

AMENDMENT TO WHOLESALE BROKER AGREEMENT (REV. 04.21.2016 AND EARLIER VERSIONS)
(the "AMENDMENT")

This Amendment is made August ____, 2016, by and between Data Mortgage Inc., d.b.a. Essex Mortgage ("Essex") and _____ ("Broker").

Whereas, Essex and Broker are parties to a Wholesale Broker Agreement (the "Agreement") as part of a Broker Application Package (the "Package") that Broker completed in order to become an approved mortgage loan broker of Essex.

Whereas, in the ordinary course of business, Essex has made changes to the Agreement and the Package in order to incorporate legal and business changes and to streamline the reading of the documents. By accepting the changes hereinafter described, Broker shall continue to be an approved broker of Essex in accordance with the terms of the Agreement.

NOW, THEREFORE, in consideration of the promises and mutual undertakings contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The following changes shall be made to the Agreement and the Package:
 - 1.1. **Update to Essex Address.** Essex's address for all notification purposes shall be 2200 W. Orangewood, Suite 150 Orange, CA 92868.
 - 1.2. **Minor format and wording changes throughout.**
2. The following changes shall be made to the Package:
 - 2.1. **Attachments to be submitted with the Broker Application shall include:**
 - 2.1.1. Copy of license from all states in which you/your Company conducts business
 - 2.1.2. Resume for owner and all key personnel
 - 2.1.3. Broker's Red Flag Policy
 - 2.1.4. Broker's Quality Control Plan
 - 2.1.5. Year to Date Profit and Loss Statement and balance sheet, current within the last 90 days and signed by Broker of Record
 - 2.1.6. Previous Year Profit and Loss and Balance Sheet signed by Broker of Record
 - 2.2. **Addendum 2 to Wholesale Broker Agreement is deleted from the Package.**
 - 2.3. **The FHA Sponsorship Agreement shall be referred to throughout the document as the "FHA Agreement" and not the "Addendum."**
 - 2.4. **The "VA Authorized Agent Agreement" shall be added to the Package.** A copy is attached hereto for Broker's review and reference.

3. The following changes shall be made to the Agreement:

- 3.1. **Section 5.2 shall apply to both FHA and VA Mortgage Loans** and state: "In accordance with Lender's participation in the FHA Direct Endorsement Program, Broker is authorized to act as Lender's Loan Correspondent or FHA/VA Authorized Agent solely for the purpose of processing, originating, and insuring FHA or VA Loans submitted to Lender for Underwriting and Closing. With respect to the origination of any FHA Loan or VA Loan, Broker is authorized to act as Lender's loan correspondent agent, respectively, only upon submission of such Mortgage Loan Package to Lender for Underwriting; prior to such time, Broker shall be acting as an independent mortgage broker when performing all functions with respect to such Mortgage Loan. This relationship shall be solely for the benefit of the Broker and Lender, and not for the benefit of any third party. Broker shall not hold itself out to any third party as Lender's loan correspondent or agent, and shall not advertise, publicize, or discuss, in any manner whatsoever, the fact that Broker is acting as Lender's loan correspondent with respect to the origination of any FHA Loan or as Lender's agent with respect to any VA Loan, without Lender's express written consent." Section 5.3 shall be deleted.
- 3.2. **Section 6.13 discussing Broker's compliance with laws shall be added** and state: Broker shall at all times warrant compliance with all applicable state and federal laws, including but not limited to regulations of the California Department of Real Estate and Department of Housing and Urban Development ("HUD") such as the Real Estate Settlement Procedures Act ("RESPA"), the Fair Housing Act ("FHA"), the Fair Credit Reporting Act ("FCRA"), the Equal Credit Opportunity Act ("ECOA"), the Truth In Lending Act ("TILA"), TILA-RESPA Integrated Disclosure rule ("TRID") and HUD Handbook 4000.1, including all applicable HUD Mortgagee Letters.
- 3.3. **Section 8.1 shall be revised to omit referenced to Exhibit A (Fee Agreement).** Broker Compensation shall be discussed in Section 8.2.
- 3.4. **Section 8.2 shall no longer discuss Regulation Z Compliance.** Section 8.2 shall discuss Broker Compensation as follows: "Brokers shall choose to be compensated by either Lender or the Borrower on a loan-by-loan basis.

8.2.1. Lender paid transactions. For all loans paid by Lender, Broker will be paid a commission based upon a set percentage of the loan amount, plus a fixed fee. Broker's compensation amount may be reviewed and/or changed periodically by Lender at Lender's sole discretion, or quarterly by request of Broker with at least 10 business days advance notice. Any compensation amount changes will be applied to new loans received by Lender on and after the effective date of such compensation change. All Broker compensation change requests shall be made in the form of Exhibit A attached hereto. No change in the compensation amount shall affect the validity of any other term or condition of the Agreement or any attachments thereto. Unless otherwise agreed to or determined by Lender, the compensation amount may be subject to a minimum and/or maximum dollar amount, and the compensation will not be based on any other term or condition of the loan. Lender will not close loans that exceed any applicable state maximum compensation levels, or fail any state or federal high cost test

8.2.2. Borrower-paid transactions. Broker may only be paid by a Borrower when Broker: (a) certifies to Lender that it does business as a sole proprietor with no MLOs registered under its broker license number, or (2) pays its MLOs a salary or hourly wage and can provide immediate proof thereof upon request. For all Borrower-paid loans, Broker will receive the amount negotiated directly between Broker and the Borrower. The negotiated amount shall

immediately be disclosed by Broker to Lender, and Broker acknowledges and agrees that Broker will not and shall not receive any commission or other form of compensation from Lender or from any other party.”

3.5. **Section 8.3 discussing Covered Transactions** shall state: “Broker will at all times comply, and warrant compliance with, 12 C.F.R. § 226.36 and the related Official Staff Commentary, and any amendments thereto (the “Rule”). This Article 8 applies to any application for a consumer credit transaction subject to the Rule that Lender receives from Broker on or after the date the Rule became effective.”

3.6. **Section 8.7 shall no longer discuss Lender Paid Compensation.** Section 8.7 shall discuss the Agreement regarding Compliance with TRID, as follows: “Without limiting the foregoing, Broker agrees as follows: Broker will at all times comply and warrant compliance with 12 CFR Parts 1024 and 1026, any related Official Staff Commentary, and any amendments thereto (“TRID”).

8.7.1 Broker shall not prepare a Loan Estimate in Lender’s name, nor enter Lender’s loan number on any Loan Estimate. However, Broker shall provide the following information on page 3 of the Loan Estimate: Broker Name and NMLS/License number, loan officer name and NMLS/License number, Broker e-mail and phone number. Lender may review Broker’s Loan Estimate prior to its being sent to a borrower to confirm accuracy of fee charges and fee names.

8.7.2 Broker certifies that Loan Estimates will be delivered, or place in the mail, within 3 days of receiving the 6 pieces of information which constitute a loan application: name, income, social security number, property address, estimated property value, and loan amount.

8.7.3 No fee may be imposed on the borrower before the borrower has received the Loan Estimate and indicated intent to proceed with the transaction, except for a bona fide and reasonable fee for obtaining the consumer’s credit report. Thus, Broker shall obtain two authorizations: (a) to charge the borrower’s credit card if/when the borrower will be paying for a credit report before the Loan Estimate has been issued; and (b) to charge the borrower’s credit card to order the appraisal (after the intent to proceed is received by the Broker from the borrower.)

8.7.4 Broker shall provide a settlement service provider list to the borrower for all services for which the consumer can shop.

3.7. **Section 8.8 shall be deleted.** Sections 8.9 and 8.10 shall be renumbered 8.8 and 8.9 respectively.

3.8. **Section 8.9 discussing indemnity shall include TRID non-compliance** among the obligations against which Broker is required to indemnify Essex.

3.9. **Section 11 discussing Early Payoff** shall state: “If any Mortgage Loan is prepaid within 215 days from funding or 180 days following the date the loan is purchased by secondary market investor, or if any of the first three payments become 90 days delinquent, Broker shall refund to Lender all compensation received from Lender and any pricing credits to the borrower. Only in the event that (1) the prepayment is due to a refinance by the same Broker and (2) the loan is delivered back to Lender, part or all of the above requirements may be waived, at the sole discretion of the Lender.”

3.10. **Exhibit A – Fee Agreement shall be deleted in its entirety.**

3.11. **Exhibit B shall be renamed “Exhibit A—Form of Broker Compensation Request.”**

- 3.12. **Exhibit C shall be renamed “Exhibit B—Regulation Z Policies and Guidelines.”** Much of this exhibit has been deleted and rephrased to make it shorter and easier to read. A copy is attached hereto for Broker’s review and reference.
4. **Document Request.** Broker may, at any time, request the most recent version of the Agreement and the Package in their entirety, and Essex shall comply with said request as soon as practicable.
5. **Underlying Agreement Unchanged.** Except as amended by this Amendment, all other provisions of the Agreement and contents of the Package remain in full force and effect.

IN WITNESS WHEREOF, each of the Parties hereto has executed this Amendment on the date set forth below.

LENDER:

BROKER:

Data Mortgage, Inc. d.b.a. Essex Mortgage

By:_____

By:_____

Name:

Name:

Title:

Title:

Date:

Date:

VA AUTHORIZED AGENT AGREEMENT

This VA Authorized Agent Agreement (the "Agreement"), is entered into this ___ day of _____, 20___ ("Effective Date") by and between Data Mortgage Inc., d/b/a Essex Mortgage ("Lender") and _____ ("Agent").

WITNESSETH

WHEREAS, Lender desires to make real estate mortgage loans ("Loans") to qualified borrowers whose applications are provided by Agent to Lender;

WHEREAS, Agent possesses considerable knowledge in all aspects of real estate lending, including lending governed by the rules of the Department of Veterans Affairs, and desires to provide Lender, from time to time, completed Loan application packages for Loans to be made or granted by Lender directly to the loan applicants, whether closed in the name of Lender or Agent.

NOW, THEREFORE, in consideration of the mutual covenants and stipulations set forth herein, the parties agree as follows:

1. ELIGIBLE LOANS. Only Applications for Loans eligible to be guaranteed by the Department of Veterans Affairs ("VA Loans") shall be eligible for submission by Agent to Lender for funding by Lender under this Agreement. Such loans may be submitted for approval by Lender via Essex Mortgage's VA Automatic Underwriter.
2. RESPONSIBILITIES OF AGENTS.
 - 2.1. Agent will assist prospective borrowers in completing credit applications and such other documentation as Lender may require ("Application Package") and shall promptly submit the Application Package to Lender for its review and approval. All information and documents gathered by Agent and/or provided to Lender as part of the Application Package shall be in accordance with the then prevailing underwriting standards and loan policies of Lender, as detailed in the VA manual.
 - 2.2. Agent shall complete and furnish to each prospective borrower, any and all information which is required by federal, state, and local laws and regulations including, but not limited to, TILA-RESPA rules and regulations, the Equal Credit Opportunity Act, Regulation B, Regulation Z and the Fair Credit Reporting Act.
 - 2.3. Agent shall make no credit commitments on behalf of Lender with written or verbal. Lender has the sole and absolute discretion to determine whether a Loan will be granted and under what terms and conditions.
 - 2.4. Agent shall request real estate appraisal (CRV or LAPP) and case number assignment from Lender.
 - 2.5. Agent, at its own expense, shall provide Lender with all credit data, financial statements, real estate information and such additional items as Lender, from time to time, may require. In addition, Agent, at its own expense, shall perform such other functions as Lender may require to complete the loan transaction.

2.6. In the event any approval of any entity, including but not limited to private mortgage insurers, governmental or quasi-governmental agencies or potential investors, is required to process, close, fund or service a Loan, Agent agrees to take whatever action is required to obtain such approval.

3. **OBLIGATIONS OF LENDER.** Upon receipt of the Application Package, Lender will, within a reasonable time, consider the Application Package for the purpose of making a loan to the Applicant. If Lender approves such application, Lender shall advise Agent.

4. **WARRANTIES AS TO LOAN DOCUMENTATION.** Agent represents and warrants as to each mortgage under this Agreement that:

4.1. All information relating to credit submitted by Agent with an application for a loan is accurate, complete and truthful;

4.2. All documents and instruments submitted by Agent in connection with such loan are valid and genuine, in every respect;

4.3. To Agent's knowledge, there is no bankruptcy, foreclosure or other litigation pending or threatened against borrower;

4.4. There will be no claims or defenses as to the loan by reason of any act or omission of Agent, its officers, directors, agents or employees;

4.5. Agent and each of its officers, directors, agents and employees maintain all licenses required of them;

4.6. Agent has no adverse information concerning an applicant which it has not communicated to the Lender;

4.7. Except for the payment to satisfy an existing loan, no fee or other compensation or any portion of the loan proceeds has been or will be paid directly or indirectly by any person to Agent or any of its officers, directors, employees or agents;

4.8. The loan has not been referred to or brokered to Agent by another correspondent or mortgage broker;

4.9. No fee or other compensation has been or will be paid to Agent in connection with Lender's insurance requirements or any loan or sale escrow;

4.10. Except for the payment to satisfy an existing loan, the loan proceeds are not to be paid, in whole or part, to a seller who (1) pays any compensation to or receives any compensation from Agent, (2) is related by common ownership or control to Agent, or (3) shares its profits or losses with Agent. The term Agent as used in Paragraph 4.10 includes Agent's affiliates, partners, directors, officers, employees and agents;

4.11. To Agent's knowledge, there is no undisclosed secondary financing involved with loan.

5. **ADDITIONAL REPRESENTATIONS AND WARRANTIES OF AGENT.** Agent hereby represents and warrants to Lender as follows:

- 5.1. Legal Status. Agent validly exists in good standing under the laws of the state of its organization, and is duly licensed to perform its obligations hereunder and will, during the term hereof, maintain such licenses. Agent agrees to submit copies of said licenses to Lender.
- 5.2. Authority. The execution and delivery of this Agreement by Agent and the performance by Agent of its obligation hereunder have been duly authorized.
- 5.3. Legality. The execution and delivery of this Agreement by Agent and the obligations which it will perform hereunder do not, and will not, violate any provision of the law, rule, regulation, order, writ, judgment, injunction, decree determination or award having applicability to Agent or the organizational or charter documents of Agent.
- 5.4. Binding Obligation. When duly executed and delivered by Agent, this Agreement will constitute a legal, valid and binding obligation of Agent, enforceable against Agent according to its terms.
- 5.5. No Suits. There are, to the best of Agent's knowledge, no actions, suits or proceedings pending or threatened against or affecting Agent or the properties of Agent before court, governmental department, agency, commission, board, bureau, or instrumentality, domestic or foreign, which, if determined adversely to Agent, would have a material adverse effect on the financial condition, properties or operations of Agent.
- 5.6. Confidentiality. Each party agrees it will not use for its own benefit or will not disclose to any person or entity confidential information relating to the other party which it may acquire during the term of the agreement.
6. INDEMNITY. Agent agrees to indemnify and hold Lender harmless from any and all liability, loss, damage, cost or expense resulting from or alleged to have resulted from the failure of Agent, its officers, directors, employees or agents (1) to comply with the warranties, representations and covenants of this Agreement, and (2) to process Loan applications in a timely and professional manner, unless Agent is delayed in the processing of Loan applications due to actions of Lender. Agent's indemnity obligation specifically covers all costs and expenses, including attorney fees incurred by Lender.
7. QUALITY CONTROL. All Loans originated by Agent and closed by Lender shall be subject to Lender's quality control and audit procedures which will include, but will not be limited to, independent verifications of loan, property and credit information. Agent grants to Lender the right for an on-site review and audit of Agent's loan policies, procedures and records to be performed by Lender's quality control staff or similarly assigned personnel. Agent warrants that there is a VA acceptable Quality Control program in place.
8. REPURCHASE OF LOANS. The obligation to repurchase any VA Loan, and the terms and conditions thereof, shall be governed by the provisions of Agent's Wholesale Broker Agreement with Lender.
9. SOLICITATION FOR REFINANCE Agent agrees that neither Agent, nor any employee, agent, or contractor of Agent, shall solicit for mortgage refinance any mortgage loan which is or could be construed to be subject to this Agreement. Loans closed by Lender cannot be solicited by Agent, or an employee of Agent, for a period of 300 days from the date the loan is closed by Lender. In the event Agent breaches this covenant, Agent shall pay to Lender within two days of Agent's receipt of notice from Lender an amount equal to one percent (1%) of the then outstanding principal balance of the loan.
10. FILING OF REPORTS Agent and all originators working on Agent's behalf have filed all reports required by all governmental agencies having jurisdiction over the loans closed by Lender hereunder, and have complied with all applicable federal, state and municipal laws, regulations and ordinances affecting the loans closed by Lender.

11. TERM AND TERMINATION.

11.1. This Agreement shall commence on the Effective Date and shall continue until terminated by the parties, subject to honoring loans approved for closing.

11.2. This Agreement may be terminated by either party without penalty or cause upon 15 days written notice to the other party. In addition, Lender shall have the right to terminate this Agreement immediately upon written notice to Agent in the event of any of the following:

11.2.1. Agent defaults on any of its obligations hereunder and such default is not cured within 15 business days after notice to Agent of such default; or

11.2.2. Agent shall initiate or suffer any proceedings of insolvency or reorganization under any federal or state bankruptcy receivership or other similar laws, or make any common law assignment for the benefit of creditors; or

11.2.3. Agent shall, as a result of any act or omission on the part of Agent, cause Lender to suffer any involuntary sale or execution upon any interest in any Loan originated hereunder; or

11.2.4. Agent assigns or attempts to assign its rights and obligations hereunder, without Lender's prior written approval.

12. NO ASSIGNMENT. Agent shall not assign or delegate any of its rights or obligations hereunder without Lender's prior written approval.

13. NOTICES. Any notice required to be given pursuant to this Agreement shall be made by US Postal Service Certified or Registered mail, by facsimile or by email as follows:

If to Lender: Essex Mortgage, Broker Notices
2200 W. Orangewood, Suite 150 Orange, CA 92868
jprell@essexmortgage.com

If to Agent: Name, address, and email listed on Broker Application

14. RELATIONSHIP OF THE PARTIES. It is agreed that Agent and Lender are not partners or joint venturers, but shall have the status of and act in all matters hereunder as independent contractors. Agent shall hold funds collected on account of any loan in trust for Lender. Agent is not an agent or partner of Lender and has no authority and is intended to have no power to create, extinguish or modify any right, obligation or liability of Lender to any person whatsoever.

It is expressly understood that, notwithstanding the execution of this Agreement and the representations, warranties and covenants contained herein, Lender may make loans with or without the assistance of Agent and may use the services of other Agents, and Agent may refer real estate loans to other lenders or may close loans on its own behalf.

15. NO WAIVER. Lender's failure to enforce any provision of this Agreement shall not be deemed a waiver of that or any other provision with respect to that or any other transaction with Agent.

16. AMENDMENT. No term or provision of this Agreement shall be altered or amended unless in writing and signed by both parties.



17. ENTIRE AGREEMENT. This Agreement and the documents referred to herein or executed concurrently herewith constitute the entire agreement between the parties. There are no prior agreements, understandings, restrictions, warranties or representations between the parties on the subject matter discussed herein.

18. HEADINGS & CONSTRUCTION. The headings used in this Agreement are for convenience of the parties only and shall not be considered in interpreting the meaning of any provision of this Agreement. Further, the language of this Agreement shall not be interpreted strictly for or against either party, but as to its actual meaning and original intent.

19. SEVERABILITY. If any provision of this Agreement shall be found by a court of law exercising proper jurisdiction to be unlawful or unenforceable then all other terms and provisions of this Agreement shall survive and be fully enforceable.

20. GOVERNING LAW. This Agreement shall be governed and construed in accordance with the laws of the State of California without regard or reference to the rules of conflicts of law that would require the application of the laws of any other jurisdiction.

IN WITNESS WHEREOF, the parties have executed this VA Authorized Agent Agreement with their respective duly authorized officers of the day and year first above written.

LENDER

BROKER

Data Mortgage Inc., d.b.a. Essex Mortgage

Company name: _____

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT B – REGULATION Z POLICIES AND GUIDELINES

THE FOLLOWING ABRIDGED LENDER POLICY IS TO BE COMPLIED WITH ON ALL LOANS SUBMITTED TO LENDER. IT SHOULD NOT BE USED AS LEGAL ADVICE AND/OR LEGAL INTERPRETATION OF THE RULE. YOU MUST CONSULT WITH YOUR LEGAL COUNSEL TO SET YOUR OWN GUIDELINES AS IT RELATES TO ALL ASPECTS OF THE RULE.

Section 1: General Principles for Compliance

The foregoing policy statement is considered to be a core element of the Lender's Wholesale operational business plan. As appropriate and in accordance with the Lender's business model, the anti-steering and compensation procedures described herein shall apply to all residential mortgage transactions and represent the full scope of products, property types, branches, and geographic locations.

Summary of Truth-in-Lending Amendment

Lender shall comply with the laws established as an amendment of Section 226.36 of Regulation Z (the "Rule"), administered by the Federal Reserve Board. The Rule applies to all persons who originate loans and to closed-end loans secured by a consumer's dwelling and, as of the effective date of the Rule.

Overview of Compensation Rules

Lender shall prohibit any mortgage loan originator ("MLO") from receiving from any person, or any person from paying to a MLO, directly or indirectly, compensation that varies based on the terms of the loan (other than the amount of the principal).

Lender prohibits an MLO from receiving compensation from any person other than the consumer, even if the originator's compensation is not based on the loan terms. Compensation shall include salaries, commissions, or any financial or similar incentive provided to a loan originator, such as merchandise and prizes. Lender shall draft compensation agreements relating to the amount of compensation Lender will pay the originator on all loans closed by Lender and originated by said originator (lender compensation).

Acceptable Forms of Compensation – Consumer Paid Compensation

Lender shall comply with the rule whereby an MLO must choose between being paid by the consumer and being paid by Lender. If the MLO receives compensation directly from a consumer, the MLO may not receive compensation from Lender in connection with the transaction. This shall include payments from any person to the MLO where the person knows (or has reason to know) that the consumer is paying the MLO.

MLOs may receive an origination fee or charge other than from the consumer if the originator does not receive any compensation directly from the consumer and the consumer does not make an upfront payment of discount points, origination points, or fees, however denominated (other than bona fide third party charges not retained by the MLO).

Lender may accept the following forms of compensation paid by a consumer:

- A flat fee, paid by the consumer;
- A fee that varies based on the principal loan amount, paid by the consumer; or
- A fee, paid by the consumer, based on any factor other than the loan terms or loan type.

Lender may permit payment of an origination fee or charge from someone other than the consumer, so long as the fee does not vary based on the terms of the loan (other than the amount of the principal), the originator receives no compensation from the consumer, and the consumer otherwise does not make an upfront payment for origination fees.

If the seller of the property pays the originator, the payment is deemed a payment by the consumer for purposes of the restriction against dual compensation under the Rule.

Third Party Charges

MLOs are prohibited from paying some or all third party fees for a consumer (or crediting the consumer out of pocket) if the MLO is being compensated by Lender.

Lender will allow MLOs to pass along bona fide third party charges that are not retained by Lender, the MLO, or an affiliate of Lender or MLO.

Section 2: Loan Steering

Final Rule Prohibition on Steering

The MLO shall comply with the Rule's Prohibition on Steering Incentives which prohibit MLOs from steering. The Rule defines steering as directing, advising, counseling, or otherwise influencing a consumer to accept a particular transaction. MLOs may not steer a consumer to a loan based on the fact that the MLO will be paid more on that loan (as opposed to other available loans), unless the loan is in the consumer's interest.

Lender prohibits MLOs from:

1. Steering any consumer to a loan that (a) consumer lacks reasonable ability to repay, or (b) has predatory characteristics or effects such as equity stripping, excessive fees or abusive terms
2. Steering any consumer from a "qualified mortgage" to "not qualified" mortgage when consumer qualifies for "qualified mortgage"
3. Abusive or unfair lending practices that promote disparities among consumers of equal creditworthiness but of different race, ethnicity, gender, or age;
4. Mischaracterizing credit history of consumer or residential loans available to consumer

5. Mischaracterizing or inducing mischaracterization of appraised value of property securing extension of credit
6. If unable to suggest, offer or recommend to consumer loan that is not more expensive than loan for which consumer qualifies, discouraging consumer from seeking mortgage from another originator

Presumptions under the Steering Rule

Lender shall adhere to the presumptions that no steering has occurred if, after presenting the consumer with a significant number of available loan options:

1. The MLO directs the consumer to consummate a transaction that results in the *least* amount of creditor paid compensation.
2. The MLO directs the consumer to consummate a transaction that results in the *highest* amount of creditor paid compensation, but where the terms and conditions for all of the loan options for which the consumer qualifies are the same.

Safe Harbor

The MLO shall determine and attest if the transaction qualifies under the Safe Harbor exception established under the Rule. The Safe Harbor exception is met if:

1. The consumer is presented with loan offers for each type of transaction in which the consumer expresses an interest (that is, a fixed rate loan, adjustable rate loan, or a reverse mortgage), *and*
2. The loan options presented to the consumer include the following:
 - a. The lowest interest rate for which the consumer qualifies, *and*
 - b. The lowest points and origination fees, *and*
 - c. The lowest rate for which the consumer qualifies for a loan with no risky features, such as a prepayment penalty, negative amortization, or a balloon payment in the first seven years.

Loan Options Presented

Compliance with the Rule is met if the MLO presents the loan options required by that paragraph and all of the following conditions are met:

1. The MLO must obtain loan options from a significant number of the creditors with which the originator regularly does business and, for each type of transaction in which the consumer expressed an interest, must present the consumer with loan options that include:
 - a. The loan with the lowest interest rate

- b. The loan with the lowest interest rate without negative amortization, a prepayment penalty, interest-only payments, a balloon payment in the first 7 years of the life of the loan, a demand feature, shared equity, or shared appreciation; or, in the case of a reverse mortgage, a loan without a prepayment penalty, or shared equity or shared appreciation; and
 - c. The loan with the lowest total dollar amount for origination points or fees and discount points.
2. The MLO must have a good faith belief that the options presented to the consumer are loans for which the consumer likely qualifies.
3. For each type of transaction, if the MLO presents to the consumer more than 3 loans, the originator must highlight the loans that satisfy the criteria specified by the Rule.
4. The MLO can present fewer than 3 loans and comply with the Rule if the loan(s) presented to the consumer satisfy the criteria if the provisions of the Rule are otherwise met

Section 3: Lender's Compensation Agreements

Agreement Terms for Compensation paid by Lender (Lender Compensation)

The Wholesale Broker Agreement, as may be altered or amended from time to time, and the Exhibits and attachments thereto, provide the compensation or fee agreement between Lender and its MLOs that comply with the Rule. All compensation or fee agreements and related policies, as outlined below, are subject to review and modification at Lender's sole discretion:

1. The Wholesale Broker Agreement and each Broker Compensation Request submitted by Broker must be signed by an authorized representative of the MLO prior to the expiration of any existing compensation or fee agreement.
2. If the executed Broker Compensation Request is not received by a time and date designated by Lender, Broker shall receive either Broker's then-prevailing compensation amount or 2.00% of the loan amount (200 basis points ("BPS")), at Lender's sole discretion.
3. The compensation will be based on a set percentage of the loan amount and cannot vary from one transaction to another within the time frame of the Agreement.
4. The consumer may pay discount points to reduce the interest rate.
5. The consumer may pay bona fide third party costs and Gateway fees by paying cash at closing, or by financing them through the loan principal or interest rate.
6. If lender paid compensation is chosen by Broker, the consumer cannot pay any compensation to the MLO.

7. The MLO cannot reduce the lender paid compensation amount by offering concessions or pay for tolerance violations.

Agreement Terms for Compensation Paid by Consumers

The MLO must adhere to the Rule as outlined below if any of the MLO's compensation comes from the consumer:

1. The MLO will negotiate compensation directly with the consumer
2. The consumer may pay bona fide third party costs and Lender fees by paying cash at closing, or by financing them through the loan principal or interest rate
3. Premium pricing cannot be used to compensate the MLO but may be used to pay allowable third party costs.
4. The MLO may agree to reduce their compensation to pay for third party costs.
5. The consumer may pay discount points to reduce the interest rate
6. The consumer must pay compensation to the MLO from their own funds or from the principal proceeds of the new loan
7. No other person (other than the borrower) may provide any compensation to a loan originator, directly or indirectly, in connection with the loan transaction

Agreement Terms Prohibiting Steering

MLOs shall agree to comply with Lender's principles for anti-steering and exercise all steps and procedures required to support any safe harbor exceptions to the Rule.

Disciplinary Action

Lender shall enforce certain remedial efforts or corrective action, as appropriate and in accordance with the severity of the violation to the MLO compensation and anti-steering policy. Violations shall be immediately handled by senior management and may warrant disciplinary action up to including immediate termination of MLO.

Senior management shall be informed of any corrective action taken, which may include but are not limited to:

1. Revision of more favorable loan terms to the borrower;
2. Reimbursement of fees to the applicant;
3. Verbal counseling;

4. Written counseling;
5. Fair lending re-training;
6. Enhanced scrutiny of loans;
7. Supervisory review of all originations;
8. Suspension of certain activities;
9. Termination of agreement;
10. Termination of broker.