

Wholesale Mortgage Broker Agreement

1.0 PARTIES

This Wholesale Mortgage Broker Agreement (hereinafter referred to as the "Agreement"), is entered into at Irvine, California, this ____ day of _____ 20____, with JMAC Lending, Incorporated, a California corporation with its principal offices located in Irvine, California, (hereinafter referred to as "Lender"), and (insert the full legal name of the Broker – either company name or sole proprietor name in the following space) _____, a (insert the state or territory under the laws of which Broker was formed and exists), _____, (insert in the following space the type of business entity Broker is, i.e., corporation, limited liability company, partnership, joint venture, sole proprietorship, or other) _____, with a Principal place of business located in (insert in the following space the name of the city and the state or territory of Broker's primary place of business) _____ (hereinafter referred to as "Broker").

Lender and Broker are also referred to herein individually as a "Party" and collectively as "the Parties."

2.0 SUBJECT MATTER OF THE AGREEMENT

Lender is a mortgage banker, engaged in the business of, among other things, receiving loan application packages from mortgage brokers, such as Broker, for funding consideration. The purpose of this Agreement is to set forth the Parties' rights and obligations with respect to such loan application packages as Broker may from time to time submit to Lender for funding consideration.

3.0 INTEGRATED AGREEMENT

This Agreement, including any and all other materials which are incorporated into this Agreement by reference as set forth below, is intended to, and does, set forth the entire understanding between the Parties with regard to the subject matter of this Agreement, and it replaces and supersedes all other prior or contemporaneous agreements or understandings between the Parties, whether written or oral, with regard to said subject matter. Except as expressly provided otherwise elsewhere in this Agreement, no amendments, supplements, addenda or waivers of any term or provision of this Agreement shall be valid or have any force or effect whatsoever unless set forth in a writing which is signed by an authorized representative of each of the Parties to this Agreement.

4.0 NON-EXCLUSIVE AGREEMENT

Nothing contained herein shall obligate Broker to submit all the loan application packages it creates or generates to Lender, nor shall Lender be obligated to approve and/or fund any loan application package submitted to it by Broker, it being expressly understood by and between Lender and Broker that this is a nonexclusive Agreement.

5.0 INDEPENDENT CONTRACTOR RELATIONSHIP

Nothing contained herein shall constitute a partnership or joint venture between or among Lender and Broker. The Parties hereby expressly agree and acknowledge that, with regard to the subject matter of this Agreement, they are, and at all times governed by this Agreement shall be, operating as independent contractors. Broker shall at no time and under no circumstances represent or hold itself out to any third party, either expressly or impliedly, as an agent or employee of Lender. Broker shall at no time make use of any trade or service mark or logo of Lender without the express and specific written consent of Lender. Broker has no authority, either expressly or impliedly, under this Agreement or otherwise, to enter into any contract or agreement with any third party by or on behalf of Lender.

6.0 GOVERNING LAW

This Agreement shall be governed by and construed under the laws of the State of California.

7.0 AGREEMENTS, REPRESENTATIONS AND COVENANTS OF BROKER

In consideration for the agreement of Lender to receive from Broker and consider for funding such loan application packages as Broker may from time to time submit to Lender, Broker hereby agrees, represents and covenants, as the case may be, as follows:

- 7.1 Each such loan application package that Broker submits to Lender on behalf of the potential borrower(s) for whom Broker is working shall be completed and submitted to Lender at the sole and exclusive expense of Broker and/or the potential borrower(s) on whose behalf Broker is working;
- 7.2 Each such submission of a loan application package to Lender by Broker shall be made under such programs, procedures, and fee schedules as Lender may from time to time establish, in its sole and exclusive discretion;
- 7.3 At the time of submission of each such loan application package, Broker shall have properly prepared, and shall then furnish to Lender in the form required, such items or documents as Lender may require, and shall thereafter provide any additional documentation requested by Lender, including without limitation such information and/or documentation as Lender may require in order to comply with such laws and/or regulations as may be applicable to Lender and/or the loan application package and/or Lender's consideration thereof for funding;
- 7.4 Broker shall furnish Lender with such information and/or documentation as may be required, and shall provide Lender with such information and/or documentation as Lender may request, which Lender may, in its sole and exclusive discretion determine, that it requires in order for it to ensure to its satisfaction that each such loan application package Broker has submitted to Lender will, if the loan applied for is funded, result in a loan that will be saleable by Lender in the secondary market for such loans;
- 7.5 The contents of each such loan application package submitted to Lender shall become the property of Lender immediately upon submission, and all information contained therein is, but is not required by this Agreement to be, subject to independent verification by Lender;
- 7.6 Broker has not made any false, misleading, or incomplete statements or omissions to Lender in connection with Broker's application for approval by Lender or with respect to each such loan application package submitted to Lender under the terms of this Agreement, or omitted to state a fact required to be stated therein or necessary to make the information and statements made therein not misleading;
- 7.7 Broker neither has nor is aware of any adverse information and/or documentation concerning any potential borrower(s) on whose behalf it submits a loan application package to Lender which it has not communicated to Lender, and all documents and instruments prepared or submitted by Broker, either with the loan application package as originally submitted or as it may have been supplemented by Broker, either in response to Lender's request(s), if any, for additional information and/or documentation, or otherwise, are valid and genuine in every respect;
- 7.8 No appraisal, or title company, controlling, controlled by, or under common control with Broker shall be used in connection with the origination or closing of any loan resulting from a loan application package submitted to Lender under the terms and provisions of this Agreement;

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- 7.9 Broker will make such investigations and inquiries necessary to verify the truthfulness and completeness of all information provided in each such loan application package submitted to Lender, including without limitation, information relating to the creditworthiness of the potential borrower(s) and the value of the real property securing the loan being applied for by the potential borrower(s), and with regard to each such loan application package submitted to Lender hereunder, and all information contained therein, all such information is true, accurate and complete as of the date the loan application package is submitted to Lender for funding consideration and on the date the loan closes and funds, and Broker has not omitted any material information either from the loan application package as originally submitted or as it may have been supplemented by Broker, either in response(s) to Lender's request(s), if any, for additional information and/or documentation, or otherwise;
- 7.10 If at any time during the period between the original submission of a loan application package and the closing and funding of the loan applied for Broker learns or has reason to believe that any of the information or documentation submitted by Broker either with the loan application package as originally submitted or as it may have been supplemented by Broker, either in response(s) to Lender's request(s), if any, for additional information and/or documentation, or otherwise, or if any of Broker's representations and/or warranties with regard thereto, either were when submitted or made, or thereafter have become, not true and/or not valid and/or not genuine, Broker shall immediately give written notice thereof to Lender;
- 7.11 Broker has fully disclosed to Lender in writing, and agrees to fully disclose to Lender in writing, and agrees to fully disclose to Lender in writing on an ongoing basis throughout the term of this Agreement, the existence of any and all past or present claims, actions, lawsuits, legal or administrative proceedings, arbitrations, and dispute resolution proceedings of any kind or nature, regardless of whether they are or were civil, criminal, quasi-criminal, administrative, or otherwise, as well as all unfiled claims, including without limitation repurchase requests or indemnification or "make whole" claims, by any licensing or law enforcement authority or by any other lenders against Broker or any of Broker's salespersons, employees, partners, associates, shareholders or members, whether presently or formerly associated with Broker;
- 7.12 All salespersons and employees of Broker, and all other persons associated with Broker who will provide services in conjunction with the submission of each such loan application package submitted to Lender under the terms of this Agreement have, in so doing, acted in compliance with the requirements applicable to Broker under this section of the Agreement with regard to each such submission of a loan application package to Lender, and Broker shall bear full responsibility for any instance of noncompliance with the terms of this section of the Agreement by any such person;
- 7.13 Broker is now, and at all times during this Agreement shall be and remain, duly licensed under the laws of the state(s) in which Broker does business, in possession of all necessary licenses, endorsements, permits, and/or certifications to originate and close mortgage loans secured by deeds of trust or mortgages encumbering dwellings or other real property in such state(s), and has the legal authority to engage in the activities contemplated by this Agreement, and all persons employed by or associated with Broker to carry on the business contemplated under this Agreement shall at all times hereunder either be able to validly do so or shall have their own valid and duly issued license(s), endorsements, permits and certifications to do so;
- 7.14 Broker hereby expressly authorizes Lender, at all times during the term of this Agreement, to obtain and review, at such times and on such occasions as Lender may in its sole discretion deem necessary or appropriate, credit reports for Broker as well as for those of Broker's principals who are signatories to this Agreement in order that Lender may assess on an ongoing basis the continuation of the business relationship between Broker and Lender pursuant to this Agreement and its terms;
- 7.15 If Broker is other than a sole proprietorship, Broker is, and throughout the term of this Agreement will remain, duly organized and existing as a corporation, limited liability company, partnership or other form of business organization in good standing under the laws of the jurisdiction in which Broker was formed and organized and Broker has and will continue to have the requisite power and authority to enter into and perform the terms of this Agreement;
- 7.16 Broker shall at all times during the term of this Agreement comply with all applicable federal, state and local laws, regulations and rules regarding the processing and origination of residential mortgage loans, including, but not limited to: the Equal Credit Opportunity Act, and Regulation B; the Real Estate Settlement Procedures Act, and Regulation X; the Truth-in-Lending Act and Regulation Z; the Home Ownership and Equity Protection Act; the Fair Housing Act; the Fair Credit Reporting Act; the Federal Consumer Credit Protection Act; the Gramm-Leach-Bliley Act; the California Civil Code; the California Housing Financial Discrimination Act; the Flood Disaster Protection Act; the Patriot Act; the Appraiser Independence Rules (and pertinent sections of Regulation Z regarding appraiser independence); the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 including, but not limited to, the Unfair, Deceptive and Abusive Acts and Practices Act; and, any and all state and federal fair lending regulations;
- 7.17 Broker understands and agrees that Lender may report information about any loan application package that Lender believes may contain misrepresentations and/or irregularities to the applicable regulatory agency and to any mortgage industry background database, including without limitation databases operated by Mortgage Asset Research Institute, Inc., such as the Mortgage Industry Data Exchange ("MIDEX"). Broker agrees that it and its employees may be named as the originating entity or loan officer(s) on any such loan. Broker acknowledges the importance of Lender's right and necessity to disclose such information, and without limiting any other release provisions in this Agreement, on behalf of itself and its directors, officers and employees, and each of their, respective successors and assigns, Broker hereby releases Lender, its officers, directors, agents, employees, successors and assigns from any and all damage, loss, liability, cost, actions, causes of action, claims, demands or expense, both direct and indirect, including without limitation reasonable legal and accounting fees and expenses, arising from the reporting or use by any database subscriber of any information submitted by Lender with regard to Broker and its employees to any mortgage industry background database, including without limitation MIDEX;
- 7.18 No obligation of Broker under the terms of this Agreement may be assigned or delegated by Broker to any third party without the express written consent of Lender;
- 7.19 Broker has established and implemented a written Anti-Money Laundering ("AML") program that is reasonably designed to prevent Broker from being used to facilitate money laundering and/or the financing of terrorism. Broker's AML program, at a minimum: i) incorporates policies, procedures and internal controls for complying with the Bank Secrecy Act ("BSA"); ii) designates a compliance officer responsible for ensuring that the AML program is implemented effectively, and includes regular and ongoing monitoring of Broker's employees and agents to ensure compliance with that program; iii) provides for ongoing AML training of Broker's employees and agents; and iv) provides for independent, third-party testing of Broker's AML program to determine compliance by its employees and agents. In addition, Broker has implemented policies and procedures to ensure that Suspicious Activity Reports ("SAR's") are filed electronically, and in a timely manner, in connection with loan transactions of \$5,000 or more if Broker knows, or has reason to suspect, that the transaction: v) involves funds derived from illegal activity; vi) is designed to evade the BSA or Broker's AML program; vii) has no apparent business or lawful purpose; or, viii) is intended to facilitate criminal activity;

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7.20 Broker maintains an effective quality control program and Compliance Management System (collectively, its "CMS") designed to prevent violations of Federal consumer financial law, and associated consumer harm. Broker shall make available, upon the request of Lender: (a) copies of Broker's written policies, procedures, internal controls and training materials relative to Broker's employees and/or agents that have consumer contact and/or any consumer compliance responsibilities in connection with residential mortgage loan origination; and, (b) permit Lender access, during normal business hours, to the offices of Broker in order that Lender may make appropriate on-site reviews, as necessary to confirm the propriety and effectiveness of Broker's CMS, including an examination of Broker's internal controls and procedures that are designed to protect against a violation of Federal consumer financial law and/or consumer harm. Broker agrees to report to Lender, within three (3) days: (a) any consumer complaint which in any way involves any of the services contemplated by this Agreement or a loan application submitted to Lender for funding consideration; (b) any consumer complaint which involves Federal consumer financial law, whether or not related to the services contemplated by this Agreement; (c) any legal or regulatory action which alleges a violation of Federal consumer financial law; and/or, (d) any changes in senior management. It is expressly understood and agreed that the terms of this section 7.19 are a material condition and inducement to Lender to enter into this Agreement. It is further understood and agreed that any failure of Broker to fully perform, in whole or in part, any of the terms of this section 7.19 shall constitute a material breach of this Agreement and the grounds for its immediate termination.

8.0 TERM AND TERMINATION

The term of this Agreement shall be indefinite, and shall commence with the effective date as provided in Section 19.0 of this Agreement. Lender reserves the right to terminate this Agreement at any time, and for any reason, which termination shall be effective upon notification to broker by authorized representative of lender.

9.0 INDEMNIFICATION

9.1 Broker agrees to indemnify, defend and hold Lender, its officers, directors, shareholders, employees, and their respective successors and assigns, harmless from and against any and all claims, demands, liabilities, causes of action, and expenses including, without limitation, attorney's fees and court costs, relating to or arising directly or indirectly from Broker's breach of any agreement, representation, warranty or covenant contained in this Agreement, or Broker's negligence, willful misconduct, violation of law, or fraud. Without limiting the generality of the foregoing, in the event any Fraudulent Information is submitted to Lender by Broker with respect to a loan application package, and such loan is closed and funded, and/or purchased by, Lender, Broker agrees to repurchase such loan immediately upon written demand therefore and to compensate Lender for any costs and expenses incurred by Lender in connection with the origination or purchase or sale of that loan and/or the repurchase of it by Lender or Broker. For purposes of this section of the Agreement, "Fraudulent Information" shall mean any and all information obtained from the potential borrower(s) or any reference source that would, according to standard practices and procedures in the mortgage lending industry, be within the control or knowledge of Broker, or which should have been discovered by Broker through the exercise of due diligence, as well as any appraisal related information which is the result of, or is communicated because of, any relationship or transaction between the appraiser and Broker;

9.2 Without limiting the generality of section 9.1, Broker agrees to indemnify Lender, upon written demand of Lender, from and against any and all claims, demands, liabilities, causes of action, and expenses whatsoever, including without limitation attorney's fees and court costs, relating to or arising out of, or in connection with a default on any one (1) or more of the first four (4) monthly payments due on any loan closed and/or funded and/or purchased by Lender based in whole or in part upon a loan application package submitted by Broker, and Broker further agrees to repurchase such a loan immediately upon written demand therefore and to compensate Lender for any costs and expenses incurred by Lender in connection with the origination or purchase or sale of that loan and/or the repurchase of it by Lender or Broker. Lender may, in its sole discretion, make such written demand upon Broker at any time through and including ninety (90) days after the due date of the fourth (4th) monthly payment due on any loan to which this section applies without waiver of Lender's rights and privileges under this section of the Agreement.

10.0 EARLY PAYOFF POLICY

10.1 During the term of this Agreement, Lender shall maintain an Early Payoff Policy (hereinafter referred to as "EPO Policy") with regard to loans resulting from loan application packages JMAC receives from Broker.

10.2 The EPO Policy shall come into effect whenever a loan resulting from a loan application package received from Broker by Lender is sold to or funded by Lender and that loan pays off or the Principal balance is paid down by more than twenty-percent (20%) of the original Principal balance within one hundred and eighty (180) days of funding, regardless of whether that pay off or pay down is from a refinance by or through Lender as the result of another loan application package submitted by Broker, or from a refinance on a loan application package submitted to JMAC by or through another broker or lender, or from a non-brokered refinance by JMAC or any other lender;

10.3 On all mortgage loans falling within the EPO Policy, Lender may require Broker to pay Lender a sum equivalent to all monies received by Broker from Lender with regard to such mortgage loans as well as all monies that Broker received at the direction of borrower which borrower received from Lender in the form of credits in escrow. No portion of any sums paid by Broker to Lender pursuant to the EPO Policy may be charged back to the borrower by Broker;

10.4 Lender will issue to Broker a billing statement each month detailing any applications of the EPO Policy and the amount required to be reimbursed to Lender. Payment to Lender in full of any reimbursement amount owed by Broker under the EPO Policy will be required within thirty (30) days of Broker's receipt of a billing statement reflecting a reimbursement amount due to Lender. Lender may, in its sole discretion, and without prior notice or demand to Broker, take an offset against any monies due for any reason from Lender to Broker for any reimbursement amount due from Broker to Lender as a result of any application of the EPO Policy, and any such offset taken by Lender shall not under any circumstances constitute or be deemed to be an accord and satisfaction;

10.5 Throughout the term of this Agreement, Lender will monitor the application of the EPO Policy to loans resulting from loan application packages submitted to Lender by Broker under the provisions of this Agreement. Should Lender determine, in its sole and exclusive discretion, as a result of such monitoring, that the frequency of the application of the EPO Policy to Broker demonstrates a "churning" of loans by Broker, Lender may, in its sole and exclusive, discretion take such action as may reasonably be necessary in order to eliminate such "churning" activity on the part of Broker, including without limitation restricting the maximum amount of compensation which may be paid to Broker on refinance transactions;

10.6 Lender may, in its sole and exclusive discretion, implement such additional policies and procedures in the future as may be necessary or appropriate to further address early payoff issues.

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11.0 REIMBURSEMENT OF CONSUMERS UPON RESCISSION

Broker shall promptly reimburse loan applicant for all fees and costs incurred by loan applicant applying for or obtaining a loan (other than fees paid to and retained by Lender), including, without limitation, any appraisal fees, credit report charges, title and escrow charges, Broker fees and points and other fees and charges for which Loan Applicant is entitled to reimbursement as a result of exercising its right to rescind or cancel a loan for any reason, including without limitation, under the provisions of Regulation Z.

12.0 WAIVERS OF REMEDIES

Lender's failure or delay to audit any loan prior to funding and closing, or Lender's failure to or delay in giving notice to Broker of any material loan application or documentation discrepancy discovered after funding or Lender's failure or delay to exercise any right or remedy available under this Agreement or at law or equity, shall not act as a waiver of any right or remedy, 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 provisions, 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. All remedies shall be cumulative and nonexclusive.

13.0 MATERIALS INCORPORATED BY REFERENCE

The Parties hereby incorporate into this Agreement by this reference each and all of the terms and provisions of the following documents, copies of which are appended hereto: the Fair Lending Acknowledgement; the Fraud Policy Disclosure; the Broker's Commitment to Responsible Lending.

14.0 JURISDICTION AND VENUE

The Parties hereby expressly agree and consent that jurisdiction and venue for any dispute arising out of this Agreement shall be in the Superior Court of the State of California in and for the County of Orange, or in the Orange County Division of the United States District Court for the Central District of California.

15.0 NOTICES

All demands, notices and communications delivered to a Party hereunder shall be in writing (which may be delivered by electronic transmission to the e-mail addresses set forth below) and shall be deemed delivered only when received by the party to which it is sent. Any such demand, notice or communication not delivered via electronic transmission shall be delivered by a recognized private courier service or deposited with the United States Postal Service, certified mail, postage prepaid, return receipt requested, addressed as follows, unless such address is changed by written notice hereunder:

(1) IF TO BROKER:

Company Name			
Attention			
Address			
Telephone		Company e-Mail	

or such other address as may hereafter be furnished to the Lender in writing by the Broker.

(2) IF TO LENDER:

JMAC Lending, Inc.
 16782 Von Karman Ave, Suite 12
 Irvine, CA 92606
 Attention: Broker Approval, Anne Nguyen
 Telephone: [949-390-2614](tel:949-390-2614); e-mail: anne@jmaclending.com; legal@jmaclending.com

16.0 ATTORNEYS FEES

In any action or proceeding arising out of this Agreement, the prevailing party therein shall be entitled to an award of its reasonable attorneys' fees as an item of costs.

17.0 SEVERABILITY

If any provision of this Agreement is held invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force and effect.

18.0 EXECUTION OF AGREEMENT

This Agreement shall be of no force and effect unless and until it is executed by both of the Parties hereto.

19.0 EFFECTIVE DATE OF AGREEMENT

The effective date of this Agreement shall be the date of its execution by the last of the Parties to execute it.

I have read, understand, and agree to the all the above terms and conditions of the Wholesale Mortgage Broker Agreement

Broker of Record Signature		Date	
Broker of Record Name			
Broker License Number		Exp. Date	
Principal Officer Signature		Date	
Principal Officer Name			

