

MIDCOUNTRY BANK

WHOLESALE RESIDENTIAL MORTGAGE BROKERAGE AGREEMENT

This Agreement is made as of _____, 200__ by and between MidCountry Bank, (the “Lender”), with its main office located at 1001 Labore Industrial Court, Vadnais Heights, Minnesota, 55110 and _____ (the “Broker”), with its principal office at _____.

The Broker is a:

- ___ National or State Bank
 - ___ Federal Savings Bank
 - ___ Corporation
 - ___ Sole Proprietorship
 - ___ General Partnership
 - ___ Limited Partnership
 - ___ Limited Liability Company
 - ___ Other (describe) _____
- organized under the laws of _____.

This Agreement governs origination services relating to conventional, FHA, VA, and all types of mortgage loans. The Broker may, from time to time, originate and submit to the Lender individual loan application packages which meet the terms stated herein, meet the specific conditions as stated in any program parameters or underwriting guidelines supplied by the Lender to the Broker (as amended by the Lender from time to time) and which are in conformity with the standards of the mortgage banking industry, as determined by the Lender.

1. Definitions. Unless otherwise defined or specifically clarified in this Agreement, terms used in this Agreement will have the meanings that are commonly associated with them in the mortgage banking industry.
2. Representations, Warranties, and Covenants. The Lender covenants with the Broker as set forth below, and the Broker represents and warrants to, and covenants with, the Lender that each of the following is true as of the date of this Agreement and, as applicable, is true with respect to each loan application package presented to the Lender at that time:
 - 2.1. The Broker is duly organized and validly existing under the laws of the state of its organization and is in good standing under the laws of each state where it is necessary for it to be qualified to conduct its business. The execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate or other action and the Broker has all licenses, registrations and other approvals necessary to properly conduct its business in compliance with all applicable federal, state and local laws and regulations. If applicable, the Broker is approved by and in good standing with the FHA and VA.
 - 2.2. There are no actions or proceedings pending or threatened against the Broker which would affect the Broker’s ability to perform under the terms of this Agreement or which would affect the validity or enforceability of this Agreement.

- 2.3. Neither the Broker nor any of the Broker's employees has been, within the preceding twelve months, subject to any sanctions by any governmental agency, including without limitation, HUD, the VA or any applicable state licensing body, nor are any investigations pending against any such persons by any governmental agency.
- 2.4. Except as has been obtained, no consent, approval, registration, filing or notice to any governmental authority or agency is required for the execution, delivery or performance by the Broker of this Agreement or the consummation of the transactions contemplated by this Agreement.
- 2.5. All information and documentation given to the Lender by the Broker or its agents, relative to both this Agreement and to documentation which may be provided separately, are true, accurate and genuine. The Broker warrants that it will notify the Lender promptly of any material change to any information provided.
- 2.6. All loan applications presented by the Broker to the Lender comply with, and will be closed in accordance with, all applicable HUD, FHA, VA, FNMA, FHLMC, GNMA, private investor, and Lender requirements, and all applicable representations and warranties required by the foregoing are made by the Broker to the Lender.
- 2.7. All loans that are required to be insured or guaranteed by FHA, VA or private mortgage insurance companies are so insured or guaranteed.
- 2.8. The Broker is the sole originator of each of the loan application packages presented to the Lender and no other party has provided services in connection with originating any loan application. The Broker has paid no finder's fees to any third party in connection with any loan application package.
- 2.9 The delivery of an application for underwriting to the Lender shall constitute the Broker's irrevocable offer to submit the application to the Lender. The Broker represents, warrants and covenants that it shall not offer the application to any other party after the broker has offered the application to the Lender, unless the Lender shall refuse to originate such application for any reason.
- 2.10 The Lender shall notify the Broker of the Lender's approval or denial of any application submitted by broker. The Broker shall provide rejected applicants with an "adverse action notice" in the form and containing information, required under the federal Equal Credit Opportunity Act and Fair Credit Reporting Act, and shall refund to the applicant any unused fees, or portions thereof, collected from the applicant by the Broker.
- 2.11 All applications accepted and approved by the Lender will be closed by the Lender.
- 2.12. The Broker has performed all necessary and required origination services in connection with each loan application package. The Broker represents, warrants and covenants that it has performed or will perform before the closing of the loan at least five of the activities listed below in addition to activity 2.9.1 which is taking the application.
 - 2.12.1. Interviewing the prospective borrower(s), obtaining information and completing an approved FNMA or FHLMC application form;

- 2.12.2. Analyzing the prospective borrower's income and debt and pre-qualifying the prospective borrower to determine the maximum mortgage that the prospective borrower can afford.
- 2.12.3. Educating the prospective borrower(s) in the home buying and financing process, advising the borrower about the different types of loan products available, and demonstrating how closing costs and monthly payments could vary under each product;
- 2.12.4. Collecting financial information (tax returns, bank statements) and other related documents that are part of the application process;
- 2.12.5. Initiating/ordering VOEs (verifications of employment) and VODs (verifications of deposit);
- 2.12.6. Initiating/ordering requests for mortgage and other loan verifications;
- 2.12.7. Initiating/ordering appraisals;
- 2.12.8. Initiating/ordering inspections or engineering reports;
- 2.12.9. Providing disclosures (truth in lending, good faith estimate, others) to the applicant(s);
- 2.12.10. Assisting the applicant(s) in understanding and clearing credit problems;
- 2.12.11. Maintaining regular contact with the applicant(s), realtors and lender, between the time of application and closing to apprise them of the status of the application and gather any additional information as needed;
- 2.12.12. Ordering legal documents;
- 2.12.13. Determining whether the property is located in a flood zone or ordering such service; and
- 2.12.14. Participating in the loan closing;
- 2.13. All loan packages submitted to the Lender contain a valid and properly executed title insurance commitment and policy, and such commitment and policy only include exceptions that are specifically acceptable to the Lender.
- 2.14. All applicable federal and state laws, rules and regulations have been complied with in connection with each loan application package, including, without limitation, usury limitations, applicable zoning restrictions, the Real Estate Settlement Procedures Act ("RESPA"), the Equal Credit Opportunity Act, the National Flood Insurance Act, the Truth in Lending Act, the Fair Credit

Reporting Act, the Financial Institutions, Reform, Recovery and Enforcement Act, and all regulations promulgated under such laws. All conditions to the validity of the insurance or guaranty as required by the National Housing Act, as amended, or the Servicemen's Re-Adjustment Act of 1944 as amended and the rules and regulations there under have been complied with, when applicable.

2.15. The Broker has no knowledge of any circumstance or condition involving any loan application package, the property to secure such loan, or the borrower's credit standing that would:

2.15.1. affect the value of the property to be mortgaged or the validity of the Lender's first lien position;

2.15.2. cause the loan to become delinquent; or

2.15.3. adversely effect the loan's value or marketability.

2.16. To the best of Broker's knowledge, the funds utilized by the borrower in the purchase of the property to be mortgaged and in obtaining a loan relating thereto were not obtained by, or in any way related to, illegal means including, without limitation, illegal gambling or trafficking in illegal drugs.

2.17. The Broker has provided all necessary and required documentation in connection with each loan application package. All documentation submitted in connection with each loan application package is true, complete and accurate in all respects and is in compliance with all applicable federal, state and local laws and regulations. None of the statements or information contained in any loan application package contains any untrue or erroneous statement or information or omits to state a fact necessary in order to make such statements or information not misleading. The Broker understands that by making the warranty contained in this paragraph, it is warranting the accuracy of all information submitted to the Lender for each loan application regardless of whether Broker has knowledge or reason to suspect that any such statement or information is untrue, erroneous or misleading.

2.18. Each document furnished to the Lender is complete and accurate, has been properly prepared and executed with copies delivered as required by law, and all signatures and initials therein are authorized and genuine.

2.19. Broker is not aware of any adverse information or documentation concerning any applicant which it has not communicated, in writing, to the Lender.

2.20. The representations and warranties set forth in this Agreement shall survive termination of this Agreement.

3. Indemnification/Purchase.

3.1. Indemnification. The Broker hereby agrees to indemnify the Lender, its successors and assigns, against any and all losses, fines, penalties, or expenses of any nature, including, without limitation, reasonable attorneys' fees, which may occur from the breach of any of the representations, warranties or

covenants made by the Broker. This indemnification shall survive any termination of this Agreement.

3.2. Purchase of Loans by Broker. The Broker agrees to purchase from the Lender immediately, upon demand, any loan (or property if title is then held by the Lender) for which any one or more of the following events have occurred:

3.2.1. Any representation or warranty given by the Broker to the Lender is breached or becomes untrue or the Broker otherwise breaches any covenant of this Agreement;

3.2.2. The Broker fails to deliver any required documentation within 60 days following the closing date of any loan application submitted to the Lender by the Broker; or

3.2.3. the Lender is required to repurchase the loan from any third party as a result of defects in a loan application package submitted by Broker.

3.3. Purchase Price. The purchase price for any loan originated by the Broker and funded by the Lender that the Broker purchases from the Lender shall be an amount equal to the sum of (a) the outstanding principal balance of the loan; (b) accrued and uncollected interest and other fees and charges under the loan; (c) any penalties, fees, costs or expenses, including, without limitation, reasonable attorneys' fees incurred by the Lender as a result of the repurchase of the loan by the Lender; (d) all other un-reimbursed costs, expenses and advances incurred by the Lender in connection with the loan; and (e) all compensation paid by the Lender to the Broker in connection with the loan.

3.4. Offset Rights. The Broker hereby authorizes the Lender, at the Lender's sole option, to offset any amounts owed by the Broker to the Lender under this Agreement against any amounts owed to the Broker by the Lender.

3.5. Other Remedies. Nothing in this Section 3 shall be construed to limit any other remedy available to the Lender at law or in equity.

4. Miscellaneous.

4.1. Relationship of the Parties. This Agreement does not establish an exclusive business relationship between the Broker and the Lender. The Broker is not an affiliate or agent of the Lender. The Broker shall not present itself so as to represent or imply that its employees are employees of the Lender. The Broker shall not use the Lender's name, trademarks or service marks in any advertisement or other promotional campaign.

4.2. Binding Effect; Assignment. This Agreement is binding on the parties hereto and their respective successors and assigns. The Broker may not assign any of its rights or responsibilities hereunder to any other party without written consent of the Lender, which consent the Lender may withhold in its sole discretion. The Lender may assign this Agreement upon notice to, and without the consent of, the Broker.

- 4.3. Non-Solicitation of Borrowers After Closing. The Broker will not solicit or cause a borrower to be solicited for a refinance, prepayment or any other alteration of an existing loan unless such proposed loan will result in a reduction in both interest rate and payment amount.
- 4.4. Early Payoffs. If a mortgage loan is paid in full within 120 days of purchase by the Lender, the Broker will reimburse the Lender the entire amount of the yield spread premium paid to the Broker at the time of purchase. This clause will apply only if the Broker refinances or causes the loan to be refinanced. An invoice will be sent to the Broker with payment due within 15 days of receipt.
- 4.5. Loan Commitments. The Broker understands and agrees that the Lender shall have sole discretion and authority to determine whether, and under what conditions, any loan application will be approved or denied, and that the Broker shall not make any credit commitments on behalf of the Lender. Any and all loan commitment letters issued to an applicant shall be effective only if properly executed by the Lender. Oral commitments and commitment letters or contracts not meeting the above requirements shall not be valid or binding on the Lender under any circumstances. The Lender shall have no obligation whatsoever to the Broker to approve or fund any loan which is not approved in writing by an authorized representative of the Lender and the Broker shall inform each person solicited by the Broker of the foregoing.
- 4.6. Bank Guidelines. The Lender may provide the Broker with guidelines for obtaining appraisals or other evaluations from third parties or from the Lender. If the Lender has provided appraisal guidelines to the Broker, the Broker shall be authorized to obtain appraisals and other evaluations subject to the parameters set forth therein, as amended from time to time by the Lender. The appraiser conducting and signing any appraisal or evaluation, as the case may be, shall have no interest, direct or indirect, financial or otherwise, in the subject real estate or in any loan on the security thereof and shall not receive compensation which is affected by the approval or disapproval of the loan application.
- 4.7. Broker Compensation.
- 4.7.1. In consideration for services performed by the Broker, compensation may be paid by an applicant to the Broker if properly disclosed in accordance with applicable disclosure requirements and provided for in a separate agreement between the Broker and the applicant. The Lender is not, and will not be, party to any agreement between the Broker and an applicant, and the Lender is not responsible for collection of the Broker's compensation from any applicant.
- 4.7.2. Except as specified in the guidelines provided by the Lender, as may be amended from time to time, the Lender shall have no obligation or responsibility to pay or remit any compensation to the Broker. Any compensation to be paid by the Lender to the Broker shall be earned by the Broker only upon loan funding.
- 4.7.3. The Broker agrees that the total of all compensation received by it from the Lender shall be reasonably justifiable in accordance with the services

performed, and in no event shall such compensation violate the applicable provisions of RESPA.

- 4.7.4. The Broker agrees to be held responsible for any and all pricing adjustments published at the time of this agreement and any amendments to the pricing guidelines hereafter. The Broker agrees that within 30 days of the funding, if pricing discrepancies exist, they will promptly remit payment upon demand not to exceed 15 days from invoice.
- 4.8. Rescission. With regard to each loan application package submitted by the Broker to the Lender, the Broker covenants that if the loan is rescinded by the applicant under applicable law, the Broker will pay to the Lender, upon demand, all monies collected from the applicant by the Broker so that the Lender may refund said monies to such applicant.
- 4.9. Financial Information. The Broker shall provide to the Lender upon request of the Lender evidence of the Broker's financial condition sufficient for the Lender to make a determination as to the Broker's solvency. Such reports shall include, without limitation, financial statements and audit reports. The Broker shall notify the Lender immediately upon the Broker's insolvency or filing for bankruptcy.
- 4.10 The Broker agrees that the Lender may conduct a quality control audit of the mortgage loans offered by the Broker in order to re-verify the documentation and factual representations. The Broker further agrees that the Lender may conduct audits of the Brokers operations, personnel or practices as may be required or reasonable under Agency Regulations or in Lender's reasonable discretion.
- 4.11 The Broker is responsible for the preparation and timely delivery to the applicant all disclosures in accordance with applicable state, federal and local laws, including but not limited to the following:
- a) HUD's settlement cost booklet
 - b) The Good Faith Estimate
 - c) The Servicing Transfer Disclosure
 - d) The Truth in Lending Disclosure
 - e) Applicable ARM or Balloon Disclosures
 - f) Any other notices required by the Lender
- 4.12. Confidentiality. All agreements and arrangements between the Lender and the Broker, including without limitation the sharing of policies, procedures and practices, will be confidential and will remain confidential even if this Agreement is terminated. The Broker shall maintain all information received by it from any loan applicant as confidential in strict compliance with all applicable laws and regulations. The Broker shall implement appropriate measures to ensure the security and confidentiality of all such information in its possession from time to time, including protecting against any anticipated threats or hazards to the security or integrity of the such information and protecting against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any loan applicant.
- 4.13. Governing Law. This Agreement shall be governed and construed in accordance with Minnesota law.

- 4.14. Termination. Either party may terminate this Agreement with or without cause at any time by giving written notice to the other party, and such termination shall be effective upon the party's receipt of written notice.
- 4.15. Entire Agreement; Validity. This Agreement, including any guidelines referred to in this Agreement, represents the entire Agreement between the Lender and the Broker. Should any portion of this Agreement be found to be invalid or unenforceable, the remainder of this Agreement shall remain in full force and effect.
- 4.16. MARI and MIDEX release. Broker understands that Lender performs quality control reviews of the Mortgage Loans that Broker submits to Lender for purchase. Broker hereby consents to the release of information about any loan application that is believed to contain misrepresentations and/or irregularities. Broker 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 Broker or its employees are implicated in the misrepresentations and/or irregularities. Broker hereby releases and agrees to hold harmless Lender, Mortgage Asset Research Institute, Inc. ("MARI:"), all Mortgage Industry Data Exchange ("MIDEX") subscribers, and any trade associations that endorse the MIDEX system from any and all liability for damages, losses, costs, and expenses that may arise from the reporting or use of any information submitted by the Lender or any other MIDEX subscriber to MARI, recorded in the MIDEX system, and used in any way by Lender or any other MIDEX subscriber.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date above.

Broker Information:

Broker Name: _____

Address: _____

Signature: _____

Printed Name: _____

Title: _____

MidCountry Bank:

Signature: _____

Printed Name: _____

Title: _____