



## **HOMEXPRESS MORTGAGE CORP. BROKER COMPENSATION AGREEMENT**

This Broker Compensation Addendum (“Addendum”) is entered into as of the \_\_\_\_day of \_\_\_\_\_, 20\_\_, by and between HomeXpress Mortgage Corp. (“Lender”) and \_\_\_\_\_ (“Broker”). This Addendum supplements the Broker Agreement (“Agreement”) entered into by and between HomeXpress Mortgage Corp. and Broker. Hereafter when read together, the Agreement and the Addendum shall constitute one integrated document.

In consideration of the mutual undertakings and covenants set forth in this Addendum, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. If completed and returned, this Addendum replaces and supersedes any and all prior Broker Compensation Addendums to the Agreement between the parties.
2. This Addendum will be effective for all Brokered Loans registered and assigned to a HomeXpress Mortgage Corp. loan number on or after \_\_\_\_\_.
3. Broker may not receive compensation from more than one source. Broker may elect, on a loan by loan basis, to receive either lender paid compensation or borrower paid compensation. Either election precludes additional compensation being paid by any other party, person or entity to the transaction, or outside the transaction.
4. All fees paid to Broker, other than bona fide pass-through fees, shall count towards the selected lender paid compensation tier, or the negotiated borrower paid compensation.
5. When compensation is paid by Lender, such amount is and will be Broker’s sole source of compensation. Broker will not charge the borrower any additional fees, including processing fees.
6. Seller contributions are considered “paid by the borrower”; therefore, under the borrower paid compensation plan, seller contributions may be used to fully or partially pay broker fees. However, under the lender paid compensation plan, the broker can be paid by the lender and no one else. Therefore, seller contributions can only be used to pay third party closing costs and lender fees.
7. Broker shall be solely responsible for the payment of compensation to its Mortgage Originators. Broker agrees that all compensation paid by Broker to Broker's Mortgage Originators will conform with all of the requirements set forth in the Truth-in-Lending Act as implemented by Regulation-Z, and with other applicable law.



**8. Compensation by Lender:**

Under a lender paid plan, compensation will be established as a percentage of the loan amount, paid by Lender to Broker. Broker must pre-select one of the of the compensation tiers listed below. Once Broker has selected a compensation tier, that tier shall apply to all loans submitted as “lender paid”. Under a lender paid plan, compensation may not increase or decrease on any loan so submitted.

Broker may select a lender paid compensation tier\* (select one):

- None       1.000%       1.500%       2.000%

**NOTE:** Selecting “None” as the Lender-Paid compensation tier will limit Broker to submitting only borrower paid plans until, per terms of the Open Compensation Schedule described in Paragraph 11, Broker requests, and Lender accepts, a change in the selected lender paid compensation tier for a subsequent quarter.

Broker must select one if a lender paid compensation tier has been selected:

- Broker elects to provide YTD financial statement; and in addition, either its most recent audited financial statement, or both a balance sheet and income statement for the fiscal year most recently ended, either containing a minimum net worth of \$50,000;
- or -
- Broker elects to give Lender a Personal Guaranty as described in paragraph 8.3 and will be providing a personal balance sheet.

\*By selecting a lender paid compensation tier, Broker authorizes Lender to obtain credit reports for all Principals of Broker as identified in the Broker Application.

\_\_\_\_\_ (Initials)

**Broker may also submit their own credit report dated within 60 days of broker application date.**

- 8.1** If applicable, with the submission of this broker compensation agreement, Broker shall deliver financial statements to Lender, which will be prepared in accordance with generally accepted accounting principles, and will either be:
- audited by a certified public accountant, or
  - will include both a balance sheet and an income statement for the fiscal year most recently ended.

If necessary, Lender may request Broker to provide additional information regarding its financial condition.

- 8.2** If any one of the first six (6) scheduled payments due on a mortgage loan are paid more than sixty (60) days after its scheduled due date, Broker shall reimburse to Lender all Lender-paid Broker compensation that that had been paid on the loan. Such reimbursement shall be paid to Lender by Broker not later than ten (10) days following Lender’s notice to Broker that such reimbursement is owing.

- 8.3** Lender is hereby authorized at any time without legal presentment, written demand, or other notice of any kind to Broker or any other person, to set off from any amounts due Broker from Lender all amounts due Lender from Broker. Lender reserves the right to any additional remedy it may have at law or equity.

If applicable, the undersigned (“Guarantor”), jointly and severally (if more than one), unconditionally guarantees prompt payment to Lender, including its successors and/or assigns, of all obligations (“Obligations”) incurred by Broker pursuant to the Broker Agreement (“Personal Guaranty”). Each Guarantor further agrees to repay all Obligations on demand, without requiring Lender to first enforce payment against Broker. The Personal Guaranty is not a guaranty of collection but is instead a guaranty of payment. The Personal Guaranty is a primary, unconditional and continuing obligation that will remain in full force and effect until any of the following occurs:

- a) Lender has terminated this Personal Guaranty;
- b) Indefeasible payment in full of all Obligations; or
- c) The passage of thirty (30) days from the date a written notice of revocation is received and accepted by Lender.

However, no revocation will affect:

- i. Existing liabilities of the revoking Guarantor under this Personal Guaranty;
- ii. Obligations that were created, contracted, assumed, acquired, or incurred prior to the date of such revocation;
- iii. Obligations arising under the agreements or instruments then in effect and then evidencing the Obligations.

- 8.4** Each Guarantor represents and warrants that it is a legal resident of the United States of America. Each Guarantor waives all notices to which the Guarantor might otherwise be entitled and waives all defenses that may be available to Guarantor. This Personal Guaranty shall be construed in accordance with the laws of the State of California, and shall inure to the benefit of Lender, its successors and/or assigns.

To the extent not prohibited by applicable law, each undersigned Guarantor waives a right to a trial by jury of any claim or cause of action based upon, arising out of, or related to this Personal Guaranty, the Agreement and all other documentation evidencing the Obligations, in any legal action or proceeding. Any such claim or cause of action shall be made by bench trial without a jury.



**9. Compensation by Borrower:**

Under a borrower paid plan, Broker may negotiate and establish compensation directly with the borrower but may not exceed a 2.750% maximum fee\* which is the ceiling established by HomeXpress. On a per loan basis, Broker shall also submit a completed Loan Brokerage Agreement (compliant with Cal. Fin. Code § 50701 or other state applicable code) to HomeXpress.

**NOTE:** The Housing Financial Discrimination Act of 1977 makes it illegal to discriminate in the provision of or in the availability of financial assistance because of the consideration of:

- a) Trends, characteristics or conditions in the neighborhood or geographic area surrounding a housing accommodation, unless the financial institution can demonstrate in the particular case that such consideration is required to avoid an unsafe and unsound business practice; or
- b) Race, color, religion, sex, marital status, domestic partnership, national origin or ancestry.

Therefore, the compensation agreement you negotiate with any applicant shall not be based upon or be influenced in any way by any of the above noted prohibited considerations.

**10. Compensation paid on Business-Purpose Loan**

Broker may negotiate and establish compensation directly with the borrower but may not exceed a 5.000% maximum fee which is the ceiling established by Lender. On a per loan basis, Broker shall also submit a completed Loan Brokerage Agreement (compliant with Cal. Fin. Code § 50701 or other state applicable code) to Lender.

**11. Open Compensation Schedule:**

Compensation schedules may be changed on a quarterly basis. Broker may request a change in its compensation agreement by contacting its Account Executive. Broker shall be requested to provide a business justification for the change request. Lender shall contact Broker prior to the next open-compensation period to review and evaluate Broker's request; compensation periods are made at Lender's sole discretion. Should no changes in compensation percentages be necessary, Broker's current election shall remain in effect.

**ACKNOWLEDGEMENT**

Broker acknowledges that if a Brokered Loan funded by Lender is repaid in full within six (6) months immediately following the closing of such loan, Broker, at Lender's request, shall reimburse Lender the amount of any compensation Broker derived in connection with the loan, whether compensation was borrower-paid or lender-paid. Broker shall reimburse Lender within ten (10) calendar days from notification of the early payoff.



**By signing below, Broker certifies that:**

- Broker complies with the Consumer Financial Protection Bureau's Loan Originator Compensation and Anti-Steering rules as published in 12 CFR § 1026.36(d) & (e);
- Broker agrees to this Broker Compensation Addendum to the Broker Agreement and understands that payment of this compensation must be properly disclosed per all legal and regulatory requirements;
- Broker understands that this Broker Compensation Addendum to the Broker Agreement impacts all loans submitted to Lender from any of our office locations.

**IN WITNESS WHEREOF**, the parties have caused this Broker Compensation Addendum to be executed by their duly authorized representative, who by signing below represents and certifies as to having the authority to bind Broker to this Agreement.

\_\_\_\_\_  
(Printed Name of Broker)

\_\_\_\_\_  
(Signature of Person Authorized by Broker)

\_\_\_\_\_  
(Printed Name of Authorized Representative)

\_\_\_\_\_  
(Title of Authorized Representative)

\_\_\_\_\_  
(Broker's Tax Identification Number)