



Terms of Use

These Terms of Use ("Terms") are effective as of *April 26th, 2017*, and constitute a legal agreement which governs the relationship between Advanced Transparent Solutions, LLC, doing business as ATS Secured ("ATS Secured", "we", "us", or "our") and users ("User", "you", or "your") who use or interact with the online services provided by ATS Secured (collectively, the "Service"). By using or accessing the Service, you acknowledge and agree that you have read and understood these Terms, and agree to be bound by these Terms. If at any time you do not agree to these Terms, you must immediately cease your use of the Service.

Privacy

Your privacy is important to us. Our [Privacy Policy](#) makes important disclosures about how we may collect and use your content and information. Please read the Privacy Policy to make informed decisions.

The Service

ATS Secured provides, through the Service, certain payment processing, account reconciliation, digital signature functionality and related services in conjunction with entering into various transactions. The Service is made available for the use of those Users involved in the various transactions, including settlement agents, lenders, real estate agents, service professionals, and vendors. If you have entered into any separate written service agreement or other written agreement with ATS Secured regarding your use of the Service, these Terms shall supplement, but not replace, the terms, conditions, and agreements contained in such other written agreement or agreements, except that to the extent that there is any conflict between the terms, conditions and agreements contained in such written agreement or agreements and these Terms, the terms, conditions, and agreements contained in such other written agreement or agreements shall govern.

Payments processed through the Service will be made by means of either an electronic check transfer in accordance with the Check for the 21st Century Act ("Check 21"), or as an ACH transfer in accordance with the then-current rules promulgated by the National Automated Clearinghouse Association ("NACHA"). You agree to provide us with such information regarding you and any of your bank accounts involved in any payment transaction as may be required to process each transaction in accordance with any and all laws, regulations, and industry rules and procedures, including but not limited to any rules and regulations under Check 21 and the NACHA rules, as applicable. You also agree that you will execute and provide to us all necessary written agreements, authorizations, consents and other documentation, including agreements with third party electronic payment system transaction processing providers or networks which we deem to be required in order to serve as a third party processing service provider and agent for processing, clearing, and settling transactions for you.

You agree that all information provided by you will be accurate and complete, that ATS Secured will be entitled to rely on the information supplied by you without further inquiry, and that you, and not ATS Secured, shall have the liability or responsibility for any circumstances or results arising from erroneous or incomplete information provided by you. This means you will be responsible for any loss or expenses incurred by a bank which executes, or attempts to execute, a payment based on erroneous or incomplete instructions you provide. Further, you can lose the amount requested to be transferred in your instructions. You hereby authorize ATS Secured to process, clear and settle transactions based on your instructions and authorization. You acknowledge that ATS Secured has implemented certain measures to guard against unauthorized and erroneous transactions, and that it is your responsibility to correctly utilize such measures. Each transaction will be



binding on you when engaged in, in your name and pursuant to your instructions.

You hereby grant to ATS Secured a non-exclusive, sublicensable, perpetual, royalty-free, worldwide license to use, host, reproduce, store and otherwise distribute any data you submit via the Service in any and all ways necessary for ATS Secured to provide to you the Service, and otherwise for all other legitimate business purposes of ATS Secured (including but not limited to, for illustrative purposes only, undertaking predictive analysis and fraud prevention services; provided that your data will at all times remain your property. Although we will have no obligation to verify any information regarding you or your accounts, we will not be obligated to process any transaction without obtaining such verification regarding you, your financial condition, your creditworthiness, and other information regarding you as we may deem necessary or advisable. You hereby authorize us to make any inquiries we deem necessary or advisable to confirm information regarding you, your accounts, your financial condition, your creditworthiness, and any other information provided by you. You acknowledge and agree that ATS Secured reserves the right to reverse any transactions processed through the service in the event of an insufficient funds transaction or in other events as permitted by applicable law, regulations, and industry rules.

The User is responsible for obtaining and maintaining all hardware, software, and internet connections as may be required to access the Service through our web portal.

By your use of the Service, you represent and warrant to ATS Secured that, in your use of the Service, you will at all times comply with all applicable laws, regulations, and industry guidelines, including but not limited to Check 21 (and all regulations promulgated thereunder) and the rules promulgated from time to time by NACHA.

Account Registration

We require Users to provide their real names and information. All required registration information that you provide must be current, complete and accurate and kept up to date on a prompt, timely basis. It is your sole responsibility to keep your user name, password and other sensitive information confidential. If you become aware of any unauthorized use of your account or any other breach of security, you shall notify us immediately. To help support this requirement, you agree to comply with the following when registering and maintaining your account on the Service.

- You will not provide any false personal information on the Service, or create an account for anyone other than yourself.
- You will not attempt to use your personal profile for your own commercial gain.
- You will not use the Service if you are under the age of 18.
- You will keep your account information up to date.
- You will not share your password, let anyone else access your account, or do anything else that might jeopardize the security of your account. If you provide your password to any other person, you are authorizing that person to use the Service on your behalf. You are responsible for all transactions completed through your account. You must notify us immediately if you suspect your password has been lost, stolen, or otherwise compromised.
- You will not try to transfer your account to anyone else.

In addition, if you select a username that infringes upon someone else's rights in that username, we reserve the right to remove or change the username, if we deem it necessary.

Safety

We do our best to keep the Service safe, but we cannot guarantee it. To help us keep it safe, we require that you comply with the following commitments:

- You will not send or otherwise post spam on or through the Service.
- Unless through an application that is authorized by us and that runs on the Service, you will not collect user content or information and do not try to use any automated means (such as harvesting bots, robots, spiders, or scrapers) to gain access to the Service or any part of it without our permission.
- You will not use the Service for any unlawful activity, including the distribution of illegal data, the violation of copyright, or the distribution of any viruses or other malicious code.
- You will not solicit login information or access an account belonging to someone else.
- You will not use the Service to do anything unlawful, misleading, malicious, or discriminatory.
- You will not do anything to disable, overburden, or impair the ordinary and customary use of the Service, such as a denial of service attack.
- You will not facilitate or encourage any violations of these Terms.

License

Subject to the terms and conditions of these Terms and any and all other written agreements between you and us, if applicable, we hereby grant you a personal, limited, terminable, non-exclusive, nontransferable license to access and use the software that enables the Service, together with any updates, bug fixes, help content, and other related materials that we provide to you (collectively, the “Software”) during the term of these Terms solely for use in connection with the limited purpose of accessing the Service in a manner agreed upon with ATS Secured. You shall not, and you shall not enable any third party, to (a) access or attempt to access any other ATS Secured systems, programs or data that are not available for public use; (b) copy, reproduce, republish, upload, post, transmit or distribute in any way material from the Service; (c) work around any technical limitations in the Software, or decompile, disassemble or otherwise reverse engineer the Software except as otherwise permitted by applicable law; (d) perform or attempt to perform any actions that could interfere with the proper operation of the Software or the Service, prevent access to or use of the Software or the Service by our other licensees or customers, or impose an unreasonable or disproportionately large load on our infrastructure; (e) alter, modify or create derivative works from the Software or Service; or (f) otherwise use, grant access to or commercialize the Software or the Service except as expressly allowed under these Terms. The Software is licensed and not sold, and ATS Secured retains all rights not expressly granted to you in these Terms. The Software is protected by copyright, trade secret, and other intellectual property laws. ATS Secured and its licensors own the title, copyright and other worldwide intellectual property rights in the Software and all copies thereof.

ATS Secured reserves the right to make technical and functional improvements, without any approval of User, to improve the operation of the Software and the Service, including, without limitation: (i) fixes to errors; (ii) software updates; (iii) enhancements contained in new releases; and (iv) developments of new software tools for analyzing, measuring, aggregating, and organizing loan data for the purpose of generating new data and information regarding banking sector trends, evolving characteristics of the loan marketplace, risk predictors and risk management, and other financial and economic indicators of particular value and relevance to ATS Secured and its customers. Updates and improvements provided as part of ATS Secured’s general maintenance services shall be made in ATS Secured’s sole and absolute discretion. ATS Secured shall be under no obligation to provide any updates, improvements or enhancements. All rights, titles and interests to upgrades, enhancements, and special programming shall vest in and belong to ATS Secured. User specifically acknowledges that some additional services or upgrades may be developed for the Service, for which ATS Secured may require the payment of additional fees or other terms and conditions in order for User to be entitled to use such additional services or upgrades, which services or upgrades shall not be deemed to be part of the Service hereunder absent payment of such fees or compliance with such conditions.



Support and Maintenance

Provided you are not in breach of these Terms, and so long as these Terms are in effect, we will provide general support services related to the Service during the hours of 8:00 AM through 5:00

PM, CST, Monday through Friday (not including holidays). This schedule may change from time to time, as we determine in our sole discretion. We will use reasonable efforts to notify you in advance of any changes to this schedule. General support services will include email communication during the time frame described above. Any support services beyond those described herein, or any support services provided outside of the time frame described above, may be provided by us at our sole and absolute discretion, and upon terms determined by us.

Termination

If you violate these Terms, or otherwise create possible legal exposure for ATS Secured or any of our customers or other users, we reserve the right to stop providing access to the Service to you. While we will try to notify you by email before we suspend your account, you acknowledge that we are not required to do so. ATS Secured also reserves the right to terminate your access to the Service for any other reason or no reason, and ATS Secured shall terminate your access to the Service if ATS Secured determines, in its sole discretion, that continuing to provide the Service would be illegal, or would be reasonably likely to cause material liability relating to legal or regulatory issues for ATS Secured or its licensors and service providers. Upon termination, ATS Secured shall have no obligation to maintain or forward any of the data you submit back to you.

Upon termination of these Terms for any reason, User will immediately (a) terminate all use of and access to the Software and Service, and will refrain from any future use of the same, (b) return or, at ATS Secured's request, destroy, all ATS Secured Confidential Information in its possession, and (c) pay all outstanding amounts due and payable to ATS Secured, if any. Any provision of these Terms which contemplates performance or observance subsequent to any termination or expiration of these Terms, including, without limitation, all provisions with respect to confidentiality, limitation on liabilities, and indemnification, shall survive any termination or expiration of these Terms and continue in full force and effect.

Audit and Inspection

During the term of these Terms and for one (1) year after your last use of the Service, we may, not more than once each calendar year, upon reasonable prior written notice to you, audit and inspect your agreements and business records relating to transactions conducted under these Terms to verify your compliance with these Terms. This audit and inspection shall be conducted during normal business hours and limited only to those items which directly relate to your obligations under these Terms. While conducting an audit and inspection, we will be entitled to photocopy and retain any item that you may possess which document a violation of these Terms.

Notices

We may give notice by means of a general notice on the web site associated with the Service, electronic mail to the e-mail address on record in your account information or by first class mail to the address of record in your account information. Such notice shall be deemed given immediately upon posting to the web site, six (6) hours after sending by electronic mail, or forty-eight (48) hours after sending by first class mail. Except as provided herein, you may give notice to ATS Secured by confirmed facsimile or delivery by nationally recognized overnight delivery service or first class mail to us as specified on the web site associated with the Service. Such notice shall be deemed given when received by us.

Confidentiality

ATS Secured may provide you with certain confidential and proprietary information ("Confidential Information"). Confidential Information includes, but is not limited to, all code, inventions, techniques, algorithms, know-how and ideas, all business, financial and technical trade secrets, any written information which is marked "Confidential" and any information which is orally disclosed, identified as confidential at the time of disclosure and confirmed in writing as being confidential within thirty (30) days thereafter. However, "Confidential Information" will not include information that (a) is publicly known at the time of its disclosure or becomes publicly known thereafter through no fault of User; (b) is lawfully received by the User from a third party not under an obligation of confidentiality to the ATS Secured, (c) is published or otherwise made known to the public by the ATS Secured, or (d) was generated independently by the User before disclosure by the ATS Secured.



You will refrain from using the ATS Secured's Confidential Information except to the extent necessary to exercise its rights or perform your obligations under these Terms. You will likewise restrict your disclosure of the ATS Secured's Confidential Information to those who have an absolute need to know such Confidential Information in order for you to perform your obligations and enjoy your rights under these Terms. Such persons will be informed of and will agree to be bound by these restrictions on Confidential Information, and you will remain responsible for any unauthorized use or disclosure of the Confidential Information by any of them.

Backup; Disaster Recovery; Security

ATS Secured shall use reasonable commercial efforts to recover and make available to User the Service within forty eight (48) hours of any system failures or data loss at its primary facility. ATS Secured shall maintain adequate security precautions to minimize the likelihood of any unauthorized access through the Internet to the Service, including, among other things, the use of a secure server, protective firewalls and encryption.

Amendments

ATS Secured reserves the right to modify these Terms and its policies relating to the Service at any time, in its sole discretion. We will post the revised Terms or policies on our web site and provide notice in advance of the effective date of such changes. If the revised terms and conditions or policies are not acceptable, your sole and exclusive remedy shall be to stop using the Service and to cancel your account through our web site or by notifying our customer support department prior to the effective date of the amendment. Continuing to use the Service and failing to cancel your account after the effective date of the amendment constitutes acceptance of the revised Terms.

Electronic Signature

By accessing or using the Service, you consent to do business electronically. Depending on the specific Service to which you subscribe, any agreements, records, disclosures, documents or other communications related to your transaction(s) that require signature may be signed electronically, through our digital signature functionality. Any such digital signatures, and the keeping of records in electronic form, shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, or any other applicable U.S. state or federal laws. If you are a consumer, please read this [Consumer Disclosure and Consent](#). If you do not agree to this Section and, if applicable, the information in the Consumer Disclosure and Consent, you may not use the Service.

Miscellaneous

You agree to resolve any claim, cause of action or dispute ("claim") you have with ATS Secured arising out of or relating to these Terms or use of the Service exclusively in a state or federal court located in Douglas County, Nebraska. The laws of the State of Nebraska will govern these Terms, as well as any claim that might bring against us, without regard to conflict of law provisions. You agree to submit to the personal jurisdiction of the courts located in Douglas County, Nebraska for the purposes of litigating all such claims.

You agree to indemnify and hold us harmless from and against all damages, losses, and expenses of any kind (including reasonable legal fees and costs) related to any claims brought against us arising out of your actions in using the Service.

We shall have no liability to User or any third party for its use of or reliance on the Service or Site. You acknowledge and agree that ATS Secured is not responsible for examining or evaluating the accuracy, completeness, timeliness, validity, legality, decency, quality or any other aspect of the data you submit via the Service. ATS Secured does not guarantee the availability, accuracy, completeness,



reliability or timeliness of any such data made available on or through the Service. ATS Secured does not warrant or endorse and does not assume and does not have any liability or responsibility to User, or any other person or entity for any use or access of the Service, Software or data you may submit through the Service or Software. ATS Secured will endeavor to provide to the User ability to purchase insurance, at User's cost and expense while using or accessing the Service.

ATS Secured's third party service providers assist with the provision of some portion of the Service, and as a result, these third party service providers shall be intended third party beneficiaries of these Terms. Each third party service provider shall have the right to enforce directly against User these Terms which relate to the provision of the third party service provider's processing services and the ownership and protection of the intellectual property rights of the third party and its licensors in and to its processing services.

Any delay in or failure of performance by either party under these Terms, other than failure to pay amounts when due, shall not be considered a breach of these Terms and shall be excused to the extent caused by any occurrence or event beyond reasonable control of such party. Such occurrences or events shall include, but not be limited to, fortuitous events and acts of God; wars, riots, acts of terrorism and insurrections; laws, decrees, ordinances and government regulations; strikes and lockouts; and floods, fires and explosions.

WHILE WE TRY TO KEEP THE SERVICE RUNNING, DEFECT-FREE, AND SAFE, WE CANNOT AND DO NOT GUARANTEE YOUR USE OF IT. YOU USE IT AT YOUR OWN RISK. WE PROVIDE THE SERVICE TO YOU "AS IS" AND "AS AVAILABLE" WITHOUT ANY EXPRESS OR IMPLIED WARRANTIES INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. WE DO NOT GUARANTEE THAT THE SERVICE WILL BE SAFE, SECURE OR AVAILABLE. ATS SECURED IS NOT RESPONSIBLE FOR THE ACTIONS, CONTENT, INFORMATION, OR DATA OF THIRD PARTIES, AND YOU RELEASE US, OUR DIRECTORS, MEMBERS, OFFICERS, EMPLOYEES, AND AGENTS FROM ANY CLAIMS AND DAMAGES, KNOWN AND UNKNOWN, ARISING OUT OF OR IN ANY WAY CONNECTED WITH ANY CLAIM YOU HAVE AGAINST ANY SUCH THIRD PARTIES. WE ARE NOT LIABLE TO YOU FOR ANY LOST PROFITS OR OTHER CONSEQUENTIAL, SPECIAL, INDIRECT, OR INCIDENTAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OR YOUR USE OF THE SERVICE, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. OUR AGGREGATE LIABILITY ARISING OUT OF THESE TERMS, OUR PRIVACY POLICY OR YOUR USE OF THE SERVICE WILL NOT EXCEED THE GREATER OF ONE HUNDRED DOLLARS (\$100) OR THE AMOUNT YOU HAVE PAID US IN THE PAST TWELVE MONTHS. APPLICABLE LAW MAY NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY OR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU. IN SUCH CASES, OUR LIABILITY WILL BE LIMITED TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.

You will not assign or otherwise transfer these Terms nor any right granted hereunder without ATS Secured's prior written consent. If for any reason a court of competent jurisdiction finds any provision of the Terms, or portion thereof, to be unenforceable, that provision shall be enforced to the maximum extent permissible so as to effect the intent of the parties as reflected by that provision, and the remainder of the Terms shall continue in full force and effect. Any failure by ATS Secured to enforce or exercise any provision of the Terms or related right shall not constitute a waiver of that right or provision. The section titles used in these Terms are purely for convenience and carry with them no legal or contractual effect.