Mortgage Broker Compensation Addendum

This Addendum supplements, amends and becomes part of the Mortgage Broker Agreement ("Agreement"), dated _____________ , by and between HighTechLending, Inc., a California Corporation ("HTL") and ("Broker"), ________________________________, collectively the "Parties", and supersedes all previous compensation Addendums.

Please select one of the following:

☐ We are electing only a Borrower-Paid Plan for all loans. All originators will be paid based on a salary or hourly rate.

☐ We are electing only a Lender-Paid Plan for all loans (must select a tier below).

☐ We are electing to offer both a Borrower-Paid Plan and a Lender-Paid Plan (must select a tier below). On Borrower-Paid Plans we will pay all originators based on a salary or hourly rate.

If you selected a Lender-Paid Plan, you may also choose one or both of the following:

☐ Although we selected a Lender-Paid Plan above, and a tier below, the maximum dollar amount of our compensation should never exceed $_____________.

☐ In addition to the Lender-Paid Plan above, and the tier below, we would like to charge an additional flat fee of $__________________ on top of our compensation tier.

<u>Lender-Paid Plan</u>

Broker selects the following compensation tier (please select only one):

☐ 1.000%	☐ 1.125%	☐ 1.250%	☐ 1.375%	☐ 1.500%	☐ 1.625%
☐ 1.750%	☐ 1.875%	☐ 2.000%	☐ 2.125%	☐ 2.250%	☐ 2.375%
☐ 2.500%	☐ 2.625%	☐ 2.750%	☐ 2.875%	☐ 3.000%	

<u>General</u>

In accordance with TILA, this Agreement establishes the agreed-upon compensation between HTL and the Broker. HTL will offer two plans: A Borrower-Paid Plan and a Lender-Paid Plan. The Broker may select either Plan for each loan submitted to HTL. However, compensation may not come from multiple sources on any loan. Thus all compensation on any loan must be 100% borrower-paid or 100% lender-paid.

Borrower-Paid Plan
Under a Borrower-Paid Plan, the Broker may negotiate and establish compensation directly with the borrower and will be paid by the borrower.

Lender-Paid Plan
Under a Lender-Paid Plan, the Broker and HTL will establish compensation as follows:

> **Compensation:** Compensation will be established as a percentage of the loan amount. The Broker must pre-select one of several compensation tiers, with total compensation (including origination fee, processing fees and all other fees payable to Broker) from 1.000% to 3.000%, in increments of .125% (e.g., 1.000%, 1.125%, 1.250%, 1.375%). Once the Broker selects a compensation tier, that tier applies to all loans. Under a Lender-Paid Plan, compensation may not increase or decrease on any loan. Broker may also choose to establish a maximum dollar amount, as well as a flat fee on top of the compensation tier.

Additional Provisions
This section describes allowable compensation that Broker may pay to his/her/its Loan Officers. The Broker is responsible for complying with all aspects of TILA, including but not limited to, compensation to his/her/its loan officers. If the Broker selects a Borrower-Paid Plan for a specific loan, the Broker must compensate the loan officer on either a salary or hourly basis. Bonuses paid to loan officers are allowed as long as they are not based on a specific loan. For example, bonuses are allowed to be paid on overall volume or quality. If the Broker selects a Lender-Paid Plan for a specific loan, the Broker may compensate the loan officer as a fixed percentage of the loan amount with or without a fixed minimum or maximum dollar amount, but cannot vary with different levels or tiers of loan amounts. The Broker may also split his/her/it's compensation with the loan officer as long as the amount is a fixed percentage or fixed dollar amount. The Broker may not pay the loan officer on the terms, conditions or interest rate of any loan. The Broker may not compensate a loan officer on factors that are considered proxies of loan terms such as the credit score or debt-to-income ratio. If the Broker has multiple branches, all loan officers of each branch must only be paid based on the compensation agreement in place for their branch, and may not submit loans through another branch on a different compensation agreement. If the Broker chooses to submit one loan to HTL under a Borrower-Paid Plan, and another loan to HTL under a Lender-Paid Plan, the Broker must still pay each loan officer in accordance with TILA as stated above. The Broker must have written compensation agreements in place with each of his/her/its loan officers. These compensation agreements may change periodically but cannot change by loan. Thus, if the loan officer receives a salary and the Broker changes a loan from one Plan to the other, the Broker must continue to pay the loan officer on a salary basis. Also, if the Broker's processor also originates any loan, then the Broker must comply with this regulation and pay the processor as per the above. There may be other forms of acceptable and unacceptable compensation. This paragraph is only intended to outline Broker responsibilities as they relate to compensation of loan officers. The Broker should refer to the TILA regulation(s) for further guidance and/or seek professional legal advice.

Modifications

Brokers cannot change plans on a per-loan basis. Established compensation via this Addendum will remain in effect for either a minimum of two (2) weeks and two (2) loans funded under the Lender-Paid Plan; or a minimum of thirty (30) days with no minimum loans funded. As long as either of the above-two rules are satisfied, Brokers may choose to change the compensation indicated in the Addendum as often as every two (2) weeks by notifying HTL in writing. An amended Addendum will be prepared stating the new compensation amount and must be executed by both Broker and HTL. Changes will be effective within 24 hours of HTL receiving and approving the signed amended Addendum. Once the modification of the Addendum is made, the Broker is responsible for managing loans in his/her/its pipeline to ensure each loan complies with all Federal, State, County and Local regulations as well as HTL policies.

Term

This Agreement shall remain in effect indefinitely until terminated by mutual agreement or at the sole discretion of HTL. Upon termination, Broker's compensation will immediately cease and HTL will not be obligated to pay Broker any additional monies.

Effective Date

This Agreement is effective upon the later date of both Parties' acceptance and will be applied at the time the interest rate is set on each loan (date of lock or re-lock). If modifications are subsequently made to the Agreement and/or the Addendum, compensation will be paid in accordance with the Agreement and/or the Addendum in effect at the time the interest rate is set for each loan (date of lock or re-lock). Subsequent modifications will not be applied to loans already locked or re-locked.

Entire Agreement

This Agreement supersedes any and all agreements, either oral or written, between the parties hereto with respect to Broker compensation, and governs any Schedules subsequently entered into between HTL and Broker, excepting the Wholesale Mortgage Broker Agreement and its Addendums, as well as any and all HTL policies which are incorporated herein by reference and remain in full force and effect. Both Parties agree that no representations, inducements, promises, or agreements (oral or otherwise) have been made by any Party or anyone acting on behalf of any Party, which are not embodied herein; and that no other agreement, statement, or promise not contained herein shall be valid or binding. Any modification of this Agreement will be effective only if it is in writing and signed by both Parties.

Governing Law

This Agreement shall be governed by, construed and enforced under the laws of the State of California, County of Orange, without conflict of any law. If any provision of this Agreement is found to be invalid, such invalidity shall not affect any other provision hereof.

Counterparts

This Agreement may be executed in counterparts, each of which shall be deemed an original, and both of which, taken together, shall constitute one and the same instrument.

Electronic Record

My transmission of this Agreement as an electronic record containing my electronic signature, as those terms are defined in applicable federal and/or state laws (excluding audio and video recordings), or my facsimile transmission of this Agreement containing a facsimile of my signature, shall be as effective, enforceable and valid as if a paper version of this Agreement were delivered containing my original written signature.

Indemnification

Broker indemnifies and holds HTL harmless from Broker's violation of TILA and accordingly agrees to cover any losses incurred by HTL, which includes, but is not limited to, losses incurred through borrower's rescission of any loan.

Compliance Certification

Broker agrees to comply with the applicable TILA regulation as it relates to compensation. Broker certifies to HTL that Broker has read and understands the regulation mentioned above, and is in compliance with all requirements of the regulation and has established written compensation agreements with each of his/her/its originators including loan officers, producing managers and/or applicable loan processors, and will compensate these originators in accordance with the regulation. Broker further certifies that every loan under the Lender-Paid Plan contains a Safe Harbor document in compliance with the Anti-Steering provision, and that he/she/it maintains a signed document on each loan by all borrowers indicating the loan with the (1) lowest posted interest rate; and (2) lowest posted interest rate for any loan with risky features such as pre-payment penalties or balloons; and (3) interest rate with the lowest cost.

Subject to the modifications set forth herein, all other terms, conditions, and provisions of the Agreement are affirmed, incorporated herein by reference and shall remain in full force and effect. All terms not otherwise defined herein shall have the meaning specified in the Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date written below.

Broker: ________________________________

By: ________________________________

Printed Name: ________________________________

Title: ________________________________

Date: ________________________________

HighTechLending, Inc.

By: ______________________________

Printed Name: ______________________________

Title: ______________________________

Date: ______________________________

Answers to the most common questions about the new Federal Reserve rule governing Loan Originator Compensation.

The following information is based on HTL's interpretation of the new regulations and its implementation and should not be construed as legal advice. Due to the complexity of the regulations, brokers are advised to seek their own counsel and consult a licensed attorney.

COMPENSATION PLANS

Q. Can a mortgage broker establish different compensation plans with each lender?

A. Yes, however the individual loan officer employed by the mortgage broker may not be paid based via varying lender compensation. For example, a mortgage broker may have an agreement with one lender at *1.00%* and another lender at *1.50%*. The loan officer's compensation may vary based on the mortgage broker's compensation and can be set as a fixed percentage or a fixed dollar amount of the mortgage broker's compensation (i.e., it can be set at *80%* of mortgage broker's compensation).

Q. What are the advantages and disadvantages of a Borrower-Paid Plan vs. a Lender-Paid Plan?

A. A Borrower-Paid Plan is most similar to business as usual. However, the YSP must never exceed the third-party closing costs. Also, the mortgage broker must pay the loan officer either a salary or on an hourly basis (bonuses are allowed). There is no ability to offer no-cost loans on a Borrower-Paid Plan. The mortgage broker does have the ability to reduce compensation to pay for borrower fees, lock extension fees, mortgage broker errors, or fees that exceed the high-cost tolerance. On a Lender-Paid Plan, the mortgage broker may have the ability to still offer no-cost loans, depending on the lender's price and how much the mortgage broker wants to earn on the loan. The mortgage broker must have a written compensation plan in place with the lender. The mortgage broker must pick the compensation in advance and adhere to the pre-selected compensation for all loans for the time period specified by the lender. HTL's competitors require a mortgage broker to set compensation for 90 days. HTL's time period is only two weeks, offering mortgage brokers an opportunity to change their compensation often. The mortgage broker may not increase or decrease compensation to pay for lock-extension fees, errors caused by the mortgage broker (i.e.. neglecting to notify the lender of a changed circumstance per RESPA), or to cover high-costs loans. Mortgage brokers may pay their loan officers based on a fixed percentage of the mortgage broker's compensation. Here is a summary:

	Borrower Paid	Lender Paid
Reduce Fees	Yes	No
Pay LO a % of Mtg Broker Comp.	No	Yes
Negotiate Comp by Loan	Yes	No
No cost Loans	No	Possibly
Written Comp Plan with Lender	No	Yes
Written Comp Plan with LO	No	Yes
Source of Payment to Broker	Escrow	Lender

Q. When does a broker have to indicate if the compensation is lender-paid or borrower-paid?

A. The mortgage broker needs to complete the *Mortgage Broker Compensation Agreement* and *Addendum* prior to his/her/it's first loan submission after April 1st, 2011. HTL will ask for them by *3/25/11*. Then the broker or loan officer will indicate at time of submission whether each loan will be lender-paid or borrower-paid in accordance with the plan(s) that the mortgage broker selected in the *Agreement/Addendum.*

Q. There are also originator compensation rules in the Dodd-Frank regulation. Will the Federal Reserve incorporate the Dodd-Frank requirements into their originator compensation rule?

A The Federal Reserve has not yet incorporated the Dodd-Frank provisions into their regulation. Thus there may be additional *and/or* conflicting requirements introduced in the Dodd-Frank regulation.

Q. If the agreed-upon compensation between lender and mortgage broker is 2% (Lender-Paid Plan), can we credit 1% to the borrower?

A. No. The Federal Reserve views this as a pricing concession.

Q. Does the loan officer have to offer the borrower a choice between borrower-paid and lender paid? Otherwise, wouldn't everyone choose borrower-paid due to the flexibility?

A. The loan officer does not have to offer the borrower a choice between borrower-paid and lender paid. This is a decision between the mortgage broker and the lender, as well as the mortgage broker and the loan officer. Choosing a plan is a personal choice. There are advantages and disadvantages to both. Understanding the differences is key to making the right selection. On the surface it appears there is more flexibility in a Borrower-Paid Plan, however keep in mind that the borrower will always be paying the originator's compensation (either in cash or financed), and the mortgage broker must pay the loan officer on a salary or hourly basis (bonuses are allowed).

LOAN OFFICER COMPENSATION

Q. Can a mortgage broker pay a loan officer a different percentage based on tiers of loan amounts (i.e. 3% for loans up to $100,000, and 2% for loans between $100,001 and $300,000)?

A. No. On a Lender-Paid Plan, compensation may not be paid based on a variable percentage. The percentage must be fixed. On a Borrower-Paid Plan, compensation must be paid as a salary or hourly rate. In addition, bonuses may be paid (i.e., bonuses on quality and overall volume are allowed).

Q. Can a mortgage broker pay each loan officer differently?

A. Yes. The Federal Reserve does not require that every loan officer be paid the same, as long as the originator's compensation is not varied based on loan terms or conditions other than loan amount. In addition, the compensation cannot vary from one transaction to another on a Lender-Paid Plan.

Q. On a Borrower-Paid Plan, the loan officers must be paid by the hour? Can they still get a 1009, or do they need a W2?

A. On a Borrower-Paid Plan, the loan officers must be paid *either* on a fixed salary or on an hourly basis. Periodic bonuses are allowed. 1099s are not allowed. A W2 would be required, and the employer must comply with all other state or local laws pertaining to employees (e.g., minimum wage requirements). We recommend seeking legal advice for further requirements regarding employment law.

Q. If my loan officers are on the Lender-Paid Plan, can I continue to pay them by commission and continue to 1099 them?

A. Yes and yes. However, please keep in mind that the commission must be an allowable calculation such as a fixed percentage of the mortgage broker's compensation.

Q. The amount negotiated on a Borrower-Paid Plan is paid to the brokerage. Isn't the loan officer paid the same basis points specified in the contract between the mortgage broker and loan officer, even though more money is paid by the borrower?

A. On a Borrower-Paid Plan, the loan officer must be paid a fixed salary or paid on an hourly basis. Bonuses are allowed. A loan officer may not be paid basis points on a Borrower-Paid Plan. And yes, this compensation would remain set even though there may be more money paid by the borrower.

Q. Where does a mortgage broker obtain compensation contracts for their Loan Officers?

A. The mortgage broker should refer to an attorney for advice or assistance in preparing compensation agreements.

Q. There has been discussion about a “Point Bank” whereby a loan officer is paid a flat rate for each loan, but then points are assigned to the loan officer for production. The employer keeps score and then awards bonuses based on these points. Is it possible for mortgage brokers to offer such a plan to their loan officers?

A. It is possible, but we highly recommend seeking legal advice prior to implementing such a plan. If the originator is the loan officer, then the originators compensation must be paid by the mortgage broker. We recommend seeking advice from the specific state regulators. Also, current HUD regulations require loan officers to be paid as W2 employees.

Q. Will HTL require copies of the mortgage broker's compensation agreements with their loan officers?

A. No, not at this time.

PRICING

Q. How will wholesale pricing work?

A. Rate sheets will look the same as they do now, with a pricing adjuster grid for the pre-selected compensation tier for a Lender-Paid Plan. Example:

Borrower Paid		Lender Paid (@2.00%)	
5.000%	<2.00%>	5.000%	0.000%
4.875%	<1.500>	4.875%	0.500%
4.750%	<0.500>	4.750%	1.500%
4.625%	0.750%	4.625%	2.750%
4.500%	1.300%	4.500%	3.300%

Q. Can a mortgage broker choose the maximum compensation offered by a lender, and then still price each loan anywhere in between the tier range? For example if the lender offers a compensation tier range of 1.00 to 3.50 and the compensation selected is 2.00, can the mortgage broker select any rate, or must they select the rate associated with a 2.00 rebate?

A. The mortgage broker can select any interest rate. The mortgage broker is not limited to the one interest rate that is associated with the compensation tier selected. For example, let's say the broker reviews the compensation tiers (between 1.00% and 3.50%) and selects 2.00% (this assumes a Lender Paid Plan). The mortgage broker will always be paid 2.00 on any loan that the broker funds, regardless of interest rate (although he can also pre-select a maximum dollar amount and an additional pre-determined flat fee on top of the compensation tier). Here's a sample comparison of a Borrower-Paid Plan and a Lender-Paid Plan:

Borrower Paid		Lender Paid (@2.00%)	
4.500%	<1.00%>	4.500%	<1.000> to Borrower
4.750%	<1.500>	4.750%	<0.500> to Borrower

In this example, the mortgage broker will always make 2% in the Lender-Paid Plan, so 2% is always added to the Borrower-Paid Plan. The Borrower-Paid Plan is our existing rate sheet. So the mortgage broker may select any rate that is offered on the rate sheet. Then the compensation is added to the selected rate to determine the final rebate/discount.

Q. Does a mortgage broker have to choose one compensation tier, and that is the only choice for each borrower?

A. For a Lender-Paid Plan, the mortgage broker must select a specific compensation that he/she/it wants to earn. Again, in the above example, the mortgage broker has selected 2%. So, 2% will remain in effect for all loans in which the mortgage broker chooses the lender-paid option (although he/she/it can also preselect a maximum dollar amount and an additional pre-determined flat fee in addition to the compensation tier). At HTL, this selection will remain in effect for either a minimum of two weeks and two loans funded; or 30 days and no loans funded under the Lender-Paid Plan.

Q. On Lender-Paid Plans, who pays for the costs of the loan, such as FICO adjustments and cash-out fees?

A. Pricing adjustments will be treated as they are today and factored into the price.

Q. On a Lender-Paid Plan, can a mortgage broker or loan officer offer any interest rate to the borrower, even though his own compensation may be fixed?

A. Yes.

Q. I understand that HTL requires the Safe Harbor Form with each submission, but what if the loan is floating?

A. The Intent of the Safe Harbor Form is to provide borrowers with the loan options upfront. While the regulation does not specify a specific time when the loan options are presented to the borrower, it would be advisable to present them upfront in order to properly prepare the GFE in accordance with the borrower's choice.

SELLER CONCESSIONS

Q. Can a seller pay the originator's compensation?

A. Seller concessions are considered borrower funds. Thus under a Borrower-Paid Plan, the seller can pay the originator's compensation. Under a Lender-Paid Plan, the seller may not.

Q. If seller concessions are given to pay an origination fee, then these are considered borrower-paid funds and thus all monies to the originator must come from the borrower. Seller concessions on a Lender-Paid Plan may not pay the origination fee. However can the seller pay third-party closing costs under either plan?

A. Yes. However under a Lender-Paid Plan, the seller concessions must not exceed the third-party closing costs.

Yield Spread Premium ("YSP")

Q. Is Yield Spread eliminated?

A. No. YSP is still offered.

Q. RESPA states that YSP is paid to the borrower as a credit. Does TILA view it the same way?

A. No. TILA ignores RESPA and considers YSP as compensation paid by the lender. It may be used to pay for third-party closing costs In either a Borrower-Paid or Lender-Paid Plan, or it may be used to pay the Originator's compensation In a Lender-Paid Plan (but all compensation must then come from the lender).

Q. In order to remain competitive, some mortgage brokers choose to under-quote fees and then use the YSP from the lender to pay any overages. Can a mortgage broker still conduct this practice?

A. On a Lender-Paid Plan, the mortgage broker may not reduce compensation to pay any overages of under-quoted fees. On a Borrower-Paid Plan, the borrower can allow the mortgage broker to reduce compensation.

Q. Under a Lender-Paid Plan, what happens if there is excess YSP beyond all third-party fees?

A. TILA does not regulate excess YSP. However, RESPA does have existing regulations that would dictate actions on excess YSP. According to RESPA, the excess may be used as a principal reduction; the loan may be considered cash out; or the interest rate (and accordingly the credit) may be reduced.

Q. Under a Lender-Paid Plan, does the YSP also pay for HTL's underwriting fees as a third-party fee?

A. HTL is a creditor under TILA. Creditors are exempt from the Loan Originator Compensation regulation, thus YSP can cover HTL's fee and not be considered originator compensation.

FEES, ADJUSTMENTS AND ERRORS

Q. Can a mortgage broker pay a lock extension fee?

A. On a Lender-Paid Plan, the mortgage broker's compensation cannot increase or decrease. Thus the mortgage broker cannot pay for a lock extension fee. On a Borrower-Paid Plan, the borrower can choose to allow the mortgage broker to reduce compensation to pay the lock extension fee.

Q. On a Lender-Paid Plan, can a mortgage broker pay some of the borrower’s fees to avoid triggering a high-cost loan.

A. No.

Q. Under RESPA. any credit provided by the lender is first applied to the lender's and broker's origination charges and then any remainder is applied to third-party charges. If a consumer agrees to pay the mortgage broker and lender directly, and asks the lender to pay some or all third-party charges, the RESPA documents will reflect the credit from the lender as paying the lender's and broker's origination charges. Is the RESPA treatment of charges and credits disregarded in all respects for purposes of the loan originator compensation rule?

A. Yes. TILA is a substantive rule and RESPA is a disclosure rule. The Federal Reserve governs TILA and HUD governs RESPA. It is not in the purview of the Federal Reserve to determine how the originator compensation is disclosed on the GFE, and it is not in the purview of HUD to determine how the originator gets paid. In the above example, while the RESPA documents would reflect the credit from the lender as a borrower credit, TILA would determine how the YSP was used. If any portion of the YSP was used to pay the originator's compensation, then this would be considered a Lender-Paid Plan. However, if the YSP only paid the third-party closing costs and the borrower paid the originator's compensation, then that would be considered a Borrower-Paid Plan.

MISCELLANEOUS

Q. If lender-paid compensation and Block 1 of the GFE are 2%, would Block 2 show a 2% YSP credit based on the rate chosen on the GFE?

A. Block 1 would remain as it is today. All broker and lender's fees are included in Block 1. Block 2 would reflect the Lender-Paid Plan price for the rate selected, plus the broker's compensation. For example, on a $100,000 loan, if the broker's fees were $2,000 and the lender's fees were $1,000, then $3,000 should show in Block 1. For Block 2, the price of the loan must be considered. For example, if a borrower-paid rate sheet reflected a 1% rebate for a 5.0% rate, then on a 2% compensation plan the lender-paid price would be a 1% discount for the same rate (1 % rebate - 2% compensation = 1% discount). Thus, the 1% discount would normally be reflected in Block 2. However, In addition, the 2% comp must be added back again to equate to a 1% rebate to the borrower In Block 2. Thus, the adjusted origination charges would be $2,000. This is an origination charge payable by the borrower to the lender. The lender will then in turn pay the mortgage broker. Therefore, the GFE is done as it is today, except that the adjusted origination charges are payable to the lender, not the broker and the lender will, in-turn, pay the mortgage broker.

Q. How do we know if we have a high-cost loan?

A. HTL normally performs the high-cost loan test at time of docs. In addition, HTL has identified certain loans which are at greater risk of failing the high-cost test. Thus, HTL will also perform the high-cost test at time of submission on FHA loans ≤ $150,000, and Conventional loans ≤$100,000.

Q. Is it best for a mortgage broker who selects a Lender-Paid Plan to calculate the third-party closing costs, add the set compensation, then select a rate which would reflect enough rebate discount to cover the costs and compensation?

A. This would be considered a best practice; however, the mortgage broker must also comply with the Safe Harbor provisions of the Anti-Steering rule and provide the required loan options to the borrower.

Q. Who will govern the new Loan Originator Compensation rule, and how will they know what an originator is paid?

A. The FTC (Federal Trade Commission) enforces TILA. In addition, each originator's (creditor, broker, loan officer) regulator may also enforce this rule. If audited, an auditor would look at the compensation payroll records, compensation agreements, and possibly review loan documents to determine compliance.

Q. If there are multiple producing mortgage brokers who all own part of the same corporation, can each mortgage broker participate in the profits of the corporation?

A. Yes, but ownership must be proven. We recommend seeking legal advice.

Q. Is the Anti-Steering provision applicable to a Borrower-Paid Plan?

A. No.