

Professional Solutions ACH Terms and Conditions

Client has requested that Professional Solutions-Tuition Express permit it to initiate electronic signals for paperless entries through a Financial Institution to accounts maintained at Financial Institutions, by means of the Automated Clearing House (the "ACH"). Professional Solutions has agreed to do so on the following terms and conditions.

I. Rules

The Client agrees to comply with and be bound by the National Automated Clearing House Association (NACHA) Rules (as amended from time to time, the "Rules"). The terms of this Agreement shall in no way limit Client's obligation of complying with the Rules. The Client acknowledges that they may purchase a copy of the Rules from NACHA at www.nacha.com or any local ACH Association.

2. Delivery of Entries: Security Procedures

The Client will deliver all debit and credit entries to Professional Solutions. The primary delivery method is via Professional Solutions' software module incorporated within the ProCare software application. The daily processing deadline is 3:00pm Pacific Time each business day. Business Days are defined as every day except every Saturday and Sunday, and all Federal and State Holidays. The Client authorizes Professional Solutions to transmit all entries received by Professional Solutions from the Client in accordance with these terms and conditions and to credit or debit entries to the specified accounts. The Client Acknowledges that it is strictly responsible for establishing and maintaining procedures to safeguard against unauthorized transmissions. Client warrants that no individual will be allowed to initiate transfers in the absence of proper supervision and safeguards, and agrees to take reasonable steps to protect against unauthorized access to the Service through the use of physical security, passwords and codes. If the Client believes or suspects that said passwords or codes are known or have been accessed by unauthorized persons, Client shall notify Professional Solutions immediately. An entry delivered to Professional Solutions that purports to have been transmitted or authorized by Client shall be effective as Client's entry even if the entry was not in fact authorized by Client, provided Professional Solutions has accepted that entry in compliance with the security procedures with respect to such entry. If an entry received by Professional Solutions was transmitted or authorized by Client, it shall be effective as the Client's entry, whether or not Professional Solutions complied with the security procedures with respect to that entry and whether or not that entry was erroneous in any respect or that error would have been detected if Professional Solutions had complied with the procedures.

2a. Delivery of Entries: Processing Date

Professional Solutions offers up to fourteen (14) days advance submittal of entries in which the client can define the "Processing Date" of said entries. "Processing Date" is defined as the date at which Professional Solutions submits the entries to the bank for processing. In the event client uses this feature, the "Batch Received" date shall be defined as the date in which Professional Solutions received the entries from said client. Client asserts that entries submitted are legally permissible requests for payment and unless client withdraws processing request by means hereinto, Professional Solutions has the legal authority to process said entries on client's behalf and shall be held harmless in the event an entry or entries were found to be in error.

3. Processor Obligations

In a timely manner and in accordance with the Rules, Professional Solutions will process, transmit, and settle for the entries received from the Client which comply with these terms and conditions.

4. Warranties

The Client warrants to the Financial Institution all warranties Professional Solutions is deemed by the Rules to make with respect to entries originated by the Client. Without limiting the foregoing, the Client warrants and agrees that (a) each entry is accurate, is timely, has been authorized by the party whose account will be credited or debited and otherwise complies with the Rules; (b) each debit entry is for a sum which, on the settlement date with respect to it, will be owing to the Client from the party whose account will be debited, is for a sum specified by such party to be paid to the Client, or is a correction of a previously transmitted erroneous credit entry; (c) the Client has complied with all pre-notification requirements of the Rules; (d) the Client will comply with the terms of the Electronic Funds Transfer Act if applicable, or Uniform Commercial Code Article 4A (UCC4A) if applicable and shall otherwise perform its obligations under this Agreement in accordance with all applicable laws and regulations. The Client will retain the original or copy of the customer authorization record as required by the rules for a period of not less than two (2) years after termination or revocation of such authorization and will, upon request by Professional Solutions, furnish such original or copy to Professional Solutions.

5. Provisional Credit

The Client acknowledges that the "Rules" make provisional any credit given for any entry until the financial institution crediting the account specified in the entry receives final settlement. If the financial institution does not receive final settlement, Professional Solutions is entitled to a refund from the credited party in the amount of the provisional credit plus the related fee as disclosed in the "Statement of Charges", and the originator of the entry shall not be deemed to have paid the party.

6. Settlement

The Client will maintain an account with a Financial Institution at all times while subject to these terms and conditions. The Client will deliver to Processors' Financial Institution good funds prior to the release of credit transactions. Professional Solutions will initiate an ACH credit transaction to the Client's designated account once the corresponding debit has been settled (typically within 48 hours). Professional Solutions will make every effort to expedite the credit transaction in a timely manner according to the "Rules".

7. Cancellation or Amendment of Entries

The Client shall have no right to cancel or amend any entry/file after its receipt by Professional Solutions. However, Professional Solutions shall use reasonable efforts to act on a request by the Client to cancel an entry/file before transmitting it to its financial institution. Professional Solutions shall have no liability if it fails to effect the cancellation. Client shall reimburse Professional Solutions for any expenses, losses, or damages Professional Solutions may incur in effecting or attempting to effect Client's request for the cancellation of an entry/file.

8. Rejection of Entries

Professional Solutions may reject any entry for any reason. Professional Solutions shall notify client of such rejection (either electronically, in writing, by telephone or as otherwise agreed to by Professional Solutions and Client) no later than the business day after the effective entry date. Professional Solutions shall not be liable to the client for the rejection of any entry, for Client's nonreceipt of a notice given to Client, or for the failure to give notice of rejection at an earlier time than that provided for herein. Professional Solutions shall not be required to pay Client interest on a rejected entry for the period from rejection of the entry to Client's receipt of the notice of rejection.

9. Notice of Returned Entries

Professional Solutions shall notify the Client of the receipt of a returned entry from its financial institution no later than one business day after the business day of such receipt. Professional Solutions shall have no obligation to retransmit or re-execute a returned entry/file. If a customer of the Client returns any transaction, then it is the Client's responsibility to collect any funds that are owed. Professional Solutions shall be entitled to a Return Item Fee as disclosed in the "Statement of Charges". Professional Solutions has no obligation to originate a transaction where authorization has been revoked.

10. Periodic Statement

The periodic statement issued by the Financial Institution for the Client's account will reflect entries credited and debited to the Client's account. The Client agrees to notify Professional Solutions within a reasonable time not to exceed thirty (30) days after the Client receives a periodic statement of any discrepancy between the Client's records and the information in the periodic statement.

II. Fees

Client agrees to pay Professional Solutions for services and or materials provided in accordance with their "Schedule of Charges" unless otherwise agreed to in writing by both parties. Per item fees shall be aggregated monthly and paid to Professional Solutions on or about the first of each month for the previous month's activity. Return Items and Notifications of Change (NOC's) and their related processing fees shall be collected at the time of each occurrence. Monthly Account Maintenance Fees shall be paid on a monthly basis for the month in which they are processed. All fees shall be initiated by Professional Solutions and collected via an ACH debit of the client's account of record. Professional Solutions reserves the right to change its fee and material charges from time to time upon notice to the Client.

12. Liability

(a) Professional Solutions shall be responsible only for performing the services expressly provided for in this Agreement and shall be liable only for its negligence in performing those services. Professional Solutions shall not be responsible for the Client's acts or omissions (including without limitation the amount, accuracy, timeliness of transmittal or due authorization of any Entry received from the Client) or those of any other person, including without limitation any Federal Reserve Financial Institution or transmission or communications facility, any Receiver or Receiving Depository Financial Institution (including without limitation the return of an Entry by such Receiver or Receiving Depository Financial Institution), and no such person shall be deemed Professional Solutions' agent. Client shall defend, indemnify and hold harmless, Professional Solutions and its officers, directors, agents and employees, from and against any and all actions, costs, claims, losses, damages or expenses, including attorney's fees and expenses, resulting from or arising out of (i) any claim of any person that Professional Solutions is responsible for, (ii) any breach of any of the Agreements, representations or warranties contained in this Agreement, or (iii) any act or omission of Client or any other party acting on Client's behalf.

(b) In no event shall Professional Solutions be liable for any consequential, special, punitive or indirect loss or damage which the Client may incur or suffer in connection with Agreement, including without limitation loss or damage from subsequent wrongful dishonor resulting from Professional Solutions acts or omissions pursuant to this Agreement.

(c) Without limiting the generality of the foregoing provisions, Professional Solutions shall be excused from failing to act or delay in acting if such failure or delay is caused by legal constraint, interruption of transmission or communication facilities, equipment failure, war, emergency conditions or other circumstances beyond Professional Solutions' control. In addition, Professional Solutions shall be excused from failing to transmit or delay in transmitting an Entry if such transmittal would result in Professional Solutions having exceeded any limitation upon its intra-day net funds position established pursuant to present or future Financial Institution guidelines or in Professional Solutions' otherwise violating any provision of any present or future risk control program of its Financial Institution or any rule or regulation of any other U.S. governmental regulatory authority.

(d) Subject to the foregoing limitations, Professional Solutions' liability for loss shall be limited to general monetary damages not to exceed the total amount paid by the Client for the affected ACH service, as performed by Professional Solutions under this Agreement for the preceding 30 calendar days.

13. Inconsistency of Name and Account Number

The Client acknowledges that if an entry describes the receiver inconsistently by name and account number then payment of the entry may be made on the basis of the account number even if it identifies a person different from the named receiver and that Client's obligations to pay the amount of the entry to Professional Solutions is not excused in such circumstances.

14. Data Retention

The Client shall retain data on file adequate to permit remarking of entries for five (5) business days following the date of their transmittal to Professional Solutions as provided herein and shall provide such data to Professional Solutions upon its request.

15. Credit Information

As a condition to Professional Solutions' obligations to provide services the applicant hereby authorizes Professional Solutions to gather and use, from time to time, without the undersigned's knowledge, any and all financial and/or credit information relating to the business entity that is the subject of this application that can be obtained from any source whatsoever including, but not limited to, banks, trade associates and creditors. The undersigned also hereby authorizes Professional Solutions to investigate the personal credit history of the undersigned and obtain credit bureau reports on the undersigned from time to time at Professional Solutions' sole discretion.

16. Termination

Professional Solutions may terminate this Agreement immediately by notice to Client, or without notice if Client breaches any of its obligations under this Agreement or the Rules. Client may terminate this Agreement at any time upon 10 business days prior notice to Professional Solutions. Professional Solutions may amend any part of this Agreement from time to time immediately upon notice to Client.

17. Entirety

This document (including any Schedules attached hereto), is the complete and exclusive statement of the Agreement between Professional Solutions and the Client with respect to the subject matter hereof and supersedes any prior Agreement(s) between Professional Solutions and the Client with respect to such subject matter. In the event performance of the services provided herein in accordance with these terms and conditions would result in a violation of any present or future statute, regulation, or government policy to which Professional Solutions is subject and which governs or affects the transactions contemplated by these terms and conditions, then this document shall be deemed amended to the extent necessary to comply with such statute, regulation, or policy, and Professional Solutions shall incur no liability to the Client as a result of such violation or amendment.

18. Non-Assignment

The Client may not assign any of the rights or duties hereunder to any person without the prior written consent of Professional Solutions, and any purported assignment in violation of this Agreement shall be void.

19. Binding Agreement Benefit

These terms and conditions shall be binding upon and inure to the benefit of the Client and Professional Solutions and their respective legal representatives, successors, and assigns, and no other person shall have any right against Professional Solutions or the Client hereunder.

20. Headings

Headings are used for reference purposes only and shall not be deemed a part of this Agreement.

21. Governing Law

This document shall be construed in accordance with and governed by the laws of the State of Oregon and the NACHA rules.

22. Severability

If any term or provision of this Agreement is held to be void or unenforceable, that term or provision shall be severed from this Agreement, the balance of the Agreement will survive, and the balance of this Agreement will be reasonably construed to carry out the intent of the parties as evidenced by the terms of this Agreement.