



## WHOLESALE BROKER AGREEMENT

This Wholesale Broker Agreement (“Agreement”) is entered into the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, between **Moria Development INC. DBA Peoples Mortgage Company**, (“Lender”) and \_\_\_\_\_, (“Broker”). This Agreement is intended to set forth the entire understanding between the parties whereby Lender may fund or purchase loans originated and submitted by Broker to Lender from time to time. Nothing contained herein shall obligate Broker to submit all loans that it brokers to Lender and Lender shall not be obligated to fund or purchase loans exclusively from Broker, it being understood that this shall be a nonexclusive agreement.

### A. GENERAL BROKER RESPONSIBILITIES

Broker will, at Broker’s sole expense: (1) submit to Lender completed loan packages under such programs, procedures, and fee schedules as Lender may periodically establish, (2) furnish Lender such information as may be required for underwriting and closing, (3) provide any such information that Lender may request to ensure that all loans are saleable on the secondary market, and (4) abide by all guidelines and procedures set forth in the Peoples Mortgage Company Sellers Guide. The contents of loan packages submitted to Lender immediately shall become the property of Lender and all information contained therein may be subject to independent verification by Lender or such Third Party as Lender may designate. Broker warrants they are duly authorized to act on behalf of Borrowers to obtain residential mortgage financing. Such authority includes, but is not limited to, inquiry into Borrowers’ credit, employment, income and assets.

### B. BROKER WARRANTIES

Broker represents and warrants to Lender on behalf of itself, its salespersons, employees, and all persons associated with Broker who have provided services in conjunction with submission of any and all loan packages, both at the time any such loan packages are submitted to Lender and at all times in the event any such loan is either funded or purchased by Lender, that:

**DULY LICENSED.** Broker is duly licensed as required by state and/or federal law and possesses all necessary licenses, permits, and authority to engage in the activities contemplated by this agreement. Broker shall at all times maintain such licenses in good standing. Broker further warrants that anyone acting on behalf of or under the direction of Broker in connection with any loan is also duly licensed as required by state or federal law.

**NO UNTRUE STATEMENTS.** Broker has not made any false, misleading or incomplete statement to Lender either in connection with the Peoples Mortgage Company Broker Application or with respect to any loan application submitted to Lender. None of the statements or information contained in any loan package will contain any untrue or erroneous statements known to Broker, or omit to state a fact necessary in order to make such statements or information not misleading. Broker understands that by making this warranty, Broker is warranting the accuracy of all information contained in any loan package

submitted to Lender to the best reasonable knowledge of the Broker. Further, such warranty and all representations made herein shall extend to and may be relied upon by any and all successors and assigns of Lender.

**DISCLOSURE OF BORROWER CONDITION.** Broker has no knowledge of any adverse information concerning applicant or any aspect of the submitted mortgage loan application that is not reflected in any of the written documents submitted to Lender by Broker. No bankruptcy petition either voluntary or involuntary is pending against the applicant, nor is any foreclosure or other proceeding pending or threatened against applicant.

**DISCLOSURE OF BROKER CONDITION.** Broker represents that under and according to the laws of each state and local jurisdiction in which Broker originates mortgage loan applications for submission to Lender that Broker and each of its employees, (a) is in good standing, (b) is duly licensed and authorized to transact business in order to perform its obligations hereunder, (c) will, during the term hereof, maintain such licenses and authorizations, and (d) if not a natural person, is a corporation or partnership duly authorized, validly existing and in good standing. There is no claim, litigation, investigation, or proceeding pending or threatened against or otherwise materially affecting Broker's business or performance of its obligations under this Broker Agreement. Broker has fully disclosed to Lender all un-filed claims, known to Broker, including, but not limited to, repurchase request or claims of indemnification by other lenders against Broker or any of its salespersons, employees, partners, associates, and/or stockholders, whether formerly or presently associated with Broker. Broker represents that there are no claims for broker commissions or finder's fees in connection with the mortgage loan application resulting from any action taken by Broker. Broker agrees to exonerate, indemnify and hold harmless Lender with respect to any and all losses sustained as a result of liability to any other Third Party on the basis of any arrangement or agreement made by or on behalf of Broker not provided for herein. Applicants have no claim or defense against Broker, or any agent, assignee or successor of Broker by any reason of an act or omission of Broker, its directors, officers, agents or employees.

**BROKER FINANCIAL STATEMENTS, LICENSES & LOAN FILES.** Broker shall, so often as Lender may reasonably request, but no less often than once each year, submit to Lender financial statements for the previous 12-month period that accurately reflect and completely disclose the financial condition of Broker. Broker shall notify Lender within 30 days of any material change in its ownership, financial condition, principal management, or in the status of its applicable state mortgage-lending licenses or equivalent documentation. Broker shall deliver to Lender a copy of any/all new, existing or renewed mortgage banker/broker licenses so that Lender has at all times in its possession only current licenses. Broker agrees to permit Lender's Internal Audit Staff to conduct audits of Broker's loan files that are registered with Lender. Lender shall retain the right to audit and verify by alternate source any credit reports, appraisals, or other documentation.

### **C. COMPLIANCE**

Broker agrees at all times to comply with applicable federal, state and local laws regarding Broker obligations hereunder, including the issuance of accurate and timely initial upfront Disclosures to Applicants and in all other respects with regard to the processing and origination of loans. Laws referred to in this section include but are not limited to the Real Estate Settlement Procedures Act, Truth in Lending Act, Fair Housing Act, Federal Consumer Credit Protection Act, Home Ownership & Equity Protection Act, Fair Credit Reporting Act, Equal Credit Opportunity Act, and any State or Federal Predatory Lending Laws.

### **D. INDEPENDENT CONTRACTOR**

Nothing contained herein shall constitute a partnership or joint venture between Lender and Broker and the parties acknowledge that at all times they are operating as independent contractors. Broker shall at no time hold itself out to be an agent or employee of Lender. Broker shall have no authority to bind, obligate or commit Lender by any promise or representation unless specifically authorized by Lender in writing.

### **E. RIGHT TO DELIVERY**

Broker recognizes that the Lender intends to rely on its agreements with Broker and will, without notice to Broker, make binding commitments in reliance thereon. Accordingly, it is understood and agreed that actual delivery of the loan or loans under each commitment issued under Lender's delivery programs is the essence of this Broker Agreement. Broker agrees that any loan, which Lender has agreed to lock in, shall be delivered only to Lender and not delivered to another lender unless declined by Lender. Lender acknowledges that Broker has no control over the borrower and has no liability for borrower's failure to perform or withdrawal of its application. Should Broker fail to deliver, Lender is entitled to compensation in such form as Lender may determine, including but not limited to substitution of other loans, pair-off fees, recovery of costs or offset of any losses and/or expenses resulting from failure to deliver against amounts owed to Broker with respect to other loans.

### **F. BROKER COMPENSATION**

Broker will not originate and Lender will not fund and/or purchase high cost loans as defined by the Home Owners Equity Protection Act (Section 32) or any State-defined high cost mortgage loans. Broker hereby represents and warrants that any and all fees or compensation of any kind received by Broker, whether paid by borrower and/or Lender, will separately and conspicuously be disclosed to the borrower in accordance with applicable federal, state & local laws.

### **G. TERMINATION**

Lender reserves the right to terminate this agreement at any time, for any reason, which termination shall be effective immediately upon sending of written notice thereof. Such termination shall not affect the obligation of either party to fulfill any commitments, representations, warranties, or indemnifications made under this Broker Agreement prior to termination. In the event of Broker's breach of any of the representations and warranties herein or if Broker fails to comply with any demand for performance required by this Agreement, in addition to Lender's unqualified right to terminate this Agreement, Lender may, at its sole discretion, choose to be released from any outstanding rate-lock or underwriting commitments.

#### **H. INDEMNIFICATION**

Broker agrees to indemnify Lender from and against any and all claims, demands, liabilities, causes of action, and expenses, including attorney's fees, relating to or arising out of Broker's action or inactions hereunder. In addition to this indemnification obligation, in the event any fraudulent "information" is submitted by Broker with respect to a loan and such loan is funded or purchased by Lender, Broker agrees to repurchase such loan immediately upon written demand therefore and compensate Lender for any costs and expenses incurred by Lender in connection with the funding or purchase of such loans. For the purposes hereof, "information" shall mean any and all information obtained from the borrower 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, 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.

#### **I. SOLICITATION**

Broker agrees that it will not, at any time, give or sell a list of the Borrowers to any person or entity. Broker agrees not to solicit Borrowers for refinance within 6 months of Loan Closing.

#### **J. EARLY PAYOFF**

For Mortgage Loans that are prepaid in whole in the first six (6) months after the related Closing Date, the Broker shall rebate the premium paid by the Lender, minus the amount of the prepayment fees stated on the Note, if any.

#### **K. REPURCHASE**

Repurchase shall be required if Lender determines, at any time, that any representation made by Broker with respect to any mortgage loan application submitted to Lender was untrue when made or any warranty or term hereof has been breached. Broker shall repurchase within 15 days of notice any loan funded or purchased by Lender hereunder for an amount equal to the sum of, at the time of repurchase, (a) the unpaid principal balance of the loan plus the accrued interest on the loan, (b) the amount of any mortgage broker compensation paid to Broker by Lender at the time the loan funded, (c) the aggregate amount of any advances made by Lender for the account of the mortgagor and interest thereon at the interest rate set forth in the promissory note, and (d) any attorney's fees, legal expenses, court costs, etc.

**L. DELIVERY OF NOTICES, DISCLOSURES & CORRESPONDENCE**

To the extent allowable by law, delivery of notices, disclosures and correspondence in the normal course of business between the two parties shall be deemed to have been delivered if sent by either U.S. Mail or electronic mail to the addresses listed below:

BROKER:

LENDER:

U.S. Mail Address:

U.S. Mail Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Peoples Mortgage Company  
4500 South Lakeshore Drive Suite 150  
Tempe, AZ 85282  
Attn: Broker Approval Coordinator

Electronic Mail Address:

Electronic Mail Address:

\_\_\_\_\_

GHelminski@peoplesmortgage.net

In the event Lender desires to terminate this Agreement, request the repurchase of a loan, request reimbursement of premium previously paid to Broker or other such sums as Lender may have rights under this Agreement to request, or either party wishes to assert a breach of this Agreement by the other party, such correspondence shall be deemed to have been delivered if sent by Registered or Certified U.S. Mail to the address listed above.

**M. MISCELLANEOUS**

This Agreement shall constitute the entire agreement between the parties. Any prior understandings preceding the date of this Agreement shall not be binding upon either party except to the extent incorporated in this Agreement. No waiver, amendment or modification of any provision of this Agreement shall be binding unless executed in writing by each party hereto.

If any provision of this Agreement is unenforceable for any reason, the remainder of this Agreement shall survive the loss of such a provision.

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.

No delay in the exercise of or the failure to exercise any right, power or remedy afforded Lender through any breach or default of Broker under this Agreement or any acquiescence by Lender to any breach or default shall impair any right, power or remedy of Lender, nor shall any waiver of any single breach or default be deemed a waiver of any breach or default thereafter occurring.

Except as provided below, all terms and provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns, **provided however,**

that this Agreement may not be assigned or transferred by Broker to any other person, firm, corporation, or other entity.

It is agreed that this Agreement shall be governed by, construed and enforced in accordance with the laws of the state of Arizona. In the event of any lawsuits or other proceedings related to this Agreement, each party hereby: (1) waives its right to trial by jury, (2) consents to exclusive jurisdiction in the state and federal courts located in the county of Maricopa, Arizona, and (3) agrees that the prevailing party shall be entitled to recover from the non-prevailing party its reasonable attorney's fees and costs.

**N. THIS AGREEMENT SHALL BE NULL AND VOID UNLESS SIGNED BY LENDER INDICATING APPROVAL AND ACCEPTANCE OF BROKER.**

Signature of Broker/Principal Officer: \_\_\_\_\_

Print Name: \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_ Date \_\_\_\_\_

Moria Development INC. DBA Peoples Mortgage Company