SOFTWARE AS A SERVICE AGREEMENT GENERAL TERMS AND CONDITIONS

This Software as a Service Agreement including all exhibits attached hereto ("Agreement") is entered into between Applied Business Software, Inc., a Delaware corporation, with a place of business located at 7755 Center Avenue – Suite 800, Huntington Beach, California 92647 ("Company"), makers of The Mortgage Office ®and (*Customer Full Legal Name*), with a place of business located at (*Customer Address*) and a taxpayer ID of (*Customer Tax ID*) and an e-mail address of *(Customer e-mail Address)* ("Customer") which means the legal entity you are executing this Agreement on behalf of. This Agreement has an Effective Date of (*Full Long Date*) "Effective Date". By you executing this Agreement on behalf of the legal entity, you represent that you have the legal authority to bind that legal entity to this Agreement for their use of the software ("Software") as set forth in the quotes executed between Company and Customer ("Quote"). Please review the terms of this Agreement thoroughly. This Agreement constitutes a legal agreement between Customer and Company. By clicking "I AGREE," and/or executing via electronic signature and/or executing a hard copy of this Agreement, Customer is accepting all the terms and conditions of this Agreement. By accessing or using the Software, Customer is accepting all the terms and conditions of this Agreement. Do not click the "I AGREE", and/or execute via electronic signature and/or hard copy and do not use the Software unless you agree to all the terms of the Agreement.

1. Authorized Users; Authorized Uses. Subject to the terms and conditions of this Agreement, Company grants Customer a nonexclusive, non-transferable, royalty-free, and worldwide right for the number of Customer employees as agreed to in the Quote (each, an "Authorized User") to access and use the Software. The access right granted under this Agreement only covers the Software listed in the Quote. Any additional modules currently available from Company, or made available in the future, are not covered by this Agreement. Company may change, discontinue, or deprecate any of the Software, or change or remove features or functionality of the Software from time to time. Such use is limited to Customer's internal use. Company shall provide the Customer with the necessary passwords and network links or connections to allow Customer to access the Software. The total number of Authorized Users will not exceed the number set forth in the Quote, except as expressly agreed to in writing by the Parties and subject to any appropriate adjustment of the Fees payable hereunder.

2. Control and Location of Software. The method and means of providing the Software shall be under the exclusive control of Company.

3. <u>Click-Through Terms and Conditions</u>. Where an Authorized User is required to "click through" or otherwise accept or made subject to these or any other online terms and conditions in accessing or using the Software, such terms and conditions are binding and shall have full force and effect as to the Software platform, and this Agreement.

4. <u>Support; Maintenance.</u>

      (a)   <u>Telephone Consultation</u>. Company shall provide Customer telephone consultation with respect to the use and operation of the Software, Monday through Friday between the hours of 9:00 AM and 6:00 PM (Pacific time zone), excluding all Company holidays ("Business Hours"). If support personnel are unavailable at the time Customer calls during Business Hours, Company will use commercially reasonable efforts to return the call no later than the end of the next business day following the business day on which the call was received. Company is obligated to provide a maximum of eight (8) hours of telephone consultation per month. If Company agrees, in its sole discretion, to provide additional hours of telephone consultation in any given month, Customer will be charged and agrees to pay Company's then current hourly rate for such telephone consultation.

      (b)   <u>Services Not Covered By This Agreement</u>.

      (i)   <u>Exclusions.</u> Company shall have no obligation to provide support for any hardware, infrastructure, or other software used by Customer to access or otherwise in connection with use of the Software or for any request for services including any services necessitated by: (i) the improper use, alteration, or damage of the Software; (ii) modifications to the Software not made by Company; (iii) application or other software not provided or approved by Company; (iv) use of the Software on hardware that has not been approved by Company for use with the Software; (v) failure to meet the system requirements for the then current version of the Software; or (vi) hardware failures.

      (ii)   <u>Scope of Services.</u> This Agreement only covers the Software described in this Agreement and Quote and does not include other services, including without limitation: (a) Software customization; (b) custom development of software; or (c) training of Customer's personnel in the use of the Software. Company may agree, in its sole discretion, to provide such other services pursuant to a separate written agreement between the parties, and for a separate charge. Company may provide other services to be used in conjunction with the Software. Company may charge an additional fee or fees to Customer for Customers' use of any of these other services which shall upon execution of an agreement for the other services executed by Customer and Company shall then be included in the defined term of Software. Company may change or cancel these other services at any time.

      (iii)   <u>Back Version Support</u>. Company shall only be obligated to provide support for Software corresponding to the most recent version of the Software.

5.   <u>Customer Obligations</u>. Company agrees to provide the Software hereunder only if Customer meets all of the following conditions and obligations: (a) the Software is used in the form in which Company originally supplied it, updated to the latest version of the Software; (b) the Software is and has been at all times used in a proper manner and in accordance with the instructions and documentation supplied by Company; (c) Customer has agreed to and is in

compliance with the Agreement and Quote; and (d) Customer is in compliance with all of the terms and conditions of this Agreement and Quote.

6.   Ownership and Confidentiality. The Software and related processes, instructions, methods, and techniques that have been previously developed by Company and are the valuable, confidential, and proprietary property of Company, and unless otherwise agreed in writing between the parties, Company shall retain exclusive title to this property both during the term and after the termination of this Agreement. Without limitation, Customer acknowledges and agrees that all patent, copyrights, and trade secret rights in and to the Software shall remain the exclusive property of Company. EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, CUSTOMER SHALL NOT, IN WHOLE OR IN PART, AT ANY TIME DURING THE TERM OF OR AFTER THE TERMINATION OF THIS AGREEMENT: (i) SELL, ASSIGN, LEASE, DISTRIBUTE, OR OTHERWISE TRANSFER THE SOFTWARE TO ANY THIRD PARTY; (ii) COPY OR REPRODUCE THE SOFTWARE IN ANY MANNER; (iii) DISCLOSE THE SOFTWARE TO ANY PARTY, EXCEPT TO CUSTOMER'S EMPLOYEES AND CONTRACTORS WHO REQUIRE ACCESS TO THE SOFTWARE FOR THE PURPOSES OF THIS AGREEMENT; (iv) MODIFY, DISASSEMBLE, DECOMPILE, REVERSE ENGINEER OR TRANSLATE THE SOFTWARE; OR (v) ALLOW ANY PERSON OR ENTITY TO COMMIT ANY OF THE ACTIONS DESCRIBED IN (i) THROUGH (iv) ABOVE. Customer shall take appropriate action, by instruction, agreement, or otherwise, with respect to its employees and contractors permitted under this Agreement to have access to the Software to ensure that all of Customer's obligations under this Section shall be satisfied.

7.   Term and Termination; Renewals.

(a)   Term. This Agreement and applicable Quote(s) are legally binding as of the date of the execution by Customer (the "Effective Date") as specified in the first paragraph of this Agreement and shall continue until terminated as provided for herein. Unless this Agreement and Quote are terminated earlier in accordance with the terms set forth herein, the initial term of this Agreement shall commence on the Effective Date and continue until twelve months after the Effective Date (the "Initial Term"). Following the Initial Term, unless otherwise terminated as provided for in this Agreement or Quote, this Agreement and applicable Quote(s) shall automatically renew for successive one (1) year terms (each, a "Renewal Term") until such time as a party provides the other party with written notice of termination; provided, however, that: (a) such notice be given no fewer than thirty (30) calendar days prior to the last day of the then-current term; and, (b) any such termination shall be effective as of the date that would have been the first day of the next Renewal Term. This Agreement and applicable Quote(s) shall, at the option of company, terminate upon the breach by Customer of any of the provisions of this Agreement or Quote.

(b)   Payments upon Termination. Upon the termination of this Agreement or Quote, Customer shall immediately pay to the Company all amounts due and payable hereunder, if any. Except as expressly agreed by Company, in the event of termination prior to the expiration of the Initial Term or any Renewal Term, all unpaid Fees being paid on a periodic basis during such Term shall immediately be due and payable, and no refunds will be provided for any pre-paid unused portion of the Initial Term or any Renewal Term.

(c)   Customer Data. Customer grants Company the right to process data pursuant to the Agreement in accordance with Company's Data Privacy Policy. Within 24 hours of the termination of this Agreement or applicable Quote(s), Customer must contact Company and advise Company in writing to either disable the Customer's account and then irretrievably delete and remove the Customer's data, or retain the Customer's data in a limited function account for at least 60 days after termination of this Agreement (the "Retention Period") so that the Customer may extract its data. At the end of the Retention Period, Company may disable Customer's account and irretrievably delete and remove Customer's data. Customer grants Company the right to use Customer data to generate anonymized, statistical and aggregate data (collectively, "Aggregate Data"), and to use the same in connection with Company's improvement, creation, or other development of its goods and services, or to provide benchmarking information and other peer information as part of Company's products and services. Company's right to maintain and use Aggregate Data shall survive the expiration or termination of this Agreement and any applicable Quote(s).

(d)   Renewals. Should the Agreement continue beyond the Initial Term, the Fees for the Renewal Term may be increased by notice from Company to Customer no later than thirty (30) calendar days from the expiration of the Initial Term or the then current Renewal Term.

8.   Fees; Billing; Restrictions on Use and Suspension of Services.

(a)   Fees. Customer shall be responsible for, and shall pay to Company, the fees as further described in the Quote subject to the terms and conditions contained in this Agreement and the Quote.

(b)   Billing. Any sum due Company shall be due and payable in full without any deduction or offset within fifteen (15) calendar days after the date of the invoice from Company.

(c)   Restrictions on Use and Suspension of Software.

(i)   Customer shall not use the Software for any purposes beyond the scope of the access granted in this Agreement. Customer shall not at any time, directly or indirectly, and shall not permit any Authorized Users or any third parties to: (A) copy, modify, or create derivative works of the Software, in whole or in part; (B) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Software, to any third parties; (C) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software or other component, functionality or algorithms used in the Software, in whole or in part; (D) remove any proprietary notices from the Software or (E) use the Software, in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law.

(ii)   Reservation of Rights. Company reserves all rights not expressly granted to Customer in this Agreement. Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel, or otherwise, to Customer or any third party any intellectual property rights or other right, title, or interest in or to the Company's intellectual property.

(iii) <u>Suspension</u>. Company may suspend any Software or services to Customer until all payments due, including all interest accrued, have been paid and satisfied in full. Company may suspend or terminate Customer's right to access or use any portion or all of the Software immediately and without notice if Company determines, in its sole discretion, that (A) Customer's use of the Software poses a security risk to the Software or any third party, may adversely impact the Software or the systems or content of any other Company customer, may subject Company, its affiliates or any third party to liability, or may be fraudulent; (B) Customer has ceased to operate in the ordinary course, made an assignment for the benefit of creditors or similar disposition of Customer's assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution or similar proceeding.

9. <u>Taxes</u>. Customer represents and warrants that it is an independent contractor for purposes of federal, state, and local taxes. Customer agrees that Company is not responsible for collecting or withholding any such taxes, including income tax withholding and social security contributions, and sales tax for Customer. All Fees and other amounts payable by Customer under this Agreement are exclusive of taxes and similar assessments. Customer is responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable by Customer hereunder, other than any taxes imposed on Company's income.

10. <u>Warranty Exclusion and Limitation of Liability</u>.

(a) <u>Warranty</u>

(i) THE SOFTWARE, IS PROVIDED BY COMPANY "AS-IS" AND COMPANY MAKES NO WARRANTIES WHATSOEVER WITH RESPECT TO THE SOFTWARE, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. Without limiting the generality of the foregoing, Company makes no warranty with respect to, and Customer accepts sole responsibility for, the selection of the Software, to achieve Customer's intended results, any results obtained from such use, and the selection, use of and results obtained from any other program, programming equipment or services operated or applied in connection with the Software, .Without limiting the generality of the foregoing, Company also makes no warranty that the Software will meet Customer's technical, legal or other requirements, that any of the documents, including but not limited to notices, letters or forms, comply with current law, or that the operation of the Software will be uninterrupted or error-free.

(ii) IF APPLICABLE LAW REQUIRES ANY WARRANTIES WITH RESPECT TO THE SOFTWARE, ALL SUCH WARRANTIES ARE LIMITED IN DURATION TO THE SHORTEST PERIOD OF TIME REQUIRED BY LAW, AND THE LIMITATIONS AND DISCLAIMERS SET FORTH HEREIN SHALL BE GIVEN THE MAXIMUM EFFECT ALLOWED BY APPLICABLE LAW.

(iii) NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY COMPANY, ITS DEALERS, DISTRIBUTORS, AGENTS OR EMPLOYEES SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF ANY WARRANTY PROVIDED HEREIN.

(b)   Limitation of Liability. NEITHER COMPANY, NOR ANY PERSON INVOLVED IN THE CREATION, PRODUCTION, PROVISION, DELIVERY OR INSTALLATION OF THE SOFTWARE, SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES (INCLUDING DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, OR LOSS OF BUSINESS INFORMATION) ARISING OUT OF THE USE OR INABILITY TO USE THE SOFTWARE, OR OTHERWISE ARISING OUT OF OR CONNECTED WITH THIS AGREEMENT OR A PARTY'S PERFORMANCE HEREUNDER, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL COMPANY'S LIABILITY UNDER THIS AGREEMENT EXCEED THE AMOUNTS PAID BY CUSTOMER TO COMPANY HEREUNDER IN THE IMMEDIATELY PRECEDING TWELVE MONTHS. THE PARTIES AGREE THAT THE DISCLAIMERS OF AND LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION AND IN THIS AGREEMENT SHALL SURVIVE AND CONTINUE IN FULL FORCE AND EFFECT DESPITE ANY FAILURE OF CONSIDERATION OR OF AN EXCLUSIVE OR OTHER REMEDY. THE PARTIES ACKNOWLEDGE THAT THE PRICES AND FEES HAVE BEEN SET AND THE AGREEMENT ENTERED INTO IN RELIANCE UPON THESE LIMITATIONS OF LIABILITY AND THAT ALLS SUCH LIMITATIONS FORM AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES.

11. General.

(a)   Governing Law/Class Action Limitation. This Agreement and Quote shall be governed by the laws of California without regard to conflicts of law principles and shall benefit Company, its successors and assigns. Customer hereby consents to the exclusive jurisdiction of and venue of the state courts sitting in Orange County, California, or the federal courts in the Central District of California to resolve any disputes under this Agreement. The Company and Customer agree that no class action lawsuits, private attorney-general actions, and/or any other proceedings whereby someone or some entity acts in a representative capacity are allowed under this Agreement or Quote. Any joinder of separate individual proceedings is prohibited.

(b)   Entire Agreement. This Agreement, including the attached addendums, (including the Quote(s)) is the complete and exclusive statement of the agreement between the parties with respect to the subject matter hereof, and supersedes any and all prior written and/or oral contracts, proposals, offers, quotations, marketing presentations and other communications between the parties relating to the subject matter of this Agreement including the rights of access to the Software, and all prior software license or similar agreements of any kind between the parties. Customer agrees that any varying or additional terms contained in any purchase order or other written notification, or document issued by Customer in relation to the Software, or this Agreement shall be of no effect.

(c)   Waiver and Amendment. This Agreement and Quote may be amended and rights under this Agreement and Quote may be waived only by a written document signed by an authorized officer of Company and executed by Customer. Failure at any time of either party to require performance of any obligation of the other under this Agreement or Quote shall not affect the right later to require such performance. No waiver of the breach of any provision of this Agreement or Quote shall be deemed a further or continuing waiver of any such breach or a

waiver of the breach of any other provision of this Agreement or Quote. No Company dealer, agent or employee is authorized to make any amendments to this Agreement or Quote.

(d)   Assignment. Customer may not assign any of its rights, nor delegate any of its obligations, under this Agreement or Quote without Company's prior, written consent, which consent Company may withhold in its sole discretion. Company may, in its sole discretion and without consent, assign any or all its rights and delegate any or all its obligations hereunder.

(e)   Parties Bound. This Agreement and Quote shall be binding on and inure to the benefit of Company and its successors and assigns and to Customer.

(f)   Injunctive Relief. Customer acknowledges that any breach of Customer's obligations under this Agreement or Quote may result in irreparable injury for which Company shall not have an adequate remedy at law. Accordingly, if Customer breaches or threatens to breach any of Customer's obligations under this Agreement or Quote, Company shall be entitled, without showing or proving any actual damage sustained, to a temporary restraining order, preliminary injunction, permanent injunction, and/or order compelling specific performance, to prevent the breach of Customer's obligations under this Agreement. Nothing in this Agreement or Quote shall be interpreted as prohibiting Company from pursuing or obtaining any other remedies otherwise available to it for such actual or threatened breach, including recovery of damages.

(g)   Severability. Whenever possible, each provision of this Agreement and Quote shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement or Quote is invalid under applicable law, that provision will be ineffective to the extent of the invalidity, without affecting the remainder of that provision or the remaining provisions of this Agreement and Quote.

(h)   Notices. Any notices or reports required by this Agreement or Quote to be given by one party to the other party shall be made in writing to that party at the physical address or e-mail address as shown on the Agreement or Quote or any other address that may be designated in writing from time to time by the party. All notices to be given by either party to the other under this Agreement or Quote shall be deemed given: (i) upon receipt, in the case of personal delivery; (ii) on the third day following deposit in the mail if the notice is sent by prepaid certified mail, return receipt requested; or (iii) on the date of delivery to a nationally recognized overnight courier service by the party giving notice if the notice is sent via an overnight delivery service; or (iv) on the date e-mailed to the party at the e-mail address set forth in the Agreement.

(i)   Export. Customer shall comply with all applicable provisions of the Export Administration Regulations of the United States Department of Commerce, and all similar laws and regulations, in effect from time to time with respect to the Software and shall provide Company with all documentation and data necessary or desirable in monitoring such compliance. Customer agrees to defend, indemnify, and hold Company harmless against any liability arising from the failure of Customer or Customer's Customers to comply with such regulations.

(j)   U.S. Government Restricted Rights. If Customer is a U.S. Government user then the Software is provided with "RESTRICTED RIGHTS" as set forth in subparagraphs (c)(1) and (2) of the Commercial Computer Software Restricted Rights clause at FAR 52.227 19 or subparagraph (c)(l)(ii) of the Rights in Technical Data and Computer Software clause DFARS 252.277 7013, or any other successor or similar regulation or statute, as applicable. Manufacturer: Applied Business Software Inc., 7755 Center Avenue, Huntington Beach, California 92647.

APPLIED BUSINESS SOFTWARE, INC.   **Customer**

_____   _____
Date   Date

_____   _____
Signature   Signature

_____   _____
Print Name   Print Name

_____   _____
Title   Title

Exhibit A

APPLICATION PROGRAMMING INTERFACE

1. Definitions

    1.1 "Monthly Spend" will mean the monthly amount charged for the Software.

    1.2 "Application Programming Interface" or "API" will mean software code created by Company that allows other systems to communicate with Company' Software via the Internet.

    1.3 "Service Charge" will mean a fee payable monthly by Customer to Company for the convenience of having access to and using the API. The Service Charge is calculated as follows: (all charges are in US Dollars):

        1.3.1 Usage Fee. $0.01, each time Customer accesses the API more than the Monthly Spend.

        1.3.2 Company may increase the Service Charge upon providing Customer with prior notice according to Section 11(h) of this Agreement.

    1.4 "Proprietary Information" will mean any data or information, oral or written, treated as confidential that relates to either party's past, present, or future research, development or business activities, including any unannounced product(s) and service(s), and including any information relating to services, developments, inventions, processes, plans, financial information, Customer and supplier lists, forecasts, and projections. Proprietary Information will not be deemed to include information that: (i) is publicly available or in the public domain at the time disclosed; or (ii) is or becomes publicly available or enters the public domain through no fault of the party receiving such information; or (iii) is rightfully communicated to the recipient by person not bound by confidentiality obligations; or (iv) is already in the recipient's possession free of any confidentiality obligations with respect thereto at the time of disclosure; or (v) is independently developed by the recipient; or (vi) is approved for release or disclosure by the disclosing party without restriction.

2. Company Obligations. Company will use commercially reasonable efforts to assure that Customer has access to the API.

3. Customer Obligations

    3.1 Customer is responsible for and will provide to Company all telephone, computer, hardware software equipment and services necessary to gain access to Company's information servers. Company makes no representations, warranties, or assurances that Customer's equipment will be compatible with Company's information services.

    3.2 Customer will provide Company with access to all Customer's data required by Company to fulfill its obligations hereunder.

    3.3 Customer will provide Company, upon request, such studies, reports and other available data in Customer's possession as Customer considers reasonably pertinent to the

services to be provided, and which Company will be entitled to rely upon in performing the services, unless, in its review of same, Company determines that such information is not consistent.

3.4 Customer must be in good standing under a valid Software as a Service Agreement with Company.

3.5 Customer may not reproduce, license, distribute, assign, or dispose of the API under this Agreement, in whole or in part, except as expressly permitted under this Agreement.

4. Additional Licensing Provisions. All rights not expressly granted herein are reserved by Company. Without limiting the generality of the preceding sentence, Customer receives no rights and agrees: (i) not to translate or localize the API, (ii) not to decompile, disassemble or otherwise reverse engineer the API, (iii) not to copy or sublicense the API and (iv) not to adapt the API in any way or for use to create derivative work.

5. Compensation

5.1 Customer agrees to pay all applicable Service Charges as set forth herein.

5.2 The method of Payment will be an automatic deduction from Customer's bank account during the month following each month of services rendered the previous month. Partial months will be prorated.

5.3 If the Customer fails to pay such Service Charges, Company may terminate this API service. Upon termination Company will cease to provide access to the API to Customer, and Company will provide Customer with a final accounting of all API payments owed by Customer to Company.

6. Termination. Upon termination of this Agreement by either party, Company will cease to provide access to the API to Customer, and Company will provide Customer with a final accounting of all payments owed by Customer to Company. Customer will pay Company all outstanding Service Charges within 30 days of Company providing said accounting to Customer.

 7. Additional Indemnifications. Customer will indemnify, defend, and hold Company harmless from any claims, demands, liabilities or expenses, including reasonable attorney's fees, incurred by Company because of any claim or proceeding against Company arising out of or based upon:

(a) A claim of patent, copyright, or other intellectual property infringement based on the combination, operation or use of the API with any Customer hardware, products, programs, or data, if such infringement would have been avoided but for such combination, operation, or use;

(b) A claim of patent, copyright or other intellectual property infringement based on the operation or use of the Customer data; or

(c) The modification of the API by Customer or any of Customer's customers.