MISMO COMPLIANCE ASSESSOR AUTHORIZATION AND CONDITIONAL LICENSE AGREEMENT

This is a MISMO Compliance Assessor Authorization and Conditional License Agreement ("Agreement") by and between The Mortgage Industry Standards Maintenance Organization, Inc. a not-for-profit corporation incorporated under the laws of Delaware ("MISMO") and ____________________, a corporation incorporated under the laws of ______________________ ("Assessor Applicant")

RECITALS

Whereas, MISMO has created a Compliance Certification Program to certify vendor product compliance with the MISMO Standards and other stated requirements in accordance with the processes defined in the MISMO Compliance Certification Program Documentation ("Program Documentation") found at Mismo.org;

Whereas, the Premiere Level of the Compliance Certification Program requires that Compliance Certification Applicants be assessed by a third party assessor authorized by MISMO (an “Authorized Assessor”) as part of the certification process, as described in the Program Documentation; and

Whereas, Assessor Applicant wishes to participate in the Program as an Authorized Assessor;

Now, therefore, in consideration of the mutual rights and obligations of the parties set forth herein, receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

ARTICLE I
DEFINITIONS

a. Application. The process of submitting, through the applicable MISMO process, information pertaining to Assessor Applicant and the assessor services that the Assessor Applicant seeks to have authorized by MISMO, including but not limited to completion of the MISMO Compliance Assessor Qualification Summary as well as information thoroughly defining the assessor services to be provided, as well as payment information and this agreement.

b. Authorized Assessor Mark. The logo, Mark, tags and any other designations owned by MISMO or the MBA that an Assessor Applicant will be permitted to use in association with its MISMO assessment services after the Assessor Applicant is authorized and provided Assessor Applicant has agreed to be bound by the terms of this agreement.
c. **Authorized Services.** Assessment services to determine if the software or tool submitted by an Applicant for MISMO Premiere Certification (as described in Program Documentation) meets the criteria to be certified as defined by MISMO.

d. **Certificate of Authorized Assessor Status.** Email notification from MISMO, provided after payment of the authorization fee, confirming that the Assessor Applicant has met the requirements for authorization and can conduct Authorized Services as defined in the Program Documentation and which will include those Authorized Assessor Marks that Assessor Applicant will be entitled to use.

e. **MBA.** The Mortgage Bankers Association, an Illinois nonprofit corporation recognized as a tax-exempt business league within the meaning of Section 501(c)(6) of the Internal Revenue Code of 1986, as amended.

f. **MISMO Authorization Disclaimer.** Information made available to the general public by MISMO that indicates the scope and nature of MISMO Authorized Assessor, and disclaims liability for any use of or reliance on an Authorized Assessor’s authorized status in choosing whether or not to use such service provider. A MISMO Authorization Disclaimer shall be made available on the MISMO Web Site.

g. **MISMO Compliance Assessor Program Documentation.** The “MISMO Authorized Assessor Program Documentation” or “Program Documentation,” including the Authorized Assessor Application Package, as amended from time to time by MISMO in its sole discretion, currently available at mismo.org/.

h. **MISMO Compliance Assessor Register.** The official record of all Authorized Assessors, which is maintained by MISMO.

i. **MISMO Intellectual Property.** Any rights owned or provided by MISMO in copyrights, authored works, trademarks, service marks, right of publicity, authors’ rights, contract and licensing rights, the goodwill therein and all other intellectual property rights as may exist now and/or hereafter come into existence, the general appearance, visual architecture or design thereof, and all renewals and extensions thereof, regardless of whether such rights arise under the laws of the United States or any other state, country or jurisdiction, including but not limited to all MISMO Certification Marks.

j. **MISMO Standards.** Artifacts agreed to and designated by the Governance process of MISMO and made freely available to the public. These currently include the Reference Model, which is comprised of the XML Schema and the Logical Data Dictionary, and the SMART Doc® specification (Version 1.x). The current MISMO Standards are available on the MISMO Web Site.
k. MISMO Web Site. Any Internet web site maintained by MISMO to which an Assessor Applicant hereunder has access, including www.mismo.org.

l. Person. Any individual, firm, partnership, association, trust, corporation, joint venture, unincorporated organization, limited liability company, governmental body or other entity.

ARTICLE II

AUTHORIZATION OF SERVICES AND LICENSE

2.1 Purpose. This Agreement shall govern the evaluation of a Service or Services by MISMO and, in the event that MISMO grants the Assessor Applicant a Certificate of Authorized Assessor Status, the use of MISMO Intellectual Property and conduct of the Assessor Applicant in performing Authorized Services. The Assessor Applicant acknowledges and agrees that continued (a) compliance with the terms of this Agreement, (b) truth of the warranties made hereunder, and (c) compliance with the covenants set forth hereunder are explicit conditions to maintaining the Certificate of Authorized Assessor Status and the license granted hereunder. MISMO will not authorize any Assessor Applicant who is unable to perform, on its own or through a third party pursuant to the terms of this Agreement, all of Assessor Functions.

2.2 Performance of Evaluation. MISMO hereby agrees, upon Assessor Applicant’s completion and submission of appropriate Application documents and the provision of information and material as set forth in the Program Documentation, to provide an assessment (as defined in the Program Documentation) of one or more Services offered by Assessor Applicant. MISMO agrees to diligently perform such evaluation in a professional manner consistent with commercially reasonable industry practices using individuals who are qualified to perform such services and duties, in accordance with the terms and conditions of this Agreement, the Program Documentation, as amended from time to time, and applicable law and regulations. MISMO reserves the right to waive any Program requirement with respect to a particular Assessor Applicant or requirement.

2.3 Conduct of Assessor Applicant. Assessor Applicant hereby acknowledges that its conduct in providing Authorized Services reflects on the good will and reputation of MISMO and the MBA. Therefore, in its performance of such services Assessor Applicant agrees to perform such in a professional manner consistent with the Program Documentation and commercially reasonable industry practices using individuals who are qualified to perform such services and duties, in accordance with the terms and conditions of this Agreement as amended from time to time, and applicable law and regulations.

2.4 Fees. The Assessor Applicant agrees to pay for all associated fees assessed by MISMO under this Agreement and required in order to demonstrate compliance with the Program Documentation prior to the use of any MISMO Intellectual Property.
2.5 License. Where a Certificate of Authorized Assessor Status has been issued for a Service and only while such Certificate remains valid and this Agreement has not been terminated, the Assessor Applicant is granted a non-exclusive, non-assignable, non-transferable license to represent the Service as Authorized and to use the Authorized Assessor Marks specified on such Certificate in the manner set forth herein. The license to represent a Service as Authorized and to use the Authorized Assessor Mark is only valid after a Certificate of Authorized Assessor Status has been issued while this Agreement is in force and effect, and such is automatically revoked with the expiration or termination of this Agreement. A Service shall be represented by Assessor Applicant as Authorized only with respect to the specific Services and applications set forth in the Program Documentation. The Assessor Applicant acknowledges that title and full ownership rights to the Authorized Assessor Mark are and remain the sole property of MISMO. By affixing the Authorized Assessor Mark to its Services, the Assessor Applicant expressly warrants that the provisions of this Agreement have been complied with without deviation. Except as specifically set forth in this Agreement, Assessor Applicant shall not permit any third party to use or copy MISMO’s Intellectual Property.

2.6 No Contest of Ownership. Assessor Applicant acknowledges that the MISMO Intellectual Property is the exclusive and sole property of MISMO. Assessor Applicant agrees that: (a) it will not contest the ownership or validity of the MISMO Intellectual Property without a good faith basis for doing so; (b) any and all rights that might be acquired by its use of the MISMO Intellectual Property shall inure to the sole benefit of the party who owns such Intellectual Property; and (c) it will not use or register in any country the MISMO Intellectual Property, trade names, or other designations resembling or confusingly similar to the MISMO Intellectual Property.

ARTICLE III

AUTHORIZED SERVICES

3.1 Use of Authorized Assessor Mark. When MISMO authorizes the Assessor Applicant to use an Authorized Assessor Mark such mark shall only be used in relation to Services for which such use is authorized by MISMO under a Certificate of Authorized Assessor Status.

3.2 Advertising. Upon issuance of a Certificate of Authorized Assessor Status and only while it and this Agreement remain in effect, Authorized Assessor Marks may appear in advertising or promotional material or other literature regardless of medium only in reference to the Service set forth in the applicable Certificate of Authorized Assessor Status. References to MISMO or the MBA shall not be misleading as to the scope, extent or intent/meaning of Authorization or any other test results or evaluations which MISMO may have provided to the Assessor Applicant. The Assessor Applicant shall not make any public representations that the Authorized Assessor Mark and the Certificate of Authorized Assessor Status imply anything other than that MISMO has Authorized the Service to the Program Documentation and the Assessor Applicant shall not imply that MISMO has endorsed the Assessor Applicant’s Service in any way beyond Authorization to the Program Documentation. The Assessor Applicant shall not alter the
appearance of any Authorized Assessor Mark nor use it in combination with other designs to create a new logo or trademark unless approved by MISMO in writing in advance. The Assessor Applicant agrees to amend or discontinue the use of all advertising, promotional material or other literature considered inappropriate by MISMO, regardless of the medium, at the Assessor Applicant’s own expense upon the written request of MISMO or upon termination pursuant to Article X hereof and the Assessor Applicant will instruct its own personnel, internet service provider, or other third party supporting the Assessor Applicant’s web-site to take such action as necessary to comply with MISMO’s written instructions, to ensure that a web-site containing such misleading advertising does not continue to be displayed and accessible. MISMO reserves the right to seek legal recourse and any remedy it believes appropriate upon a refusal to amend or discontinue the use of all such advertising, promotional material or other literature. Usage guidelines are specified in Appendix A.

3.3 Service Listing. MISMO shall have the right to list in its Authorized Service listings such information about the Assessor Applicant and its Authorized Services as is consistent with Authorization requirements for maintenance of a record of Authorized Services.

3.4 Misuse of Authorized Assessor Mark. The Assessor Applicant understands and agrees that monetary damages would not be a sufficient remedy and that MISMO will be entitled to injunctive relief in addition to all other remedies available at law or equity relating to use of the Authorized Assessor Mark by the Assessor Applicant in the following circumstances:

(a) after termination of this Agreement by either party;

(b) with respect to non- Authorized Services or Services which are not in compliance with the Program Documentation;

(c) prior to any approval required pursuant to Sections 4.4 or 9.1 or in contravention of corrective action required by MISMO pursuant to Article VII;

(d) misleading advertising as described in Section 3.2.

The provisions of this Section 3.4 shall survive the termination or expiration of this Agreement. Assessor Applicant shall pay MISMO’s reasonable legal fees incurred in enforcing this Section.

3.5 Testing and Authorization. The Assessor Applicant recognizes that the opinions and findings of MISMO represent its judgment given with due consideration to the particular Service, the necessary limitations of practical operation, and MISMO’s objects and purposes and agrees that MISMO does not warrant or guarantee Services or the reliance thereupon. The Assessor Applicant agrees to accept the opinions and findings of MISMO. Detailed evaluation results arising from Authorization evaluations provided under this Agreement will not be divulged to the Assessor Applicant or to any other person or persons except with the express written consent of the Assessor Applicant and MISMO or as required by law.
3.6 Finality. A determination by MISMO as to authorization of Assessor Applicant or termination of this Agreement is final, in its sole discretion and binding on Assessor Applicant. The foregoing notwithstanding, if MISMO has determined not to authorize a Service or Services, prior to issuing a final determination of non-authorization, upon the request of Assessor Applicant within fifteen (15) days of notice of an initial determination not to so authorize a Service or Service, MISMO will review its determination. MISMO will conduct its review by appointing a three-person committee in its sole discretion consisting of the Chair of the MISMO Governance Committee, the MISMO Vice President, and a member of the MISMO Board of Directors or their designees. Such committee shall review Assessor Applicant’s Application to authorize such Service or Services, as well as any additional information that the committee may request or accept, in its sole discretion, and make a determination as to whether such Service or Services should be denied. The Committee’s decision will be final, provided that such decision will not prevent Assessor Applicant from applying for authorization at a later date, provided that Assessor Applicant can show that new or additional information supports the authorization of the Service or Services in question.

3.7 Outsourcing Assessment Core Functions. To the extent that the Assessor Applicant delegates or outsources any part of an assessment, the provider of such function must agree in writing to be bound by the terms and conditions of this Agreement, including but not limited to the limitations of liability applicable to, and indemnities of, the MBA and MISMO. Additionally, the provider of such functions must be authorized by MISMO and the Assessor Applicant may not hold any such function out as an Authorized Service until such time that the provider of such service by a third party has been authorized by MISMO. Unless otherwise agreed to in writing between MISMO and Assessor Applicant, the Assessor Applicant shall remain liable for the performance of all obligations hereunder by the provider of delegated or outsourced assessment functions. The Assessor Applicant must not disclaim any such liability in any agreement with such provider.

ARTICLE IV
COMPLIANCE WITH REQUIREMENTS

4.1 Compliance. Each Authorized Service shall comply with all of the Program Documentation at all times including, without limitation, the requirement that Assessor’s vendor compliance assessment evaluations and supporting materials must be retained for no less than three years from the date of the evaluation and must be available for review by MISMO at MISMO’s request. In addition, Assessor Applicant will notify MISMO before destruction of any materials after expiration of the three year retention period. The Assessor Applicant is responsible for its Services and ensuring full compliance with the Program Documentation and this Agreement.

4.2 Revised Requirements and Reauthorization. Upon establishment of the effective date for new or revised requirements applicable to any Authorized Service, MISMO shall promptly issue written notification to the Assessor Applicant. Evidence of compliance with new or revised requirements shall be provided to MISMO by the
Assessor Applicant in the form required by MISMO before the date set forth in such notice, if required by MISMO. Where necessary, the Assessor Applicant will submit documentation to MISMO for re-evaluation of compliance with new or revised Program Documentation at the Assessor Applicant’s expense. Except as required by the imposition of a new law, rule, regulation, or ordinance, no such requirement will be imposed on Assessor Applicant with less than ninety (90) days’ notice.

4.3 Renewal. Renewal of authorization by the Authorized Assessor is required at the end of each Authorization Period as set forth in the Program Documentation. Failure to complete the reauthorization process within 30 days after Authorization Period expiration will result in removal of the Assessor from the MISMO Authorized Assessor Register and termination of this Agreement, including without limitation the right to use the MISMO Authorization Mark as set forth in this Agreement. Authorized Assessors requesting a MISMO authorization renewal will incur an additional fee, as applicable, for reauthorization.

4.4 Modifications. The Assessor Applicant shall inform MISMO of any intended modification to the Authorized Services, or any relevant Assessor Applicant systems or procedures, which affect the conformity of the previously Authorized Services with the Program Documentation. The Assessor Applicant is not permitted to apply the Authorized Assessor Mark to any Assessor Service incorporating such modifications until MISMO has completed sufficient evaluation of the modified Assessor Service, and advised the Assessor Applicant in writing that it can use the Authorized Assessor Mark in conjunction with the modified Assessor Service, such that it is determined to be an Authorized Service. All such evaluations will be at the Assessor Applicant’s expense.

ARTICLE V
CONFIDENTIALITY

5.1 Confidentiality. Subject to Section 3.3, MISMO shall not disclose confidential and proprietary information received from the Assessor Applicant to third parties outside of MISMO staff and participants in any Appeal process and MBA without the Assessor Applicant’s authorization. Where information, including proprietary information, relating to an assessment is requested by a regulatory authority or pursuant to a court order, subpoena or similar process, MISMO will comply with such a request and will make reasonable efforts to advise the Assessor Applicant in advance of its intention to do so.

ARTICLE VI
REPRESENTATIONS AND COVENANTS

6.1 Representations and Warranties of the Assessor Applicant. The Assessor Applicant represents and warrants as of the date hereof as follows.
(a) **Organization and Good Standing.** The Assessor Applicant and each subsidiary of the Assessor Applicant is a corporation duly organized, validly existing and in good standing under the laws of its state of incorporation or formation, as the case may be. The Assessor Applicant and each subsidiary of the Assessor Applicant is duly qualified or licensed and, with respect to each subsidiary that is a corporation, in good standing as a foreign corporation and authorized to do business, in each jurisdiction in which the ownership or leasing of its properties or the character of its operations makes such qualification, licensing or authorization necessary, except where the failure to obtain such qualification, license, authorization or good standing would not individually or in the aggregate reasonably be expected to have a material adverse effect upon the assets, liabilities, financial condition, earnings or operations of the Assessor Applicant and its subsidiaries taken as a whole or any transaction contemplated by this Agreement (any such material adverse effect, whether individually or in the aggregate, a “**Material Adverse Effect**”). The Assessor Applicant and each subsidiary of the Assessor Applicant have all requisite corporate power and authority to own its assets and to carry on its business as presently proposed to be conducted except where a lack of such corporate power or authority could not reasonably be expected to have a Material Adverse Effect.

(b) **Authorizations.** The Assessor Applicant has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement. The execution and delivery by the Assessor Applicant of this Agreement and the consummation of the transactions contemplated thereby have been duly and validly authorized by the Assessor Applicant.

(c) **Conflicting Agreements and Other Matters.** Neither the Assessor Applicant nor any of its Subsidiaries is a party to any contract or agreement or subject to any charter or other corporate restriction, compliance with which could reasonably be expected to have a Material Adverse Effect. Neither the execution and delivery of this Agreement nor fulfillment of nor compliance with the terms and provisions hereof will (i) violate any provision of any law having applicability to the Assessor Applicant or any of its properties, except such violations as could not reasonably be expected to have a Material Adverse Effect, (ii) conflict with or result in a breach of or constitute a default under the charter or bylaws of the Assessor Applicant or any organizational document of its subsidiaries, (iii) require any consent, approval or notice under, or conflict with or result in a breach of, constitute a default or accelerate any right under, any agreement or instrument to which the Assessor Applicant is a party or by which any of its properties is bound, except such consents, approvals, notices, conflicts, breaches or defaults as could not reasonably be expected to have a Material Adverse Effect or (iv) result in, or require the creation or imposition of, any lien upon or with respect to the MISMO Intellectual Property. In addition, the Assessor Applicant is not aware of any facts or circumstances that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

(d) **Due Execution, etc.** This Agreement constitutes, and when executed and delivered by the Assessor Applicant will constitute a legal, valid and binding obligation of the Assessor Applicant, enforceable in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws
of general applicability relating to or affecting creditors’ rights generally and to general principles of equity.

(e) **Litigation, Proceeding, etc.** There is no action, suit, notice of violation, proceeding or investigation pending or, to the best knowledge of the Assessor Applicant, threatened against or affecting the Assessor Applicant or any of its subsidiaries or any of their respective properties before or by any governmental entity which (i) could (individually or in the aggregate) reasonably be expected to have a Material Adverse Effect or (ii) would (individually or in the aggregate) impair the ability of the Assessor Applicant to perform fully on a timely basis any obligations which it has under this Agreement.

(f) **Insurance.** Policies for all the insurance referenced in 6.2(a) below are in full force and effect and none of the Assessor Applicant or its subsidiaries is in default in any material respect under any of the policies.

(g) **Information Provided.** Neither this Agreement nor any other written document delivered to MISMO in connection with an Application for Authorization contemplated hereby contain any untrue statement of a material fact or omit any material fact necessary to make the statements herein or therein, as the case may be, in light of the circumstances under which it was made, not misleading, and all material information regarding the Assessor Applicant and its subsidiaries is provided therein.

6.2 **Covenants of the Assessor Applicant.** The Assessor Applicant covenants as of the date hereof as follows:

(a) **Insurance.** The Assessor Applicant and its subsidiaries will carry and maintain commercial general liability and errors and omissions insurance. Errors and omissions insurance shall include internet professional services and computer business risks liability coverage (including, but not limited to, coverage for virus transmission, unauthorized access and the disclosure of confidential or private information.).

(b) **Licensure.** At all times during the term of this Agreement, Assessor Applicant shall be licensed to conduct business by the applicable government authority in every state and territory of the United States and in any other jurisdiction in which Assessor Applicant operates and for which a license is required.

(c) **Representations.** All representations made hereunder shall remain accurate for the term of this Agreement.

(d) **Program Documentation.** Assessor Applicant shall remain versed in the most current version of the Program Documentation.

(f) **Business Capabilities.** Assessor Applicant maintains business expertise, experience, and other qualifications in the following areas or as otherwise described in the Program Documentation:
1. Assessor Applicant is MISMO-knowledgeable including history of the standards and versions currently implemented throughout the industry.

2. Assessor Applicant is an active participant in the MISMO Education Program, has active internal MISMO knowledge transfer programs, or both.

3. Assessor Applicant has Financial Services Compliance Assessment experience.

4. Assessor Applicant has Mortgage Technology Consulting Experience.

5. Assessor Applicant has deep knowledge of software development practices including the system development lifecycle as well as experience in XML development and XML implementation options and best practices.

6. Assessor Applicant has experience assessing software products with regard to compliance in meeting technical and process requirements.

7. Assessor Applicant has key personnel with MISMO training and all other experience described above.

8. Assessor Applicant has no conflict of interest (direct or indirect) with the party being assessed which shall include providing Authorized Services to any company for which the Assessor Applicant has developed software within the domain being assessed.

9. Assessor Applicant does not develop for commercial sale or its own use, own, or manage software in any of the compliance domains for which certifications are available.

10. Assessor Applicant can describe its methodologies and associated level of effort for conducting assessments.

11. Assessor Applicant can provide three references.

12. Assessor Applicant can provide an oral presentation as part of the evaluation process.

ARTICLE VII

NOTIFICATION AND CORRECTIVE ACTION

7.1 Corrective Action. Upon notice of any failure to meet a Program requirement for which corrective action is possible, the Assessor Applicant agrees to cooperate with MISMO and to undertake corrective actions as required by MISMO, at the Assessor Applicant’s expense, to ensure that all Services bearing the Authorized Assessor Mark
are or shall be brought into compliance with the applicable Program Documentation. If such corrective action is not taken or no such action is applicable, MISMO reserves the right to take whatever legal recourse is needed to address the removal of the Authorized Assessor Mark from the Service, advise appropriate parties or terminate this request.

**7.2 Temporary Restrictions.** In the event of the Assessor Applicant’s default in respect of any terms of this Agreement or as part of corrective actions referred to in Section 7.1, MISMO may institute restrictions on the Assessor Applicant’s right to represent the affected Services as Authorized.

**7.3 Decisions Final.** Corrective action required under this Section 7 is without appeal and the Assessor Applicant agrees to abide by MISMO’s decision, provided that to the extent possible, MISMO will provide reasonable cooperation to Assessor Applicant to assist Assessor Applicant in undertaking or completing such corrective action.

**ARTICLE VIII**

**LIMITATION OF LIABILITY AND INDEMNITY**

**8.1 Limitation of Liability.** ASSESSOR APPLICANT ACKNOWLEDGES THAT EVERY BUSINESS DECISION TO SOME DEGREE REPRESENTS AN ASSUMPTION OF RISK AND THAT MISMO AND THE MBA, IN FURNISHING AUTHORIZATION SERVICES HEREUNDER, DO NOT ASSUME ASSESSOR APPLICANT’S RISK. ASSESSOR APPLICANT AGREES NOT TO HOLD MISMO OR THE MBA LIABLE FOR ANY LOSS OR INJURY ARISING OUT OF OR CAUSED, IN WHOLE OR IN PART, BY MISMO OR THE MBA’S ACTS OR OMISSIONS IN PROCURING, COMPILING, COLLECTING, INTERPRETING, REPORTING, COMMUNICATING, OR DELIVERING THE MISMO EVALUATION. NEITHER MISMO NOR THE MBA SHALL BE LIABLE FOR ANY LOSS, INJURY, CLAIM, LIABILITY, OR DAMAGE OF ANY KIND RESULTING IN ANY WAY FROM (A) ANY SERVICES PROVIDED BY ASSESSOR APPLICANT, (B) INACCURACIES OR ERRORS IN, OR OMISSIONS PROVIDED TO MISMO BY ASSESSOR APPLICANT OR ANY THIRD PARTY, OR (C) USE OF ANY AUTHORIZED ASSESSOR MARK (REGARDLESS OF WHETHER IT RECEIVED ANY ASSISTANCE FROM MISMO OR THE MBA IN USING SUCH). THE ASSESSOR APPLICANT AGREES AND ACKNOWLEDGES THAT RELIANCE ON A MISMO AUTHORIZED ASSESSOR MARK OR OTHER MATERIALS, INFORMATION, OR DATA OTHERWISE PROVIDED BY MISMO OR THE MBA IS AT THE RISK OF THE PARTY SO RELYING, AND IN NO WAY WILL MISMO OR THE MBA BE LIABLE FOR ANY PARTY’S DECISION TO ENTER INTO OR REFRAIN FROM ENTERING INTO ANY TRANSACTION FOR ANY REASON.

**8.2 Indemnity.** The Assessor Applicant agrees to hold MISMO and the MBA harmless, and to defend and indemnify MISMO, the MBA, and their respective members, directors, officers, agents, contractors and employees against any injury, loss, liability, damages, costs and/or expenses arising out of any misuse by the Assessor Applicant of the Authorized Assessor Mark; any violation by the Assessor Applicant of the terms and
conditions of this Agreement; any damage or injury to MISMO, the MBA or MISMO property caused by the Assessor Applicant’s or its personnel’s act, omission or negligence; the use or reliance upon any requirement by the Assessor Applicant; or the use by any party of any Service provided by Assessor Applicant, even if such Service is Authorized or properly bears the Authorized Assessor Mark, except to the extent that such injury, loss, liability, damages, costs and/or expenses are caused by the negligence or intentionally wrongful actions of MISMO or the MBA. This Section shall survive termination of this Agreement.

8.3 Consequential Damages. In no event and under no theory of liability other than a claim arising from the breach of rights in any trademark, trade dress, trade secret, patent or copyrighted material shall any party be liable to the other party, its affiliates or subsidiaries or their respective employees, directors, customers or officers for indirect, incidental, special, punitive or consequential damages arising out of or in connection with any breach of this Agreement or performance of the obligations hereunder, whether or not such party has been advised of the possibility of such damages.

ARTICLE IX
ADMINISTRATION

9.1 Changes of Record. The Assessor Applicant shall immediately notify MISMO when any change is made in the name, address, ownership, insurance, or licensure of the Assessor Applicant. The Assessor Applicant shall provide proof of the change in the form required by MISMO.

9.2 Annual Fees. The Assessor Applicant agrees to pay to MISMO an application fee and an authorization fee as specified in the Fee Table on mismo.org.

9.3 Fee Changes. MISMO reserves the right to change its fees for all Services offered under this Agreement, including those described in this Article IX, on a periodic basis, and the Assessor Applicant agrees to pay such increased fees at the time of Assessor Applicant’s next renewal.

ARTICLE X
TERMINATION

10.1 Term and Termination. This Agreement comes into effect upon signature of both parties, on the date last signed, and (i) will expire if an Applicant has no active Authorizations in any six month period, or (ii) will terminate as set forth in this paragraph. Authorized Assessor status under this Agreement comes into effect at the date of Notification of Authorization to the Applicant and will expire on its first anniversary. The Agreement will terminate as to any Authorization, if such Authorization is not timely renewed in accordance with this Agreement. This Agreement may be terminated by either party upon 30 days’ prior written notice to the other party of a breach of this
Agreement or of the terms of the Program Documentation, and such a breach has not been rectified to the satisfaction of the other party. MISMO may terminate this Agreement immediately if the credit card on file for payment of fees incurred by Assessor Applicant is expired or is rejected upon presentation for payment. In addition, either party may terminate this Agreement with thirty (30) days prior written notice to the other party as long as no Authorizations are in effect or then in process. If an Applicant desires to apply for Authorization after expiration or termination of this Agreement, the Applicant will have to enter into the then current MISMO Compliance Assessor Authorization Agreement.

Notwithstanding the termination of this Agreement, the obligations of non-disclosure in respect of any confidential information disclosed prior to such termination shall survive for a period of three (3) years following such termination. Further, indemnification obligations hereunder as well as the disclaimers of liability set forth herein will survive any termination of this Agreement.

10.2 Bankruptcy or Reorganization of the Assessor Applicant. This Agreement shall be automatically terminated and any related Certificate of Authorized Assessor Status shall be automatically revoked if the Assessor Applicant files a receiving order for the benefit of creditors, a petition in bankruptcy, files for reorganization under bankruptcy or similar laws, or is adjudged a bankrupt. The Assessor Applicant agrees to notify MISMO promptly upon the occurrence of any of these events.

10.3 Procedure on Termination. Upon the termination of this Agreement, all Certificates of Authorized Assessor Status issued hereunder are automatically revoked and the license granted by MISMO regarding usage of the Authorized Assessor Mark by the Assessor Applicant shall no longer apply. MISMO shall have the right to remove the Assessor Applicant’s name and list of Authorized Services from any listing of Authorized Assessors published on the MISMO Web Site or in any other format. The Assessor Applicant agrees to immediately cease using and displaying Authorized Assessor Marks, MISMO Intellectual Property and such certificate. Termination of this Agreement by whatever means shall not affect any liability of the parties existing as of the date of such termination, including but not limited to an obligation to indemnify a party hereunder for claims arising from events occurring prior to such termination. Following Termination of this Agreement, upon MISMO’s request, the Assessor Applicant shall permit MISMO to conduct inspection(s) as required, at MISMO’s expense, for as long as necessary in MISMO’s judgment to verify that the Assessor Applicant has discontinued applying MISMO Authorized Assessor Mark(s) to its Services and marketing or promotional material in any medium, whether printed, electronic or otherwise. The requirement for such inspections shall survive the termination or expiration of this Agreement. No refunds of annual fees will be provided by MISMO regardless of the cause of termination.
ARTICLE XI
MISCELLANEOUS PROVISIONS

11.1 Third Party. MISMO in performing its function in accordance with its objects and purposes does not assume or undertake to discharge any responsibility of the Assessor Applicant to any other party or for compliance with applicable laws. Nothing in this Agreement shall be considered to create a partnership, joint venture or similar relationship between the parties. In the performance of all work, Assessor Applicant is an independent contractor, with the sole right to supervise, manage, control and direct the performance of the details of such work to be performed by Assessor Applicant.

11.2 Communications. Any notice, communication or demand given or made in reference to this Agreement shall be in writing and delivered by hand, mail or electronic mail to the other party at its address as set out in the current Authorization Record (unless amended by written notice). Communication shall be deemed to have been received upon confirmation of receipt.

11.3 Non-Assignability. This Agreement, including the license to use the Authorized Assessor Mark, shall not be assigned by the Assessor Applicant without the written consent of MISMO. Any assignment prohibited hereunder shall be null and void.

11.4 Applicable Law. This Agreement shall be governed by and interpreted in accordance with the laws of the District of Columbia regardless of the place of execution and without regard to DC’s conflict of law provisions. Courts located in the District of Columbia shall have exclusive jurisdiction to hear any matter or dispute arising from this Agreement.

11.5 Third Party Beneficiary. The MBA and its members are specifically made third party beneficiaries of the indemnities and limitations of liability applicable to the MBA hereunder.

11.6 Application of Agreement. This Agreement applies to all Services for which Authorization is applied for or granted. When the right of the Assessor Applicant to represent one or more of its Services as Authorized is cancelled or suspended, this Agreement remains in effect for all other Services Authorized by MISMO which are not affected by such cancellation, delisting or suspension.

11.7 Waiver. Neither party’s failure to enforce strict performance of any provision of this Agreement will constitute a waiver of a right to subsequently enforce such a provision. No modification, extension or waiver of this Agreement shall be valid unless made in writing and signed by an authorized representative of the party to be charged. No written waiver shall constitute, or be construed as, a waiver of any other obligation or condition of this Agreement.

11.8 Severability. If any provision of this Agreement (or any portion thereof) shall be held to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remainder hereof, shall not in any way to be affected or impaired thereby.
11.9 **Counterparts.** This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

11.10 **Headings.** The headings in this Agreement are intended for convenience of reference and shall not affect its interpretation.

11.11 **Entire Agreement.** Each party acknowledges that it has not been induced to enter into this Agreement by any representation or warranty not set forth in this Agreement. This Agreement, all exhibits, schedules, amendments and supplements hereto contains the entire agreement of the parties with respect to its subject matter and supersedes all existing agreements and all other oral, written or other communications between them concerning its subject matter. No modification, extension or waiver of this Agreement shall be valid unless made in writing and signed by an authorized representative of the party to be charged.

MISMO AND THE ASSESSOR APPLICANT HAVE ENTERED INTO THIS AGREEMENT AS OF THE DATE LAST SIGNED BELOW.

The Mortgage Industry Standards Maintenance Organization, Inc

<Enter COMPANY>

Name: ____________________________  Name: ____________________________

Title: ____________________________  Title: ____________________________

Date: Pick a date here.  Date: Pick a date here.
1. Using the Authorized Assessor Marks

1.1 Introduction. Trademarks are valuable assets for any organization because they:

• Identify and distinguish a product or service
• Serve as an assurance of consistency of quality
• Assist in advertising and promoting a service or product

A mark owner’s rights in can be lost as a result of careless or improper use, usually when a mark is consistently used as a generic or descriptive word for a product. All of the following were once valuable marks: aspirin, escalator, cellophane, zipper, shredded wheat, corn flakes, and kerosene. All became common or generic words because they were not used carefully and correctly.

These Guidelines describe the rules for the use of the Authorized Assessor Marks set out in the Certificate of Authorized Assessor Status provided to Assessor Applicant.

1.2 Legal Status. These Guidelines form Exhibit A of the MISMO Compliance Assessor Authorization and Conditional License Agreement. They are an integral part of the Agreement and should be read in conjunction with it. The Agreement defines the conditions and technical criteria that must be fulfilled before an Assessor Applicant, referred to in these guidelines as “Licensee,” may make use of Authorized Assessor Marks. These Guidelines define the permitted visual presentation, form, and manner in which the Marks can be used by a Licensee who complies with those conditions and technical criteria. Licensee shall comply with all the provisions herein. Failure to comply with the mandatory provisions of these Guidelines constitutes a breach of the Agreement. The Authorized Assessor Marks are to be used solely on or in relation to the applicable authorized Assessor Services. THESE GUIDELINES, BY THEMSELVES, DO NOT OPERATE TO GRANT PERMISSION FROM MISMO TO USE ANY OF ITS MARKS. When permission for use of a specified MISMO Authorized Assessor Mark is granted, it is only for use of the listed MISMO Authorized Assessor Mark only and does not extend to any other MISMO Marks.

2. Rules for Proper Usage.

2.1. In text, Licensees are encouraged to refer to its authorized services in a manner equivalent to one of the following examples, and also to apply the additional rules set forth at the end of this paragraph.

• "My company is authorized by MISMO® to conduct Premiere Level Compliance Certification assessment services through January 2015"
• "My company is MISMO® authorized to conduct Premiere Level compliance assessments under the MISMO Software Compliance Program.

2.2 The graphic design rules of the Authorized Assessor Mark must be strictly adhered to. The Authorized Assessor Mark must always be used with white space around it and must never be superimposed on or used in association with other graphics or trademarks.

2.3 The Authorized Assessor Marks whenever and wherever they appear in print or online media must be distinguished from the surrounding text. This applies to all forms of media, including advertising copy, product packaging, brochures, manuals, internal memoranda, editorial, articles, correspondence, overhead projector slides, presentations, web sites and e-mails.

2.4 The first or most significant occurrence of the Authorized Assessor Mark, as well as the name “MISMO” when used in text, must have the required attribution as a footnote. The attribution should use the ® symbol for MISMO, which is a registered trademark and the SM symbol for an unregistered Authorized Assessor Mark. A correct attribution is “The MISMO logo is a registered trademark and the Authorized Assessor Mark is a service mark of the Mortgage Industry Standards Maintenance Organization, Inc.”

The following are examples of how the MISMO Authorized Assessor Mark would be used with the appropriate attribution:
3. Use of the Authorized Assessor Mark

3.1 Use of an Authorized Assessor Mark in Advertisements. All use of an Authorized Assessor Mark in advertisements, display boards, promotional material, and product catalogs must be in relation to Certified Products. If an advertisement, document, or other material refers both to authorized and unauthorized services that Licensee provides, the Authorized Assessor Mark must not be used in such a way as to suggest that all services have been authorized.

3.2 Combination of Authorized Assessor Marks in Product Names. The Authorized Assessor Marks may be used in conjunction with a service name only with the prior written permission of MISMO. Such permission may be withheld in the sole discretion of MISMO. Comprehensive examples of proposed usage and any graphic representation must be submitted with the request to MISMO.

3.3 Colors. The color references refer to the International Pantone Matching System (PMS) and process breakdowns for printed materials and the HEX colors for online media. Whenever the colors are used in the Authorized Assessor Marks, they must be accurately matched to the standard. Colors must never be applied to the Authorized Assessor Marks as a screen or a tint. Color reproduction is preferred and should be applied where practical. The specified PMS color must be used in Mark reproductions as far as the printing or rendering process allows.

When working in color, the Mark must use the following values:
PMS (for print): 2728 Process breakdowns/CMYK  100/69/0/0
Hex (for online): 003399
Note: if two color, the Mark color should be the darker of the two colors.
When working in black and white, the Mark must appear in black (not reversed out of black)

3.4 Publishing on the Internet. When published on the Internet, the Authorized Assessor Mark must be either: (a) protected from being downloaded through the use of scripting or coding, or (b) protected from being downloaded by dividing the mark into sections that can only be individually downloaded and cannot be pieced together in a practicable manner.

When using the manner described in (b) above, the mark must be divided into a minimum of four (4) sections of either varying width or height. However, when published on the Internet by Licensee, these sections must fit together to form a seamless image to the viewer.
3.5 **Hyperlink.** When the Authorized Assessor Mark is presented as a logical or virtual representation, a link to the Web Site must be provided. Interested parties should be redirected to mismo.org.

3.6 **Sizing and Positioning.** General conditions for print: The Authorized Assessor Mark must be sized proportionally and be no taller than .5 inches.

General conditions for online media: The Authorized Assessor Mark may not be changed in size to avoid file degradation (pixilation).

The Authorized Assessor Marks should stand alone and must always be surrounded by a generous amount of space. They must not be enclosed within a contrived shape or used as part of another symbol or name (except as prescribed in Paragraph 3.4 above). Surrounding text and elements must clear the Mark by at least 18pts (0.25”)

The Mark must not be juxtaposed to or with other symbols or text in such a way as to show a connection with them.

For purposes of protecting the Authorized Assessor Marks and their registration, MISMO reserves the right to request from Licensee a copy of the final published form of materials on which the Authorized Assessor Marks are used.

To change a logo beyond the provided dimensions, or for additional information, contact MISMO by phone or electronic mail at info@mismo.org.

4. **Artwork.** Electronic files with the artwork for the Authorized Assessor Marks will be provided for your use in print and online media. Refer to Section 3 for further explanation of use.

**Note:** The use of the MISMO trademark and the Authorized Assessor Marks is strictly controlled and it may only be used on and in connection with a company’s authorized assessor services under the terms and conditions of the MISMO Compliance Assessor Authorization and Conditional License Agreement.