



TCH Payments Authority Subscriber Agreement and Terms of Use

This Subscriber Agreement and Terms of Use (this “Agreement”) governs your use of all products and services from The Clearing House Payments Company L.L.C. (“we”, “us”, “our”) (each, a “Service”), unless other terms and conditions expressly govern.

By submitting an application for a TCH Payments Authority (“TCHPA”) subscription, you agree to the terms of this Agreement. If you do not agree to be bound by the terms of this Agreement, you will not be able to become a subscriber. To the extent you have access to, or are using, a Service without having completed our registration process, you are hereby notified that your continued use of a Service is subject to this Agreement as explained in Section 1 below.

1. Changes to Subscriber Agreement. We may change the terms of this Agreement at any time by notifying you of the change in writing or electronically (including, without limitation, by email or by posting a notice on the Service that the terms have been “updated” or similar words). The changes will also appear in this document, which you can access at any time by going to the Subscriber Agreement and Terms of Use link provided on your subscription application form. By using a Service after changes are made to this Agreement you signify that you agree to be bound by such changes.
 - (b) *Direct Subscriptions.* For direct subscribers, your subscription will renew automatically until it is cancelled in accordance with this Section. We will notify you of the pending annual renewal of your subscription at least 30 days prior to the date your subscription renews. You may cancel your subscription prior to any renewal term by giving us notice as provided herein. You must cancel your subscription before it renews in order to avoid billing of subscription fees for the renewal term.
 - (c) *Sponsored Subscriptions.* If you receive your subscription through a sponsoring financial institution (“Sponsor”), as evidenced by your submission of a Corporate Access Application, then you acknowledge and agree that all communications regarding renewal and cancellation of your subscription are to be directed by you to your Sponsor pursuant to the terms of the Corporate Access Application. You acknowledge and agree that we will renew or cancel your subscription, without notice to you, as directed by your Sponsor and that we will have no liability to you arising out of or related to our acting in accordance with your Sponsor’s directions to renew or cancel your subscription.
 - (d) We may cancel your subscription at any time upon notice to you.
2. Fees and Payments. You agree to pay the subscription fees and any other charges incurred in connection with your account for a Service (including any applicable taxes) at the rates in effect when the charges were incurred. If your subscription includes access to premium content or services, your access to such premium content or services may be subject to additional fees, terms, and conditions, which will be separately disclosed in connection with such premium content or services. Subscription fees for Direct Corporate Subscribers will be billed at the beginning of your subscription and any renewal. Subscription fees for Sponsored Corporate Subscribers will be paid monthly by the Sponsoring Financial Institution. As a general matter, all fees and charges are non-refundable. We reserve the right to issue refunds or credits at our sole discretion. If we do issue a refund or credit, we are under no obligation to issue the same or similar refund in the future. We may change the fees and charges then in effect, or add new fees and charges, by giving you notice in advance and an opportunity to cancel. You are responsible for any fees or charges incurred to access a Service through an internet access provider or other third party service.
3. Term; Cancellation and Renewal.
 - (a) This Agreement shall remain in full force and effect while you use the Services.
4. Services Provided. Pursuant to your TCHPA subscription, we will provide those Services set out in the subscription application form provided to you, which is incorporated herein by reference. The subscription application form submitted by you is also incorporated herein by reference; however, notwithstanding any other provision of this Agreement, if you made any alterations or modifications to the subscription application form (other than to provide your information and signature as requested in the form as it was prepared and provided by us), any such alterations or modifications are void.

5. Intellectual Property.

- (a) Ownership. The text, graphics, images, video, artwork, metadata, and other data, design, organization, compilation, look and feel, and all other protectable intellectual property, including but not limited to any copyrights, trademarks, service marks, trade names, trade dress, patent rights, or database rights (the "Content") available through the Services are our property or the property of our licensors and are protected by copyright and other intellectual property laws. Unless you have our written consent, you may not use, sell, distribute, retransmit, or otherwise provide access to the Content received through the Services to anyone except as needed for your own internal training purposes.
- (b) Limited License. We grant you a limited, non-exclusive, non-sublicensable, non-transferable, revocable license to use the Subscription Services only for your internal training purposes. We reserve all rights not expressly granted to you herein.
- (c) Additional Restrictions on Use of Content. You agree not to rearrange or modify the Content available through a Service. You agree not to display, post, frame, or scrape the Content for use on another website, app, blog, product, or service, except as otherwise permitted by this Agreement. You agree not to create any derivative work based on or containing the Content. You may not use the Content in any commercial product or service without our express written consent. You agree not to use the Services for any unlawful purpose. We reserve the right to terminate or restrict your access to a Service if, in our opinion, your use of the Service may (i) violate any laws, regulations, or rulings, (ii) infringe upon another person's rights, or (iii) violate the terms of this Agreement.
- (d) Survival of Provisions. The provisions of this Section 5 shall survive any termination or expiration of this Agreement.

6. Disclaimer of Warranties & Limitation of Liability.

- (a) Disclaimer of Warranties. YOU AGREE THAT YOUR ACCESS TO, AND USE OF, THE SERVICES IS ON AN "AS IS", "AS AVAILABLE" BASIS AND WE SPECIFICALLY DISCLAIM ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATIONS OR WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- (b) Limitation of Liability. THE CLEARING HOUSE PAYMENTS COMPANY L.L.C. AND ITS AFFILIATES AND THEIR RESPECTIVE

DIRECTORS, OFFICERS, EMPLOYEES, ADVERTISERS, SUPPLIERS, CONTENT PROVIDERS, AND LICENSORS (THE "TCH PARTIES") WILL NOT BE LIABLE (JOINTLY OR SEVERABLY) TO YOU OR ANY OTHER PERSON AS A RESULT OF YOUR ACCESS OR USE OF THE SERVICES FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE, OR EXEMPLARY DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOST SAVINGS, AND LOST REVENUES (COLLECTIVELY, THE "EXCLUDED DAMAGES"), WHETHER OR NOT CHARACTERIZED IN NEGLIGENCE, TORT, CONTRACT, OR OTHER THEORY OF LIABILITY, EVEN IF ANY OF THE TCH PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OR COULD HAVE FORESEEN ANY OF THE EXCLUDED DAMAGES, AND IRRESPECTIVE OF ANY FAILURE OF AN ESSENTIAL PURPOSE OF A LIMITED REMEDY. FOR DIRECT DAMAGES, WHETHER OR NOT CHARACTERIZED IN NEGLIGENCE, TORT, CONTRACT, OR OTHER THEORY OF LIABILITY, THE TCH PARTIES' CUMULATIVE LIABILITY TO YOU WILL NOT, UNDER ANY CIRCUMSTANCES, EXCEED THE TOTAL SUBSCRIPTION FEES PAID BY YOU DURING THE 12 MONTHS IMMEDIATELY PRECEDING THE FILING OF AN ACTION TO RECOVER ON ANY SUCH CLAIM. IF ANY APPLICABLE AUTHORITY HOLDS ANY PORTION OF THIS SECTION TO BE UNENFORCEABLE, THEN THE TCH PARTIES' LIABILITY WILL BE LIMITED TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.

- (c) Survival of Provisions. This Section 6 shall survive any termination or expiration of this Agreement.

7. Miscellaneous

- (a) Notice. All notices and other communications hereunder shall be in writing and shall be deemed duly given (a) on the date of delivery if delivered personally; (b) on the date sent by electronic mail if sent during normal business hours of the recipient on a business day, and otherwise on the next business day, if sent after normal business hours of the recipient, provided that each notice or other communication shall be confirmed within one business day by dispatch of a copy of such notice pursuant to one of the other methods described herein; (c) if dispatched via a nationally recognized overnight courier service (delivery receipt requested) with charges paid by the dispatching party, on the later of (i) the first business day following the date of dispatch or (ii) the scheduled date of delivery of such

service; or (d) on the fifth business day following the date of mailing, if mailed by registered or certified mail, return receipt requested, postage prepaid to the party to receive such notice, at the following addresses, or such other address as a party may designate from time to time by notice in accordance with this Section.

i. Notice to us is to be provided at:

The Clearing House Payments Company L.L.C.
TCHPA Member Services
580 Kirts Blvd. Suite 301
Troy, MI 48084
education.services@theclearinghouse.org

ii. You agree to accept notice at the physical and email addresses provided by you on your application for a TCHPA subscription.

(b) No Third Party Beneficiaries. The Services are intended solely for your information and use. Both parties acknowledge and agree that there are no intended third party beneficiaries and no third party shall rely on either party's performance under this Agreement or any information resulting from the performance of either party's obligations under this Agreement. You will indemnify, defend, and hold us and our affiliates, agents, contractors, officers, directors, and personnel harmless from and against any and all claims, liabilities, costs, and expenses asserted against us by any third party to the extent resulting from that third party's use or possession of, or reliance upon, the Services, or upon information related to the Services provided by us as a direct or indirect result of your use, reference to, or disclosure of information related to the Services other than as expressly provided herein.

(c) Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to your TCHPA subscription and supersedes all prior agreements and understandings, whether oral or written, between the parties hereto with respect to such subject matter. Any change or modification of this Agreement must be in writing and signed by both parties. In the event of any conflict or inconsistency between these terms and conditions and your subscription application form, these terms and conditions shall control.

(d) Assignment. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. Neither party may assign its rights or obligations hereunder without the prior written consent of the other party.

(e) Section Headings. The section headings contained in these terms and conditions are inserted for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

(f) Applicable Law and Jurisdiction. This Agreement shall be governed by and construed in accordance with the law of the State of New York applicable to agreements made and to be performed wholly within such state. For the adjudication of any dispute or controversy arising under this Agreement, each party irrevocably (a) submits to the exclusive jurisdiction of the courts of the State of New York and the United States District Court located in the County and city of New York, and (b) waives any objection that it may have at any time to the laying of venue of any proceeding brought under this Agreement brought in any such court, waives any claim that such a proceeding has been brought in an inconvenient forum, and waives the right to object, with respect to any such proceeding, that the court does not have jurisdiction over such party.

(g) JURY TRIAL WAIVER. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY DISPUTE OR CONTROVERSY THAT MAY ARISE UNDER OR WITH RESPECT TO THIS AGREEMENT COULD INVOLVE COMPLICATED OR DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED THEREBY. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (a) NO REPRESENTATIVE, AGENT, OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF ANY PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER; (b) THE PARTY UNDERSTANDS AND HAS CONSIDERED THE

IMPLICATIONS OF THIS WAIVER; (c) THE PARTY MAKES THIS WAIVER VOLUNTARILY; AND (d) THE PARTY HAS BEEN INDUCED TO ENTER THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 4(f).

- (h) Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which together shall be deemed as one and the same instrument. Counterparts executed and delivered via electronic means shall be as effective as originals.

- (i) Enforceability. The invalidity or unenforceability of any provision of this Agreement shall not affect or impair the validity or enforceability of any other provision hereof. The exercise of any right or remedy herein provided shall be without prejudice to the right to exercise any other right or remedy provided herein or by law. Failure by either party to enforce any rights under this Agreement shall not be construed as a waiver of such right nor shall a waiver by either party in one or more instances be construed as constituting a continuing waiver or as a waiver in other instances. No waiver of rights shall be valid unless contained in a writing specifically referring hereto and signed by the party against whom enforcement is sought.