# TERMS AND CONDITIONS OF SERVICE

**Last Modification**: [2 Nov 2021]

Please read the following Terms and Conditions of Service (“**Terms**”) carefully before using the ToNote Platform.

Your access to and use of the Platform is subject to your acceptance of and compliance with these Terms. These Terms apply to all Users, Notaries and others who access or use the Platform.

By using the ToNote Platform and Website, you accept these Terms.

# Definitions and Interpretation

In these Terms, unless the context otherwise requires, the following expressions have the following meanings:

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| --- | --- |
| **“Account”** | shall have the meaning given to it in paragraph 4; |
| **“Applicable Laws”** | means the Constitution of the Federal Republic of Nigeria, any national, provincial, state or local law, statute, bye-law, ordinance, decree, directive, regulation, standard, circular, guideline, rule, code, delegated or subordinated legislation, judicial act or decision, judgment, order, proclamation, directive, executive order, other legislative measure, binding actions or enactments of the Federal Republic of Nigeria or any other government authority in Nigeria; |
| **“Authorised Individual”** | means any officer authorised by the board of directors of ToNote to execute employment contracts; |
| **“Content”** | means the Platform, and the information, writings, images and/or other works that the User sees, hears or otherwise experience on the Platform; |
| **“Confidential Information”** | means all information (however recorded or preserved) disclosed by a Party (the “**Disclosing Party**”) or its representatives to another Party (the “**Receiving Party**”) under this Terms, or that a Receiving Party accesses from the Disclosing Party in connection with the Services ToNote provides under this Terms that meets one of the following two criteria: the information either (i) is identified by a “CONFIDENTIAL” legend or similar legend of the Disclosing Party, or (ii) is obtained under circumstances such that the Receiving Party knew or reasonably should have known that the Information should be treated as confidential to the Disclosing Party. Confidential Information includes information in any form or medium (whether oral, written, electronic, or other) and includes inventions; specifications; drawings; models; samples; reports; plans; financial information; work-in-progress; forecasts; computer programs or documentation; trade secrets; know-how; strategies; User Data including any User’s non-public personal information; |
| **“Document”** | means a document in an electronic form that a Signatory present on the Platform to be Notarised, sealed or otherwise used in connection with a Transaction or other Services; |
| **“Login Credentials”** | shall have the meaning in paragraph 4.2; |
| **“Intellectual Property Rights”** | means the patents, rights to inventions and discoveries, utility models, copyright, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, rights in designs, rights in computer software, database rights, moral rights, rights in confidential or proprietary information, (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world belonging to ToNote or its affiliates; |
| **“Materials”** | has the meaning given to it in paragraph 10.1; |
| **“Notarisation”** | means an authorised notarial act performed by a Notary in accordance with Applicable Laws; |
| **“Notary”** | means an individual sworn-in as a notary public by the Chief Justice of Nigeria to perform Notarisation; |
| **“Personal Data”** | means any information relating to an identified or identifiable natural person, including personal data or information as defined by the Applicable Laws governing this Agreement; |
| **“Platform”** | means the ToNote Platform which, among other things, allows authorised Users, Signatories, and Notaries and other Users to facilitate remote online notarisations, stamping, electronic signing and other remote document transaction services to individuals and businesses; |
| **“Registration Data”** | has the meaning given to it in paragraph 4.3; |
| **“Services”** | means the provision of the Platform to procure Notarisation, the execution of Documents and any other services and functionalities offered or facilitated by ToNote and provided to a User; |
|  |  |
| **“Signatory”** | means a User requesting an online Notarisation and making an acknowledgement, oath or affirmation before a Notary; |
| **“ToNote”** | means ToNote Technologies Limited; |
| **“Transaction”** | means a specific instance of Services requested by a Signatory on the Platform. A Transaction will typically involve a Document or set of Documents; |
|  |  |
| **User(s)** | means any individual that accesses the Platform, participates in any Transaction and is not employed by ToNote and acting in the course of their employment; References to “you”, “your” and “yours” should all be read as referring to a User; and |
| **User Data** | means all data and information regarding a User which may be provided by a User or gathered by ToNote as part of the Transaction. It includes each User’s provision of content, including but not limited to Personal Data, Registration Data, Login Credentials, Confidential Information, payment information, biometric information and documentational or other Transaction information; |

# About ToNote Platform

## ToNote provides a web-based technology platform which, among other things:

## allows the authorised Users, Signatories, and Notaries and other Users to facilitate remote online notarisations, stamping, electronic signing and other remote document transaction services to individuals and businesses; and

## enables the digitisation of stamps and seals for enterprises, ministries, departments and agencies of government and individuals.

## The Platform supports:

## notarial acts such as taking declarations, and administering an oath or affirmation;

## unnotarised signing; and

## witnessing by a signature witness.

# Agreement to be Binding

By accessing, using or interacting with the Platform, you automatically agree to be subject to these Terms, without any modification. If you disagree with any part of the Terms, you may not access the Platform.

# User Accounts

## To use the Platform, you must register and create an account (“**Account**”) and to be eligible to create an Account and you must be at least 18 years old.

## When you set up your Account, you will be required to create log-in credentials by providing certain types of personal information (“**Login Credentials**”).

## In registering for the Services, you agree (a) to provide true, accurate, current and complete information about yourself as prompted by the Platform’s registration form (“**Registration Data**”); and (b) to maintain and promptly update the Registration Data to keep it true, accurate, current and complete.

## You are responsible for maintaining the confidentiality of your Login Credentials and are solely responsible for all activities that occur using your Login Credentials. You agree not to allow a third party to use your Login Credentials at any time.

## ToNote reserves the right to terminate any username and password which ToNote reasonably determines may have been used by an unauthorized third party. You agree not to create an Account using a false identity or information, or on behalf of someone other than yourself.

## You agree not to create an Account or use the Services if you have been previously banned from the Platform unless approved by ToNote. Such approval shall be on a case-by-case basis.

# Obligations of the Notary

## If you are accessing the Platform in your capacity as a Notary then you agree that ToNote is your authorised Notarisation services vendor.

## You acknowledge and agree that you are providing Notarisations on behalf of Signatories whom have requested such Notarisations. Unless you have entered into a written direct employment agreement signed by an Authorized Individual at ToNote, you acknowledge that your agreement to this Terms will not create an employment or worker relationship between you and ToNote.

## As a Notary you agree to perform Notarisation only in accordance with the Applicable Laws in relation to what acts can or cannot be performed on the Platform and shall indemnify ToNote for any action taken in violation of any Applicable Laws.

## You are authorized to access and perform electronic notarial acts using the Platform only while you are duly commissioned or registered as a Notary as required by the Applicable Laws.

## You agree to promptly disclose any facts or circumstances that will preclude you from legally performing any notarial acts.

## You undertake as a Notary to fully participate in any training organised by ToNote on the use of the Platform before performance of any Notarisation. You also agree to fully participate in any training which ToNote might organise from time to time on the use of the Platform.

# Notarisation Rights and Grants

## A notary session using the Platform creates a file that is stored by us and other authorized persons under contract or by law electronically. The file may contain data that is used or collected during a User’s notary session comprising account information, identity-related information, photos, images, documents, session information, notary journal information, audio and video recording of the Session, credential information and other information collected in the notary session (collectively the “**Information**”).

## You understand and agree that by using the Platform, ToNote is not a party to any part of the notary session(s) and is not responsible for retaining any Information for a specified period of time for your use.

## ToNote does not confirm the legality of (i) electronic signatures of persons other than Signatories; (ii) documents, their preparation and legal effect, and that any issues are between you as a User and the Notary in this section.

# Prohibited Uses

## You may use the Platform only for lawful purposes and in accordance with these Terms.

## You agree not to use the Platform:

## in any way that violates any Applicable Law;

## for the purpose of exploiting, harming or attempting to exploit or harm minors in any way by exposing them to inappropriate content, asking for personally identifiable information or otherwise;

## to send, knowingly receive, upload, download, use or re-use any material which does not comply with these Terms;

## to transmit, or procure the sending of, any advertising or promotional material, including any “junk mail,” “chain letter,” “spam” or any other similar solicitation;

## to impersonate or attempt to impersonate ToNote, an employee of ToNote, another user or any other person or entity (including, without limitation, by using e-mail addresses or user names associated with any of the foregoing);

## to engage in any other conduct that restricts or inhibits anyone’s use or enjoyment of the Platform, or which, as determined by ToNote, may harm the ToNote or users of the Platform or expose them to liability;

## to use the Platform in any manner that could disable, overburden, damage or impair the Platform or interfere with any other party’s use of the Platform, including their ability to engage in real time activities through the Platform;

## to use any robot, spider or other automatic device, process or means to access the Platform for any purpose, including monitoring or copying any of the material on the Platform;

## to use any manual process to monitor or copy any of the material on the Platform or for any other unauthorized purpose without our prior written consent;

## to use any device, software or routine that interferes with the proper working of the Platform;

## to introduce any viruses, trojan horses, worms, logic bombs or other material which is malicious or technologically harmful;

## to attempt to gain unauthorized access to, interfere with, damage or disrupt any parts of the Platform, the server on which the Platform is stored, or any server, computer or database connected to the Platform;

## to attack the Platform via a denial-of-service attack or a distributed denial-of-service attack; or

## to otherwise attempt to interfere with the proper working of the Platform.

# Intellectual Property and other Rights

## The Platform is protected by applicable intellectual property and other laws, including trademark and copyrights laws and treaties. The Platform, including all Intellectual Property Rights in the Platform, including the Content, belongs to and is the property of ToNote or its licensors (if any). Neither these Terms nor your access and use of the Platform gives you any ownership rights or licenses to the Content.

## Subject to the Terms herein, ToNote grants you a limited, non-exclusive and non-transferable license to access and use the Platform as expressly permitted in these Terms and any applicable paid User plan that enables registration of an Account for the use of the Platform, when applicable.

## The rights granted to you in the Terms are subject to the following restrictions:

## you shall not license, sell, rent, lease, transfer, assign, reproduce, distribute, host or otherwise commercially exploit or create derivate works based on the Platform, Content and back-end databases, (collectively, “**ToNote’s** **Properties**”) or any portion of ToNote’s Properties;

## you shall not frame or utilize framing techniques to enclose any trademark, logo, or other ToNote’s Properties (including images, text, page layout or form) of ToNote;

## you shall not use any metatags or other hidden text using ToNote’s name or trademarks;

## you shall not modify, translate, adapt, merge, make derivative works of, disassemble, decompile, reverse compile or reverse engineer any part of ToNote’s Properties except to the extent the foregoing restrictions are expressly prohibited by Applicable Law;

## access ToNote’s Properties in order to build a similar or competitive website, application or service;

## except as expressly stated herein, no part of ToNote’s Properties may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means;

## you shall not remove or destroy any copyright notices or other proprietary markings contained on or in ToNote’s Properties; and

## you shall not use ’s Properties for any illegal or unlawful purpose.

## Any unauthorized use of ToNote’s Properties may result in the immediate termination of your right to use the Platform, as well as, potential liability for copyright infringement or other claims depending on the circumstances.

# Data Protection

## ToNote shall comply with the requirement of Applicable Laws relating to the use of Personal Data in connection with the Platform.

## The User warrants that it has the legal right and authority to disclose any and all data disclosed on the Platform and indemnifies and holds ToNote harmless for any violation of this provision.

## The User authorizes ToNote to engage third parties to provide services on the Platform as may be reasonably required, at ToNote’s sole discretion.

## the User authorizes and grants its consent for ToNote to:

## review, copy, reformat, modify, display, distribute, or otherwise use your information to provide services on the Platform;

## capture and store data and information relating to User’s account, identity validation, Transaction, and Services;

## store, record, distribute, alter, copy transmit and display Transaction information, documents and identity validation information of the User for any valid legal or business purpose, and further to maintain and display such information on the Platform’s Verification Portal to Customer and other Verification Portal Users, including, without limitation User Confidential Information and User Personal Data that is part of any Transaction information, Documents and identity validation information;

## convey your information to other parties to your Transaction, or to those with appropriate authority, or to other third parties as provided by relevant agreements or applicable law;

* + 1. store, record, distribute, alter, copy, or otherwise use in any manner, format and on any device or medium the Information from the Transaction for any valid legal or business purpose and no charge to us;

## transmit User’s information to service providers in connection with services rendered; and

## store, maintain, display, and otherwise provide access to User Data in notary journals and other records of Services and Transactions.

## User represents and warrants that it has sufficient authority and rights to provide the grant of rights and authorizations.

# User Information and Materials

## You represent that you have all right title, and interest to materials you post on the Platform or Documents you provide to ToNote ("**Materials**"), including but not limited to any consent, authorization, release, clearance or license from any third party (such as, but not limited to, any release related to rights of privacy or publicity) necessary for you to provide, post, upload, input or submit the Materials, and that posting such Materials does not violate or constitute the infringement of any patent, copyright, trademark, trade secret, right of privacy, right of publicity, moral rights, or other Intellectual Property Right recognized by any applicable jurisdiction of any person or entity, or otherwise constitute the breach of any agreement with any other person or entity.

## You further represent and warrant that you are who you say you are, that you have not submitted fictitious, false or inaccurate information about yourself, and that all information contained in the posted Materials is true and your own work or work you are authorized to submit, and that the posted Materials do not contain any threatening, harassing, libelous, false, defamatory, offensive, obscene, or pornographic, material, or other material that would violate any Applicable Law or regulation. You agree that you will not knowingly and with intent to defraud provide material and misleading information.

## You represent and warrant that the Materials you supply do not violate these Terms.

# System Outages

## ToNote periodically schedules system downtime for maintenance and other purposes. In addition, unplanned system outages also may occur. ToNote does not have any liability and you waive all liability whatsoever for the resulting unavailability of the Platform or for any loss of data or transactions caused by planned or unplanned system outages or the resultant delay, mis-delivery or non-delivery of information caused by such system outages.

## ToNote shall not have any responsibility for any third-party acts or any other outages of web host providers or the internet infrastructure and network external to the Platform.

# Consent

## You consent to conduct electronic transactions and receive electronic communications through the Platform. This includes your consent to: (i) send and receive documents electronically; (ii) conduct business and complete transactions electronically. You understand that you are not required to give legal consent, however, if you decline, you will not be able to use the Platform.

## You consent to the verification and authentication of your identity using third-party services. These methods may include using the Information, databases, audio and video conferencing technology, SMS text or email verification, credit reports, or other third party or other information with our Service or by third parties using any identify proofing methods, such as forensics, knowledge-based questions, biometrics, in any combination of hardware and software.

## You grant permission to ToNote to create and store an electronic record of online notarisations, including a recording of the video and audio conference between a Signatory and a Notary on the Platform. The electronic record also includes the date and time of the notarisation; the type of notarial act; the type, the title, or a description of the electronic document or proceeding; the name and address of each Signatory involved in the Transaction or proceeding; evidence of identity of each Signatory involved in the Transaction or proceeding in the form of statement that the person is personally known to the Notary, or a notation of the type of identification document provided to the Notary and a record of the identity proofing and credential analysis; and the fee charged for the notarisation.

## You grant permission to ToNote to use your name and/or logo as part of ToNote’s marketing and promotional efforts.

# Fees

## The fee for the Services are as follows:

|  |  |
| --- | --- |
| **Item** | **Cost (₦)** |
| **Minimum Viable Product (MVP) Plans** | |
| Basic Plan | free |
| ToNote Pro Plan | 12,500 |
| ToNote Business Plan | custom |
| **Seals** | |
| Single Seal | 8,000 |
| Additional Seal | 4,000 |

## The ToNote Business Pro Plan fee shall be paid on a monthly basis in arrears. Other fees not included within the Business Pro Plan, such as the price of seals, shall be paid at the time of each Transaction. All fees for seals shall be due upon completion of the Transaction and you will not be able to access the applicable Document until payment is made.

## The prices, features, and options of the Platform depend on the plan selected by a User. ToNote does not represent or warrant that a particular plan will be offered indefinitely and reservces the right to revise the prices for or alter the features and options in a paticular plan without prior notice.

## All payments required by these Terms are exclusive of all applicable taxes, duties, levies, charges.

## All payments shall be via debit card, direct debit, bank transfer or other methodology as may be provided on the Platform by ToNote.

## In the event of any disputes with the fees charged, you shall notify ToNote within 15 days from payment to enable ToNote investigate the discrepancy and reimburse where necessary.

# Third-Party Web Sites

## ToNote may, from time to time, provide links on the Platform to third party websites or information, these links are provided solely as a convenience to you. Such links do not constitute or imply an endorsement, sponsorship, or recommendation by ToNote of the third party, the third-party website, or the information there.

## ToNote has no control over, nor assume any responsibility for, the content, privacy policies, or practices of any third-party websites or services. You further acknowledge and agree that ToNote shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such content, goods or services available on or through any such websites or services.

# Downloading files

## ToNote cannot and does not guarantee or warrant that files available for downloading through the Platform will be free of infection by software viruses or other harmful computer code, files or programs.

# Disclaimers

## ToNote and its service providers, licensors and suppliers make no representations about the suitability, reliability, availability, timeliness, security or accuracy of the Platform or the Content for any purpose. To the maximum extent permitted by Applicable law, all such information, software, products, service and related graphics are provided "as is" without warranty or condition of any kind.

## ToNote and its service providers, licensors and suppliers hereby disclaim all warranties and conditions of any kind with regard to the Platform and the Content, including all implied warranties or conditions of merchantability, fitness for a particular purpose, title and non-infringement.

## No statement or information, whether oral or written, obtained from ToNote in any means or fashion will create any warranty not expressly and explicitly set forth in this agreement.

## The Content may include inaccuracies or typographical errors.

# Indemnification and Limitation of Liability

## Except to the extent prohibited by any Applicable Law, you agree to defend, indemnify, and hold ToNote, its subsidiaries, affiliated companies, licensors, employees, agents, and any third-party information providers, harmless, including costs and legal fees, from any claim or demand made by any third party due to or arising out of:

## your use, misuse, or inability to use the Platform or the Content,

## your violation of these Terms, or

## your violation of Applicable Laws.

## To the extent not prohibited by law, in no event shall ToNote be liable for any direct, indirect, incidental, special, punitive, exemplary, indirect, consequential or other types of damages whatsoever, including, without limitation, damages for loss of profits, loss of data, business interruption or any other commercial damages or losses, arising out of or related to your use or inability to use the Platform; any information available on the Platform; however caused, regardless of the theory of liability (contract, tort or otherwise) and even if ToNote has been advised of the possibility of such damages.

## In no event shall ToNote’s total liability to you for all damages (other than as may be required by applicable law in cases involving personal injury) exceed the amount paid by you for using the Platform. Provided that where the loss suffered is due to the negligence of the Notary, the Notary shall bear full liability.

## The foregoing limitations will apply even if the above stated remedy fails of its essential purpose.

## ToNote reserves the right to control the defense of any matter for which you are required to indemnify us, and you agree to cooperate with our defense of these claims.

# Updates and Communications

## ToNote reserves the right, at its sole discretion, to modify the Platform, Content and these Terms or any additional terms and conditions that are relevant to the Platform from time to time to reflect changes in the law or to the Services.

## ToNote will post the revised terms on the Platform with a “**Last Modification**” date. Please review the Platform on a regular basis to obtain timely notice of any revisions. If you continue to use the Platform after the revisions take effect, you agree to be bound by the revised terms. You agree that ToNote shall not be liable to you or to any third party for any modification of the Terms.

## You agree to receive all communications, agreements, and notices that ToNote provides in connection with the Services (“**Communication**”), including, but not limited to, Communications related to ToNote’s delivery of the Services and your purchase of or subscription to the Platform via electronic means, including by e-mail, text, inproduct notifications, or by posting them on the Platform. You agree that all Communications ToNote provides to you electronically satisfies any legal requirement that such Communications be in writing or be delivered in a particular manner and to agree to keep your Account contact information current.

# Reference to Privacy Policy

For more information on the types and use of personal information ToNote will collect in order to create your Login Credentials and Account, please review our [insert link to Privacy Policy].

# Force Majeure

ToNote is not liable for any loss incurred by a User due to our delay or nonperformance arising out of any cause or event beyond our control, including acts of civil or military authority, national emergencies, epidemics, pandemics, labor difficulties, fire, mechanical breakdown, flood, catastrophe, acts of God, insurrection, war, riots, computer failure, communications failure, or power failure.

# Severance

## If any provision or part-provision of this Terms is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this Clause shall not affect the validity and enforceability of the rest of this Terms.

# Termination

## ToNote may cancel, suspend or block your use of the Platform without notice if there has been a violation of these Terms. Your right to use the Platform will end once your registration is terminated, and any data you have stored on the Platform will be deleted, unless ToNote is required to retain it by law or for other valid business purposes.

## You may terminate your registration at any time. ToNote is not responsible or liable for any records or information that is made unavailable to you as a result of your termination of registration. You agree that ToNote will not be liable to you or any other party for any termination of your access to the Service.

# Governing Law and Jurisdiction

## This Terms and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed and construed in accordance with the laws of the Federal Republic of Nigeria.

## The User agrees that any dispute, difference or claim arising out of or in connection with this Terms shall be resolved amicably by both parties within 30 days through negotiations failing which the dispute shall be settled exclusively and finally by Mediation. There shall be a mediator appointed by the Director of the Lagos Multi-Door Courthouse who shall settle such dispute.

## Both Parties agree that the decision of the mediator is final and that they shall be bound by same and keep the contents of the mediation proceedings strictly confidential.

## The language of the mediation shall be English, the venue of the mediation shall be Lagos, Nigeria and the cost of the mediation proceedings shall be borne by the breaching party as determined by the appointed mediator.

# No-Partnership or Agency

No agency, partnership, joint venture, or employment is created as a result of these Terms and you do not have any authority of any kind to bind ToNote in any respect whatsoever; instead, our relationship is that of independent contractors.

# Miscellaneous

## These Terms create no third-party beneficiary rights to ToNote’s products and services or to any third party product made available through the Platform.

## Section headings are for ease of reference only.

# Contact Us

If you have questions or concerns with respect to these Terms, please contact us at [insert contact details].