions regarding this AUP, or wishes to report a suspected violation of this policy, they are requested to contact [abuse@fusionconnect.com](mailto:abuse@fusionconnect.com).

**Intellectual Property Rights.** Services may not be used to host, publish, submit/receive, upload/download, post, use, copy or otherwise reproduce, transmit, re-transmit, distribute or store any content/material or to engage in any activity that infringes, misappropriates or otherwise violates the intellectual property rights or privacy or publicity rights of Fusion or any individual, group or entity including, but not limited to, rights protected by intellectual property laws.

**Inappropriate Content.** Users may not use the Services to transmit, distribute or store material that Fusion determines is inappropriate, obscene, indecent, defamatory, libelous, tortious, threatening, abusive, hateful, or excessively violent. In addition, Users may not use the Services to host terrorist-related websites, including sites that advocate human violence and hate crimes based upon religion, ethnicity or country of origin.

**Harmful Content.** Users may not use the Services to transmit, distribute or store material that may be harmful to, or interfere with, the Services or any other party's networks, systems, services, or websites. Such prohibited harmful content includes, but is not limited to, viruses, worms, or Trojan horses, root kits, password crackers, adware, and key stroke capture programs.

**Fraudulent/Misleading Content.** Users may not use the Services to transmit or distribute material containing fraudulent offers for goods or services, or any advertising or promotional materials that contain false, deceptive, or misleading statements, claims, or representations. In addition, Users are prohibited from submitting any false or inaccurate data on any order form, contract or online application, including the fraudulent use of credit cards.

**Email and Unsolicited Messages.** Users may not use the Services to (i) transmit unsolicited e-mail messages, including, without limitation, unsolicited bulk email, where such emails could reasonably be expected to provoke complaints, and (ii) send e-mail messages which are excessive and/or intended to harass or annoy others (“**Spam**”). In addition, Users are prohibited from using the service of another provider to send Spam to promote a site hosted on, or connected to, the Services. In addition, Users may not use the Services to (a) continue to send e-mail messages to a recipient that has indicated that it does not wish to receive them, (b) send e-mail with forged TCP/IP packet header information, (c) send malicious e-mail, including, without limitation, "mail-bombing", (d) send or receive e-mail messages in a manner that violates the use policies of any other service provider, or (e) use an e-mail box exclusively as a storage space for data.

**Third Party Rules; Usenet.** Users may not use the Services in violation of the rules, guidelines or agreements associated with search engines, subscription Web services, chat areas, bulletin boards, Web pages, USENET, or other services accessed via the Services.

**Inappropriate Actions.** Users may not use the Services to conduct activities that may be harmful to, or interfere with, the Services, a User’s terminal session or any third party's networks, systems, services or websites. Users may not engage in any activities designed to harass, or that will preclude or interfere with the use of Service (e.g., synchronized number sequence attacks) by any other User on Fusion’s network or on another provider’s network. In addition, Users may not use the Service (a) to avoid User’s payment obligations, (b) to access User’s account or the Services after the User has terminated its account, (c) on behalf of persons or firms listed in the Spamhaus Register of Known Spam Operations database at [www.spamhaus.org](http://www.spamhaus.org), (d) to engage in phishing activities, and (e) for purposes of cryptography or similar computational processing to mine or create units of cryptocurrency, such as Bitcoin, Ethereum, Ripple, and Litecoin. Further, Users may not use the Services to engage in any activities that may interfere with the ability of others to access or use the Services.

**Illegal Use.** Customer may not use the Services in a manner that constitutes illegal activities, including but not limited to, death threats, terroristic threats, threats of harm to another individual, child pornography and violations of the Child Protection Act of 1984, multi-level marketing schemes, HYIP or Ponzi schemes, invasion of privacy, credit card fraud, racketeering, defamation, slander or any other violation of applicable law.

**Security Breaches and Obligations.** Users are prohibited from violating or attempting to violate the security of the Services or the computers, accounts, or networks of another User or other party, including but not limited to, circumventing the user authentication or security of

any host, network or account. Users may not use the Services to cause security breaches or disruptions of Internet communication and/or connectivity. Security breaches include, but are not limited to, accessing data, accounts or systems without authorization or logging into a server or account that the User is not expressly authorized to access and denial of service attacks. Disruptions include port scans, flood pings, email-bombing, packet spoofing, IP spoofing, forged routing information. Customer must use reasonable care in keeping its software on Fusion's servers up-to-date and patched with the latest security updates.

**IP Allocation.** Users are prohibited from using IP addresses not originally allocated for use or on unassigned VLANs or servers. All IP Addresses are currently owned and registered to Fusion and are non-transferable. Customer retains no ownership or transfer rights.

### **III. Consequences for Activities in Violation of this Policy; Rights of Fusion**

**Suspension and Termination.** Fusion has the right, in its sole discretion, with or without notice, to suspend or terminate a User's account when it engages in any conduct that violates its agreement with Fusion (which includes this AUP). In most cases, Fusion will notify the User regarding an alleged violation of the AUP, however, to protect Fusion's network and its other customers, Fusion reserves the right to block a User first and subsequently make contact with that User. User agrees to promptly investigate all such complaints and take all necessary actions to remedy violations of this AUP. Fusion may inform the party submitting a complaint that the target User is investigating the complaint and may provide the complaining party with the necessary information to contact User directly to resolve the matter. Fusion also reserves the right to cancel e-mail messages and/or restrict the size of e-mail distribution lists.

**Removal of Materials.** Fusion reserves the right to take down any material, or otherwise block access thereto, that has been created or is otherwise accessible through the Services and to suspend any User creating, storing or disseminating such material when Fusion becomes aware that the material violates this AUP and/or exposes Fusion to civil or criminal liability, including without limitation, under applicable copyright laws. Fusion reserves the right to avail itself to the safe harbor provisions of the Digital Millennium Copyright Act of 1998 ("**DMCA**").

**Charges.** Customer agrees to be responsible and pay for any activities that result in damages and/or administrative costs to Fusion or other Users. These damages include, but are not limited to, the following: system shut downs, retaliatory attacks or data flooding, and loss of peering arrangements. Damages may include the following:

- Legal fees, subject to a minimum fee of \$500
- Activation fee or further deposits to reconnect suspended services
- Unsolicited bulk e-mail (spam clean-up): A User may be charged \$300 + \$5 per message sent + \$100 per complaint received by Fusion.

Fusion also reserves the right to modify its rates at any time and from time-to-time through a revision to this AUP.

**Cooperation with Legal Authorities.** Fusion reserves the right to cooperate with legal authorities and third parties in the investigation of any alleged wrongdoing related to this AUP, including disclosure of the identity of the User that Fusion deems responsible for the wrongdoing. Fusion will not be liable for any damages of any nature suffered by any User, or any third party resulting in whole or in part from Fusion's exercise of its rights under this AUP.

**Installation of Equipment.** Fusion reserves the right to install and use, or to require the customer to install and use, appropriate devices to prevent violations of this AUP, including devices designated to filter or terminate access to the Services. By accepting and using the Services, Users consent to allowing Fusion to collect service information and routing information in the normal course of its business, and to use such information for general business purposes. Users may not use the Services to monitor any data, information or communications on any network or system without Fusion's written authorization. In addition, Users may not attempt to gain unauthorized access to the accounts of other Users.

#### **IV. Responsibility for Content**

Fusion takes no responsibility for any material created or accessible on or through the Services and will not exercise any editorial control over any such material. Fusion is not obligated to monitor such material, but reserves the right to do so at any time.

#### **V. Copyright Complaints**

The DMCA provides recourse for owners of copyrighted material who believe their rights under U.S. copyright law have been infringed.

As a provider of transitory digital communications, Fusion's activities are typically protected by a safe harbor provision of the DMCA (see 17 U.S.C. 512 (a)). Fusion is therefore not obligated to respond to a copyright owner (or the owner's agent) nor does Fusion have a duty to remove or disable access to material transmitted, routed or connected to the Fusion network(s) that is initiated and/or directed by an individual User.

If a party believes that Fusion has infringed its copyrighted work in a way that does not fall within the applicable DMCA safe harbor provision, please provide notice to our Designated Copyright Agent at the address listed below. As required by the DMCA (17 U.S.C. 512 (c)(3)), the notice must include the information listed below. In addition, the notice should include the basis for the belief that Fusion is not merely providing transitory digital communications under 17 U.S.C. 512 (a) of the DMCA:

- a physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
- identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a singled notification, a representative list of such works at that site;
- identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit Fusion to locate the material;
- information reasonably sufficient to permit Fusion to contact the complaining party, such as address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted;
- a statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and

- a statement that the information in the notification is accurate and, under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

The Designated Copyright Agent for Fusion may be reached as follows:

Fusion Connect, Inc.  
420 Lexington Avenue, Suite 1718  
New York, New York 10170  
Attention: Designated Copyright Agent  
By email: [dmca.notices@fusionconnect.com](mailto:dmca.notices@fusionconnect.com)

If a copyright infringement notice has been wrongly filed against a User because of a mistake or a misidentification of the material, the User may file a counter notification with Fusion's Designated Copyright Agent at the address noted above. The counter notification must provide the following information:

- physical or electronic signature of the User;
- identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access to it was disabled;
- a statement, under penalty of perjury, that the User has a good faith belief that the material was removed or disabled as a result of mistake or misidentification; and
- the User's name, address, telephone number and e-mail address, and a statement that the User consents to the jurisdiction of the Federal District Court for the judicial district in which the address is located, or if the User's address is outside of the United States, for any judicial district in which the service provider may be found, and that the User will accept service of process from the person who provided notification or an agent of such person.