



TERMS OF SERVICE – HUD MOBILE

IMPORTANT—READ CAREFULLY: These terms of service for HUD Mobile include additional agreements and understandings between you, your end users (hereafter “you”, or “Customer”) and Fonality, Inc. (“Fonality”) for the Fonality* HUD* Mobile application identified on your Estimate and/or Order. If any one or more of the provisions of these HUD Mobile terms of service shall for any reason be held to be contradictory to the Terms of Service and License Agreement for your originally purchased Fonality product or service (“Agreement”), the terms of this HUD Mobile terms of service shall be considered the final understanding and agreement between you and Fonality regarding the contradictory terms. Terms and conditions of the Agreement not expressly amended or added to by these HUD Mobile terms of service remain in full force and effect. Any terms used but not otherwise defined in these HUD Mobile terms of service will have the meaning given to them in the Agreement.

Additional Charges

Depending on you or your end users’ mobile device carrier, internet access provider, and/or other applicable carrier, using or downloading Fonality HUD Mobile updates, upgrades or features may cause you and/or your end users to incur data or other charges from the provider. Messaging and other mobile application charges may also be applied by the provider. Fonality is not responsible for or liable for any such charges whether incurred directly by you or your end users. Payment of such charges by the provider or carrier is solely you and/or your end users’ responsibility. You acknowledge that the carrier/provider may continue to charge you or your end users for Fonality HUD Mobile as long as the Fonality HUD Mobile subscription remains active on the mobile device(s) and regardless of whether or how often you or your end user actively uses Fonality HUD Mobile.

Customer Account, Password, and Security

You are entirely responsible for monitoring the activity and maintaining the confidentiality of you and your end users’ HUD Mobile use, account, password(s) and security. You agree to notify Fonality immediately of any unauthorized use of the Fonality HUD Mobile application or any other related breach of security. Fonality will not be liable for any loss that is incurred by you or your end user as a result of someone else using your HUD Mobile application, whether yours or your end users. However, you may be held liable for losses incurred by Fonality or another party due to someone else using your account or password.

License

The license granted to you and your end users for the Service or Product under the Agreement applies to the Fonality HUD Mobile application. Such license includes the use of information, materials and documentation related to Fonality HUD Mobile that are provided or made available to you by Fonality at the time you install/download Fonality HUD Mobile. You acknowledge and understand that you and your end users are also subject to the mobile device manufacturer’s terms of use for any mobile application and that Fonality shall not be liable for any mis-use by you or any end user of applications for mobile devices in violation of the mobile device manufacturer’s terms of use.

Electronic Communications

By using the Fonality HUD Mobile application, you and your end users consent to receiving electronic communications and notices from Fonality. You agree that any notice, agreement, disclosure or other communications that we send to you electronically will satisfy any legal communication requirements, including that such communications be in writing.

DISCLAIMER OF WARRANTIES; LIMITATION OF LIABILITY

IN ADDITION TO THE DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY DESCRIBED IN THE AGREEMENT, FONALITY PROVIDES NO WARRANTY AND SHALL NOT BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, AGGRAVATED, PUNITIVE, CONSEQUENTIAL OR SIMILAR DAMAGES THAT RESULT FROM THE USE OR INABILITY TO USE THE FONALITY HUD MOBILE APPLICATION WHATSOEVER, INCLUDING SIMILAR DAMAGES RESULTING FROM CUSTOMER’S (YOU OR YOUR END USERS) DEVICE, OPERATING SYSTEM OR CUSTOMER’S (YOU OR YOUR END USERS) INABILITY TO ACCESS SUFFICIENT BANDWIDTH AND/OR TELECOMMUNICATIONS CONNECTIVITY.

INDEMNIFICATION

EXCEPT FOR CLAIMS ARISING OUT OF FONALITY’S BREACH(ES) OF SPECIFIC REPRESENTATIONS AND WARRANTIES MADE TO YOU BY US REGARDING FONALITY HUD MOBILE, YOU AGREE TO INDEMNIFY AND HOLD FONALITY, AND ITS SUBSIDIARIES AND AFFILIATES, AND ALL OFFICERS, DIRECTORS, AND EMPLOYEES THEREOF, HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, ACTIONS, LIABILITIES, LOSSES, DAMAGES, JUDGMENTS, GRANTS, COSTS, AND EXPENSES, INCLUDING, BUT NOT LIMITED TO DATA CHARGES OR OTHER MOBILE DEVICE CHARGES AND REASONABLE ATTORNEYS’ FEES (COLLECTIVELY, “CLAIMS”), ARISING OUT OF ANY USE OF FONALITY HUD MOBILE BY YOU, ANY PARTY RELATED TO YOU, YOUR EMPLOYEES AND CONTRACTORS, AND/OR ANY OTHER END USERS (INDIVIDUALLY AND COLLECTIVELY KNOWN AS “CUSTOMER PARTY(IES)”) ACCESSING FONALITY HUD MOBILE THROUGH YOUR AGREEMENT WITH FONALITY. FURTHER, YOU AGREE TO INDEMNIFY FONALITY FOR ANY CLAIM FONALITY MAY INCUR CAUSED BY A CUSTOMER PARTY ACTING IN A MANNER THAT IS NOT EXPRESSLY AUTHORIZED BY THE TERMS AND CONDITIONS OF THE AGREEMENT, INCLUDING THIS TERMS OF SERVICE – HUD MOBILE.

MODIFICATIONS

FONALITY RESERVES THE RIGHT, AT FONALITY’S SOLE DISCRETION, TO CHANGE, MODIFY OR OTHERWISE ALTER THESE TERMS OF SERVICE AT ANY TIME. YOU CAN FIND THE MOST RECENT VERSION OF THESE TERMS OF SERVICE AT WWW.FONALITY.COM/LEGAL (THE “WEBSITE”). SUCH MODIFICATIONS SHALL BECOME EFFECTIVE IMMEDIATELY UPON POSTING SUCH TO THE WEBSITE. CONTINUED USE OF THE PRODUCT FOLLOWING THE POSTING OF MODIFICATIONS WILL CONSTITUTE ACCEPTANCE OF THE REVISED TERMS OF SERVICE. SHOULD YOU HAVE ANY QUESTIONS, PLEASE CONTACT US AT: INFO@FONALITY.COM.