

Member Agreement



This Member Agreement (“Agreement”) contains the terms of the agreement between you as an approved member of LMD (“Member”) and Loan Market Direct (“LMD”).

WHEREAS, LMD operates and manages an Internet based loan trading platform (“LoanMarketDirect.com”); and

WHEREAS, LMD restricts all use of LoanMarketDirect.com to approved Members; and

WHEREAS, Member is seeking to be an approved Member; and

WHEREAS, this Agreement provides the terms and conditions required to do business with LMD including the terms and conditions required to access LoanMarketDirect.com.

NOW, THEREFORE, in consideration of premises and covenants contained herein and other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereby agree as follows:

1. **LMD Members.** LMD facilitates the sale and purchase of Loans, hereinafter defined, via LoanMarketDirect.com which is accessible by approved Members. It is understood that registration on LoanMarketDirect.com and execution of this Agreement may not be sufficient for Member approval. LMD reserves the right to verify the accuracy of all information provided by Member at anytime, and from time to time. Member shall promptly respond to any inquiries made by LMD regarding any information supplied by Member. LMD shall have the express right to terminate or cancel the approval, registration and/or user account of any Member for any reason whatsoever and at anytime whatsoever in the sole and absolute discretion of LMD.
2. **Agreement by Member.** Member agrees to comply with the terms and conditions of this Agreement and any other agreement set forth by LMD from time to time, including but not limited to, loan purchase agreements, terms of use agreements and privacy policy agreements as may be amended by LMD in its sole and absolute discretion (collectively, “LMD Agreement(s)”). LMD Agreements may be entered into electronically. In the event of any conflict of terms or provisions between this Agreement and other LMD Agreements the terms and provisions of this Agreement shall control and thereby supersede the conflicting terms and provisions of the LMD Agreements.
3. **Loans.** LMD allows certain approved Members to purchase and/or sell loans via LoanMarketDirect.com (“Loan(s)”).
4. **Accuracy of Data and Information.** Member, in the event of being the seller of a Loan(s), warrants that the Loan data other Loan information is true and correct and will specifically indemnify LMD for any errors or omissions pursuant to the Indemnification provision contained herein.
5. **Loan Purchase and Sale.** When Member agrees to purchase or sell a Loan via LoanMarketDirect.com Member is making an absolute commitment and promise to purchase or sell the Loan according to the terms of the LMD Agreements. An agreement to purchase or sell a Loan may not be cancelled or withdrawn by Member without the express agreement of LMD.
6. **Restrictions of Member.** Member shall not do or allow:
 - a. the use of the Members account and/or registration granted by this Agreement by any other person than the Member;

b. violate any applicable federal, state or local laws or any other required governmental regulations.

7. Declarations by Member.

- a. Member warrants and represents that Member has the legal competence and capacity to execute and perform this Agreement; and
- b. Member is knowledgeable and experienced in the origination, sale and purchase of consumer installment loans including all financial and business matters; and
- c. Member is capable of evaluating the merits and risks of its prospective acquisition and ownership of the Loan(s), including the risk that Member may not be able to collect any amounts due on the Loan(s); and
- d. Member has the expertise and capability to service the Loan(s) or will hire a qualified third party to do so on its behalf, based upon the Member's own knowledge of such servicer's capabilities and expertise; and
- e. Member acknowledges and agrees that Member has been given the opportunity to inspect certain balance and other information and materials relating to the Loan(s); and
- f. Member further acknowledges and agrees that no representative or employee of LMD has made, and Member has not relied upon, any representations or warranties relating to such Loan(s) other than those contained in any LMD Agreement.
- g. Member has determined whether or not to purchase or sell any Loan based solely upon its own independent examination, study, inspection and knowledge of such Loan and has relied solely upon its own determination of the quality, value, condition and marketability of such Loan and any and all collateral securing payment of such Loan and not on any information, statement, representation or promise made or to be made by LMD in connection with its decision to purchase or sell any such Loan.
- h. Member acknowledges and agrees that the proposed sale or purchase of any Loan does not involve, nor is intended to in any way constitute, the sale of a "security" within the meaning of any applicable federal or state securities law.
- i. Member acknowledges and agrees that acquisitions of a Loan involves a high degree of risk and is therefore suitable only for persons or entities of substantial financial means which have no need for liquidity and which could hold such Loan indefinitely or bear the partial or entire loss of the value of such Loan.

- 8. No Guaranty, No Warranty, No Liability.** LMD MAKES NO GUARANTEES OR WARRANTIES WHATSOEVER THAT MEMBER WILL RECEIVE ANY MONIES, PROFITS, RATES OF RETURN OR ANY OTHER AMOUNTS OF COMPENSATION. ANY AND ALL AMOUNTS THAT MEMBER MAY RECEIVE ARE ENTIRELY DEPENDENT UPON THE SALE PRICE OR PERFORMANCE OF THE LOAN(S) THAT MEMBER SELLS OR PURCHASES. LMD MAKES ABSOLUTELY NO GUARANTY OR WARRANTY AS TO THE PERFORMANCE OF ANY LOAN WHATSOEVER.

EXCEPT FOR THE REPRESENTATIONS CONTAINED IN THIS AGREEMENT, LMD MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER TO BUYER, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

IN NO EVENT SHALL LMD BE LIABLE TO BUYER FOR ANY LOST PROFITS OR SPECIAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE DAMAGES. LMD MAKES NO REPRESENTATION OR WARRANTY TO MEMBER REGARDING THE AFFECT THAT THIS AGREEMENT MAY HAVE UPON THE FOREIGN, FEDERAL, STATE OR LOCAL TAX LIABILITY OF MEMBER.

9. **Indemnification.** Member shall indemnify, defend, protect and hold harmless LMD, its officers, directors, shareholders, employees and agents against all claims, liabilities, actions, costs, damages, losses, demands and expenses of every kind, known or unknown, contingent or otherwise resulting from any material breach of any obligation Member undertakes in this Agreement or resulting from Member's acts, omissions and representations, including those of Member's employees, agents or representatives, relating to LMD. This provision regarding Member's indemnification shall survive the termination or cancellation of this Agreement, regardless of the reason for termination or cancellation.

10. **Confidentiality.** Member will have access to, and become acquainted, with LMD's confidential information ("Confidential Information"), consisting of all code and work product of LoanMarketDirect.com, processes and compilations of information, contracts, records, specifications, business procedures, accounts, investor lists, files, records, documents, and data. Member recognizes and agrees that LMD is the sole owner of all proprietary rights in and to the technical know-how in LMD's products and services, and all material and information relating to such products and services; that the technical know-how in such products and services are of special, unique and extraordinary character, impossible of replacement, and for the loss of which LMD cannot be adequately compensated in damages at law. Member agrees and covenants that it will keep confidential and secret all of the Confidential Information of LMD. Member may disclose the Confidential Information to its' own employees and agents for their use in the agreed business between the parties provided that Member shall take all reasonable steps to insure the confidentiality of such information.

Any competition by Member, or its' assignees, against LMD, for a term of the ongoing business relation of the parties and also three (3) years thereafter, using the Confidential Information of LMD shall be deemed to be prohibited and compensable. Member shall be considered to be competing if using the Confidential Information or any of the sources, lenders, insurers, customers or prospect bases, now or hereafter disclosed by LMD.

11. **Remedies.** Member recognizes and agrees a breach by it of the provisions of this Agreement will cause LMD irreparable injury and damages. Member expressly agrees that LMD is entitled to injunctive and/or other equitable relief to prevent a breach of the provisions of this Agreement, and to secure its' enforcement, in addition to any other legal or equitable remedy.

12. **Miscellaneous Provisions.**

- a. This Agreement may be executed electronically.
- b. An electronic version of this Agreement shall be recorded and stored in by LMD.
- c. This Agreement is the entire agreement between the parties and may only be amended in writing.
- d. Member shall not assign, transfer or delegate any rights under this Agreement
- e. This Agreement shall be governed by the laws of the State of Florida.
- f. Any dispute or controversy arising out of or in relation to this Agreement shall be determined by binding arbitration in the State of Florida, in accordance with the commercial rules of the American Arbitration Association then in effect, and judgment upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expenses of the arbitration shall be borne equally by the parties to the arbitration, provided that each party shall pay for and bear the cost of its own experts, evidence, legal counsel and travel expense.
- g. If any provision, or portion thereof, of this Agreement is held to be unenforceable or invalid by any court of competent jurisdiction, the validity and enforceability of the remaining provision, or portions thereof, will not be affected.

- h. All notices and other communications hereunder shall be given by email to Member's registered email address, and shall be deemed to have been duly given and effective upon transmission. Member shall notify LMD of any registered email address changes by sending an email to support@LoanMarketDirect.com and by making the appropriate modifications to Member's user account on LMD's website.

Whereas this Agreement is electronically entered into as of the date and time recorded by LMD via LoanMarketDirect.com as a result of the Member's registration.

(executed and stored electronically by LMD)

Buyer Member

(executed and stored electronically by LMD)

LMD