

**MORTGAGE LOAN ORIGINATION AGREEMENT  
FOR A LOAN MODIFICATION**

This agreement ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
between \_\_\_\_\_  
[include all home owners] ("Borrower") and \_\_\_\_\_ ("Mortgage  
Loan Originator").

1. Acknowledgement of Alternatives. Borrower acknowledges that Mortgage Loan Originator is being compensated for services that Borrower may be able to obtain at no charge from a not-for-profit HUD-approved housing counselor or the like or by contacting the Lender directly. BORROWER IS ADVISED TO CONTACT THE COLORADO FORECLOSURE PREVENTION HOTLINE OPERATED IN COOPERATION WITH THE COLORADO DIVISION OF HOUSING AT 1-877-601-4673 OR THE HUD HOUSING COUNSELING AND REFERRAL LINE AT 1-800-569-4287.
2. Scope of Work. Borrower wishes to employ Mortgage Loan Originator to negotiate with Borrower's current Lender who holds Subject Loan secured by a deed of trust on Subject Property to restructure Borrower's debt to achieve and maintain sustainable mortgage payments owing on the Subject Loan. The Borrower hereby grants to the Mortgage Loan Originator the right to apply for and negotiate a loan modification on behalf of the Borrower with respect to the existing Subject Loan(s) in the form of a first mortgage, second mortgage, or line of credit, liens, or any combination thereof on the Borrower's property ("Subject Property") located at:

_____	_____	_____	_____
Street Address	City	State	Zip

The Borrower defines the right of the Mortgage Loan Originator to act on their behalf as:

☐ Exclusive; or

☐ Non-exclusive.

Subject Loan:

Lender/Lien Holder Name ("Lender"):

Loan/Account Number: \_\_\_\_\_

Loan: \_\_\_\_\_ (i.e. 1<sup>st</sup> Loan, 2<sup>nd</sup> Loan)

Loan Type: \_\_\_\_\_ (i.e. FHA, Conv. ARM)

Borrower Initials: \_\_\_\_\_

Borrower's desired terms and/or goals for the refinance or loan modification are as follows:

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A completed Colorado Tangible Net Benefit Disclosure Form signed by all parties is attached and incorporated to this Agreement as **Exhibit A**. Mortgage Loan Originator will undertake commercially reasonable efforts to conclude a successful loan modification. Upon completion of Mortgage Loan Originator's analysis and research efforts, Mortgage Loan Originator shall present to Borrower the options which are, as a result of such research, available, including but not limited to practical ways to improve Borrower's present debt structure with Borrower's Lender(s). A non-exhaustive description of services to be provided by the Mortgage Loan Originator for the Borrower may include, as applicable and relevant to the Subject Loan on the Subject Property, are as follows:

- a. Interview the Borrower, gather and review information about the Subject Loan and terms to include:
  - i. Subject Loan's principal balance, monthly payment amount, mortgage statements, loan documents, current interest rate, possible rate and/or payment adjustments, equity, loan payment history and correspondence from the Lender(s);
  - ii. Information about the Borrower's income and assets, including: pay stubs, W-2s, 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;
  - iii. Information about the Subject Property, including: property profile, comparable sales, active listings, and other applicable documents; and
  - iv. Information about the Borrower's ability to repay the Subject Loan, 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 summary/letter;
- c. Prepare and submit loan modification request and package of supporting documents to Lender, including obtaining any necessary credit reports and verifications of employment;
- d. Counsel the Borrower regarding the loan modification process and options;
- e. Contact the Lender(s) to discuss/negotiate the loan modification request(s) and package of supporting documents;

f. Communicate regularly with the Lender(s) to attempt to negotiate new and more favorable loan terms on behalf of Borrower;

g. Communicate regularly with Borrower as to status updates, any additional requirements for updated documents or Lender requirements;

h. Assist Borrower in understanding and deciding about the modification terms offered by the Lender(s);

i. Attempt to negotiate and/or accomplish a loan modification for the Borrower. Successful loan modification performance by the Mortgage Loan Originator shall have occurred if the Borrower accepts one or more of the loan modifications set forth below:

- i. Change adjustable interest rate to a fixed interest rate;
- ii. Reduce fixed interest rate to a lower fixed interest rate;
- iii. Reduce balance of the principal amount of the Subject Loan;
- iv. Reduce adjustable interest rate / reduce caps of adjustable interest rate;
- v. Stop upward adjustment of adjustable interest rate;
- vi. Arrange for the delinquent payment amounts to be added to the end of Subject Loan;
- vii. Arrange for the delinquent payment amounts to be added to a longer loan period;
- viii. Arrange for the delinquent payment amounts to be accepted in an alternative payment plan;
- ix. Eliminate or reduce the delinquent payment amounts; and/or
- x. Arrange for the Lender to accept a trial repayment plan, discounted pay-off or forbearance agreement.

The Mortgage Loan Originator will complete the above services in subparagraphs a, b, and c, above, not later than thirty (30) calendar days from the date this agreement is made, as first above written. These services are focused on the Mortgage Loan Originator's efforts to vigorously and successfully seek through the Lender an offer to the Borrower (which offer shall be assessed by the Mortgage Loan Originator and clearly explained to the Borrower) of proactive loan modification solutions, which may provide the Borrower with the opportunity to remain in the Subject Property while making affordable loan payments.

2. Borrower's Obligations. Borrower will provide Mortgage Loan Originator with all information and documentation requested by Mortgage Loan Originator that is reasonably necessary for Mortgage Loan Originator to perform the services under this agreement. Failure by Borrower to provide Mortgage Loan Originator all the information requested within fourteen (14) days of the signing of this Agreement shall constitute a waiver by Borrower of Mortgage Loan Originator's obligation to perform the services under this Agreement. The Borrower

agrees to furnish the Mortgage Loan Originator with all applicable and relevant documents that will be required by the Mortgage Loan Originator and the Lender to assess the Borrower's financial status, including, without limitation, the following:

- a. Mortgage statements-past three months;
- b. Pay stubs - past two pay periods;
- c. W-2 forms, 1099 forms, and/or tax returns-past 2 years;
- d. Profit and loss statements-past 2 years (if self employed);
- e. Bank statements-past 2 months;
- f. Verification of any other income, benefit award letters, retirement statements, pension benefit statements;
- g. Annuity statements, child support/alimony;
- h. Schedules of real estate owned, stock and mutual fund portfolio statements;
- i. Signed authorization for the Mortgage Loan Originator to contact Lender on Borrower's behalf; and
- j. Signed authorization for the Mortgage Loan Originator to share confidential financial information with HFL (defined below).

The Borrower also agrees to provide additional updated information or documentation within five (5) days of the Mortgage Loan Originator's request. The Borrower further agrees to immediately notify the Mortgage Loan Originator of any change in the Borrower's address. Borrower represents and warrants to Mortgage Loan Originator that Borrower will at all times hereunder provide Mortgage Loan Originator with information that is accurate and true to the best of Borrower's knowledge and belief. Borrower agrees to hold Mortgage Loan Originator harmless from and against any liability arising from Borrower's breach in whole or in part of the representations and warranties contained in this Agreement.

3. No Guaranty. Borrower acknowledges that the Mortgage Loan Originator cannot guarantee that Lender will agree to a modification of the Subject Loan. Lender is not required to and is not obligated to modify the Subject Loan in any way and may not agree to any changes in the Subject Loan. Borrower has been advised that Mortgage Loan Originator does not promise or guarantee to stop any foreclosure or foreclosure proceedings or obtain any Public Trustee foreclosure sale date extensions, continuances, or withdrawals. Borrower understands and acknowledges that the services provided by Mortgage Loan Originator are not guaranteed, no particular result has been promised, and no prediction of a final result has been made. Nothing in this Agreement shall be construed as a promise or guarantee about the outcome of the matter.

4. Term. This authorization is effective immediately and for a period of \_\_\_\_\_ days thereafter unless otherwise canceled or extended by the parties. If a conforming refinance commitment or a loan modification offer is not obtained within such time, this Agreement shall be deemed canceled.

5. Commissions. In consideration of the services of Mortgage Loan Originator in securing and negotiating such refinance or loan modification, the Borrower agrees to pay Mortgage Loan Originator the total sum of \$\_\_\_\_\_ (“Commission”), which shall be considered earned and immediately due and payable when a loan modification offer is received from Lender, conforming to the provisions specified above. In the event that a loan modification offer is not obtained for any reason, other than rejection by the Borrower, the Borrower shall have no obligation or liability to Mortgage Loan Originator for Mortgage Loan Origination commissions under this Agreement. A completed Colorado Mortgage Loan Originator Compensation Disclosure Form signed by all parties is attached and incorporated to this Agreement as **Exhibit B**.

6. Joint Representation. Borrower acknowledges that Mortgage Loan Originator intends to work with and pay \_\_\_\_\_ a reasonable fee for actual services rendered in connection with securing, negotiating, and processing such refinance or loan modification, and Borrower consents to such an arrangement. It is expressly acknowledged that of the services described in paragraph 1, above, \_\_\_\_\_ is expected to handle the processing of Borrower’s file and communicating and negotiating with the Lender.

7. Rejection of Terms. The Borrower shall accept the loan modification if it conforms to the provisions described above. If the Mortgage Loan Originator has obtained for the borrower a written commitment from any lender for a refinance or loan modification on the terms and conditions set forth above and the Borrower fails to consummate the loan modification through no fault of the Mortgage Loan Originator, the Borrower shall pay a fee to the Mortgage Loan Originator of three hundred dollars (\$300) for services rendered, preparation of documents, and/or transfer of documents in the Borrower’s file.

8. Third-Party Fees. Borrower agrees to promptly pay all reasonable and necessary fees for third-party services such as credit reports, employment verification, appraisals, title work, or the like, necessary, desirable, or expedient to obtain or consummate a conforming refinance commitment or a loan modification. Mortgage Loan Originator may solicit or receive fees for third-party provider goods or services in advance. Fees for any goods or services not provided shall be refunded to the Borrower, and Mortgage Loan Originator may not charge more for the goods and services than the actual costs of the goods or services charged by the third-party provider. Borrower acknowledges that such fees may be non-refundable in the event that such services are actually rendered and a conforming refinance commitment or a loan modification offer is not obtained. In the event of cancellation of this Agreement, Borrower shall repay, within sixty (60) days after the date of cancellation, all funds paid or advanced in good faith prior to the receipt of notice of cancellation by the Mortgage Loan Originator under the terms of this Agreement, together with interest at the prime rate published by the federal reserve plus two percentage points, with the total interest rate not to exceed eight percent per year, from the date of expenditure until repaid by the Borrower.

9. Credit Report: Please note that a loan modification may negatively impact your credit score. To learn more about this, please contact a credit reporting agency for further information. Credit reporting agencies include: Equifax, Experian, and Transunion.

10. Other Compensation. Nothing contained herein shall preclude the Mortgage Loan Originator from receiving a fee or other remuneration from the Lender or other third party for services prior to or after the issuance of a written commitment from a lender for a refinance or loan modification to the extent allowed by applicable law, provided that the consideration is first fully disclosed in writing to the Borrower.

11. Waiver of Claims. Mortgage Loan Originator makes no warranty, expressed or implied, as to the fitness of any recommendation it may make to Borrower arising out of this Agreement. To the fullest extent allowed by applicable law, Borrower unconditionally waives any claim or right of action against Mortgage Loan Originator, its officers, directors, members, managers, employees, agents, loan originators, and assigns, arising out of this Agreement or for any damages that Borrower may incur by reasons of Borrower following any recommendation of Mortgage Loan Originator, Borrower's failure to follow any recommendation of Mortgage Loan Originator, or any other act or omission of Mortgage Loan Originator relating hereto.

12. Notice. Any cancellation or other notice required or permitted under this Agreement or under state law shall be deemed sufficiently given or served if sent by United States certified mail, return receipt requested, addressed as follows:

a. If to Mortgage Loan Originator:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
E-mail: \_\_\_\_\_  
Facsimile: \_\_\_\_\_

b. If to Borrower:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
E-mail: \_\_\_\_\_  
Facsimile: \_\_\_\_\_

The parties shall have the right from time to time to change the place notice is to be given under this paragraph by written notice thereof to the other party. A completed Notice of Cancellation is attached and incorporated as **Exhibit C**.

13. Miscellaneous Provisions.

- a. The parties acknowledge and agree that each party is responsible for their respective tax obligations owed concerning the contemplated loan modification, Mortgage Loan Originator has made no representations concerning taxes, and Borrower has been encouraged to obtain advice from a competent tax advisor.
- b. The parties acknowledge that they have had a full and fair opportunity to consult with legal counsel of their own choosing throughout all negotiations that preceded the execution of this Agreement, including in connection with their execution of this Agreement. No party shall be deemed the “drafting party” of this Agreement. Consequently, this Agreement shall be construed as a whole, according to its fair meaning and intent, and not strictly for or against any party hereto.
- c. This Agreement shall be construed under the laws of the State of Colorado. Venue shall be in the county where the Subject Property is located.
- d. Every provision of this Agreement is intended to be severable. If any provision of this Agreement or the application thereof shall, for any reason and to any extent, be invalid or unenforceable, neither the remainder of this Agreement nor the application of the provision to other persons, entities or circumstances shall be affected thereby, but instead shall be enforced to the maximum extent permitted by law.
- e. This Agreement sets forth the entire agreement of the parties and fully supersedes any and all prior or contemporaneous negotiations, agreements or understandings between them pertaining to the subject matter hereof. The parties acknowledge that no party, nor agent, nor attorney of any party has made any promise or representation whatsoever, express or implied, concerning the subject matter of this Agreement (or to induce the execution of this Agreement) which is not expressly set forth herein.
- f. This Agreement may only be changed by an amendment executed in writing by all parties.
- g. The parties represent they have read this Agreement, understand it, voluntarily agree to its terms and conditions, and sign it freely.
- h. This Agreement shall be binding upon the parties’ respective heirs, administrators, representatives, executors, successors and assigns.

i. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument. Facsimile or electronic signatures shall be effective as originals.

14. The parties acknowledge that this completed Agreement was provided to Borrowers for their review at least twenty-four hours prior to their signing on \_\_\_\_\_, 20\_\_ at \_\_\_\_:\_\_\_\_ o'clock \_\_.m.

IN WITNESS WHEREOF, the parties hereto executed this Agreement on the dates and times indicated below.



**Notice Required by Colorado Law**

\_\_\_\_\_ [Mortgage Loan Originator] or (his/her/its) associate cannot ask you to sign or have you sign any document that transfers any interest in your home or property to (him/her/it) or (his/her/its) associate.

\_\_\_\_\_ [Mortgage Loan Originator] or (his/her/its) associate cannot guarantee you that they will be able to refinance your home or arrange for you to keep your home.

**You may, at any time, cancel this contract, without penalty of any kind.**

**If you want to cancel this contract, mail or deliver a signed and dated copy of this notice of cancellation, or any other written notice, indicating your intent to cancel to \_\_\_\_\_ [Mortgage Loan Originator] at \_\_\_\_\_ [address of Mortgage Loan Originator, including facsimile and electronic mail address].**

**As part of any cancellation, you (the home owner) must repay any money actually spent on your behalf by \_\_\_\_\_ [Mortgage Loan Originator] prior to receipt of this notice and as a result of this agreement, within sixty days, along with interest at the prime rate published by the federal reserve plus two percentage points, with the total interest rate not to exceed eight percent per year.**

**This is an important legal contract and could result in the loss of your home. Contact an attorney or a housing counselor approved by the federal department of housing and urban development before signing.**

[signatures appear on next page]

Borrower:  _____ Print Name: _____	Date: _____ Time: _____
STATE OF COLORADO ) ) ss. _____ COUNTY OF _____ )  The foregoing instrument was acknowledged before me this ____ day of _____, 20____. Witness my hand and official seal. My Commission Expires: _____  <div style="text-align: right; margin-right: 50px;">           _____            Notary Public         </div> (Seal or Stamp)	
Co-Borrower:  _____ Print Name: _____	Date: _____ Time: _____
STATE OF COLORADO ) ) ss. _____ COUNTY OF _____ )  The foregoing instrument was acknowledged before me this ____ day of _____, 20____. Witness my hand and official seal. My Commission Expires: _____  <div style="text-align: right; margin-right: 50px;">           _____            Notary Public         </div> (Seal or Stamp)	

Mortgage Loan Originator:  By: _____ Print Name: _____ Title: _____ Colo. License No. _____	Date: _____
STATE OF COLORADO ) ) ss. _____ COUNTY OF _____ )  The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____ [ <i>name</i> ] as _____ [ <i>title</i> ] of _____ _____ [ <i>company</i> ]. Witness my hand and official seal.  My Commission Expires: _____  <div style="text-align: right;"> _____  Notary Public </div> (Seal or Stamp)	

Exhibit C  
Notice of Cancellation

Re: Mortgage Loan Origination Agreement for Refinance or Loan Modification  
dated \_\_\_\_\_, 20\_\_\_\_.

To: \_\_\_\_\_ (*name of foreclosure consultant*)

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

(*Address of foreclosure consultant, including facsimile and electronic mail*)

I hereby cancel this contract.

\_\_\_\_\_ (*Date*)

\_\_\_\_\_ (*Home owner's signature*)