

**AMERICAN FINANCIAL RESOURCES, INC.
BROKER AGREEMENT**

This Mortgage Broker Agreement (“Agreement”) is made as of _____, by and between **American Financial Resources, Inc.**, a Corporation duly organized and existing under the laws of the **State of New Jersey** with its principal place of business at **9 Sylvan Way, Parsippany, NJ, 07054** (“Lender”) and _____ a duly organized and validly existing _____ (corporation, LLC, etc) with its principal place of business at _____ (“Broker”).

Whereas:

- A.** Broker is engaged in the business of originating residential loans for licensed Lenders; and,
- B.** Lender is engaged in the business of originating, making and acquiring residential mortgages; and,
- C.** Lender wishes to make residential mortgage loans, with both adjustable and fixed rates, and Broker has agreed to perform certain compensable mortgage brokerage services for Lender as an independent contractor in connection with the origination of these loans. The compensable mortgage brokerage services to be performed by Broker are at least the minimum number and type specified by HUD in its Statement of Policy 1999-1 Regarding Lender Payments to Mortgage Brokers, as summarized and further described in Appendix A, which is attached hereto and incorporated as part of this Agreement.

Now, therefore, the parties hereto, in consideration of the terms, conditions, promises and agreements hereafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged, mutually warrant, covenant and agree as follows:

I. Loan Eligibility

Each loan will conform to the following requirements:

- 1) Broker shall originate and submit to Lender loan packages for underwriting under such programs, terms and requirements as may be specified by Lender. Lender acknowledges and agrees that Broker is under no obligation to furnish to Lender a specified number of loan packages or to furnish any or all loan packages originated by Broker.
- 2) Lender reserves the right, at any time, to amend or revise its documentation requirements, underwriting criteria, and any other requirements with respect to any mortgage loan program.
- 3) Broker acknowledges and agrees that Lender in its sole discretion may reject any loan package submitted by Broker for any reason at any time prior to issuing a written commitment to the borrower.

- 4) The Lender will provide Broker with a listing of available loan programs, hereinafter collectively referred to as the "Loan Plan".
- 5) Lender, from time to time, will compile an authorized third party vendor list. Broker agrees to exclusively use any of the vendors on the approved list as well as agrees to not use any entity listed on Lender's exclusion list for any loan that will be underwritten and or closed by Lender.
- 6) Within thirty (30) days of the registration applicable to each application, Broker will submit to Lender a completed loan package. Lender will review and underwrite the loan request in accordance with The Federal Housing Administration, or Federal National Mortgage Association guidelines, and or any internal guidelines known or unknown to Broker. If a completed loan package is not submitted within this period, Lender will remove the loan from the active pipeline and thus issue a written denial.

II. Broker Representations, Warranties and Covenants

- 1) Broker agrees that it will submit only information and loan applications that are true, correct, currently valid and genuine.
- 2) Broker and Lender, individually, further agree and certify that, with regard to Broker's and Lender's activities in general and to each and every loan in particular, that it shall comply with all applicable State and Federal laws, rules and regulations, including, but not limited to, the following laws and the related regulations: the Truth in Lending Act; the Fair Credit Reporting Act; the Flood Disaster Protection Act; the Real Estate Settlement Procedures Act; the Equal Credit Opportunity Act; the Fair Housing Act; the Patriot Act; the Safe Act and the Home Mortgage Disclosure Act, all as are or may be amended from time to time. The amendments would be inclusive of any changes made in association with the implementation of the Dodd-Frank Wall Street Reform and Consumer Protection Act, as well as, the interpretation of said laws, rules and regulations as dictated by the CFPB, any GSE or other industry regulator.
- 3) Broker represents that this Agreement does not conflict with the provisions of any other agreement to which Broker is a party and that this Agreement is a legal, valid and binding obligation, enforceable accordance with its terms.
- 4) Broker shall indemnify and hold Lender harmless from any loss, damage, costs or expense, including all reasonable attorneys' fees, (i) resulting from the breach by Broker of any of its covenants or agreements contained herein or (ii) if any representation or warranty made herein by Broker is false in any material respect.
- 5) Broker represents, with respect to any loan submitted to Lender under this Agreement, that there does not exist any circumstance or condition with respect to the property securing the loan, the borrower or the borrower's credit standing, which would cause the loan to become delinquent or adversely affect the value of the property.

- 6) Broker agrees that it shall comply with the provisions of Regulation Z concerning return of monies paid to either party by the applicant should the applicant validly exercise the right to rescind.
- 7) The Broker is and shall continue to be duly organized, validly existing and in good standing under the laws of its state of organization during the time of its activities with respect to the origination of mortgage loans. The Broker has and shall continue to maintain in full force and effect all required licenses, registrations, and certifications in all appropriate jurisdictions to conduct all activities performed with respect to origination and processing of mortgages. Broker will notify Lender immediately upon learning of any revocation of any such license.
- 8) Upon request by either party, Broker or Lender shall furnish evidence in a form satisfactory to the requesting party of any action taken to comply with applicable laws including copies of any notice or disclosure forms furnished to an individual applicant if such application was originated from Broker.

III. Commitment to Purchase, Price and Terms

- 1) Broker may only originate loans in the geographical areas in which it is duly licensed to originate.
- 2) Lender will issue a written mortgage commitment to Broker's Applicant(s) upon loan approval. Said commitment must be returned to Lender by the Applicant(s) within 5 business days. If said commitment is not returned within 5 business days, Lender has the right to cancel the application and thus issue a denial to the Applicant(s).
- 3) Upon a denial of credit, Lender will issue an adverse action notice to borrower(s) and copies of such notices will be provided to Broker.
- 4) Lender will deduct the fees shown on the daily rate sheet for the day the loan is locked from any fees or above par pricing due to the Broker, if the Broker failed to properly disclose such fees on the binding original or, as applicable, on any revised and binding Good Faith Estimate issued to the applicant.
- 5) Lender reserves the right to change the interest rates, margins, caps, etc., at anytime on any programs or products that it offers with the exception of any individual loan which has been rate locked and which such rate lock has not yet expired.
- 6) When locking in the interest rate on an approved loan, Broker will fax a copy of the Lender issued Lock-in sheet to Lender, or deliver by any other means approved by Lender, thereby establishing a lock-in period for the term of the application. The rate is not locked until a written confirmation is given to Broker from Lender's lock desk.
- 7) No oral rate locks will be accepted.

- 8) For origination services provided to Lender, Broker will charge the Borrower an Origination fee not to exceed applicable State and or Federal law or Program guidelines as set forth by Lender or applicable government agency. The Borrower will receive an interest rate credit from Lender equal to the price set forth on the Lender's rate lock confirmation. Such credit will only be paid at the funding of the loan and will be paid in accordance with RESPA requirements, including those concerning the treatment and disclosure of such fees pursuant to HUD's Rules on Good Faith Estimates and HUD-1 Settlement Statements, effective January 1, 2010 (as amended or clarified by HUD from time to time).

IV. Indemnification and Repurchase, Non-solicitation and Early Payoff

- 1) Broker represents, warrants, and covenants that there is no fraud, misrepresentation or dishonesty with respect to any loan package Broker submits to Lender and agrees to immediately repurchase from Lender any such loan package as determined by Lender to have such fraud, misrepresentation or dishonesty for a price as set forth in paragraph 3 below.
- 2) Any loan which is identified as noncompliant with the representations, warrants and covenants noted above, inclusive of the Ability to Repay/Qualified Mortgage requirements, at any time during the life of the loan, due to an error or omission by the Broker, AFR reserves the right to require the loan be repurchased in full based on the repurchase price calculation below.
- 3) The repurchase price shall be equal to the sum of (a) the full loan amount and (b) the greater of par or the interest rate credit Lender paid for such loan, and (c) all service-release or other premiums paid by Lender, and (d) all accrued, unpaid interest and late charges, and (e) all escrow advances made by Lender, and (f) all other miscellaneous expenses actually incurred by Lender with respect to the related loan.
- 4) Broker's failure to comply with the repurchase request within 30 days from the date of demand entitles Lender to withhold from or set off against any amounts due from Lender to Broker or any amounts Broker has deposited with the Lender.
- 5) Broker agrees that it will not solicit for refinance any loan placed with the Lender for a period of twelve (12) months following the Lender's closing date for each loan.
- 6) In addition, for all loans, if the borrower fully pays off a loan within the first six (6) months following the first payment date due to the Lender, the broker must reimburse Lender, within thirty (30) days of such payoff or whenever notified by Lender, an amount equal to any premium paid above par including any yield spread premium whether paid to Broker and or Borrower. An exception to this would be if Lender is the one who paid off the original loan through its own Retail Loan Origination division.

V General Provisions

- 1) Broker will be responsible for any origination costs including but not limited to any costs associated with any appraisal(s), credit report(s), marketing and or lead costs.
- 2) Broker will be required to complete an annual recertification process with AFR. All required documentation shall be provided in a timely fashion upon request.
- 3) Either party may terminate this Agreement without notice to the other party, except that termination shall not release Broker from any of its obligations under this agreement. If prior to the effective date of termination, Lender has reviewed, reserved an interest rate and/or approved a loan package, Lender may, in its sole discretion, elect to retain that loan package.
- 4) Lender will, from time to time, send proprietary information to Broker. Broker agrees that all marketing material, agreements, products, programs, rate sheets and ways of doing business are the property of Lender. Broker will not share any information that may be deemed proprietary with any other entity especially a direct competitor such as a lender, mortgage broker, credit union or bank.
- 5) No exclusive relationship between Broker and Lender shall be inferred from this Agreement. Broker is an independent entity. Neither Lender or Broker, shall, without the written consent of the other party, use or refer to the other party's name in any form of advertising, written materials or circulars except as required by any state or federal disclosure requirement.
- 6) Any notice required to be given to a party hereto under the provisions of this Agreement must be in writing and delivered either personally or by mail (including overnight delivery services) at the address set forth below or such other address subsequently provided for such purpose.
- 7) Broker may not assign this Agreement, or any rights or duties hereunder, without the express written consent of Lender.
- 8) This Agreement shall constitute the whole understanding of the parties regarding the subject matter hereof, and any other agreements, oral or written, are superseded and of no effect. Any amendments or modifications of this Agreement shall not be valid unless they are in writing.
- 9) Broker agrees that it has implemented appropriate security measures designed to protect against unauthorized access to or use of Lender's and Broker's customer information that could result in substantial harm or inconvenience to any customer.

10) Broker agrees that in the event it experiences any incident of unauthorized access to customer or consumer information it will take immediate action to investigate such incident and, additionally, will notify the other party regarding such incident as soon as possible following the event.

11) Employee Solicitation: The Parties agree that throughout the term of this Agreement and for twelve (12) months thereafter, each Party, without prior, written, senior management approval of the other Party, shall not offer positions of employment to or in any manner financially engage any employee of the other Party with its organization or any organization with which it has a business relationship. For purposes of this Agreement, employees are defined as individuals who are currently working for one of the Parties or affiliates or who have within twelve (12) months of the desired hiring date worked for either of the Parties or affiliates. In the event either Party offers a position of employment to or otherwise financially engages any employee of the other Party during the term of this Agreement or for twelve (12) months thereafter, the employing or financially engaging Party will pay the other Party a sum equal to thirty percent (30%) of the most recent annual employment cost for that employee. Such sum shall be due and payable upon hiring of the employee. For purposes of this Agreement, annual employment cost is defined as the aggregate of the employee's base salary.

12) Confidentiality: The Broker and AFR acknowledge and agree that, in connection with the service provider's performance of his duties, information regarding the Broker, AFR or their customers which are confidential and proprietary in nature may be disclosed to each other. All parties agree to hold such information in strict confidence. All parties shall not, without the express prior written consent of the counterparty, disclose any part to any other third party except its employees or regulatory agencies having a need to know such information. In accordance with the privacy and security requirements of the Gramm-Leach-Bliley Act, (GLB Act) 15 U.S.C. 6801 and 6805 and corresponding regulations, nonpublic personal information of the customers and information regarding both parties shall be treated as Confidential Information, shall be protected as provided in the GLB Act and shall not be disclosed except to the consent or direction of both parties. Both parties will undertake security measures that will protect this Confidential Information and to meet the objectives of the "Guidelines Establishing Standards for Safeguarding Customer Information" as provided by the GLB Act.

13) This Agreement shall be governed by the laws of the State of New Jersey, and Broker hereby irrevocably submits to the jurisdiction of any New Jersey or Federal Court located in New Jersey regarding any action or proceeding arising out of any dispute between the parties. Broker further irrevocably consents to the service of any process in any such action or proceeding by the mailing of a copy of litigation papers, i.e. summons complaint, order, etc. to Broker at the address set forth below or such other address subsequently provided by Broker in writing.

a. Send notices to Broker to the attention of:

b. Send notices to Lender to the attention of:

Broker Services
American Financial Resources, Inc
9 Sylvan Way.
Parsippany, NJ 07054

This is the entire written agreement between the parties and supersedes all prior or contemporaneous discussions and agreements whether oral or written. This Agreement cannot be changed except in writing signed by persons authorized to sign on behalf of Broker and Lender. This Agreement has been freely negotiated and neither party shall be deemed its drafter. Any rule of construction to the effect that ambiguities are to be construed against the drafting party shall not apply in interpreting this Agreement.

IN WITNESS WHEREOF, the parties have set their hands and seals the day and year first above written.

American Financial Resources, Inc.

Date ___/___/___

Date ___/___/___

(Broker)

(Lender)

By: _____

By: _____

Print name: _____

Print name: _____

Title: _____

Title: _____

Appendix A

—Summary—
Real Estate Settlement Procedures Act (RESPA)
Statement of Policy 1999-1
Regarding Lender Payments to Mortgage Brokers

Under current rules found in HUD’s Statement of Policy 1999-1 (64 FR 10080, March 1, 1999), in order to avoid a possible finding of an illegal RESPA “Section 8” referral fee, a mortgage broker must perform “compensable services,” and the actual fees charged for those services must be “reasonable.” Lender and Broker agree that providing “compensable services” means that the Broker must do *certain types* and a *certain minimum amount* of work on each loan origination it provides to Lender. HUD guidance requires that in all cases the Broker must:

- I. Take information from the borrower and fill out the application (or, as an alternative, fill out a comparable borrower’s worksheet).
- II. *In addition*, in accordance with HUD rules, the Lender and Broker agree that Broker must perform *at least five* of the following 13 other typical loan origination services specified by HUD:
 1. Analyze the prospective borrower's income and debt and pre-qualify the prospective borrower to determine the maximum mortgage that the prospective borrower can afford;
 2. Educate the prospective borrower in the home buying and financing process, advise the borrower about the different types of loan products available, and demonstrate how closing costs and monthly payments could vary under each product;
 3. Collect financial information (tax returns, bank statements) and other related documents that are part of the application process;
 4. Initiate/order VOEs (verifications of employment) and VODs (verifications of deposit);
 5. Initiate/order requests for mortgage and other loan verifications;
 6. Initiate HVCC compliant appraisal orders through approved Appraisal Management Co’s.
 7. Initiate/order inspections or engineering reports;
 8. Provide disclosures (truth in lending, good faith estimate, others) to the borrower;
 9. Assist the borrower in understanding and clearing credit problems;
 10. Maintain regular contact with the borrower, Realtors, lender, between application and closing to appraise them of the status of the application and gather any additional information as needed;
 11. Order legal documents;
 12. Determine whether the property was located in a flood zone or ordering such service; and
 13. Participate in the loan closing.
- III. Broker and Lender further agree that Broker shall in no way limit its additional services as specified above to only the “counseling-type” activities listed in paragraphs II-1, II-2, II-3, II-9, and II-1

