

## **ACH Pro Terms and Conditions**

### **Agreement between User and ACH Pro**

The ACH Pro web application and API (collectively, the “Application”) are offered to you conditioned on your acceptance without modification of the terms, conditions and notices contained herein (the “Terms”). Your use of the Application constitutes your agreement to all such Terms. Please read these terms carefully and keep a copy of them for your reference.

The Application give users a simple, user-friendly way to manage and create NACHA-formatted files. The Application does not originate payments for its users, but instead enables them to create payment files that they can send through their preferred banking partner.

### **Privacy**

Your use of the Application is subject to ACH Pro’s Privacy Policy (<https://www.privacypolicies.com/live/e40e844c-801e-4c91-a637-4dc4c11e8d96>). Please review the Privacy Policy, which governs the Application and informs users of our data collection practices.

### **Electronic Communications**

You consent to receive electronic communications and you agree that all agreements, notices, disclosures and other communications we provide to you electronically, via Email and in the Application, satisfy any legal requirements that such communications be in writing.

### **Your Account**

You are responsible for maintaining the confidentiality of your account and password and for restricting access to your computer, and you agree to accept responsibility for all activities that occur under your account and password. You may not assign or otherwise transfer your account to any other person or entity, and you must ensure that credentials are uniquely assigned to users within your account and are not shared. You acknowledge that ACH Pro is not responsible for third party access to your account that results from theft or misappropriation of your account. ACH Pro reserves the right to refuse or cancel services and terminate your account at its discretion.

### **Links to Third Party Sites**

The Application may contain links to other websites or services (“Linked Sites”). The Linked Sites are not under the control of ACH Pro and ACH Pro is not responsible for the contents of any Linked Site, including without limitation any link contained in a Linked Site, or any changes or updates to a Linked

Site. ACH Pro is providing these links to you only as a convenience and the inclusion of any link does not imply endorsement by ACH Pro of the site or any association with its operators.

Certain services made available via the Application are delivered by third party sites and organizations. By using any product, service or functionality originating from the Application, you hereby acknowledge and consent that ACH Pro may share such information and data with any third party with whom ACH Pro has a contractual relationship to provide the requested product, service or functionality on behalf of Application users.

### **No Unlawful or Prohibited Use/Intellectual Property**

You are granted a non-exclusive, non-transferable, revocable license to access and use the Application strictly in accordance with these Terms. As a condition of your use of the Application, you warrant to ACH Pro that you will not use the Application for any purpose that is unlawful or prohibited by these Terms. You may not use the Application in any manner which could damage, disable, overburden or impair the Application or interfere with any other party's use of the Application. You may not obtain or attempt to obtain materials or information through any means not intentionally made available or provided for through the Application, and you may not obtain or attempt to obtain materials or information that was not created by your users or the Application for the benefit of your account.

All content included as part of the Application, such as text, graphics, logos, images, as well as the compilation thereof, and all software used in the Application, is the property of ACH Pro or its suppliers and protected by copyright and other laws governing intellectual property and proprietary rights.

You will not modify, publish, transmit, reverse engineer, participate in the transfer or sale, create derivative works, or in any way exploit any of the content or software, in whole or in part, found in the Application. ACH Pro content is not for resale. Your use of the Application does not entitle you to make any unauthorized use of any protected content, and, you will not delete or alter any proprietary rights or attribution notices in the Application. You agree that you do not acquire any ownership rights in any protected content. We do not grant you any licenses, express or implied, to the intellectual property of ACH Pro or our licensors except as expressly authorized by these Terms.

### **International Users**

The Application is controlled, operated and administered by ACH Pro from our offices within the USA. If you access the Application from a location outside the USA, you are responsible for compliance with all local laws. You agree that you will not use the Application in any country or in any manner prohibited by any applicable laws, restrictions or regulations.

### **Indemnification**

You agree to indemnify, defend and hold harmless ACH Pro, its officers, directors, employees, agents and third parties, for any losses, costs, liabilities and expenses (including reasonable attorney's fees) relating to or arising out of your use of or inability to use the Application, your violation of any of these

Terms or your violation of any rights of a third party, or your violation of any applicable laws, rules or regulations. ACH Pro reserves the right, at its own cost, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will fully cooperate with ACH Pro in asserting any available defenses.

### **Arbitration**

In the event parties to these Terms are not able to resolve any dispute between them arising out of or concerning these Terms, or any provisions hereof, whether in contract, tort or otherwise at law or in equity for damages or any other relief, then such dispute shall be resolved only by final and binding arbitration pursuant to the Federal Arbitration Act, conducted by a single neutral arbitrator and administered by the American Arbitration Association, or a similar arbitration service selected by the parties, in a location mutually agreed upon by the parties. The arbitrator's award shall be final, and judgement may be entered upon it in any court having jurisdiction. In the event that any legal or equitable action, proceeding or arbitration arises out of or concerns these Terms, the prevailing party shall be entitled to recover its costs and reasonable attorney's fees. The parties agree to arbitrate all disputes and claims in regard to these Terms or any disputes arising as a result of these Terms. The parties agree that the Federal Arbitration Act governs the interpretation and enforcement of this provision. The entire dispute, including the scope and enforceability of this arbitration provision shall be determined by the arbitrator. This arbitration provision shall survive the termination of these Terms.

### **Class Action Waiver**

Any arbitration under these Terms will take place on an individual basis; class arbitrations and class/representative/collective actions are not permitted. THE PARTIES AGREE THAT A PARTY MAY BRING CLAIMS AGAINST THE OTHER ONLY IN EACH'S INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PUTATIVE CLASS, COLLECTIVE AND/OR REPRESENTATIVE PROCEEDINGS, SUCH AS IN THE FORM OF A PRIVATE ATTORNEY GENERAL ACTION AGAINST THE OTHER. Further, unless both you and ACH Pro agree otherwise, the arbitrator may not consolidate more than one person's claims and may not otherwise preside over any form of a representative or class proceeding.

### **Liability Disclaimer**

THE INFORMATION, SOFTWARE, PRODUCTS, AND SERVICES INCLUDED IN OR AVAILABLE THROUGH THE APPLICATION MAY INCLUDE INACCURACIES OR TYPOGRAPHICAL ERRORS. CHANGES ARE PERIODICALLY ADDED TO THE INFORMATION HEREIN. ACH PRO AND/OR ITS SUPPLIERS MAY MAKE IMPROVEMENTS AND/OR CHANGES IN THE APPLICATION AT ANY TIME.

ACH PRO AND/OR ITS SUPPLIERS MAKE NO REPRESENTATIONS ABOUT THE SUITABILITY, RELIABILITY, AVAILABILITY, TIMELINESS AND ACCURACY OF THE INFORMATION, SOFTWARE, PRODUCTS, SERVICES AND RELATED GRAPHICS CONTAINED IN THE APPLICATION FOR ANY PURPOSE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ALL SUCH INFORMATION, SOFTWARE, PRODUCTS, SERVICES AND RELATED GRAPHICS ARE PROVIDED "AS IS" WITHOUT WARRANTY OR CONDITION OF ANY KIND.

ACH PRO AND/OR ITS SUPPLIERS HEREBY DISCLAIM ALL WARRANTIES AND CONDITIONS WITH REGARD TO THIS INFORMATION, SOFTWARE, PRODUCTS, SERVICES AND RELATED GRAPHICS, INCLUDING ALL IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL ACH PRO AND/OR ITS SUPPLIERS BE LIABLE FOR ANY DIRECT, INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL DAMAGES OR ANY DAMAGES WHATSOEVER INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF USE, DATA OR PROFITS, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE USE OR PERFORMANCE OF THE APPLICATION, WITH THE DELAY OR INABILITY TO USE THE APPLICATION OR RELATED SERVICES, THE PROVISION OF OR FAILURE TO PROVIDE SERVICES, OR FOR ANY INFORMATION, SOFTWARE, PRODUCTS, SERVICES AND RELATED GRAPHICS OBTAINED THROUGH THE APPLICATION, OR OTHERWISE ARISING OUT OF THE USE OF THE APPLICATION, WHETHER BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, EVEN IF ACH PRO OR ANY OF ITS SUPPLIERS HAS BEEN ADVISED OF THE POSSIBILITY OF DAMAGES. BECAUSE SOME STATES/JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO YOU. IF YOU ARE DISSATISFIED WITH ANY PORTION OF THE APPLICATION, OR WITH ANY OF THESE TERMS, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USING THE APPLICATION.

#### **Termination/Access Restriction**

ACH Pro reserves the right, in its sole discretion, to terminate your access to the Application and the related services or any portion thereof at any time, without notice. To the maximum extent permitted by law, this agreement is governed by the laws of the State of Montana and you hereby consent to the exclusive jurisdiction and venue of courts in Montana in all disputes arising out of or relating to the use of the Application. Use of the Application is unauthorized in any jurisdiction that does not give effect to all provisions of these Terms, including without limitation, this section.

You agree that no joint venture, partnership, employment, or agency relationship exists between you and ACH Pro as a result of these Terms or your use of the Application. ACH Pro's performance of these Terms is subject to existing laws and legal process, and nothing contained herein is in derogation of ACH Pro's right to comply with governmental, court and law enforcement requests or requirements relating to your use of the Application or information provided to or gathered by ACH Pro with respect to such use. If any part of these Terms 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 these Terms shall continue in effect.

Unless otherwise specified herein, these Terms constitute the entire agreement between the parties with respect to the Application and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral or written between the parties with respect to the Application. A printed version of these Terms and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to these Terms to the same extent and subject to

the same conditions as other business documents and records originally generated and maintained in printed form.

### **Changes to Terms**

ACH Pro reserves the right, in its sole discretion, to change the Terms under which the Application is offered. The most current version of the Terms will supersede all previous versions. ACH Pro encourages you to periodically review the Terms to stay informed of any updates.

### **Contact Us**

ACH Pro

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