

Lotus Preferred Funding, Inc

CONFIDENTIALITY AND NON-CIRCUMVENTION AGREEMENT

This Confidentiality and Non-Circumvention Agreement (“Agreement”) is made as of _____, 20__ by and between Lotus Preferred Funding, Inc, with its principal business located at 10249 Yellow Circle Drive Suite #180, Minnetonka, MN 55343 (“Lotus Preferred Funding, Inc”) and _____, with its principal business located at _____ (“Company”) (Lotus Preferred Funding, Inc and Company are sometimes collectively referred to as the “Parties”).

The Parties agree as follows:

- 1. Confidential Information:** For purposes of this Agreement, the term “Confidential Information” means materials, data or information disclosed to Company by or on behalf of Lotus Preferred Funding, Inc or affiliates, in any form or medium, including, but not limited to, information, data or documents about Lotus Preferred Funding, Inc or its clients’ businesses, services, products, processes, formulas, designs, marketing and development plans, strategies, forecasts, research and technology; any sample or actual pools of loans, contracts or financial products, product pricing, product performance and underwriting criteria; and Lotus Preferred Funding, Inc’s customers’ and employees’ names, addresses and other characteristics or identifying information. Confidential Information shall not include any information which (a) is or becomes available to the public other than as a consequence of a breach of any obligation of confidentiality by Company or its Representatives (as such term is defined below); (b) becomes available to Company from a source other than Lotus Preferred Funding, Inc or its Representatives that is not to the knowledge of Company subject to an obligation of confidentiality or (c) is required to be disclosed by court order or operation of law or is requested by a governmental regulatory agency pursuant to an authorized request from said agency, subject to Company’s compliance with Section 8 below. For purposes of this Agreement, a “Representative” is an employee, agent, financial or legal advisor, director, member, shareholder, manager, lender or equity investor of Company or its affiliates who is subject to the same limitations and obligations that are set forth in this Agreement.
- 2. Use of Confidential Information.** Company’s review and inspection of the Confidential Information shall be for the sole purpose of determining whether to proceed with the transaction that has been proposed by Lotus Preferred Funding, Inc or affiliates for Company’s evaluation (the “Proposed Transaction”). Company’s review and inspection of the Confidential Information shall be for its own behalf and not as an agent, representative or broker of any undisclosed party. Neither Lotus Preferred Funding, Inc nor any of its Representatives have made or make any representation or warranty as to the accuracy or completeness of the Confidential Information. Neither Lotus Preferred Funding, Inc nor its Representatives shall have any liability to

it or any of its Representatives resulting from the provision or use of the Confidential Information.

3. **Non-Disclosure of Confidential Information.** Company shall hold in strict confidence all Confidential Information and shall not disclose, sell, rent, reproduce, or otherwise provide, directly or indirectly, any Confidential Information or anything related to the Confidential Information without the prior written consent of Lotus Preferred Funding, Inc, except to its Representatives and then only to the extent necessary to analyze, evaluate and, subject to the definitive written agreement of Lotus Preferred Funding, Inc and Company, accomplish the Proposed Transaction. Company shall require any of its Representatives who obtain Confidential Information to comply with this Agreement and to be responsible for any breach of this Agreement by its Representatives.
4. **Customer Information.** In addition to and without limiting any of the other requirements set forth in this Agreement, any non-public personal, financial and other such information, as defined and described in the Gramm-Leach-Bliley Act, as amended, and its supplementing, implementing and enabling rules, regulations and materials (“GLBA”) with respect to any loan product that is the subject of the Proposed Transaction (“Customer Information”) is subject to the restrictions set forth in this Section. Company shall comply with GLBA and all other applicable federal and state laws and regulations regarding privacy and will maintain reasonable safeguards to ensure such compliance. Company shall not contact any obligor of any loan product that is the subject of the Proposed Transaction or any of such obligor’s representatives and shall not disclose any Customer Information to any prospective purchaser of such loan product, without the prior written consent of Lotus Preferred Funding, Inc.
5. **Return or Destruction of Confidential Information.** Company shall return to Lotus Preferred Funding, Inc any and all Confidential Information within Company’s or its Representative’s possession or control the sooner of (a) Company’s decision not to proceed with the Proposed Transaction or (b) Lotus Preferred Funding, Inc’s written request, unless Lotus Preferred Funding, Inc specifically directs you in writing to destroy such Confidential Information, in which event Company shall comply with such request.
6. **Negotiations.** In addition to the understandings set forth herein with respect to the Confidential Information, Company shall keep strictly confidential and not disclose to any third party the fact or any aspect of ongoing or completed negotiations or business dealings between Lotus Preferred Funding, Inc and Company, without Lotus Preferred Funding, Inc’s prior written consent.
7. **Non-Circumvention.** Company shall not and shall guarantee that its Representatives and its intermediaries and associates that are directly or indirectly involved with the Proposed Transaction shall not circumvent or attempt to circumvent Lotus Preferred Funding, Inc or affiliates in any way by dealing directly or indirectly with any source of Lotus Preferred Funding, Inc that is involved in the Proposed Transaction or that is disclosed by Lotus Preferred

Funding, Inc in the Confidential Information for a period of twenty four (24) months following the later of execution of this Agreement or the disclosure of such source pursuant to this Agreement, unless prior written authorization is obtained from Lotus Preferred Funding, Inc or affiliates. This shall include all introductions made to Company or its Representatives by Lotus Preferred Funding, Inc or its Representatives, unless a contractual relationship existed between Company and such source prior to Lotus Preferred Funding, Inc's introduction or disclosure.

8. **Notice.** In the event that Company or any of its Representatives are requested or required (by oral questions, interrogatories, requests for information or documents in legal proceedings, subpoena, civil investigative demand or other similar process) to disclose any of the Confidential Information, Company shall provide Lotus Preferred Funding, Inc with prompt written notice of any such request or requirement so that Lotus Preferred Funding, Inc may at its option seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement
9. **Remedies.** In the event Company fails to comply with this Agreement, Lotus Preferred Funding, Inc or partnering affiliates may suffer irreparable harm, which may not be adequately compensated for by monetary damages alone. In the event of a breach or threatened breach of this Agreement, Lotus Preferred Funding, Inc shall be entitled to injunctive and/or other preliminary or equitable relief in addition to any other remedies available at law.
10. **Attorneys' Fees and Costs.** In any action at law or in equity to enforce the provisions of this Agreement, the prevailing party shall pay to the non-prevailing party its costs and expenses, including reasonable attorney's fees.
11. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of Minnesota.
12. **No Agency.** Neither Company nor Lotus Preferred Funding, Inc shall be considered an agent of the other for any purpose whatsoever.
13. **Fees.** Fees for services rendered by Lotus Preferred Funding, Inc with respect to the Proposed Transactions shall be paid as agreed upon by Lotus Preferred Funding, Inc and Company from time to time as reflected in a separate agreement.
14. **Severability.** If it is found by a final judgment by a court of competent jurisdiction (not subject to further appeal) that any terms or provision hereof is invalid or unenforceable: (a) the remaining terms and provisions hereof shall be unimpaired and shall remain in full force and effect; and (b) the invalid or unenforceable term or provision shall be replaced by a term or provision that is valid and enforceable and that comes closest to expressing the intention of such invalid or unenforceable term or provision.
15. **Entire Agreement.** This Agreement contains the entire understanding of the parties hereto with respect to the subject matter hereof, supersedes any prior

written agreements with respect to such, and may only be modified in writing. This Agreement shall remain in full force and effect until a subsequent written agreement, if any, which expressly provides for confidentiality is executed by the parties hereto. The parties hereto recognize and agree that nothing contained in this Agreement shall be construed as granting any rights, by license or otherwise, to any Confidential Information disclosed pursuant to this Agreement.

16. **Counterparts and Facsimile Signature.** This Agreement may be executed in any number of counterparts. Each such counterpart shall be, and shall be deemed to be, an original instrument, but all such counterparts taken together shall constitute one and the same Agreement. A facsimile signature on this Agreement shall have the same force and effect as an original signature.

IN WITNESS WHEREOF, a duly authorized representative of each of the Parties has executed this Agreement as of the date set forth below.

“Dealer”

By: _____

Name: _____

Title: _____

Date: _____

Email: _____

Business # _____

Fax #: _____

“Lotus Preferred Funding, Inc”

Lotus Preferred Funding, Inc

By: _____

Name: Brandon Sherer

Title: _____

Date: _____

