

NON-DISCLOSURE AND NON-SOLICITATION AGREEMENT

THIS NON-DISCLOSURE AND NON-SOLICITATION AGREEMENT (the “Agreement”) is made and entered into this _____ of _____, 20____ (the “Effective Date”) by and between York Funding, LLC with offices located at 37-18 Northern Boulevard, Suite 417, Long Island City, New York 11101 (collectively, York” or the “Company”) on the one part and _____ with offices at _____ (the “Recipient”) on the other part.

WHEREAS, the Company: (a) is engaged in providing residential and commercial mortgages in New York, New Jersey, Florida and other states secured by real estate (collectively, the “Loans”); (b) also invests in acquiring, improving and selling residential and commercial real estate in the New York, New Jersey and other states, including, but not limited to, distressed properties or properties in foreclosure (collectively, the “Real Estate Investment”); and (c) owns, controls or has agreements with its own affiliates, investors and subsidiaries (including, but not limited to, single-purpose entities and/or special purpose entities) that provide Loans, acquire Loans and Real Estate Investments and sells Loans and Real Estate Investments (collectively, the “Affiliate Entities”);

WHEREAS, Company and its Affiliate Entities (collectively, the “Company Entities”) also routinely enter into contracts and/or agreements with entities or individuals to provide Loans, acquire Loans and Real Estate Investments, sell Loans and Real Estate Investments (collectively, the “Investor Entities”);

WHEREAS, the Recipient has requested information concerning business of the Company Entities including, but not limited to, the structure of the Company Entities, the interrelationship of the Company Entities, the books and records of the Company Entities, the Real Estate Investments of the Company Entities, the Investor Entities, the Loans of the Companies Enitites, the referral sources of Loans and Real Estate Investments and the financial condition of the Company Entities for the purpose of engaging in business transactions with one or more the Company Entities and/or their owners and/or principals regarding Loan and the Real Estate Investments (the “Intended Use”); and

WHEREAS, the Company Entities seek certain assurances that the information that it has previously provided and it will provide in the future to the Recipient will be kept confidential and will not be used in a manner contrary to the terms of this Agreement;

NOW THEREFORE, in consideration of the Recipient’s new or continued association with the Company Entities, and mutual promises and agreements contained herein, the parties hereto, intending to be legally bound, hereby agree as follows:

1. **Confidential Information**. In consideration of the Company Entities previously providing, and agreeing to continue to provide, the Recipient with documents and information regarding their business and its business operations including, but not limited to, the Company Entities’ Real Estate Investments, clients, servicing companies, contact persons, Loans, acquisition of Loans, sale of Loans, sale of Real Estate Investments and Investor Entities

(collectively, the “Confidential Information”), the Recipient hereby agrees that during the term of this Agreement and for five (5) years thereafter, the Recipient shall hold in confidence and not disclose to any other individual and/or entity the Confidential Information without the Company Entities’ express written consent. The parties to this Agreement recognize that the Company Entities have invested considerable amounts of time and money in attaining and developing all of the Confidential Information, and any unauthorized disclosure or release of such Confidential Information in any form would irreparably harm the Company Entities. For purposes of this Agreement, the term “Confidential Information” does not include information which (a) can be demonstrated to have been in the public domain prior to the execution of this Agreement; or (b) can be demonstrated to have been in the Recipient’s possession, either through independent development or from another source not under obligation of secrecy to the Companies Entities prior to disclosure of the Confidential Information; or (c) becomes part of the public domain by publication or otherwise, not due to any unauthorized acts by the Recipient.

2. **Use and Disclosure of Confidential Information.** Recipient represents the Confidential Information shall not be used by the Recipient (or any other individual or entity that obtains the Confidential Information from or through the Recipient, whether permitted by this Agreement or otherwise) for any purpose whatsoever other than for the Intended Use. The Recipient shall not disclose the Confidential Information to any third party without the prior written consent of the Company Entities. In the event such prior written consent is given, the Recipient agrees that, prior to disclosing or providing access to any Confidential Information, it will obtain from such third party a written agreement, with substantially the same obligations as this Agreement, that such third party will not use or disclose the Confidential Information for other than the specific use agreed upon by the parties hereto (the “Third Party Agreement”). The Recipient further agrees that they will provide a fully executed copy of such Third Party Agreement upon its execution to York. If any third party breaches the Third Party Agreement, the Recipient agree that each of them shall be jointly and severally liable on the basis that such third party shall be deemed to be the agent of the Recipient. Confidential Information may be disclosed without prior written consent to each party’s necessary employees, attorneys, financial advisors and accountants who reasonably require access to the Confidential Information for the Intended Use and who have been informed of the confidential and proprietary nature of the Confidential Information and who have agreed to be bound by or subject to the terms and conditions of this Agreement. The Recieipient, as of the date of the execution of this Agreement, represent and warrant the Recipient has not used any of the Confidential Information for any purpose other than the Intended Use and have not disclosed any Confidential Information to third parties.

3. **Further Restriction on Use of Confidential Information.** Any materials, documents, notes, memoranda, drawings, sketches and other tangible items containing, consisting of or relating to the Confidential Information which are furnished in connection with this Agreement (including Confidential Information furnished prior to the execution of this Agreement) and/or are in possession of the Recipient and all copies thereof, remain the property of the Company Entities and shall, at the Company Entities’ option, be destroyed or be returned within five (5) days after written demand. Nothing in this Agreement grants any party any license to another party’s intellectual property.

4. **No Disparaging Remarks.** During the term of this Agreement and at all times thereafter, the Recipient shall refrain from any and all actions, remarks and comments that might tend to disparage the Company Entities and/or their respective principals, shareholders, directors, officers, employees, members, managers, vendors or customers.

5. **Non-Solicitation.** The Recipient hereby agrees that while this Agreement is effective and for five (5) years following the termination of this Agreement (the “Non-solicitation Period”), for any reason, the Recipient shall not (without the prior written consent of the Company), in any manner, directly or indirectly, whether as proprietors, partners, stockholders, directors, executives, employees, officers, principals, agents, consultants, joint venturers, investors, or in any other capacity:

(a) Solicit, attempt to solicit, contact or otherwise communicate with (collectively “Communicate”) any company, person, entity (collectively, “Entity”) and any agent, officer, employee, director, member, equity holder or representative of any Entity (collectively, the “Entity Parties”) that currently: (a) is a borrower of any of the Company Entities; ; (b) was a borrower of any of the Company Entities within the past twelve (12) months; and/or (b) is party to a contract with any of the Company Entities regarding Loans and/or Real Estate Investments;

(b) Solicit, entice, raid or induce, directly or indirectly, any person who presently is or becomes an employee of any of the Company Entities to become employed by any other person, corporation or entity, and shall not approach any such employee for such purpose or authorize or knowingly approve the taking of such action by any other person; or

(c) Attempt or threaten any of the foregoing.

6. **Severability.** Unless otherwise provided herein, if any provision of this Agreement is invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired thereby.

7. **Injunctive Relief.** The Recipient agrees that any breach or threatened breach by the Recipient of this Agreement will irreparably injure the Company Entities and that any remedy at law for any breach or threatened breach by the Recipient of the provisions contained in this Agreement shall be inadequate, and that the Company Entities shall be entitled to injunctive relief in addition to any other remedy they might have under this Agreement or at law or in equity. The Recipient further agrees that the grant of such injunctive relief and the enforcement of the terms of this Agreement shall not deprive the Recipient of an ability to earn a living.

8. **Termination.** This Agreement shall terminate upon the earliest to occur of the following: (a) the completion of the Intended Use; (b) one year from the date hereof; or (c) upon written notice of either party of termination. Upon termination of this Agreement, upon written request, each party shall return to the other or destroy all materials, including copies thereof, that contain or evidence Confidential Information, in accordance with the provisions of this Agreement. Following the termination of this Agreement and the proper return of such materials, the confidentiality and non-solicitation obligations set forth in this Agreement shall continue in effect for the periods provided for in this Agreement.

9. **Miscellaneous.**

(a) **Binding Effect.** This Agreement shall inure to the benefit of and shall be binding upon the parties' successors and assigns.

(b) **Headings.** The section and paragraph headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning of any part, or the entirety of, this Agreement.

(c) **Notices.** All notices, requests, consents and other communications hereunder shall be in writing, shall be addressed to the receiving party's address set forth in the opening section of this Agreement or to such other address as a party may designate by notice hereunder, and shall be either (i) delivered by hand or (ii) sent by nationally known overnight courier (i.e., Federal Express). All notices, requests, consents and other communications hereunder shall be deemed to have been given (i) if delivered by hand, at the time of the delivery thereof to the receiving party at the address of such party set forth above, (ii) if sent by overnight courier, on the next business day following the day such notice is delivered to the courier service. Any party to this Agreement may change such party's address upon written notice delivered pursuant to this Section.

(d) **Waiver.** A waiver by any party hereto of a breach hereof shall not be deemed to be a waiver of any subsequent breach, whether similar or not.

(e) **Relation.** This Agreement does not create any agency, joint venture, partnership, employment or other relation between the parties.

(f) **Indemnification.** To the fullest extent permitted by law, the Recipient, shall indemnify and hold harmless the Company Entities and their respective officers, directors, employees, principals, agents, shareholders, partners, joint ventures, affiliates, successors and assigns from and against any and all liabilities, obligations, claims, demands, causes of actions, losses, expenses, damages, fines, judgments, settlements, penalties, and attorneys fees and costs incident thereto, arising out of, based upon, allegedly based upon, or in connection with: (a) any misrepresentation made by any Recipient in this Agreement; and (b) any breach of this Agreement by the Recipient. The aforesaid obligation of indemnity shall be construed so as to extend to all legal, defense and investigation costs, as well as all other reasonable costs, expenses and liabilities incurred by the party indemnified, from and after the time at which the party indemnified receives notification (whether oral or written) that a claim or demand is to be made or may be made.

(g) **Entire Agreement.** This Agreement is intended by the parties hereto to be the final expression of their agreement with respect to the subject matter hereof and is the complete and exclusive statement of the terms thereof, notwithstanding any representations, statements or agreements to the contrary heretofore made. This Agreement may be modified only by a written instrument signed by each of the parties hereto.

(h) **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York (without giving effect to its choice of law principles).

(i) Forum Selection. The parties each hereby irrevocably submit to the exclusive jurisdiction of the state courts of the State of New York, New York County and the the United States District Court located in the Southern District of New York, for the purposes of any suit, action or other proceeding arising out of or based upon this Agreement or the subject matter hereof. The parties, to the extent permitted by applicable law, each hereby waive, and agree not to assert by way of motion, as a defense, or otherwise, in any such suit, action or proceeding brought in such courts, any claim that it is not subject personally to the jurisdiction of the above-named courts, that the suit, action or proceeding is brought in an inconvenient forum; that the venue of the suit, action or proceeding is improper, or that this Agreement or the subject matter hereof may not be enforced in or by such court.

(j) Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument. Facsimile signatures and signatures transmitted by electronic mail shall be deemed originals.

(k) Third-party beneficiaries. The parties to this Agreement acknowledge and agree that the Company Entities (other than the Company) are third-party beneficiaries of this Agreement and are permitted to enforce the terms of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Non-Disclosure and Non-Solicitation Agreement as of the date written below.

YORK FUNDING, LLC

By: _____
Title: Peter Aytug, Managing Member

Date:

RECIPIENT:

By: _____
Company:
Name:
Title: Authorized Signatory