

# Broker Agreement

## BROKER AGREEMENT

THIS BROKER AGREEMENT ("AGREEMENT") is entered into on \_\_\_\_\_ 20\_\_\_\_ by and between \_\_\_\_\_, hereinafter referred to as "BROKER", who is (select one):

- a **Corporation** organized under the laws of the state of \_\_\_\_\_
- an **Individual**
- a **Partnership** organized under the laws of the state of \_\_\_\_\_
- a **Limited Liability Corporation** organized under the laws of the state of \_\_\_\_\_

and PMC BanCorp, a California Corporation hereinafter referred to as "LENDER".

### Recitals

1. The parties hereto wish to establish a non-exclusive relationship whereby BROKER will submit applications for loans to be secured by first, second or third priority liens (the "Loans") to LENDER on behalf of BROKER's clients ("Borrowers") for possible funding by LENDER.
2. The Parties desire to enter into this AGREEMENT to set forth the terms of their relationship.

NOW THEREFORE, the parties do hereby agree as follows:

### Agreement

1. **NON-EXCLUSIVE AGREEMENT:** Nothing contained herein shall obligate BROKER to submit loan-funding requests to LENDER, it being understood that this shall be a non-exclusive agreement. Nothing contained herein shall obligate LENDER to fund Loans submitted by BROKER without LENDER's prior review and approval at LENDER's sole discretion. LENDER's obtaining of a Loan Package (as defined below) from BROKER does not:
  - a. Prohibit LENDER from considering loan application packages from other sources,
  - b. Obligate LENDER to accept or consider other or future packages from BROKER, or
  - c. Establish an agency relationship with BROKER.
2. **GENERAL BROKER RESPONSIBILITY:** With regard to Loans submitted by BROKER to LENDER, BROKER shall describe and represent to a Borrower only the LENDER's policies, procedure and pricing as set forth by LENDER. BROKER shall not advertise or in any manner represent that it is employed by, an agent of, representative of, or is in any way related to LENDER. BROKER shall be responsible at its own expense for the accurate preparation and execution of a complete property and credit Loan Application Package ("Loan Package") on each Loan request submitted, under such programs, procedures and fee schedules as LENDER periodically may establish, including but not limited to those items listed below or as may be required by LENDER in conformance with LENDER's policies, procedures and or its investors in the secondary market and regulatory agencies (i.e., FNMA, FHLMC, GNMA, Warehouse/Collateral Banks) and may be modified from time to time at LENDER's sole discretion:
  - a. Loan application;
  - b. Supporting credit information;
  - c. Supporting verification of credit, employment, deposits and mortgage payment history;

- d. Copies of all government required disclosures;
- e. Original appraisal of the property to be financed plus all supporting information necessary to substantiate Borrower's qualification for the Loan; and
- f. Such other credit, financial and other information as LENDER may require.

BROKER shall be solely responsible for any statements, explanations, or claims made to Borrower about the terms of the Loan, the approval process, or the status of the Borrower's Loan approval. The contents of all Loan Packages submitted to LENDER shall immediately become the property of LENDER and BROKER hereby assigns all rights, titles and interests in the file (except for BROKER's right to receive an origination fee) to LENDER. All information contained in a Loan Package may be subject to LENDER's independent verification. BROKER understands that, in consideration of LENDER funding Loans offered by BROKER, LENDER relies on BROKER's full cooperation, before and after the funding of any Loan. BROKER agrees to fully assist LENDER in obtaining any information and documentation LENDER deems necessary and to otherwise cooperate fully with LENDER to fulfill the purpose of this AGREEMENT.

3. **LOAN APPROVAL**: Loan approval shall be at LENDER's sole discretion. BROKER shall not commit LENDER to do anything or take action without the prior written approval of LENDER. Without limiting the generality of the foregoing, BROKER shall not represent that LENDER has approved or will approve any loan until BROKER is so informed by LENDER in writing. It is also fully understood and agreed that LENDER's approval of the Loan application is based upon submission by BROKER of true and accurate information in the Loan Package and all supporting documentation, including but not limited to the handwritten and typed Form 1003 and any and all appraisals. The fact that final approval of the Loan application is solely within the discretion of LENDER shall not be used as a defense to a claim that the BROKER has breached any part of this agreement or that BROKER has submitted false or inaccurate information in the Loan Package and supporting documentation, including but not limited to the Form 1003, and any and all appraisals.
4. **UNDERWRITING OF LOANS**: LENDER shall have the right, but not the obligation to underwrite any Loan submitted for funding pursuant to this AGREEMENT. However, the exercise of this right by LENDER shall not affect BROKER's obligations hereunder in any way, including, without limitation, BROKER's repurchase obligations under Section 17 hereof and BROKER's indemnification obligations under Section 15 hereof. BROKER understands that Lender routinely conducts quality control audits to re-verify income/deposits information, credit documentation, and appraisals submitted by BROKER. BROKER understands employment is verified verbally or in writing on all Loan programs offered by Lender. BROKER understands that any discrepancies found by LENDER during quality control and verbal audits are ground for immediate cancellation of this AGREEMENT, possible notification to applicable state and government agencies, and a breach of Section 11 below.
5. **CLOSING OF LOANS**: All Loans shall close in LENDER's name or in names of an affiliate of LENDER.
6. **NOTIFICATION OF ACTION**: LENDER shall notify BROKER by telephone or facsimile transmission of the conditional approval, suspension, or rejection of each completed Loan Package. For each Loan conditionally accepted by LENDER, LENDER shall fund the Loan provided that all conditions precedent are satisfied and all documentation as required by LENDER are submitted. With respect to each Loan funded by LENDER, *BROKER agrees to submit in a timely manner all documentation required by LENDER to sell each Loan in the Secondary Market and will use reasonable efforts to furnish all documents required by the purchaser of Loan(s) in the Secondary Market, even if not requested by LENDER at the time of funding.*
7. **AMOUNTS DUE TO BROKER**:
  - a. Subject to Sections 7b and 7c below, no origination fee shall be owed to the BROKER by LENDER on account of any proposed Loan, which is not closed and funded by LENDER. Upon closing of any Loan with respect to which BROKER has submitted a Loan Package to LENDER, LENDER shall remit to BROKER an amount equal to the difference between the points charged to the Borrowers and the wholesale points which LENDER indicates it will

- keep as stated in the Loan Program Statement provided to BROKER, except in the case of zero points loans (i.e., with respect to which the Borrower pays no points) in which case LENDER shall remit to BROKER the points specified in the Loan Program Statement provided to BROKER; provided, however, that in any case, LENDER shall also remit to BROKER such other consideration as may be agreed on from time to time between BROKER and LENDER pursuant to a separate written agreement.
- b. In the event LENDER receives conflicting instructions from BROKER and the BROKER's broker of record as to who should receive any monies due BROKER under this AGREEMENT, LENDER shall release such monies and all interest accrued thereon upon the execution of delivery of joint instructions from BROKER and the BROKER'S broker of record.
  - c. In the event that LENDER, at its option and sole discretion, determines in good faith that BROKER has breached any term of this agreement, LENDER may withhold payment of funds due to BROKER for any Loan that LENDER is funding or is about to fund and which the amounts due to BROKER under this Section 7 have not yet been paid. Such funds will be placed in a separate Trust Account until such time LENDER and BROKER have settled LENDER's claim that BROKER has breach this AGREEMENT.
8. **FAILURE TO SUPPLY A COMPLETE LOAN PACKAGE:** In the event that BROKER fails to supply LENDER with any documentation requested or desired by LENDER with respect to any Loan, LENDER shall have the option, at its sole and absolute discretion, to:
- a. Commit to make the Loan on the basis of the documentation provided;
  - b. Commit to make the Loan subject to delivery by Borrower or BROKER to LENDER of such documentation as LENDER specifies in writing at the time such commitment is made; or
  - c. Reject the Loan.
9. **USE OF APPROVED VENDORS:** BROKER shall not utilize any real estate appraiser, credit reporting agency or other vendor in connection with the preparation of submission of any Loan Package that is not acceptable to LENDER; LENDER may reject or accept the Loan Package in accordance with Section 8 above.
10. **AUTHORIZATION TO OBTAIN BUSINESS CREDIT REPORT:** BROKER authorizes LENDER to obtain a business and individual credit report with respect to BROKER upon mutual execution of this AGREEMENT and from time to time thereafter as deemed necessary or appropriate by LENDER. BROKER acknowledges and agrees that in the course of its business, LENDER conducts quality control audits of Loan Packages. LENDER shall have the right to review the files of BROKER related to Loan Packages submitted to LENDER during BROKER's normal business hours.
11. **BROKER'S WARRANTIES:** BROKER represents and warrants to LENDER, as of (1) the time any Loan Package is submitted to LENDER, and (2) as of the time the Loan is funded and closed, that:
- a. **No Untrue Statements:** BROKER shall not submit in any Loan Package any false, fraudulent, inaccurate or erroneous information or statement, or omit any material facts necessary to make any statements or information included in the Loan Package true, accurate and understandable. For purposes of the warranty, the term "submit" shall mean (i) submitting a Loan Package to Lender with false, fraudulent, inaccurate or erroneous information regardless of BROKER's actual or prior knowledge of such false, fraudulent, inaccurate or erroneous information or (ii) submitting Loan Package to LENDER with false, fraudulent, inaccurate or erroneous information after failing to follow standard practices and procedures prevalent in the mortgage banking industry; or (iii) submitting a Loan Package to LENDER containing an appraisal that contains false, fraudulent, inaccurate or erroneous information where such information was or should have been within the knowledge or control of appraiser; or (iv) submitting a Loan Package to LENDER where the BROKER has a non arms-length business, financial or personal affiliation with, or financial interest in the appraiser.

- b. **Absence of Claims:** Except as previously disclosed by BROKER to LENDER in writing, there is not pending or, to the best of BROKER's knowledge, threatened any suit, action, arbitration, or legal administrative, or other proceeding or governmental investigation (including an allegation of fraud by another lender) against BROKER or its current or former owners, agents, or employees which could have a material adverse effect on the BROKER's business, assets, financial condition, operations or reputation.
  - c. **Control of Documents:** Except where Borrower has been asked to submit any loan documents directly to BROKER, no Borrower shall have had in its direct or indirect possession or control any completed credit, income, employment or deposit verification document submitted to LENDER with respect to any Loan.
  - d. **Duly Licensed:** BROKER possesses all necessary licenses, permits, and authority to engage in the activities contemplated by this AGREEMENT. If applicable, BROKER's license number and its expiration date appear below.
  - e. **Ownership:** Except as otherwise disclosed to LENDER in writing before the submission of any Loan Package, BROKER shall have no direct or indirect ownership interest or financial interest in any property serving as security for the Loan, in any title company, escrow company or notary providing settlement services on a Loan, nor shall BROKER have any financial interest, whether evidenced by ownership or debt, in any property serving as security for the Loan at any time prior to funding of the Loan by LENDER except with the prior written approval by LENDER, or in the Seller of the property in the case of loans sought by borrowers who are buying the property.
  - f. **Compliance With Laws:** With respect to each Loan submitted by BROKER and funded by LENDER, BROKER has complied with all laws and regulations applicable to it as a mortgage broker, and as a Loan correspondent under HUD regulations, including but not limited to Real Estate Settlement Procedures Act, The Fair Credit Reporting Act, The Equal Credit Opportunity Act, The Truth In Lending Act, Home Mortgage Disclosure Act and all other applicable local, state and federal laws and regulations. Furthermore BROKER agrees to abide by all applicable Federal and State laws protecting Borrowers' non-public personal information in compliance with, including but not limited to, Gramm-Leach-Bliley Act.
  - g. **Authority:** This AGREEMENT and all actions provided for herein have been duly authorized by BROKER's Board of Directors, if BROKER is a corporation, or by such individuals empowered and authorized to enter into agreements on behalf of BROKER, BROKER shall provide LENDER with evidence reasonably satisfactory to LENDER of such authorization. The performance of BROKER's duties under this AGREEMENT will not violate the provisions of BROKER's organizational documents, any agreement to which it may be a party or any court order, judgment or decree to which it may be subject.
  - h. **Valid Documents:** All documents submitted to LENDER are in every respect valid and genuine, being what on their face they purport to be and all information (credit or otherwise) submitted in connection with each such a Loan Package is true and accurate.
  - i. **Sale of Loans:** BROKER has no knowledge of any circumstances or conditions with respect to any Loan, mortgaged property, mortgage or mortgagor's credit standing that can be reasonably expected to cause any governmental, quasi-governmental or private institutional investors to regard any Loan as an unacceptable investment, cause any Loan to become delinquent, or adversely affect the value of the security or marketability of the Loan.
12. **EARLY PAYMENT DELINQUENCY OR DEFAULT:** With respect to each Loan submitted by BROKER and funded by LENDER, should (a) the Borrower fail to make any of the first four payments due to LENDER or LENDER'S secondary investor in its entirety by the close of business on the last day of the month in which any such payment is due, regardless of whether Borrower subsequently pays such payment or (b) the Loan is in bankruptcy or litigation within the first four months after funding, the BROKER, at the LENDER'S option, shall either (i) repurchase the Loan immediately upon written demand, therefore, for the repurchase amount set forth in Section 18 hereof, (ii) refinance the Loan at par plus accrued interest and pay any loss, costs or damages incurred by LENDER, or (iii) indemnifying LENDER pursuant to Section 15. BROKER agrees that with any breach of this Section 12, LENDER shall, without limitation, be entitled to seek and obtain equitable relief by way of specific performances or

otherwise to enforce BROKER's repurchase or indemnification obligation hereunder.

13. **EARLY PAYOFF POLICY:** During the term of this AGREEMENT, LENDER shall maintain an Early Payoff Policy (hereinafter referred to as "EPO Policy") with regard to loans resulting from loan application packages LENDER receives from BROKER. With respect to each Loan submitted by BROKER and funded by LENDER, should the Borrower pay off the loan within one-hundred and eighty (180) days of funding, regardless of whether that pay off is from a refinance by the BROKER or any other broker through any lender, other than LENDER, it shall constitute an Early Payoff triggering EPO Policy. BROKER acknowledges that the events triggering EPO Policy may result in early pay off fees or other costs or liabilities to accrue to LENDER. BROKER warrants and agrees that in the event any demand shall be made upon LENDER as a result of an early payoff from loans BROKER submitted to LENDER, BROKER shall indemnify and hold LENDER and all its affiliates harmless from and against, and shall fully reimburse LENDER and its affiliates with respect to, any and all losses, concessions, damages, liabilities, judgments, demands, costs and expenses, including reasonable attorney's fees. If BROKER fails to remit said payments to LENDER within 10 calendar days of the request, LENDER may reimburse itself for any payments due from the BROKER out of loan fees from subsequent closings.
14. **STATUS OF BROKER:** Nothing in this AGREEMENT shall be construed as making the BROKER a joint venture, partner, representative, employee or agent of LENDER. BROKER shall not hold itself out as such, nor shall it use LENDER's name in any advertising without LENDER's expressed prior written consent. BROKER is an independent contractor, and BROKER shall determine the method, details and means of performing all services described in this AGREEMENT.
15. **BROKER'S INDEMNIFICATION:** BROKER shall indemnify, defend and hold LENDER and its shareholders, directors, officers, agents, employees successors and assigns harmless from and against, and shall reimburse the same with respect to any and all loss, damage, liability, costs, and expenses, including, reasonable attorney's fees, from any cause whatsoever, including but not limited:
- Any breach of any representation or warranty contained in Section 11 above;
  - Any early payment default or delinquency as described in Section 12 above;
  - Any early payoff of the loan as described in Section 13 above;
  - BROKER's failure to perform any obligation set forth in this AGREEMENT; or
  - Any claim by a Borrower resulting from LENDER's failure or refusal to fund a loan (collectively, a Loss).
- Without limiting the generality of the foregoing, LENDER's right to indemnification from BROKER shall extend to all repurchase or indemnification demands by any third party to which LENDER has sold any Loan originally submitted to LENDER by BROKER, for any cause. BROKER's obligation to indemnify LENDER under this Agreement shall arise upon (i) LENDER's notification to BROKER that a Loss has occurred or (ii) automatically upon LENDER's receipt of discretion to be enforceable, even if LENDER has not incurred any Loss with respect to such Loan.
16. **LENDER'S RIGHTS:** BROKER's obligation to fully indemnify LENDER under this AGREEMENT shall not be affected by LENDER's taking any of the following actions with or without notice to the BROKER.
- Liquidation, repayment, retirement, or sale or resale of any Loan;
  - Foreclosure of any Loan, including without limitation, LENDER's acquisition of the property securing a Loan by making a full credit bid at such foreclosure sale; or
  - Sale or resale of the property securing any Loan.
17. **REPURCHASE AGREEMENT:** In the event of a breach of any warranty or representations contained in Section 11 by BROKER, or in the event of a repurchase or indemnification demand from a secondary market investor for any cause which LENDER determines in its sole and absolute discretion to be enforceable, even if LENDER has not incurred any Loss with respect to such Loan, and the Loan in question is closed and funded by LENDER, BROKER agrees to either: (i) repurchase such a Loan immediately upon written demand, therefore, for the repurchase amount set forth in Section 18 hereof, (ii) refinance the Loan at par plus accrued interest and pay any loss, costs or damages incurred by LENDER, or (iii) indemnifying LENDER pursuant to Section 15. BROKER agrees that with any breach of this Section 17, LENDER shall, without limitation, be entitled to seek and obtain equitable relief by way of

specific performances or otherwise to enforce BROKER's repurchase or indemnification obligation hereunder.

18. **REPURCHASE AMOUNT:** A repurchase pursuant to Section 12 or Section 17 hereof shall be priced as follows:
- a. The original principal amount of the Loan, less principal reductions received by LENDER and/or investor; plus
  - b. All interest accrued but unpaid on the principal balance of the Loan from the date of funding by LENDER through and including the first day of the month following the month the repurchase is made; plus
  - c. The servicing release fee, or any other fee in excess of par, paid to BROKER at the time of funding; plus
  - d. All costs and expenses incurred by LENDER in connection with origination, processing and funding of the loan; plus
  - e. All costs and expenses incurred by LENDER in enforcing BROKER's obligation to repurchase the Loan, including, without limitation, reasonable attorney's fees and costs of suit.
19. **TERMINATION OF AGREEMENT:** Either party may terminate this AGREEMENT at any time, upon written notice to the other party; provided, however, that any termination of this AGREEMENT shall not affect:
- a. LENDER's obligation to pay any amounts due BROKER under this AGREEMENT; or
  - b. The obligations of BROKER with respect to Loans already funded by LENDER pursuant to this AGREEMENT, including, without limitation, the obligation of BROKER to indemnify and hold LENDER harmless from and against any Loss pursuant to Section 15 hereof, and to repurchase or indemnify a Loan from LENDER pursuant to Section 12 and Section 17 hereof.
20. **NOTICE OF CERTAIN MATTERS:** BROKER hereby covenants and agrees with LENDER that BROKER shall promptly give written notice to LENDER of
- a. The occurrence of any breach of a representation or warranty as set forth in Section 11 hereof;
  - b. Any litigation or proceeding affecting BROKER involving amount in the case of any such individual litigation, investigation or proceeding in excess of One Thousand (\$1,000) Dollars, or which, regardless of the amount in controversy, if adversely determined, could have a material adverse effect on the business, operations, property or financial or other conditions of BROKER or the liability of BROKER to perform its obligations hereunder;
  - c. Receipt by BROKER of notice from any agency concerning revocation, suspension or any other adverse action or potential action relating to any BROKER's licenses to conduct its business; and
  - d. A material adverse change in the business, operations, property or financial or other condition of BROKER; and
  - e. Any change in (i) the ownership structure of BROKER; (ii) the BROKER's broker of record for licensing purposes; or (iii) BROKER's name, address or employer tax identification number.
21. **MISCELLANEOUS:**
- a. **Governing Law:** This AGREEMENT is entered into at the City of Industry, California and shall be governed by the laws of the State of California.
  - b. **Notices:** All notices required hereunder shall be in writing and shall be deemed to have been given, made and received only (i) upon delivery, if personally delivered to a party; (ii) One (1) business day after the date of dispatch, if by facsimile transmission; (iii) One (1) business day after deposit, if delivered by a nationally recognized courier service offering guaranteed overnight delivery; or (iv) Three (3) business days after deposit, if delivered in the United

- States first class mail, certified mail, postage prepaid, return receipt requested, at the address appearing below.
- c. **Attorney's Fees:** If any legal action or other proceeding is brought for the enforcement of any provision of this AGREEMENT, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provision of the AGREEMENT, the prevailing party or parties shall be entitled to reasonable attorney's fees and other costs incurred in that action or proceeding, in addition to any other relief to which it or they may be entitled. In addition, any such suit or proceeding shall be brought only in the state courts located in Los Angeles County, State of California, which courts shall have sole and exclusive in personam, subject matter and other jurisdiction in connection with such suit or proceedings, and venue shall be appropriate for all purposes in such courts.
- d. **Assignment:** BROKER may not assign this AGREEMENT without the express prior written consent of the LENDER.
- e. **Entire Agreement:** This AGREEMENT constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements, representations and understandings. No supplement, modification, or amendment shall be binding unless executed in writing by and unilaterally agreed by both parties hereto. This AGREEMENT applies to all present and future Loans, as well as those Loans previously submitted to or closed by LENDER.
- f. **Waivers and Remedies:** Failure to delay to audit any Loan or to exercise any right shall not act as a waiver of any other right, nor shall any single or partial exercise of any right preclude any other or further exercise thereof. No waiver of any of the provisions of this AGREEMENT shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by party making the waiver. All remedies shall be cumulative and non-exclusive.
- g. **Severability:** If any provision of this AGREEMENT is held to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force and effect.
- h. **Arbitration:** Solely at LENDER's discretion, LENDER may require that all disputes, controversies, or differences, between the parties, arising out of or related to this AGREEMENT be resolved through binding arbitration. If LENDER elects not to use arbitration, or if a court of competent jurisdiction rules that LENDER's option under this part of the AGREEMENT is invalid, the parties hereto agree that the provisions of Section 21c. shall control as to the jurisdiction and venue of any legal action concerning the AGREEMENT. If LENDER requires an arbitration to resolve any disputes, controversy or differences between the parties arising out of or related to this AGREEMENT, the arbitration shall occur in California. Arbitration shall be conducted by a single arbitrator in accordance with the then-current commercial arbitration rules and supplementary procedures for commercial arbitration of the American Arbitration Association ("AAA"). Any discovery shall be conducted in accordance with laws of the State of California. The arbitrator shall be selected by the mutual agreement of the parties, or failing such agreement, shall be selected according to AAA rules. Judgment upon any arbitrator's award may be entered in any court of competent jurisdiction. The parties hereby consent to such court's jurisdiction.
- i. **Insurance:** Upon the request of LENDER, BROKER shall, at its sole cost and expense, obtain such miscellaneous professional liability or errors and omissions insurance in such amounts and with such companies as LENDER may request. Said insurance shall name LENDER as an additional insured and shall provide LENDER with thirty (30) days prior written notice of cancellation or termination.

IN WITNESS EREOF, The parties hereto have executed this AGREEMENT as of this \_\_\_\_\_ day of \_\_\_\_\_.

**“BROKER”:**

**“LENDER”:**

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

**Name:** PMC BanCorp

**DBA:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Address:** 17800 Castleton St., Suite  
488, City of Industry, CA  
91748

**Telephone:** \_\_\_\_\_

**Telephone:** (626) 964-4040

**Fax:** \_\_\_\_\_

**Fax:** (626) 316-7320

**License Number:** \_\_\_\_\_

**Expiration Date:** \_\_\_\_\_

By: \_\_\_\_\_  
*(Signature of OWNER)*

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

\_\_\_\_\_  
*(Print Name)*

\_\_\_\_\_  
*(Print Name)*

\_\_\_\_\_  
*(Title)*

\_\_\_\_\_  
*(Title)*

By: \_\_\_\_\_  
*(Authorized BROKER of Record)*

\_\_\_\_\_  
*(Print Name)*