

NHSA-NWO Mortgage Broker/DU Lender Agreement

This Mortgage Broker Agreement, ("Agreement") is made and entered into as of and for this _____ day of _____, _____, by and between _____ ("Broker"), with its principal place of business at _____, and NEIGHBORHOOD HOUSING SERVICES OF AMERICA, a California Corporation, with its principal place of business at 1970 Broadway, Oakland, California 94612 ("NHSA") and sets forth the terms, conditions and consideration and understandings pursuant to which Broker will provide the Goods and perform the Services as hereinafter set forth to NHSA.

Based on the Mutual Covenants contained herein, the parties agree to the following terms:

Article 1-General Agreement Terms

1.01 Definitions

Unless otherwise required by the context, the following terms shall have the following meanings respectively:

- "Affiliate"— A business entity operating under an agreement with NHSA and in compliance with NHSA's and NeighborWorks® America's guidelines.
- "Borrower"— An individual or individuals whom the Broker is assisting to obtain a Loan.
- "Loan"— A loan or line of credit that the Broker desires to be funded by NHSA and that is secured by a first or junior lien on residential property.
- "Goods and Services"— The goods, facilities, and services provided by Broker under this Agreement as set forth in Section 3.01 of this Agreement.
- "NHSA"—Neighborhood Housing Services of America

1.02 Entire Agreement

This Agreement, including Schedule A, which shall be and hereby is incorporated herein, contains the final and entire agreement of the parties and supersedes in their entirety and for all purposes all other agreements whether oral or written made with respect to the subject and the transactions contemplated by this Agreement shall have no force or effect. No amendments, supplements, or waivers of any provision of this Agreement shall be valid, other than with respect to compensation and Rate Sheets as provided in Article IV, unless by an instrument in writing, signed by authorized representatives of both parties.

1.03 Independent Contractor

The parties are independent contractors. Nothing in this Agreement or in the activities contemplated by the parties hereunder shall be deemed to create any agency, partnership, employment, or joint venture relationship between the parties. Neither Broker nor any of its officers, employees, or agents shall represent that they are agents, employees or Affiliates of NHSA, or its Affiliates.

1.04 Laws, Regulations and Permits

Broker shall, at all times, at its sole cost and expense, comply with all applicable federal, state, and local laws, regulations, and ordinances as they relate to this Agreement and Goods and Services delivered hereunder, including without limitation, the Truth in Lending Act, the Real Estate Settlement Procedures Act, the Equal Credit Opportunity Act, the Fair Credit Reporting Act and all federal, state, and local laws, regulations, and ordinances applicable to mortgage brokers, consumer protection, telephone solicitation, and telemarketing. Broker shall obtain and maintain in force during the term of this Agreement all permits and licenses necessary or appropriate to enable Broker to lawfully provide the Goods and perform the Services required under this Agreement.

1.05 Assignment

NHSA has entered into this Agreement with Broker in reliance on the specific qualifications of Broker to provide the Services contemplated hereunder; therefore, Broker may not assign or delegate this Agreement or any of its rights or obligations hereunder, whether by operation of law or otherwise, without prior written consent of NHSA, which consent may be withheld in NHSA's sole and absolute discretion. Notwithstanding the foregoing, with respect to any assignee permitted by NHSA hereunder and as a condition thereto, Broker shall enter into a written contract with the assignee for the benefit of NHSA that strictly limits any such person's use and disclosure of NHSA's confidential information, including any Borrower Information, as defined in Section 1.06(a) of this Agreement. NHSA may assign its rights and benefits and delegate its duties and obligations to its Affiliates or to a transferee of all or substantially all of the assets of NHSA or any of its Affiliates

1.06 Confidential Information

(a) "Confidential Information" means all written information provided by NHSA to Broker in connection with NHSA's loan programs, including, without limitation, policies, guidelines, credit criteria, Proprietary Documents as defined in Section 1.07(b), business practices, plans or proposals, all information provided by NHSA to Broker regarding Borrower's transactions which are the subject of this Agreement and Borrower Information as defined below. Borrower Information means all information related to Borrower provided or developed by Borrower, Broker, or NHSA, regardless of whether NHSA's or Broker's relationship with the Borrower ceases, including any nonpublic personal information as defined by federal law, including, but not limited to, the Gramm-Leach-Bliley Act, as it may be amended, any regulations promulgated thereunder, and any other customer information protected by applicable state law. Confidential Information shall not include any information that: (a) enters the public domain other than as a result of disclosure by Broker; (b) with the exception of Borrower Information, is known by Broker at the time it is disclosed by NHSA, as shown by Broker's records; (c) with the exception of Borrower Information, is independently developed by Broker at any time, as shown by Broker's records; or (d) is rightfully obtained by Broker from an independent third party who does not have an obligation of confidentiality to NHSA.

(b) All Confidential Information shall be held in the strictest confidence and will not be disclosed by the Broker or its directors, officers, employees, affiliates, agents, advisors, or representatives collectively, the "Representatives"), except as specifically permitted by the terms hereof. Broker and its Representatives will use the Confidential

Information solely for the purpose of the Agreement, will not use the Confidential Information for any other purpose, and will not disclose or communicate the Confidential Information in any manner whatsoever, directly or indirectly, to any third party without the prior written consent of NHSA, unless disclosure is permitted under Section 1.06(d). Broker further agrees that the Confidential Information will be disclosed only to such of its Representatives who need to examine the Confidential Information for the purposes described in this Section 1.06. Before being provided with any Confidential Information, each such Representative shall be informed by the Broker of the confidential nature of the Confidential Information and the terms of this Agreement, shall be directed by the Broker to treat the Confidential Information confidentially, and shall agree to abide by each provision of this Agreement. Broker shall in any event be responsible for any breach of this Agreement by any Representative.

(c) Broker shall take all necessary precautions to keep confidential the Confidential Information and shall take all necessary precautions to assure observation of this Agreement by its Representatives. All Confidential Information shall remain the exclusive property of NHSA. Upon request by NHSA, Broker shall promptly surrender to them any of the Confidential Information in the Broker's possession, and shall surrender all Confidential Information to NHSA promptly and without request upon termination of the Agreement. Broker will not retain any copies of the Confidential Information, subject, however, to any requirement under applicable law that Broker retain copies of Borrower Information, including copies of Proprietary Documents completed with Borrower Information.

(d) Until NHSA has approved a Loan and the Borrower has accepted the offer of credit, Broker can disclose Borrower Information to third parties as permitted by Borrower. In the event that Broker or any of its Representatives is requested or required (by oral question, interrogatories, requests for information or documents, subpoenas, civil investigation, governmental requirements, or similar process) to disclose any of the Confidential Information, Broker will provide NHSA with prompt notice of such requests so that NHSA may seek an appropriate protective order, or if appropriate, waive compliance with the provisions of this provision. Broker will use its best efforts to obtain or assist NHSA in obtaining such a protective order. Broker may disclose Borrower Information relating to a Loan if requested or required by Broker's regulatory authority without complying with the notification provisions in this Section 1.06(d).

(e) Broker acknowledges that a breach of this Section may result in continuing and irreparable damages to NHSA for which there may be no adequate remedy at law. Broker hereby grants NHSA the right to appear at any time in any court of law and to obtain an order against Broker enjoining and/or restraining Broker from using and/or disclosing such Confidential Information.

1.07 Publicity and Proprietary Documents

(a) Broker may not refer to, use, display, nor permit the use or display of, the name of NHSA or any signs, symbols, trademarks, service marks, slogans, or logos owned, licensed, or used by NHSA or its Affiliates or in any way associated with the name of NHSA or Neighborhood Housing Services of America (collectively the "Marks") directly or indirectly, including

without limitation in any advertising or promotional materials, print media, press release, electronic media, Web page advertising, or Internet advertising without prior written consent of NHSA which consent may be withheld in NHSA's sole and absolute discretion.

(b) Broker shall use any forms, agreements, or documents created or prepared by NHSA and provided to Broker (the "Proprietary Documents") solely for the purpose of the Agreement and will not use or permit the use of the Proprietary Documents by any of its Representatives for any other purpose whatsoever. Broker may not reproduce or enter the Proprietary Documents into any computerized or electronic database or system without prior written consent of NHSA which consent may be withheld in NHSA's sole and absolute discretion. Broker will immediately return to NHSA any and all unused Proprietary Documents upon termination of this Agreement.

1.08 Governing Laws and Venue

This Agreement shall be governed by the internal laws and not the laws regarding conflicts of laws of the State of California. Venue for any judicial proceeding under this Agreement shall be in Alameda County, California.

1.09 Miscellaneous Provisions

(a) It is expressly agreed by the parties hereto that time is of the essence with respect to this Agreement including, but not limited to, any provisions for the delivery of Goods and Services and of any notice allowed or required herein. This Agreement shall be deemed fully executed by the parties when the same becomes binding upon the parties in accordance with its terms and conditions.

(b) Article and section headings are included for convenience only and are not to be used to construe or interpret this Agreement.

(c) No delay, failure, or waiver of either party's exercise or partial exercise of any right or remedy under this Agreement shall operate to limit, impair, preclude, cancel, waive, or otherwise affect such right or remedy.

(d) If any provision of this Agreement is held invalid, illegal, or unenforceable, the validity, legality, or enforceability of the remaining provisions shall in no way be affected or impaired thereby.

(e) This Agreement may be executed by the parties in one or more counterparts, and each of which when so executed shall be an original but all such counterparts shall constitute but one and the same instrument.

(f) All such notices permitted or required to be delivered hereunder shall be in writing and shall be deemed to have been properly given: (i) seventy-two (72) hours after being sent by certified mail, return receipt requested; (ii) forty-eight (48) hours after being sent by national overnight courier; (iii) on delivery, if personal delivery to the named individual addressees; or (iv) if sent by facsimile, on receipt if receipt was orally confirmed by the recipient. All such notices permitted or required to be delivered hereunder shall be addressed as follows:

If to Broker: _____

If to NHSA: NEIGHBORHOOD HOUSING SERVICES OF AMERICA
1970 Broadway, Suite 470
Oakland, California 94612
Attn: Kenneth A. Gross

(g) The remedies set forth in this Agreement are not exclusive. Election of one remedy shall not preclude the use of other remedies and a party may seek any remedy generally available at law or in equity. (h) The parties hereto hereby waive any right to trial by jury in matters arising out of this Agreement. BROKER AND NHSA HEREBY SPECIFICALLY ACKNOWLEDGE THE AFORESAID WAIVER OF RIGHT TO JURY TRIAL. (i) Except as otherwise specifically provided herein, nothing expressed or implied in this Agreement is intended, or shall be construed, to confer upon or give any person or entity, other than Broker and NHSA and its Affiliates any rights or remedies under or by reason of this Agreement.

Article II—Broker's Representations and Agreements

2.01 Authority

Broker warrants and represents that: (a) as of the date of this Agreement and throughout the term of this Agreement it is and will remain duly organized and validly existing as a corporation, partnership, or other form of organization in good standing under the laws of the jurisdiction of its organization; and it has and will have the requisite power and authority to enter into and perform this Agreement; (b) this Agreement has been duly authorized, executed, and delivered to NHSA and constitutes a valid, legally binding and enforceable agreement, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, receivership, moratorium, or other laws relating to or affecting the rights of creditors generally, and by general equity principles; (c) the execution and performance of this Agreement will not violate any provision of any organizational document, instrument, agreement, judgment, order, statute, or regulation by which Broker is bound or to which it is a party or require the consent of any other person or governmental authority (unless such consent has been obtained); and (d) there is no action, proceeding, or investigation pending or, to Broker's knowledge, threatened, that has or would have an adverse effect on Broker's performance of its obligations under this Agreement or which questions the validity of the Agreement or of any action taken or to be taken pursuant thereto.

2.02 Indemnification and Release and Reporting

(a) Broker shall indemnify, defend, and hold harmless NHSA, its Affiliates, any affiliated corporation, and their respective directors, officers, agents, and employees, successors, and/or assigns, from and against any and against all damage, loss, liability, cost, actions, causes of action, claims, demands, or expense both direct and indirect (including without limitation reasonable legal and accounting fees and expenses actually incurred) by whomsoever asserted, including but not limited to the claims of: (1) any Borrower arising directly or indirectly out of the transaction which is the subject matter of this Agreement; and (2) any person or persons who prosecute or defend any actions or proceedings as

representatives of or on behalf of any class or interest group, or any governmental instrumentality, body, agency, department or commission, or any administrative body or agency having jurisdiction pursuant to any applicable statute, rule, regulation, order, or decree; which may arise or be incurred as a result of any action or inaction by Broker, including, but not limited to, a breach of any covenant, condition, representation or warranty arising under this Agreement, except as such damage, loss, liability, cost, action, cause of action, claim, demand, or expense is caused solely by the negligence or willful misconduct of NHSA.

(b) Broker understands and agrees that NHSA may report information about any application for a Loan that NHSA believes to contain misrepresentations and/or irregularities to the applicable regulatory agency and to any mortgage industry background database. Broker agrees that it and its employees may be named as the originating entity or loan officer(s) on any such Loan. Broker acknowledges the importance of NHSA's right and necessity to disclose such information. Without limiting the generality of Section 2.02(a), Broker, for itself and its directors, officers and employees, and their respective successors and/or assigns hereby releases NHSA, its Affiliates, and affiliated corporations, and their respective directors, officers, agents, and employees, successors and/or assigns, and Mortgage Asset Research Institute, Inc., from any and all damage, loss, liability, cost, actions, causes of action, claims, demands, or expense both direct and indirect (including without limitation reasonable legal and accounting fees and expenses actually incurred) that may arise from the reporting or use by any database subscriber of any information submitted by NHSA with respect to Broker and its employees to any mortgage industry background database.

(c) Broker shall report promptly to NHSA notice of any claim or potential claim against Broker arising from or related to its activities under this Agreement and shall report any notice of violation, censure or disciplinary action against Broker or any of its Representatives arising from the actions or activities of Broker under this Agreement or otherwise.

Article III—Performance Requirements

3.01 Goods and Services

(a) Subject to the terms of this Agreement, Broker may from time to time submit to NHSA Loans in accordance with the lending program requirements provided to Broker by NHSA, which may be changed from time to time at the sole discretion of NHSA; provided, however, that any such submission, in and of itself, shall not be construed as creating any obligation on the part of NHSA to accept any Loans from Broker or, after acceptance, to purchase the subject Loans. NHSA shall have complete and sole discretion as to any such decisions and the Loans made shall close in Broker's name. Broker shall not warrant or represent to any Borrower that NHSA has approved or will approve Loans until such time as NHSA has so informed Broker in writing. At the time of the submission of any Loan, Broker shall properly prepare and furnish to NHSA in the form required such items or documents as NHSA may require and shall provide any additional

documentation requested including information NHSA requires to comply with applicable federal laws and regulations.

(b) Broker will make such investigations and inquiries to verify the truthfulness and completeness of all information relating to the Borrower's creditworthiness and collateral submitted in connection with an application for a Loan. Broker warrants and represents that as of the date the Loan is closed and funded all such information is true, accurate, and complete and that Broker will not omit any material information. Broker further represents, warrants, and covenants that it has no adverse information or documentation concerning any Borrower which it has not communicated to NHSA and that all documents or instruments prepared or submitted by Broker in connection with such Loans will be valid and genuine in every respect. If at any time during the period between the submission of the Loan and the closing and funding of the Loan, Broker learns, or has reason to believe, that any of its representations and warranties may cease to be true, Broker shall immediately give written notice thereof to NHSA and Broker acknowledges that this covenant shall be deemed to have been relied upon by NHSA regardless of whether NHSA had the opportunity to or did independently verify or investigate any of the information submitted by Broker at any time, whether prior to Loan funding or thereafter, unless NHSA determined that the information at issue was not true, accurate, or complete prior to purchasing the Loan. NHSA has no obligation to verify any information submitted by Broker.

(c) Broker represents and warrants that the appraisal was prepared by a qualified and properly licensed appraiser who meets NHSA's requirements for appraisers and who had no direct interest in the secured property.

(d) With respect to each Loan submitted to NHSA under this Agreement, Broker agrees that if the Loan is rescinded pursuant to the Truth in Lending Act and Regulation Z or any other law, Broker will pay to borrower, on demand, all monies collected from Borrower prior to closing.

(e) Broker shall provide and represents that it has provided the Goods and Services listed on Schedule A for any Loan for which it receives compensation from NHSA pursuant to Article V.

(f) Broker agrees that no appraisal or Title Company controlling, controlled by, or under common control with Broker shall be used in connection with the closing of any Loan.

3.02 Non-exclusive Engagement

Broker acknowledges that it is not now and will not be the exclusive provider of the Goods and Services to NHSA and that NHSA has made no representation as to any volume of Loans which it may accept or approve from Broker or from any other source. NHSA acknowledges that Broker has no obligation to provide loans to NHSA

Article IV—Compensation and Billing

4.01 Compensation

(a) Broker's compensation for the Goods and Services provided may be paid through a combination of cash, origination points, or financed through the interest rate, as determined by Broker and Borrower. Any Broker compensation financed by NHSA is as consideration for the Goods provided and Services performed, as detailed in Article III and Schedule A

and shall be as described on Rate Sheets provided by NHSA to Broker from time to time. NHSA reserves the right to change the compensation and other terms in the Rate Sheets at any time in its sole and absolute discretion.

(b) Broker acknowledges that it must provide all disclosures required by federal and state law with respect to Broker's compensation. Broker agrees that it will not accept from or give to any person, directly or indirectly, any commission, fee, or other thing of value other than as disclosed in accordance with and permitted by the Real Estate Settlement Procedures Act and that the total compensation Broker receives on Loans covered by this Agreement, including any compensation received from a Borrower, is for Goods or Services which Broker in fact rendered and does not exceed the fair market value of the Goods and Services actually provided and performed.

(c) Any compensation paid by NHSA to Broker under this Article IV shall exclude all taxes and duties of any kind, if any, which either party is required to pay with respect to the Goods and Services covered by this Agreement.

Article V—Termination and Survival

5.01 Termination

(a) Either party may terminate this Agreement at any time by written notice to the other, with or without cause. NHSA shall pay for Goods and Services provided, performed, and accepted prior to the termination date and Broker shall provide and perform Goods and Services on Loans approved by NHSA prior to the effective date of termination. Broker agrees to safeguard, remove, and deliver all property including all Confidential Information belonging to NHSA in Broker's possession at the time this Agreement is terminated to NHSA. Notwithstanding the foregoing, any such termination shall not be deemed a waiver of damages, causes of action, right or remedy either Broker or NHSA may have as a result of any breach of or default by the other under any term or provision of this Agreement.

5.02 Survival

The rights and obligations of the parties, which by their nature survive the making of a Loan or the termination or completion of this Agreement, including but not limited to those set forth herein:

- In the Sections of Article I—General Agreement Terms titled:
 - Entire Agreement;
 - Assignment;
 - Confidential Information;
 - Publicity and Proprietary Documents;
 - Governing Laws and Venue;
 - Miscellaneous-Waiver of Jury Trial; and
- In the Sections of Article II—Broker's Representations and Agreements titled:
 - Authority; and
 - Indemnification and Release shall remain in full force.

The Parties Hereto have caused this Agreement to be duly executed and each of the undersigned hereby warrants and represents that he or she has been and is, on the date of this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement.

BROKER:

Company Name

Address

City, State, Zip

Fax

By: _____

Name Title

Signature Date

By: _____

Name Title

Signature Date

NHSA:

NEIGHBORHOOD HOUSING SERVICES OF AMERICA,
1970 Broadway, Suite 470
Oakland, CA 94612
(510) 832-5542

By: _____

Name Title

Signature Date

By: _____

Name Title

Signature Date

Schedule A

Loan Origination Goods Provided and Services Performed

Broker will furnish the following Goods and will perform the following Services in connection with Loan origination to obtain compensation from NHTSA:

Furnishing Broker's retail operation, marketing, and physical and electronic location to attract and provide Services to Borrower and informing the Borrower about NHTSA Loan products.

Taking information from the Borrower and assisting the Borrower in filling out and submitting the Loan application and all forms required as part of the application.

Investigating the accuracy and completeness of the Borrower's information.

Analyzing the Borrower's income and debt and counseling and pre-qualifying the Borrower to determine the loan product(s) and maximum loan that the Borrower can afford.

Educating the Borrower in the home financing process, including home equity loans, advising the Borrower about the different types of loan products available, and demonstrating how closing costs and monthly payments could vary under each product.

Collecting financial information (tax returns, bank statements) and other related documents that are part of the application process.

Initiating/ordering VOEs (verification of employment) and VODs (verification of deposit).

Initiating/ordering requests for mortgage and other loan verifications.

Providing disclosures (truth in lending, good faith estimates, others) to the Borrower.

Initiating/ordering appraisals.

Initiating/ordering inspections or engineering reports.

Ordering legal documents as requested by NHTSA.

Assisting the Borrower in understanding and clearing credit problems.

Informing the Borrower of any conditions required to be cleared prior to final approval or closing and satisfying those conditions or causing them to be satisfied.

Maintaining regular contact with the Borrower and NHTSA between application and closing to apprise them of the status of the application and gather any additional information as needed.

Scheduling the Loan closing with third party closing agent and participating in the closing.

Other Services:_____

Furnishing the following reports and documents:_____.