

FEE AGREEMENT FOR LOAN MODIFICATION SERVICES

This AGREEMENT FOR LOAN MODIFICATION SERVICES (“agreement”) is made and entered into this _____ day of _____, 20_____, by and between _____ (Consumer Loan Company, Mortgage Broker Company or Loan Originator) and _____ (borrower(s)) for the mortgage loan modification services as described herein.

A. PRELIMINARY MATTERS.

1. IMPORTANT NOTICES TO THE BORROWER:

- a) You are paying the company for services you may be able to obtain at no charge from a HUD approved housing counseling agency or by contacting the lender(s) directly. HUD approved free housing counseling in Washington:

<http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm?&webListAction=search&searchstate=WA>

Or 1-800-CALL-FHA (225-5342)

- b) The fees specified in this agreement for services are not fixed by Washington law. Fees are set or established by each loan modification company providing loan modification services and are subject to negotiation between you and the company. Based upon information available to the Department, a usual and customary fee for a successful loan modification for an owner occupied first lien mortgage and second lien if applicable ranges from \$750 to \$1,500, or less, depending upon the complexity of the transaction and your financial circumstances.
- c) If any third party services are necessary to your transaction, you must pay the service provider directly. Third party services may include attorneys or property valuation services.
- d) The company you contract with is prohibited from collecting fees from you via direct access to your bank account or by use of your credit card.
- e) Consumer loan companies, mortgage broker companies, and loan originators are licensed by the Washington Department of Financial Institutions (DFI). The DFI provides information about its licensees, including the current license status and disciplinary history on our website. You can check the licensing status of the company or loan originator at <https://fortress.wa.gov/dfi/licenselu/dfi/licenseLU/default.aspx>.

2. INFORMATION ABOUT THE LOAN(S) AND RELATED PROPERTY (“SUBJECT PROPERTY”) FOR WHICH THE LOAN MODIFICATION SERVICES WILL BE PROVIDED:

Lender¹ _____

Loan Account Number: _____

Property Address: _____

¹ “Lender” may mean the actual lender, the company servicing the loan, or the investor.

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

2nd Lender: _____

2nd Loan Account Number : _____

Description of Existing Loan Obligation(s) on the loan:

B. AGREEMENT.

The company or loan originator² and the Borrower agree as follows:

1. Amount and Payment of Fee. The Borrower agrees to pay an hourly fee of _____ to the company or loan originator on behalf of the company on the date this agreement is signed by the Borrower, or within _____ days of the execution of this agreement by all parties.

2. Amount and Payment of Advance Fee. The Borrower agrees to pay an advance fee of \$ _____ to the company or loan originator on behalf of the company on the date this agreement is signed by the Borrower, or within _____ days of the execution of this agreement by all parties.

3. Deposit of Advance Fee and Accounting of Funds. The company will deposit the advance fee into trust account # _____, located at _____ (name and address of depository). The company will provide a verified accounting of these funds to the Borrower at the end of each calendar quarter following the execution of this agreement by the Borrower, and at the completion or termination of this agreement, whichever occurs first; or

4. Deposit of Advance Fee into Escrow Account. The company will deposit the advance fee with _____ (name and address of a licensed escrow or title company). The company will provide a copy of the escrow or title company's accounting of the funds to the Borrower and company at the end of each calendar quarter following the execution of this agreement by the Borrower, and at the completion or termination of this agreement, whichever occurs first.

5. Loan Modification Services. The company or loan originator shall perform the following loan modification services for and on behalf of the Borrower. 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 Borrower's loan(s) on the subject property. Additionally, the services may be performed out of sequence as listed here if appropriate.

PHASE I:

A. Interview the Borrower, gather and review information about the current loan(s) and terms to include:

² Pursuant to RCW 19.146.040(2), contracts with borrowers entered into by loan originators are binding on the licensed mortgage broker sponsoring the loan originator.

- ❖ Mortgage loans(s) principal 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).
 - ❖ Information about the Borrower's income and assets, including:
 - Paystubs, 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.
 - ❖ Information about the Subject Property, including:
 - Property profiles, comparable sales, active listings, current property listings and other applicable documents.
 - ❖ Information about the Borrower'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).
- B. Assist the Borrower in preparing a hardship letter.
- C. Prepare and submit a loan modification request and package of supporting documents to lender(s).
- D. Completion of Phase I Services. The company or loan originator will complete these Phase I services by _____ (insert date), and in no case later than 30 calendar days from the date this agreement is made, as first above written.
- E. Payment for Phase I Services. The company shall be entitled to a maximum of \$_____ for the performance of the applicable and relevant services described in Phase I and others as may be necessary or appropriate and agreed to by the Borrower.

PHASE II:

Phase II services are focused on the company or originator efforts to vigorously and successfully seek an offer of loan modification from the Lender to the Borrower. The company or originator will assess the offer and explain it to the Borrower.

- A. Contact the Lender(s) to discuss or negotiate the loan modification request(s) and package of supporting documents.
- B. Communicate regularly with the Lender(s) to attempt to negotiate new, and more favorable, loan terms on behalf of Borrower.
- C. Assist the Borrower in understanding and deciding about the modification terms offered by the Lender(s).
- D. Successfully negotiate and or accomplish a loan modification for the Borrower. A "successful loan modification" is achieved if the Borrower accepts one or more of the loan modifications set forth below:
 - ❖ Bringing the borrower current on an acceptable existing mortgage
 - ❖ Changing an adjustable interest rate to a fixed interest rate
 - ❖ Reducing a fixed interest rate to a lower fixed interest rate
 - ❖ Reducing the balance of the principal amount of the loan
 - ❖ Reducing adjustable interest rates, including CAPS
 - ❖ Stopping the upward adjustments of adjustable interest rate
 - ❖ Arranging for the delinquent payments to be added to the end of loan
 - ❖ Arranging for the delinquent payments to be added to a longer loan period
 - ❖ Arranging for the delinquent payments to be accepted in an alternative payment plan
 - ❖ Eliminating or reducing the delinquent payment amounts
 - ❖ Arranging for a discounted pay-off or forbearance
- E. **Completion of Phase II Services.** The company or loan originator will complete these services by _____ (date), and in no event later than 90 calendar days from the date this agreement is made, as first above written, or as otherwise agreed to in writing by the company or loan originator and the Borrower in the event the process takes longer through no fault of the Borrower or company or loan originator.

- F. **Payment for Phase II Services.** The company shall be entitled to the remainder of the fee not earned and paid for Phase I services \$_____ only for a "successful loan modification" as described in Phase II section d above.

C. OTHER TERMS AND CONDITIONS OF AGREEMENT.

- A. **Refund of Fee Until Earned.** If any of the agreed upon services are not completed by the company or loan originator by the agreed upon completion date(s), the unearned portion of the advance fee will be refunded to the Borrower within 5 business days. If this agreement is terminated by the Borrower before the agreed upon completion date and before the agreed upon services are complete, the unearned advance fee will be refunded to the Borrower within 5 business days.

- B. **Responsibilities and Obligations of the Borrower.** The Borrower agrees to furnish the company or loan originator with truthful and accurate information and any documents that will be required by the company or loan originator and the Lender(s) to assess the Borrower's financial status, including (without limitation) the following:

Mortgage Statements – past three months
Paystubs – past two pay periods
W2 forms, 1099 forms, and/or Tax Returns – past two years
Profit and Loss Statements – past two years (if self employed)
Bank Statements – past two 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 Borrower information from Lender

The Borrower also agrees to provide additional information or documentation within 5 days of the company or loan originator request. The Borrower further agrees to immediately notify the company or loan originator of any change in the Borrower's address.

- C. **No Guarantees.** The Borrower acknowledges that the company or loan originator cannot guarantee that the Borrower's existing lender(s) will agree to a modification of the loan(s), and that the Borrower'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).
- D. **Governing Law.** This agreement shall be governed by and construed under the laws of the State of Washington.
- E. **Amendments.** 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 Borrower and the company or loan originator.
- F. **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 severed from this agreement and all remaining provisions will continue to be in full force and effect.
- G. **Termination of Agreement.** Either the Borrower or the company or loan originator may terminate this agreement at any time for any reason upon written notice to the other party. At the time of termination by the Borrower, all earned but unpaid fees for completed services become due and payable. At the time of termination by the company, all unearned fees shall be returned to the Borrower.

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

- I. **Entire Agreement.** 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.

- J. **Assignment.** No assignment by the Borrower or the company or loan originator of this agreement or of any rights or obligations hereunder, shall be valid without the prior written consent of all of the signatories to this agreement.

- K. **Acknowledgements and Representations.** The parties signing below acknowledge they have read and understood this agreement and have each received a copy. The Borrower(s) warrants that he/she/they have the authority to enter into this agreement with regard to the Subject Property and loan(s) herein described.

Borrower	Signature	Date
Borrower	Signature	Date
Company	Loan Originator	Date
Company	Owner or Broker Signature	Date