

ADVANCE FEE AGREEMENT FOR LOAN MODIFICATION SERVICES

This ADVANCE FEE AGREEMENT FOR LOAN MODIFICATION SERVICES is made and entered into this _____ day of _____, 20____, by and between the Real Estate Broker PROPERTY BROKERAGE AND LOANS DBA HOMESTART (“the Broker”) and the Principal(s) _____ for the mortgage loan modification services as described herein.

A. Preliminary Matters.

1. IMPORTANT NOTICES TO THE PRINCIPAL:

a. The amount or rate of fees specified in this agreement for the services is not fixed by California law. Fees are set or established by each Broker individually and are subject to negotiation between Principal and the Broker.

b. The Principal is compensating the Broker for services the Principal may not be able to obtain at no charge from a housing counselor or by contacting the Lender(s) directly.

c. California Civil Code Section 2945.1(b)(3) prohibits a Broker from claiming, demanding, charging, collecting or receiving any compensation or advance fee from a person whose residence is in foreclosure until all of the promised services have been fully performed and completed. THIS AGREEMENT MAY NOT BE USED AND SHOULD NOT BE EXECUTED BY THE PRINCIPAL IF A NOTICE OF DEFAULT HAS BEEN RECORDED AGAINST THE SUBJECT PROPERTY LISTED BELOW.

THE PRINCIPAL CERTIFIES BY INITIALING BELOW THAT A NOTICE OF DEFAULT HAS NOT BEEN RECORDED AGAINST THE SUBJECT PROPERTY.

_____ **Initials of Principal(s)**

2. Information Regarding the Loan(s) and Related Property (“Subject Property”) for Which the Loan Modification Services Will Be Provided:

Lender Name _____

Loan Account Number _____

Address of Property _____

Description of Existing Loan Obligation(s) on the Subject Property _____

2nd Lender _____

2nd Loan Account Number _____

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B. Agreement.

In consideration of the mutual promises and agreements exchanged, the Broker and the Principal agree as follows:

1. Amount and Payment of Advance Fee. The Principal agrees to pay an advance fee of \$3,499.00 to the Broker on the date this agreement is signed by the Principal or within 90 days of the execution of this agreement by all parties.
2. Deposit of Advance Fee and Accounting of Funds. The Broker will deposit the advance fee into Broker trust account # 153461917038, located at US Bank 7733 Girard Avenue, La Jolla, CA 92037. The Broker will provide a verified accounting of these funds to the Principal at the end of each calendar quarter following the execution of this agreement by the Principal, and the completion or termination of this agreement (whichever occurs first).
3. Scope and Completion of, and the Payment for, Loan Modification Services. The Broker shall perform the following loan modification services (without limitation) for and on behalf of the Principal. It is understood by the parties that the list below is not exhaustive, and that not all of the services listed below may be relevant to the Principal's loan(s) on the subject property.

Phase I:

- a. Interview the Principal, gather and review information about the current loan(s) and terms to include:

1. Mortgage loan(s) principle balance, monthly payment amount, mortgage statements, loan documents, current interest rate, expected rate and/or payment adjustments, equity, loan(s) payment history and correspondence from the lender(s).

2. Information about the Principal's income and assets, including:

Pay stubs, W2s, 1099s, benefit award letters; retirement and pension benefit statements, annuity statements, child support/alimony, tax returns, profit and loss statements, schedules of real estate owned, stock and mutual fund portfolio statements, bank statements, proof of any other income.

3. Information about Subject Property, including:

Property profile, comparable sales, active listings, current property listing information and other applicable documents.

4. Information about the Principal's ability to repay the loan(s), including:

Credit history, hardship circumstances, financial profile (assessment of income, assets, expenses and housing debt to income ratio).

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- b. Assist and Principal in preparing a hardship summary/letter.
- c. Prepare and submit loan modification request and package of supporting documents to lender(s).

Completion of Phase I Services. The Broker will complete these Phase I services by _____ and in no case later than 30 calendar days from the date this agreement is made, as first written above.

Payment for Phase I Services. The Broker shall be entitled to 25 percent (but in no event more than 25%) of the advance fee (which entitlement percentage for Phase I services equals \$874.75) for the performance of the applicable and relevant services described in Phase I (and others as may be necessary and/or appropriate).

Phase II:

Phase II services are focused on the Broker's efforts to vigorously and successfully seek through the Lender(s) an offer to the Principals (which offer shall be assessed by the Broker and clearly explained to the Principal(s) of proactive loan modification solutions which will provide the Principals with the opportunity to remain in the Subject Property while making affordable loan payments.

- a. Contact the Lender(s) to discuss/negotiate the loan modification request(s) and the package of supporting documents.
- b. Communicate regularly with the Lender(s) to attempt to negotiate new, and more favorable, loan terms on behalf of Principal.
- c. Assist the Principle in understanding and deciding about the modification terms offered by the Lender (s).
- d. Successfully negotiate and/or accomplish a loan modification for the Principle. "Successful loan modification performance" by the Broker shall have occurred if the Principal accepts one or more of the loan modifications set forth below:

- Change adjustable interest rate to a fixed interest rate
- Reduce fixed interest rate to a lower fixed interest rate
- Reduce balance of the principal amount of the loan
- Reduce adjustable interest rate/reduce CAPS of adjustable interest rate
- Stop upward adjustment of adjustable interest rate
- Arrange for the delinquent payment amounts to be added to the end of the loan
- Arrange for the delinquent payment amounts to be added to a longer loan period
- Arrange for the delinquent payment amounts to be accepted in an alternative payment plan
- Eliminate or reduce the delinquent payment amounts
- Arrange for the lender to accept a discounted pay-off or forbearance

Completion of Phase II Services. The Broker will complete these services by _____, and in no event later than 90 calendar days from the date this agreement is made, as first above written.

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Payment for Phase II Services. The Broker shall be entitled to 75 percent of the advance fee (the remainder of the advance fee not earned and paid for Phase I services (which entitlement percentage for Phase II services equals \$2624.25) only for the “successful loan modification performance” of these Phase II services as described in Phase II (section d above).

4. Refund of Advance Fee Until Earned. The advance fee paid by the Principle is fully refundable until earned by Broker. If any of the agreed upon services are not completed by the Broker by the agreed upon completion date(s), the unearned portion of the advance fee will be refunded to the Principle within 5 business days. If this agreement is terminated by the Principle before the agreed upon completion date and before the agreed upon services are completed, the unearned advance fee will be refunded to the Principle with in 5 business days.

5. Responsibilities and Obligations of the Principal. The Principal agrees to furnish the Broker with truthful and accurate information and any documents that will be required by the Broker and the Lender(s) to assess the Principal’s financial status, including (without limitation) following:

- Mortgage Statements-past three months
- Pay stubs-past two pay periods
- W2 forms, 1099 forms, and/or Tax Returns-past 2 years
- Profit and Loss Statements-past 2 years (if self employed)
- Bank Statements-past 2 months
- Verification of any other income, Benefit Award Letters, Retirement Statements, Pension Benefit Statements, Annuity Statements, Child Support/Alimony
- Schedules of Real Estate owned, Stock and Mutual Fund Portfolio Statements
- Authorization for the Broker to obtain Principal information from the Lender

The Principal also agrees to provide additional information or documentation with 5 days of the Broker’s request.

The Principle further agrees to immediately notify the Broker of any change in the Principle’s address.

6. Reasonable Efforts/No Guarantees. The Broker will make reasonable efforts to conclude a “successful loan modification performance” as described in Phase II above. However, the Principle acknowledges that the Broker cannot guarantee the Principle’s existing lender(s) will agree to a modification of the loan(s), and that Principle’s existing lender(s) is not obligated to modify the terms of the loan(s) in any way and may not agree to any changes in the loan(s).

7. Governing Law. This agreement shall be governed by and construed under the State of California.

8. Amendments. Except as set forth herein, this agreement may not be amended or modified orally and no provision of this Agreement may be waived or amended except in a writing signed by the Principal and the Broker.

9. Severability. If any provision in this agreement is determined to be invalid, illegal or otherwise unenforceable, the determination will not affect any other provision of this agreement. The invalid provision will be served from this agreement and all remaining provisions will continue to be in full force and effect.

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10. Termination of Agreement. Either the Principal or the Broker may terminate this agreement at any time for any reason upon written notice to the other party. At the time of termination, all earned but unpaid fees for completed services (as set forth and described in provision number 3 of this agreement) become due and payable.

11. Indemnification. The Principle agrees to indemnify, defend and hold the broker harmless from all damages,, liabilities, claims, obligations, disputes, litigation and/or judgments (and reasonable attorneys fees and costs) which (i) arise from or are related to any incorrect material information and/or material omissions in information supplied by Principle to the Broker and/or (ii) arise from or are related to any material facts that the Principle knows but fails to disclose.

12. Dispute Resolution. The parties to this agreement will endeavor to resolve any disputes or disagreements between them with respect to or concerning this agreement in a fair and amicable manner. However, if the parties are unable to resolve any such disputes between and/or among themselves (whether in law or equity), the parties expressly agree to binding, neutral arbitration in accordance with the California Code of Civil Procedure with any recognized California arbitration service. Said binding arbitration hearing shall be conducted pursuant to the California rules of evidence and shall occur in the county where the Subject Property is located. The parties agree to share equally the costs of any such arbitration. Reasonable attorney’s fees and costs shall be awarded to prevailing party.

13. Time of Essence. Time is of the essence with the respect to every provision of this agreement that specifies a time for performance.

14. Entire Agreement. Except as otherwise provided by section 2970 (b)(4) of Title 10 of the Code of Regulations, Chapter 6 (Real Estate Commissioner’s Regulations), this agreement constitutes the entire agreement and a complete and exclusive expression of the parties’ agreement respecting the loan modification services contemplated. Except as conditioned above, this agreement may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement.

15. Successors and Assigns. This agreement shall be binding upon the successors and assigns of the parties.

16. Acknowledgements and Representations. The parties signing below acknowledge they have read and understood this agreement and have each received a copy. The Principals warrant they have the authority to enter into this agreement with regard to the Subject Property and loan(s) herein described.

_____ Name(s) of Principal(s)	_____ Signature	_____ Date
_____ Name(s) of Principal(s)	_____ Signature	_____ Date
_____ Name(s) of Principal(s)	_____ Signature	_____ Date

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Name(s) of Principal(s)

Signature

Date

Name(s) of Principal(s)

Signature

Date

Jeffrey Charo

Signature

Date

01312837
Broker (Corporation) License Number