

## **TERMS OF SERVICE AGREEMENT**

**Terms** -The terms “borrower” and “payor” are used interchangeably in reference to the party making the payments on an account (and may include a Tenant, for Rentals). In the same manner the terms “lender”, “seller” and “payee” are used to reference the party receiving the payments (and may include a Landlord, for Rentals).

**Confidentiality** – INCS will not sell or share contact information with non-affiliated third parties without your written consent. If you would like a person, who is not named on your contract, to obtain information, on your behalf, you will need to submit a signed written request with the person’s name and contact information. Payoff, verification, and history information will be supplied to escrow companies, attorneys, banks, mortgage brokers, etc., only when requested in writing and accompanied by a Borrower’s Authorization form. INCS will share contact information such as: address, phone, and email address with the other contractual party and/or their authorized associates. Private information such as: social security, banking information etc. will not be disclosed. See our website for our complete Privacy Policy.

**Establishment/Closing** – All accounts must be established by the lending party or have their written authorization. Services may be terminated, at any time, upon written notice from the lender and payment of any outstanding administration and/or closing fees. Our closing fee is typically charged to the borrower at payoff. If not paid by the borrower, for any reason, the lender will bear this responsibility and will be billed or a deduction will be made from payoff proceeds or payments received on the account.

**Receipt of Payments** – INCS will accept payments regardless of the next payment due date. If a payment should not be accepted, it is the lender’s responsibility to notify INCS, in writing, within a reasonable time as to their wishes and alternate instructions. Partial payments will not be accepted unless written authorization from the lender has been received. If a partial payment is received and we do not have the proper authorization, the payment will be returned to the paying party. If arrangements have been made to hold partial payments until such time as a full payment can be posted to the account, the fee for such a service will be deducted first from the borrower’s payment.

**Operation Times** – INCS operates during posted business hours. Mail and payments received on the weekends or holidays will be picked up and posted on the following business day. Payments will not be posted to the system on Saturday, Sunday or banking or postal holidays. Please mail or deliver your payments in time to avoid these days. Our daily mail is usually delivered in the morning and payments will be posted that day. If a payment arrives after our daily processing time, but before 1pm, it will be processed the following business day, but backdated for the date received. If a payment is received after 1pm PST, the payment will be processed and posted for the following business date. This includes wires, payoffs, and payments accepted over our website.

**Cash Payments** – Cash will not be accepted by INCS. This is for your protection, to avoid disputes.

**ACH Transactions**- If you elect to pay or receive funds by an electronic transfer, this will be handled using a process in the national banking system known as an “ACH” transaction. ACH stands for *Automated Clearing House*. Banks are subject to laws and regulations to prevent Money Laundering and other criminal activity. As a condition of using the ACH process, our bank requires the ability to obtain proof from parties that these transactions are in compliance with laws and regulations. If you request use of ACH, then you agree to provide such proof upon request of our bank or their regulators.

**Deposit of Funds** – All payments received will be deposited to our trust account on the business day received. If there is a question as to the ability to accept funds, or the availability of funds, we will make every attempt to contact the appropriate party during the same business day. If this contact is unsuccessful and there is a delay in processing, and it is no fault of the borrower, the payment will be backdated to the day the payment was received. If the delay is caused by the borrower, either intentionally or unintentionally, the payment will be credited to the account as of the date the issue is resolved. **ACH, online payments through our website, cashier’s checks, Postal money orders or personal checks may be used for monthly installment payments. Funds over \$10,000 or ANY payoff above usual installment amounts, should be submitted by wire to allow immediate credit. Non-Certified payments received over \$10,000 will be held for ten days before processing to ensure they clear the bank. Credit will not be given until the hold is lifted. Contrary to popular belief, cashier’s checks are not the same as certified checks (which banks no longer issue). Cashier’s Checks are not accepted as “certified funds”. Cashier’s Checks will be held for three days, or as allowed by law, to ensure the payment clears the issuing bank. Funds will not be credited to the account until the waiting period is over, which will result in additional interest charges. For immediate credit, please use the wire procedure. Wires and Cashier’s Checks are the only permitted method of payoff, if over the regular installment amount.**



**Disbursement of Funds** – Funds are disbursed according to the written instructions received upon establishment of the account. These instructions may be cancelled or changed at any time during the service of your contract, upon receipt of new written instructions. Funds are disbursed the same day the payment is processed. Electronic disbursements are subject to the federal banking regulation and will appear in your account two business days after disbursement. We strongly encourage all disbursements be made electronically. If a payee chooses to receive a paper check and it is lost in the mail, the payee will be responsible for the fees incurred to stop payment and reissue the check. Final payoff proceeds will be disbursed in the same manner as payments. If a payee would like funds wired to their account, they will need to submit written wire instructions prior to payoff. INCS' outgoing wire fee will be deducted from the proceeds before disbursement. An outgoing wire will be initiated the business day after the funds are received by INCS to allow for bank cut off times and our processing times.

**Insufficient Funds** – If a payment is returned from the bank, such as Non-Sufficient Funds (NSF), the payor/borrower will be required to replace the funds, along with our posted fee, by Certified Check, Postal Money Order or Wire Transfer. If the payor does not replace the funds within seven days of posting notice, Regular US Mail, the lender becomes responsible for the return of disbursed funds and the related fee. Lender agrees to return such funds to INCS within seven days of posting demand, Regular US Mail. Failure to timely return funds to INCS may result in legal action to recover such funds and Payee/Lender agrees to pay INCS attorney's fees and court costs for such action. If there is a recurring problem with NSF payments, or if Borrower fails to replace funds on an NSF, then INCS reserves the right to require future payments by certified check or Postal money order. Posting to, and disbursing from accounts may be delayed until we are certain the payments have cleared our bank. If agreed to by Borrower or Lender, alternate notice by email shall be subject to the same time constraints.

**Default Interest** - Due to changing laws and codes, INCS will not automatically initiate the default interest rate as called for in some contracts. We require written instruction from either the lender, or the attorney working on behalf of the lender, to make the change to the account.

**Interest and Application of Payments** – Unless otherwise specified, we service all accounts using daily (365) interest. If the contract is to be collected on a monthly (360) basis, we require notification in writing when the account is established. All payments received will be applied first to penalties, then to accrued interest and lastly to principal, in the absence of provisions to the contrary in the loan documents.

**Reserves** – At the payee's or payor's option, INCS will collect monthly reserve payments to disburse or hold as requested. Impounds will be paid but ONLY if current statements are received and adequate funds are being held at the time. We will not "front" money to meet your obligations. The parties involved are responsible for providing INCS with current billing information and directions for disbursement.

**Processing of Final Payment** – Final payment on an account are best paid by wire transfer (see our policy on Disbursement of Funds). Any outstanding fees, to close the account, will be billed with or deducted from the final payoff. Due to our daily cut off, we may process a payoff or payment the following business day. The reconveyance and/or recording fee, as well as our closing fee, are deemed to be the responsibility of the payor, even if they do not pay our monthly administration fees. If the payor does not pay our closing fee, it will be deducted from the payee's proceeds. If the original documents are not held in a True Escrow, it will be the responsibility of the lender to provide the borrower with the necessary documents to clear title or reconvey Deeds of Trust.

**Extent of Responsibility** – We will make every effort to administer accounts in accordance with the terms and conditions of the agreement between the parties and any written instructions. In the event the language of the agreement is unclear, we may request further clarification or we may, at our option, interpret such language in light of our experience and generally accepted standards of loan servicing. The ultimate responsibility for adhering to the terms of the contract lies with the payor and lender. We cannot assume responsibility for the performance of either party. Neither will we assume responsibility for any act or omission performed by us in good faith and not resulting from gross negligence or willful misconduct on our part. We do not assume responsibility for the following: a) the correctness, completeness, or legal sufficiency of any document given to us to hold or deliver; b) Performance of compliance with any term or condition in any document; c) Notification of any person about failure to perform or of any default; d) Payment of insurance, taxes or assessment unless agreed to by us, and based on written instructions and upon provision of invoices or statements; e) Determination of the



status of any obligation not administered by us; f) Recording or filing of any documents; g) Any loss due to forgery or misrepresentation of others or the good faith exercise of our discretion in any matter; h) Calculation of any rate or payment change based on an index; or i) Incorrect payoff quotation, if based on information in this company's possession at the time of the requested quote. It is the seller's responsibility to notify INCS immediately of any additional advances, charges, changes and/or expenses paid that affect the terms, balance owed or collection of future payments.

**Right to Interplead** – If a dispute arises or reasonable uncertainty exists as to any matter pertaining to the account, we may retain possession of all documents and funds without liability until the dispute or uncertainty is settled. In the alternative, in our discretion, we may commence an interpleader action and deposit the documents and/or funds with the clerk of the appropriate court. Upon interpleader, the parties shall jointly and severally bear the responsibility for our costs and attorney's fees, which may be deducted from funds in our possession.

**Regular Fees** – Our current fee schedule is available on our website or upon request. Fees are subject to change upon 30 days posted notice on our website. Our Administration fees are assessed on a monthly basis and are collected according to the contractual payment schedule. If additional payments are received in a year, they will incur the same payment fee as previous payments. Administration Fees will be split between borrower and lender unless otherwise specified in writing at the time of establishment. The arrangement can be changed at any time by submitting written instructions signed by both parties. Every effort will be made to acquire the arranged fees from the borrower; however, if these fees are not received from the borrowing party in a reasonable time, the fees are the responsibility of the lending party. Such fees will include but not be limited to: Establishment Fee, Closing Fee, Bank Fees (NSF), Administration Fees, etc. If additional services are required during the course of the loan, the requesting party will be responsible for the incurred fee(s). However, fees associated with default or foreclosure proceedings will be collected from the borrower, if the loan agreement permits, but the lender is ultimately responsible for the payment of fees. Our fees will be deducted from the amounts received from the payor, when paid.

**Additional Fees** – INCS may charge additional fees for services not specifically covered by our Monthly Administration Fees. These non-classified fees are listed on our fee schedule. If you have any questions regarding these fees, please contact our staff.

**I have read and accept the terms of the above TERMS OF SERVICE AGREEMENT and agree to be bound by such terms as a condition of the establishment of my account.  
Signatures are mandatory to establish an account.**

**SECTION A - Lenders**

Account Number \_\_\_\_\_ Date \_\_\_\_\_

X \_\_\_\_\_  
Lender 1 Signature

X \_\_\_\_\_  
Lender 2 Signature

Print Lender/Seller Names: \_\_\_\_\_

E-mail: \_\_\_\_\_

**SECTION B - Borrowers**

Account Number \_\_\_\_\_ Date \_\_\_\_\_

X \_\_\_\_\_  
Borrower 1 Signature

X \_\_\_\_\_  
Borrower 2 Signature

Print Borrower Names: \_\_\_\_\_

E-mail: \_\_\_\_\_

