



## MORTGAGE ORIGATION SERVICES AGREEMENT

THIS MORTGAGE ORIGATION SERVICES AGREEMENT (the "Agreement") is entered into between - \_\_\_\_\_ ("Service Provider") and Flanagan State Bank ("Lender") to be effective this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

**WHEREAS**, Service Provider warrants that it is a duly organized and validly existing entity and that it is in good standing under applicable laws and regulations of the United States of America and the state(s) in which it conducts business; and

**WHEREAS**, Service Provider has the requisite corporate authority and capacity to enter into this Agreement and that compliance with the terms and conditions of this Agreement will not violate any provisions of Service Provider's charter or bylaws, any instrument relating to the conduct of its business, or any other agreement to which it may be a party; and

**WHEREAS**, Service Provider develops prospects for mortgage loans and wishes to send to Lender some of its prospects so that Lender can evaluate whether to extend credit to such prospects; and

**WHEREAS**, Service Provider will promote Lender's loan program, as it deems appropriate, and will provide personnel and space to take applications and forward the same to Lender; and

**WHEREAS**, Lender will consider extending credit to prospects sent by Service Provider as provided for in this Agreement.

**THEREFORE, IT IS HEREBY AGREED** between Service Provider and Lender, in consideration of the aforementioned premises and the following mutual obligations and covenants as provided hereinafter, as follows:

1. **Service Provider's Services:** In addition to taking information from the prospect, Service Provider will perform for each prospect and Lender five (5) or more of the listed items:
  - a.  Taking information from the prospect and filling out the application.
  - b.  Analyzing the prospect's income and debt and pre-qualifying the prospect to determine the maximum mortgage that the prospect can afford.
  - c.  Educating the prospect in the home buying and financing process, advising the prospect about the different types of loan products available, and demonstrating how closing costs and monthly payments could vary under each product.
  - d.  Collecting financial information (tax returns, bank statements, etc.) and other related documents that are part of the application process.
  - e.  Initiating / ordering VOEs (verifications of employment) and VODs (verifications of deposits).
  - f.  Initiating / ordering requests for mortgage and other loan verifications.
  - g.  Initiating / ordering appraisals.
  - h.  Initiating / ordering inspections or engineering reports.
  - i.  Providing disclosures (Loan Estimate, Application Disclosures, etc.) to prospect.
  - j.  Assisting the prospect in understanding and clearing credit problems.
  - k.  Maintaining regular contact with the prospect, realtors, Lender, between application and closing to apprise them of the status of the application and gather any additional information as needed.
  - l.  Ordering legal documents.

- m. \_\_\_Determining whether the property is located in a flood zone or ordering such service.
- n. \_\_\_Participating in the loan closing.

**2. Lender's Services.**

- a. Performing mortgage origination services from Section 1 not performed by Service Provider, and other loan application processing services.
  - b. Approving or declining any loan application submitted or modifying the amount or terms requested.
  - c. Reviewing said package with reasonable promptness and advising Service Provider of its approval, disapproval or such additional information it needs to make a decision.
  - d. Arranging for the closing and funding of the loan, if approved, and the recording of loan documents.
  - e. Recording the loan application and action taken on the Home Mortgage Disclosure Act Loan Application Register.
3. **Compensation.** For services rendered by Service Provider to a prospect and Lender in accordance with Section 1.0, Lender shall pay to **Service Provider a fee of 100 bps or max of \$5,000** on each loan for which Service Provider provides services which subsequently closes. Service Provider shall not charge any fee to a prospect or collect any other discount or origination points from a prospect. Lender will not charge a fee that duplicates the Service Provider's fee. Service Provider must comply with all applicable laws and regulations with respect to any fees charged and collected by Service Provider, and Service Provider shall not charge or collect any fee that is not reflected on the loan closing settlement sheet. The parties agree that all compensation paid pursuant to this Agreement is and shall continue to be in relation to the reasonable value of the services actually performed in the relevant marketplace. In the event that Service Provider owes any amount to Lender hereunder or under any other agreement, understanding or arrangement between Service Provider and Lender, then Lender shall have the right, without notice, to deduct any and all of such amounts from amounts that otherwise would be payable hereunder by Lender to Service Provider.
4. **Term.** This Agreement shall have an indefinite term, which may be terminated by either party, which termination shall be effective upon thirty (30) days' written notice from either party. Upon the fax or delivery of any such termination notice, it is agreed that no new loans or transactions shall be undertaken by the parties working together. However, it is further agreed that all loans or transactions in progress shall be completed, even if the time to do so extends beyond thirty (30) days, unless other arrangements are made to complete the work, to the mutual satisfaction of both parties. In the event Service Provider is in breach of its obligations under this Agreement, Lender may choose not to accept loans which it has not already funded.
5. **Service Provider's Representations and Warranties.** Service Provider is properly qualified to do business and licensed in all jurisdictions where such qualification and licensing are required, and Service Provider has complied, and at all times relevant to this Agreement shall comply, with all applicable federal, state and local laws and regulations, including, without limitation, ECOA, RESPA, SAFE, and other fair-lending laws and regulations. Each loan application package must be originated in accordance with, and satisfy the requirements of (i) all applicable federal, state and local laws, regulations and rules, (ii) any and all underwriting standards, loan product descriptions, policies, procedures, guidelines, memoranda and other requirements issued by Lender from time to time, and (iii) this Agreement. Pursuant to applicable federal and state law, Service Provider shall fully disclose all Service Provider compensation received for services rendered to a prospect and Lender. Where required by applicable federal or state law, Service Provider shall provide Lender with a copy of a written agreement signed by the prospect setting forth the terms of the relationship including all services

rendered in connection with the loan transaction and all compensation received by the Service Provider as more fully described in Section 3. All forms used and all actions taken by Service Provider shall comply with applicable federal, state and local laws and regulations. Service Provider shall not make any representations to any person as to Lender's actions or intentions without Lender's express written consent. All documents submitted by Service Provider shall be accurate and complete, and all signatures shall be genuine. No fraud has been or shall be committed, nor has any misrepresentation been or shall be made, by any person or entity including, without limitation, Service Provider and the prospect, in connection with the application, execution or submission of any loan application package. All of Service Provider's representations, warranties, and covenants shall be true and correct and deemed made on the date hereof and on each day on which Service Provider sends a prospect to Lender or submits a loan application package through and including the day on which the related loan closes.

**6. Additional Requirements.**

- a. Concurrent with the delivery of a loan application package to Lender hereunder, Service Provider shall be deemed to have assigned, and hereby does assign, all of its rights, title and interest in and to such loan application package to Lender.
- b. The decision to reject a loan application package or to approve a loan in connection with a loan application package shall be made by Lender in its sole discretion. Service Provider has no authority to, and shall not, make any commitment or agreement on behalf of Lender with any prospect or other third party, or make any representation to any prospect or other third party on behalf of Lender, other than as may be expressly authorized in writing by Lender. Without limiting the foregoing, Service Provider shall not (i) represent to a prospect that Lender will approve a loan application or make any particular determination with respect to a loan application, (ii) represent to a prospect that Lender has made a particular determination with regard to the loan application when Lender has not done so, or make a representation to a prospect that is inconsistent with Lender's determination regarding the loan application, or (iii) represent to a prospect that an interest rate has been locked-in with Lender unless Lender has issued a written lock-in confirmation, or make any representation to a prospect that is inconsistent with any lock-in confirmation issued by Lender.
- c. With respect to any loan made by Lender in connection with a loan application package delivered by Service Provider to Lender hereunder, Service Provider shall not solicit the borrower(s) for a refinance of the mortgage loan within 120 days of origination. Lender will not solicit the borrower for any purpose, including the refinancing of such loan.
- d. At or before execution of this Agreement and within ninety (90) days after the close of each fiscal year during the term of this Agreement, Service Provider shall provide Lender with copies of Service Provider's financial statements. At the time of execution of this Agreement and on each anniversary of the execution date hereof, Service Provider shall deliver to Lender copies of all mortgage origination-related licenses, exemptions, registrations and permits. Lender also may request copies of said licenses at any time during this Agreement. At the time of execution of this Agreement, Service Provider shall deliver to Lender a resolution indicating that the individual(s) executing this Agreement are fully authorized by its managing body to execute and deliver this Agreement on behalf of Service Provider and designating the individuals who are authorized to bind Service Provider for all loan application packages submitted by Service Provider hereunder. Service Provider shall permit Lender and its authorized representatives to examine all books first receiving reasonable notice from Lender, observe Service Provider's facilities and business bureau and other reports and conducting reference checks, and to share information with others about its experiences with Service Provider.

- 7. Miscellaneous.** Service Provider is an independent contractor and not an employee of Lender. If Lender determines that Service Provider's application package is incomplete, or if Lender turns down an application package, Lender may, as its option, provide to Service Provider the information necessary for Service Provider to provide a third-party ECOA adverse action notice to the former prospect. Service Provider shall send such notice in compliance with all applicable laws and regulations. Lender shall have the right to take reasonable

steps to ensure Service Provider's compliance with this provision. This Agreement shall be non-exclusive, and Lender may accept prospects from other sources, and Service Provider may send prospects to other lenders. No compensation shall be payable to Service Provider except when Service Provider submits a prospect to Lender for a specific loan and the prospect closes such loan with Lender. Further, no compensation shall be payable to Service Provider in connection with any subsequent refinance of the initial loan. Service Provider shall indemnify, defend and hold Lender harmless from and against any losses, liabilities and claims, including attorneys' fees incurred by or assessed against Lender by reason of Service Provider's breach or alleged breach of any provision of this Agreement. Lender shall have the right to engage legal counsel to represent the interests of Lender if any third party claim falling within the scope of this indemnity is asserted, and Service Provider shall reimburse Lender for all fees and costs of such legal counsel. Service Provider's indemnity obligations shall be fully applicable regardless of whether Lender has underwritten or approved the related loan and regardless of the contents of the loan application package. This indemnity shall survive the term of this Agreement. Lender shall indemnify, defend and hold Service Provider harmless from and against any losses, liabilities and claims, including attorney's fee incurred by or assessed against Service Provider by reason of Lender's breach or alleged breach of any provision of the Agreement. Service Provider shall have the right to engage legal counsel to represent the interests of Service Provider if any third party claim falling within the scope of this indemnity is asserted, and Lender shall reimburse Service Provider for all fees and costs of such legal counsel. This indemnity shall survive the term of this Agreement. The parties agree that this Agreement shall be governed by the laws of the State of Illinois. This Agreement is the entire agreement between the parties and may be modified only in writing signed by the parties.

Service Provider recognizes the time, effort and expense incurred by Lender in the training and education of its employees and agrees, as additional consideration to Lender, that during the term of this Agreement, not to hire any employees of Lender for a period of one (1) year after termination of the respective employee's employment for any employment which provides direct or supervisory duties concerning the application, servicing and sale of mortgage loans. This restriction shall also apply to any entity which Service Provider has an ownership or management interest. If Service Provider wishes to directly employ an employee of Lender, it shall contact Lender, and Lender and Service Provider shall discuss whether acceptable terms can be reached under which Lender will waive its rights under this provision.

8. **Confidentiality.** Service Provider acknowledges that certain items and types of confidential and proprietary information (collectively, the "Proprietary Information"), including without limitation this Agreement, the pricing terms, the trade and service marks of Lender, the forms, disclosures and other documents provided to Service Provider in connection with this Agreement, and all non-public personal information of each prospect, are owned and controlled by Lender and constitute valuable assets and trade secrets of Lender. Service Provider shall not sell, lease, assign, license, utilize, distribute, publish or duplicate all or any part of the Proprietary Information, whether received in writing or orally, without obtaining Lender's prior written consent. Service Provider agrees not to disclose any part of the Proprietary Information to any person or entity except to directors, officers and employees of Service Provider who are required to have knowledge of such information in the course of Service Provider's exercise of its rights and obligations under this Agreement. Service Provider agrees to cooperate with Lender in enforcing the provisions of this section against any unauthorized use or disclosure of the Proprietary Information by present or former directors, officers or employees of Service Provider or by others. Upon termination of this Agreement for any reason, Service Provider agrees promptly to return to Lender all of the Proprietary Information provided to Service Provider, to refrain from disclosing any of the Proprietary Information to any persons, and to take all necessary steps to discontinue immediately its use of the Proprietary Information. Service Provider agrees to comply with the privacy and safeguarding requirements of the federal Gramm-Leach-Bliley Act (15 USC § 6801 *et seq.*) and all other applicable regulations and guidelines with regard to information that is subject to such act, regulations and guidelines. The obligations of Service Provider under this section shall survive the termination of this Agreement.
9. **Notices.** All notices required or given with regard to the provisions of this Agreement shall be in writing and faxed or delivered to the parties hereto at the following addresses by hand delivery, overnight courier or certified mail return receipt requested.

*Title:*  
*Name:*  
*Company:*  
*Address:*  
*Address:*  
*Phone:*

*Flanagan State Bank*  
*333 Chicago Road*  
*PO Box 302*  
*Paw Paw, IL 61353*

**10. Binding Effect.** The provisions of this Agreement shall be binding upon and inure to the benefit of Service Provider and Lender and their respective successors and assigns.

**11. Complete Agreement.** This instrument represents the complete agreement of the parties hereto as to the matters addressed herein. Neither party has been influenced to enter into this Agreement in reliance upon any statements or representations, oral or written, by either party, or by any other person or entity not otherwise expressly set forth herein.

### ***Service Provider, Inc.***

By: \_\_\_\_\_ Date: \_\_\_\_\_

Its: *President*

### **Flanagan State Bank**

By: \_\_\_\_\_ Date: \_\_\_\_\_

*Robert Anderson*

Its: *Senior Vice President*