

**IBIS SOFTWARE CORPORATION**

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**Ibis RMC SOFTWARE LICENSE AGREEMENT v2009**

This software license agreement (the "License Agreement") between Ibis Software Corporation, a Delaware Corporation ("Ibis"), and its heirs or assignees (collectively called "Licensor") and

\_\_\_\_\_ ("Licensee") is

dated \_\_\_\_\_, 20\_\_\_\_. Licensee's contact information is:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Street: \_\_\_\_\_

City, State, ZIP: \_\_\_\_\_

Phone: \_\_\_\_\_

FAX: \_\_\_\_\_

Email: \_\_\_\_\_

Ibis's federal EIN is 94-3349239.

**1. LICENSE:** Ibis hereby grants Licensee a non-exclusive license to use and customize a basic version of the Ibis Online Reverse Mortgage Calculator software ("RMC") that will be hosted on an Internet domain website selected by Ibis. The basic version of RMC has an input page and an output recap page plus up to four more pages selected by the Licensee. Licensee agrees that all title and copyrights in and to Ibis RMO and any copies thereof are owned by Licensor. Licensee agrees to maintain all copyright notices on all copies of Ibis RMO. Licensee agrees that the methodology, calculations, and reports used or performed in Ibis RMO are the intellectual property of Licensor. Licensee agrees to not copy, duplicate, emulate, or reverse engineer Ibis RMO nor to offer, participate, assist, or deal with any parties that do so.

**2. LICENSEE:** Licensee's website will link to RMC active server pages that are hosted on Ibis's server. A unique URL will be assigned to Licensee by Ibis, and RMC pages will link back to the Licensee's website. Licensee may format the RMC pages so long as changes do not detract from the disclosures and explanations found on RMC's "Help" and other information pages. Despite any time and money that Licensee may expend on customizing the pages of their licensed copy of RMC or their own website to link to or discuss RMC, Licensee agrees that all copies of RMC, its pages and its contents will remain the sole property of Ibis.

Licensee understands that a master calculation module created, maintained and owned by Ibis is

the common background to Licensee's and other users' access of RMC. Licensee will supply Ibis with loan fees, service fees, margins and other static fields as requested by Ibis that Licensee desires Ibis to include in RMC. Licensee acknowledges that the fees they choose will flow through to the results shown by RMC and visitors will see different benefits if they access a different licensee's copy of RMC that is using different fees and costs. Ibis will suggest figures to Licensee that reflect common reverse mortgage industry practice.

RMC has the capability to include several proprietary loan products (“Jumbos”). In order to display a Jumbo, Licensee must fax or email Ibis a message stating that the Jumbo’s vendor has agreed that Licensee’s version of RMC can include that respective Jumbo.

**3. Ibis OBLIGATIONS:** Ibis will maintain RMC, updating interest rates weekly. Lending limits available in the 3,200 U.S. counties and the ZIP code lookups that determine the county will be updated by Ibis as necessary.

Ibis shall endeavor to keep RMC active and available for access via the Internet twenty-four (24) hours a day, and shall correct any access problems or errors in functionality within eight (8) Pacific-time business hours of Licensee’s initial report of a problem. If at any time during the term of this Agreement, RMC is unavailable for more than eight (8) Pacific-time business hours subsequent to Licensee’s initial problem report, due to failure on the part of Ibis or its web site host (“Host”), Licensee shall have the right to seek reimbursement of a prorated share of fees paid for the period of failure. Ibis shall not be liable for failures due to general Internet traffic congestion or other problems outside of Ibis’s or its Host’s control.

Notwithstanding any other clause of this Agreement, should the period of failure exceed seven (7) days, Licensee shall have the right to immediately terminate this Agreement for cause and seek reimbursement of the prorated balance of fees paid.

**4. FEES:** All fees due Ibis shall be paid annually in advance (twelve months) except during the initial term when the number of months remaining in the calendar year shall be paid in advance. Note that the Consumer Spanish version only includes two HECM reverse mortgage programs.

	HECM for Purchase	Consumer Calculators		
		English-only	English + Spanish	
<b>2009 Monthly Loans</b>	2009 Monthly License	2009 Monthly License	2009 Monthly License	One Time Set-Up Fee
<b>0 - 10</b>	\$150	\$150	\$260	\$750
<b>11 - 20</b>	\$300	\$300	\$525	\$750
<b>21 - 40</b>	\$450	\$450	\$800	\$750
<b>41 - 80</b>	\$750	\$750	\$1,300	None
<b>81 - 1,000</b>	\$1,150	\$1,150	\$2,000	None
<b>Over 1,000</b>	Call	Call	Call	None

Licensee should fill in the blanks below.

The license is for the \_\_\_\_\_(enter HECM for Purchase or Consumer English Only or Consumer English + Spanish) version. The initial license fee shall be

\_\_\_\_\_ per month. Each calendar year the monthly license fee will increase depending on Licensee's HECM volume and Ibis's costs. On the Consumer Spanish version there is a one-time initial set-up fee of \_\_\_\_\_.

**5. TERM:** The initial term of this Agreement shall be for the \_\_\_\_\_ months commencing \_\_\_\_\_ and ending December 31, \_\_\_\_\_. Subsequent terms will be full calendar years, and this Agreement will be considered to be in force unless terminated by either party with thirty (30) days written notice prior to the end of a calendar year.

If terminated by Licensee (1) Licensee agrees that there will be no refund of fees paid in advance, except as otherwise described in Section 4 of this Agreement, and (2) at Licensee's option, Ibis will leave the Licensee's copy of RMC active on the site. If terminated by Ibis without cause, Ibis will refund prorated fees paid in advance by the Licensee. Ibis may terminate this Agreement at any time for cause. Licensee agrees to destroy or delete all copies of RMC and related software product when any termination takes effect.

**6. CONFIDENTIALITY/PRIVACY:** Licensee agrees that all information derived from Ibis RMO or any other Licensor software (the "Software Product") is the confidential and proprietary information and trade secret of Licensor (the "Confidential Information") and shall treat it as such and not use it for purposes other than as contemplated in this License Agreement or make disclosure thereof to any other entity or individual without Licensor's prior written consent. Licensee will use commercially reasonable efforts to keep Licensor's Confidential Information secure.

Licensor agrees that all data of Licensee, including client data, stored in the Ibis RMO database is the confidential and proprietary information of Licensee (the "Confidential Information"). Licensor agrees that it will not use or disclose Licensee's Confidential Information, other than to track Ibis RMO usage and compliance with the terms of this agreement, nor share Licensee's Confidential Information with any third party. Licensee acknowledges that the Ibis RMO data is stored in a SQL database hosted on a secure server. Licensor will use commercially reasonable efforts to keep Confidential Information secure.

For the purposes of this paragraph, "commercially reasonable efforts" means compliance with the obligations imposed by: (a) Title V of the Gramm-Leach-Bliley Act, 15 U.S.C. §§ 6801 *et seq.*; (b) the applicable federal regulations implementing such act and codified at 12 CFR Parts 40, 216, 332, and/or 573; (c) the Interagency Guidelines; and (d) other applicable federal, state and local laws, rules, regulations, and orders relating to the privacy and security of Customer Information, including without limitation the federal Fair Credit Reporting Act, 15 U.S.C. §§ 1681 *et seq.*, and similar state laws.

**7. COMPLIANCE WITH THE LAW:** If Licensor or Licensee becomes legally compelled (by interrogatories, requests for information or documents, subpoenas, civil investigative demands, applicable regulations or similar processes) to disclose any Confidential Information, it agrees to provide the other with prompt notice of that request(s) so that the other may seek an appropriate protective order or other appropriate remedy and/or waive compliance with the provisions of this License Agreement.

**8. PROPRIETARY RIGHTS INDEMNIFICATION:** Licensor represents and warrants to the Licensee that no item of the Software Product provided under this License Agreement is currently the subject of any litigation known to Licensor, and, to its knowledge, Licensor has all right, title, ownership interest, and/or marketing rights necessary to provide the Software Product to Licensee and that each License, the Software Product and their use hereunder do not and shall not directly or indirectly violate or infringe upon any copyright, patent, trade secret, or other proprietary or intellectual property right of any third party or contribute to such violation or infringement (“Infringement”). Licensor shall indemnify and hold Licensee and its successors, officers, directors, employees, and agents harmless from and against any and all third party demands seeking damages as well as any defense expenses (limited to fees, costs, or expenses of hired or appointed attorneys; the costs of proceedings involved in the suit, including court reporter’s, arbitrator’s or mediator’s fees; and independent expert’s or special investigator’s fees, costs or expenses) resulting from or arising out of any claims, complaints or causes of action relating to the Software Product (so long as it has not been modified or altered in any fashion by anyone other than Licensor), any breach or claimed breach of the foregoing warranties, or any claim of an Infringement, and Licensor shall defend and settle, at its expense, all suits or proceedings arising therefrom. Licensee shall inform Licensor of any such suit or proceeding against Licensee. Licensor shall control the defense of any such claim or action but Licensee shall have the right to participate in the defense of any such suit or proceeding at its expense and through counsel of its choosing. Licensor shall notify Licensee of any actions, claims, or suits against Licensor based on an alleged Infringement of any party’s intellectual property rights in and to any component of the Software Product. In the event an injunction is sought or obtained against use of the Software Product or in Licensee’ opinion is likely to be sought or obtained, Licensor shall promptly, at its option and expense, either (i) procure for Licensee the right to continue to use the infringing Software Product as set forth in this License Agreement, or (ii) replace or modify the infringing Software Product to make its use non-infringing while being capable of performing the same function without degradation of performance. In the event Licensor is unable to provide substitute software in accordance with the provisions of this Section, this License Agreement shall be deemed terminated by Licensor, and Licensee shall be entitled to a prorated share of any License Fees paid in advance.

**9. LIMITATION ON DAMAGES:** Licensor’s liability under this License Agreement is limited to the actual, direct damages incurred by Licensee and shall in no event exceed the sum of the amounts paid by Licensee to license Ibis RMO. In addition, to the maximum extent permitted by applicable law, in no event shall Licensor, its licensees, or licensor be liable for any special, incidental, indirect, or consequential damages whatsoever (including, without limitation, damages for loss of business profits, business interruption, loss of business information, or any other pecuniary loss) arising out of the use of, or in any way related to, the accuracy, completeness, or adequacy of the information provided, produced or developed by the software product, or for loss of business inability to use the software product, even if Licensor, its licensees, or licensor has been advised of the possibility of such damages.

Licensee agrees that if Ibis RMO interacts with Document Providers selected by Licensee, any documents produced by such interaction are not warranted by Licensor.

**10. ARBITRATION:** Any controversy or claim arising out of or relating to this License Agreement, or the breach hereof, shall be settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the award

rendered by the arbitrator may be entered in any court having jurisdiction thereof. The parties also agree that the AAA Optional Rules for Emergency Measures of Protection shall apply to the proceedings. The arbitration proceedings are to be conducted in the County of San Francisco, State of California, before a single Arbitrator. However, nothing herein precludes Licensor from seeking any injunctive or provisional remedies from a court of applicable jurisdiction.

**11. CALIFORNIA LAW:** The parties hereto agree that their respective legal rights and obligations under this License Agreement shall be governed by the internal laws of the state of California and that any action to enforce this License Agreement, including, but not limited to the filing of any lawsuit (subject to Paragraph 10 above), petition to compel arbitration or pursuit of any provisional remedies shall take place in the County of San Francisco, State of California. Each party irrevocably consents to exclusive jurisdiction of the resolution of any dispute in the County of San Francisco, State of California.

**12. INTEGRATION.** This License Agreement constitutes the entire agreement and understanding of the parties with respect to the transaction contemplated hereby, and supersedes all prior agreements, arrangements and understandings related to the subject matter hereof. No representation, promise, inducement or statement of intention has been made by any of the parties hereto not embodied in this License Agreement or in the documents referred to herein, and no party shall be bound by, or be liable for, any alleged representation, promise, inducement or statements of intention not set forth or referred to herein.

**13. BINDING EFFECT.** All of the terms, covenants, representations, warranties and conditions herein shall be binding upon, and inure to the benefit of, and be enforceable by, the parties hereto, and their respective successors, assignees and delegates, including, but not limited to, successor corporations.

**14. WAIVER.** This License Agreement may not be amended, modified, superseded or cancelled, nor may any of the terms, covenants, representations, warranties or conditions hereof be waived, except by a written instrument executed by the party against whom such amendment, modification, supersedure, cancellation or waiver is charged. The failure of any party at any time or times to require performance of any provision hereof shall in no manner affect the right at a later time to enforce the same. No waiver by any party of any condition, or of any reach of any term, covenant, representation, or warranty contained herein, in any one or more instances, shall be deemed to be, or be construed as, a further or continuing waiver of any such condition or breach or waiver of any other condition or of any breach of any other term, covenant, representation or warranty.

**15. CONSTRUCTION.** The captions and headings contained herein are for convenient reference only, and shall not in any way affect the meaning or interpretation of this License Agreement. All references in this License Agreement to a "person" mean and refer to natural persons, partnerships, corporations, trusts, associations, governmental agencies and any other entity of any kind whatsoever. Notwithstanding any rule or maxim of construction to the contrary, any ambiguity or uncertainty in this License Agreement shall not be construed against either party based upon authorship of any of the provisions hereof.

**16. COUNTERPARTS AND FACSIMILE SIGNATURES.** This License Agreement may be executed by facsimile signature and executed in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

**17. ATTORNEYS' FEES.** In the event that any party shall bring an action in connection with the performance, breach or interpretation of this License Agreement, or any action related to the transaction contemplated hereby, the prevailing party in such action, as may be determined by the court or other tribunal having jurisdiction, shall be entitled to recover from the losing party in such action, also as determined by the court or other tribunal having jurisdiction, all actual costs and expenses of such litigation, including attorneys' fees, court costs, costs of investigation, accounting, and other costs reasonably related to such litigation, in such amount as may be determined in the discretion of the court or other tribunal having jurisdiction of such action.

**18. SEVERABILITY.** In the event that any provision hereof is determined to be illegal or unenforceable, such determination shall not affect the validity or enforceability of the remaining provisions hereof, all of which shall remain in full force and effect.

**19. FURTHER DOCUMENTS.** The parties each hereby covenant and agree that, from time to time, after the date hereof, at the reasonable request of any party, and without further consideration, they will execute and deliver such other documents and take such other action as may be reasonably required to carry out in all respects the transactions contemplated and intended by this License Agreement.

**20. NOTICES.** All notices, demands, and other communications required or permitted to be given hereunder shall be deemed to have been duly given and received if in writing and delivered personally or ninety-six (96) hours after deposit in the United States mail, first class, postage prepaid, registered or certified mail, return receipt requested, addressed as set forth on the first page hereto. Any party may change the address to which communications are to be directed by giving written notice to the other parties in the manner provided for herein.

**Licensee:** \_\_\_\_\_

By: \_\_\_\_\_

Print: \_\_\_\_\_

**Ibis Software Corporation**

By: \_\_\_\_\_

Gerald C. Wagner, its President