

## Terms of Use

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### NOTICE

PLEASE READ THESE TERMS OF USE CAREFULLY. THESE TERMS OF USE GOVERN YOUR USE OF OUR WEBSITE, <https://bayequityhomeloans.com/>, ANY OTHER WEBSITES WHERE THESE TERMS OF USE ARE POSTED, ANY OF OUR OTHER ONLINE SERVICES, AND ANY ELECTRONIC OR TELEPHONIC COMMUNICATIONS BETWEEN US (COLLECTIVELY REFERRED TO AS THE “SITE”) PROVIDED BY BAY EQUITY LLC (“BAY EQUITY”). BY ACCESSING THIS SITE YOU AGREE TO BE BOUND BY THE TERMS OF USE BELOW.

BY ACCEPTING THESE TERMS OF USE, YOU ALSO AGREE TO OUR [PRIVACY POLICY](#), WHICH ALSO GOVERNS YOUR VISIT TO THIS SITE WHICH IS INCORPORATED BY REFERENCE INTO THESE TERMS OF USE. IF YOU DO NOT AGREE TO THE TERMS OF USE BELOW, DO NOT ACCESS THIS SITE.

**THESE TERMS OF USE INCLUDE A MANDATORY ARBITRATION AGREEMENT, WHICH MEANS THAT YOU AGREE THAT EITHER YOU OR BAY EQUITY MAY ELECT TO HAVE ANY CLAIM (AS DEFINED BELOW) SUBMITTED TO BINDING INDIVIDUAL ARBITRATION RATHER THAN PROCEEDING IN COURT OR BEFORE A JURY. THE ARBITRATION AGREEMENT ALSO INCLUDES A CLASS ACTION WAIVER, WHICH MEANS THAT YOU AGREE TO PROCEED WITH ANY CLAIM INDIVIDUALLY AND NOT AS A MEMBER OF A CLASS ACTION. YOU HAVE A RIGHT TO REJECT THE ARBITRATION AGREEMENT AS DESCRIBED BELOW. PLEASE READ THE ARBITRATION AGREEMENT CAREFULLY.**

### CONTENT

This Site may provide general information about our products and services. We may discontinue or make changes to the information, products, licenses, or services described on this Site at any time. Any dated information is published as of its publication date only. We do not undertake any obligation or responsibility to update or amend any such information. Although we try to provide accurate and timely information on this Site, there may be inadvertent, technical, or factual inaccuracies and typographical errors. For these reasons we cannot warrant the accuracy, completeness, or timeliness of the information, text, graphics, links, or other items on the Site.

### INTELLECTUAL PROPERTY

All content used on this Site is the property of Bay Equity. Any use of text, graphics, logos, icons, buttons, and software that is not for the exclusive objective of obtaining information about Bay Equity’s products or services is strictly prohibited.

The content on this Site , including but not limited to all music, audio clips, images, icons, text, design, graphics, code, software, logos, expressions, downloads, interfaces, and ideas, is copyrighted and protected by U.S. and worldwide copyright laws and treaty provisions. In addition, the content on this Site is protected by patent and trademark laws, the laws of privacy and publicity, and the various communication regulations and statutes. We grant you a limited, non-exclusive, non-transferable, non-sublicensable license to access this Site and view the content therein for your non-commercial use in accordance with these Terms of Use, and not for distribution, resale, sublicensing, time-sharing or service bureau usage. We reserve all rights not expressly granted in the foregoing sentence. Any unauthorized use or other activity by you in violation of these Terms of Use will cause the licenses granted to you by us in this paragraph to terminate immediately and automatically.

All marketing materials online and offline are trademarks exhibited by Bay Equity, including but not limited to the use of graphics, logos, images, and text, and cannot be used in association or a relationship in connection with any other products or services except those presented by Bay Equity.

## **LINKS**

THIS SITE MAY CONTAIN LINKS TO THIRD PARTY WEBSITES. BAY EQUITY DISCLAIMS LIABILITY FOR ANY INFORMATION, MATERIALS, PRODUCTS OR SERVICES POSTED OR OFFERED AT ANY OF THE THIRD PARTY WEBSITES LINKED TO THIS SITE. By creating a link to a third party website, Bay Equity does not endorse or recommend any products or services offered or information contained at the website, nor is Bay Equity liable for any failure of products or services offered or advertised at those websites. Bay Equity may remove any third party link at any time. Such third party may have terms and conditions different from that of Bay Equity. If you decide to visit a third party website via a link contained on Bay Equity's Site, you do so at your risk.

## **SITE ACCESS**

The Site is not intended for use by persons under the age of 18 years or for use by persons in any jurisdiction or country where such use would be contrary to applicable laws or regulations. We may restrict your access to this Site during the times you are in a country for which use of this Site is not permitted. You are responsible for compliance with all local laws. By offering information, products, or services via this Site, no solicitation is made by us to any person to use such information, products, or services in jurisdictions where the provision of information, products, or services is not permitted.

To use our Site, you will need a working connection to the Internet on your computing or mobile device for which you are responsible for all costs, expenses, and fees. From time to time, due to the performance of maintenance, malfunctions or failures of software, equipment, or telecommunications devices, unusual transaction volume, or similar reasons, this Site may not be available for your use. We attempt to minimize the periods of time during which the Site are unavailable.

Your use of this Site is limited to the intended functions of the Site. Unauthorized use of the Site and/or our systems, including but not limited to misuse of any information posted on the Site or unauthorized entry into any of our systems is strictly prohibited. You are prohibited from using this Site in any manner that:

- Constitutes a commercial use other than for your own use;
- Accesses data that is not intended for you;
- Attempts to harvest, collect, gather, or assemble information or data;
- Invades the privacy of, obtain the identity of, or obtain any personal information about any other user of this Site;
- Probes, scans, tests, or attempts to exploit any vulnerability of this Site, our network, our security, or authentication measures without proper authorization;
- Attempts to interfere with service to any user, host, or network or otherwise attempt to disrupt our business, including, without limitation, via means of submitting a virus to this Site, overloading, “flooding,” “spamming,” “mail bombing,” or “crashing”;
- Copies, modifies, redistributes, reverse engineers, decompiles, disassembles any aspect of this Site or any content delivered to you via this Site, including, without limitation, any audio or video content delivered via this Site;
- Sends unsolicited mail, including promotions and/or advertising of products and services;
- Is unlawful, fraudulent, or deceptive;
- Communicates any unlawful, threatening, libelous, defamatory, obscene, scandalous, inflammatory, pornographic, or profane material;
- Violates these Terms of Use or any other policies or agreements that you enter into with us;
- Encourages conduct that would constitute a criminal offense or that gives rise to civil liability;
- Fails to comply with applicable third-party terms; or
- Constitutes any other inappropriate conduct, as determined by us in our sole discretion.

In addition, you may not either directly or through the use of any device, software, Internet site, web-based service, or other means:

- Remove, alter, bypass, avoid, interfere with, or circumvent any copyright, trademark, or other proprietary notices marked on the content of this Site or any digital rights management mechanism, device, or other content protection or access control measure associated with the content on this Site including geo-filtering mechanisms;
- Copy, download, stream, capture, reproduce, duplicate, archive, distribute, upload, publish, modify, translate, broadcast, perform, display, sell, transmit, or retransmit the content on this Site (except as expressly permitted by us or under these Terms of Use);
- Incorporate the content on this Site into, or stream or retransmit the content via any hardware or software application or make it available via frames or in-line links; or
- Create, recreate, distribute, or advertise an index or any significant portion of the content on this Site.

You may not build a business utilizing the content on this Site, whether or not for profit. In addition, you are strictly prohibited from creating derivative works or materials that otherwise are derived from or based on any of the content on this Site, including without limitation, montages, mash-ups and similar videos, and merchandise, unless it is expressly permitted by us in writing. This prohibition applies even if you intend to give away the derivative materials free of charge.

If you violate any provision of these Terms of Use, we reserve the right to terminate your access to this Site. Additionally, we, in our sole discretion, may suspend or terminate any user account that you have established with us at any time, with or without notice. We may at any time, with or without cause, and without prior notice to you deny you access to the Site. We may terminate these Terms of Use, the Site, in whole or in part, at any time without prior notice to you. In the event we terminate these Terms of Use, any existing transactions you have entered into with us shall remain in effect. Termination of these Terms of Use will not affect any court or arbitration proceedings between you and Bay Equity that were commenced prior to the termination.

## **USER SUBMISSIONS**

With respect to any content you submit or make available when using our Site (other than personal information, which is handled in accordance with the Privacy Policy), you grant us a non-exclusive, perpetual, irrevocable, non-terminable, unrestricted, worldwide, royalty-free license to use, copy, reproduce, distribute, publicly display, publicly perform, transmit, modify, create derivative works, and sublicense such content or any part of such content, by any means and in all media formats and channels now known or hereafter devised in perpetuity, and to advertise and promote such use, without any notice or permission from you or any other person, and without compensation or attribution to you or any other person.

Please retain copies of all content you submit, as we are under no obligation to store or return any such content to you. Your submission of content will not be subject to any obligation of

confidentiality, attribution, or otherwise. We are under no obligation to monitor any user-submitted content or use of this Site, but we reserve the right to monitor or moderate user content, in our sole discretion, and to enforce our or a third party's intellectual property rights in any user-submitted content. We reserve the right to discard or remove any user-submitted content from this Site in our sole discretion and without any liability. You acknowledge that you are responsible for any content you may submit through this Site, including the legality, reliability, appropriateness, originality, and copyright of any such content.

## COMMUNICATIONS

If you submit an e-mail address to us through this Site, we may use your e-mail address to communicate with you electronically. E-mail is not secure and you understand that there are risks associated with communicating via e-mail, including the possibility of unauthorized access, failure to receive e-mails because they have been misdirected or sent to a spam folder, and your inability to access e-mail due to power outages, hardware, or software malfunctions or failures of your computing device, or matters affecting the Internet or your access to the Internet. Do not rely on e-mail if you need to contact us immediately. For security reasons, we may not be able to respond to certain e-mail requests.

If you submit other contact information to us, we may use such contact information to communicate with you, subject to applicable laws and regulations.

We may, in accordance with applicable law, communicate with you via text messages and other telephonic communications, including calls made using a prerecorded voice. By opting in to or otherwise consenting to such communications (where required), you accept and agree to these terms and conditions, including, without limitation, your agreement to resolve any disputes with us through binding, individual-only arbitration, as detailed in the "Arbitration Agreement" section below. By agreeing to such communications, you agree to receive autodialed, manually dialed, or pre-recorded marketing and/or transactional (as applicable) mobile messages or phone calls (as applicable) at the phone number associated with your opt-in, and you understand that consent is not required to obtain any goods and/or services from us. While you consent to receive messages sent using an autodialer, the foregoing shall not be interpreted to suggest or imply that any or all of our mobile messages or phone calls are sent using an automatic telephone dialing system ("ATDS" or "autodialer"). Message and data rates may apply. Message frequency may vary. You may withdraw your consent at any time by calling Bay Equity at [insert] or replying STOP to any text you receive from us.

If at any time you intend to stop using the mobile telephone number that has been used to subscribe to our communications, including canceling your service plan or selling or transferring the phone number to another party, you agree that you will complete the opt-out process set forth above prior to ending your use of the mobile telephone number. You further agree that, if you discontinue the use of your mobile telephone number without notifying Us of such change, you agree that you will be responsible for all costs (including attorneys' fees) and liabilities incurred by Us, or any party that assists in the delivery of the mobile messages, as a result of claims brought by individual(s) who are later assigned that mobile telephone number.

Any such communications program is offered on an "as-is" basis and may not be available in all areas at all times and may not continue to work in the event of product, software, coverage or other changes made by your wireless carrier. We will not be liable for any delays or failures in the receipt of any mobile messages. Delivery of mobile messages is subject to effective transmission from your wireless service provider/network operator and is outside of our control. We, any party that assists us in the delivery of the mobile messages, and the respective wireless carriers, including T-Mobile, are not liable for delayed or undelivered mobile messages.

## **SECURITY**

We have taken steps to protect you when using the Site. Although we use administrative, technical, and physical security measures to protect you when using the Site, the Internet is a public network, and we cannot guarantee that any information transmitted or transactions conducted via the Internet are absolutely secure or that a third party will not be able to access or intercept your information. We are not responsible for any electronic virus or viruses that you may encounter as you use the Internet. We suggest that you routinely scan your devices using a virus protection product. An undetected virus may corrupt and destroy your programs, files, and your hardware.

We are committed to stopping fraud, and reserve the right to take all reasonable measures to detect and prevent it. For security purposes, we may view, monitor, and record activity on this Site without notice or permission from you. Any information obtained by monitoring, viewing, or recording may be subject to review by law enforcement organizations in connection with investigation or prosecution of possible criminal activity on the Site. We will also comply with all court orders involving requests for such information. Actual or attempted fraud or other unauthorized use of the Site may result in criminal and/or civil prosecution and immediate termination of your right to use the Site.

## **WARRANTIES, LIMITATIONS OF LIABILITY, INDEMNIFICATION**

THE SITE IS PROVIDED "AS IS" AND WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

UNDER NO CIRCUMSTANCES SHALL WE BE LIABLE FOR ANY DIRECT OR INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES THAT MAY ARISE IN CONNECTION WITH THIS SITE, OR FROM YOUR USE OF, OR INABILITY TO USE, THIS SITE OR ANY INFORMATION PROVIDED ON THIS SITE ; OR IN CONNECTION WITH ANY FAILURE OF PERFORMANCE, ERROR, OMISSION, INTERRUPTION, DEFECT, DELAY IN OPERATION OR TRANSMISSION, COMPUTER VIRUS OR LINE OR SYSTEM FAILURE; OR DISCLOSURE OF INFORMATION WHEN REPLYING TO YOU BY E-MAIL OR OTHER ELECTRONIC MEANS OR RECEIVING E-MAILS FROM YOU; EVEN IF WE ARE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, LOSSES, OR EXPENSES. Some jurisdictions do not allow the exclusion or limitation of liability for consequential or incidental damages. In such jurisdictions, our liability is limited to the greatest extent permitted by law.

WE ASSUME NO RESPONSIBILITY, AND SHALL NOT BE LIABLE FOR, ANY VIRUSES THAT MAY INFECT OR DAMAGE YOUR COMPUTER EQUIPMENT OR OTHER PROPERTY AS A RESULT OF YOUR ACCESS TO OR USE OF THIS SITE, THE WEB, OR YOUR DOWNLOADING OF ANY MATERIALS, DATA, TEXT, IMAGES, VIDEO, OR AUDIO FROM THIS SITE OR THE WEB.

WE DO NOT WARRANT NOR REPRESENT THAT YOUR USE OF MATERIALS DISPLAYED ON THIS SITE WILL NOT INFRINGE RIGHTS OF THIRD PARTIES NOT OWNED BY OR AFFILIATED WITH US.

You agree to indemnify and hold us harmless from and against any and all claims, losses, expenses, demands, or liabilities, including attorneys' fees and costs, incurred by us in connection with any claim by a third party (including any intellectual property claim) arising out of your use of this Site in violation of these Terms of Use or in violation of any applicable law. You further agree that you will cooperate fully in the defense of any such claims. We reserve the right, at our own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, and you shall not in any event settle any such claim or matter without our written consent.

## **ADDITIONAL TERMS**

Except as set forth in the Arbitration Agreement, these Terms of Use will be governed by the laws of the United States and the State of Delaware without giving effect to any conflict of laws to the contrary.

ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THESE TERMS OF USE MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES OTHERWISE SUCH CAUSE OF ACTION OR CLAIM IS PERMANENTLY BARRED.

These Terms of Use and our Privacy Policy constitute the entire agreement between you and Bay Equity with respect to this Site and supersede all prior or contemporaneous understandings and agreements, whether written or oral, with respect to this Site. No failure to exercise, and no delay in exercising, on the part of either party, any right or any power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or power hereunder preclude further exercise of that or any other right hereunder. Except as expressly set forth herein, in the event of a conflict between these Terms of Use and any applicable terms, the terms of these Terms of Use shall govern.

Except as set forth in the Arbitration Agreement, if any terms in these Terms of Use change due to applicable law or is declared invalid by order of a court, the remaining terms of these Terms of Use will not be affected, and these Terms of Use will be interpreted as if the invalid terms had not been placed in these Terms of Use. The headings in these Terms of Use are intended only to help organize these Terms of Use.

## **ARBITRATION AGREEMENT**

Solely for purposes of this Arbitration Agreement, the terms “we,” “us,” and “our” mean Bay Equity and its affiliated companies, their predecessors, successors, and assigns, and all of the respective officers, directors, employees, and agents of any of the foregoing. These terms also mean any third party providing any product or service related to these Terms of Use, the Site, or any account you may have with us for which you bring a claim against at the same time you bring a claim against us.

You agree that unless you reject this Arbitration Agreement, you and we may elect to have any and all claims arising from or relating to these Terms of Use, the Site, your account(s), any products or services provided to you by us, any marketing or advertising by us, or the relationship between you and us resulting from any of the foregoing submitted to binding arbitration under the Federal Arbitration Act (“FAA”), 9 U.S.C. § 1 et seq. This includes claims based on contract, tort, intentional tort, consumer rights, equity, statute, local ordinance, or otherwise. This also includes data breach or privacy claims arising from or relating directly or indirectly to our disclosure of any non-public personal information about you. The term “claim” has the broadest reasonable meaning and includes initial claims, counterclaims, cross-claims, third-party claims, and federal, state, local, and administrative claims, and claims which arose before the effective date of this Arbitration Agreement. Notwithstanding the foregoing, disputes regarding the validity, scope, coverage, or enforceability of this Arbitration Agreement or any part thereof or the arbitrability of any claim shall be determined by a court, not an arbitrator. However, disputes regarding the validity or enforceability of these Terms of Use as a whole shall be determined by the arbitrator. Individual small claims court actions by you or us are not subject to this Arbitration Agreement as long as they remain in that court; however, if the dispute is transferred, removed, or appealed to a different court, the dispute will be subject to arbitration.

If arbitration is elected, a single arbitrator who is either a lawyer with at least ten years of experience or a retired judge shall decide all claims and shall render a final written decision. You may choose the American Arbitration Association (“AAA”) or JAMS to administer the arbitration. If neither of them can serve, a court with jurisdiction will select the arbitrator or administrator, who must agree to abide by the terms of this Arbitration Agreement. The appropriate AAA or JAMS rules shall apply, as determined by the arbitrator. These rules are found at [www.adr.org](http://www.adr.org) and [www.jamsadr.com](http://www.jamsadr.com). In the event of any conflict or inconsistency between this Arbitration Agreement and the administrator’s rules or other provisions of these Terms of Use, this Arbitration Agreement will govern. This Arbitration Agreement shall survive any termination of your access to the Site, the termination or suspension of your account, or any bankruptcy by you.

Each party to the arbitration shall pay his, her, or its own costs of arbitration as specified by the relevant rules. If you cannot afford your arbitration costs, you may apply for a waiver under the relevant rules. We will always pay any costs we are required to pay by law or the administrator’s rules or that we must pay in order for this Arbitration Agreement to be enforced. The parties will bear their respective attorney, expert, and witness fees and costs, unless applicable law, these Terms of Use, or the administrator’s rules provide otherwise.

The arbitrator shall be empowered to grant whatever substantive relief would be available in a court under applicable law or in equity on an individual claim, including, without limitation, compensatory, statutory, and punitive damages (which will be governed by the constitutional



standards applicable in judicial proceedings), declaratory, injunctive, and other equitable relief (but only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim), and attorneys' fees and costs. The arbitrator shall apply applicable statutes of limitations and privilege rules that would apply in a court proceeding. If the arbitrator determines that any party's claim or defense is frivolous or wrongfully intended to oppress or harass the other party, the arbitrator may award sanctions in the form of fees and expenses reasonably incurred by the other party if such sanctions could be imposed under Rule 11 of the Federal Rule of Civil Procedure. The arbitration hearing will take place in the federal judicial district where you reside, or at another place mutually agreeable to the parties.

**Jury Trial Waiver.** If a claim is arbitrated, the parties waive any right to a jury trial.

**Class Action Waiver.** If a claim is arbitrated, the parties waive any right to bring representative claims in court or in arbitration on behalf of a class of individuals, as a private attorney general, or otherwise, or to join or consolidate claims with claims of other persons or entities. An arbitration award shall determine the rights and obligations of the named parties only, and only with respect to the claims in arbitration. No arbitration administrator or arbitrator shall have the power or authority to waive or modify this section, and any attempt to do so, whether by rule, policy, arbitration decision, or otherwise, shall be invalid and unenforceable.

This Arbitration Agreement may be severed or modified if necessary to render it enforceable, except that: (A) if the class action waiver is declared invalid in a proceeding between you and us, and that determination becomes final after all appeals have been exhausted, this entire Arbitration Agreement (other than this sentence) shall be null and void in such proceeding; and (B) if a claim is brought seeking public injunctive relief and a court determines that the restrictions in the class action waiver or elsewhere in this Arbitration Agreement prohibiting the arbitrator from awarding relief on behalf of third parties are unenforceable with respect to such claim (and that determination becomes final after all appeals have been exhausted), the claim for public injunctive relief will be determined in court and any individual claims seeking monetary relief will be arbitrated. In such a case, the parties will request that the court stay the claim for public injunctive relief until the arbitration award pertaining to individual relief has been entered in court.

The arbitrator's award shall be binding on the parties, except for any appeal rights under the FAA, and may be entered as a judgment in any court of competent jurisdiction. No arbitration award involving the parties will have any preclusive effect as to issues or claims in any dispute involving anyone who is not a party to the arbitration, nor will an arbitration award in prior disputes involving other parties have preclusive effect in an arbitration between the parties to this Arbitration Agreement.

**RIGHT TO REJECT ARBITRATION AGREEMENT:** You may reject this Arbitration Agreement by mailing a signed rejection notice to Bay Equity LLC, 770 Tamalpais Drive, Suite 207, Corte Madera, CA 94925 within thirty (30) calendar days after the date you first use the Site. Any rejection notice must include your name, address, email address, telephone number, and a statement that you reject the Arbitration Agreement in the Terms of Use. If you reject this

Arbitration Agreement, that will not affect any other part of these Terms of Use. Rejecting this Arbitration Agreement will not constitute a rejection of any other arbitration agreement between you and us.

### **Changes to These Terms of Use**

You agree that we may from time to time amend all or any part of these Terms of Use, including, without limitation, changing the features and functionality of the Site. We will notify you electronically of any change to these Terms of Use as required by applicable law. Any such changes shall take effect as soon as they are posted on the Site as indicated by the “Last Updated” date above. Your use of the Site after the date that the changes take effect shall constitute your agreement to be bound by the terms of the change. You should also review these Terms of Use periodically for any changes. Notwithstanding the foregoing, we will not amend the Arbitration Agreement in a manner that adversely affects your rights or responsibilities in a material manner unless we give you a right to reject the amendment and/or the Arbitration Agreement in its entirety.

### **Contact Us**

If you have any questions about these Terms of Use, please contact us at [customercare@bayeq.com](mailto:customercare@bayeq.com).