



BROKER AGREEMENT

This BROKER AGREEMENT (the "Agreement") is entered as of _____, 20____, by and between KINECTA FEDERAL CREDIT UNION, a federal credit union ("Kinecta"), and _____ ("Broker"), with respect to the following facts:

- A. Broker is engaged in the business of originating, processing, and pre-underwriting Loans.
- B. Broker desires to submit to Kinecta, from time to time, on a non-exclusive basis, fully-processed applications (which include all documents relating to the application) (each a "Loan Application") for loans secured by deeds of trust or mortgages encumbering one to four unit residential properties pursuant to the terms, conditions and provisions of this Agreement, and Kinecta's then current underwriting guidelines, Wholesale Eligibility Matrix and supporting Lending Announcements/Briefs issued from time to time (collectively, the "Guidelines").

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

1. Term. This Agreement shall commence upon the date of this Agreement and shall continue until terminated pursuant to the provisions of this paragraph. This Agreement may be terminated by either party at any time with or without cause upon thirty (30) days prior written notice. All obligations hereunder relative to Loans closed pursuant to Loan Applications approved by Kinecta under this Agreement prior to termination and, at Kinecta's sole option, all obligations hereunder relative to pending Loan Applications approved by Kinecta under this Agreement prior to termination, shall survive the termination, including, but not limited to, all representations, warranties, covenants, and indemnification obligations. Immediately upon notification of termination, Loan Applications will no longer be submitted by Broker or accepted by Kinecta.

2. Compensation. Broker may receive compensation for the performance of its duties under this Agreement either pursuant to an agreement with the consumer (for consumer paid transactions) or on the basis of Kinecta's Lender-Paid Loan Originator Compensation Plan (for Kinecta paid transactions) and disclosed to each applicable borrower in accordance with applicable law, including the Real Estate Settlement Procedures Act ("RESPA"). Under no circumstances will Broker be entitled to charge the consumer (for consumer paid transactions) more than the Broker would be able to charge pursuant to the then current Lender-Paid Loan Originator Compensation Plan on file with Kinecta. Under no circumstances will Broker be entitled to receive compensation in excess of the reasonable value of the goods, services, or facilities provided. Broker may not receive any compensation on a Loan transaction until such transaction has closed and funded and all other applicable conditions are met.

Notwithstanding anything to the contrary herein:

(a) Broker shall not receive payment of compensation from Kinecta (or anyone else other than the consumer) based on the terms or conditions of a Loan covered by the Loan Originator Compensation Rule (defined below) other than the amount of credit extended;

(b) Broker shall not receive payment of compensation directly from the consumer with respect to a Loan covered by the Loan Originator Compensation Rule while also receiving compensation with respect to the Loan from Kinecta or any other person;

(c) On a Loan covered by the Loan Originator Compensation Rule where Broker receives compensation from Kinecta, Broker shall not compensate any of its employees that meet the definition of "Loan Originator" under Section 226.36 of Regulation Z (the "Loan Originator Compensation Rule") based on the Loan's terms or conditions other than loan amount, and then only in accordance with the Loan Originator Compensation Rule;

(d) On a loan where Broker receives compensation directly from the consumer, Broker shall not compensate any of its employees that meet the definition of "Loan Originator" under the Loan Originator Compensation Rule in connection with the Loan transaction (i.e. commissions). Broker may compensate such employees by paying



salary or hourly rate or any other form of compensation that is permissible under the Loan Originator Compensation Rule;

(e) Broker shall not steer a consumer to Kinecta in order to increase Broker's compensation with respect to a Loan.

3. General Representations, Warranties, and Covenants of Broker. Broker represents, warrants and covenants as follows with respect to each Loan:

3.1. Neither this Agreement nor any statement, report, or other document furnished or to be furnished pursuant to this Agreement contains any untrue statement of fact, or omits any statement of fact that would make the statements contained therein misleading. All of the information contained in the Broker's Application submitted to Kinecta is true and correct.

3.2. Subject to the terms and conditions of this Agreement, Kinecta may close and fund Loans submitted by Broker that meet all criteria of Kinecta's then applicable underwriting guidelines and policies and procedures set forth in the Guidelines. The documents evidencing any such Loan will reflect only Kinecta as the creditor. Broker acknowledges that Kinecta will not be obligated to fund any Loan submitted to Kinecta under this Agreement unless Kinecta has reviewed, approved, and determined that the Loan will meet Kinecta's underwriting policy and procedure guidelines set forth in the Guidelines, and that all borrowers are within Kinecta's Field of Membership as such term is defined in the Guidelines.

3.3. If Broker is a corporation, limited liability company, or other form of legal business entity, Broker is and shall continue during the term of this Agreement to be duly organized, validly existing, and in good standing under the laws of the state governing its creation and existence. Broker is duly qualified to transact business and is in good standing in the state in which the property that serves as security for the Loan is located. Broker and its employees and representatives have all licenses, authorizations, registrations, and approvals required in such jurisdiction to perform the acts contemplated under this Agreement, and is otherwise in full compliance with the laws of that state. Broker has the requisite power, authority, and legal capacity to enter into and perform its obligations under this Agreement.

3.4. There is no litigation or investigation pending or, to Broker's knowledge, threatened, against Broker which, if determined against Broker, would adversely affect the due execution and delivery or enforceability of this Agreement or the ability of Broker to perform all of its obligations under this Agreement, or which would have a material adverse affect on Broker's financial condition.

3.5. Broker shall not directly or indirectly solicit any borrower for refinancing of a Loan that Broker submitted to and which was closed by Kinecta within 180 days of funding of such Loan. If Broker violates this covenant, Kinecta will be entitled to seek injunctive relief against Broker in addition to any other available remedies and damages including, but not limited to, the reimbursement of any compensation paid to Broker by Kinecta for any loan refinanced as a result of said breach. Promotions undertaken by Broker or an affiliate of Broker which are directed to the general public at large, including, without limitation, mass mailing based on commercially-acquired mailing lists, and newspaper, radio, and television advertisements shall not constitute solicitation under this Agreement.

3.6. In connection with Broker's business activities in general and Loan Applications in particular, Broker has complied with and shall in the future comply with all applicable federal, state, and local laws, regulations, and rules, including, without limitation, applicable state lending and licensing and/or registration laws (including but not limited to the SAFE Act), the Federal Fair Housing Act, RESPA, the Truth in Lending Act, Regulation Z, the Equal Credit Opportunity Act, including, but not limited to, applicable notices of adverse action pursuant to Regulation B, the Consumer Credit Protection Act, the Flood Disaster Protection Act, the Depository Institution Deregulation Monetary Act, the Financial Institutions Reform Recovery and Enforcement Act, and the Federal Credit Union Act, all as amended from time to time (collectively, the "Applicable Laws"). Broker shall maintain in its possession or control for Kinecta's inspection on demand evidence of such compliance with respect to every Loan submitted to Kinecta by Broker. Without limiting the foregoing, Broker shall, at a minimum, maintain books and records with respect to Broker's compliance with the Loan Originator Compensation Rule. Kinecta, and any supervisory agents or examiners representing a state or federal



governmental agency having jurisdictions over Kinecta, shall have the right, at any time and after reasonable notice to Broker and without charge, to: (i) examine and audit Broker's books of account, records, reports, compensation plans (with internal Loan Originators), payroll records and other documentation in any form, relating to Broker's compliance with the Loan Originator Compensation Rule in connect with any Loan; (ii) make copies and extracts thereof; and (iii) discuss the affairs and accounts of Broker relating to such compliance with Broker's officers and employees, at such times and places and with such frequency as Kinecta may reasonably request.

3.7. In connection with Broker's activities in general, and at the time of each Loan submission, Broker has in place a written quality control plan/procedures, a specific process for resolving quality control discrepancies, and a method for tracking any and all corrective actions taken.

3.8. Without limiting any other provision of this Agreement, Broker shall not discriminate with respect to any Loan Application and related Loan in violation of Applicable Laws. Broker acknowledges that Kinecta: (i) has implemented a fair lending policy (a copy of which is available on Kinecta's website at www.loankinection.com); and (ii) will monitor loan submissions for fair lending performance in conformity with its internal fair lending policy and with applicable laws, and reserves the right to terminate this Agreement for Broker's failure to comply with any and all fair lending laws and regulations or Kinecta's fair lending policies.

3.9. All fees charged to borrowers are appropriate and reasonably related to the value of the services rendered, and comply with all Applicable Laws, including but not limited to RESPA.

3.10. Except as otherwise noted in this Agreement, Broker shall, during the term of this Agreement, be responsible for and shall pay in full, costs and expenses directly or indirectly incurred in performing its duties hereunder. Broker shall have no right to reimbursement of any such costs or expenses unless Kinecta otherwise agrees to such in writing. Unless otherwise prohibited by the Loan Originator Compensation Rules, Broker shall be liable for all costs, expenses, and fees incurred, including, but not limited to, appraisals, including review appraisals, if fees are not paid by the Loan applicant. All costs, fees, and expenses incurred and payable to third parties in connection with the processing of Loan Applications have been paid and Kinecta shall have no liability for such costs, fees, or expenses.

3.11. Broker shall provide each borrower with any and all disclosures it is required to provide pursuant to all Applicable Laws including, but not limited to, a Good Faith Estimate of charges the borrower is likely to incur in connection with the Loan settlement as required pursuant to RESPA and applicable regulations thereunder. Each such Good Faith Estimate shall be in form and substance acceptable to Kinecta. In addition, to the extent Kinecta sends an Adverse Action notice (as defined in the Equal Credit Opportunity Act and/or Regulation B) to the Broker on any transaction, the Broker shall be obligated to forward that notice on behalf of Kinecta to each applicant, as required by Applicable Laws.

3.12. Broker shall conduct its affairs in connection with the Loans so as to avoid any ethical improprieties or conflicts of interest. Without limitation, Broker shall not have any direct or indirect ownership interest in any collateral for the Loan or any business or personal affiliation with, or ownership interest in, any third party vendors providing services with respect to the Loan, including but not limited to, the settlement services provider, the credit reporting agency, the real estate agents with respect to the collateral, the appraisers, or the title agent on the Loan; and Broker shall not act as the real estate agent representing the buyer or seller with respect to the collateral for the Loan, or conduct the settlement services for the Loan. Broker shall disclose in writing upon Loan submission to Kinecta any and all personal or monetary involvement in the transactions associated with or relating to the Loan.

3.13. All information submitted by Broker to Kinecta in connection with the Loan Application, including all written materials and financial statements, is true, correct and complete.

3.14. Broker has no knowledge with respect to any Loan, the applicants for the Loan, or the property that serves as security for the Loan, that can reasonably be expected to cause an institutional secondary mortgage market investor to regard the purchase of the Loan as an unacceptable investment, cause any Loan to become delinquent, or adversely affect the value or marketability of any such Loan.



3.15. All services provided, products sold and/or licensed, forms utilized, and/or compensation paid pursuant to this Agreement are (and will remain throughout the term of this Agreement) in compliance with Applicable Laws.

3.16. Broker has performed at least five of the following services in connection with each Loan:

- (a) Taking information from the borrower and filling out the application;
- (b) 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;
- (c) Educating the prospective borrower in the home buying and finance process, advising the borrower about the different types of loan products available, and demonstrating how closing costs and monthly payments would vary under each product;
- (d) Collecting financial information (tax returns, bank statements) and other related documents that are part of the application process;
- (e) Initiating/ordering requests for mortgage and other loan verifications;
- (f) Providing disclosures (e.g. Good Faith Estimate) to the borrower;
- (g) Assisting the borrower in understanding and clearing credit problems;
- (h) Maintaining regular contact with the borrower; realtors, and lender between application and closing to apprise them of the status of the application and to gather any additional information as needed;
- (i) Ordering legal documents; and
- (j) Participating in the loan closing.

4. Confidentiality Agreement

(a) Broker acknowledges and agrees that confidential data and non-public personal information relating to Kinecta's membership and consumers, as well as Kinecta's marketing, strategies, business operations, and business systems (collectively, the "Confidential Information") may come into Broker's possession in connection with this Agreement. Broker understands that Kinecta is a federally-insured, federal credit union and is subject to a number of federal and state laws regarding the privacy of Kinecta's membership and consumer information.

(b) Broker shall maintain the confidentiality of and protect Kinecta's Confidential Information in accordance with all relevant state and federal laws, regulations, rules and guidelines, including, but not limited to, the California Financial Information Privacy Act, the Gramm-Leach-Bliley Act of 1999, the Fair Credit Reporting Act, all applicable regulations related thereto, and the requirements imposed upon "service providers" (which shall include, without limitation, Broker's officers, agents, successors, and assigns) pursuant to the National Credit Union Administration's Guidelines For Safekeeping of Member Information (12 CFR 748). Broker, on behalf of itself and its officers, employees, agents, successors and assigns, understands and agrees to implement, utilize, and maintain best industry practices to secure and protect Confidential Information from unauthorized access, destruction, use, modification, or disclosure, and agrees that it will not retain copies of any such information and that it will not use or disclose such Confidential Information to its commercial advantage or in any other manner except in the performance of this Agreement. In addition, Broker agrees that it will structure all practices, procedures, communications, and transactions involving the sharing and/or dissemination of information other than Transaction Information and Experience Information (as these terms are defined in the Fair Credit Reporting Act and all applicable regulations and interpretations



applicable thereto) between Broker and Kinecta such that Kinecta will not be considered to be a “Consumer Reporting Agency” for purposes of the Fair Credit Reporting Act.

(c) If Broker is requested or required (by oral questions, interrogatories, requests for information or documents, subpoena or other judicial, governmental or administrative process) to disclose any Confidential Information, Broker will provide Kinecta with prompt written notice thereof so that Kinecta may seek an appropriate protective order or waive, in such instance, compliance with the applicable provisions of this Agreement. If, failing the entry of a protective order or the receipt of a waiver hereunder, Broker, in the opinion of its counsel, is compelled to disclose Confidential Information, Broker may disclose that portion of the Confidential Information which its counsel advises it in writing that it is compelled to disclose. The Broker expressly consents to the entry of a protective order with regard to this non disclosure agreement, it being understood that mere money damages would be insufficient in the event of a breach of this Section 4.

(d) Broker shall have an internal written security program in place at all times which shall reflect and require compliance with Broker’s obligations pursuant to this Section.

(e) For electronic communications, Kinecta and Broker will only transmit Confidential Information to each other in an encrypted format. Broker will store all Confidential Information in a manner which utilizes the highest level of security available, including, without limitation, 128 bit encryption for electronically-stored Confidential Information.

(f) Except as otherwise provided by Applicable Laws governing Broker’s record retention requirements, Broker shall immediately, permanently, and irretrievably destroy, delete, and erase all hard copy and all electronically-stored Confidential Information once use of such Confidential Information is no longer required pursuant to the terms of this Agreement in accordance with the FTC’s Final Regulation on Consumer Information and Records Disposal (16 CFR 682), and certify in writing within thirty (30) days that it has done so. In the event that there is a breach of Broker’s systems which in any way involves Confidential Information, Broker shall take appropriate action prevent further unauthorized access to or use of Kinecta’s Confidential Information, including, but not limited to, providing immediate written notice to Kinecta and conducting a prompt and thorough data security investigation to determine the nature, extent, and duration of the security breach.

(g) Broker agrees to indemnify and hold Kinecta harmless in the event of a breach of this confidentiality agreement in any manner by Broker or its officers, employees, agents, successors, and assigns.

(h) Kinecta (and/or its regulator(s)) may, at any time during the term of this Agreement and upon reasonable notice to Broker, inspect Broker’s practices and controls and/or require reasonable documentation from Broker to verify that Broker has complied with its obligations pursuant to this Section.

(i) The parties agree that this Section shall survive the termination of this Agreement.

5. Broker’s Indemnity and Repurchase Obligations

5.1. Broker agrees to indemnify, defend, and hold Kinecta harmless from and against all losses, claims, damages, liability, actions, costs, and expenses (including attorneys’ fees and costs) incurred by Kinecta from time to time arising from or in any way relating to (a) Broker’s acts or omissions in connection with this Agreement, or (b) Broker’s breach of this Agreement, or (c) the inaccuracy of any representation or warranty of Broker set forth in this Agreement; or (d) any obligation or liability that Kinecta may incur to any third party in connection with a Loan, including without limitation any liability Kinecta may incur for indemnification with respect to or to purchase a Loan submitted by Broker to and closed by Kinecta and subsequently sold by Kinecta, to the extent that such obligation or liability is related in any way to the circumstances described in subsections (a), (b), or (c) above.

5.2. Kinecta shall have the right to give Broker a certificate of defect no later than 30 days following the discovery by Kinecta of a material breach by Broker of a representation or warranty contained in this Agreement with



respect to a Loan. Within 14 days following its receipt of a certificate of defect, Broker shall notify Kinecta in writing that Broker either: (i) intends to attempt to cure such defect or breach within 20 days after such notice to Kinecta (the "Cure Period"); or (ii) shall purchase the defective loan and the date on which such purchase shall occur, which in no event shall be later than 10 days after Broker's response or deemed response. If Broker fails to so notify Kinecta within the applicable 14-day period, then Broker conclusively shall be deemed to have elected to purchase the defective loan. If Broker has given Kinecta notification of Broker's intention to attempt to cure a defect or breach but Broker has failed to cure such defect or breach on or prior to the expiration of the applicable Cure Period, then Broker shall purchase the applicable Defective Loan within 10 days following the expiration of such Cure Period.

5.3. If Broker becomes obligated by this Agreement to purchase a defective loan from Kinecta, then Broker shall purchase the Loan from Kinecta within 10 days after Broker's purchase obligation accrues, by payment of the Purchase Price (as defined below) to Kinecta by wire transfer to an account designated by Kinecta, and Kinecta shall assign the Loan to Broker without recourse, warranty or representation.

5.4. The "Purchase Price" for a Loan subject to a purchase obligation shall be defined as follows:

- (i) The unpaid principal balance of the Loan; plus
- (ii) All interest accrued but unpaid on the principal balance of the Loan from the paid-to-date of the Loan through and including the purchase date; plus
- (iii) Any compensation paid by Kinecta to Broker with respect to the Loan; plus
- (iv) Any unreimbursed advances of taxes or insurance made by Purchaser with regard to the Loan as of the date of purchase; plus
- (v) Any unreimbursed advances made by Purchaser to enforce the Loan documents, or protect the security of the Loan or otherwise; less
- (vi) Any proceeds of mortgage insurance with respect to the Loan collected by Purchaser; and less
- (vii) Any escrow impound balances

6. Premium Recapture

6.1. Other than as stated in Section 6.2 below, if any loan submitted by Broker to Kinecta prepays in full within the first 180 calendar days of the funding date of the loan as the result of a refinance transaction, then Broker shall, within fifteen (15) calendar days and upon demand therefore, refund to Kinecta the amount of any "yield spread premium" (as that term is defined for federal disclosure purposes) previously paid to Broker by Kinecta as compensation or which had been directly or indirectly utilized by the borrower to offset costs or fees incurred during the origination of such loan. The obligation set forth in this paragraph 6.1 shall apply regardless of whether Kinecta is involved in the subsequent refinance transaction.

6.2. In the event that a non-agency loan with Lender Paid Compensation (as defined in the Loan Originator Compensation Rule) is subsequently prepaid in full by the borrower within the first 360 calendar days of the funding date of the loan, Broker shall, within fifteen (15) calendar days and upon demand therefore, refund to Kinecta the amount of any Lender Paid Compensation originally paid by Kinecta to Broker. For avoidance of doubt, the term "non-agency loan" shall include any loan that is not insured by, or eligible for sale to, FNMA, FHLMC, FHA, or VA. This provision shall be waived by Kinecta if Broker can prove that Broker was not a party to any subsequent refinance transaction which resulted in the prepayment of the loan contemplated in this Section 6.2.



6.3. The recapture of any premiums paid to Broker and/or the reimbursement of yield spread premium utilized by the borrower to offset costs and fees are strictly liabilities of the Broker, and do not constitute a “prepayment penalty” to the borrower by Kinecta.

7. Miscellaneous

7.1. The prevailing party in any dispute between the parties arising out of the interpretation, application, or enforcement of any provision of this Agreement shall be entitled to recover all of its reasonable attorneys’ fees and costs whether suit is filed or not, including, without limitation, costs and attorneys’ fees related to or arising out of any arbitration proceeding, trial, or appellate proceedings.

7.2. All questions regarding the validity, interpretation, or performance of any of the terms of this Agreement or of any rights or obligations of the parties shall be governed by and construed in accordance with California law, notwithstanding any conflicts of law doctrines of such state or other jurisdiction to the contrary. Any action between the parties relating to or arising under this Agreement shall be tried in the federal or state courts located in Los Angeles County, California.

7.3. The rights and obligations of Broker under this Agreement may not be assigned, including by operation of law, without Kinecta’s prior written consent.

7.4. The failure of either party to seek a redress for violation, or to insist upon the strict performance of any covenant, agreement, provision, or condition hereof shall not constitute the waiver of the terms or of the terms of any other covenant, agreement, provision, or condition, and each party shall have all remedies provided herein with respect to any subsequent act which would have originally constituted the violation hereunder.

7.5. If any provision of this Agreement is held invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

7.6. Nothing contained in this Agreement shall be deemed to create, nor shall this Agreement be construed so as to create, a joint venture, partnership, agency, or employment relationship between Kinecta and Broker. Broker shall conduct business under its own name and not in the name of Kinecta. Broker shall not represent that its office is an office or branch of Kinecta or in any other way connected with Kinecta. Broker shall have no authority to execute documents on behalf of Kinecta or to bind Kinecta in any respect.

7.7. Broker’s covenants, representations, and warranties contained in this Agreement shall survive termination of this Agreement and Kinecta’s subsequent sale or assignment of any Loan. In the event Kinecta assigns any of its rights in any Loans to a third party, the third party and all subsequent assignees shall have the same rights as Kinecta has under this Agreement.

7.8. All notices required herein shall be in writing and shall be deemed to have been given, made, and received only upon delivery to the address set forth below, if personally delivered to party; one business day after the day of dispatch, if by facsimile transmission; one business day after deposit, if delivered by a nationally recognized courier service offering guaranteed overnight delivery; or three business days after the deposit in the United States mail, if sent via certified mail, postage prepaid, return receipt requested. Any party may change the address to which communications or copies are to be sent by giving notice of such change of address in conformity with the provisions of this Section for the giving of notice.

7.9. This Agreement shall be construed as though drafted by both parties and shall not be construed against or in favor of any party.

7.10. Captions and paragraph headings herein are for convenience only and shall not be used in construing this Agreement.



7.11. This Agreement, together with Kinecta’s loan program guidelines, including, but not limited to, the Guidelines, as amended from time to time, constitute the entire Agreement between the parties pertaining to the subject matter contained herein and therein and supersede all prior and contemporaneous agreements, representations, and understandings. No supplement, modification, or amendment shall be binding unless executed in writing by both parties.

7.12. This Agreement shall not be effective until accepted by Kinecta, as evidenced by the signature of Kinecta’s authorized officer in the space below.

7.13. Kinecta may verify Broker’s licensing, credit, financial statements, assets, and background information through a third party vendor. Broker hereby releases all information contained in its Broker application with Kinecta and related documents for purposes of the terms and services provided hereunder.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date first stated above.

[Print firm name]

Address: _____

Attention: _____

Office Phone: _____

Contact Phone: _____

E-Mail: _____

Kinecta Federal Credit Union

1440 Rosecrans Avenue

Manhattan Beach, CA 90266

Attention: _____

Office Phone: _____

Contact Phone: _____

E-Mail: _____

Authorized Signature

Date

Printed Name

Printed Title

Authorized Kinecta Officer Signature

Date

Printed Name

Printed Title