

[Name of Servicer]
[Address of Servicer]

[Name of Borrower]
[Name of Co-Borrower]
[Address of Borrower]

[Loan #]
[Servicer FAX]
[Servicer Email]

[Borrower Phone]
[Borrower Email]

[Date]

Dear [borrower and co-borrower name(s)]:

If you are looking for help selling your home and avoiding foreclosure, the federal government has introduced the **Home Affordable Foreclosure Alternatives (HAFA)** Program to help you. As your mortgage servicer, we are offering you the opportunity to participate in this program by utilizing HAFA's short sale option.

Home Affordable Foreclosure Alternatives Program – Short Sale

A “short sale” is specifically designed to help borrowers who are unable to afford their first mortgage and want to sell their home to avoid foreclosure, even if the sale price may not pay off the amount owed on their mortgage. A short sale requires a number of parties (you, the buyer, your real estate broker, and sometimes mortgage insurance companies and other lenders) to work together to make this option successful. However, it could be a good solution for your current situation.

How Does a Short Sale Work?

- **Pre-Sale**—We will start by approving a list price for your home or give you the acceptable sale proceeds (the minimum amount that we must receive after sales costs) from the sale of your home. We will also identify the sales costs (broker commissions and closing costs) that may be deducted from the final sales price. You then list your property (like any home sale) with a local real estate broker at the approved price.
- **Offer**—When you get an offer on your home, you will submit the required documentation and we will approve the sale if it is in line with what we agreed to.
- **Closing**—Once the sale closes, we will release you from all responsibilities for repaying your mortgage. Plus, you will receive \$1,500 to help pay some of your moving expenses. (The check will be paid to you by the settlement agent as part of the closing.) In the event there is any money left over from the sale after paying the entire amount you owe on the mortgage plus the approved sale costs, you will not be eligible to receive the \$1,500.

To Participate in the Short Sale Program

Please note, there is no guarantee that your home will sell under this program, and you are responsible for determining whether you want to sell your home for the price and terms described in this letter. The following pages detail your responsibilities, additional information on the short sale process and the Terms and Conditions. **Additionally, this letter constitutes an agreement between us and you (“Agreement”) so please read it carefully and completely.**

If you agree to the terms of the Agreement and want to proceed with a short sale, you must complete, sign and return the Agreement back to us. If you have questions, please contact us directly between the hours of [insert hours] at [insert toll free number.]

Sincerely,

[Servicer Name]

To Accept This Offer

- Please sign and return this Agreement. All owners of the property must sign this Agreement.
- Obtain your broker's signature to acknowledge this Agreement, because your broker plays an important role selling your property. The Short Sale Program sections (pages 2-4) contain important information that you and your broker will need to review and discuss.
- Include a copy of your signed listing agreement.
- Include information on other liens secured by your home (such as home equity loans, homeowner association liens, tax liens or judgments).
- *[Insert only if applicable:]* Complete and sign the Hardship Affidavit form.

We must have these documents by *[insert date 14 calendar days from this request]*. Please send us these documents at the following address: *[insert servicer address]*.

Short Sale Program—Your Responsibilities

You have until *[insert date 120 calendar days from the date of this letter]* to sell your house. After that date, this Agreement terminates, unless it is extended by us. During this time you have certain responsibilities. You must:

- ❶ Keep your house and your property in good condition and repair and cooperate with your broker to show it to potential buyers.
- ❷ *[Insert only if applicable:]* Make partial mortgage payments of \$_____ by the first day of each month beginning on _____ 1, 20__ until your house is sold and title is transferred. While you are selling your house, you still legally owe the full amount of your current monthly mortgage payment. However, as part of this Agreement, we will accept this reduced payment until the house is sold and closes or this Agreement expires. These payments do not constitute a modification of your mortgage.
- ❸ Be able to provide the buyer of your home with clear title. To start, determine if you have other loans, judgments or liens secured by your home, such as a home equity line of credit or a second mortgage. If there are such liens, you will need to either pay these loans off in full or negotiate with the lien holders to release them before the closing date. Under this program, you must make sure other lien holders will agree not to pursue other legal action related to the pay off of their lien, such as a deficiency judgment. You can get help from your broker to negotiate with the other lien holders.
- ❹ We will allow up to 3% of the unpaid principal balance of each loan (not to exceed an aggregate of \$3,000 for all the loans in total) to be paid from the sale proceeds to help get a lien release. If you have these types of liens or loans on your home, please gather any paperwork you have (such as your last statement) and send it to us when you return this signed Agreement. Remember, clearing these other liens and delivering clear and marketable title is your responsibility.
- ❺ At several stages of the short sale process, such as after an offer is received, you will need to complete some paperwork. You are responsible for returning all documents within the time allowed in this Agreement.

If you fulfill these responsibilities, we will postpone any foreclosure sale during the period of this Agreement.

Short Sale Program—Additional Information

- You can't list the property with or sell it to anyone that you are related to or have a close personal or business relationship with. In legal language, it must be an "arm's length transaction." If you have a real estate license, you can't earn a commission by listing your own property. You may not have any agreements to receive a portion of the commission or the sales price after closing. Any buyer of your property must agree to not sell the home within 90 calendar days of the date it is sold by you. You may not have any expectation that you will be able to buy or rent [servicer may delete "or rent" in accordance with investor guidelines] your house back after the closing. Any knowing violation of the arm's length transaction prohibition may be a violation of federal law.
- We will need to talk to your broker and others involved in the sale. By signing this Agreement, you are authorizing us to communicate and share personal financial information about your mortgage, credit history, subordinate liens, and plans for relocation with your broker and other third parties that could be involved in the transaction including employees of the United States Treasury and its financial agents, Fannie Mae and Freddie Mac.
- The difference between the remaining amount of principal you owe and the amount that we receive from the sale must be reported to the Internal Revenue Service (IRS) on Form 1099C, as debt forgiveness. In some cases, debt forgiveness could be taxed as income. The amount we pay you for moving expenses may also be reported as income. We suggest that you contact the IRS or your tax preparer to determine if you may have any tax liability.
- We will follow standard industry practice and report to the major credit reporting agencies that your mortgage was settled for less than the full payment. We have no control over, or responsibility for the impact of this report on your credit score. To learn more about the potential impact of a short sale on your credit, you may want to go to <http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre24.shtm>.

[Insert optional Deed-in-Lieu language if applicable:]

If by the termination date of this Agreement, you have complied with all your responsibilities but are unable to sell your home, we will allow you to convey ownership of your home and all real property secured by your mortgage loan (your "Property"). While this action, called a deed-in-lieu of foreclosure, will not allow you to keep your Property, it will prevent you from going through a foreclosure sale and it will release you from all responsibility to repay the mortgage debt. Additionally, you will still be eligible to receive \$1,500 to help with your moving expenses.

You and all other occupants must vacate your Property and provide clear and marketable title with a general warranty deed or local equivalent by *[insert date at least 30 days after the date of this Agreement]*. You must leave the house in broom clean condition, free of interior and exterior trash, debris or damage, and all personal belongings must be removed from the Property. The yard must be clean and neat and you must deliver all the keys and controls, such as garage door openers, to us. You may be required to sign standard pre-closing documents as well as attend a closing of the conveyance of your Property where all borrowers on the mortgage must be present.

You must also be able to deliver marketable title free of any other liens. We will allow up to three percent (3%) of the unpaid principal balance of each subordinate lien, in order of priority, not to exceed \$3,000 in aggregate for all subordinate liens, to be deducted from the sale proceeds to pay subordinate lien holders to release their liens. We require each subordinate lien holder to release you from personal liability for the loans in order for the sale to qualify for this program, but we do not take any responsibility for ensuring that the lien holders do not seek to enforce personal liability against you. Therefore, we recommend that you take steps to satisfy yourself that the subordinate lien holders release you from personal liability.

By signing this letter, you are agreeing not only to a short sale but also to a deed-in-lieu of foreclosure if a short sale is not successful. If you have any questions about the deed-in-lieu of foreclosure, please call us before signing and returning this letter.]

Short Sale Program—Receiving/Accepting an Offer

When you receive an offer on your home, you will send us a Request to Approve a Short Sale (RASS) form, a copy of which is attached to this Agreement as Exhibit A1. You will also need to send along a copy of the signed purchase offer and evidence that the buyer has funds to purchase the home, such as a letter that the buyer is approved for a mortgage loan. Within 10 business days of our receipt of these documents, we will approve the sale if it is within the terms and conditions of this Agreement and any other liens are released.

When the sale closes in accordance with this Agreement, we will accept the net sale proceeds (all the funds that remain after the approved sales costs have been paid) in full satisfaction of your mortgage with us and will release you from all future liability.

We hope you decide to take advantage of this short sale option. If you or your broker have any questions about this Agreement, please call us at [insert servicer phone number].

If you would like to speak with a counselor about this program, call the Homeowner's HOPE™ Hotline 1-888-995-HOPE (4673). The Homeowner's HOPE™ Hotline offers free HUD-certified counseling services and is available 24/7 in English and Spanish. Other languages are available by appointment.

Short Sale Agreement Terms and Conditions

1. **List Price or Acceptable Sale Proceeds.** *[Choose one and delete unnecessary text.]* [You agree to list the property in “as is” condition for [dollar amount].] OR [We will accept a sales contract where the proceeds from the sale, less the expenses stated in paragraph 5. *Allowable Costs*, nets [dollar amount].] We are not responsible for the accuracy of the list price and have no responsibility to you in the event the property is not sold. We may require you to adjust the list price or other offer terms.
2. **Listing Agreement.** The listing agreement must include the following clauses:
 - a. **Cancellation Clause.**
 - b. “Seller may cancel this Agreement prior to the ending date of the listing period without advance notice to the broker, and without payment of a commission or any other consideration, if the property is conveyed to the mortgage insurer or the mortgage holder.”
 - c. **Listing Agreement Contingency Clause.** “Sale of the property is contingent on written agreement to all sale terms by the mortgage holder and the mortgage insurer (if applicable).”
3. **Property Maintenance and Expenses.** You are responsible for all property maintenance and expenses during the listing period including utilities, assessments, association dues and costs for interior and exterior upkeep required to show the property to its best advantage. Additionally, until ownership is transferred, you must report any and all property damage to us and file a hazard insurance claim for covered damage. Unless insurance proceeds are used to pay for repairs or personal property losses as provided in the mortgage documents, we may require that they be applied to reduce the mortgage debt.
4. *[Insert only if applicable:]* **Partial Mortgage Payments.** Beginning on _____ 1, 20____, you will be required to make partial mortgage payments of \$_____ by the first day of each month during the term of the Agreement and pending transfer of property ownership. You are legally obligated to make the full amount of your current monthly mortgage payments. However, we will accept this reduced partial payment until the house is sold or this Agreement expires. The partial mortgage payments do not constitute a modification of your mortgage.
5. **Allowable Costs that May be Deducted from Gross Sale Proceeds**
 - a. **Closing Costs.** The closing costs paid by you or on your behalf as seller must be reasonable and customary for the market. *[Choose one and delete unnecessary text.]* [Acceptable closing costs, including the commission, which may be deducted from the gross sale proceeds may not exceed \$_____.] OR [Acceptable closing costs, including the commission, which may be deducted from the gross sale proceeds may not exceed ____% of the list price.] OR [Closing costs which may be deducted from the gross sale proceeds are limited to title search and escrow expenses usually paid by the seller; reasonable settlement escrow/attorney’s fees; transfer taxes and recording fees usually paid by the seller; termite inspection and treatment as required by law or custom; pro-rated real property taxes; and, negotiated real estate commissions not to exceed six percent (6%) of the contract sales price [add other closing costs that may be included].]
 - b. **Subordinate Liens.** We will allow up to three percent (3%) of the unpaid principal balance of each subordinate lien in order of priority, not to exceed a total of \$3,000, to be deducted from the gross sale proceeds to pay subordinate lien holders to release their liens. We require each subordinate lien holder to release you from personal liability for the loans in order for the sale to qualify for this program, but we do not take any responsibility for ensuring that the lien holders do not seek to enforce personal liability against you. Therefore, we recommend that you take steps to satisfy yourself that the subordinate lien holders release you from personal liability.
 - c. **Real Estate Commissions.** We will allow to be paid from sales proceeds, real estate commissions of _____ percent of the contract sales price, to be paid to the listing and selling brokers involved in the transaction. Neither you nor the buyer may receive a commission. Any commission that would otherwise be paid to you or the buyer must be reduced from the commission due on sale. *[Optional text:]* Please note: We have retained a vendor to assist your listing broker with the sale. The vendor and your listing broker will work together on your behalf to facilitate the sale process. *[Choose one and delete unnecessary text.]* [The vendor will be paid from sale proceeds [\$ _____] OR [an amount equal to ____% of the sales price]. OR [The vendor will be paid by us outside of the sales transaction.]

Program Terms And Conditions



- d. **Borrower Relocation Assistance.** If the closing of the short sale occurs in accordance with this Agreement, you will be entitled to an incentive payment of \$1,500 to assist with relocation expenses. We will instruct the settlement agent to pay you from the sale proceeds at the same time that all other payments, including

the payoff of our first mortgage, are disbursed by the settlement agent. Only one payment per household is provided for the relocation assistance, regardless of the number of borrowers.

6. **Sales Contracts.** Within three business days of a bona-fide purchase offer, you must submit a Request for Approval of a Short Sale, which is attached as Exhibit A1, along with a copy of a fully executed Sales Contract, all addenda and Buyer's documentation of funds or Buyer's pre-approval or commitment letter on letterhead from a lender.
7. **Parties to the Sale.** The Sales Contract must contain the following clauses: "Seller and Buyer each represent that the sale is an "arm's length" transaction and the Seller and Buyer are unrelated to each other by family, marriage or commercial enterprise." "The Buyer agrees not to sell the property within 90 days of closing of this sale."
8. **Closing.** The closing must occur within ____ calendar days of the Sales Contract execution date.
9. **Foreclosure Sale Suspension.** We may initiate or continue the foreclosure process as permitted by the mortgage documents; however, we will suspend any foreclosure sale date until the expiration date of this Agreement or the date of closing of an approved short sale, whichever is later, provided you continue to abide by the terms and conditions of this Agreement.
10. **Satisfaction and Release of Liability.** If all of the terms and conditions of this Agreement are met, upon sale and settlement of the property, servicer will prepare and send for recording a lien release in full satisfaction of the mortgage, foregoing all rights to personal liability or deficiency judgment.
11. *[Insert only if applicable.]* **Mortgage Insurer or Guarantor Approval.** The terms and conditions of the sale are subject to the written approval of the mortgage insurer or guarantor.
12. **Termination of this Agreement.** Unless otherwise agreed by the parties, this Agreement will terminate on *[insert date]*. We may also terminate this Agreement at any time if:
- Your financial situation improves significantly, you qualify for loan modification, you bring the account current or you pay off the mortgage in full.
 - You or your broker fails to act in good faith in marketing and /or closing on the sale of the property, or otherwise fails to abide by the terms of this Agreement.
 - A significant change occurs to the property condition or value.
 - There is evidence of fraud or misrepresentation.
 - You file for bankruptcy and the Bankruptcy Court declines to approve the Agreement.
 - Litigation is initiated or threatened that could affect title to the property or interfere with a valid conveyance.
 - [Insert only if applicable:]* You do not make the payments required under this Agreement.
13. **Settlement of a Debt.** The proposed transaction represents our attempt to reach a settlement of the delinquent mortgage. You are choosing to enter into this Agreement even though there is no guarantee that the transaction will be successful. In the event this transaction is unsuccessful, we may exercise our remedies under the mortgage, including foreclosure.

Signature of Servicer Representative

Title

Printed Name of Servicer Representative

Date

Short Sale Agreement

PLEASE READ THIS AGREEMENT CAREFULLY BEFORE YOU SIGN, BECAUSE IT AFFECTS YOUR LEGAL RIGHTS.

Borrower Acknowledgement of Risks, Conditions and Contingencies. In signing and returning this Short Sale Agreement, I/we agree to all the stated terms and conditions.

_____	_____	_____	_____
Borrower Signature	Date	Co- Borrower Signature	Date
_____	_____	_____	_____
Printed Name		Printed Name	

Acknowledgement by Listing Broker

The undersigned listing broker ("Broker") is not a party of the Short Sale Agreement ("Agreement") above, but acknowledges that the Broker:

1. Has been retained by the borrower for the sale of the property.
2. Has reviewed the terms and conditions of the Agreement above.
4. Agrees that in the event of a conflict between the terms of the listing agreement and the terms agreed to by the borrower in the Agreement above, the listing agreement will be deemed amended to conform to the terms of the Agreement.
5. Acknowledges that pursuant to the Agreement, the Servicer will not review a sales contract unless a Request for Approval of Short Sale, attached as Exhibit A1, is completed.

_____	_____
Listing Broker Name	Listing Broker Signature
_____	_____
Address:	License #:
_____	_____
	Office Phone:
_____	_____
	Cell Phone:
_____	_____
Date:	E-mail Address:
_____	_____

If you have questions, please contact us directly between the hours of [insert hours] at [insert toll free number].

If you would like to speak with a counselor about this program, call the Homeowner's HOPE™ Hotline 1-888-995-HOPE (4673). The Homeowner's HOPE™ Hotline offers free HUD-certified counseling services and is available 24/7 in English and Spanish. Other languages are available by appointment.

NOTICE TO BORROWER

Be advised that by signing this document you understand that any documents and information you submit to your servicer in connection with the Making Home Affordable Program are under penalty of perjury. Any misstatement of material fact made in the completion of these documents including but not limited to misstatement regarding your occupancy in your home, hardship circumstances, and/or income, expenses, or assets will subject you to potential criminal investigation and prosecution for the following crimes: perjury, false statements, mail fraud, and wire fraud. The information contained in these documents is subject to examination and verification. Any potential misrepresentation will be referred to the appropriate law enforcement authority for investigation and prosecution. By signing this document you certify, represent and agree that: "Under penalty of perjury, all documents and information I have provided to Lender in connection with the Making Home Affordable Program, including the documents and information regarding my eligibility for the program, are true and correct."

If you are aware of fraud, waste, abuse, mismanagement or misrepresentations affiliated with the Troubled Asset Relief Program, please contact the SIGTARP Hotline by calling 1-877-SIG-2009 (toll-free), 202-622-4559 (fax), or www.sig tarp.gov. Mail can be sent Hotline Office of the Special Inspector General for the Troubled Asset Relief Program, 1801 L St. NW, Washington, DC 20220.

