



**AFFILIATED MORTGAGE COMPANY**

***Wholesale / Mini Correspondent***

## **MORTGAGE BROKER AGREEMENT**

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This Mortgage Broker Agreement ("Agreement") is entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2013; by and between AFFILIATED MORTGAGE COMPANY "AMC" ("Lender") whose principal address is 10700 Richmond Avenue, Suite 150, Houston, TX 77042 and the following company (including any employee or agent of such company, "Broker"):

Name: \_\_\_\_\_  
(Company name exactly as is appears on license or is registered with the state)

DBA: \_\_\_\_\_

Address: \_\_\_\_\_

RECITALS: \_\_\_\_\_

1. Broker desires from time to time to submit mortgage loan applications to Lender for possible funding.
2. Lender desires from time to time as its needs dictate, to close and fund acceptable mortgage loan applications submitted by Broker (each such funded loan shall be called a "Loan").
3. Broker and Lender desire to establish the circumstances under which mortgage loan applications may be submitted and closed and funded in accordance with applicable state and federal laws and regulations.
4. AMC is duly organized, validly existing and in good standing under the laws governing its formation and existence, has all licenses necessary to carry on its business as now being conducted, and is duly authorized and qualified to transact in each applicable state any and all business contemplated by this Agreement. AMC has all requisite power and authority to execute and deliver this Agreement and to perform all obligations required of it hereunder.

NOW THEREFORE, upon consideration of the mutual promises herein, the parties hereto agree as follows:

1. **PRESENTATION OF MORTGAGE LOAN APPLICATIONS, LOAN APPROVAL, AND CLOSING OF LOANS.** During the term of this Agreement, Broker shall be entitled to present mortgage loan applications to Lender for review, subject to the terms and conditions stated herein. Nothing herein shall constitute a representation or commitment by Lender to approve any loan application for closing or funding. Lender's determination as to whether to approve or deny any loan application is final and conclusive to the parties hereto. Broker shall not represent that Lender has approved or will approve any Loan until Broker is so informed by Lender in writing. All Loans shall close in Lender's name, unless otherwise agreed to by Lender. Where Lender agrees to allow Broker to close in its name, Broker agrees to execute any documents required by Lender to perfect Lender's interest in the Loan. If Lender, in its sole discretion, approves a loan application, Lender shall issue an approval letter setting forth the conditions upon which Lender will fund the Loan, as well as the expiration date of the approval letter. Lender shall have no obligation to fund a Loan prior to fulfillment of all funding conditions contained in the approval letter, all applicable terms of this Agreement, and all other Lender requirements previously disclosed to Broker.
2. **GENERAL BROKER RESPONSIBILITY.** At Broker's sole cost and expense, Broker may (a) submit to Lender completed Loan packages for borrowers under such programs, procedures, guidelines, and fee schedules as Lender periodically may establish; (b) furnish Lender all available borrower credit, financial, and other information as Lender may require; (c) provide such information as Lender may reasonably request to assist Lender in marketing the Loans to secondary market investors and to private mortgage insurance companies (if applicable); (d) originate and process each Loan in full compliance with FNMA, FHLMC, FHA, VA and such other investors and requirements as Lender may identify in its product manuals; (e) perform such other services as Lender shall require to close the Loan(s); (f) provide a written explanation of why any borrower approved by Lender fails to close a Loan; and (g) provide Lender with any information that could adversely affect any Loan package. The contents of all Loan packages submitted to Lender immediately shall become the property of Lender, and all information contained therein may be subject to Lender's independent verification.

3. REPRESENTATIONS AND WARRANTIES WITH RESPECT TO SPECIFIC MORTGAGE LOAN APPLICATIONS. Broker represents, warrants and covenants as to each mortgage loan application submitted to Lender that:

a. Each mortgage loan application complies with all the requirements, conditions and procedures set forth in this Agreement and each Loan submitted shall meet the following conditions:

1) All Loan applications shall be taken by Broker or, if received via transfer from another broker, shall contain a transfer letter without recourse.

2) Broker shall process all Loan applications and shall obtain such information and documentation as shall allow Lender to underwrite the Loans in compliance with Lender's guidelines and investor guidelines.

3) The property securing the Loan shall have been appraised by an appraiser approved by Lender within a time period acceptable to, and established from time to time by, Lender, FNMA, FHLMC, FHA, VA, and other investors.

4) The unpaid principal balance of a Loan shall not be less than that specified in Lender's guidelines unless otherwise agreed to and approved by Lender in writing.

5) Broker shall execute all documentation required to close and fund Loans to be purchased by Lender, including, if applicable, the assignment of the Loans transferring and assigning to Lender all right, title, and interest in and to said Loans, free and clear of any and all claims, charges, defenses, offsets, demands, or encumbrances of any kind or nature whatsoever.

6) Each Loan shall be secured by a valid and subsisting first or second lien on the property described in the security instrument, free and clear of all liens having priority over such first or second lien, except for real estate taxes and special assessments not yet due and payable and, in the case of a second lien, the first lien against the property.

7) The note and security instrument executed in connection with a Loan shall not be modified without Lender's prior written permission. All documents affecting said Loan shall be genuine and each shall be legal, valid, and binding obligations of the borrowers. The note shall be payable on the first day of each month and with a term not longer than thirty (30) years.

8) There shall be no proceeding pending for the total or partial condemnation of the property securing the Loan. The property shall be undamaged by waste, fire, or earthquake and shall not be located on or near a hazardous waste or substance disposal site.

9) All Loan proceeds will be fully disbursed, and there will be no requirement for future advances.

10) Each Loan shall be insured by a TLTA or ALTA mortgagee policy of title insurance issued by a title insurer qualified to do business in the jurisdiction in which the Loan closes and in which the insured property is located.

11) The Loan shall not be subject to any right of rescission (unless required by law), set-off, counterclaim, or defense, including the defense of usury.

12) The loan-to-value ratio at origination shall not be more than the percentage as specified in Lender's guidelines for such Loan product.

13) Broker shall have provided notification to each borrower and private mortgage insurance company (if applicable) of the transfer of the Loan as may be required by federal, state, or local laws, rules, regulations, or requirements. A copy of each notification shall be contained in the Loan file assigned to Lender.

14) Broker shall have obtained and provided to Lender all necessary endorsements to flood, fire, hazard, and extended coverage insurance policies as shall be necessary to show Lender or its successors and/or assigns as loss payee. A copy of each notification shall be contained in the Loan file assigned to Lender.

b. All documents and instruments submitted in connection with the mortgage loan application are, in every respect, valid and genuine, conform to all applicable state and federal laws and regulatory requirements, are complete and accurate as to information therein, contain no misleading information, have been prepared, executed and copies delivered as required by law, and all signatures and initials thereon are authorized and genuine;

c. Broker has disclosed all facts of which it has knowledge and which are material to the subject matter of this Agreement and each mortgage loan application to Lender; neither this Agreement nor any loan documentation submitted to Lender contains any misstatement of material fact or omits to state a material fact necessary to make the statements contained therein not misleading; all information reported by the applicant to Broker has been completely and accurately submitted to Lender; Broker has no knowledge of any adverse information concerning applicant or any aspect of the submitted mortgage loan application which is not reflected in any of the written documents submitted to Lender by Broker;

d. Broker has complied with all applicable federal and state laws, rules and regulations in performing its activities with respect to the mortgage loan application, including but not limited to, the Real Estate Settlement Procedures Act ("RESPA" herein) and Regulation X, the Equal Credit Opportunity Act and Regulation B, the National Flood Insurance Program, the Truth In Lending Act and Regulation Z;

e. No bankruptcy petition, either voluntary or involuntary, is pending against the individual or individuals applying for a Loan;

f. No borrower shall have had in his or her direct or indirect possession or control any credit, income, or deposit verification document submitted to Lender with respect to any Loan. Broker will not allow any other entity or individual to completely or partially take the borrower's application or process the documents, unless such request is made to Lender in writing prior to submission and agreed to in writing by Lender.

g. Except as otherwise disclosed to Lender in writing before the funding of any Loan, Broker shall have no direct or indirect ownership interest in any property that is security for the Loan. Broker shall be the lawful owner of any Loan at the time the same is submitted to Lender.

h. No fee, commission, kickback, referral fee, or tangible or intangible compensation of any kind whatsoever has been or will be given, received, or retained by Broker, or to Broker's knowledge, by any other firm, person, or entity except such fees as are disclosed in the settlement statement, all of which shall be in accordance with all applicable laws.

4. **ADDITIONAL REPRESENTATIONS AND WARRANTIES.** Broker hereby represents and warrants to Lender as follows:

a. Under and according to the laws of each of the states and local jurisdictions in which Broker originates mortgage loan applications for submission to Lender, Broker (a) is in good standing; (b) is duly licensed, registered or otherwise authorized to transact business in order to perform its obligations hereunder; (c) will, during the term hereof, maintain such licenses, registrations and/or authorizations, and (d) if not a natural person, is a legal entity created by or under the authority of the laws of a state or the Federal government, validly existing and in good standing;

b. If Broker is not a natural person, the execution and delivery of this Agreement by Broker and the performance by Broker of the obligations by it to be performed hereunder have been duly authorized by all necessary corporate or partnership actions;

c. The execution and delivery of this Agreement by Broker and the performance by Broker of the obligations by it to be performed hereunder do not, and will not, violate any provision of any law, rule, regulation, order, writ, judgment, injunction, decree, determination or award presently in effect having applicability to Broker or of the Articles of Incorporation, By-Laws, Partnership Agreement, or other such governing instrument, if any, of Broker, whether any of the above are presently effective or known to be effective;

d. This Agreement constitutes, when duly executed and delivered by Broker, a legal, valid and binding obligation of Broker enforceable against Broker according to its terms;

e. There are no actions, suits, arbitration, or proceedings pending or, to the best knowledge of Broker, threatened against or affecting the Broker or the properties of Broker before any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, which, if determined adversely against Broker, would have a material adverse effect on the financial condition, properties or operation of Broker and nothing has been done or omitted that would have the effect of invalidating the private mortgage insurance policy or contract;

f. The individual or individuals applying for a Loan have no claim or defense against Broker, or any other agent, assignee or successor of Broker by reason of act or omission by Broker, its directors, officers, agents or employees;

g. There are no third party claims for brokerage commissions or finder's fees in connection with the mortgage loan application, and Broker agrees to exonerate, indemnify and hold harmless Lender with respect to any and all losses sustained as a result of liability to any third party on the basis of any arrangement or agreement made by or on behalf of Broker.

5. **REPRESENTATIONS AND WARRANTIES WITH RESPECT TO CONSUMER PRIVACY.**

a. Broker hereby represents and warrants to Lender, that with respect to Broker's use of Lender's internet web site ("Web Site") it will, in accordance with applicable state and federal law, including the Gramm-Leach-Bliley Act and the Federal Trade Commission's implementing regulations:

1) Safeguard the security and confidentiality of customer information on the Web Site by permitting only authorized employees to have access to the Web Site and instructing authorized users that sharing, internally or externally, user identifications and passwords is prohibited; and

2) In a timely manner denying access to those individuals no longer employed by Broker by promptly changing passwords and/or deleting or causing the deletion of user identifications and passwords assigned to such individuals.

b. In addition to the representations and warranties set forth in the Agreement, Lender and Broker hereby represent and warrant to one another, that it will, in accordance with applicable state and federal law, timely create, implement and maintain a written information security program designed to:

1) Insure the security and confidentiality of customer records and information; and

- 2) Protect against any anticipated threats or hazards to the security or integrity of such records; and
- 3) Protect against unauthorized access to or use of such records or information which could result in substantial harm or inconvenience to any customer.

#### 6. INDEMNIFICATION

In connection with the covenants, obligations, representations, warranties, terms and conditions to be performed and complied with by Broker pursuant to this Agreement, and in connection with any mortgage loan application submitted by Broker to Lender (whether or not Lender accepts such mortgage loan application), Broker agrees to defend by legal counsel acceptable to Lender, indemnify and hold harmless Lender from all liens, damages, deficiencies, liabilities, claims and expenses resulting from

- a. Broker's breach of any covenant, obligation, representation, warranty, term or condition in this agreement;
- b. Any negligent or willful act or omission by Broker in the performance of Broker's obligations under this Agreement; or
- c. Any violation by Broker of any federal, state, or local law or regulation pertaining to the activities contemplated by this Agreement.

If a Loan pays off on or before its sixth (6th) scheduled payment due date, Broker agrees to refund any premium price (rebate) paid to Broker by Lender, and to indemnify Lender for any losses, penalties or indemnification expenses incurred by Lender as a result of such violation.

Lender agrees to hold harmless Broker and indemnify Broker against any losses, including attorney's fees and costs, which result from Lender's breach of any covenant, obligation, representation, warranty, term or condition in this Agreement as long as the breach was not a result of negligence on the part of the Broker or failure by Broker to transfer relevant information to Lender.

#### 7. REPURCHASE.

a. Repurchase by Broker of any Loan funded by Lender will be required if Lender determines, at any time, that Broker breached or failed to fully comply with any representations or warranty contained in this Agreement in any material respect or if Lender suffers a loss by reason of Broker's breach of any representations or warranty contained in this Agreement. For each Loan subject to repurchase hereunder, Broker shall repurchase such Loan within seven (7) calendar days of notice for an amount equal to the sum of, as of the time of repurchase, (i) the unpaid principal balance of, plus accrued interest on, the Loan, (ii) the amount of any premium or sum in excess of the principal balance of the Loan paid by Lender to Broker, (iii) the aggregate amount of any advances made by Lender for the account of the mortgagor, and (iv) any attorney's fees, legal expenses, court costs or other expenses which have been incurred or expended by or on behalf of Lender in connection with such Loan. In addition to any rights which may be granted under applicable state or federal law, should Broker fail or refuse to pay the amounts required pursuant to this paragraph to Lender, then Lender may exercise a right of set-off and deduct amounts due and owing pursuant to this paragraph from any amounts owed by Lender to Broker. Broker shall also repurchase from lender any Loan sold to lender in the event that an allegation of fraud results in lender repurchasing said Loan from any party to whom the Loan has been sold or assigned.

b. With regard to any loan brokered to AMC and in any instance where AMC is required by a subsequent mortgage servicer or mortgage investor (hereinafter: "Investor") of said Loan to pay to the Investor yield spread premiums, servicing released premiums, service or administrative fees or any other penalties or costs resulting from a borrower default under the terms of the related mortgage, Broker will, upon receipt of a demand from AMC, pay to AMC the amounts AMC paid Broker for those items listed by the Investor. Broker agrees to pay the amount demanded by Lender within 30 days of Lender's receipt of such demand provided, however, that lender provide to broker documentation evidencing the requirement from the Investor demanding such payment from Lender and that such default occurred within the first four installments due to the Investor based upon the terms of the mortgage note unless the sale of the Loan by lender to an Investor was delayed by actions of the Broker. Should the sale of the lender to an Investor was delayed by actions of the broker. Should the sale of the loan be delayed due to any broker action or inaction, lender reserves the right to extend the duration of the terms of this section beyond the four installments due to the Investor.

c. Lender, at its sole option, may allow for indemnification against losses and expenses (including but not limited to out-of-pocket costs, attorney's fees, servicing and other premiums and losses on the liquidation of a Loan) as a remedy as opposed to the outright repurchase of a Loan. Broker's obligation to fully indemnify Lender under this Agreement shall not be affected by the Lender's taking any of the following actions with or without notice to the Broker: (i) liquidation, repayment, retirement, or sale or resale of any Loan; (ii) foreclosure of any Loan; or (iii) sale or resale of the property that is the subject of any Loan.

d. Broker's obligations under this Section and Section 6 above apply to any Loans submitted by Broker to Lender: (i) regardless of what role Broker plays in originating the Loan; and (ii) includes, without limitation, Loans that are assigned to Lender prior to funding and Loans that are table-funded by Lender.

8. ATTORNEYS' FEES. If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party or parties shall be entitled to reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which it or they may be entitled.

9. ASSIGNMENT. Broker may not transfer, assign, or otherwise convey this Agreement or its rights or obligations hereunder without the express written consent of Lender. Lender may transfer, assign or otherwise convey this Agreement and its rights and obligations hereunder provided that the assignee assumes either expressly in writing or by operation of law all of Lender's obligations under this Agreement.

a. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their successor and permitted assigns.

b. Nothing in this Agreement, express or implied, is intended to confer on any person other than the parties hereto, and their successors and permitted assigns, any rights, obligations, remedies or liabilities.

10. TERMINATION. Either Broker or Lender may terminate this Agreement at any time by way of written notice. Such termination shall not affect or cancel the obligation of either party to fulfill any commitments, representations, warranties or indemnifications made under this Agreement prior to its termination. In the event Broker's breach of any of the warranties or representations herein gives Lender reasonable cause to believe that its remedies under Sections 6 and 7 herein will be inadequate, or Broker fails to comply with any demand for performance required by this Agreement, Lender may terminate this Agreement, including any obligations to fund mortgage loan applications under any outstanding commitment. Notwithstanding the termination, Lender shall have the option to fund any mortgage loan applications covered by a commitment issued by Lender prior to the date of termination.

11. RIGHT TO DELIVERY. Broker recognizes that Lender intends to rely on its Agreement with Broker and will, without notice to Broker, make binding commitments in reliance thereon. Broker agrees that any loan which Lender has agreed to fund, shall be funded only by Lender and not delivered to another entity unless declined by Lender. Lender acknowledges that Broker has no control over the borrower and has no liability for borrower's failure to perform or desire to withdraw the application.

12. NO SOLICITATION. During the twelve (12) month period after the Lender's funding of a Loan, Broker agrees not to solicit, seek to encourage or make any inquiry of the borrower with respect to potential refinancing of such Loan. If Broker receives any inquiry from any such borrower within such period regarding possible refinance of such Loan, Broker shall immediately refer such inquiry to Lender. Lender may, in its sole discretion, permit such refinance and agree to purchase the refinance Loan for such price, and on terms and conditions acceptable to the Lender, taking into consideration the recovery of any premium paid to the Broker with respect to the Loan being refinanced. If Broker violates this section, Broker agrees to refund any premium price (rebate) paid to Broker by Lender, and to indemnify Lender for any losses, penalties or indemnification expenses incurred by Lender as a result of such violation.

13. NO AGENCY. Broker acknowledges and agrees that nothing in this Agreement, or in the relationship between Broker and Lender, including the acceptance by Lender of any mortgage loan application submitted by Broker, authorizes Broker to act in any way as the agent or representative of Lender and that at no time shall a Broker represent to any third party that it is acting as an agent for or on behalf of Lender. Lender's funding of any mortgage loan application shall not be an indication that Lender has authorized or ratified any actions of Broker. This Agreement merely authorizes Broker to submit for review to Lender mortgage loan

applications, which applications may be accepted or rejected at Lender's sole discretion.

Broker shall not be considered, under the provisions of this Agreement or otherwise, as having employee status. Broker shall have no authority to bind, obligate or commit Lender by any promise or representation unless specifically authorized by Lender in writing in a particular transaction. This Agreement shall not be construed as a partnership or joint venture, and neither party hereto shall be liable for any obligation incurred by the other.

Both parties agree Broker is in all respects an independent contractor. Nothing in this Agreement is intended nor shall it be construed to make Broker an employee, partner or joint venturer of Broker. Broker shall not represent or imply any such relationship with Lender.

Broker is prohibited from using Lender's name or logo in any form of advertising without Lender's express prior written consent.

14. **PRICING AND FEES.** Lender agrees to pay Broker compensation for the loan services performed by Broker at the rate set by Lender from time to time as set forth in Lender's programs and pricing options. Both Lender and Broker agree that the compensation paid by Lender for the loan services performed by Broker is intended to reflect the reasonable value of such services in the market in which the Broker performs such services. In the event applicable law, regulation, court, regulatory agency or entity with similar authority determines that the reasonable value of such compensation or the method used to determine the value of such compensation exceeds the reasonable value of such compensation, the parties hereto agree to modify the amount paid for such services. Broker shall fully disclose to each borrower on each Loan all compensation received for his or her loan services, including all compensation received by Broker from Lender. No services performed by Broker shall be duplicative of any services performed by Lender.

If Lender does not close and fund a loan submitted by Broker for any reason, Lender shall have no obligation to pay Broker for the performance of loan services on such aborted loan, nor will Lender have any obligation to reimburse Broker for any costs or expenses in connection with such aborted loan.

Broker shall promptly pay in full all costs and expenses directly or indirectly incurred in performing its duties hereunder, regardless whether the loan associated with such charges is ultimately closed and funded.

Each mortgage loan application accepted for closing and funding by Lender will be closed and funded by Lender at the "lock-in" rate and price agreed upon between Broker and Lender, provided it is closed on or before any expiration date identified by Lender. Broker and Lender agree to cooperate to ensure that each party receives the fees and premiums to which it is entitled for each Loan. Any fee, commission, or other consideration payable to Broker with respect to any Loan shall be paid only after Lender deducts from the Loan proceeds all of its fees and charges. No fee shall be owed to Broker on account of any proposed mortgage loan that is not funded and closed.

15. **FACILITIES.** Broker acknowledges that Lender has no responsibility or obligation to provide Broker with any personnel, material, facilities or equipment required by Broker to perform its responsibilities under this Agreement.

16. **NON-EXCLUSIVITY.** This Agreement shall be non-exclusive as to both Lender and Broker. It is expressly understood that notwithstanding the execution of this Agreement, the submission of any mortgage loan application by Broker to Lender hereunder or any covenants and agreements contained herein, Lender may make loans with or without the assistance of Broker and may use the services of other brokers, and Broker may make loans or submit mortgage loan applications to other lenders.

17. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties with respect to the relationship hereby established and shall supersede and cancel all prior agreements, offers and negotiations whether in writing or otherwise.

18. **RESTRICTIONS.** Broker agrees to comply in all respects with the current or future modifications to lending policies and the Broker will not convey to any applicant any information which is inconsistent with those policies or current rates as published by Lender. Should this Agreement be terminated for any reason whatsoever, Broker will not divulge to anyone, except as required by law or court order, any information regarding any past borrower or applicant.

19. DISCLOSURE REQUIREMENTS. Broker and Lender hereby agree as to their respective responsibilities for various federal and other disclosure requirements as follows:

a. Broker is responsible for and agrees to issue to the applicant within the timeframe required by the applicable law:

- 1) The Special Information Booklet issued by the Secretary of Housing and Urban Development required by RESPA and Regulation X;
- 2) The Good Faith Estimate of closing costs required by RESPA and Regulation X, including an addendum related to any service providers required to be used by Lender;
- 3) The Potential Servicing Transfer Disclosure Statement required by RESPA and Regulation X;
- 4) The estimated Truth-in-Lending Disclosure Statement required by Regulation Z, and any disclosure(s) required by Regulation Z;
- 5) For variable-rate transactions, the booklet titled "Consumer Handbook on Adjustable Rate Mortgages" published by the Board of Governors of the Federal Reserve System and the Federal Home Loan Bank Board, along with the applicable Loan Program Disclosure, as required by Regulation Z;
- 6) Notification of Action Taken required by the Equal Credit Opportunity Act;
- 7) The disclosure required by the Fair Credit Reporting Act;
- 8) The notice required by the Right to Financial Privacy Act;
- 9) An Affidavit of Occupancy (or non-occupancy) in the form required by Lender;
- 10) An Employment Certification in the form required by Lender;
- 11) An Application or Advance Fee Disclosure in the form required by Lender;
- 12) If applicable as a result of the determination that the subject property is in a flood zone, a Flood Insurance Disclosure in the form required by Lender;
- 13) Any other notices or disclosures required by Lender or by applicable law prior to the funding of the loan.

b. Lender is responsible for and agrees to issue to the applicant within the timeframe required by the applicable law:

- 1) The final Truth-in-Lending Disclosure Statement required by Regulation Z;
- 2) If applicable, the Right of Rescission disclosure required by Regulation Z;
- 3) The Initial Escrow Account Disclosure or, if applicable, the Escrow Waiver Disclosure, required by RESPA;
- 4) Any other disclosures required by applicable law or identified as Lender's responsibility.

c. Notwithstanding the foregoing, Broker agrees that Lender reserves the right to require additional disclosures or change disclosure requirements for any mortgage loan, without prior notice to Broker.

d. Broker hereby agrees to defend by legal counsel acceptable to Lender, to indemnify and to hold harmless Lender from any claims, damages, costs and expenses that result from inaccurate or missing disclosures of any kind required to be delivered by Broker, whether such inaccurate or missing disclosure is discovered by Lender's own procedures or as a result of examination by a government agency or any other third party.

e. Lender hereby agrees to defend by legal counsel acceptable to Broker, to indemnify and to hold harmless Broker from any claims, damages, costs and expenses that result from inaccurate or missing disclosures of any kind required to be delivered by Lender, whether such inaccurate or missing disclosure is discovered by Broker's own procedures or as a result of an examination by a government agency or any other third party.

## 20. GENERAL PROVISIONS.

a. All loan applications must be originated by Broker.

b. No term or provision of this Agreement shall be altered or modified unless in writing and signed by both Lender and Broker.

c. If any provision of this Agreement is declared or found to be illegal, unenforceable or void, then both parties shall be relieved of all obligations arising under such provision, but only to the extent that such provision is illegal, unenforceable or void, it being the intent and agreement of the parties that this Agreement shall be deemed amended by modifying such provision to the extent necessary to make it legal and enforceable while preserving its intent or, if that is not possible, by substituting therefore another provision that is legal and enforceable and achieves the same objective. If the remainder of this Agreement shall not be affected by such declaration or finding and is capable of substantial performance, then each provision not so affected shall be enforced to the extent permitted by law.

d. All written provisions of Lender's program announcements and changes, updates or revisions are incorporated by reference into this Agreement and shall be binding upon all parties.

e. Both Lender and Broker agree that this Agreement shall be construed in accordance with the laws of the State of Texas applicable to contracts made and to be performed therein without regard to the principles of conflict of laws. The Lender and Broker further agree that the proper jurisdiction and venue for any litigation arising in relation to this Agreement shall be the State of Texas. Lender and Broker hereby submit to the jurisdiction of the District Court of Harris County, Texas.

f. All communications and notices required hereunder shall be in writing and shall be deemed to have been given, made, and received only (i) upon delivery, if personally delivered to a party; (ii) one business day after the date of dispatch, if by facsimile transmission; (iii) one business day after deposit, if delivered by a nationally recognized courier service offering guaranteed overnight delivery; or (iv) three business days after deposit in the United States first class mail, certified mail, postage prepaid, return receipt requested, at the addresses appearing below.

g. Broker agrees to provide Lender with current copies of the licenses, registrations and/or authorizations required by this Agreement at any time upon request by Lender.

h. Broker agrees to promptly notify Lender: (i) in the event of any substantial change in financial condition, ownership or management of Broker; (ii) if Broker knows or has reason to believe that any information in any mortgage application or other document delivered to Lender is untrue; (iii) in the event any governmental or other agency has made any adverse finding or taken any action with respect to Broker or its officers, directors or employees, and (iv) any changes in its address for notice.

i. Broker shall maintain at all times during the term of this Agreement, at its own expense, such insurance as is required by applicable legal requirements, and that is otherwise appropriate given the nature of Broker's business, including: (i) hazard and liability insurance; (ii) an errors and omissions policy or policies; and (ii) a blanket fidelity bond.

j. Broker understands that Lender routinely conducts quality control audits to re-verify credit and all other documentation and appraisal information submitted by Broker.



k. Failure or delay to audit any Loan or to exercise any right shall not act as a waiver of any other right, nor shall any single or partial exercise of any right preclude any other or further exercise thereof. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver. All remedies shall be cumulative and nonexclusive.

l. Broker acknowledges and agrees that Lender may report instances of Broker making any material misstatement in connection with a Loan, or Broker's knowingly aiding a borrower to do the same, to appropriate state or federal regulatory authorities or law enforcement agencies.

m. Upon termination of this Agreement for any reason whatsoever, Broker agrees to promptly return to Lender all written information provided by Lender to Broker in connection with Lender's loan programs and business activities.

n. At Lender's option and in its sole discretion, amounts owed by Broker to Lender under this Agreement may be offset by Lender against any payments then or thereafter owed by Lender to Broker.

o. Each party shall perform any further acts and execute and deliver any further documents that may be reasonably necessary to carry out the provisions of this Agreement.

p. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which, taken together, shall constitute one and the same instrument.

q. Broker or authorized employee of Broker executing this agreement represents and warrants that he/she has full power and authority to bind Broker, and all officers, partners, agents, employees, independent contractors and representatives of Broker acting hereunder, it being understood that all such individuals are bound and subject to this agreement.

21. DUE AUTHORITY. Lender and Broker acknowledge that the individuals executing this document and any other persons designated by these individuals are fully authorized to act on behalf of each respective party.

Witness the due execution hereof by the respective duly authorized officers of the undersigned as of the date first written above.

**BY: AFFILIATED MORTGAGE COMPANY, – LENDER**      **BY: \_\_\_\_\_ – B R O K E R**  
(Company Name)

SIGNATURE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

NAME: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_