

**CONTRACT FOR RETENTION  
OF  
INDEPENDENT LOAN REPRESENTATIVE**

This agreement made and entered into by and between American Freedom Group, Inc. DBA American Freedom Mortgage, DBA Veteran Mortgage (hereafter referred to as Broker) and \_\_\_\_\_, Tax Identification # \_\_\_\_\_, Independent Loan Representative (hereafter referred to as ILR). Collectively Broker and ILR are referred to as the Parties.

**RECITALS**

Broker is a licensed Mortgage Broker pursuant to the Washington State Mortgage Broker Practices Act, RCW 19.146 (hereafter WMBPA) and desires to retain ILR to originate residential mortgage loans to be brokered by to various investors with whom it is contracted.

ILR is a Loan Originator, as defined by RCW 19.146.010 (8) (10) and (12), offering its services to the public.

ILR and BROKER wish to enter into an agreement (hereafter Agreement) in compliance with RCW 19.146.200, and State and Federal Employment laws.

ILR may determine to conduct business in a location separate and apart from Broker requiring the obtaining of a branch license.

**AGREEMENT**

In consideration of mutual promises of the parties, it is agreed as follows:

1. **STATUS AS AN INDEPENDENT CONTRACTOR.** A material consideration to this Agreement is that ILR conducts himself at all times as an Independent Contractor in compliance with the requirements of the Washington State Department of Employment Security and the Internal Revenue Service.

a. Indemnification by ILR. In the event either the State of Washington and/or the Internal Revenue Service determines that ILR is in fact an employee, then ILR shall reimburse Broker all expenses, including penalties and taxes, it shall incur in order to comply with such determination. In this event any such consideration paid by ILR shall be deemed a retro active commission adjustment.

b. Warranty and Assurances of ILR. ILR assures and warrants to Broker that it meets or complies with the following tests for determination of Independent Contractor Status. This warranty and assurance is material to Broker's Agreement to enter this Agreement and Broker would not enter this Agreement without ILR's review and acknowledgement that it, in fact, conducts itself in conformity with the following standards:

1. ILR is directly responsible for compliance with the WMBPA at all times as it conducts its origination services and that DFI has the jurisdiction to proceed directly against ILR for any violation of the WMBPA. While Broker is statutorily responsible for all acts of the Broker while performing services under this contract, Broker is not controlling the method and manner in which ILR conducts his business.

2. ILR will implement policies and procedures that are reasonably necessary and prudent to assure that it and any of its employees maintain strict adherence to the WMBPA, and specifically all disclosure requirements being delivered to borrowers in a timely fashion. Broker shall not in any manner dictate or control ILR in the manner in which it solicits, processes and otherwise complies with the WMBPA and Federal regulation of mortgage lending. ILR does regularly review its business practices to assure conformity with said regulations.

3. ILR is properly licensed to do business in the State of Washington. If ILR is a corporation or LLC that it is properly licensed and that all licenses are current and business records, including Corporate Minute books, are in order and regularly maintained. ILR has or will before ordination and submission of any loans to Broker establish an account with the Department of Revenue and other appropriate state agencies; and has established itself with the internal revenue services properly for income reporting.

4. ILR has established and maintains business books and records according to customary accounting practices in the industry.

5. ILR is responsible for its own continuing education and training. Broker may offer its employees instruction on compliance, underwriting, marketing and customer relations from time to time. ILR may attend these classes as a guest or for a fee as determined by Broker. ILR does not rely upon, anticipate, nor expect Broker to provide any guidance with respect to performing ILR services and that maintaining its professional capability is the sole responsibility of ILR.

6. ILR acknowledges that its services to the public, while personal in nature are not unique and that in the event of unavailability of ILR for any reason it will arrange or delegate its responsibilities in files submitted to such other individuals as necessary for the timely and professional completion of the loan, subject to the strict compliance with the WMBPA. Moreover that anyone it employs to assist and who hold themselves out as being able to assist in obtaining a loan must be licensed or performing services under authorization of a licensee. That accordingly, any person ILR employs or sub contracts regarding files being originated for submission to broker or submitted, will be approved by and in contract with Broker as required by RCW 19.146. 200.

7. ILR shall be responsible for all its operational and marketing expenses and shall not open accounts with vendors of any nature that imply in any fashion that Broker is liable thereon. Any employees of ILR shall be the responsibility ILR only and have no relationship with Broker and specifically will not be under Broker's supervision, control or management.

8. The relationship between ILR and Broker is non-exclusive. ILR may perform its services for other Licensed Mortgage Brokers and devote as much time and in such manner regarding this Agreement as ILR deems in its best business interest. In so doing, ILR will clearly distinguish to the public with whom it is associated and avoid any public confusion regarding which Licensee is responsible for the conduct of the ILR pursuant to the WMBPA. In all materials in which ILR is providing services for Broker, it shall clearly identify Broker as an Associate of ILR.

(a) In the event of termination of this agreement, ILR and Broker shall have continuing liability for duties and responsibilities as defined in this Agreement as to loans previously submitted, closed and pending.

9. ILR is prohibited by the WMBPA from representing that it can originate or assistance in the origination of loans at any unlicensed location. ILR agrees that all marketing materials in which ILR is soliciting loans for submission to Broker will NOT specify an unlicensed location. Notwithstanding this representation to the public, ILR acknowledges that it conducts its services outside of Broker's offices and may do so on condition that the public does not perceive it may go to the location for loan origination services. In the event that ILR does use the offices of Broker, other than incidentally, it will be required to pay a fee to Broker of the space and services.

10. ILR is operating its own business and is responsible for all overhead associated therewith including equipment, supplies, travel expenses, marketing materials, and other normal and customary business expenses. Generation of profit or incurring losses is the result of ILR's management skills and Broker will not indemnify, assure or in any manner be responsibility for the income, profit or losses of ILR.

2. **Responsibility of BROKER:** BROKER assumes responsibility for the ILR's violations of any provision of the Mortgage Broker Practices Act and Rules adopted thereunder (RCW 19.146.200).

3. **Responsibility of the ILR:**

a. ILR shall originate real estate loans by contracting the public and use its best efforts to originate a minimum of 5 loans per month. Broker has contracted with ILR in order to increase its volume of production and would not do so if ILR was not capable of meeting this minimum production capability.

b. All originations shall conform to the quality and professional standards required by Broker; all applicable requirements of its investors, HUD, VA, GNMA, FHLMC, FNMA; all state and federal laws and regulations; and, the code of ethics of the National and Washington State Association of Mortgage Brokers. ILR acknowledges that adherence to these requirements is an integral part of the responsibility of providing service to the public pursuant to the WMPA; are not unique to Broker; and are the standards by which responsible loan originators conduct themselves in the mortgage industry. Non-compliant applications may be rejected by BROKER at its sole discretion.

c. ILR shall assist in the processing and closing of all such loan applications as ILR shall deem reasonably in the exercise of its own business judgment; provided that if in the sole opinion of BROKER the interest of the consumer and/or professional image and reputation of BROKER require it to intervene in the processing and completion of a file, it shall do so and charge to ILR for its services rendered to assure timely and proper completion of files.

d. ILR shall provide the borrower by personal delivery all state and federal loan disclosures within 3 days of borrowers making application and assure that the processor does mails them as well. ILR acknowledges that Washington State has stricter definition of when an application is received than Federal regulations and agrees to maintain carefully follow the State standard.

e. ILR shall maintain firewalls with password access to protect the information contained in its processing system and provide all access information to BROKER; and, further shall assure compliance with all Privacy Policies and Safeguards as may be established by BROKER. ILR shall periodically review his or her practices and safeguards to assure compliance.

f. ILR shall assure and permit BROKER access to all files and records regarding loans at all times. This shall include access to all computer records which shall be accessible to BROKER 24 hours a day, 7 days a week via remote access capability.

g. ILR shall use the same origination system that is used by BROKER.

h. ILR acknowledges that loans may only be brokered to investors that BROKER has a contractual relationship. These contracts may contain warranties and indemnities requiring the BROKER to warrant that all information provided to the investor is true and correct, including all information provided by the borrower and as stated on the borrower's loan application. ILR expressly agrees that it will comply with all contractual requirements of investors as contained in the contracts. ILR upon request will be provided a copy of any investor contracts for review. It is ILR's responsibility to obtain and review investor contracts prior to loan submission and failure to have read or obtained a contract shall not be a defense to a claim against ILR for failing to comply. ILR shall indemnify and hold BROKER harmless from all losses and damages it may sustain by reason of ILR's failure to comply with investor contractual requirements.

4. **Term of Agreement:** This agreement shall be effective upon signing and shall continue until terminated as provided herein.

5. **Scope of Authority:** ILR shall have the authority to represent his or her self in all business cards, announcements, and other writings or communications with customers, other business professionals, or the general public as an independent agent or Associate of Broker and not as an officer, employee of BROKER. Advertising and marketing materials shall be provided to Broker and conform to loan programs offered by BROKER and strictly comply with State and Federal advertising regulations.

a. Operating as a Branch of Broker: ILR may presently or in the future, wish to establish a location from which to operate and solicit mortgage loan originations. ILR acknowledges and agrees that any location that ILR may use to originate loans or assist others to obtain residential mortgage loans must be properly licensed by the Department of Financial Institutions and approved by BROKER in advance. ILR warrants and represents that it has read and will strictly comply with the Interpretative letter #99-04MB (attached as Exhibit A) that explains the Department's definition of and requirements of a branch of a licensee.

1. ILR shall not represent to any vendor, Landlord, supplier or other individual, or any other person or entity that ILR has authority to represent and bind Broker for any expense of any nature related to a branch location.

2. ILR will not, under any circumstances conduct originations or act in such a manner as to lead any person to assume they may obtain a loan or assistance in obtain a loan at an unlicensed location.

b. Incurring expenses to operate business: ILR shall at no time represent to third party vendors that he or she has authority to incur expenses on behalf of BROKER. This limitation shall specifically include, but not be limited to, a prohibition of ILR obtaining advertising, credit reports and/or appraisals chargeable to BROKER without BROKER'S prior written consent.

c. Retaining Escrow Agents: ILR may utilize such escrow agents it deems reasonable and necessary provided that the agent is approved by BROKER, in advance, which consent will not be unreasonably withheld. ILR shall provide BROKER with the name of any escrow agent being selected for approval; if not approved, BROKER will supply agent with an approval package for completion.

d. Commissions Received: All commissions and compensation received by ILR shall be received in the name of BROKER and paid directly to BROKER.

6. Borrower Application and Loan file: ILR acknowledges that it may only originate loans while acting under the authority of a licensed Washington State Mortgage Broker and that as such BROKER is responsible to retain all original records and files. ILR acknowledges that a loan once originated shall become the property of BROKER solely and exclusively, including the original documents and that ILR may only originate under the license of the BROKER. ILR will provide copies of all documents to BROKER as it shall require from time to time during the pendency of the loan application, and upon cancellation, decline or closing of the loan, provide the original loan file to BROKER within 48 hours. ILR compensation under this agreement may be withheld until this requirement is met. If the file is not provided no compensation will be owed to ILR whatsoever and ILR shall desist from any further loan origination activities on behalf of BROKER until such time as BROKER reinstates this agreement.

a. ILR shall submit a copy of all applications taken (as defined by WMBPA) and disclosures within One Business Day of taking the Application.

b. ILR shall only place escrow with escrow agents previously authorized and approved by Broker; and, give notice to Broker of opening escrow at the time of doing so.

c. In the event this agreement is terminated for any reason by either party, BROKER agrees to release any pending file to any other Mortgage Lender pursuant to RCW 19.146.080, and or pursuant to the laws of the state of New Mexico, and any other state laws in which broker is licensed to do business, governing mortgage brokers, including one with whom ILR may be associated. at the request of the Borrower. Broker does not object to ILR direct solicitation of Borrower.

d. In addition to any other representations, warranties and indemnities contained in this Agreement, ILR further warrants and represents that all information on any application and application package of documents submitted by ILR to BROKER are and will be true, correct, currently valid and genuine and will contain no material misstatements, misrepresentations or omissions.

7. **Acting as Real Estate Agent and Mortgage Broker in same transaction:** ILR shall not act in the capacity of a Real Estate Agent in the same transaction in which ILR is also the mortgage broker.

8. **Compensation of ILR:** ILR shall be compensated for his or her services by payment of commission, payable as follows:

a. BROKER shall pay 100 % of the loan origination fee; 100 % of all yield spread points received by BROKER; and any fees ILR charges and discloses for that are reflected as paid to them on the settlement statement. In the event ILR has incurred any expense or liability to BROKER for any reason said expense or liability shall be deducted from any monies owed to ILR prior to disbursement.

1. Upon termination of this agreement, commission of closed loans shall be paid in full, less any outstanding amounts due.

2. In the event BROKER determines, in its sole discretion, that a matter upon which a commission is due may expose BROKER to a claim of damages, disciplinary action by any state or federal regulatory body, investigation by a lender or otherwise investigation arising from the conduct and activities of ILR, then BROKER may withhold compensation or a portion thereof as Broker deems necessary, until such situation is resolved.

9. **Compensation retained by Broker:** The Parties agree that in consideration for this Agreement, Broker shall retain the following:

a. A per transaction fee of \$500 per loan file for the first 5 loans, \$400 for the next 5 loans and \$350 per loan thereafter payable to Broker, upon receipt of funds and final HUD- 1 for the closing of each transaction. Second mortgages shall be changed a per transaction fee of \$250.

b. In cases where the Loan is processed by broker, broker will retain an additional fee of \$450.

10. **Other Expenses/Borrower Trust Funds:** ILR shall be responsible for payment of all of his/her expenses, including any third party fees incurred to process the loan submitted by ILR.

a. **Trust Account.** ILR acknowledges that BROKER does not accept funds in advance from any borrowers for any reason. ILR agrees not to accept funds from a borrower at anytime, except indirectly through closing disbursements of an authorized closing agent.

11. **ILR Taxes:** ILR shall hold Broker harmless and indemnify it from any and all claims for federal, state, and local employment taxes of any kind or nature, whatsoever claim to be owed by Broker by reason of this Agreement.

a. ILR shall provide a copy of its quarterly reports for B & O taxes (if applicable for ILR in state which business in conducted), as well as Federal 941 reports to verify payment of said taxes.

12. **Indemnifications/Legal fees:** ILR shall hold Broker and its officers, directors, agents, successors and assigns, harmless from and against any and all claims, counterclaims, defenses, losses, damages, demands, costs or other liabilities, including reasonable attorneys', paralegals; and experts' fees, arising out of any breach by Originator of any of Originator's covenants, warranties, agreements, duties or obligations arising under this Agreement.

13. **Loan Buybacks and Charge Backs:**

a. ILR acknowledges that some lenders have programs with pricing dependent upon loan seasoning. In those cases, when a borrower refinances the loan prior to the set seasoning requirement, the Broker must pay the lender a portion of the original fees earned. It is agreed that should this occur on any closed loans, whether or not ILR is still providing contract services to Broker, ILR will upon Broker's demand pay the charges incurred. If ILR

fails to pay the charges within 10 days of demand, Broker may pay the charge and ILR shall immediately reimburse Broker. Any unpaid balance shall accrue interest at 18% per annum until received.

b. In the event, Broker is required to repurchase a loan submitted by ILR by reason of ILR fraud or breach of quality standard of the lender giving rise to its right to demand repurchase, ILR shall indemnify and hold broker harmless from all costs, expenses and damages incurred, including legal fees and defense costs.

14. **Trade Practices and Confidentiality:** ILR acknowledges that BROKER has proprietary interest of substantial monetary value in certain confidential information and materials, including but not limited to this agreement, lender lists, trade names and trade style, methods of marketing, accounting information such as expenses, overhead, and profit or loss. ILR shall not divulge or reveal to any third party the content of the particulars of such confidential and proprietary property both during the term of this agreement and after termination of this agreement. ILR agrees that if he/she engages in conduct in breach of this covenant, and legal remedies are inadequate, BROKER may seek injunctive relief and shall not be required to post bond therefore.

15. **Exclusive property:** All records of customer, or any company business whether prepared by ILR during the term of this agreement or otherwise coming into his/her possession and/or control, in addition to keys, cameras, pagers, calculators, computers, or other equipment and supplies, provided to the ILR for the purpose of performing this agreement shall remain and be the exclusive property of BROKER and be surrendered upon termination of this agreement. Loan applications, files, forms, and other documentation procured during the term of this agreement are the property of BROKER and shall not be removed from the premises or control of BROKER without its express written consent, except as may be necessary from time to time in the normal course of every day business. Any such applications, files, or documents shall be surrendered to BROKER immediately upon termination of this agreement.

16. **Termination:** This agreement is terminable at will by either party upon 30 days written notice, except for cause by the BROKER. Termination for cause shall be deemed to be commission of a false and deceptive act upon BROKER, borrower or any other business or individual; violation of law relating to mortgage lending or criminal law involving moral turpitude, felonious activity and/or dishonesty.

17. **Assignment:** This agreement may be assigned by BROKER in the event of a bona fide sales or transfer of ownership or control of the business to another person or entity; provided however, the assignee shall assume all obligations or be released of any further liability to the ILR hereunder. The personal character and skill of the ILR are a material inducement to BROKER to enter into this agreement, and any attempt by ILR to assign this agreement shall be null and void, and such attempted assignment shall be considered a repudiation and termination of this agreement by the ILR.

18. **Amendment:** This is the entire agreement of the parties and any amendments or modification thereof shall be in writing and signed by both parties. This agreement is binding upon the parties, their heirs, and assigns.

19. **Waiver:** The waiver by BROKER of any breach or default by ILR shall not operate or be construed to be a waiver of any subsequent breach or default by the ILR.

20. **Laws Governing:** This agreement shall be governed by the laws of the State of Washington and venue shall be Snohomish County Superior Court.

21. **Attorney's Fees:** In the event it becomes necessary for either party to institute any action of the law or in equity to enforce any of the terms or conditions of this agreement, or any litigation arises out of the relationship created thereby, then in that case prevailing party to such action shall be entitled to recover from another party reasonable attorney fees and expert witness fees.

22. **Severability:** The provisions of this agreement are severable, and if one or more thereof are found to be unenforceable in whole or in part, the remaining provisions or any partially enforceable provisions will nevertheless be binding and enforceable to the full extent of the law.

22. **Counterparts.** This Agreement may be executed in any number of counterparts and by facsimile, and all said counterparts, and/or facsimiles, when executed and delivered, each as an original, shall constitute but one and the same instrument. The Agreement shall not be effective until executed by each party.

23. **Notices:** Notices required hereunder shall be in writing delivered personally to the ILR or the BROKER or by first class, postage prepaid, addressed to last known address of the party, in which case shall be effective three (3) days after mailing.

IN WITNESS WHEREOF the parties have reviewed and executed this agreement by affixing their signatures below.

\_\_\_\_\_  
Dated

\_\_\_\_\_  
Dated

\_\_\_\_\_  
BROKER

\_\_\_\_\_  
Independent Loan Representative signature

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

\_\_\_\_\_  
Tax Identification # (Circle: Federal / State)

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

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, ZIP

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Fax

\_\_\_\_\_  
Email

\_\_\_\_\_  
Website (if any)