

This Business Purpose Broker Addendum (this "Addendum") is entered into with reference to that Broker Agreement effective as of \_\_\_\_\_, 20\_\_, (the "Agreement") by and between Castle Mortgage Corporation dba Excelerate Capital, a Delaware corporation ("Lender")<sup>1</sup>, and \_\_\_\_\_, the undersigned broker ("Broker"). Lender and Broker may be individually referred to herein as the "Party" or collectively as the "Parties." This Addendum supplements the Agreement to provide for Broker's submission and Lender's acceptance or denial of "business purpose" loans.

### RECITALS

- A. For the purposes of this Addendum, Lender is acting in the capacity of a lender.
- B. For the purposes of this Addendum, Lender will accept Loan Application Packages for "business purpose" loans secured by real property located in states that do require a license via exemption, exception, or waiver for "business purpose" loans.
- C. Broker is engaged in the business of soliciting mortgage loan applications from the general public for submission to lenders for funding consideration.
- D. Lender is in the business of accepting Loan Application Packages for business purpose loans from Brokers for the purpose of funding the loan in the name of Lender; brokering the loan to Lender's investors ("Lender Investors") to fund in the Lender Investors' name; or brokering the loan to other lenders ("Third Party Lenders") to fund the loan in the Third Party Lenders' name. Lender, Lender Investors, and Third Party Lenders are collectively referred to herein as "Lender Parties" and individually as a "Lender Party."
- E. The Parties desire to enter into this Addendum to establish a nonexclusive relationship whereby Broker will submit business purpose Loan Application Packages to Lender. If the Loan Application Packages meet Lender's approval and funding requirements, Lender Parties will close and fund the loan.
- F. Unless otherwise specifically stated herein, the terms of this Addendum are in addition to, and not in derogation of, the terms of the Agreement. In the event of a conflict, the terms of the Agreement shall control. Capitalized terms in this Addendum have the same meaning as defined in the Agreement, and those definitions are incorporated by reference.

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

### SECTION 1: DEFINITIONS

- 1.1 "Applicant" and "Borrower" mean an applicant for a business purpose mortgage loan. Following a loan closing, the applicant may be referred to as Borrower.
- 1.2 "Business Purpose Loan" shall mean a mortgage loan for a purpose other than personal, family, or household purposes.
- 1.3 "Certification and Authorization" shall mean a certification from Applicant/Borrower that all information provided in the Loan Application Package is true and accurate to Applicant/Borrower's knowledge, and an authorization from Applicant/Borrower allowing Lender or Broker to complete a credit check, background check, contact Applicant/Borrower's other creditors, or take any other action necessary to properly underwrite a potential loan.

<sup>1</sup> The "Lender" shall be Castle Mortgage Corporation, a Delaware corporation, except in states in which it has obtained the fictitious business name "Excelerate Capital".

- 1.4 “Loan Application Package(s)” shall mean the documentation necessary for Lender to determine Applicant’s eligibility for a loan and compliance with Lender’s Underwriting Guidelines, including but not limited to: a completed credit application; credit report(s); verifications of income, liabilities, and net worth; business entity financial statements; and, appraisal report(s).
- 1.5 “Underwriting Guidelines” shall mean Lender’s requirements for analyzing and assessing the applicant’s credit risk and the mortgage loan collateral.

### SECTION 2: DUAL AGENCY OF BROKER

- 2.1 Broker agrees and covenants that as to each Applicant for whom a Loan Application Package is submitted to Lender, Broker: (i) has contractually agreed with the Applicant to act as the Applicant's authorized agent to negotiate a loan, including the payment of appropriate compensation, if any; and (ii) is acting in such agency capacity for the Applicant for all purposes of the transactions contemplated by this Addendum. As Applicant’s agent, Broker has a fiduciary duty to Applicant.
- 2.2 Broker further acknowledges that it has a fiduciary duty to Lender (i) to use its best efforts to assure that the submitted loan is eligible for funding by Lender Parties and, (ii) to disclose all relevant facts and circumstances relating to Applicant and the Property securing a loan.

### SECTION 3: LOAN ORIGINATION SERVICES AND COMPENSATION

- 3.1 **Broker Duties.** Broker will, at Broker's sole cost and expense, prepare, process and submit Loan Application Packages to Lender for funding consideration, and facilitate the closing of Loan Application Packages approved for funding by a Lender Party. Broker's services and facilities shall include, but are not limited to those services and facilities required by the Underwriting Guidelines, as amended from time to time by Lender, in its sole discretion. The specified loan origination services and facilities performed by Broker pursuant to this Section 3.1 shall be referred to in this Agreement as the “Loan Services.” Broker’s Loan Services shall specifically include, but not be limited to the following:
- 3.1.1 Analyzing the Applicant’s income and debt and pre-qualifying the prospective Applicant to determine the Applicant’s maximum loan amount;
  - 3.1.2 Obtain a Certification and Authorization from Applicant; and, collect financial information and other documentation necessary to complete the Loan Application Package;
  - 3.1.3 Order verification(s) of employment, verification(s) of deposit, appraisals, preliminary reports of title, hazard reports and any other reports and/or inspections required;
  - 3.1.4 Prepare and deliver to Applicant all disclosures as required by State and Federal laws and regulations;
  - 3.1.5 Maintain contact with all parties, advise of status, and obtain and deliver necessary documents and/or information to Lender, as required;
  - 3.1.6 Review and assess information and documentation provided by applicant to ensure the Loan Application Package complies with State and Federal law and Underwriting Guidelines.
  - 3.1.7 Take any and all other necessary steps to assist with the closing of the loan.
- 3.2 **Broker Compensation from Borrower.** Broker shall be entitled to negotiate with and receive from the Borrower(s), payable at the time of closing of a Loan, a reasonable broker’s fee for its services, that is typical in Broker's market area for the type and amount of the mortgage loan applied for, and up to a maximum of two percentage points, as approved by Lender in its sole and absolute discretion, of the loan amount funded by Lender. Broker shall disclose the fee, if any, which it charges to any Borrower(s) in writing, and in accordance with all other applicable disclosure and other legal requirements. Lender will cause such Broker fee to be disclosed on the final settlement statement, and to be collected at closing and remitted to Broker.

**BROKER ACKNOWLEDGES AND AGREES THAT LENDER AND THE OTHER LENDER PARTIES ARE NOT LIABLE OR RESPONSIBLE TO BROKER FOR THE PAYMENT OF ANY CONSIDERATION FOR ANY OF THE SERVICES PROVIDED BY BROKER PURSUANT TO THIS ADDENDUM. BROKER'S SOLE CONSIDERATION SHALL BE THE BROKER'S FEE AGREED TO IN WRITING BETWEEN BROKER AND APPLICANT/BORROWER AND APPROVED BY LENDER.**

**THE PARTIES AGREE THAT ANY FEE OTHER THAN THE COMPENSATION DESCRIBED IN THIS SECTION IS SUBJECT SOLELY TO THE WRITTEN CONTRACTUAL TERMS AND CONDITIONS AGREED TO BETWEEN APPLICANT/BORROWER AND BROKER, AND SUCH BROKER'S FEE IS NOT A CONDITION OR A REQUIREMENT BY LENDER IN ORDER TO ACCEPT OR TO UNDERWRITE A LOAN APPLICATION PACKAGE.**

### SECTION 4: BROKER'S REPRESENTATIONS, WARRANTIES AND COVENANTS CONCERNING LOAN APPLICATION PACKAGES AND LOANS

As an additional inducement to Lender to enter into this Addendum and to consummate the transactions covered by this Addendum, Broker represents, warrants and covenants to Lender Parties, on behalf of itself and its officers, directors, employees, representatives and agents, that as of: (a) the date and time any Loan Application Package is submitted to Lender; (b) the date and time a loan is funded and closed; (c) throughout the time such loan remains outstanding; and (d) any other date and time as indicated or as the context of this Addendum may require:

- 4.1 No Undisclosed Additional Fees. Broker shall not accept any compensation from the Applicant/Borrower that would duplicate payment for the performance of the services described in this Addendum. Broker shall fully disclose and explain all fees to Applicant/Borrower in writing and Applicant/Borrower has agreed, in writing, to all fees received or to be received by Broker. The fees charged and received by Broker are reasonably related to the reasonable value of the services rendered by Broker in connection with the Loan Application Package and the loan. Furthermore, Broker has not agreed with any other person or entity for the payment of any referral fee, rebate, bonus, kickback or other payment, and no payment of such referral fee, rebate, bonus, kickback or other payment has been or will be made to any person, including, but not limited to, the Broker.
- 4.2 Vendors. In connection with any and all Loan Application Packages submitted to Lender, Broker shall only use real estate appraisers, credit reporting agencies or other settlement service providers or vendors that are properly licensed and comply in all respects with all applicable state and federal laws.

### SECTION 5: CONFIDENTIALITY, NON-DISCLOSURE AND NON-CIRCUMVENTION

- 5.1 Non-Circumvention. Broker shall not solicit nor accept any business in any manner from Lender Investors or Third-Party Lenders, without the express written permission of Lender; nor circumvent or attempt to circumvent Lender, including, without limitation, contacting, discussing, or transacting business with Lender Investors and Third Party Lenders, without the prior knowledge and written consent of Lender. In the event of any circumvention or attempted circumvention, Lender shall be entitled to a legal monetary penalty equal to the maximum service it would have realized from the loan transaction, plus any and all expenses, including legal, incurred to recover the lost revenue.
- 5.2 Liquidated Damages. In the event of a breach of any provision of Section 5, except for a breach pursuant where the damages are readily ascertainable, Broker acknowledges that Lender's Investor Information is valuable, special and unique to Lender's business; that it is not widely known; and that Lender's business depends on such Investor Information. If Broker breaches this Section, including a breach where the damages are not readily ascertainable, Broker acknowledges that actual damages would be difficult to ascertain. Therefore, Broker acknowledges that it must pay the sum of Fifty Thousand and 00/100 Dollars (\$50,000.00) to Lender for each individual violation described herein as liquidated damages. Broker further acknowledge that the liquidated damages outlined herein represent a fair attempt to determine the damages that would be suffered and are not a penalty.

- 5.3 Injunctive Relief. Notwithstanding Section 5.2, in the event of the breach of the terms herein by Broker, Lender shall be entitled to seek injunctive relief, both preliminary and permanent, enjoining and restraining such breach or threatened breach. Such remedy shall be in addition to all of the remedies available to Lender at law or in equity, including the right to recover from Broker any and all damages that may be sustained as a result of said breach. In addition to any other remedies available to Lender hereunder, Lender shall also be entitled to recover, by means of an accounting, any profits that Broker may have obtained as a result of such breach or threatened breach.

## SECTION 6: TERMINATION OF ADDENDUM

Lender may terminate this Addendum at any time. In the event of such termination, this Addendum shall remain in full force and effect with respect to all of Broker's outstanding obligations, representations, warranties and covenants arising out of or relating to loans subject to this Addendum. Unless expressly waived by Lender in writing, the terms of this Addendum and all warranties and representations shall survive the funding of loans and subsequent sale thereof, by Lender, and shall not be affected by any investigation made by Lender on its behalf.

## SECTION 7: RELEASE OF LIABILITY

Release of Liability. Broker releases Lender Parties, their respective subsidiaries and affiliates, and their present and future directors, officers, employees, attorneys, and agents, and successors and assigns from any and all claims, demands, actions, causes of action, suits, damages, attorneys' fees, costs and expenses of suit, liabilities and judgments of any kind ("Claim"), by reason of any act or omission relating to Lender Parties' use of Broker's Loan Application Package or verification of any information contained therein. Broker further indemnifies and agrees to defend and hold Lender Parties harmless with respect to any Claim made by any past, present or future owner, officer, or employee of Broker with respect to such use or verification.

**[SIGNATURE PAGE FOLLOWS]**



# BUSINESS PURPOSE BROKER ADDENDUM

## WHOLESALE BROKER APPLICATION

**IN WITNESS WHEREOF**, the Parties have caused their duly authorized representatives to execute this Addendum as of the date first set forth above.

### **"BROKER"**

\_\_\_\_\_  
(Company Name)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Signature of Broker)

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

\_\_\_\_\_  
(Title of Broker)

\_\_\_\_\_  
(Effective Date)

### **OFFICER/PARTNER(S)/SOLE PROPRIETOR**

*(if authorized person is broker, leave blank)*

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

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

\_\_\_\_\_  
(Title of Authorized Person)

\_\_\_\_\_  
(Effective Date)

### **LENDER**

CASTLE MORTGAGE CORPORATION  
DBA EXCELERATE CAPITAL (where applicable)  
A DELAWARE CORPORATION  
4000 MacArthur Blvd. Ste 800, Newport Beach, CA 92660

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

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

\_\_\_\_\_  
(Title of Authorized Person)