

## **1. Acceptance of Terms**

CMBS.com (the "Company" or "us" or "we") welcomes you to cmbs.com and related sub-domains (the "Website"). By using or accessing any part of the Website, you are agreeing to these Terms of Service, our Privacy Policy and all other policies or notices posted by us on the Website.

If you do not agree to these Terms of Service, do not use the Website. We can change these Terms of Service at any time without any notice to you. It is your responsibility to review these Terms of Service from time to time for any changes as it creates a binding legal agreement between you and the Company. If you use the Website after we have changed any of the Terms of Service, you are agreeing to all of the changes.

## **2. Permission to Use the Website**

You have our permission to use the Website, but only if:

you are over 18 years old;

you do not copy the Website or any part of the Website;

you do not modify the Website or any part of the Website; and

you follow all the rules and restrictions that we have spelled out in these Terms of Service.

## **3. Accounts; Passwords; Security**

You may need to set up an account in order to use some of the features of the Website. You may not use a third party's account without permission. When you are setting up your account, you must give us accurate and complete information. This means that you cannot set up an account using a name or contact information that does not apply to you and you must provide accurate and current information on all registration forms that are part of the Website. You have complete responsibility for your account and everything that happens on your account. This means you need to be careful with your password. If you find out that someone is using your account without your permission, you must let us know immediately. You may not share your account with, or transfer your account to, someone else. We are not liable for any damages or losses caused by someone using your account without your permission. However, if we (or anyone else) suffer any damage due to the unauthorized use of your account, you may be liable.

## **4. Personal Use Only**

We are making the Website available to you for your information and personal use only. You may not (and you agree not to) use, copy, distribute, transmit, broadcast, sell, or do anything else with the Website for any other purpose. You shall not use the Website as part of any effort to compete with us, including without limitation using the Website to provide, alone or in combination with any other product or service, any database services to any third party.

## **5. Proprietary Rights**

The Company and its suppliers retain all right, title and interest (including all copyright, trade secret, patent and other rights) in and to the Website. If you give feedback on the Website, for example recommendations for improvements or features, such feedback will be deemed non-confidential and

non-proprietary, and implementation of that feedback is owned by us and may become part of the Website without compensation to you. We reserve all rights in and to the Website unless we expressly state otherwise. The Website contains proprietary and confidential information that is protected by applicable intellectual property and other laws.

You may not decompile, reverse engineer, disassemble, or otherwise reduce the Website to a human-perceivable form, except and only to the extent that such activity is expressly permitted by applicable law, and in that case, only if you notify us in writing in advance. You may not copy, frameset, enclose or otherwise distribute any part of the Website.

All brand, product and service names used in the Website which identify the Company or our suppliers and/or their proprietary products and services are the trademarks or service marks of the Company or our suppliers. Nothing in the Website shall be deemed to confer on any person any license or right on the part of Company or such supplier with respect to any such image, logo or name.

You agree not to disable, interfere, or try to get around any of the features of the Website related to security, or enforcing the limits on the use of the Website.

## **6. Notify Us of Infringers**

If you believe that something on our Website violates your copyright, notify our copyright agent in writing. The contact information for our copyright agent is at the bottom of this section.

In order for us to take action, you must do the following in your notice:

- (i) provide your physical or electronic signature;
- (ii) identify the copyrighted work that you believe is being infringed;
- (iii) identify the item on our Website that you think is infringing your work and include sufficient information about where the material is located on our Website (including which website) so that we can find it;
- (iv) provide us with a way to contact you, such as your address, telephone number, or e-mail;
- (v) provide a statement that you believe in good faith that the item you have identified as infringing is not authorized by the copyright owner, its agent, or the law to be used on our Website; and
- (vi) provide a statement that the information you provide in your notice is accurate, and that (under penalty of perjury), you are authorized to act on behalf of the copyright owner whose work is being infringed.

Here is the contact information for our copyright agent:

Copyright Enforcement  
CMBS.com  
85 Liberty Ship Way, Suite 201  
Sausalito, CA 94965  
Phone: (415) 332-1110

Fax: (415) 289-3802  
E-Mail: [copyright@cmbs.com](mailto:copyright@cmbs.com)

Again, we cannot take action unless you give us all the required information.

## **7. Communications**

Only notices about copyright infringement should go to our copyright enforcement department. If you have anything else to communicate with us (like feedback, comments, requests for technical support), you should e-mail us at [info@cmbs.com](mailto:info@cmbs.com), or write to us at 85 Liberty Ship Way, Suite 201, Sausalito, CA 94965.

## **8. Availability**

You acknowledge that temporary interruptions in the availability of the Website may occur from time to time as normal events. Also, we may decide to cease making available the Website or any portion of the Website at any time and for any reason. Under no circumstances will Company or its suppliers be held liable for any damages due to such interruptions or lack of availability. If you have paid for a service and we no longer make your product available, we will refund your fee based on a prorated amount of remaining term. For example, if you paid \$1,000 for 12 months of service and we stop offering the service in month 6, we would refund half the fee ( $6/12 = 50\%$ ).

## **9. Accuracy and Use of the Data**

Although this site is intended to provide accurate and timely information, the content of this site may not be accurate, complete or current and may include technical inaccuracies and typographical errors. Additionally, this site is prepared with, or based on, information received from third parties and CMBS.com does not make any representation for the accuracy and completeness of the data. You should verify all information before relying on it and decisions made based on the information contained on this site are your sole responsibility. The information posted on this site is not for the furthering of any securities offering and is in no way a solicitation or an offer to buy or sell the securities referenced. By using this site, you represent to CMBS.com that you have the permissions and or the qualifications as defined in the securities offerings to view the data.

## **10. Sale of Products**

Our Website may include the offer for sale of certain products (whether software, services, or other merchandise) ("Products"). Any offer for sale or purchase of such Products is subject to the terms of sale and warranty (if any) provisions of the vendor offering the particular Product through our Website (including through any shopping cart for the particular Product). We are not responsible for any such transactions or Products unless we are the vendor, in which case the terms of purchase applicable for that Product shall apply.

## **11. Links to Other Sites**

Our Website may contain links to other websites that we do not own or control. We are not responsible for any of these other websites and any links to these other websites should not be interpreted as an endorsement of any company, content or products. You will not hold us responsible for any aspect of these other websites, including their content, privacy policies, or anything else. You may be exposed to things on other websites that you do not like or that you find offensive. We are not responsible for this, either. You must use your own discretion when you go to

other websites. You should also read the terms and conditions and privacy policies of these other websites.

## **12. Warranty Disclaimer**

USE OF THE WEBSITE IS AT YOUR OWN RISK. THE WEBSITE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. THE COMPANY AND ITS AFFILIATES, SUPPLIERS AND PARTNERS EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

THE COMPANY AND ITS AFFILIATES, SUPPLIERS AND PARTNERS MAKE NO WARRANTY THAT (i) THE WEBSITE OR ANY PRODUCTS PURCHASED THROUGH THE WEBSITE WILL MEET YOUR REQUIREMENTS; (ii) THE WEBSITE WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE; OR (iii) THAT THERE WILL BE NO ERRORS IN THE WEBSITE OR THAT COMPANY WILL FIX ANY ERRORS. ANY MATERIALS OBTAINED THROUGH USE OF THE WEBSITE ARE OBTAINED AT YOUR OWN DISCRETION AND RISK AND THE COMPANY SHALL NOT BE RESPONSIBLE FOR ANY DAMAGE CAUSED TO YOUR COMPUTER OR DATA OR FOR ANY BUGS, VIRUSES, TROJAN HORSES OR OTHER DESTRUCTIVE CODE RESULTING FROM USE OF THE WEBSITE OR ANY CONTENT OBTAINED FROM THE WEBSITE.

SOME STATES DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU. YOU MAY ALSO HAVE OTHER LEGAL RIGHTS, WHICH VARY FROM STATE TO STATE.

## **13. Limitation of Liability**

TO THE FULLEST EXTENT PERMITTED UNDER LAW, THE COMPANY AND ITS AFFILIATES, SUPPLIERS AND PARTNERS HAVE NO OBLIGATION OR LIABILITY (WHETHER ARISING IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE) FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OR LIABILITIES (INCLUDING, BUT NOT LIMITED TO, ANY LOSS OF DATA, REVENUE OR PROFIT) ARISING FROM OR RELATED TO YOUR USE OF THE WEBSITE OR ANY CONTENT PROVIDED BY OR THROUGH THE WEBSITE, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE. THE FOREGOING LIMITATION APPLIES TO DAMAGES ARISING FROM (i) YOUR USE OR INABILITY TO USE OUR WEBSITE; (ii) COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES RESULTING FROM ANY GOODS OR SERVICES PURCHASED THROUGH OR FROM OUR WEBSITE; (iii) THIRD PARTY CONTENT MADE AVAILABLE TO YOU THROUGH THE WEBSITE; OR (iv) ANY OTHER MATTER RELATING TO THE WEBSITE. SOME STATES DO NOT ALLOW THE LIMITATION OR EXCLUSION OF INCIDENTAL, CONSEQUENTIAL OR OTHER TYPES OF DAMAGES, SO SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, THE COMPANY'S LIABILITY AND THE LIABILITY OF EACH OF ITS OFFICERS, MANAGERS, INVESTORS, EMPLOYEES, AGENTS, ADVERTISERS, LICENSORS, SUPPLIERS, SERVICE PROVIDERS AND OTHER CONTRACTORS TO YOU OR ANY THIRD PARTIES UNDER ANY CIRCUMSTANCE IS LIMITED TO A MAXIMUM AMOUNT OF \$100.

## **14. Indemnity**

You agree to indemnify and hold harmless the Company and its affiliates, suppliers, partners, officers, agents, and employees from and against any claim, demand, losses, damages or expenses (including reasonable attorney's fees) arising from your use of the Website, your connection to the Website, your violation of these Terms of Service or your violation of any rights of any third-party. Your indemnification obligation will survive the termination of these Terms of Service and your use of the Website.

## **15. Termination and Suspension**

We may terminate or suspend the Website or any part of the Website, terminate or suspend your use of the Website, or block any IP address at any time without cause without any liability to you. Further, we may terminate or suspend your permission to use the Website immediately and without notice upon any violation of these Terms of Service, your failure to pay any fees when due, upon the request of law enforcement or government agencies, for extended periods of inactivity, for unexpected technical issues or problems or for engagement by you in fraudulent or illegal activities. If we terminate your use of the Website for any of these reasons or otherwise for cause, we will not refund any fees you may have paid, whether for access to the Website or for Products (if applicable). If we terminate your use of the Website for no reason, we will refund any fees you may have paid but we have not earned.

Upon any termination we may delete your account and passwords, and we may bar you from further use of the Website. You agree that we will have no liability to you or any third party for termination of your account or access to the Website.

## **16. Additional Terms**

Portions of the Website may be accompanied by additional terms which apply to specific features or areas of the Website. Those additional terms supplement these terms with respect to your use of those features or areas.

## **17. General Terms**

These Terms of Service are governed by laws of the state of California, without respect to its conflict of laws principles. The sole jurisdiction and venue for any claim arising from the Website and these Terms of Service shall be the state and federal courts located in San Francisco, California and each party hereby consents to the exclusive jurisdiction and venue of such courts. These Terms of Service, together with our Privacy Policy and any other legal notices we have published on the Website, constitute the entire agreement between you and us regarding this Website. If a court having proper authority decides that any portion of these Terms of Service is invalid, only the part that is invalid will not apply. The rest of these Terms of Service will still be in effect. If we waive any of our rights under these Terms of Service in any particular instance, it does not mean that we are waiving our rights generally or in the future. Furthermore, just because we may not enforce all our rights all of the time, it does not mean that we are waiving our rights. We may decide to enforce them at a later date. These Terms of Service, and any rights and licenses granted under these Terms of Service, may not be transferred or assigned by you, but may be assigned by us without restriction.

YOU AGREE THAT IF YOU WANT TO SUE US, YOU MUST FILE YOUR LAWSUIT WITHIN ONE YEAR AFTER THE EVENT THAT GAVE RISE TO YOUR LAWSUIT. OTHERWISE, YOUR LAWSUIT WILL BE PERMANENTLY BARRED.