
INSTRUCTIONS

HAFA Short Sale Agreement

Defines the terms and conditions of a short sale, including the following:

- listing agreement, maximum real estate commissions and marketing terms;
- servicer and borrower obligations and duties;
- acknowledgement of risks, conditions, and contingencies; and
- conditions for early termination.

[Servicer Logo]

[Name of Servicer] (“Servicer”)
[Address of Servicer]

[Name of Borrower(s)] (“Borrower”)
[Property Address] (“Property”)
[Loan #] (“Loan”)

[Servicer FAX]
[Servicer Email]

[Date]

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

As the Servicer of your Loan, we want to work with you to avoid foreclosure. That’s why we are offering you the opportunity to participate in the **Home Affordable Foreclosure Alternatives (HAFA)** Program by utilizing HAFA’s short sale program.

Short Sale

A short sale, also known as a pre-foreclosure sale, is the sale of a property for less than the balance remaining on the mortgage loan secured by the property. With a short sale, the mortgage lender agrees to release its mortgage lien on the property when it receives the proceeds of the sale of the property, even though the proceeds are less than the mortgage loan balance. Benefits to you may include:

- Avoiding foreclosure
- Satisfying the outstanding balance on your Loan
- Receiving a cash payment in the amount of \$3,000 to use toward moving or other expenses

To take advantage of the opportunity for a HAFA Short Sale:

1. Read the contents of this package carefully
2. Provide the required documentation (See “To Accept This Offer” below)
3. Sign the Short Sale Agreement (“Agreement”)
4. Mail the Agreement and all required documentation to us by ***[insert date 14 calendar days from the date of this letter]***
5. Contact a real estate broker to list your Property for sale if it is not currently listed, and inform the broker of your participation in the HAFA short sale program

Be sure to read the following pages carefully as they detail your responsibilities and provide additional information on the short sale process. If you agree to the terms and want to proceed with a short sale, you must return the required documents to us by the date stated above. If you have questions, please contact us between the hours of [insert hours] at [insert toll free number].

Avoid Foreclosure—Respond Today

Don’t delay. To take advantage of this program, you must act quickly. Please contact us today to begin the process. Additionally, you can also call the Homeowner’s HOPE™ Hotline at 1-888-995-HOPE (4673) for assistance. They offer free HUD-certified counseling services in English and Spanish, and can help answer any questions you have.

Sincerely,

[Servicer Name]

HAFA – Short Sale Program Details

How Does a Short Sale Work?

- **Pre-Sale**—The enclosed Agreement provides a list price for your Property, as well as the sales costs (broker commissions and closing costs) that may be deducted from the final sales price. You must list your Property (like any home sale) with a local real estate broker at the approved price.
- **Offer**—When you receive an offer on your Property, you will send us a Request for Approval of Short Sale (RASS) form 184A, a copy of which is attached to this Agreement as Exhibit A. You will also need to send us a copy of the signed purchase offer and evidence that the buyer has funds to purchase the Property, such as a letter from a lender that the buyer is approved for a mortgage loan. Within 10 days after we receive the information, we will review the terms of sale and let you know whether we will approve the short sale transaction.
- **Other Liens**—You must be able to provide the buyer of your Property with clear and marketable title. To start, determine if you have other loans, judgments, or liens secured by your Property, 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. Your broker may be able to help you negotiate with the other lien holders. We will allow up to 6% of the unpaid principal balance of each loan in order of priority (up to a total of \$6,000) to be paid from the sale proceeds to help you obtain releases of any such liens. You must ensure other lien holders will agree to release you from all liability for the debt secured by their liens.
- **Closing**—Once the sale of the Property closes, we will release our lien on your Property, and we will release you from any further obligation for the Loan. Plus, you will receive \$3,000 to help pay some of your moving or other expenses.
- **Deed-In-Lieu of Foreclosure**—If you are unable to sell your Property within the agreed-upon period, you may still be eligible for a deed-in-lieu of foreclosure. With a deed-in-lieu of foreclosure, you voluntarily transfer ownership of the Property to your lender to satisfy your Loan obligation. Benefits to you may include:
 - Avoiding foreclosure
 - Satisfying the outstanding balance on your Loan
 - Receiving a cash payment in the amount of \$3,000 to use toward moving or other expenses
 - Qualifying to lease the Property from the lender at a below market rate rental for up to 6 months with a possibility of extending the lease for an additional 12 months at market rate rental

To Accept This Offer

- Please sign and return the Agreement. All owners of the Property must sign the Agreement.
- Obtain your broker's signature to acknowledge the Agreement, because your broker plays an important role in selling your Property. The Agreement contains 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 Property (such as home equity loans, homeowner association liens, tax liens or judgments).

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

[Name of Servicer] (“Servicer”)
 [Name of Borrower(s)] (“Borrower”)
 [Property Address] (“Property”)
 [Loan #] (“Loan”)

Short Sale Agreement

You, the Borrower, have until *[insert date 120 calendar days from the date of this Short Sale Agreement]* (the “Marketing Period”) to market and sell your Property. If you are unable to sell your Property by that date, you may still be eligible for a deed-in-lieu of foreclosure (“DIL”). Listing and sale of the Property under this Short Sale Agreement (“Agreement”) is subject to the following terms and conditions.

1. **Arms-Length Transaction.** You cannot list the Property with, or sell it to, anyone to whom you are related or with whom you have a close personal or business relationship. 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 Property within 90 calendar days of the date you sell the Property to the buyer. You may not have an agreement with the buyer that you will be able to buy the Property back after the closing. Any knowing violation of the arm’s length transaction prohibition may be a violation of federal law.
2. **Consent to Release Information.** 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 Property, marketing strategy, offers received, the Loan, credit history, other liens, and plans for relocation with your Broker and other third parties that could be involved in the sale of your Property, including employees of the United States Treasury and its financial agents, Fannie Mae and Freddie Mac.
3. **List Price.** You agree to list the Property in “as is” condition for [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.
4. **Listing Agreement.** The listing agreement between you and the Broker related to the sale of the Property must include the following clauses:
 - a. Cancellation Clause. “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.”
 - b. 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).”
5. **Property Maintenance and Expenses.** You are responsible for all property maintenance and expenses during the Marketing 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.
6. *[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 Property is sold or this Agreement expires. The partial mortgage payments do not constitute a modification of your Loan.
7. **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. 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. **Other Liens.** You must be able to provide the buyer of your Property with clear and marketable title. We will allow up to 6% of the unpaid principal balance of each subordinate lien on the Property in order of priority, not to exceed a total of \$6,000, 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 secured by their liens on the Property 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 real estate commissions as stated in the listing agreement between you and your broker, not to exceed six percent (6%) of the contract sales price, to be paid from the gross sale proceeds 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. Fees of a third party to negotiate a short sale with the servicer (commonly referred to as “short sale negotiation fees” or “short sale processing fees”) may not be paid from the sales proceeds.
 - 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 \$3,000 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 the Loan, are disbursed by the settlement agent. Only one payment for the Property is provided for the relocation assistance, regardless of the number of Borrowers.
8. **Sales Contracts.** Within three business days after you receive an offer to purchase your Property, you must submit a Request for Approval of Short Sale (Form 184A), which is attached as Exhibit A, along with a copy of a fully executed Sales Contract relating to the Property, all addenda and Buyer’s documentation of funds or Buyer’s pre-approval or commitment letter on letterhead from a lender.
 9. **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 business relationship.” “The Buyer agrees not to sell the Property within 90 days of closing of this sale.”
 10. **Closing.** The closing must occur within ____ calendar days of the Sales Contract execution date.
 11. **Foreclosure Sale Suspension.** We may initiate or continue the foreclosure process as permitted by the Loan documents and applicable law; however, we will suspend any foreclosure sale date until the expiration date of this Agreement or the scheduled closing date of an approved short sale, whichever is later, provided you continue to abide by the terms and conditions of this Agreement.
 12. **Satisfaction and Release of Liability.** If all of the terms and conditions of this Agreement are met, upon sale and settlement of the Property, we will prepare and send to the settlement agent for recording a release of the mortgage lien, and we will release you from any further liability on the Loan.
 13. *[Insert only if applicable.]* **Mortgage Insurer or Guarantor Approval.** The terms and conditions of any short sale of the Property are subject to the written approval of the mortgage insurer or guarantor of the Loan.
 14. **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:
 - a. Your financial situation improves significantly, you qualify for a loan modification, you bring the Loan current or you pay off the Loan in full.
 - b. 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.
 - c. A significant change occurs to the Property condition or value.
 - d. There is evidence of fraud or misrepresentation.
 - e. You file for bankruptcy and the Bankruptcy Court declines to approve the Agreement.
 - f. Litigation is initiated or threatened that could affect title to the Property or interfere with a valid conveyance.
 - g. *[Insert only if applicable:]* You do not make the payments required under this Agreement.

- 15. **Settlement of a Debt.** The proposed transaction represents our attempt to reach a settlement of the Loan. 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 Loan documents, including foreclosure.
- 16. **IRS Reporting.** The difference between the remaining amount of principal you owe on your Loan 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 relocation 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 related to this transaction.
- 17. **Credit Reporting.** We will follow standard industry practice and report to the major credit reporting agencies that your Loan 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>.

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 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.
3. 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.
4. 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 A, 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.

<p style="text-align: center;">NOTICE TO BORROWER</p> <p>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.”</p> <p>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 Troubled Asset Relief Program, 1801 L St. NW, Washington, DC 20220.</p>	
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