

## **THIRD PARTY VENDOR AGREEMENT**

This THIRD PARTY VENDOR AGREEMENT (as amended, restated, supplemented or otherwise modified from time to time, "Agreement") is made as of \_\_\_\_\_, 20\_\_ by and between Strategic Compliance Partners ("SCP") acting on behalf and for the benefit of third party Lenders that are subscribers to the Shared Vendor Management Platform ("SVMP") and \_\_\_\_\_ ("Vendor").

### **Recitals**

- a. WHEREAS Vendor has been recommended by a Lender who has subscribed to the SVMP (a "Subscriber").
- b. WHEREAS Vendor wishes to be placed on SVMP's list of Verified Vendors
- c. WHEREAS Vendor recognizes that in connection therewith federal lending laws require that Subscribers must undertake due diligence to determine that Vendor is a suitable services provider to avoid injury or harm or the reasonable potential thereof to Subscribers' customers.
- d. WHEREAS Vendor acknowledges that as part of such due diligence Vendor must adopt and adhere to policies and practices that are consistent with the rules set forth in, among other things, the TILA-RESPA Integrated Disclosure and in furtherance of the best interests of Subscribers' customers.
- e. WHEREAS Vendor recognizes that being placed on the Verified Vendor List does not provide Vendor with any right to or expectation of continuing or future business with any Subscriber

### **Agreements**

NOW, THEREFORE, in consideration of these promises, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Vendor agrees as follows:

#### **1. Nature of Relationship**

Nothing herein creates an employment relationship, affiliation, joint venture, partnership, agency, or franchise relationship between Vendor and either SCP and/or any Subscriber. Vendor is merely a service provider to SCP's Subscribers. The Parties agree there is no continued promise of work or required ongoing business relationship that would prevent the Vendor from ceasing to provide services and/or require Subscriber to use the Vendor's services. There is no exclusivity and/or guaranteed term to the provision of or request for services hereunder. Neither Subscribers nor SCP possess the ability to directly or indirectly control, influence or direct the business and/or operations of Vendor.

#### **2. Representations**

Vendor, and each person acting on behalf of Vendor in executing this Agreement represents and warrants to SCP and each Subscriber as follows:

- a. Vendor is a \_\_\_\_\_ duly organized, validly existing, and in good standing under the laws of the [State/Commonwealth] of \_\_\_\_\_. Vendor has the power and authority to consummate the transactions contemplated hereby, and has taken all necessary action to authorize the execution, delivery, and performance of this Agreement and the other documents executed and delivered by it. Vendor has all licenses, permits and authorizations (collectively, "Licenses"), in good standing and without undue restrictions, necessary for it to conduct lawfully its business and affairs.

- b. All licenses, financial statements, reports, materials and other items delivered to SCP by or on behalf of Vendor will be true, up-to-date, and correct in all respects. In the event of any material adverse change affecting or impacting the legal standing, license eligibility, or financial condition of Vendor, such information will be immediately disclosed to SCP.
- c. Other than as disclosed in Exhibit A, there are no other trade names that Vendor has utilized in connection with in providing ts businesses or service offerings to borrowers including but not limited to parent companies, subsidiaries, affiliates, joint ventures or d/b/a's (as used herein "Vendor Parties") within the last ten (10) years. Vendor's correct legal name is as specified on the signature line of this Agreement, and each legal or trade name of Vendor for the previous 10 years (if different from Vendor's current legal name) is as specified on **Exhibit A** of this Agreement. Vendor's state of formation, federal tax identification number and organizational identification number (if any), and the address of Vendor's chief executive office and the address of each other place of business of Vendor are as specified on **Exhibit A** of this Agreement.
- d. Other than as disclosed in **Exhibit A**, there are no pending lawsuits, government investigations, or regulatory enforcement actions against the Vendor Parties.
- e. Other than as disclosed in **Exhibit A**, there are no outstanding judgments, cease and desist orders, or other injunctions or restraining orders pending or in effect against the Vendor Parties and no such orders, judgments or decrees have been entered against the Vendor Parties at any time in the preceding ten years except as noted in **Exhibit A**.
- f. Other than as specified in **Exhibit A**, Vendor is not aware of any consumers who have made complaints about the Vendor Parties to any governmental body or any consumer protection group or better business bureau, in the preceding 5 years.
- g. Other than as listed on **Exhibit A**, Vendor is not aware that any of its Officers or Directors that have been convicted of or plea to any felony, crimes of dishonesty, fraud, money laundering, or embezzlement in the preceding seven (7) years.
- h. Other than as listed in **Exhibit A**, Vendor Parties are not currently in default of any debt or financial commitment, nor the Vendor Parties materially in breach of any financial commitment or in imminent danger of being in breach or default of any such financial obligation.
- i. Other than as listed in **Exhibit A**, Vendor Parties are not aware of any breach or compromise of its electronic information systems.

### **3. Ongoing Representations**

Except as otherwise provided herein, until the termination of this Agreement, the Vendor agrees and warrants:

- a. To ensure that its management and staff are aware of all relevant federal and state laws and regulations concerning the provision of Services contemplated hereunder. Further the Vendor warrants that all staff involved in the provision of such Services are adequately trained on all such laws.
- b. To maintain all necessary policies and operating procedures pertaining to compliance with applicable rules and regulations.
- c. To train and retain staff with sufficient skills and experience necessary to capably perform the services advertised by Vendor.

- d. To continue to amend and update SCP in the event that any of the information or representations set forth herein or in response to any attached exhibit or questionnaire becomes inaccurate, incomplete, outdated, or untimely.
- e. To maintain a complaint intake and investigation procedure, disclosed to all consumers and employees, which is intended to internally identify and address any compliance or customer service deficiencies.
- f. To advise and report to its board of directors/Management about compliance deficiencies, needs, and improvements on an ongoing basis.
- g. To devote sufficient resources to self-identify and self-correct any compliance deficiencies and will retain all documentation concerning its compliance efforts.
- h. To report to SCP any legal violations, complaints, regulatory actions, governmental investigations, or other material adverse events concerning its business between the date hereof, and the expiration of this Agreement.
- i. To maintain current and sufficient liability and errors and omissions insurance and to provide evidence thereof to SCP at all times.
- j. To maintain a business resumption and contingency plan sufficient to reasonably ensure business continuity in the event of a temporary disruption in public systems or services due to power failure or natural disaster.

**4. Cooperation in Due Diligence.** Vendor agrees and understands that in order to be placed on the Verified Lender List it will need to complete the questionnaires and surveys required through Lenders' Automated Vendor Management System administered by and through Strategic Compliance Partners (the "AVMS"). Further, to the extent this Agreement refers to such questionnaires, surveys, and/or responses thereto as being attached to or incorporated in this agreement, Vendor understands and acknowledges that any such information contained in the AVMS or that is submitted in response to the AVMS is equally considered to be attached hereto and incorporated herein as if such information was actually attached to or disclosed in this Agreement even where no specific reference is made to the AVMS.

#### **5. Pricing.**

- a. **Accurate Pricing.** Vendor agrees to provide Lender with an accurate list of prices for its services via upload through the AVMS and/or delivery to SCP as dictated by SCP.
- b. Vendor agrees to promptly provide Lender with an accurate price for any service provided to Lender or Lender's customer in connection with any loan application and/or closing.
- c. Vendor agrees that to the extent the cost of its service is of the type that it will be disclosed on any loan estimate or closing disclosure, Vendor warrants that it will neither request nor demand that the price or charge be increased above the current price as uploaded in the AVMS and/or delivered to Lender through SCP, as applicably dictated by SCP.

**6. Third Party Contractors.** The Vendor will not delegate any aspect of the performance of its Services without prior written consent from the Lender. Furthermore, Vendor will not retain any contractor to perform its Services under this Agreement without prior written consent from the Lender. If Vendor currently retains contractor(s) to perform any of Vendor's Services the contractor(s) must be disclosed to Lender in writing. The contractor(s) are subject to Lender's approval as a condition precedent to the

performance of any Services by the Vendor to Lender and/or its customers

**7. Customer Privacy.** Vendor shall in handling nonpublic personal information (“NPI”) comply in all respects with the privacy provisions at Subtitle A of Title V of the Gramm-Leach-Bliley Act and with the regulations of the applicable federal agency implementing such provisions, and with any applicable state privacy laws. Vendor shall not, without the consumers consent in accordance with the Gramm Leach Bliley Act, share or disclose NPI.

**8. Data Security.** Vendor represents that it has implemented and will maintain an information security program that is designed to (i) ensure the security and confidentiality of NPI, (ii) protect against any anticipated threats or hazards to the security or integrity of NPI, and (iii) protect against unauthorized access to or use of NPI that could result in substantial harm or inconvenience to the Lender or its customers. In addition and not by way of limitation, Vendor shall be responsible for maintaining security for its own systems, servers, and communications links as necessary to (x) protect the security and integrity of the Lender’s systems and servers on which NPI is stored, and (y) protect against unauthorized access to or use of its own systems and servers on which NPI is stored.

**9. Confidential Information.** Vendor acknowledges that Lender will be providing it with valuable proprietary information (“Confidential Information”), including but not limited to information regarding Lender’s products, programs, underwriting policies, procedures and customers. Except as necessary to perform its obligations under this Agreement or as required by law, Vendor will not disclose any Confidential Information to any person outside that party’s organization and will limit access to this information within its organization on a strict “need to know” basis. Vendor agrees to notify all of its directors, officers, employees and other agents of its obligations regarding Confidential Information and will cause such directors, officers, employees and other agents to comply with such obligations. This paragraph will survive the termination of this Agreement.

**10. Audit Rights.** With reasonable notice, Vendor agrees to allow SCP the right to enter into and inspect its premises and to obtain and audit its policies, procedures, interview staff and management, and examine Vendor’s books and records to the extent reasonably necessary to ensure that Vendor does not pose a risk or threat to Subscribers or Subscribers’ customers.

**11. Indemnification.** To the extent permissible under the Real Estate Settlement Procedures Act, Vendor agrees to make whole and compensate any customer of Lender to the maximum extent required by law, if such customer is injured or damaged as a result of any act or circumstance that is either a material violation of Vendor's duties and obligations under this Agreement and/or that directly or indirectly arises out of or in connection with any material facts or information that was not disclosed to Lender as required by this Agreement or that otherwise renders any representations or warrants pursuant to this Agreement as materially false or inaccurate.

**12. NonDisclosure.** Lender agrees and acknowledges that in connection with its due diligence, it will receive information from Vendor that may be confidential and/or proprietary. Lender agrees that it will treat such information disclosed in connection with its due diligence as proprietary and confidential and except for Strategic Compliance Partners, will not share such information with any third parties or use it for any other purpose without Vendor's prior written consent. Notwithstanding the foregoing, Lender may share such information if compelled by valid legal process provided that Lender informs Vendor of any such process as soon as is practicable. The Parties agree that information that is generally available to the public and/or that Lender learned from any third party is not considered Confidential and/or proprietary.

**13. Termination.** Either Lender or Vendor may terminate this Agreement for any reason or for no reason by giving the other party seven (7) days’ prior written notice.

**14. Third Party Beneficiaries.** The Parties acknowledge and agree that the Subscribers are intended third party beneficiaries to this Agreement and are entitled to rely upon the representations, promises and

obligations contained herein, and may enforce such obligations to the same extent as if they were an actual party to this Agreement.

**15. Limit of Liability and Hold Harmless.** SCP shall not be liable to Vendor under any theory of liability, legal or equitable, in connection with the services contemplated in this Agreement and/or SCP's use, maintenance, delivery, or information disseminated through or in connection with the SVMP to Lenders except to the extent of any fees paid by Vendor to SCP.

**16. Miscellaneous**

- a. **Notices.** All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered at or delivered by electronic transmission or by overnight courier.

If to the Lender:

\_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Attn: \_\_\_\_\_

If to the Vendor:

\_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Attn: \_\_\_\_\_

- b. **Entire Agreement.** This Agreement sets forth the entire understanding and agreement of the parties hereto and fully supersedes any and all prior or contemporaneous agreements or understandings between the parties with respect to the subject matter hereof. No prior negotiations or drafts of this Agreement shall be used by either party to construe the terms or to challenge the validity hereof.
- c. **Amendments.** This Agreement may not be modified except in writing between all parties hereto. No oral promises, assurances, agreements, or understandings either prior or subsequent to the execution of this Agreement are binding or may be relied upon except and unless incorporated herein or incorporated by written modification as permitted herein.
- d. **Waiver.** No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. The language of this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against any party hereto.
- e. **Applicable Law.** This Agreement is made, executed, and delivered in the [Commonwealth/State] of [Insert] and any dispute arising out of this Agreement shall be governed by its laws.
- f. **Personal Jurisdiction/Venue.** By execution of this Agreement, the parties are consenting to personal jurisdiction and venue in [Insert] with respect to all disputes concerning or arising out of this Agreement.
- g. **Expenses.** Except as otherwise provided in this Agreement, each party will pay its own expenses incident to this Agreement and the transactions contemplated hereby, including but not limited to, all fees of its counsel and accountants, whether or not the transactions contemplated are consummated

- h. **Assignment.** The rights and obligations of the respective parties under this Agreement are not assignable except with the prior written consent of the other party.
- i. **Successors in Interest.** Except as otherwise provided herein, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.
- j. **Attorney's Fees and Costs.** In the event of any litigation between the Parties to enforce the terms of this Agreement, the prevailing party shall be entitled to the all costs incurred, in connection therewith, including but not limited to attorneys' fees.
- k. **Severability.** The Parties agree that this Agreement shall be severable, meaning that if any provision is held to be unenforceable, it shall not affect the validity or enforceability of the remainder of the terms and provisions of this Agreement.

IN WITNESS WHEREOF, Vendor has signed, sealed, and delivered this Agreement as of the day and year first written above.

**VENDOR:**

**WITNESS:**

By: \_\_\_\_\_(SEAL)

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

