

# Terms of Use

The following terms constitute a binding agreement ("Agreement") between you ("You" or "User" or "Your" ) and TrustDeedResale.com, ("TrustDeedResale.com", "we", or "us"). This Agreement will govern all purchases of notes, loans or pools that include notes (collectively, "Notes") posted on TrustDeedResale.com's website at [www.trustdeedresale.com](http://www.trustdeedresale.com) and any subdomain thereof (the "Site"). Please read this Agreement and the terms of use for the Site ("Terms of Use") carefully and retain a copy of these documents for your records. Your registration, viewing, clicks and continued use of the Site constitutes your agreement and acceptance without change of these terms and conditions. In addition, as a condition of your use of the Site, you represent and warrant to TrustDeedResale.com that you will not use the Site for any purpose that is unlawful or prohibited by these terms and conditions. If you do not agree and accept these terms and conditions, your use of the Site and the services offered thereon is prohibited. We may amend this Agreement at any time by posting the amended terms on this Site and giving you notice thereof. All amended terms shall automatically be effective upon posting. Your continued use of the Site after receiving Notice of an amendment to this Agreement shall constitute your agreement to be bound by those amended terms. This Agreement sets forth the entire understanding and agreement between You and us with respect to the subject matter hereof.

## 1. Introduction

- By using TrustDeedResale.com, You acknowledge and agree that you are a prospective purchaser or seller of a Note posted on the Site or an authorized agent for such prospective purchaser or seller and desire to enter into a marketplace, on-line sale portal, secondary market transactions through the purchase or sale of Notes.
- TrustDeedResale.com provides the Site and or Sites for the purpose of providing a forum that allows users of the Site ("Users") to make introductions and offer and sell to each other and buy Notes. All contracts for sale made between Users are exclusively between the respective Users. TrustDeedResale.com is not a party to any such contracts or agreements.
- TrustDeedResale.com does not make a market in Notes nor does it provide advisory or consulting services to Users. TrustDeedResale.com has no control over the actions of any User and makes no representations, warranties, assurances or assessments regarding the existence, quality or suitability of any proposed transaction or Note, the truth accuracy or completeness of the Notes, listings and content posted on the Site by Users, the documents provided by prospective sellers of Notes, the legality of any transaction proposed or completed by a User; the ability of sellers to sell Notes, the ability of buyers to pay for Notes or that a buyer or seller will actually complete a transaction. You understand and agree that your use of the Site and the purchase or sale of Notes posted on the Site are entirely at your own risk and you should always consult with an attorney.
- TrustDeedResale.com will provide the marketplace or medium through which each Note can be posted on the Site. TrustDeedResale.com does not represent, warrant or guarantee that any of the information provided by Users will be true, accurate, correct, complete or updated.

- Users acknowledge and agree that (i) it is the seller of a Note's sole responsibility to ensure the accuracy and validity of the Note and supporting documentation, (ii) it is the buyer of a Note's sole responsibility to conduct complete due diligence with respect to all information and supporting documentation provided by the seller prior to purchasing the Note; and (iii) TrustDeedResale.com makes no representations, warranties, assurances or assessments regarding the existence, quality or suitability of any proposed transaction or Note, the truth accuracy or completeness of the Notes, listings and content posted on the Site by Users, the documents provided by prospective sellers of Notes, the legality of any transaction proposed or completed by a User; the ability of sellers to sell Notes, the ability of buyers to pay for Notes or that a buyer or seller will actually complete a transaction.
- By using the Site, you acknowledge and agree that (i) you will not hold TrustDeedResale.com responsible for other Users' content, actions, or inactions, or Notes You post, sell or buy, and (ii) TrustDeedResale.com is not acting as agent, fiduciary, or broker in the listing, purchase or sale of Notes.
- TrustDeedResale.com does not transfer legal ownership of Notes between users and nothing in this agreement shall modify the governing provisions of California Commercial Code § 3203 and Uniform Commercial Code §3-203.
- You expressly waive and release TrustDeedResale.com and its officers, directors, employees, Agents, Parents, Subsidiaries and affiliates from any and all liability, claims, causes of action, or damages arising in any way from your purchase or sale of any note listed the site. If You are a California resident, you hereby irrevocably and forever waive any and all rights they may have under California Civil Code Section 1542 with respect to the foregoing release. You acknowledge and agree that You understand that Section 1542 provides that: "A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor" and that You have been fully informed by your counsel concerning the effect and import of this waiver under California Civil Code Section 1542 and other requirements of law.

## 2. Confidentiality.

- You agree that any information provided by Users through the Site and all information and documentation provided in connection with the Notes, including, without limitation, personal information and the Note itself ("Non-Public Information") is for the sole use of evaluating Notes and potential transactions to purchase and sell Notes. Non-Public Information may be disclosed to Your officers, agents, employees, or representatives including Your attorneys, accountants and investment advisors ("Approved Associates"), or otherwise required by law for the sole purpose of evaluating Notes and potential transactions to purchase and sell Notes who have knowledge of this Agreement and agreed to be bound by these confidentiality provisions.
- You agree that neither you nor any person acting on your behalf will contact borrowers, property owners, or tenants/residents of the residences covered by the Notes listed on the Site unless and until you own the Note.

- You agree that all contact between you and other Users regarding the potential purchase or sale of Notes listed on the Site will be facilitated through the Site or directly with the Seller and/or Buyer as permitted by these Terms of Use.
- Notwithstanding the foregoing, you shall (a) comply with all federal, state and local laws and regulations governing or relating to privacy rights in relation to such information, including the Gramm-Leach-Bliley Act, (b) disclose such information as necessary to meet all legal and regulatory requirements, and (c) implement and observe procedures and measures as necessary to ensure the security and confidentiality of such information.
- You shall indemnify, defend and hold harmless TrustDeedResale.com and officers, agents, employees, and representatives including attorneys, accountants, and investment advisors (collectively, “Indemnified Associates”) from and against all suits, claims, causes of action, liabilities, losses, damages or expenses of any kind (including attorney’s fees and expenses) incurred or suffered by any Indemnified Associate arising out of or in connection with your improper use of the Site, your breach of this Agreement, including without limitation the unauthorized use or disclosure of the Non-Public Information in violation of this Agreement, your violation of any law or the rights of a third party and any negligent or intentional acts or omissions in relation to this Agreement by you or an Approved Associate. your obligations shall survive the expiration or termination of this Agreement.

### **3. Limitation of Liability**

The site is operated by TrustDeedResale.com on an “as is”, “as available” basis, without representations or warranties of any kind. To the fullest extent permitted by law trustdeedresale.com its respective affiliates and subsidiaries (collectively, the “trustdeedresle.com businesses) Make no representation about the suitability of the materials on the site for any purpose. All such materials are provided “as is” without warranty of any kind, express or implied. The TrustDeedResale.com businesses specifically disclaim all warranties and conditions of any kind, including all implied warranties and conditions of merchantability, fitness for a particular purpose and title. The trustdeedresale.com businesses shall not have any liability or responsibility for any errors or omissions in the content of the site, for your action or inaction in connection with the site or for any damage to your computer or data or any other damage you may incur in connection with the site. Your use of the site is at your own risk. The TrustDeedResale.com does not guarantee continuous or secure access to or operation of the site as access to and the operation of the site may be interfered with by numerous factors outside of its control. In no event shall either the TrustDeedResale.com businesses or their agents be liable for any direct, indirect, punitive, incidental, special or consequential damages, whether based on contract, tort, strict liability or otherwise. Even if advised of the possibility of any such damages, arising out of or in any way connected with the use of the site, or the delay or inability to access or use the site or otherwise arising in connection with the site or as a result is any relationship or transaction between you and any user of the site even if the TrustDeedResale.com businesses have been previously advised of the possibility of such damages. This disclaimer of liability applies, without limitations, to any damages or injury caused by any failure or performance, error,

omission, interruption, deletion, defect, delay in operation or transmission, computer virus, communication line failure, theft or destruction or unauthorized access to, alteration of, or use of record whether for breach of contract, tortious behavior, negligence, or under any other cause of action. You specifically acknowledge that neither the homeowners hub businesses nor any of their affiliates are liable for the defamatory, offensive or illegal conduct of other users or third-parties and that the risk of injury from the foregoing rests entirely with you. Without limitation to foregoing, the TrustDeedResale.com businesses do not represent or warrant that the information on the site is accurate, complete, reliable, useful, timely or current or that the site rests entirely with you. Without limiting the foregoing, the TrustDeedResale.com businesses do not represent or warrant that the information on the site is accurate, complete, reliable, useful, timely or current or that the site will operate without interruption or error. TrustDeedResale.com performance of this agreement is subject to existing laws and legal process, and nothing contained in this agreement is in derogation of TrustDeedResale.com right to comply with law enforcement requests or requirements relating to your use of the site or information provided to or gathered by homeowners hub with respect to such use..

Some jurisdictions do not allow the disclaimer of warranties or exclusion of damages, so such disclaimers and exclusions may not apply to you.

Regardless of the previous paragraphs, if we are found to be liable, our liability to you or to any third party is limited to the greater of (a) the total fees you paid to us in the 12 months prior to the action giving rise to the liability, and (b) \$100.

#### **4. Note Purchaser / Investor Suitability**

You acknowledge and agree that investments in performing and non-performing Notes are appropriate only for investors who have no need for immediate liquidity in their investments and who have adequate means of providing for their current financial needs, obligations, and contingencies, even if such investment results in a total loss. Investment in Notes involves a degree of risk and is suitable only for an investor whose business and investment experience, either alone or together with a purchaser representative, renders the investor capable of evaluating each and every risk of their investment. Please consult with an attorney before finalizing investment decisions.

#### **5. Warranties and Representations**

##### Buyer

- Each person and entity purchasing a Note posted on the Site (“Buyer,”) warrants and represent that Buyer is duly and legally authorized to enter into the transaction for the purchase of the Note and has the power and licenses, permits, authorizations and approvals (governmental, corporate or otherwise) necessary to complete the transaction and perform the obligations of the transaction for the purchase of the Note.

## Seller

- Each person and entity selling a Note posted on the Site (“Seller”) warrants and represents that Seller owns the Note and is duly organized, validly existing, and legally authorized to enter into an agreement for the sale of and sell the Note. Seller further warrants and represents that for each transaction for a Note posted on the Site, Seller is in possession of a collateral file relating to the Note consisting of at a minimum, the original promissory note, the original deed/ mortgage, the original chain of assignments and the original allonge(s), if applicable. Should Seller not be able to furnish any of the foregoing documents, Seller must provide Buyer with a written letter indicating the missing documents. Buyer and Seller may mutually agree upon substitute documents (including lost note affidavit and certified copies of deed and assignments, or any other documents that are required to complete the transaction) prior to acceptance of a final offer by Buyer.

## Agency Relationships

- If you are acting as an agent for the holder(s) of Notes or acting as an agent for a Buyer, and want to utilize the Site, you may only use the Site if you are authorized by the current beneficiaries who are the holder(s) of the Note to act on their behalf. By using the Site, you are personally and expressly representing that you have such authority and you further agree to indemnify, defend and hold harmless all Indemnified Associates relating to any claims made by the holder(s) of the Note. You agree to be personally liable to the Indemnified Associates, regardless of whether You are also acting or claiming to act on behalf of an entity or other third party.

## **6. Transaction Rules**

- Offer amounts, even at the listed price, are nonbinding until a Closing Summary Agreement including a Purchase and Sale Agreement has been signed by both the Seller and Buyer.
- Following acceptance of an initial offer by the Seller, Seller must allow Buyer at least 3 business days to conduct due diligence related to the Note of at least 3 business days (the “Due Diligence Period”) Buyer shall have the right to rescind its initial offer during the Due Diligence Period.
- All transactions for Notes shall be governed by and be completed using the Closing Summary Agreement including the Purchase and Sale Agreement provided on the Site by TrustDeedResale.com (the “Closing Summary Agreement including the Purchase and Sale Agreement”), the terms of which shall not be revised, amended or otherwise modified by to the parties to the transaction.
- A proposed transaction becomes a binding obligation when Buyer and Seller execute the Closing Summary Agreement including the Purchase and Sale Agreement. Buyer and Seller each have the right to rescind an offer or cancel a proposed transaction at any time prior to the execution of the Closing Summary Agreement including the Purchase and Sale Agreement by both parties.

- All communications, negotiations and offers made between prospective Note purchasers and sellers regarding the purchase or sale of a Note shall be made exclusively through the communication means provided by the Site and be solely between Buyer and Seller and not TrustDeedResale.com.

## 7. Fees

If You enter into an agreement to purchase or sell a Note posted on the Site, as compensation to TrustDeedResale.com for your use of this Site, you shall pay TrustDeedResale.com the fees in the amounts and in accordance with the terms set forth on website ("Fees"). All fees must be paid to TrustDeedResale.com no later than two (2) business days after the Closing Summary Agreement including the Purchase and Sale Agreement is signed by the Buyer and Seller. If a transaction is cancelled after the Purchase and Sale Agreement is signed by the Buyer and Seller, the Buyer and Seller's obligations to pay Fees to TrustDeedResale.com remain in full.

## 8. General

- If any provision of this Agreement is held to be invalid or unenforceable, such provision shall be struck and the remaining provisions shall be enforced. Headings are for reference purposes only and do not limit the scope or extent of such section. Our failure to act with respect to a breach by You or other Users does not waive its right to act with respect to subsequent or similar breaches. TrustDeedResale.com is not obligated to take action against all breaches of this Agreement.
- The following Sections survive any termination of this Agreement: 1, 2, 3, 7 and 8.
- If a dispute arises between you and TrustDeedResale.com, our goal is to provide you with a neutral and cost effective means of resolving the dispute quickly. Accordingly, you and TrustDeedResale.com agree that we will resolve any claim or controversy at law or equity that arises out of this Agreement or our services (a "Claim") in accordance with one of the subsections below or as we and you otherwise agree in writing. Before resorting to these alternatives, we strongly encourage you to first contact us directly to seek a resolution by going to the Contact Us help page on the Site. We will consider reasonable requests to resolve the dispute through alternative dispute resolution procedures, such as mediation or arbitration, as alternatives to litigation.
- **Law and Forum for Disputes** - This Agreement shall be governed in all respects by the laws of the State of California as they apply to agreements entered into and to be performed entirely within California between California residents, without regard to conflict of law provisions. You agree that any claim or dispute you may have against TrustDeedResale.com arising out of or relating to this Agreement, the Site or any Note purchased or sold through the Site must be resolved exclusively by a state or federal court located in San Mateo County, California, except as otherwise agreed by the parties or as described in the Arbitration Option paragraph below. You agree to submit to the personal jurisdiction of the courts located within San Mateo County, California for the purpose of litigating all such claims or disputes.

- **Arbitration Option** - For any claim (excluding claims for injunctive or other equitable relief) where the total amount of the award sought is less than \$9,900, the party requesting relief may elect to resolve the dispute in a cost effective manner through binding non-appearance-based arbitration. In the event a party elects arbitration, they shall initiate such arbitration through an established alternative dispute resolution ("ADR") provider mutually agreed upon by the parties. The ADR provider and the parties must comply with the following rules: (a) the arbitration shall be conducted by telephone, online and/or be solely based on written submissions, the specific manner shall be chosen by mutual agreement of the parties; (b) the arbitration shall not involve any personal appearance by the parties or witnesses unless otherwise mutually agreed by the parties; and (c) any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. All arbitrations held pursuant to this Agreement shall take place in Orange County, California.
- **Improperly Filed Claims** - All claims that you bring against TrustDeedResale.com must be resolved in accordance with the terms of this Agreement. All claims filed or brought contrary to the terms of this Agreement shall be deemed improperly filed; and should you file a claim against TrustDeedResale.com contrary to the terms of this Agreement, TrustDeedResale.com shall be entitled to its attorneys' fees and costs incurred in connection with seeking to dismiss or transfer the improperly filed claim.