

MORTGAGE BROKER AGREEMENT

THIS MORTGAGE BROKER AGREEMENT (together with all exhibits and amendments, "Agreement") is entered into as of _____ by and between Sky Mortgage Wholesale Lending Solutions (SKY) a dba of HOME MORTGAGE ALLIANCE CORPORATION ("Lender") and _____ ("Broker") (collectively, the "Parties").

WHEREAS, Broker is in the business of originating and Lender is in the business of making loans secured by residential real estate.

WHEREAS, the Broker intends to originate and process Submission Documents for government and/or conventional Loans for possible underwriting, closing and funding by SKY in accordance with SKY's most current product and program guidelines.

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, Lender and Broker hereby agree as follows:

1. **DEFINITIONS.** Whenever used herein, the following capitalized words and phrases shall have the following meanings:

Agency: Fannie Mae, Freddie Mac, the United States Department of Housing and Urban Development, the Federal Housing Administration, Ginnie Mae, the United States Department of Veterans Affairs, the Rural Housing Service and any other state or federal agency or government sponsored entity which acquires, sponsors or subsidizes mortgage loans.

Applicable Law: Any federal, state or local constitution, statute, rule, regulation, ordinance, administrative guidance or similar legal requirement or authority applicable to the creation, maintenance and authorization of business entities or the taking of applications for or origination or processing of mortgage loans or any related activity including but not limited to the Real Estate Procedures Act and Regulation X, the Equal Credit Opportunity Act and Regulation B, the Fair Housing Act, the Fair Credit Reporting Act, and the Gramm-Leach-Bliley Act; and any applicable and valid order, verdict, judgment or consent decree.

Application Package: With respect to each Mortgage Loan, (a) a completed loan application signed by all Borrowers, (b) all notices and disclosures required by Applicable Law and the Guidelines prior to the time of submission to Lender, and (c) documents and information Lender requires to underwrite the Mortgage Loan, including, but not limited to, credit reports, financial statements, verifications and any other information Lender requests all of which Broker shall provide at its sole expense.

Borrower: The applicant for and/or obligor on the promissory note evidencing the Mortgage Loan.

Guidelines: All published guidance of Lender or any Agency, including without limitation all announcements, bulletins, web postings, circulars, automated underwriting systems communications, underwriting manuals or guidelines, handbooks, policies and procedures now or hereafter existing which apply to an Application Package or Mortgage Loan.

Mortgage Loan: A loan which is the subject of this Agreement and secured by a one-to-four family residential dwelling, including, without limitation, the related disclosures and all other documents and information provided to or by Broker in connection with the mortgage loan.

2. BROKERS'S RESPONSIBILITIES / MORTGAGE LOAN APPROVAL

Broker shall submit to Lender Application Packages which conform to the Guidelines. Broker agrees and understands that nothing in this Agreement shall be construed as creating any obligation on the part of Lender to accept or approve any Application Package or to make a Mortgage Loan, all of which shall be in Lender's sole and absolute discretion.

If Lender approves an Application Package, Lender shall notify Broker in writing of its conditional approval of such Mortgage Loan, which notice shall state the material terms for such Mortgage Loan and the conditions required to be satisfied prior to closing such Mortgage Loan (the "Conditional Approval Letter"). Broker agrees that it shall not warrant or represent to Borrower or any party that Lender has finally approved or will approve or fund any Mortgage Loan until such time as Lender notifies Broker in writing of same.

Following its receipt of a Conditional Approval Letter, Broker shall, at its sole expense, provide such other documentation and perform such other functions as Lender may require facilitating the closing of such Mortgage Loan. Broker shall use its best efforts to deliver Mortgage Loans for which Lender has issued a Conditional Approval Letter and understands and agrees such duty is the essence of this Agreement.

Lender shall not be obligated to fund any Mortgage Loan that does not, in Lender's sole discretion, comply with this Agreement, Applicable Law or the Guidelines or which fails to satisfy the terms and conditions in the Conditional Approval Letter. All Mortgage Loans shall close in Lender's name with funds provided by Lender.

3. COMPENSATION

In performing its activities hereunder, Broker may be compensated for such services either from SKY or from the borrower, but not both. If any compensation of any type is received by Broker from the borrower in connection with a Loan, then (i) SKY shall have no obligation to pay any amount at all to Broker in connection with such Loan and (ii) Broker hereby certifies to SKY that it will accept no compensation or other payment from any other person or entity. Alternatively, if any compensation of any type is received by Broker from SKY in connection with a Loan, then Broker hereby certifies to SKY that it will accept no compensation or other payment from any other person or entity, including but not limited to the borrower, and the basis for such compensation from SKY shall be as set forth in the Lender Paid Broker Compensation Form in effect from time to time. All sums paid to Broker shall be in amounts actually disclosed to the borrower by Broker for such services, in accordance with applicable requirements, whether promulgated by federal, state or local agencies or authorities, SKY or its investors.

4. REPRESENTATIONS WARRANTIES AND COVENANTS

The covenants, representations and warranties set forth in this Agreement shall survive delivery of an Application Package, funding of any related Mortgage Loan and the termination of this Agreement.

Broker hereby represents, warrants and covenants to Lender that as of the date of this Agreement and as of the closing and funding of each Mortgage Loan:

1. Broker is duly organized, validly existing and in good standing under the law of the state of its organization and in compliance with all Applicable Law and the Guidelines.
2. Broker and its employees (as applicable) are properly licensed and/or registered on the Nationwide Mortgage Licensing System (“NMLS”), or exempt therefrom, and qualified to do business in all jurisdictions where it solicits for Mortgage Loans and conducts the activities contemplated hereunder. Broker shall notify Lender immediately upon the suspension, revocation, expiration or other termination of any license, registration or qualification, or of the taking of any action against Broker or its employees that could adversely affect Broker or its employees.
3. Broker has all requisite power, authority and capacity to enter into this Agreement and to perform its obligations hereunder. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary action and constitute a binding obligation of Broker.
4. No representation, warranty or written statement made by Broker in this Agreement, or in any written or verbal communication made to Lender in connection with the transactions contemplated hereunder, contains, or will contain, any misrepresentation of material fact, untrue statement of a material fact or omits, or will omit a material fact necessary to make the statement contained herein or therein not untrue or misleading.
5. Except as previously disclosed by Broker to Lender in writing, there is not pending or, to Broker’s knowledge, threatened, any suit, action, arbitration, investigation, or other proceeding, including an allegation of fraud by another lender, against Broker or its current or former officers, directors, shareholders, employees, representatives or agents.
6. Broker is in compliance with and not in violation of any Applicable Law, and each Application Package and Mortgage Loan complies in all respects with this Agreement, Applicable Law and the Guidelines.
7. There are no facts, circumstances or conditions with respect to any Application Package which Broker believes or has any reason to believe could be expected to cause the Mortgage Loan to become delinquent or adversely affect the value, marketability or insurability of such Mortgage Loan, or cause it to be considered a “high cost,” “covered loan,” “threshold” or “predatory loan” within the meaning of Applicable Law or the Guidelines. Broker has committed no act or omission that will impair or invalidate Lender’s interest in, or enforceability of, a Mortgage Loan. Broker has not adversely selected Application Packages for submission to Lender.
8. Broker directly originated the Application Package, and the Borrower was interviewed by a full-time duly licensed or registered employee of Broker. The Application Package and all information and documents submitted to Lender are in every respect valid and genuine, on their face what they purport to be, true, correct and accurate. Broker established the identity of the Borrower and conducted other due diligence in connection with each Application Package in accordance with Applicable Law and the Guidelines. No Application Package, information or documentation submitted to Lender contains any untrue, inaccurate, erroneous, fraudulent, or misleading statement of fact or omission, regardless of whether the information or documentation was prepared by Broker, Borrower or any third party.
9. No conflict of interest or business relationship of any kind exists between Broker and Borrower or any other party in connection with an Application Package including but not limited to any appraiser, title agent or attorney (collectively, “Vendors”). Should any conflict of interest or

business relationship arise hereafter, Broker will immediately notify Lender. Lender may determine, at its sole discretion, that Vendors are unacceptable.

10. The appraisal of the Mortgaged Property was ordered in compliance with Applicable Law and the Guidelines.
11. Within ten (10) days of Lender's written request at any time (including after termination of this Agreement), Broker shall provide additional documents or information and take all actions necessary to remedy any matter not in compliance with Applicable Law and the Guidelines, including assisting Lender in obtaining documentation relating to a Mortgage Loan from closing agents.
12. Broker shall notify Lender within one (1) Business Day: (i) of any material change in its financial condition or executive management; (ii) of any change in ten (10%) percent or more of its ownership; (iii) if any representation or warranty in this Agreement is or becomes untrue; (iv) of Broker's receipt of a writing from any lender or investor demanding that Broker indemnify such party or purchase a loan; and (v) if Broker enters into a decree or order with or receives notice of the finalization of an administrative enforcement action by any Agency, regulator or governmental sponsored entity.
13. Upon thirty (30) days' notice from Lender, Broker shall provide to Lender any and all documentation or information Lender reasonably requires regarding Lender including evidence of bonds, insurance and licenses.
14. Broker shall notify Lender immediately if Broker receives a subpoena relating to this Agreement or any Mortgage Loan submitted to Lender.

5. STATUS OF BROKER

Broker is an independent contractor and nothing in this Agreement shall be construed as making the Broker a joint venture, partner, agent, representative, or employee of SKY. Broker shall not hold itself out as such, nor shall it use SKY's name in any advertising, promotional or business materials.

6. CONFIDENTIALITY

Broker hereby agrees that the terms and conditions of this Agreement, Lender's products, the Guidelines and any advice or agreement to fund any Mortgage Loan hereunder shall be kept confidential and their contents shall not be divulged to any party without Lender's prior written consent except to the extent that it is necessary for Broker to disclose any such information in accordance with Applicable Law, or in working with legal counsel, auditors, taxing authorities or other governmental agencies. The obligations under this section are continuing and shall survive the termination of this Agreement.

7. NO SOLICITATION; RESCISSION; EARLY PAYOFF; EARLY PAYMENT DEFAULT

1. If Lender approves an Application Package hereunder, Broker covenants and agrees that it will not solicit or encourage, directly or indirectly, that Borrower obtain a mortgage loan from another Lender or refinance a Mortgage Loan closed pursuant to this Agreement. General mass media advertising by Broker shall not be prohibited by this Agreement. Nor shall Broker be prohibited from doing business with a Borrower who initiates contact with Broker.
2. If Lender approves an Application Package hereunder, Broker covenants and agrees that it will not solicit or encourage, directly or indirectly, that Borrower obtain a mortgage loan from another Lender or refinance a Mortgage Loan closed pursuant to this Agreement. General mass

media advertising by Broker shall not be prohibited by this Agreement. Nor shall Broker be prohibited from doing business with a Borrower who initiates contact with Broker.

3. Within ten (10) days after Lender notifies Broker of the following events, Broker shall refund to Lender any compensation Lender paid to Broker in connection with a Mortgage Loan: (i) the Mortgage Loan is paid in full on or before one hundred eighty (180) days after its consummation; or (ii) the Borrower fails to pay any amount due within thirty (30) days of the payment due date for any two of the first four payments even if such default is subsequently cured.

8. BUYBACK OBLIGATION

Broker will buyback any Mortgage Loan within ten (10) days of Lender's demand upon any of the following circumstances: (a) Lender discovers any evidence of fraud, misrepresentation or material omission in connection with the Application Package or the origination or processing of the Mortgage Loan; or (b) Broker breached this Agreement with respect to the Mortgage Loan. In Lender's sole discretion, Lender may permit Broker to cure a defect in lieu of purchasing the Mortgage Loan.

If Lender demands that Broker purchase a Mortgage Loan, the buyback price shall be equal to: (a) the principal balance of such Mortgage Loan as of the purchase date; plus (b) accrued but unpaid interest up to and including the date of purchase; plus (c) all advances, servicing fees and accrued ancillary income; plus (d) Lender's out of pocket expenses, including attorneys' fees, whether or not a law suit is filed, relating to such Mortgage Loan or enforcement of Broker's obligations hereunder; plus (e) compensation Lender paid Broker in connection with such Mortgage Loan.

Notwithstanding the foregoing, Lender shall not require Broker to buyback a Mortgage Loan if Broker does not maintain the requisite license or governmental approval to do so. Whether or not Broker may purchase a Mortgage Loan in compliance with Applicable Law, Lender may seek indemnification from Broker pursuant to this Agreement or sell the Mortgage Loan. Upon the occurrence of such a sale, Broker's liability to Lender for such Mortgage Loan shall be equal to the amount of the purchase price as provided above less the actual amount received by the Lender in such sale (which amount shall be conclusively deemed a reasonable mitigation of Lender's damages).

9. INDEMNIFICATION

Broker hereby agrees to indemnify, defend and hold harmless Lender, its successors and/or assigns and its respective officers, directors, shareholders, employees and agents from and against any loss, damages, penalties, fines, forfeitures, expenses, suits and liability of every kind, nature and description arising out of or in any way connected with any Application Package submitted to Lender by Broker, any representation, warranty or written statement made by Broker in this Agreement, or in any written or verbal communication made to Lender pursuant to this Agreement, or arising out of or based upon the existence of any facts, circumstances, situations, conditions or the happening of any events constituting a breach or violation of any of the obligations, duties, representations and warranties of the Broker contained herein. Further, Broker agrees to carry adequate liability insurance to cover any claims asserted against Broker and/or Lender arising out of any breach by Broker of the terms of this Agreement. The indemnification contained in this paragraph shall survive the termination of this Agreement and shall extend to any third party to which Lender has sold any loan, or to any assignee thereof.

10. TERMINATION

This Agreement shall continue until such time as notice of termination is made by either party to the other in writing. In the event of such termination this Agreement shall remain in full force and effect with respect to all outstanding obligations, representations, warranties and covenants arising out of or relating to the Loans or any Submission Documents subject to this Agreement.

11. PRICE OF LOANS

Upon confirmation of a lock by SKY, SKY and Broker will agree to a price. The price, as quoted by SKY to Broker, will be expressed in interest rate and discount points for each product. The price is contingent on:

- (a) SKY closing the Loan no later than the expiration date on the lock-in; and
- (b) Broker’s submission of the mortgage application and other completed Submission Documents to SKY meeting all of the terms and conditions of this Agreement and SKY’s Product and Program Guidelines, which may be delivered to Broker, and updated by SKY, from time to time during the term hereof.

12. MISCELLANEOUS

Right to Offset. All amounts Broker is to pay Lender under this Agreement shall be by wire transfer of immediately available funds. Amounts owed by Broker to Lender under this Agreement may, at Lender’s option and in its sole discretion, be offset by Lender against any payments then or thereafter owed by Lender to Broker.

Notices. Any notice required by this Agreement or given in connection with it, shall be in writing and shall be given to the appropriate party by personal delivery or by certified mail, postage prepaid, or recognized overnight delivery services.

If to Lender:

Sky Mortgage Wholesale Lending Solutions
 4 Hutton Centre Dr. Ste 500
 Santa Ana, CA 92707
 Attn: Chief Compliance Officer

If to Broker:

Name: _____
 Address: _____
 City, State, Zip: _____
 Attn: _____

Governing Law; Venue. This Agreement and performance hereunder shall be construed in accordance with the laws of the State of Georgia without regard to conflicts of law principles. Orange County, State of California shall be proper venue for any litigation arising out of this Agreement.

Attorney’s Fees If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party or parties shall be entitled to “reasonable” attorney fees and other costs incurred in that action or proceeding, in addition to any other relief to which it or they may be entitled.

Assignment Broker may not assign this Agreement.



Final Agreement. This Agreement expresses the entire agreement and understanding of the Parties with respect to the subject matter hereof and supersedes all prior oral or written agreements, commitment and understandings pertaining to the subject matter hereof. Lender may amend the terms of this Agreement by delivering to Broker the amendment(s) or an amended Agreement in accordance with the Notice provision contained herein which shall be deemed accepted and incorporated into this Agreement if Broker submits an Application Package to Lender subsequent to the date the amendment is delivered to Broker. Broker may not supplement, modify or amend this Agreement unless such supplement, modification or amendment is agreed to in writing by an authorized officer of Lender.

Severability If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement, including all of the remaining terms, will remain in full force and effect as if such invalid or unenforceable term had never been included.

Accrual of Cause of Action Lender's rights and Broker's obligations under this Agreement, including, without limitation, those related to indemnification, shall not be affected by Lender taking any of the following actions, with or without notice to Broker: (i) liquidation, repayment, retirement, sale, or resale of any Mortgage Loan; (ii) foreclosure of any Mortgage Loan (in which case the amount bid at any foreclosure sale shall not in itself be used in measuring the extent of Lender's loss); or (iii) sale or resale of the property securing any Mortgage Loan.

Waivers, Non-Cumulative Remedies Failure or delay to audit any Loan or Submission Documents or to exercise any right shall not act as a waiver of any other right, nor shall any single or partial exercise of any right preclude any other or further exercise thereof. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver. Remedies herein are deemed as cumulative and non-exclusive of each other

Partial Invalidity If any provision of this agreement is held invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

Reporting Broker understands and agrees that Lender may report information about any Application Package or Mortgage Loan that Lender believes to contain misrepresentations or irregularities to any regulator, Agency or to any mortgage industry background database, including, but not limited to, databases operated by Mortgage Asset Research Institute, Inc., such as the Mortgage Industry Data Exchange ("MIDEX"), and Broker hereby releases Lender from any and all damage, loss, liability, cost, action, cause of action, claim, demand or expense that may arise from such reporting.

Documents Mutually Negotiated. Lender and Broker agree that this Agreement has been mutually negotiated by each party and shall not be construed against either as the drafter thereof.

Status of Broker as Independent Contractor The Parties agree that Broker is an independent contractor. Nothing in this Agreement is intended or shall be construed to make or deem Broker a joint venture, partner, representative, employee or agent of Lender, and Broker is expressly prohibited from holding itself out as such. Broker is expressly prohibited from using Lender's name in any advertising.

Power of Attorney Broker does hereby irrevocably make, constitute and appoint Lender and any of its properly designated officers, employees, or agents as the true and lawful attorneys of Broker with power to sign the name of Broker on any document or instrument, that was to have been signed by Broker according to the terms of this Agreement. This power, being coupled with an interest is irrevocable until this Agreement is terminated and all of Broker's obligations here under which may survive termination have been fully satisfied.

No Solicitation for Employment. Broker agrees that without the Lender's prior written consent during the term of this Agreement and for one year after termination of this Agreement it will not directly solicit for employment any person who is now employed by Lender. Solicitations that are directed to the general public shall not be prohibited.

13. APPRAISAL STANDARDS.

For purposes of further clarification, and not by way of limitation, Broker shall at times comply with the applicable appraisal standards in all respects.

14. Final Agreement

This Agreement expresses the entire agreement and understanding of the Parties with respect to the subject matter hereof and supersedes all prior oral or written agreements, commitment and understandings pertaining to the subject matter hereof. Lender may amend the terms of this Agreement by delivering to Broker the amendment(s) or an amended Agreement in accordance with the Notice provision contained herein which shall be deemed accepted and incorporated into this Agreement if Broker submits an Application Package to Lender subsequent to the date the amendment is delivered to Broker. Broker may not supplement, modify or amend this Agreement unless such supplement, modification or amendment is agreed to in writing by an authorized officer of Lender.

IN WITNESS WHEREOF, the parties have signed this Agreement as of the date and year shown in the first sentence of this Agreement, thereby acknowledging their acceptance of the terms and conditions set forth therein, and of the terms and conditions contained in the Addendum(s) and Exhibits attached hereto.

SKY MORTGAGE WHOLESALE LENDING SOLUTIONS

By: _____

Its: _____

Date: _____

BROKER: _____

By: _____

Its: _____

Date: _____

