



## APPLICATION CHECKLIST

EXECUTE THE ATTACHED DOCUMENTS LISTED BELOW
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- Correspondent Application
- Consumer Authorization and Release (All Officers, duplicate as necessary)
- Signed AML Statement, Mortgage Loan Fraud Policy Statement, Completed and Signed W-9.
- Signed Correspondent Seller Mortgage Agreement
- Loan Officer Compensation and Anti-Steering Rules Compliance Attestation and Certification

PLEASE ATTACH THE FOLLOWING DOCUMENTATION
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- Resumes of All Principal Officers and All Delegated Underwriters (*if applicable*)
- Copies of Licenses - Main Office, Branch Office(s) and Loan Originator(s)
- Copy of State Business License and Articles of Incorporation
- Copy of Quality Control Plan, AML, OFAC and Fraud Policies and Procedures
- Copies of Agency Approval Letters
- Copy of Errors & Omissions and Fidelity Bond
- Copy of Unaudited Year to Date P&L and Balance Sheet
- Most Recent Audited Financials (if after April 1<sup>st</sup> then must be prior year)
- Affiliated Business Disclosure (ABA), if applicable
- List of All Warehouse Banks and Account Manager Contact Information
- Notice of Servicing Transfer Letter containing 360 Mortgage Group address information. (See page 7)
- List of Users Names, Email Addresses and Phone Numbers with Access Levels (Ability to view Rates and/or Lock or Processing Capabilities only)



## CORRESPONDENT SELLER APPLICATION

**Account Executive:** \_\_\_\_\_

### Company Information

Company Name:	
DBA (if applicable):	
Address (Main Office):	
City, State, Zip:	
Company NMLS ID:	
MERS Org ID:	
Tax ID:	
State of Incorporation:	
Phone:	
Fax:	

### Agency Approval(s) – *Provide copies of all applicable approval letters*

Agency	Approval Number	Date Approved
Dept. of Veterans Affairs (VA)		
Fannie Mae (FNMA)		
Freddie Mac (FHLMC)		
Dept. of Housing and Urban Development (HUD)		
USDA ( ) Local or ( ) National Approval		
Ginnie Mae Issuer Approval (GNMA)		



**Ownership** - List all owners and percentage of ownership. Attach additional page(s) if necessary.

Individual/Company Name	Title	Ownership %

**Principal Officers** - List all company officers. Attach additional page(s) if necessary.

Name	Title

**Loan Production** - Estimate of the monthly volume (in dollars) of the following loan types

Conforming	\$
Government	\$
Retail %	
TPO %	

**Insurance** – Please complete

Type of Insurance	Insurance Company Name	Aggregate Amount	Expiration Date
Errors & Omissions			
Fidelity Bond			



**Company References** – *Please list a minimum of three (3)*

Investor	Contact Name	Phone
Email Address		
Investor	Contact Name	Phone
Email Address		
Investor	Contact Name	Phone
Email Address		

**Company Contacts** – *Add more as necessary*

Company Role	Employee Name	Phone Number	E-Mail (Team Emails preferred)
Primary Contact			
Lock Desk			
Shipping/Collateral			
Pre-Purchase Review			
Final Documents			
Accounting			
Compliance			
Quality Control			
Underwriting			
Approvals			
Final Docs			
Application Questions			



**360 Mortgage values strong communication! We would like to set up your staff members to receive information and notifications. Please take a moment to review the various status and/or notification options below and provide the appropriate contacts. Please provide first name, last name and email address and whether each individual requires access to pricing and/or purchase advices.**

**Website Logins** *(add more as necessary)*

Employee Name	E-Mail Address	Full Access or Processing only?

**Corporate Announcements** *(add more as necessary)*

Employee Name	E-Mail Address



**Auto-notifications** *(Max 3 per notification)*

Notification Type	Employee Name	E-Mail Address – team emails preferred
<b>General Updates</b>		
<b>Locks</b>		
<b>Purchase Advices</b>		
<b>Fundings</b>		
<b>Gov't Insuring</b>		
<b>Trailing Docs</b>		



**Notice of Servicing Transfer information for Sample Good-bye Letter**

**Payment mailing address:**

**360 Mortgage Group, LLC  
P.O. Box 679047  
Dallas, TX 75267-9047**

**Payment Overnight / Express Delivery mailing address (THIS IS ALSO NEW.)**

**360 Mortgage Group, LLC  
Lockbox Number 679047  
1200 E. Campbell Rd., Suite 108  
Richardson, TX 75081**

**Correspondence / QWR mailing address:**

**360 Mortgage Group, LLC  
P.O. Box 10869  
Austin, TX 78766-1869**

**Customer Care:**

**Phone #: 866-360-INFO (4636)  
Days / Hours of operation: M-F, 8:00am CT to 7:00pm CT  
Fax: 866-384-3530**



## General Due Diligence Questions

1. Is the company, and/or any principals, corporate officers, partners, directors, managers, supervisors, loan processors, loan underwriters, or loan originators currently suspended, debarred, under a limited denial of participation (LDP), or otherwise restricted under Part 25 of Title 24 of the Code of Federal Regulations, 2 Code of Federal Regulations, Part 180 as implemented by part 2424, or any successor regulations to such parts, or under similar provisions of any other Federal agency?  
 Yes (*please provide a detailed explanation*)  No
2. Is the company, and/or any principals, corporate officers, partners, directors, managers, supervisors, loan processors, loan underwriters, or loan originators subject to any unresolved findings contained in a Department of Housing and Urban Development or other governmental audit, investigation, or review?  
 Yes (*please provide a detailed explanation*)  No
3. Is the company, and/or any principals, corporate officers, partners, directors, managers, supervisors, loan processors, loan underwriters, or loan originators in violation of provisions of the S.A.F.E. Mortgage Licensing Act of 2008 (123 U.S.C. 5101 et seq.) or any applicable provision of State law?  
 Yes (*please provide a detailed explanation*)  No
4. Has your company, and/or principals or corporate officers ever been sued, reprimanded, censured or had a license revoked or suspended by FHLMC, FNMA, HUD or VA or any other government agency, or private mortgage insurer?  
 Yes (*please provide a detailed explanation*)  No
5. Has your company, and/or principals, corporate officers, or employees, ever been named as defendant in a felony criminal proceeding/complaint/conviction, or who has plead guilty or nolo contendere, for alleged fraud or misrepresentation in connection with any real estate related activity?  
 Yes (*please provide a detailed explanation*)  No
6. Is the company, and/or principals or corporate officers involved in any legal action that could affect the company's capacity to perform under the correspondent seller agreement?  
 Yes (*please provide a detailed explanation*)  No
7. Have any formal complaints, lawsuits, or judgments been filed against the company, and/or principals or corporate officers with any state regulatory agency within the past 3 years?  
 Yes (*please provide a detailed explanation*)  No
8. Has your company, and/or principals or corporate officers, filed for protection from creditors under any provision of the bankruptcy laws within the past 7 years?  
 Yes (*please provide a detailed explanation*)  No
9. Has your company, and/or principals or corporate officers ever been suspended or terminated from selling or servicing mortgages by an investor or another lender?  
 Yes (*please disclose the investor/lender and describe the situation*)  No
10. Has your company made any indemnification to another lender due to loss or potential loss incurred?  
 Yes (*please disclose the investor/lender and describe the situation*)  No





11. Has your company been required to repurchase any mortgage loans from an investor within the last three years?  
 \_\_\_ Yes (*please provide a detailed explanation*) \_\_\_ No
12. Is your company an affiliate of a builder, developer, real estate sales firm, appraisal firm, contract processing company, a firm providing title insurance or closing services, any firm involved in the mortgage insurance industries?  
 \_\_\_ Yes (*please attach an explanation and a copy of your ABA Disclosure*) \_\_\_ No
13. Does your company utilize a single department for locking loans (centralized lock desk)?  
 \_\_\_ Yes \_\_\_ No
14. Does your company utilize a pricing engine?  
 \_\_\_ Yes, Provider: \_\_\_\_\_ \_\_\_ No
15. Does your company presently retain servicing rights?  
 \_\_\_ Yes \_\_\_ No
16. Does your company originate reverse mortgage loans?  
 \_\_\_ Yes \_\_\_ No
17. Does your company use the investor's information or your own on the 1<sup>st</sup> payment letter? If the investor's information, please provide a sample letter.  
 \_\_\_ Yes \_\_\_ No

**Approvals Requested (check appropriate boxes)**

	<b>YES</b>	<b>NO</b>
Best Efforts Pricing/Delivery – Flow		
Mandatory/AOT Pricing/Delivery – Bulk		
Co-Issue ( )FNMA ( )FHLMC ( )GNMA		
	<b>DELEGATED</b>	<b>NON-DELEGATED</b>
Conventional ( ) FNMA ( ) FHLMC		
Government ( <i>FHA</i> )		
Government ( <i>VA</i> )		
Southeast Texas Housing Finance Corporation (SETH)		
City of Chicago Home Buyer Assistance Program (CIT)		
Cook County Home Buyer Assistance Program (BED)		



## Signature Certification

All the information contained in this application and supporting information is true and complete to the best of my knowledge. 360 Mortgage Group, LLC is authorized to check any sources named herein, perform a background investigation and obtain credit and other information concerning the Lender/Individual(s) named herein, its principals, affiliates and employees. Federal law requires financial institutions to verify the identity of each person with whom they conduct business. 360 Mortgage Group, LLC will verify your identity using the information provided on this application and other application documents. In some instances, we may request additional information. Please see Section 9.18 of the Correspondent Seller Agreement for more details.

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Principal Officer or Owner Signature

Date

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Printed Name with Title



# Explanations

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## AUTHORIZATION / RELEASE FOR BUSINESSES AND PROFESSIONALS

(the "Applicant")

acknowledges that it is in the best interest of both Applicant and 360 Mortgage Group, LLC (the "Mortgage Lender") for Mortgage Lender to perform due diligence concerning Applicant's background and experience. Applicant further acknowledges that Applicant benefits from the efficiencies in the due diligence process that are possible when Mortgage Lender and other similarly-situated entities in the mortgage industry exchange information about their experiences in doing business with professionals/entities such as Applicant. Therefore, Applicant hereby consents and gives Mortgage Lender permission to obtain information about Applicant's company and any and all employees/contractors of that company including, but not limited to, professional history information, criminal record information, credit information and other public record information. Applicant understands that Mortgage Lender performs quality control reviews of the loans that Applicant submits to Mortgage Lender for registration, review, underwriting, and/or purchase. Applicant understands and hereby consents to the release of information about any loan application that is believed to contain misrepresentations and/or irregularities. Applicant agrees and gives its consent that it and its employees may be named as the originating entity or loan officers on such loans, whether or not Applicant or its employees is implicated in the alleged misrepresentations and/or irregularities. Applicant hereby releases and agrees to hold harmless Mortgage Lender, ChoicePoint Public Records Inc. d/b/a Mortgage Asset Research Institute ("MARI"), all MARI subscribers, and any trade associations that endorse MARI's mortgage fraud alert products from any and all liability for damages, losses, costs, and expenses that may arise from the reporting or use of any information submitted by Mortgage Lender or any other MARI subscriber to Mortgage Asset Research Institute, Inc., recorded in MARI's MIDEX® database, and used in any way by Mortgage Lender or any other MARI subscriber.

By signing below, Applicant also hereby authorizes Mortgage Lender to obtain personal consumer reports/credit information (herein after referred to as "Report") from one or more of the three national credit repositories (Equifax, Experian, Trans Union) so that Mortgage Lender can use the Report for the following purpose: **Approving Correspondent Seller Application**. This authorization is intended to comply with a consumer report request as set forth in 15 U.S.C. 1681b(a)(2).

**Full Name:** \_\_\_\_\_

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Social Security Number: \_\_\_\_\_

Signature: \_\_\_\_\_

**Full Name:** \_\_\_\_\_

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Social Security Number: \_\_\_\_\_

Signature: \_\_\_\_\_



## Mortgage Loan Fraud Policy Statement

360 Mortgage Group, LLC (“360MG”) takes mortgage loan fraud and all types of fraud, VERY SERIOUSLY. Sellers to 360MG should be advised that they bear responsibility for all actions, performed in the course of business, of their employees or licensees.

Mortgage loan fraud and misrepresentation may occur in many forms. The following are some of the most common examples:

1. Submission of inaccurate information, including false statements on loan applications and falsification of documents purporting to substantiate credit, employment, deposit and asset information or personal information including identity, ownership/non-ownership of real property, etc.
2. Forgery or misrepresentation of partially or predominately inaccurate information.
3. Inaccurate representation of current occupancy or intent to maintain required occupancy as agreed in the security instrument.
4. Lack of due diligence or concern by (without limitation) seller, loan officer, interviewer, or processor, including failure to obtain all information required by the application and failure to request further information as dictated by borrowers response to other questions.
  - a. Unquestioned acceptance of information or documentation, which is known, should be known, or should be suspected as inaccurate.
  - b. Simultaneous or consecutive processing of multiple owner-occupied loans from one applicant on multiple properties, or from one applicant supplying different information on each application.
  - c. Allowing an applicant or interested third party to “assist” with the processing of the loan.
  - d. Failure of originator to disclose any relevant or pertinent information.

### Consequences of Mortgage Loan Fraud

The consequences of mortgage loan fraud are far-reaching and expensive. 360MG warrants the quality of our mortgage loans to our investors. Fraudulent mortgage loans damage our reputation and strain our relationships with our investors and mortgage insurance providers. The consequences to those who participate in mortgage loan fraud are more severe and can happen on a state and/or federal level. The following is a list of a few of the repercussions that may be experienced:

#### To Originator:

1. Criminal Prosecution, which may result in possible fines and imprisonment.
2. Revocation of originator’s license.
3. Loss of lender access caused by the exchange of legally permissible information between lenders, mortgage insurance companies, FNMA, FHLMC, police agencies, federal and state regulatory agencies, including any applicable state licensing agency.
4. Civil action by 360MG or applicant/borrower and/or other parties to the transaction.
5. Repurchase of fraudulent mortgage loan and loss of seller approval with 360MG.

#### To Applicant/Borrower:

1. Acceleration of debt as mandated in the security instrument (Deed of Trust/Mortgage).
2. Criminal Prosecution, which may result in possible fines and imprisonment.
3. Civil action by 360MG or other parties to the transaction.
4. Employment termination.
5. Loss of any professional license.
6. Adverse, long term effect on credit history.

**The submission of a loan application containing false or misrepresented information is a FEDERAL CRIME.** We intend to report people that commit mortgage loan fraud to the appropriate state and/or federal agencies and we intend to recover any damages caused to 360MG from the persons that commit mortgage loan fraud.

By signing below, I acknowledge that I have read and fully understand 360MG’s Mortgage Loan Fraud Policy.

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title



## Loan Officer Compensation and Anti-Steering Rules Compliance Attestation and Certification

By entering into a Correspondent Seller Agreement with 360 Mortgage Group, LLC (“360 MG”),  
\_\_\_\_\_ (“Seller”) made certain representations, warranties and covenants to  
360 MG regarding the Seller’s compliance with various laws in its origination of mortgage loans submitted to 360  
MG, including, but not limited to, various state and local laws as well as the Equal Credit Opportunity Act and  
Regulation B, RESPA and Regulation X, the Truth In Lending Act, The Homeownership and Equity Protection Act  
and Regulation Z.

By signing below, Seller acknowledges awareness and understanding of the final rules regarding loan originator  
compensation and anti-steering (the “LO COMP RULE”), which was issued by the Federal Reserve Board and  
amends Regulation Z, which implements the Truth in Lending Act and the Home Ownership Equity Protection Act.

Seller further certifies to the following:

- Seller has adopted policies and procedures to comply with the LO Comp Rule
- Seller has established compensation agreements with its loan originators (as defined by the LO Comp Rule and Official Staff Commentary) and attests that no loan originator will be compensated based on any term or condition (as defined by the LO Comp Rule and Official Staff Commentary) of the mortgage loan
- Seller’s originators will be compensated by one party, either Seller or the consumer, but not both parties on a mortgage loan
- Seller has the proper controls in place to ensure that no consumer will be steered to a product or program on the basis of increased compensation to the loan originator
- Seller will use an Anti-Steering/Safe Harbor disclosure for all required mortgage loans to demonstrate compliance with the anti-steering provisions of the LO Comp Rule

\_\_\_\_\_  
Seller

\_\_\_\_\_  
NMLS ID#

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title



## Anti-Money Laundering Program and Suspicious Activity Report Filing Requirements for Residential Mortgage Lenders and Residential Mortgage Loan Originators Rules Compliance Attestation and Certification

By entering into a Correspondent Seller Agreement with 360 Mortgage Group, LLC (“360 MG”), \_\_\_\_\_ (“Seller”) made certain representations, warranties and covenants to 360 MG regarding the Seller’s compliance with various laws in its origination of mortgage loans submitted to 360 MG, including, but not limited to, various state and local laws as well as the Equal Credit Opportunity Act and Regulation B, RESPA and Regulation X, the Truth In Lending Act, The Homeownership and Equity Protection Act and Regulation Z.

By signing below, Seller acknowledges awareness and understanding of the final rules for the Anti-Money Laundering Program and Suspicious Activity Report Filing Requirements for Residential Mortgage Lenders and Originators (“AML/SAR Rule”), which were issued by the Financial Crimes and Enforcement Network (“FinCEN”) on February 7, 2012. The AML/SAR Rule amended the Bank Secrecy Act (“BSA”) to include Residential Mortgage Lenders and Residential Mortgage Originators in the definition of a loan or finance company and requires these companies to comply with the anti-money laundering programs and reports suspicious activities under the BSA.

Seller acknowledges that 360MG may request a copy of Seller’s policies and procedures regarding the AML/SAR Rule and will provide copies of such in a timely fashion.

Seller further certifies that, at a minimum, it has implemented the following:

- Seller has adopted policies and procedures to comply with the AML/SAR Rule
- Seller has developed company specific internal controls to comply with the AML/SAR Rule
- Seller has designated an AML Compliance Officer
- Seller has implemented an on-going training program to comply with the AML/SAR Rule
- Seller has made provisions for independent program testing to comply with the AML/SAR Rule
- Seller has implemented procedures to file SARs in a timely fashion, in accordance with the AML/SAR Rule.

\_\_\_\_\_  
Seller

\_\_\_\_\_  
Company NMLS ID#

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title



## TILA-RESPA Integrated Disclosures (“TRID”) Compliance Attestation and Certification

By entering into a Correspondent Seller Agreement with 360 Mortgage Group, LLC (“360 MG”), \_\_\_\_\_ (“Correspondent”) made certain representations, warranties and covenants to 360 MG regarding the Correspondent’s compliance with various laws in its participation in mortgage loans submitted for purchase to 360 MG, including, but not limited to, various state and local laws as well as the Equal Credit Opportunity Act and Regulation B, RESPA and Regulation X, the Truth In Lending Act, The Homeownership and Equity Protection Act and Regulation Z.

By signing below, Correspondent acknowledges awareness and understanding of the final rule for the TILA-RESPA Integrated Disclosures (“TRID”), which was issued by the Consumer Financial Protection Bureau (“CFPB”) on November 20, 2013. The TRID rule amends TILA and RESPA, in part, by expanding coverage relative to closed-end consumer credit transactions; amending the application definition that triggers disclosures; amending tolerances; introducing new timing restrictions or waiting periods; and combining the Good Faith Estimate and HUD-1 settlement statement required under RESPA with the TIL disclosures required under TILA. The Loan Estimate (“LE”) replaces the GFE(s) and TIL(s) provided prior to close. The Closing Disclosure (“CD”) replaces the HUD-1 and Final TIL provided at closing. In addition, disclosure and delivery requirements now fall under TILA, which greatly increases the risk for liability and penalties for non-compliance, which may include administrative enforcement, private right of action, rescission, as well as assignee liability for investors, any of which may prompt appropriate recourse from 360 MG under the terms of the above referenced agreement.

Correspondent acknowledges that 360 MG may request a copy of Correspondent’s policies and procedures relative to the TRID Rule and will provide copies of such in a timely fashion.

Correspondent further certifies that, at a minimum, it has implemented the following:

- Correspondent has adopted policies and procedures to comply with TRID
- Correspondent has developed company specific internal controls to comply with TRID
- Correspondent has provided appropriate training to staff to understand and comply with TRID

\_\_\_\_\_  
Correspondent Seller Company Name

\_\_\_\_\_  
Company NMLS ID#

\_\_\_\_\_  
Signature of Authorized Signer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title





## CORRESPONDENT SELLER AGREEMENT

This Agreement (the "Agreement") is entered into as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between 360 Mortgage Group, LLC ("Buyer"), a Delaware Limited Liability Company having its principal office at 11305 Four Points Drive Building 1, Suite 200 Austin, TX 78726, and the undersigned Mortgage Loan originator ("Seller") as identified on the Correspondent Seller Application.

### RECITALS

Buyer is in the business of purchasing residential mortgage loans secured by a first lien on a one to four family dwelling (each a "Mortgage Loan" and, collectively "Mortgage Loans");

Seller is in the business of aiding and assisting applicants in pre-qualification for Mortgage Loans, choosing a mortgage product, completing applications for Mortgage Loans, processing Mortgage Loan applications on behalf of others, underwriting mortgage risk, and funding executed mortgage transactions; and

Seller desires to sell Mortgage Loans to Buyer, from time to time, on a non-exclusive basis, utilizing underwriting guidelines as identified by the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Housing Administration, Veterans Affairs or US Department of Agriculture (herein referred to cumulatively as "GSE") pursuant to the terms of this Agreement.

### ARTICLE 1

#### ELIGIBLE LOANS; PRICING

**1.1 MORTGAGE LOAN PROGRAMS.** Buyer shall from time to time, distribute to Seller information with respect to the types of Mortgage Loans it is willing to accept along with the methods in which Mortgage Loans may be transmitted. For purposes of this Agreement the term "submits", shall have the same meaning as the term "Register". Buyer will fund/purchase only those Mortgage Loans eligible for the Mortgage Loan Programs offered by Buyer. Seller acknowledges that Buyer reserves the right to alter, add, or delete Mortgage Loan Programs from time to time without prior notice to Seller, and Seller accepts responsibility for knowing which Mortgage Loan Programs are offered by Buyer at any given time. Seller shall be responsible for assuring that each Mortgage Loan submitted complies with all the terms and conditions of Buyer's Mortgage Loan Program.

**1.2 MORTGAGE LOAN PRICING.** Buyer shall issue to Seller on a periodic basis, pricing information ("Pricing Sheet") applicable to Mortgage Loan Programs it offers. Such pricing information is subject to change without notice. Seller shall comply with the guidelines contained in the Pricing Sheet concerning documentation, interest rates and lock-ins which apply to the particular Mortgage Loan Program offered by Buyer.

### ARTICLE 2

#### DUTIES OF SELLER

**2.1 TAKING OF APPLICATIONS/DISCLOSURES.** Seller shall take applications for Mortgage Loans at its offices in its own name through its employees. Contemporaneously with the taking of the application, Seller

shall provide to each person or persons who submits an application for a Mortgage Loan that is to be submitted to Buyer Seller disclosure(s) that comply with all applicable federal and state laws. Seller may not submit third party originations to Buyer under this Agreement.

**2.2 REGISTRATION APPLICATION.** Seller shall submit each Mortgage Loan to Buyer in a manner to be communicated to the Seller in writing by the Buyer, from time to time. Such methods of communication may include, but are not limited to, electronic, facsimile or written. For each Mortgage Loan, Seller shall submit to Buyer: (1) the fully completed Seller's mortgage disclosure(s), signed by the applicant and the Seller or its agent or employee as of the date of application, (2) the application signed by the applicant, (3) credit, financial, and other information as set forth by the Buyer from time to time, and (4) any and all documents within the Seller's possession pertaining to the Mortgage Loan. Seller shall assist Buyer in obtaining any additional information needed by Buyer or to otherwise facilitate the pre-purchase audit or underwriting of the loan transaction with regard to the Mortgage Loans.

**2.3 PERFORMANCE OF SELLER SERVICES.** In addition to taking the information from applicant, filling out the application and providing and explaining the Seller's mortgage disclosure(s), Seller shall, for every Mortgage Loan submitted to Buyer, perform services, including, but not limited to, all of the following:

- (a) analyzing the applicant's income and debt and pre-qualifying the prospective applicant to determine the maximum Mortgage Loan that the prospective applicant can afford;
- (b) educating the applicant in the home buying and financing process, advising the applicant about the different types of loan products available, and demonstrating to the applicant how closing costs and monthly payments would vary under each product;
- (c) collecting financial information (e.g., tax returns, bank statements) and other related documents that are part of the application process;
- (d) initiating/ordering VOsEs (verifications of Employment) and VODs (verifications of deposits);
- (e) initiating/ordering requests for mortgage and other loan verifications;
- (f) initiating/ordering appraisals;
- (g) initiating/ordering inspections or engineering reports;
- (h) providing disclosures to prospective applicants as required by Federal and State laws and by any applicable regulation and by any loan product;
- (i) assisting applicants in understanding and addressing material credit problems relevant to the Mortgage Loan;
- (j) maintaining regular contact with applicants, real estate agents, and Buyer between application and closing to apprise them of the status of the application and to gather any additional information as needed;
- (k) ordering, obtaining and analyzing legal documents (e.g., title reports);
- (l) determining whether the property is located in a flood zone, including the engagement of a third party to provide such service;
- (m) participating in the loan closing;
- (n) analyzing the information provided by applicant and confirming that the applicant's application complies with applicable laws and GSE program guidelines;
- (o) underwriting the Mortgage Loan to the applicable GSE underwriting eligibility standards;
- (p) closing the Mortgage Loan in Seller's own name;
- (q) disclosing to the applicant the transfer of the servicing of the Mortgage Loan to Buyer, as required under all applicable state and federal regulations;
- (r) assigning the Mortgage Loan via the MERS electronic loan registration system to Buyer within fifteen (15) days of Mortgage Loan sale;
- (s) delivering original executed title policy and deed of trust (or mortgage) to Buyer within 180 days of the sale of the Mortgage Loan pursuant to this Agreement;
- (t) verifying all documentation and application information received from the borrower is true and accurate and does not contain any fraudulent representations
- (u) providing such other services as may be required in writing by Buyer for a particular Mortgage Loan;
- (v) maintaining documentation regarding each of the foregoing subparts (a) through (u) as required by applicable state or federal law, or otherwise requested in writing by Buyer; and,

(w) providing documentation regarding any of the foregoing subparts to Buyer within a reasonable time upon request, as permitted by applicable law.

**2.4 SELLER COMPENSATION.** Any fee payable to Seller for its provision of goods, services or facilities for certain Mortgage Loans, shall be paid in accordance with the terms of the Agreement and applicable law and only in connection with a particular Mortgage Loan, if each of the following conditions is met:

- (a) Seller has actually provided necessary goods, services and/or facilities in connection with the Mortgage Loan;
- (b) Seller is in compliance with all applicable federal, state and local laws and regulations and all terms of this Agreement and has submitted fully executed copies of all required disclosures with the Mortgage Loan;
- (c) With respect to each application, Seller and applicant have completed and executed a Good Faith Estimate (“GFE”) which complies with the Real Estate Settlement Procedures Act and contains all applicable fees and charges and itemizes the dollar amount of compensation that will be paid to the Seller by the applicant.
- (d) Seller has performed, at a minimum, the services required under Section 2.3 of this Agreement; and
- (e) Any lender-paid compensation, when combined with the origination of the Mortgage Loan, shall not be greater than that allowed under applicable state, federal, and local law. Total compensation earned by Seller from all sources will constitute a reasonable payment for the goods, facilities and services actually provided by the Seller and the Seller will not retain duplicate payments for any of those goods, fees or services.

**2.5 COMMUNICATIONS WITH APPLICANT.** Seller shall be responsible for all communications with applicant. Seller shall promptly deliver to such applicant any documents prepared by Buyer and intended for delivery to applicants regardless of the manner in which such documents are delivered to the Seller.

**2.6 LOAN RESCISSION, REIMBURSEMENT OF FEES.** If Seller has collected any fees from an applicant, including any fees payable to a third party, in connection with a Mortgage Loan that is rescinded by the applicant pursuant to applicable state or federal law or regulation, Seller shall promptly refund all such fees that are required to be refunded to the applicant.

**2.7 ASSIGNMENT.** Upon purchase of the Mortgage Loan by Buyer, the Seller shall immediately assign, transfer and convey all of its rights, title and interest in the Mortgage Loan file and any and all of its contents to buyer or its designee.

## **ARTICLE 3**

### **DUTIES OF BUYER**

**3.1 PRE-PURCHASE AUDIT OF REGISTERED MORTGAGE LOANS.** Buyer or its agent shall have the right to audit every Mortgage Loan in accordance with the terms of this Agreement. Buyer shall have no obligation to approve or purchase a Mortgage Loan which in its sole discretion does not meet Buyer’s underwriting requirements or otherwise comply with the terms of this Agreement. Buyer further retains sole and absolute discretion to reject any Mortgage Loan which does not comply with the terms and conditions of this Agreement, or for any reason whatsoever (except any reason prohibited by law), and to set the terms and conditions of any approval of a Mortgage Loan. Buyer shall notify Seller of the disposition of a Mortgage Loan. Seller may not represent that Buyer has approved or will approve any Mortgage Loan until Buyer informs Seller in writing that it has done so. Buyer has no obligation or liability to Seller for any Mortgage Loan which is not purchased by Buyer nor for any delays in the purchasing of any Mortgage Loan.

**3.2 PURCHASE OF MORTGAGE LOANS.** Buyer shall proceed to the purchase of the Mortgage Loan under the terms and conditions of its pre-purchase audit. Buyer shall prepare the purchase advice once all pre-purchase conditions have been met (in compliance with 3.1) and send funds in accordance with the purchase advice.

- 3.3 LOCK COMMITMENTS.** Seller acknowledges that all interest rate lock commitments provided by the Buyer are optional and may be modified at any time in the sole discretion of the Buyer.

#### **ARTICLE 4**

**GENERAL REPRESENTATIONS, WARRANTIES, AND COVENANTS OF SELLER.** As an inducement to Buyer to enter into this Agreement and to consummate the transactions contemplated hereunder, Seller makes the following representations, warranties and covenants to Buyer and any successor in interest to Buyer under this Agreement as of the date hereof and as of each and every date Seller submits a Mortgage Loan to Buyer. Buyer shall be deemed to have relied on such representations, warranties and covenants, regardless of any independent investigation it may have made or may hereafter make.

- 4.1 DUE ORGANIZATION; GOOD STANDING.** Seller is duly organized, validly existing and in good standing (in the case of a corporation or limited liability company) under the laws of the state governing its creation and existence during the time of its activities with respect to the organization and closing of the Mortgage Loans subject to this Agreement.
- 4.2 AUTHORITY AND CAPACITY.** Seller, and its agent whose name and signature appear below, have all power, authority and capacity legally required to enter into this Agreement on behalf of Seller and to perform the obligations required of it hereunder. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby, have been duly and validity authorized by all necessary action legally required. This Agreement constitutes a valid and legally binding Agreement of Seller enforceable in accordance with its terms.
- 4.3 EFFECTIVE AGREEMENT; NO CONFLICTS.** Seller's execution, delivery and performance of this Agreement, its compliance with the terms hereof and consummation of the transactions contemplated hereby, will not violate, conflict with, result in a breach of, give rise to any right of termination, cancellation or acceleration under, constitute a default under, be prohibited by, or require any additional approval under: (1) Seller's articles of incorporation (in the case of a corporation), bylaws, partnership agreement or other applicable organizational documents, or any other instrument or agreement to which Seller is a party or by which Seller is bound; (2) any law; or (3) any judicial or administrative decree, order, ruling or regulation applicable to Seller.
- 4.4 COMPLIANCE WITH LAWS.** Seller has complied, and shall comply, both in the conduct or business generally, and in its origination of each Mortgage Loan, with all Laws, including, without limitation upon the generality of the foregoing, the Equal Credit Opportunity Act ("ECOA") and Regulation B, including without limitation its requirements relating to nondiscrimination; the Truth-in-Lending Act, and Regulation Z; RESPA, and Regulation X; and state and local laws and regulations governing mortgage lending and mortgage Brokerage. Seller represents and warrants that no Mortgage Loan is a High Cost Loan as that term is defined by the Home Ownership and Equity Protection Act ("HOEPA") or similar federal, state or local law, and the Mortgage Loan does not fall into any other classification under state law which is not eligible for purchase. Seller further represents and warrants that it is properly licensed in all jurisdictions where required for the origination of Mortgage Loans as provided for in this Agreement and agrees to maintain all applicable licenses and approvals in good standing during the term of this Agreement.
- 4.5 NOTICE OF THREATENED ACTIONS.** Except as disclosed to Buyer, Seller has not been issued any administrative order, Cease and Desist decree or been the subject of regulatory action. Seller shall immediately advise Buyer in writing of any inquiry, material complaint or pending or threatened action to revoke or limit any license, permit, authorization or approval issued or granted by any federal, state or local government or quasi-governmental body or agency or instrumentality thereof, necessary for Seller to conduct its business, or to impose any penalty or other disciplinary sanction in connection therewith, or any other sanction that would materially affect Seller's business. In addition, in the event Seller receives any letter, notice, or other writing ("Notice") from any regulatory agency with respect to any Mortgage Loan registered with Buyer, Seller shall advise Buyer immediately of such notice and deliver a copy of the Notice to Buyer.

Seller further warrants that no material complaints have been filed against Seller alleging unfair and deceptive practices or violations of Consumer Protection Laws, and Seller will notify Buyer immediately in the event of any such occurrences.

- 4.6 LITIGATION.** Except as previously disclosed in writing to and acknowledged in writing by Buyer, Seller represents that it is not a party to and/or does not have knowledge of: (a) any pending or threatened material litigation identifying Seller as a defendant and involving fraud, misrepresentation, or violation of any state or federal lending laws or regulation by Seller, its officers, agents or employees; (b) any material claims or complaints by applicants against Seller, its officers, agents, or employees; or (c) any materially negative investor or regulatory findings, including but not limited to findings identified in audits or examinations conducted by, or performed at the request of, Seller's investors or regulatory agencies.
- 4.7 NO UNTRUE OR MISLEADING STATEMENTS.** No representation, warranty or written statement made by Seller or its officers, agents, or employees to Buyer in this Agreement or in any schedule, written statement or document furnished to Buyer in connection with the transactions contemplated hereby contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary to make the statements contained herein or therein not misleading.
- 4.8 INSURANCE.** Unless otherwise agreed to in writing, Seller possesses and shall maintain, at no expense to Buyer, during the term of this Agreement, errors and omission insurance, and shall furnish evidence of such coverage upon request of Buyer. Such policies shall be in reasonable amounts, with acceptable standard coverage's, reasonably satisfactory to Buyer. Seller shall notify Buyer of changes thereto or cancellation thereof.
- 4.9 BUSINESS INFORMATION.** Upon reasonable request, Seller shall furnish to Buyer and its representatives any information, data, or documents concerning the affairs of Seller, including without limitation, information regarding the status of Seller's licenses, permits, authorizations and approvals necessary for the conduct of Seller's business. Seller shall furnish, annually as requested by Buyer, copies of financial statements, the type and sufficiency of which shall be determined by Buyer in its sole discretion, together with such other information bearing upon Seller's financial condition as Buyer may reasonably request.
- 4.10 ABILITY TO PERFORM.** Seller represents that it employs or will employ a sufficient number of knowledgeable and capable individuals to perform the services required by this Agreement.

## ARTICLE 5

### REPRESENTATIONS, WARRANTIES AND COVENANTS AS TO MORTGAGE LOANS

As further inducement to Buyer to enter into this Agreement and to consummate the closing and funding of Mortgage Loans hereunder, Seller makes the below referenced representations, warranties and covenants. Each of the following representations and warranties (a) applies to any and all Mortgage Loan sold by Seller to Buyer and funded by Buyer, (b) is for the benefit of Buyer and its successors and assigns, (c) continues in full force and effect for so long as the Mortgage Loan remains outstanding and for such time that Buyer is subject to any risk of loss or liability as to any Mortgage Loan submitted by Seller, (d) is deemed to have been relied on by Buyer, regardless of any independent investigation it may have made or may hereafter make, and (e) is in addition to any other specific representations or warranties contained elsewhere herein.

- 5.1 COMPLIANCE WITH LAWS.** As of the date each Mortgage Loan is funded to the applicant by Seller and as of the date each Mortgage Loan is purchased by the Buyer, the Mortgage Loan will comply with all applicable federal, state and local laws and regulations.
- 5.2 COMPLIANCE WITH BUYER POLICIES AND PROCEDURES.** The origination of the Mortgage Loan complies in all respects with the terms of this Agreement. Each Mortgage Loan submitted was originated by Seller and not by a third party. All applications for Mortgage Loans and associated Mortgage Loan

documents and information have been prepared and/or completed in accordance with applicable law. All information provided by applicant and Seller in the Mortgage Loan applications, associated Mortgage Loan documents, or other documents necessary for the consummation of the transactions contemplated by this Agreement are true and correct in all respects and do not fail to disclose any material facts which would make such information misleading. The applicant has executed and received a copy of the Seller's mortgage disclosure(s) as required by applicable law, and there are no disputes between any applicant for a Mortgage Loan and Seller with respect to Seller's compensation in connection with the origination or closing of the Mortgage Loan.

- 5.3 FACTUAL DISCLOSURE.** With regards to all Mortgage Loans submitted to Buyer hereunder, all facts relating to any Mortgage Loan transaction which are known or should be known to Seller which may adversely affect the value of the property serving as collateral for the Mortgage Loan (the "Mortgage Property"), the credit, character or capability of the applicant to make the monthly payments on the Mortgage Loan, the validity of the Mortgage, or any other aspect of the transaction have been disclosed in writing to Buyer.
- 5.4. NO ADVERSE CIRCUMSTANCES.** Seller has no knowledge of any circumstances or conditions with respect to any Mortgage Loan, Mortgage Property, applicant or applicant's credit standing that reasonably could be expected to cause third party investors to regard any Mortgage Loan as an unacceptable investment, cause any Mortgage Loan to become delinquent or adversely affect the value or marketability of the Mortgage Loan.
- 5.5. NO OTHER AGREEMENTS.** Except as otherwise permitted by Buyer, Seller has not made, directly or indirectly, any payment on the Mortgage Loan, or any fee paid for goods and services rendered in connection with the origination, closing or sale of the Mortgage Loan, or on any other loan of applicant from any other person or entity. Seller has also not made any agreement with any applicant providing for any variation of the Note rate, schedule of payment or other terms and conditions of the Mortgage Loan. Seller has not received a request for approval of any assumption, loss draft, or payoff of the Mortgage Loan, and Seller has not received notice of any such potential assumption, loss draft, or payoff of the Mortgage Loan as of the Effective Date.
- 5.6. EARLY PAYMENT DEFAULT.** Seller warrants that no Mortgage Loan sold to Buyer pursuant to this Agreement shall become two or more payments past due within the first one hundred eighty (180) calendar days from the date of purchase by Buyer. For the purposes of clarity, a Mortgage Loan with a mortgage payment due on or before the 180<sup>th</sup> day after purchase, which remains unpaid on 240<sup>th</sup> day after purchase, is considered in breach of this Early Payment Default section.
- 5.7 EARLY PAYOFF.** Seller warrants that no Mortgage Loan sold to Buyer pursuant to this Agreement shall be paid in full within 180 days following the date of purchase by Buyer.
- 5.8. GSE GUIDELINES AND SECURITIZATION.** All Mortgage Loans shall, at the Buyer's sole discretion, be eligible for (i) securitization with applicable GSE; and (ii) GSE underwriting guidelines. Neither the performance of a pre-purchase audit nor the purchase of a Mortgage Loan by the Buyer constitutes a waiver of Seller's obligations under this section or Buyer's acceptance of Seller's compliance with this section.
- 5.9. NO MORTGAGE LOAN TO BE A VA NO BID.** Seller warrants that no Mortgage Loan sold to Buyer pursuant to this Agreement shall be a VA No Bid. "VA No Bid" is defined as an election by the U.S. Department of Veterans Affairs (VA), with respect to a Mortgage Loan guaranteed or intended to be guaranteed by the VA, to pay the VA guarantee and leave the underlying Mortgage Loan property with the Buyer or the entity servicing the Mortgage Loan.
- 5.10. NO MORTGAGE LOAN TO BE A VA BUYDOWN.** Seller warrants that no Mortgage Loan sold to Buyer pursuant to this Agreement shall be a VA Buydown. "VA Buydown" is defined as the waiver by the Buyer of a portion of the indebtedness of a Mortgage Loan guaranteed, or intended to be guaranteed, by the VA, such waiver taking the form of a reduction of the principal, a credit to escrow or unapplied funds, the

forgiveness of accrued interest or any combination of the foregoing, and which causes VA to pay off the remaining amount of the indebtedness owed and acquire the related mortgaged property in lieu of electing a VA No Bid. This includes instances in which the VA guarantee of the Mortgage Loan is not sufficient to cover the actual losses of the Buyer upon liquidation of the Mortgage Loan and underlying real property.

**5.11. PAYOFF OF BUYER'S MORTGAGE LOAN(S).** If Seller refinances a Mortgage Loan during the term of this Agreement which is serviced by the Buyer on both (a) the date this Agreement is executed, and (b) the date the Mortgage Loan is refinanced by the Seller, Seller unequivocally agrees to sell the newly refinanced Mortgage Loan to Buyer in accordance with the terms of this Agreement. Buyer shall be conspicuously and legibly identified as the servicer on at least one of the following documents pertaining to each such Mortgage Loan: note, credit report, mortgage payment statement, or payoff statement.

Any Mortgage Loan sold to Buyer pursuant to this section 5.11 is subject to all the representations and warranties contained herein. Buyer, at its sole discretion, may reject any Mortgage Loan submitted by Seller pursuant to this paragraph for any reason not otherwise prohibited by law or for no reason at all.

The parties to this contract agree that Buyer's actual damages resulting from Seller's breach of this paragraph 5.11 would be difficult to ascertain due to various market factors, and therefore, for each breach of this paragraph 5.11 Seller shall pay to Buyer an amount in liquidated damages equal to 1% of the Unpaid Principal Balance on the date of refinance for each such loan. The parties further agree that such amount is reasonable as to each party, and the liquidated damages described herein are intended to be compensatory rather than punitive and do not constitute a penalty.

## **ARTICLE 6**

### **RESPONSIBILITY FOR FRAUD**

Seller shall not submit any Mortgage Loan or other Mortgage Loan document containing false or misrepresented information, whether such false or misrepresented information is provided by Seller, its officers, agents, or employees, any applicant for a Mortgage Loan, or any other third party involved in the origination of such Mortgage Loan. Seller shall indemnify Buyer for any and all losses or damages resulting from fraud or misrepresentations or otherwise resulting from Seller's actions taken in the course of its performance of its obligations under this Agreement, whether performed by Seller, its officers, agents, employees, or licensees, the applicant, or any other third party involved in the origination of the Mortgage Loan.

Seller understands and agrees that in the event Buyer reasonably believes misrepresentation or fraud (e.g., instances of misstatements and/or inconsistencies generated either by the Seller or with the Seller's knowledge) exists in a Mortgage Loan or Mortgage Loan document, Buyer may report such misrepresentations or fraud to the appropriate state and federal regulatory authorities, law enforcement agencies, and fraud database. Seller acknowledges the importance of Buyer's rights and, when applicable, obligation and necessity to disclose such information. Seller waives any and all claims of liability, damages and equitable or administrative relief in connection with Buyer's disclosure of such information.

## **ARTICLE 7**

### **REMEDIES**

**7.1 REPURCHASE.** Within thirty (30) calendar days after receipt of notice from Buyer providing reasonably specific information regarding Seller's failure to comply with any representation, warranty, or covenant made in any part of this Agreement with respect to any Mortgage Loan, Seller shall repurchase the Mortgage Loan(s) forming the basis of such notice at the price equal to the sum of: (i) the unpaid principal balance of the Mortgage Loan(s) plus accrued interest thereon; (ii) any yield spread premium or other premium in excess of the principal balance of the Mortgage Loan(s) paid by Buyer to Seller; (iii) the aggregate amount of any advances made by Buyer to Seller; and (iv) the amount of any reasonable attorney's fees, expert witness fees,

costs of court, or other reasonable expenses incurred by Buyer. Upon receipt of payment of the repurchase price, Buyer will assign the Mortgage Loan(s) forming the basis of the notice to Seller without recourse.

**7.2 EARLY PAYOFF.** If a Mortgage Loan purchased by Buyer is paid in full within 180 days following the date of purchase by Buyer, then the Seller will be charged a recapture fee of the total premium paid to the Seller at the time of purchase.

**7.3 OFFSET.** Buyer may offset against the price for any Mortgage Loan delivered for purchase by the Seller, or against any other amounts owed by Buyer to the Seller pursuant to the Agreement or any other contract or instrument between the Seller and Buyer, any outstanding amounts owed to Buyer by the Seller or any affiliate of the Seller, including, but not limited to:

- a. fees, penalties and expenses arising out of the Seller's failure to timely deliver any final documentation;
- b. pair-off fees, penalties or charges relating to delivered or undelivered Mortgage Loans;
- c. costs and expenses arising out of the Seller's breach of any of its representations, warranties or covenants under the Agreement; and
- d. costs and expenses incurred by Buyer as a result of action taken by Buyer based on Buyer's reasonable belief that the Seller is no longer able to fulfill its obligations under the Agreement, including its repurchase and indemnification obligations pursuant to this Section.

**7.4 INDEMNIFICATION.** In addition to, or at Buyer's sole discretion, as an alternative to the repurchase obligations in Article 7.1 of this Agreement, Seller shall indemnify, defend and hold Buyer harmless against and in respect of, and shall reimburse Buyer for any and all losses, liabilities, claims, damages, costs including without limitation attorneys' fees and costs (including allocated costs of in-house counsel), and actions suffered or incurred by Buyer which arise out of, result from or relate to; (a) the breach by Seller of any covenant, condition, term, obligation, representation or warranty contained: (i) in the Agreement, or (ii) in any written statement or certification furnished by Seller pursuant to this Agreement, including, without limitation, those arising from any improper or fraudulent origination, processing, underwriting or closing of Mortgage Loans; (b) any material act or omission of Seller or any employee or agent of Seller which adversely affects any Mortgage Loan registered with and purchased by Buyer hereunder; (c) any claim, complaint, or cause of action asserted by an applicant or borrower related to a Mortgage Loan originated by Seller; or (d) any Mortgage Loan which becomes the subject of (i) a VA No Bid, (ii) a VA Buydown, (iii) claims and/or losses exceeding VA's maximum guaranty amount, or (iv) instances where the VA will not accept conveyance of the related mortgaged property. Without limiting the foregoing, Seller's obligation under this Article 7 shall include costs and expenses associated with Buyer's efforts to enforce this Agreement. In all actions with third parties in which Buyer has the right to indemnified by Seller hereunder, Buyer shall have the complete and exclusive right to determine the conduct and defense of such legal proceeding or investigation with such third party including, without limitation, the right to compromise, settle, defend, or continue any such action.

**7.5 NON-WAIVER.** Nothing in this Article 7 shall be construed so as to limit, waive, prejudice, or impair any other rights or remedies Buyer may have at law or in equity, and the inclusion of any remedy in this Agreement shall not in any way inhibit Buyer's rights and law and in equity to elect among all available remedies, whether contractual and at law.

## **ARTICLE 8**

### **TERM; TERMINATION**

**8.1 TERM.** The term of this Agreement shall commence as of the date hereof and shall extend until the termination of this Agreement pursuant to this Article.

**8.2 TERMINATION.** Seller acknowledges that Buyer may with or without cause, at its sole discretion, terminate Seller's participation in Buyer's correspondent seller program, at any time, immediately upon providing written notice. Seller and Buyer agree that this Agreement does not constitute an obligation or



commitment of Seller to submit or deliver any specific loan, or of Buyer to approve or purchase any specific Mortgage Loans under Buyer's correspondent seller program. Such termination shall not in any respect change or modify the rights or obligations of the parties with respect to (a) loan applications which have been submitted to Buyer pursuant to Article 2 prior to the date of termination (except in the case of fraud) or (b) Buyer's and Seller's rights or obligations under this Agreement accruing prior to the date of termination. Seller agrees to hold Buyer harmless as a result of the termination of this agreement.

- 8.3 SURVIVAL.** All of Seller's representations and warranties in this agreement and, including without limitation, Seller's obligations of repurchase and/or indemnification in article 7, and duty of confidentiality in Article 9.6, shall survive any termination of the Agreement, and shall be fully applicable whether or not Buyer relies thereon or has knowledge of any facts at variance therewith.

## ARTICLE 9

### MISCELLANEOUS

- 9.1 ASSIGNMENT.** Buyer shall have the right to assign or transfer this Agreement and its duties, obligations or rights hereunder. Seller may not assign, transfer or subcontract any of its duties, obligations or rights under this Agreement without Buyer's prior written consent. A change in the ownership of, or merger or consolidation of Seller, or sale by Seller of substantially all of its assets, shall be considered an assignment for purposes of this Agreement. In the event Buyer assigns any of its rights in the Mortgage Loans closed hereunder, such assignee shall have the same rights as Buyer with respect to this Agreement.
- 9.2 NOTICES.** Any notice or demand shall be in writing and shall be deemed to have been given if either served: (1) personally; (2) sent by prepaid, registered or certified mail, return receipt requested, or by overnight courier to the address indicated on the signature page of this Agreement; or (3) sent by email to the email address indicated on the signature page of this agreement. Either party may give notice of its change of address or email address by written notice to the other in accordance with the terms of this paragraph. Nothing in this paragraph shall be interpreted to restrict Buyer's right to modify Buyer's underwriting guidelines, or to publish such modifications in writing or by electronic means including, but not limited to, posting to the Buyer's website at <https://www.360mtg.com>.
- 9.3 BOOKS AND RECORDS.** Seller shall prepare and maintain files of Mortgage Loans in accordance with applicable guidelines established in the industry and applicable law. Seller will cooperate with Buyer in the investigation of any claim and assist in the defense of any lawsuit arising out of the obligations of the parties under this Agreement. In addition, Seller will cooperate with Buyer, its auditors and/or regulatory examiners in any audit of Buyer and in any regulatory examination of Buyer.
- 9.4 RELATIONSHIP OF PARTIES.** Neither party is the partner, agent, employee or representative of the other, and nothing in this Agreement shall be construed or deemed to create a partnership, joint venture, agency or employment relationship between Buyer and Seller. Seller shall conduct business in its own name and not in Buyer's name. Seller shall not represent that its office is an office, branch or agent of Buyer or in any other way connected with Buyer. Seller shall have no authority to sign any documents on behalf of Buyer. Seller shall be responsible for its overhead and operations costs, payroll costs and all other costs.
- 9.5 SELLERS.** Each party represents and warrants that there are no claims for Brokerage commissions or finders' fees or other claims for money from any agent or similar intermediary in connection with Seller's entering into this Agreement with Buyer, and each party agrees to indemnify and hold harmless the other party with respect to any and all liability for any such fee or commission which is required to be paid to any such agent or Seller.
- 9.6 CONFIDENTIALITY.** Seller agrees that information concerning Buyer's business (including that of all corporate affiliates) is "Confidential Information" and proprietary and shall be maintained in confidence and not disclosed, used, duplicated, published, disseminated or otherwise made available except as described in this section. Confidential Information may include, without limitation, pricing sheets, lists of, or other

information relating to and identified with, former or prospective customers or applicants, trade secrets, confidential and proprietary methods, techniques, processes, applications approaches, and other information of Buyer in various forms, which information is used or is useful in the conduct of Buyer's business including Buyer's origination, purchase, and sale of mortgage products and the subject matter of this Agreement. Seller may use Confidential Information of Buyer only in connection with performance under this Agreement. Except as described in this Agreement, the parties shall not copy Confidential Information or disclose Confidential Information to any person or entity that does not need the Confidential Information in order to perform under this Agreement. Seller shall maintain an appropriate information security program to prevent the unauthorized disclosure, misuse, alteration or destruction of Confidential Information. Confidential Information shall be returned to Buyer upon termination of this Agreement. Confidential Information does not include information that is generally known or available to the public or that is not treated as confidential by the party claiming such information to be confidential, provided, however, that this exception shall not apply to any publicly available information to the extent that the disclosure or sharing of the information by one or both parties is subject to any limitation, restriction, consent or notification requirement under any applicable federal or state information privacy law or regulation then in effect. In the event it is necessary for Seller to disclose Confidential Information to a third party in order to perform Seller's duties hereunder and Buyer has provided Seller with written authorization to do so, Seller shall disclose only such Confidential Information as is necessary for such third party to perform its obligations to Seller. If requested by Buyer, any employee, representative, agent or subcontractor of Seller shall enter into a non-disclosure agreement with Buyer to protect the Confidential Information of Buyer. A breach of Seller's confidentiality obligations may cause Buyer to suffer irreparable harm in an amount not easily ascertained. The parties agree that such breach, whether threatened or actual, will give the Buyer the right to obtain equitable relief (i.e., obtain an injunction to restrain such disclosure or use without the requirement of posting a bond), and pursue all other remedies Buyer may have at law or in equity. Neither Party shall engage in any unauthorized disclosure, sharing, or use of any nonpublic personal information of individual consumers which a Party may receive from or on behalf of the other Party, other than for the lawful purpose for which such information was transmitted. Each party shall comply with the Gramm-Leach-Bliley Act and its implementing regulations

- 9.7 ADVERTISING AND TRADEMARK.** Seller shall not engage in any form of advertising, or make any other representation whatsoever, utilizing the name of Buyer or any subsidiary or affiliate of Buyer or any of the product names, trade names, symbols or trademarks of any of Buyer's loan products, unless Buyer provides express written authorization to do so in advance of such advertisement or representation.
- 9.8 ENTIRE AGREEMENT.** Unless modified in writing and acknowledge by both parties, this Agreement contains the entire Agreement between the parties and supersedes all prior agreements and understandings with respect to the subject matter hereof. The Correspondent Seller Application contains information relating to the Seller.
- 9.9 MODIFICATION AND WAIVER.** No termination, cancellation, modification, amendment, deletion, addition or other change in this Agreement, or any provision hereof, or waiver of any right or remedy herein provided, shall be effective for any purpose unless specifically set forth in writing signed by an authorized officer of the party or parties to be bound thereby. The waiver of any right or remedy in respect of any one occasion shall not be deemed a waiver of such right or remedy in respect of such occurrence or event on any other occasion. Nothing in this paragraph shall be interpreted to restrict Buyer's right to modify the Agreement as provided for elsewhere in this Agreement or to publish such modification in writing or by electronic means including, but not limited to, posting to the Buyer website, along with the effective date of such modification without notification to Seller. Seller shall be responsible for monitoring Buyer's website for notice of any modification to this Agreement or to any other policies or procedures. Seller shall notify Buyer of any objections to such modification within twenty (20) calendar days of the effective date of the modification or Seller shall be deemed to have consented to and bound by the modification as of the effective date thereof.
- 9.10 MODIFICATION OF OBLIGATIONS.** Buyer may, without any notice to Seller, extend, compromise, renew, release, modify, adjust or alter, by operation of law or otherwise, any of the obligations of an applicant

or other persons obligated under a Mortgage Loan without releasing or otherwise affecting the obligations of Seller with respect to such Mortgage Loan or otherwise under this Agreement.

- 9.11 SURVIVAL OF PROVISIONS.** If any of the terms or provisions of this Agreement are for any reason whatsoever held invalid, then such terms or provisions will be deemed severable and shall in no way affect the validity or enforceability of such remaining provisions and terms, all of which shall remain in full force and effect. All of the covenants, agreements, representations and warranties made herein by the parties hereto shall survive and continue in effect after the termination of the Agreement or the consummation of the transactions contemplated hereby.
- 9.12 GOVERNING LAW; JURISDICTION.** This Agreement shall be governed by, and construed and enforced in accordance with, applicable federal law and the laws of the State of Texas. Any action arising out of this Agreement or the transactions contemplated hereby may be instituted in any state or federal court located in the State of Texas. Further, each party expressly waives any objection which such party may have to the laying of venue of any such action, and irrevocably submits to the jurisdiction of any such court and agrees to be fully bound by any final un-appealed decision of those courts.
- 9.13 AGREEMENT FAIRLY CONSTRUED.** This Agreement shall be construed fairly as to both parties and not in favor of or against either party, regardless of which party prepared this Agreement.
- 9.14 HEADINGS.** The headings of the various sections of this Agreement have been inserted for convenience of reference only and shall not be deemed to be a part of this Agreement.
- 9.15 GOOD FAITH DEALING.** The parties hereto agree to deal in good faith with each other at all times.
- 9.16 EXPENSES.** Each party shall pay its own expenses incident to this Agreement and the transactions contemplated hereby, including, but not limited to, all fees of its counsel and accountants, whether or not any of the transactions contemplated shall be consummated.
- 9.17 COUNTERPARTS.** This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts and all of said counterparts taken together shall be deemed to constitute one and the same instrument.
- 9.18 SELLER CONSENT.** Approval of a Seller application by Buyer and execution of this Agreement by both parties are required prior to participation in Buyer's correspondent seller program. Seller and its owners, officers and employees are subject to a background check as part of Buyer's application review process and on-going monitoring of Sellers participating in Buyer's correspondent seller program. These checks may be performed by Buyer, its subsidiaries and affiliates, or in whole or in part by a third party service provider ("Service Provider") on Buyer's behalf. Seller acknowledges that, as part of Buyer's application review process, Buyer will receive for its review and verification a Seller application provided by Seller to Buyer or Service Provider, and that either or both of Buyer and Service Provider may perform due diligence reviews of the Seller application. Seller hereby consents to this review process and to Buyer's use of the Seller application and related materials ("the Seller Package") as described herein and authorizes Buyer, its subsidiaries and affiliates, or Service Provider to verify any information contained in the Seller Package with the sources referenced therein. Seller further authorizes Buyer to consult such other sources, and perform such additional due diligence as Buyer deems necessary, in its sole discretion, to evaluate Seller's application and continuing qualification for participation in Buyer's correspondent seller program. Seller hereby gives its express consent to receive facsimile transmissions (hereafter referred to as "faxes") from Buyer and its employees, parents, subsidiaries, affiliates, agents and/or assigns (hereafter collectively referred to as "Buyer"), including, but not limited to, those faxes that may constitute advertisements of the various loan programs, products and/or services offered from time to time by Buyer. This consent to receive faxes shall apply to all telephone facsimile numbers of Seller, its employees or agents. This consent shall remain in effect until it is revoked in a writing delivered to Buyer at the address contained in this Agreement. Seller also agrees that if Seller accesses any of Buyer's Mortgage Loan Programs electronically, Seller will be

subject to any separate Terms and Conditions contained on Buyer's internet site or as otherwise provided by Buyer.

**9.19 RELEASE OF LIABILITY.** Seller hereby discharges and releases Buyer, its parent companies, subsidiaries and affiliates, and their present and future director, officers, employees, attorneys and agents, and the successors and assigns of any of the foregoing, of and from any and all claims, demands, actions, causes of action, suits, damages, attorney's fees, costs and expenses of suit, liabilities and judgments of whatsoever kind (a "Claim"), by reason of any act or omission relating to Buyer's or Service Provider's use of the Seller Package or verification of any information contained therein. Seller further indemnifies and agrees to defend and hold Buyer harmless with respect to any Claim made by any past, present or future owner, officer, or employee of Seller with respect to such use or verification.

**IN WITNESS WHEREOF**, the parties have freely entered into this Agreement as of the date first set forth above.

_____ Seller	_____ 360 Mortgage Group, LLC Buyer
_____ Officer	_____ Officer
_____ Title	_____ Title
_____ Date	_____ Date
_____ Representative for Notice (Name, Title)	_____ Representative for Notice (Name, Title)
_____ Address for Notice (Street, City, State Zip)	_____ Address for Notice (Street, City, State, Zip)
_____ Email address for notice	_____ Email address for Notice