

# ACH USER AGREEMENT

This ACH Transfer End User Agreement ("Agreement") is a valid legal agreement between Nicholas Financial, Inc. and You, the individual or entity using Nicholas Financial, Inc. External Transfers. This Agreement governs Your use of Nicholas Financial, Inc. Services requested by You through this enrollment and acceptance process.

You must complete the acceptance process below before Nicholas Financial, Inc. will activate the Services. PLEASE READ THIS AGREEMENT CAREFULLY BEFORE COMPLETING THE ACCEPTANCE PROCESS. By selecting the "ACCEPT" button below, You agree to be bound by the terms and conditions of this Agreement ("Terms of Service"). If You do not agree to be bound by these Terms of Service, You should select the "CANCEL" button below. Nicholas Financial, Inc. reserves the right to reject this Agreement for any reason prior to or after acceptance. Activation of the Services will indicate Nicholas Financial, Inc.'s acceptance of this Agreement.

Nicholas Financial, Inc. may amend or otherwise modify this Agreement at any time and from time to time without notice to you. You will be bound by the amended Agreement upon your continued use of the Services after the revised Agreement is posted at <http://www.NicholasFinancial.com>. Nicholas Financial, Inc. may notify You of any modifications to this Agreement via electronic notification (within compliance of the Electronic Signatures and Global Authorization Act -E Sign) or via the United States Postal Service.

## 1. For online Agreements:

By accepting below I authorize Nicholas Financial, Inc. to verify the existence of my External Account(s) enrolled for the service AND to transfer funds electronically between those External Account(s) and my account(s) at Nicholas Financial, Inc., according to my instructions. This authority shall remain in full force and effect until Nicholas Financial, Inc. has received written notification from me (or joint account holder) of its termination in such time and in such manner as to afford Nicholas Financial, Inc. a reasonable opportunity to act upon the termination notification. Notification via secure email within the Consumer Internet Service will be accepted as "written" notification.

## 2. Definitions

**You, Yours, and Account-holder:** Each person, individually, and collectively, as a Account owner or as a joint Account-owner, any authorized users of an account, and each person who has completed any previous version of a Nicholas Financial, Inc. account signature card or enrollment form and has agreed to terms and conditions under the Agreement for the purpose of transacting ACH transactions.

**We, Us, Our, Nicholas Financial, Inc.:** Nicholas Financial, Inc. and/or Service Provider.

**Account:** Any and all accounts You have with Nicholas Financial, Inc. and any and all accounts You access through an ACH transaction, including but not limited to the accounts described above, and any other accounts that incorporate provisions of the Account Agreements and any accounts held at other financial institutions with which you have transacted, or have initiated an ACH transaction.

**ACH Transfer End User Agreement:** The enrollment and authorization form for ACH privileges accepted and authorized by all Account-holders (or any future form substituted by us), as amended from time to time. Accounts and services provided by Nicholas Financial, Inc. may also be governed by separate agreements with you. This Agreement supplements any other agreement(s) and/or disclosures related to your account(s) and provided to you separately.

This Agreement shall be governed by and construed in accordance with federal laws and the laws of the State of Florida, without regard to its conflicts of law's provisions.

**Business day:** Business day means Monday through Friday, excluding Saturday, Sunday and federal holidays.  
External Accounts: Accounts held by financial institutions other than Nicholas Financial, Inc. are referred to within this Agreement as "External Accounts".

**External Transfers:** Refers to the transfer of funds between your accounts at Nicholas Financial, Inc. and accounts held at other financial institutions (External Accounts).

**Cut-off Time:** The cut-off time for scheduling external transfers is 3:00 PM PST. Any External Transfer request made after the Cut-Off Time will be initiated the next business day.

### 3. Accepting the Agreement

When you accept these terms and conditions, you represent and warrant that you are an authorized user acting with full authority, and that you are duly authorized to execute this Agreement.

When you check the box below to indicate your acceptance of this agreement, you represent that you are the owner of the account (s) selected for the External Transfer service and/or that you have been authorized by the owner of the account(s) to enroll for this service. Checking the box below also indicates your acceptance of the terms and conditions of this Agreement in this electronic format.

If you do not agree to the terms of this Agreement and/or do not accept the electronic version of this agreement, select the "CANCEL" button.

### 4. Terms

The following outlines Yours and Our rights and responsibilities when You use these Services offered or accepted by Nicholas Financial, Inc. Please read carefully because it tells You Your rights and obligations for all ACH transactions completed or attempted involving Your Accounts:

1. You authorize Us to use, copy, modify, display and distribute any information, data, materials or other content that We provide to Service Provider for the purpose of providing the Services;
2. You grant Us a license to access the websites and databases of Your bank or credit union and other institutions where You hold Accounts, as designated by You, to retrieve information and effect the fund transfers that You request;
3. You represent and warrant that You have the right to authorize and permit Us to access Your Accounts to effect funds transfers or for any other purpose authorized by the Agreement;
4. You represent that by disclosing and authorizing Us to use such information You are not violating any third party rights;
5. You warrant and represent that the information provided to Us is true, current, correct and complete; When processing a funds transfer, we (and other financial institutions) will rely on the account number, email address, phone number, or other identifying number transmitted with the funds transfer even if the number identifies a person different from the named beneficiary. If you give us a payment order requesting a funds transfer which identifies any bank in the funds transfer by name and by routing number or other identifying number, a receiving bank in the funds transfer chain may rely on that number as the proper identifying number even if it identifies a bank different from the named bank.
6. Transactional Dollar limits may be imposed for In-Bound and Out-bound Transfers. These limits will be disclosed to you upon approval of your External Account(s). Any dollar limits imposed will apply to the total of all transfers to a specific External Account on any given day.
7. Transfer Date - Non-Business Day: Any transfer initiated on a day that is not a business day, as defined under the Definition Section of this Agreement, counts toward the applicable limit for the next business day. Funds must be in the debited account on the business day preceding the transfer schedule date (for

example, transactions with a transfer date for Saturday must have funds sufficient to cover the amount of such request, on the Friday).

8. Typical time to credit funds from an inbound transfer or debit funds from an outbound transfer, using the ACH network is 3 to 5 business days. However your specific transaction time may vary from this. You should check your accounts to see debit or credit of the amounts to confirm the status of funds.
  - a. You authorize and permit Us to use information submitted by You to perform the Service and to configure the Service to be compatible with Your Accounts;
  - b. You appoint Us as Your true and lawful attorney-in-fact and agent, with full power of substitution and re-substitution, for You and in Your name, place and stead, in any and all capacities, to access the Accounts, effect funds transfers as described above, with full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection with effecting funds transfers, including verifying the content and authenticity of any funds transfer instruction for the purposes of security procedures applicable to Accounts, as fully to all intents and purposes as You might or could in person;
9. You authorize Us to select any means to execute Your funds transfer instructions;
10. You understand and agree that in the event that We at any time incur a problem with Your use of the Services, including without limitation a failure to debit any of Your Accounts or to collect with respect to any of Your funds transfers, and without limiting any other right or remedy that We may have, We reserve the right to suspend Your use of the Services, immediately and without prior notice to You;
11. You agree we may cancel your access to the External Transfer service, without prior notice, upon the occurrence of any of the following events, or any other event that creates an unanticipated liability for this Institution:
  - a. Any of your accounts with Nicholas Financial, Inc. are not current or are not in good standing.
  - b. You have had an overdraft, an over-limit item, or an item returned for insufficient funds with respect to any Nicholas Financial, Inc. account.
  - c. You have had any prior External Transfer cancelled, revoked, or uncompleted due to insufficient funds, revoked authorization, stopped payments, frozen accounts, or any similar reason.

Furthermore, we may change the dollar limits for External Transfers at any time. Any decrease will be subject to notice, as required by law, but you agree that we may reduce your limits without prior notice upon occurrence of any of the events listed in this section of the Agreement.

12. You agree to indemnify, defend and hold Us, our affiliates, partners, officers, directors, employees, consultants and agents harmless from any and all third party claims, liability, damages and/or costs (including, but not limited to, attorneys fees) arising from Your use of the Services, Our reliance on the information, instruction, license and/or authorization provided by You, Your violation of the terms or their infringement, or infringement by any other user of Your Account, of any intellectual property or other right of any person or entity;
13. In the event that a debit to any of Your Accounts, or any portion of any such debit, has failed and the credit side of such transaction has been released and cannot be collected, and We are unable to debit either the debited or the credited Account as set forth above, We reserve the right, and You shall authorize Us, to debit any of Your other Accounts (including accounts upon which you are listed as joint account holder) to the extent necessary to offset any resulting deficiency. If the debit side fails or is returned for any reason and the credit side has been released and cannot be collected, You authorize Us to collect from the Account to which the credit side of the funds transfer was sent. We reserve the right to resubmit a debit, or a portion of the debit, in the event of an insufficient or uncollected funds return and if We cannot collect the amount credited. You authorize Us to debit the credited Account or the debited Account in either the same dollar amount as the original funds transfer or a portion of the debit. If We are unable to recover from You then the recovery process set forth above will apply.
14. Customer understands all entries transmitted by the customer and the Bank are bound by the NACHA Operating Rules and the laws of the U.S. Customer agrees not to generate transactions to any account blocked by the Office of Foreign Asset Control (OFAC) or for the purposes of unlawful Internet Gambling.

15. The Bank will make every effort to process, transmit and settle for transactions, but is not liable for any inconsequential, special, punitive or indirect loss or damage if the transaction is delayed.
16. Either party may terminate this agreement with 5 days written notice; such termination does not affect the customer's obligations under this agreement.
17. You represent and warrant that you are at least 18 years of age, that you have read this Agreement and that You agree to be bound by the terms and conditions of the Agreement. You agree that We can and will rely on all representations, warranties, covenants and agreements that you make herein.
18. There will be no fee for transferring funds into Nicholas Financial, Inc. There will be no fee for transferring funds out of Nicholas Financial, Inc. .
19. Transaction Limitations in Accordance with Regulation D: Transfers from a savings account to another account or to third parties by pre-authorized, automatic, telephone, or computer transfer are limited to six per statement cycle with no transfers by check, draft, debit card, or similar order to third parties. Additionally, transfers from a money market account to another account or to third parties by check, pre-authorized, automatic, telephone or computer transfer are limited to six per statement cycle.

## **5. Error Resolution Notice**

In Case of Errors or Questions About Your Electronic Transfers, Call or Write us using the contact information as soon as you can, if you think your statement or receipt is wrong or if you need more information about a transfer listed on the statement or receipt. We must hear from you no later than 60 days after we sent the FIRST statement on which the problem or error appeared.

1. Tell us your name and account number (if any)
2. Describe the error or the transfer you are unsure about, and explain as clearly as you can why you believe it is an error or why you need more information.
3. Tell us the dollar amount of the suspected error. If you tell us orally, we may require that you send us your complaint or question in writing within 10 business days.

If you tell us orally, we may require you to send your complaint or question in writing within 10 business days. We will determine whether an error occurred within 10 business days (5 business days if involving a Visa point-of-sale transaction processed by Visa or 20 business days if the transfer involved a new account) after we hear from you and will correct any error promptly. If we need more time, however, we may take up to 45 days (90 days if the transfer involved a new account, a point-of-sale transaction, or a foreign-initiated transfer) to investigate your complaint or question. If we decide to do this, we will credit your account within 10 business days (5 business days if involving a Visa point-of-sale transaction processed by Visa or 20 business days if the transfer involved a new account) for the amount you think is in error, so that you will have the use of the money during the time it takes us to complete our investigation. If we ask you to put your complaint or question in writing and we do not receive it within 10 business days, we may not credit your account. An account is considered a new account for 30 days after the first deposit is made, if you are a new customer. We will tell you the results within three business days after completing our investigation. If we decide that there was no error, we will send you a written explanation. You may ask for copies of the documents that we used in our investigation. If there was no error, we will reverse any credits to your account and notify you that we have done so. We will pay any amounts by which your accounts are overdrawn for five business days after we reverse the provisional credit and we will not charge any overdraft fees, but only to the extent the overdraft does not exceed the amount of the provisional credit. If any overdraft exceeds the amount of the reversed provisional credit, we are not obligated to pay it unless you have overdraft protection available, and we are entitled to collect overdraft fees. In any event, you are obligated to restore any amounts by which your accounts are in negative balance.