



**Service Agreement for Mortgage Lenders & Appraisers for compliance with the “Appraisal Independence” regulation included in the Dodd-Frank Wall Street Reform and Consumer Protection Act.**

**This Service Agreement also covers the processing of the Settlement products and services available through the MDS Web Platform.**

**1. TERMS OF USE**

This is the Mortgage Documents Solutions, Inc. Terms of Use Agreement (“Agreement”) and legal contract for Mortgage Lenders, Appraisers and Mortgage Documents Solutions, Inc. (hereinafter MDS). Please read the entire document carefully. MDS will provide you access to appraisalfirewall.com only upon your acceptance of this Agreement. AppraisalFirewall is a trademark of SharperLending LLC. Appraisers need to accept SharperLending LLC agreement by clicking on it once you start registering on the “site”. Upon acceptance of this Agreement, Mortgage Lenders will have access to MDS platform to request appraisals in compliance with the current Appraisal Independence regulation. However, Lenders recognize that they are required to perform their own Appraisal Audits.

**2. DEFINITIONS**

In this Agreement,

- a. The "Site" and the "Website" refer to the website [www.appraisalfirewall.com](http://www.appraisalfirewall.com).
- b. "Appraiser" means a licensed real estate appraiser, appraisal company or similar appraisal professional.
- c. "Covered Parties" refers to Mortgage Documents Solutions, Inc., SharperLending LLC, its directors, officers, shareholders, employees, and agents.
- d. "Homeowner" means a person who owns a residence and may be considering its sale or a person who is actively interested in purchasing a home.
- e. "Other" refers to persons other than Appraisers, Real Estate Agents, and Homeowners, including but not limited to attorneys, paralegals, mortgage brokers, mortgage lenders, financial institutions and other entities and individuals.
- f. "User" means any user of the Appraisalfirewall.com service, including but not limited to Appraisers, Real Estate Agents, Affiliates, Homeowners, and Others.
- g. "You" refers to any User of the Site.
- h. "HVCC" means the Home Valuation Code of Conduct as signed between Fannie Mae, Freddie Mac and the New York State Attorney General.
- i. "USPAP" means the Uniform Standard of Professional Appraisal Practices.
- j. "MDS" means Mortgage Documents Solutions, Inc.
- h. "MDS Web Platform" refers to the website [www.mdspr.com](http://www.mdspr.com)

**3. USE OF MATERIAL**

- a. You are granted a nonexclusive, nontransferable, limited license to access and use the Site in accordance with this Agreement.
  - b. All right, title, and interest (including all copyrights and other intellectual property rights) in the Site (in both print and machine-readable forms) belong to SharperLending LLC. You acquire no proprietary interest in the Site. You may not remove or obscure the copyright notice or other notices contained in information, products, and software retrieved from SharperLending LLC or the Site.
  - c. The contents of the Site, such as text, graphics, images and other material ("Material"), are protected by copyright under both United States and foreign laws. Unauthorized use of the Material may violate copyright, trademark and other laws. You must retain all copyright and other proprietary notices contained in the original Material on any copy you make of the Material.
  - d. You must receive express permission from SharperLending LLC if you (a) sell or modify the Material or reproduce, display, publicly perform, distribute, decompile, reverse engineer, disassemble, rent, lease, loan, sublicense, or create derivative works from the Site, which includes the information and software made available therein; (b) copy, modify, reproduce, republish, distribute, transmit or use for commercial or public purposes the Site, except to the
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extent required in order for you to use the Site in the manner expressly intended by SharperLending LLC; (c) export or re-export the Site in violation of the export control laws and regulations of the United States of America.

e. All documents posted on the lenders assigned account will be saved for the exclusive use of the lender to whom the reports were intended. MDS will not reproduce, resell or transfer any document including appraisals requested and received under the lenders account.

f. SharperLending and MDS will use its best efforts to protect lenders client list and account information (non-public information) received as a result of this agreement from public and third party disclosure.

#### **4. ACCESS TO THE SITE**

a. Information, products, software, services and features may be added to or withdrawn from the Site at SharperLending's sole discretion, and can be changed without notice.

b. SharperLending LLC nor MDS does not guarantee continuous, uninterrupted or secure access to our services, and operation of the Site may be interfered with by numerous factors both inside and outside of our control. From time to time, system maintenance will be necessary, and, under such circumstances, SharperLending LLC and/or MDS will notify its users in advance by posting a message on the Site and/or sending an e-mail notice to registered members' e-mail addresses.

c. SharperLending LLC reserves the right to modify or discontinue the Site or any portion thereof with or without notice to any User.

d. SharperLending LLC shall not be liable to any User or other party should it exercise its right to discontinue the Site.

e. SharperLending LLC system is certified by the International Computer Security Association (ICSA TruSecure), approved by all three of the national credit repositories, and backed up by a redundant processing center in Phoenix, Arizona. To enhance reliability we also utilize backup energy sources, multiple internet connections, offsite archives, and tape backup procedures. We use industry standard Secure Socket Layer (SSL) 128-bit encrypted communication for obtaining information in ordering forms and returning any sensitive data.

#### **5. RESPONSIBILITIES OF APPRAISERS**

**By enrolling in the Site's Appraisal Network, you as an Appraiser warrant and agree that:**

a. You are of legal age and otherwise capable of forming a binding legal contract;

b. You will:

i. Always submit true, current and complete information about yourself for the Appraiser Profile to the Site;

ii. Maintain and promptly update your Appraiser Profile to keep it true, current and complete;

iii. Always submit true, current and complete information about properties, appraisals, and other information to the Site and its Users;

iv. Never transfer or assign your membership nor share or distribute your own or any other member's name or password information to anyone.

c. You have complied with all licensing and regulatory requirements applicable to real estate appraisers in the geographic areas you have listed as part of your member enrollment form and you are a licensed and/or certificated real estate appraiser for the counties you indicate you serve.

d. You will not use the information obtained through the Site to locate, identify or directly contact any Homeowner or User in any manner without prior express written permission from SharperLending LLC and MDS.

e. You will not submit more than one Appraiser Profile.

f. You will NOT communicate with lenders about orders originated through the Site or in any manner outside of the appraiserfirewall.com system.

g. You will not use any service provided by the Site to impersonate or portray another person or entity, to communicate under a false name or name you are not authorized to use or otherwise engage in false or fraudulent practice(s). Furthermore, you recognize that fraudulent use(s) of any service provided by the Site may subject you to liability.

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3.

h. You acknowledge that SharperLending LLC, MDS and the Site are completely independent from you. You are not engaged in any agency, partnership, joint venture, employee-employer, franchisee-franchiser or other type of relationship and no such relationship(s) are intended nor created by this Agreement with SharperLending LLC, MDS or the Site.

i. MDS will remit your agreed upon fee, less any transaction fees as specified during the fee negotiation, (Addendum 1) approximately 60 days after you have completed and submitted your proper and complete appraisal report. MDS reserves the right to withhold payment until any outstanding customer service issues are resolved and/or change the fee remittance schedule at any time. MDS will only remit payment for orders that have been paid in full.

j. MDS and SharperLending LLC assumes no liability for the payment to you for cancelled orders and does not pay "trip charges" or similar fees for cancelled orders unless expressly agreed to otherwise.

k. As a condition of using the site, you hereby release MDS and SharperLending LLC, its staff, its officers, its affiliates and its clients from any liability above and beyond the agreed upon fee for any appraisal order. In the event that you file suit against MDS and/or SharperLending LLC, its staff, its officers, its clients and/or its affiliates, you agree to pay 100% of the legal fees incurred by the opposing party to defend themselves, if the opposing party prevails. You will not place, or attempt to place any liens or lis pendens on any property associated with any appraisal order delivered through the Site.

l. Unless you provide written notice to MDS of your desire to cancel, sent by receipt-requested delivery method (i.e. overnight courier or Registered US mail), your inclusion in the Site's appraisal network will continue. Failure by you to make use of your account and/or update your contact information does not constitute cancellation of your account.

m. MDS and/or SharperLending LLC reserves the right to review any and all appraisals and require changes to be made to the appraisal(s) in order to meet HVCC, USPAP and/or other government requirements.

n. You will respond within 2 business days to any Value Review Request Form that is submitted to you. You will review the form and respond through the system in one of two ways; upload a revised report or you may upload a written rebuttal (in PDF format) with the reason(s) a change is not warranted.

## **6. RESPONSIBILITIES OF MORTGAGE LENDERS**

a. By using Appraisalfirewall.com, you as a Mortgage Lender represent, warrant and agree that:

i. You are of legal age and are otherwise capable of forming a legally binding contract and you will;

ii. Always submit true, current and complete information about yourself for the Mortgage Lender's Profile to the Site;

iii. Maintain and promptly update your Mortgage Lender Profile to keep it true, current and complete;

iv. Always submit true, current and complete information about properties, appraisals, and other information to the Site and it's Users;

v. Never transfer or assign your membership nor share or distribute your own or any other member's name or password information to anyone.

vi. You understand that MDS and/or SharperLending LLC does not conduct comprehensive audits of Appraisers' Profiles or other information that has been submitted by the Appraisers;

b. You will not use any service provided by the Site to impersonate or portray another person or entity, to communicate under a false name or name you are not authorized to use, or otherwise engage in false or fraudulent practice(s) that may conflict with HVCC, USPAP and/or other government requirements. Furthermore, you recognize that fraudulent use(s) of any service provided by the Site may subject you to liability.

c. You acknowledge that MDS and SharperLending LLC and the site are completely independent from you. You and the Site are not engaged in any agency, partnership, joint venture, employee-

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employer, franchisee-franchiser or other type of relationship and no such relationship(s) are intended nor created by this Agreement.

d. You agree to pay MDS for all products and services you order in a timely fashion and you furthermore agree that the cancellation of an order by you does not relieve you from the responsibility to pay MDS in full for that order.

e. You agree to pay for all services supplied by and through site; (see Addendum 1).

**7. WARRANTY DISCLAIMER**

THE SITE IS PROVIDED ON AN "AS IS", "AS AVAILABLE" BASIS AND SHARPERLENDING AND EACH THIRD PARTY SUPPLIER EXPRESSLY DISCLAIMS ALL WARRANTIES, INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT.

**8. LIMITATION OF LIABILITY**

a. A Covered Party (as defined below) shall not be liable for any loss, injury, claim, liability, or damage of any kind resulting from, arising out of or any way related to:

- i. any errors in or omissions from Appraisalfirewall.com,
- ii. any third party websites or content therein directly or indirectly accessed through hot links in Appraisalfirewall.com, including but not limited to any errors in or omissions there from,
- iii. the unavailability or interruption of Appraisalfirewall.com or any portion thereof,
- iv. your use of Appraisalfirewall.com (regardless of whether you received any assistance from any Covered Party),
- v. the content of Appraisalfirewall.com,
- vi. any inaccuracies or mistakes obtained by public records or other outside sources, or
- vii. any delay or failure in performance by Appraisalfirewall.com or any Covered Party.

**9. INDEMNIFICATION**

a. You hereby represent and warrant that (a) any information you have provided to MDS, SharperLending LLC and the Site is true and accurate, (b) you will at all times comply with all applicable laws, rules, and regulations with respect to your use of the Site, (c) you will comply at all times with this Agreement.

b. You will indemnify and hold harmless all Covered Parties against any and all judgments, settlements, penalties, costs and expenses (including attorneys' fees) paid or incurred in connection with claims due to, resulting from or arising in connection with activities and information which are performed, made, distributed, displayed, transmitted or published by you, including but not limited to those attributable to (a) infringement, misappropriation or violation of any copyrights or other proprietary rights of any third party, and (b) errors in or omissions from such activities and information.

c. You agree to defend all Covered Parties against any cause of action or proceeding which arises in connection with any claim or proceeding due to, resulting from or arising in connection with activities and information which are performed, made, distributed, displayed, transmitted or published by you. Your obligation to indemnify the Covered Parties will survive the expiration or termination of this Agreement by you or any Covered Party for any reason. You shall pay for the defense, including costs and/or attorneys' fees, of any such third party action arising as described herein unless the Covered Parties agree otherwise.-----

**10. MISCELLANEOUS**

a. This Agreement may be changed from time to time as described below or by written agreement. Charges and payment terms may be changed in accordance with your applicable price schedule; MDS and/or SharperLending LLC may change all other provisions immediately upon notice. Your access to the Site may be terminated immediately upon notice to MDS if any change is unacceptable. Continued use of the Site following any change constitutes acceptance of the change.

b. MDS, SharperLending LLC or the User may terminate access to the Site. The effective date of termination shall be ten days after the receipt of an appropriate notice of termination, unless a later date is specified in the notice. MDS and/or SharperLending LLC may suspend or discontinue providing your access to the Site without notice and pursue any other remedy legally available to you if you fail to comply with any of your obligations hereunder.

c. Except as otherwise provided herein, all notices and other communications hereunder shall be in writing or displayed electronically in the Site. Notices shall be deemed to have been properly given on the date deposited in the U.S. mails, if mailed; on the date first made available, if displayed in the Site; or on the date received, if delivered in any other manner.

d. Users may not assign their rights or delegate their duties without the prior written consent of MDS &/or SharperLending LLC.

e. The Agreement shall be governed by and construed in accordance with all applicable laws of the Commonwealth of Puerto Rico and Federal laws. All parties submit to jurisdiction in San Juan, Puerto Rico. SharperLending LLC is a company located in Spokane, Washington and they also have their own contract between them and the appraisers. That agreement contract shall be governed by and construed in accordance with all applicable Spokane, Washington and Federal Laws.

f. Each third party supplier of Materials has the right to assert and enforce these provisions directly on its own behalf as a third party beneficiary.

g. Should any part of this Agreement be held invalid or unenforceable as written, that portion shall be reformed to reflect the original intentions of the contract and the remaining portions will remain in full force and effect. If the contemplated purpose of any provision of this Agreement be held unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from this Agreement and shall not affect the validity and enforceability of any remaining provisions.

h. Our failure to act with respect to a breach of this Agreement by you or others does not waive our right to act with respect to subsequent or similar breaches.

You understand and intend that this agreement is a legally binding agreement.

You agree that the use of MDS Services, including THE SITE, is subject to the TERMS AND CONDITIONS of this Agreement. By signing this agreement you will be able to the use of the Licensed System.

AppraisalFirewall is a trademark of SharperLending LLC

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User's Printed Name

Mortgage Documents Solutions, Inc.

\_\_\_\_\_  
User's Company (if apply)

\_\_\_\_\_  
MDS Representative Printed Name

\_\_\_\_\_  
User's Signature

\_\_\_\_\_  
Signature of MDS Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date