



## Lender - Mortgage Broker Agreement

**THIS LENDER-MORTGAGE BROKER AGREEMENT ("Agreement")** is made on the date below shown by and between **WASHINGTON FEDERAL BANK ("Lender")** and **BROKER identified on page 6 ("Broker")**.

### **1.0 DEFINITIONS. The following definitions apply to this Agreement:**

**1.01 "Applicant"** means any person(s) seeking (a) mortgage loan(s) who apply directly to Broker and whose applications(s) may later be presented to Lender by Broker for Lender's consideration.

**1.02 "Application"** means any written loan underwriting package regarding an Applicant which is prepared and presented by Broker on behalf of Applicant and which may be submitted to Lender by Broker for Lender's consideration. For purposes of this definition, each loan underwriting package shall include the documents set forth in the Schedule attached as Exhibit A to this Agreement.

**1.03 "Broker"** means Broker and, as applicable, its employees, officers, managers, directors, members, shareholders, agents, heirs, successors and assigns.

**1.04 "Lender"** means Lender and its employees, officers, directors, shareholders, successors, and assigns.

**1.05 "Submission," "submit(s)" or "submitting"** means the act of Broker submitting an Application to Lender for consideration by Lender.

**1.06 "Approve(s)," "approval," "approving" or "approved"** means the act of Lender making a written loan commitment regarding Applicant.

**1.07 "Denial," "denying," "deny," or "denied"** means the act of Lender communicating to Broker that an Application has been rejected after formal consideration.

**1.08 "Counter-offer" or "counter-offered"** means Lender's denying an Application based on the terms originally applied for and offering the same Applicant a loan based on other terms and conditions.

**1.09 "Fund(s)," "funding," or "funded"** means Lender's making a loan to Applicant after all conditions precedent to its disbursement, as set forth in an approval and escrow instructions, have been satisfied.

**1.10 "Claim"** means any claim, demand, cause of action, cross-claim, counterclaim, third party complaint, affirmative defense, demand for set off or contribution, or subrogation claim, or any

criminal prosecution, or civil or administrative action by a government authority, and any losses, liability or penalties resulting there from.

## **2.00 NATURE OF LENDER - BROKER - APPLICANT RELATIONSHIP**

Broker agrees to submit to Lender from time to time and in their mutual discretion, mortgage loan applications according to the terms and conditions of this Agreement. Lender and Broker agree that, except as set forth in Section 8.00 of this Agreement, the relationship of Lender and Broker shall be arm's length, and in this regard, Lender and Broker further agree as follows:

**2.01 *Broker Not An Agent.*** Broker agrees and warrants unto Lender and any future Applicant who transacts with Broker that, except as set forth in Section 8.00 of this Agreement, Broker is not an agent for or acting on behalf of Lender, but rather is acting for Broker or on behalf of Applicant only, and accordingly, Broker shall hold harmless and indemnify, protect and defend Lender from any Claim arising solely from any act or omission of Broker not identified in Section 8.00 of this Agreement, other than acts or omissions of Broker occurring in response to direction or requests of Lender.

### **2.02 *Affiliated Business Arrangements - 12 CFR § 1024.15 -***

An [affiliated](#) business arrangement has the same meaning as defined in section 3(7) of RESPA ([12U.S.C. 2602\(7\)](#)).

Broker agrees to disclose all affiliate relationships in accordance with the regulation and to inform WaFd Bank to accurately disclose on Loan Estimates and Closing Disclosures for transactions impacted by this rule. In all instances where an affiliate relationship exists, Broker will provide the Affiliated Business Arrangement Disclosure Statement to borrowers as required by this regulation.

**2.03 *Application Submission & Disposition.*** Broker may, from time to time and in its own discretion, submit an Application of an Applicant to Lender for Lender's consideration. Within a commercially reasonable time after submission of an Application by Broker to Lender, Lender shall review the Application, and in its own discretion, approve or deny it, or make the Applicant a counter-offer. If the Application is approved and all conditions of the approval, as contained in a loan commitment and escrow instructions, have been accepted by Applicant and performed, Lender shall fund a loan to an Applicant as approved. If a counter-offer is made and all conditions of the counter-offer, as contained in a loan commitment and escrow instructions, have been accepted by Applicant and performed, Lender shall fund a loan to an Applicant as approved.

**2.04 *Hold Harmless & Indemnity.*** Until Broker makes a submission on behalf of an Applicant, which has been approved by Lender or a counter-offer made by Lender and accepted by Applicant, Lender is under no duty or obligation to that Applicant whatsoever, whether under statute, administrative regulation or common law, and Broker shall hold harmless and further indemnify, protect and defend Lender from any Claim of an Applicant arising solely from any act or omission of Broker concerning any Application submitted to Lender, other than acts or omissions of Broker occurring in response to directions or requests of Lender. Broker warrants unto Lender that, prior to submission to Lender, Broker will inform every Applicant, from whom an Application is taken, that Lender (1) may in its own discretion deny a submitted Application and (2) is under no duty or obligation to fund a loan to

Applicant unless a loan commitment has been made, all its conditions (including escrow instructions) have been fulfilled and the Applicant has accepted the loan commitment in a timely manner.

### **3.00 COMPLIANCE WITH GENERAL MORTGAGE LENDING LAWS AND REGULATIONS**

**3.01 Broker's Compliance.** Broker warrants unto Lender that, in any Application it submits to Lender, Broker shall comply in all material ways with all applicable federal and state statutes and regulations (as now or in the future amended) affecting mortgage lending, including but not limited to the following ("Regulations"):

- a. Any mortgage broker's practices act of the state in which the property is located, which property is pledged as security for any and all mortgage loans to be originated by Lender incident to this Agreement. The Federal Truth in Lending Act, 15 U.S.C. 1601 et seq., Regulation Z, 12 C.F.R. 226 and TRID.
- b. The Real Estate Settlement Procedures Act, 12 U.S.C. 2601 et seq., and Regulation X, 24 C.F.R. 3500.
- c. The Equal Credit Opportunity Act, 15 U.S.C. 1691 et seq., and Regulation B, 12 C.F.R. 202.
- d. The Fair Housing Act (Title VIII of Civil Rights Act of 1968, as amended), 42 U.S.C. 3601 et seq.
- e. The Homeowners Protection Act, 12 U.S.C. 4901.
- f. The Fair and Accurate Credit Transactions Act of 2003 (FACT Act), 15 U.S.C. 1601 et seq. and 20 U.S.C. 9701 et seq.
- g. The Privacy of Consumer Financial Information and Regulation P, 12 CFR 216.
- h. The USA Patriot Act of 2001 Public Law 107-56 et seq.
- i. The Right to Financial Privacy Act 12 USC 3401 et seq. and 12 C.F.R.219.
- j. S.A.F.E Mortgage Licensing (Regulations G & H) 12 CFR Part 1007 and 1008
- k. UDAAP – Unfair, Deceptive, or Abusive Acts or Practices Policy- Dodd-Frank Act Title X, Subtitle C, Sec. 1036; PL 111-203
- l. E-Sign
- m. Any other Consumer protection law or regulation.
- n. All appraisal laws and regulations identified in subsection 5.01 below.

Broker shall hold harmless and indemnify, protect and defend Lender from any Claim arising from any breach of this warranty by Broker.

**3.02 Lender's Compliance.** Lender warrants unto Broker that Lender's processing of any Application and the terms of any loan made by Lender pursuant to an Application submitted to Lender by Broker shall comply in all material ways with Regulations. Lender shall hold harmless and indemnify, protect and defend Broker from any Claim arising from any breach of this warranty by Lender.

### **4.00 COMPLIANCE WITH LICENSING LAWS AND REGULATIONS**

Broker warrants unto Lender that, in any Application it submits to Lender, Broker has a license or licenses in good standing with the applicable state or states authorizing conduct involving any

Application now or in the future submitted to Lender, including but not limited to any mortgage broker licensing law or the like. Broker shall have a continuing duty to provide Lender with written notice of any applicable license of Broker or change in the status of Broker's license, and Lender, without advance notice to Broker, may require proof to Lender's satisfaction of Broker's good standing as a licensee prior to submission of any Application, or in the alternative, proof of any exemption from any licensing law. Broker shall hold harmless and indemnify, protect and defend Lender from any Claim against Lender arising in whole or in part from Broker failing to comply in any manner with any applicable licensing laws or regulations.

## **5.00 COMPLIANCE WITH APPRAISAL LAWS AND REGULATIONS**

**5.01 *Appraisal-Related Requirements.*** All appraisals and appraisal forms shall comply with: (1) all state and federal appraisal criteria, including the appraisal independence requirements under Regulation Z; (2) standards and requirements applicable to Lender; and (3) the appraisal rules and regulations contained or incorporated in and adopted pursuant to the federal Financial Institutions Reform, Recovery, and Enforcement Act ("*FIRREA*"). All appraisers shall meet all state and federal certification, licensing and other criteria, standards and requirements applicable for appraisers providing appraisals to Lender, including but not limited to those contained or incorporated in or otherwise required by FIRREA or the rules and regulations adopted pursuant to FIRREA.

**5.02 *Lender Approval of Appraisal Forms.*** Lender reserves the right to review and approve all appraisal forms and reserves the right to require that Lender's forms be used.

## **6.00 LOAN SALE COMMITMENTS**

Lender's approval of an Application by written loan commitment provided to Broker shall be deemed an agreement by Lender to originate and fund a mortgage loan, subject to the terms and conditions of this Agreement and the written loan commitment and escrow instructions.

## **7.00 BROKER COMPENSATION**

Lender shall pay Broker the compensation for each closed Loan as set forth in the addendum attached titled "Compensation Agreement" which by reference is made part of this agreement.

**7.01 *Maximum Broker Compensation.*** Maximum compensation to Broker cannot exceed the maximum compensation set forth in the addendum attached titled "Compensation Agreement".

## **8.00 LOCKED-IN INTEREST RATE AGREEMENTS AND DEPOSITS**

Lender customarily provides multiple Lock-in options for the Broker to present to the Applicant. If the selected Lock-in option requires an upfront deposit from the Applicant, Broker shall comply with the Mortgage Disclosure Improvement Act (MDIA) and TRID with regards to the collection of all deposits from the Applicant. In the event an Applicant has Locked-in their interest rate with Lender for a fixed period of time (with or without a deposit), Broker understands that said Locked-in interest rate is not a formal commitment by Lender to lend and that Lender reserves the right to cancel the Locked-in interest rate, and such cancellation may occur for any reason and at any time, in Lender's sole discretion.

Notwithstanding the above, Broker shall hold harmless Lender from any act or omission of Broker resulting in an Applicant being unfairly or improperly denied the benefit of a Locked-in interest rate, and Broker shall indemnify and defend Lender from any claim arising from such act or omission of Broker.

#### **9.00 LOAN PARAMETERS FOR BROKER SUBMISSIONS**

Lender shall publish on its website Program Descriptions and Loan Parameter Standards of Lender for all Broker submission of Applications. The Loan Parameter Standards for Broker Submissions shall at the time of their publication or later amendment and without advance notice to Broker become incorporated by reference in this Agreement as if already herein set forth, and Broker hereby warrants unto Lender compliance with the Loan Parameter Standards and shall further hold harmless and indemnify, protect and defend Lender from any Claim arising from any act or omission of Broker which constitutes: (a) a breach of the Loan Parameter Standards; (b) a material misrepresentation of the Loan Parameter Standards to any Applicant or other third party; and/or (c) the discriminatory or otherwise inequitable or inconsistent application of the Loan Parameter Standards to Applicants. Lender may periodically amend the Loan Parameter Standards without advance notice to Broker. The Loan Parameter Standards as so amended shall be in effect as of the beginning of the business day on the date of publication of such amendment.

#### **10.00 MISCELLANEOUS**

**10.01 Complete Agreement.** Subject to the terms of individual loan commitments and closing instructions and the Loan Parameter Standards or any other policy of which Broker has written notice, this Agreement shall represent a full and complete understanding as between Lender and Broker, and no prior or contemporaneous oral statement of either Broker or Lender, and no prior or contemporaneous oral statements of either Broker or Lender to the contrary may vary or alter the terms of this agreement.

**10.02 No Waiver or Course of Dealing.** No failure by a party hereto to assert a right under this Agreement in any one or more instances shall constitute a waiver of such party's right to enforce any other term of this Agreement or to enforce such rights in other instances.

**10.03 Severability.** If any term of this Agreement shall be declared invalid by a court of law, the invalidity of such term shall not affect the validity or enforceability of any other term of this Agreement.

**10.04 Authority of Representative.** Each party warrants that the person signing this Agreement has the corporate power and authority to execute this Agreement for or on behalf of his or her principal and to bind such party to the terms of this Agreement.

**10.05 Mediation.** Lender and Broker shall make a good faith attempt to mediate with each other any dispute concerning the terms of this Agreement in the presence of an independent mediator they shall mutually agree upon. Lender and Broker shall make a good faith attempt to mediate any dispute within thirty (30) days of its first being asserted, after which, if Lender and Broker shall not have resolved their dispute, either party may seek any remedy in law or equity, subject to the jurisdiction and venue requirements of subsection 10.10 of this Agreement.

**10.06 Term; Termination.** This Agreement shall be effective on the date hereof and shall remain in effect until terminated by either party in their discretion upon thirty (30) days prior written notice to the other. In the event of any termination of this Agreement, (i) any cause of action accrued in favor of any party hereunder shall be unaffected, and (ii) the obligations of each party relating to the confidentiality shall survive termination.

**10.07 Non-Solicitation.** Neither Broker nor its officers, directors, agents, employees or affiliated entities shall, for a period of 180 days from the date of closing of any mortgage loan made by Lender, solicit an Applicant for the purpose of making a new loan which would be secured by the same property which secures the Applicant's mortgage loan made by Lender. The term "solicit" as used herein shall not include mass advertising via media such as newspaper, radio, television, social media and other similar forms of communication not specifically directed to the Applicants. If Broker violates the provisions of this section, in addition to other remedies Lender may have, Broker must reimburse Lender for all compensation paid to Broker by Lender in connection with any affected mortgage loan.

**10.08 Early Payoff.** If the loan balance is paid in full within 180 days from the date of loan closing, it shall be considered an Early Payoff. Lender shall notify Broker in writing of any amount due with respect to Early Payoff, and Broker shall submit payment to Lender within fifteen (15) days of such providing notice. If payment is not received by Lender on or prior to its due date, Lender reserves the right to offset any amounts due hereunder, at any time and without prior notice, against any amounts due to Broker under this Agreement. In the event the payoff occurs due to a refinance by the same Broker, and the new loan is delivered back to Lender, part of, or all the requirements above may be waived by Lender at the sole discretion of the Lender.

**10.09 Confidentiality.** During the term of this Agreement, and for a period of two (2) years thereafter, each party shall safeguard the other party's Confidential Information (as hereinafter defined) and shall use its reasonable best efforts to avoid the disclosure of any such Confidential Information to any third party. For purposes hereof, a party's Confidential Information shall include any written or verbal information disclosed, including but not limited to any processes, services, business operations, financial statements, business or strategic plans, customers, employees, transactions, suppliers, practices and trade secrets, as well as all data notes, analyses, compilations, interpretation or other documents delivered by the other party that contain Confidential Information. Confidential Information shall not include (i) any information that is known or becomes known to the general public, other than as a result of a disclosure in violation of this Agreement or (ii) any information that becomes available to a party on a non-confidential basis from a source other than the other party, provided that such source, to the knowledge of the first party, is not prohibited from disclosing such information to the first party by a legal, contractual or fiduciary obligation to the second party. Confidential Information also includes non-public personal information, as that term is defined by the Gramm-Leach-Bliley Act of 1999. Any disclosure of Confidential Information may be made to the extent

required by law or court order, provided that the disclosing party uses its reasonable best efforts to give the other party reasonable notice of same and to provide the other party with the opportunity to object or obtain a protective order to maintain the confidentiality of the information to be disclosed. Each party acknowledges that a breach of the above restrictions may cause irreparable damage, the exact amount of which may be difficult to ascertain and that remedies at law for any such breach may be inadequate. Accordingly, the parties agree that if either party breaches such restrictions, the aggrieved party shall be entitled to seek injunctive relief in addition to monetary damages. Neither party shall be liable for incidental, consequential or punitive damages of any nature or kind resulting from or arising in connection with this Agreement. The Confidentiality obligations of this Section shall survive termination of this Agreement.

**10.10 Notice.** All notices under this Agreement shall be delivered either in writing by bonded courier or via electronic mail to the named officer on this Agreement, or as later designated by the parties. Notices under this Agreement may not be served by facsimile transmission. For notice served by bonded courier, the date of delivery recorded by the bonded courier shall be considered the date of notice. For notice served via electronic mail, the date sent shall be considered the date of notice.

**10.11 Force Majeure.** Neither party shall be held responsible for any delay or failure in performance of any part of this Agreement to the extent such delay or failure is caused by fire, flood, explosion, war, strike, embargo, government requirement, civil or military authority, act of God, or similar causes beyond its control and without the fault or negligence of the delayed or non-performing party or its subcontractors (“force majeure event”).

**10.12 Applicable Law and Attorney's Fees and Costs.** The validity, interpretation, construction and performance of this Agreement shall be governed by the internal laws of the State of Washington, without regard to the principles of conflicts of law. Both parties irrevocably agree to submit to the jurisdiction of any court in King County, Washington for the purpose of any suit, action, or other proceeding arising out of this Agreement, or out of the transactions contemplated hereby. If suit be brought in connection with or to enforce any term of this Agreement, the prevailing party (or the non-dismissing party in the event of a voluntary dismissal by the party instituting the action) shall be entitled to costs of suit plus a reasonable attorney's fees as shall be fixed by the court and such fees and costs shall include those incurred in all post-trial or post-decision proceedings, including all appeals or retrials.

**10.13 Modification.** No provisions of this Agreement may be modified, waived or discharged unless a written modification, waiver or discharge had been signed on behalf of both parties.

**Agreed to and accepted:**

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Name of Broker Entity

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Name and Title of Authorized Officer of Broker Entity

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Signature

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Date

**Agreed to and accepted:**

**Washington Federal Bank**

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Name and Title of Authorized Officer of Washington Federal Bank

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Signature

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Date



## SCHEDULE - Appendix A

**Note: All WaFd forms required can be found on website under “Forms and Worksheets” tab.**

### Submission Profile:

- Completed WaFd Submission Forms: “Mortgage Broker Loan Submission Form”, “Broker’s Regulation Z Certification”, “4506T”, “Authorization to Verify”, “Reserve Account and Payment Option Form”, “Receipt of Application Form” & “Pre-Purchase Credit Approval Form”(when property has not been identified)
- Broker’s cover letter explaining any unique circumstances, exception requests, compensating factors, etc.
- WaFd worksheet(s) if Custom Construction and/or Cross-Collateral.
- CDD Form – Client Due Diligence Form- Individual and Business Forms.
- Trust/LLC/Corporation documentation (if borrower is an “entity”).
- Transmittal Summary (Fannie Mae Form 1008)
- Initial Typed Loan Application; update to accurately reflect verified income, assets and liabilities.

### Credit History:

- Credit Explanation Letter; if any derogatory items are reflected
- Tri-merge Credit Report
- Credit Score Information Notice and Notice to Home Loan Applicant

### Income Documentation:

- Broker’s “Blanket Certification Letter” for all copies of W-2’s, paystubs and bankstatements.
- Employed borrower:
  - 2 most recent pay stubs or acceptable Digital Verification of 2-year Employment history and income, alongside one most recent paystub.
  - 2 most recent years W-2’s
- Self-employed borrower:
  - Balance Sheet for Business; signed and dated
  - YTD Profit and Loss Statement for Business; signed and dated
- Completed 4506T; signed and dated. (Required if LTV is over 80%)
- 2 most recent years Personal and Business Tax Returns

### Verification of Assets and Funds Required to Close:

- 2 most recent months’ bank/brokerage/asset statements or acceptable Digital Verification of the most recent 60 days asset history.
- Gift Letter and documentation of receipt of gift funds.
- Certified copy of final Closing Disclosure (if selling home for funds to close).

### Miscellaneous:

- Verification(s) of Mortgage/Rent (if not verified on credit report)
- Rental Agreements, if applicable
- Divorce Decree, if applicable
- Bankruptcy Papers, if applicable

**Property Information:**

- Title Report, including copies of all recorded exceptions
- WaFd Condominium Questionnaire (*and/or Resale Certificate, if Washington.*)
- Miscellaneous Property Inspections as applicable. (*Pest, Roof, Well, Septic, Geo-tech, etc.*)
- Copy of Appraiser's State License or Certification (required if not an approved WaFd appraiser).
- Appraisal Report with original pictures
- WaFd Form: Broker Request for Property Inspection (required for Custom Construction).

**Purchase and/or Construction Project Information:**

- Purchase Agreement
- Earnest Money Deposit Verification
- Construction Documentation, if applicable: Construction Contract, Cost Breakdown, Description of Materials, Specifications, Site Map, Plot Plan and Builder Package.