

**INDEPENDENT CONTRACTOR AND
CONFIDENTIALITY AND NON-COMPETE AGREEMENT**

This Agreement ("Agreement") is made by and between _____, whose address is _____ ("Contractor"), and Pacific Home Appraisers, whose address is 26560 Agoura Rd. Ste 103A, Calabasas, CA 91302 ("Company"), together "Parties".

RECITALS

WHEREAS, the Company is engaged in the commercial and residential appraisal business, and also in the business of acting as a centralized facility for obtaining appraisers for commercial and residential properties throughout the United States ("Business") and Contractor desires to provide services to the Company as an independent contractor in connection with said Business.

WHEREAS, the Company has spent a substantial amount of time and resources developing business models and establishing customer, vendor and other relationships, and it desires to protect its business and relationships.

NOW THEREFORE, in consideration of the premises, and of the mutual terms, conditions, benefits, covenants and undertakings contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged the Parties hereby agree as follows:

1. Nature of Services

A. Contractor will provide services to Company, from time to time, as requested by Company. Contractor is responsible for: (1) providing services as set forth in appraisal and order requests which the Company may issue for the Contractor; (2) insuring services are provided in compliance with all applicable Federal, state and local laws and requirements; (3) providing appraisal reports (via email, hand delivery or facsimile) within 3-5 working days after completion of services unless otherwise agreed upon in writing by the Parties; (4) providing services in a timely, competent and professional manner in accordance with generally accepted practices in the industry; and (5) properly maintaining all licenses and certifications necessary to perform said services and to immediately notify Company of any change in the status of Contractor's license(s) or certifications. (6) Properly maintaining required E&O insurance coverage and updating Company of any changes in the policy.

2. Independent Contractor Relationship

A. Relationship of Contractor to Pacific Home Appraisers: Contractor is an Independent Contractor, and is carrying on its own independent business separate and apart from Company. Contractor is engaged only for the purposes and to the extent set forth herein. The relationship of Contractor to Company is that of an independent contractor and not that of an employee, agent, partner, joint venturer or any other relationship. Company will not, and has no authority to: (i) supervise or control Contractor or its employees in their daily activities; (ii) be involved in the process of payment of wages to employees of Contractor; (iii) require compliance by Contractor or its employees, with detailed written rules or specifications with respect to methods or manner of the work of Contractor and/or its employees; (iv) dictate the time or frequency of performance of the services by Contractor and its employee; nor to (v) be responsible for any usual employee benefits including, but not limited to medical, dental, retirement, and paid time off . Contractor, at all times, shall be solely responsible for its own expenses and those of its employees, and for its actions and omissions and the actions and omissions of its employees, agents and representatives. Contractor, as an independent contractor and not an employee of Pacific Home Appraisers, will be issued a 1099 which will detail the fees paid out each year. Neither Contractor nor its employees, agents or representatives have the right or any authority to make any contract, agreement or commitment in the name of, or for the account of, Company, or to assume or create any obligation or liability of any kind, express or implied, on behalf of Company, or to make any representation or warranty, express or implied, on behalf of Company, without prior written authorization signed and dated by an officer of Company, and Contractor agrees not to hold itself out to others as possessing such right or authority, and will at all times hold itself out as an independent contractor.

B. Requirements As a requirement to this Agreement, Contractor will (i) have a Real Estate Appraisers Professional Liability Insurance Policy (Errors and Omissions Liability Coverage) on a claims made basis with minimum liability limits of \$1000,000, and a current certificate documenting this coverage must be provided to Company immediately, and also at policy renewal dates; and (ii) provide Company with a copy of Contractor's appraiser license(s) (and those of its employees if requested by Company) immediately, and also at renewal dates.

C. Contractor Warranty By signing this Agreement, Contractor represents and warrants to the Company that it is not bound by any other agreement, whether written or oral, which would preclude it from entering into this Agreement, and Contractor represents and warrants that it and its employees are fully licensed for all real estate appraisal work which it accepts from Company, and that it and they will continue to maintain such licenses at all times relevant hereto.

3. Non Solicitation and Non Competition

A. Term During the term of this Agreement and for a period of twelve (12) months after the termination of this Agreement Contractor agrees that neither Contractor nor any of its employees, agents or representatives, nor any entity in which it (or any of its shareholders or equity participants) has an interest of 5% or more, shall directly or indirectly, on its own behalf or on behalf of a third party, whether as an employee, agent, contractor, shareholder, partner, member, or in any other capacity, do any of the following: (a) compete with the Company by approaching or soliciting its Customers; (b) solicit, request, induce or advise any Customer to cancel, curtail or withdraw any current or future business or affiliation with the Company; (c) divert business from the Company or in any manner attempt to adversely influence the Company's business with any of its vendors, suppliers or Customers; (d) provide proposals to any Customers which compete with the Company Business; or (e) solicit, divert, take away or accept any business from any of Company's Customers; or solicit, divert, take away or induce any Company employee (including, but not limited to, leased or retained employees or prospective employees with whom Company has had contact within the twelve (12) months preceding the termination of this Agreement), agent, contractor or person having a contractual relationship with Company to terminate its, his or her relationship with Company or to otherwise compete with Company in the Company Business.

B. Customer "Customer" shall mean: (a) all individuals or entities with whom Company has provided services or agreed to provide services, or is negotiating to provide services, during the term of this Agreement, and within twelve (12) months before and twelve (12) months after the terms of this Agreement; (b) all prospects to whom Company has sent proposals during the term of this Agreement; (c) all individuals or entities for whom Contractor provides services as a result of its engagement with Company; (d) all vendors and suppliers of Company, and (e) all third-party beneficiaries of any services performed by Contractor as a result of its engagement with Company. Customer does not include any person or entity with whom Contractor had a business relationship which is competitive with Company's Business, twelve (12) months prior to the date of execution of this Agreement. Contractor agrees to notify Company immediately if an order received involves any person or entity that Contractor had a business relationship within the twelve (12) months prior to this agreement.

4. Confidential Information

A. Non Disclosure and Non Use Contractor acknowledges that through its relationship with the Company, Contractor will come into contact with and gain knowledge relating to Confidential Information. Contractor hereby acknowledges and agrees that during the term of this Agreement and for two (2) years thereafter, Contractor shall not disclose or use, directly or indirectly, on its own behalf, or on behalf of any other person or entity, in any capacity, any Confidential Information.

B. Confidential Information Defined Confidential Information includes, but is not limited to, information about the property, affairs, financial operations, distribution, sales methods, customers, suppliers, plans for development of new projects, products and/or services, plans for the expansion into new areas and/or markets, internal

operations, internal business reports agreements, procedures and policies, business strategies, methods and management, servicing methods, pricing, and training techniques, manuals, training materials, billing information, personnel information, employee lists, employee compensation, current, past or prospective customers, customer contacts, customer lists and prospects, work in progress, referral sources, vendor information or agreements, technology, programs, studies, costs, marketing plans, marketing materials, developmental plans, computer programs, computer systems, inventions, developments, patents, trademarks, copyrights, and other intellectual property, analyses, compilations, forecasts, studies and other materials, which are considered by Company to be confidential and/or proprietary, and which information is not readily ascertainable and could not, without significant time and expense, be obtained or duplicated. "Confidential Information" shall not include such portions of any information which (i) is or becomes generally and properly available to the public other than as a result of the disclosure by the Contractor or any of its employees, agents or representatives in breach of this Agreement, or (ii) becomes available to Contractor on a non-confidential basis from a source (other than Company) which is not prohibited from disclosing such information to Contractor. Contractor further agrees to reveal Company's information only to its employees, agents or representatives who need to know the Confidential Information for the purpose of providing services to or on behalf of Company and who are informed of the confidential nature of the information and who are instructed to act in accordance with the terms and conditions regarding same in this Agreement.

C. Protection and Court Orders Contractor will take all steps which are reasonably necessary to ensure that all Confidential Information is kept confidential and only used for the benefit of Company. In the event that Contractor or anyone to whom it transmits such information becomes legally compelled to disclose any of such information, such person will provide Company with prompt notice so that Company may seek a protective order, injunctive relief or other appropriate remedy. In the event that such protective order, injunctive relief or other remedy is not obtained, such person will furnish only that portion of such information which it is specifically required, and such party will exercise its best efforts, to obtain reliable assurance that confidential treatment will be accorded the information. All hard copies of the Confidential Information shall be returned to Company upon termination of this Agreement or upon request of Company.

5. Compensation

A. Definition Contractor shall be paid as indicated on the appraisal and order requests, for each completed appraisal provided to Company, 30 days after the appraisals are delivered to Company's Customer. Contractor shall receive a flat fee per assignment. Changes in fees due to special services will be negotiated in advance. The amount payable to Contractor as set forth on the appraisal and order request for each appraisal shall be the entire consideration for such appraisals and orders. Company shall not be responsible for any travel time or other costs or expenses incurred by Contractor. The compensation set forth herein or otherwise established for Contractor may be changed by Company from time to time at its discretion. Notwithstanding anything herein to the contrary, in the event that a Customer does not pay its bill due to a complaint about the work that was done by Contractor, Contractor will not be paid unless and until the matter is satisfactorily resolved. In the event that a Customer does

not pay its bill due to its inability or claimed inability to do so, or because it has or is filing bankruptcy, or because a third party has or is causing it to be into involuntary bankruptcy, then the Contractor agrees to take a reduced fee totaling 50% of what it otherwise would have received on that account.

6. Termination

A. Definition Company or Contractor may terminate this Agreement, with or without cause, upon fourteen (14) days written notice to the other, subject to the sections regarding confidentiality, non compete, non solicitation, and indemnification.

7. Remedies

A. Definition Contractor acknowledges that the prohibitions in this Agreement against improper disclosure of Confidential Information, and against competition and solicitation, are fair, reasonable and necessary in order to protect Company's legitimate interests, and that any violation thereof would result in irreparable injury to Company. In the event of a threatened or actual breach, in whole or in part, of such provisions, the Contractor agrees that irreparable injury would result to the Company, there would not be an adequate remedy at law, and the Company would be entitled to preliminary and permanent injunctive relief. Should injunctive relief become necessary to enforce this Agreement, Contractor shall be liable for the payment of the attorney fees and costs incurred by Company in seeking and enforcing such injunctive relief, and the period of time referred to herein would be extended by a period of time equal to that period beginning when such violation commenced, and ending when the activities constituting such violation terminated.

B. Damages In addition to injunctive relief for the Company, in the event the Contractor breaches the terms of the non compete, non disclosure or non solicitation portions of this Agreement, Company shall be entitled to damages. For any Customers lost to Company as a result of Contractor's breach, Contractor shall immediately purchase from Company the goodwill associated with such Customers. In view of the difficulty in evaluating goodwill associated with a Customer, it is hereby agreed that the price of said goodwill shall be three (3) times the billings Company sent to the Customer during the twelve (12) month period immediately preceding the date of the termination of this Agreement. Provided, however, in no event shall such sum be less than two thousand (\$2,000.00) dollars for each Customer.

C. Indemnification Contractor agrees to indemnify and defend, and to save and hold harmless, the Company from and against any and all liability, claims, damages, losses, judgments, suits, decrees, costs and expenses, including actual attorney fees, that arise out of or relate to: claims regarding or arising out of this Agreement, including without limitation, Contractor's (i) performance of, breach of, or failure to perform, obligations under this Agreement by Contractor or its employees, agents or representatives; or (ii) action, negligence or omission. Contractor shall make its status as an independent contractor clear to its employees, agents and representatives.

8. Miscellaneous

A. Notices, Governing Law, and Jurisdiction All notices, requests, demands and other communications hereunder shall be in writing and may be delivered by hand, e-mailed or mailed. The parties agree that this Agreement is made in the state of, and shall be governed and construed in accordance with the laws of the State of Michigan. Contractor consents to the personal jurisdiction of any state or Federal Court located in the State of Michigan with respect to any action arising out of the Agreement. Contractor agrees that service of process in any such action shall be sufficient if made by certified mail, return receipt requested, to the address of Contractor set forth herein. To the extent permitted by law, Contractor waives trial by jury in any action arising out of this Agreement.

B. Entire Agreement and Construction This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior arrangements, understandings, negotiations and discussions, whether oral or written, of the Parties. No amendment, supplement, modification, waiver or termination of this Agreement shall be binding unless in writing and executed by the Party against whom enforcement is sought.

C. Assignment All of the terms and provisions of this Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns. This Agreement, and the rights and obligations hereunder, may not be assigned or delegated, as the case may be, by Contractor without the prior written consent of the president of Company. Company may assign this Agreement.

D. Captions The captions used herein are only used as a matter of convenience and in no way limit, construe, affect or describe the scope or intent of the sections of the Agreement.

E. Signatures This Agreement may be executed in one (1) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any facsimile signature hereon, or electronic signature, or electronic record, shall be given the same force and effect as an original signature, and shall be binding.

F. Severability and Counsel It is expressly understood and agreed that the Parties consider the terms and conditions contained in this Agreement to be reasonable. If, however, any terms or restrictions are found by a Court of proper jurisdiction to be unenforceable because they are too broad then the restrictions contained herein shall be deemed amended as may be considered to be reasonable by such Court and, as so amended, shall be enforced to their fullest extent. Both Parties hereto represent that they have read this Agreement entirely, that they have had the opportunity to review it with their own counsel, and agree that the provisions of this Agreement shall be construed without prejudice to the Party who actually memorialized this Agreement.

9. Appraisal Fraud Prevention and Protection Policy

A. **Pacific Home Appraisers** will not tolerate appraisal fraud of any type, including without limitation, inflating home values so as to reduce loan to value ratios and/or to receive more financing, on or for mortgage applicants, and/or for the purpose of securing a loan which otherwise might not qualify for approval. Inflating appraisal values is fraudulent, and this practice is deemed to be predatory by customer advocacy groups, regulators, legislators, and by **Pacific Home Appraisers**.

B. Appraisal fraud has been a part of the mortgage industry for many years, and can impact refinancing, purchases and other transactions. We will not tolerate appraisal fraud. Each Contractor must use its best efforts to insure that all appraisals for **Pacific Home Appraisers** and/or its Customers are accurate, and comply with Fannie Mae guidelines, and all laws including the Consumer Mortgage Protection Act of 2002. Payment for any appraisal completed on behalf of **Pacific Home Appraisers** or its Customers will not be contingent upon the appraisal value.

C. **Pacific Home Appraisers** may sample and monitor appraisals performed for it, and/or for its Customers. Additionally, inappropriate communications and verbiage regarding value disputes will not be tolerated.

D. Contractor is responsible for disseminating this policy to all of its employees, agents, partners, or any other representatives.

IN WITNESS WHEREOF, the contractor agrees to the terms of this Agreement. Contractor has read this Agreement, and recognizes and agrees that facsimile and/or electronic and/or digital agreements and records and enforceable, and Contractor intends that this Agreement be enforceable.

Initials

yes

no

Contractor: _____

Dated: _____

By: _____

Its: _____