



Heartland Valuation Service LLC.

2139 Tapo Street, Suite 221 Simi Valley, California 93063

THIS APPRAISAL SERVICES AGREEMENT (“Agreement”), dated as of the ____ day of _____, 2019 (“Effective Date”), is made by and between Heartland Valuation Service LLC, a California company with a business address at 2139 Tapo Street #221, Simi Valley, CA 93063 (“Heartland”), and _____ a _____ company with a business address at _____ (“Client”).

SCOPE OF AGREEMENT

This Agreement sets forth the terms and conditions under which client may request, from time to time, and Heartland will furnish upon such request certain real estate appraisal and related services in connection with loans made by client to prospective borrowers (the “**Services**”).

SERVICES

Ordering of Services: Client will initiate an order for one or more appraisals via access to Heartland’s website. Heartland will operate and maintain its own website. Upon receipt of clients order, Heartland will locate and place the appraisal order to such Appraiser on Heartland’s Approved appraiser panel.

Assignment of Appraisals: Upon receipt of clients order, Heartland will assign the performance of the Appraisal to a qualified and experienced Appraiser. Heartland will verify that each Appraiser has demonstrated competency in providing the type of Appraisal requested and will provide the Appraiser with the opportunity to recuse him/herself from performing the Appraisal if he/she is not competent to do so.

Heartland Responsibilities: In addition to Heartland’s other obligations contained in this Agreement, Heartland will: (i) verify that the Appraiser carries and maintains the required insurance, if any, is currently licensed in the states for which he/she performs appraisal services, if required by law, and does not appear on the GSA or LDPP exclusionary list, (ii) be responsible for all communication with and the payment of all compensation to the Appraiser, (iii) continuously monitor the performance of the Appraiser with respect to accuracy, compliance with appraisal guidelines and policies, timeliness and professionalism.

Appraisal Delivery. The Appraiser will: (i) complete the Appraisal and electronically deliver the completed Appraisal to the Website for electronic delivery to client. At all times Heartland will track the status of the appraisal and notify client of any changes to the completion date.

Corrections; Value Appeal: Client will notify Heartland promptly of any error (excluding value appeals) that it discovers in the Appraisal. Heartland will coordinate with the applicable Appraiser to make appropriate corrections and will return the corrected Appraisal within a target of two (2) business days. If client desires to challenge the appraised value in the Appraisal, client will notify Heartland in accordance with Heartland's appraisal appeal policy and process. Heartland will notify client in of the results of the appeal within five (5) business days.

INFORMATION SECURITY AND PRIVACY

Client acknowledges they have reviewed heartlands security and privacy addendum (Exhibit A)

TERM AND TERMINATION

Either party may terminate this Agreement, without cause, with a five (5) day prior written notice to the other party. Heartland may terminate this Agreement immediately upon oral or written notice to Client, if Client is in breach of any of Client's obligations with respect to permissible use of, or prevention of unauthorized access to, Appraisal Reports. Or if Client breaches any terms of this Agreement, including but not limited to: failure to pay amounts when due. Any Supplements to this Agreement terminate when the Agreement terminates. The termination of this Agreement shall not terminate any of Client's obligations hereunder.

Each party shall execute and deliver all such further instruments, documents and papers, and shall perform any and all acts necessary to give full force and effect to all of the terms and provisions of this Agreement.

INDEMNIFICATION

Client shall indemnify, defend, and hold Heartland, its respective agents, employees and independent contractors (herein collectively referred to as ("Providers")) harmless from and against any damages, losses, obligations, liabilities, claims, actions or causes of action (each and all of such items being hereinafter separately and collectively referred to as the "Claim") sustained or suffered by Heartland arising out of or relating to:

- (1) Any breach of any representation, warranty, covenant or agreement made by Client in this Agreement, or in any certificate, instrument or agreement delivered by Client pursuant hereto or thereto or in connection with the transactions contemplated hereby or thereby or any facts or circumstances.
- (2) Any Claim by any consumer or any other third party, except to the extent directly caused by Heartland's gross negligence.
- (3) Any Claim sustained or suffered by Heartland arising out of or relating to Client's execution, delivery or performance of this Agreement.

- (4) All reasonable costs and expenses (including, without limitation, reasonable attorneys', accountants' and other professional fees and expenses) incurred by them in connection with any action, suit, proceeding, demand, assessment or judgment incident to any of the matters indemnified against under subparagraphs (1), (2) and (3) immediately above.
- (5) Any Claim resulting from the publishing or other disclosure of the Appraisal Report.
- A. The defense of any suit, action, legal proceeding or administrative proceeding (each and all of such suits, actions, legal proceedings and/or administrative proceedings being hereinafter referred to as the "Proceeding") that may be threatened, brought or instituted against Heartland on account of any matter which is or may be the subject of the indemnity provided for herein shall be conducted at the sole expense of Client by legal counsel unilaterally selected by Heartland.
- B. If Client does not assume the defense of any such Claim or litigation resulting there from, Heartland may defend against such Claim or litigation, after giving notice of the same to Client, on such terms as Heartland may deem appropriate, and Client shall be entitled to participate in (but not control) the defense of such action, with Client's legal counsel and at Client's own expense. If Client thereafter seeks to question the manner in which Heartland defended such Claim or the amount or nature of any such settlement, Client shall have the burden to prove by a preponderance of the evidence that Heartland did not defend or settle such Claim in a reasonably prudent manner.
- C. The remedies provided for in this Section shall be cumulative and shall not preclude assertion by Heartland of any other rights or the seeking of any other remedies against Client.

FEES AND PAYMENT TERMS

Client will pay Heartland, 30 days from receipt of invoice. Client's account becomes delinquent if not paid in full within 30 days after the billing invoice date. Upon default, Client shall pay a late charge of 1.5 percent per month on past due amounts and will be subject to suspension of account hereunder until all amounts owed have been paid in full. Client shall pay all reasonable Attorneys' fees and collection costs incurred by Heartland in collecting any delinquent account, whether or not arbitration is instituted.

No amendment or modification of this Agreement or of any covenant, condition, or limitation herein contained shall be valid unless in writing and duly executed by the party to be charged therewith.

GOVERNING LAW

This Agreement will be governed by and construed in accordance with the laws of the State of California without regard to its rules of conflict of laws. Each of the Parties hereby irrevocably and unconditionally waives their right to trial by jury

Any controversy, claim or dispute between or among the parties hereto, including tort and contract claims, shall be determined by binding arbitration conducted in the county in which the Heartland is located. The parties agree that this forum and venue is not inconvenient or improper. Arbitration shall be administered according to the state arbitration laws and procedures applicable in the county in which the arbitration occurs, and a judgment on the award may be entered in any court of competent jurisdiction. The arbitration shall be by a single arbitrator chosen by the parties, or if they cannot agree within five (5) days of exchanging names of proposed arbitrators, by a single arbitrator appointed in accordance with applicable rules and procedures. Notwithstanding any other provision of this agreement, either party may, without conflict with this arbitration provision, seek interim provisional, injunctive, or other equitable relief until the arbitration award is rendered or the controversy is otherwise resolved. The arbitrator must give effect to state statutes of limitations, such that claims will be barred from arbitration if such claims would be barred in a court proceeding under applicable statutes of limitations.

Each party is duly authorized to enter into and perform this Agreement, and if such party is a corporation or limited liability company, all appropriate and necessary action has been taken by such corporation or limited liability company to authorize the signing and performance of this agreement.

CONFIDENTIAL INFORMATION

(1.)Definition of Confidential Information: In performing their respective obligations under the Agreement, each Party may disclose to the other confidential or proprietary information that the disclosing Party considers to be confidential and (i) is marked confidential at the time of disclosure, or (ii) if unmarked (e.g. orally or visually disclosed), is designated as confidential at the time of disclosure, and is confirmed as such in writing by the disclosing Party within thirty (30) days of the disclosure, or (iii) should reasonably be construed as confidential based upon the nature of the information disclosed (hereafter collectively referred to as ("Confidential Information")). In addition, each Party's Content, Appraisals, and information disclosed with regard to each Party's business services, finances or business operations (including any marketing plans, pricing methods, policies and personnel and organizational data) are deemed to be Confidential Information. The terms of the Agreement are deemed to be each Party's Confidential Information.

(2.)Obligations: Each Party will, and will cause its Authorized Recipients (as defined herein) to hold Confidential Information of the other Party in confidence and will use the same degree of care by instruction, agreement or otherwise, to maintain the confidentiality of the other Party's Confidential Information that it uses to maintain the confidentiality of its own Confidential Information, but with at least a reasonable degree of care commensurate with the nature and importance of such Confidential Information. Each Party agrees not to make use of Confidential Information other than for the exercise of rights or the performance of obligations under this Agreement, and not to release, disclose, communicate it or make it available to any third party other than: (i) employees, agents and subcontractors of the Party.

ASSIGNMENT

Neither this Agreement nor any of the rights or obligations hereunder may be assigned by either Party without the prior written consent of the other Party, which consent will not be unreasonably withheld or delayed.

No amendment or modification of this Agreement or of any covenant, condition, or limitation herein contained shall be valid unless in writing and duly executed by the party to be charged therewith.

NOTICES

Client will address any written notice to Heartland required by this Agreement to President, Heartland Valuation Service LLC. or another address designated in writing by Heartland to Client. Heartland will address any written notice required by this Agreement to Client at the address noted below or another address designated in writing by Client to Heartland.

Street: _____
City: _____
State/Zip: _____
Attn: _____

ENTIRE AGREEMENT

This Agreement, together with any addendum hereto, constitutes the entire Agreement between the parties, and supersedes any prior written or oral communications, proposals, and agreements with respect to such subject matter. Letter agreements may not conflict with this agreement which shall be subject to change by Heartland on thirty (30) days' written notice unless otherwise specified. No changes in this Agreement or any supplement may be made except in writing by the President of Heartland

Company: _____

Heartland Valuation Service LLC.

Signature: _____

Signature: _____

Name of signor: _____

Name of signor: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A

INFORMATION SECURITY AND PRIVACY ADDENDUM

Scope

Heartland agrees that: Client's Confidential Information requires protection against unauthorized use, reproduction, distribution or disclosure. For the purposes of this Addendum and the Agreement, borrowers Information shall also be considered client's confidential information.

Safeguarding.

Heartland shall safeguard all Confidential Information against unauthorized access, destruction, use, modification, or disclosure using at least the same standards and practices that Heartland uses to safeguard its own data, proprietary and/or confidential information of like nature, but in no event less than prudent industry standards. Heartland shall revise and maintain the data safeguards in accordance with prevailing industry best practices.

Encryption.

- a.) **Transmission.** Heartland agrees that any and all electronic transmission or exchange of system and application data to and from the Website shall take place via secure encrypted file transmission protocols using, in order of preference, either Advanced Encryption Standard (AES) 256 bit or AES 128-bit encryption solutions.
- b.) **Backup/Storage.** If Heartland stores any data on backup servers or storage devices as part of its designated backup and recovery processes, it must be in encrypted form using industry best standards, and commercially supported encryption solutions. Heartland represents and warrants that any and all data that constitutes non-public personal information under current legislation or regulations, stored on servers or storage devices, including, without limitation, any portable or laptop computing device or any portable storage medium, shall be likewise encrypted. Encryption solutions must be deployed at not less than industry-standard levels (currently, a 128-bit key for symmetric encryption and a 1024 (or larger) bit key length for asymmetric encryption).

SSAE 16 SOC 2.

Heartland shall provide Client at least annually, at no charge to Client, a copy of an annual American Institute of Certified Public Accountants Service Organization Control (SOC) 1 type 2 report and SOC 2 type 2 report (for all Trust Services Principles) or equivalent that covers those systems and at the location of those systems that process Client Confidential Information. Client acknowledges that such report may be from Heartland's subcontractor.

1. Additional Security Obligations.

- a.) Heartland will (and will cause each of its subcontractors and each of the Appraisers to) process and use the Client Confidential Information only on and pursuant to the written instructions of Client or as otherwise expressly provided in the Agreement and in accordance with Applicable Law. For the avoidance of doubt, Heartland shall not, and shall not permit any third party to, access, use, erase, copy, process, disclose, transfer or transmit Client Confidential Information for any purpose other than to provide the products and Services. Client acknowledges and agrees that the Appraisers will require access and use of Client Confidential Information.
- b.) Heartland will closely monitor all processing and use of the Client Confidential Information by each of its subcontractors and will prevent each such subcontractor from further subcontracting any part of their work without the express written consent of Client.
- c.) Heartland shall not (and will cause each of its subcontractors not to) transfer Client Confidential Information out of any country or territory, nor require Client to make such a transfer, except on the written instructions, or with the written consent, of Client, and then subject to any additional restrictions set by Client.
- d.) Heartland will not (and will cause each of its subcontractors not to) disclose the Client Confidential Information to any person unless Client has given its prior written consent to such disclosure and Heartland has ensured that such person is bound by the same obligations as Heartland under the Agreement with respect to the protection of Client Confidential Information. Client acknowledges and agrees that the Appraisers will require access and use of Client Confidential Information, and in particular borrower Information, and hereby consents to such disclosure.
- e.) Heartland will provide each employee of Heartland handling or otherwise having access to Client Confidential Information in connection with the Agreement with, and will cause each subcontractor to provide each of its employees handling or otherwise having access to Client Confidential Information in connection with the Agreement, with appropriate training regarding data security protocols and Applicable Law.
- f.) Heartland shall cooperate and comply with the directions or decisions of any governmental authority and any competent data protection or privacy authority in relation to Client Confidential Information, and in each case within such time as would enable Client to meet any time limit imposed by such governmental authority or such data protection or privacy authority.
- g.) Heartland represents and warrants that Heartland and each of its subcontractors has adopted internal rules regarding the handling of Client Confidential Information in compliance with the data security protocols and Applicable Law, which rules include (i) a provision that prohibits the disclosure of Client Confidential Information to third parties except in accordance with the data security protocols and Applicable Law, and (ii) disciplinary measures for employees who breach same.

2. **Disaster Recovery & Business Continuity.**

Heartland represents and warrants that it has put in place and will maintain during the term of the Agreement, a disaster recovery plan designed to minimize the risks associated with a disaster affecting Heartland' ability to provide the services under the Agreement that are consistent with the Federal Financial Institution Examination Counsel (FFIEC) guidelines. Heartland will test its disaster recovery plan annually.