

# MEMBER REHABILITATION DISCLOSURE & AGREEMENT

(MEMBER MUST READ AND RETAIN THIS IMPORTANT DOCUMENT)

Buyer: \_\_\_\_\_

Co-Buyer: \_\_\_\_\_

Property Address: \_\_\_\_\_

NACA is a housing services and community advocacy organization whose purpose/mission is to assist low and moderate-income families to obtain access to credit, and to assist low-to moderate income communities with stabilization initiatives. Part of NACA's housing services includes arranging for financing for home improvements and repairs. NACA's Home and Neighborhood Development (**HAND**) Program provides its Members with the opportunity to purchase a home that needs improvements or to finance home improvements on a home they own. The program restricts the amount of work that can be performed, which is largely based on the monthly mortgage payments the Member can afford and the appraised value of the property. **HAND** as a department of NACA is interchangeable with NACA and thus any reference to **HAND** also relates in its entirety to NACA. For the purposes of this document NACA and **HAND** are considered the same entity with the same rights, obligations and liability limitations.

In typical renovations, the homeowner has no assistance and must make important decisions with little experience and guidance. While this Agreement makes very clear that the Member is responsible for all aspects of the renovation, the NACA **HAND** Program is designed so that Members with little renovation experience can successfully renovate their properties. This is achieved by **HAND**'s participation in and oversight of various aspects of the renovation to ensure that the renovation meets **HAND**'s standards. Therefore, **HAND**, for its own use, may obtain information, generate documents and monitor the renovation. The Member can utilize this information and material; it is the Member, however, who is ultimately responsible for all aspects of the renovation. As the Member deems appropriate, they should verify and confirm the information and work done by **HAND** or anyone associated with **HAND**, and as appropriate have additional review and/or analysis completed by another party or parties.

## **1. PARTIES & DOCUMENTS:**

The following document identifies the services and responsibilities of the various parties. A.

### Member(s):

People who have contacted NACA and are participating in the NACA Program. They are the Buyer or Buyers, or the Owner or Owners (after purchasing the property).

### B. The Neighborhood Assistance Corporation of America (NACA):

NACA is a non-profit housing services and advocacy corporation headquartered in Boston, Massachusetts. NACA's services include homebuyer education and financial counseling to persons who desire to purchase or refinance a home. NACA's interest in the rehabilitation process is to make sure that the project is completed in a manner that NACA determines will maintain neighborhood stabilization and the viability of the program. NACA's goal is for the renovation to result in the property being in good condition and the owner able to pay the mortgage. NACA has no obligation to and does not represent the Member's interest, and to

the extent the Member's interest overlaps with NACA's interest, NACA only represents its interests.

C. NACA Counselors:

NACA Counselors including Housing Consultants, Office Directors and other NACA staff are employed by NACA and determines whether the Member is qualified to purchase a property through the NACA Program and may assist them in the home buying process. A NACA Counselor, however, does not work for or represent the Member in any way.

D. NACA Home And Neighborhood Development (**HAND**) Department:

The **HAND** department is part of NACA and administers NACA's Rehabilitation Program. If the property the Member intends to purchase or refinance needs rehabilitation, the **HAND** department determines whether the property qualifies for the NACA Rehabilitation Program. To protect NACA and its interests, including whether the work meets NACA's requirements, the **HAND** department may do any of the following: determine what work needs to be performed to qualify the property for the program, monitor the progress of the rehabilitation and/or review all documentation regarding the rehabilitation. The **HAND** department will review all disbursement requests from the Contractor and/or Member to determine if the request meets **HAND**'s criteria. **HAND**, in its sole discretion, can determine whether the request meets its criteria and whether or not it approves of the disbursement request. The lender or escrow agent must have **HAND**'s approval before disbursing any funds. The NACA **HAND** department does not represent, owe any duty to, or directly protect the interests of the Member in any way. Determinations by the **HAND** department are not intended to be, nor may the Member reasonably rely upon them as, a recommendation, warranty, promise or guarantee regarding the property or the rehabilitation. The Member expressly agrees that he/she shall not rely upon the work of the **HAND** department and that errors, negligence, omissions or wrongdoing by the **HAND** department shall not serve as grounds for any claim by the Member against NACA.

The NACA HAND Staff are employed by NACA to work with Members in assisting them in determining if repairs are needed, how they would be addressed and if needed to assist them throughout the rehab project. Prior to the mortgage application the HAND Department works with the Member to review the property inspection to determine necessary repairs, have the seller make the repairs or fund the cost, and/or determine how non-seller paid repairs would be paid once the Member purchases the property. For repairs to be made after the Member purchases the property, the HAND Department assists with approving Contractors, Inspectors, Suppliers, and others involved with the construction and management. Though it is ultimately the responsibility of the Member to accept their chosen vendors, the HAND department has the authority to decline the use of any vendor deemed unsuitable. The Member will be responsible for verification of all credentials and offered references and the **HAND** Department will work with the Member to gather all necessary licenses, insurance verification and tax identifications.

E. Construction Manager:

The Construction Manager is employed by the Member to help facilitate the construction project. The Construction Manager works with the Member, Contractor and **HAND** to monitor work and project schedule. **HAND** may require that a particular rehab project use a Construction Manager.

Even if not required by **HAND**, a Member may opt to use a Construction Manager and is encouraged to do so. The Construction Manager must be approved by the **HAND** Department.

F. Inspector:

The Inspector evaluates the property to determine which repairs are required prior to the Member submitting a mortgage application. The same inspector after the Member purchases the home often verifies that the work represented in the Draw Request has been completed. The inspector will need to visit the job site to review the work on the draw request to verify that the work has been satisfactorily completed. The inspector's signature is required on all draw inspections prior to submission to the **HAND** Department for approval.

**HAND**'s review and determination concerning the Inspector selected and retained by the Member is not intended to be, nor may the Member reasonably rely upon them as, a recommendation, warranty, promise or guarantee with respect to an Inspector or its performance. The Member agrees that errors, negligence, omissions or wrongdoing by the Inspector shall not serve as grounds for any claim by the Member against NACA. The Member agrees to indemnify and hold NACA harmless for any disputes that arise out of or between the Member and the Inspector.

G. Contractors and/or Subcontractors:

Contractors and/or Subcontractors are the professional trades-people that will bid on and are determined by the Member to be qualified to perform the work on the project. The Member is responsible for choosing the Contractor(s) and/or Subcontractor(s). **HAND** is not responsible for the Contractor(s) and/or Subcontractor(s) workmanship. While the Contractor(s) and/or Subcontractor(s) are selected and retained directly by the Member, **HAND** reserves the right to approve or reject any Contractor and/or Subcontractor selected by the Member if it appears to **HAND**, at its sole discretion, that the Contractor and/or Subcontractor may be unsuited to perform the work. The Member must submit the name and information regarding a Contractor and/or Subcontractor the Member may use but who has not been approved by the NACA **HAND** department. **HAND** needs to assure itself that the Member is positioned to retain adequate rehabilitation services. **HAND** has the right to investigate the Contractors and/or Subcontractors to determine if they are properly licensed and bonded in the jurisdiction where the work will be performed. **HAND**'s review is conducted solely for the purpose of protecting NACA in connection with the loan and rehabilitation. **HAND**'s review and determination concerning Contractors selected and retained by the Member are not intended to be, nor may the Member reasonably rely upon them as, a recommendation, warranty, promise or guarantee with respect to any particular Contractor or its performance or workmanship. The Member cannot rely on **HAND**'s approval of a Contractor and/or Subcontractor as a warranty or promise that the Contractor and/or Subcontractor is properly licensed and bonded in the jurisdiction where the Member is purchasing. The Member agrees that errors, negligence, omissions or wrongdoing by the Contractors or Subcontractors shall not serve as grounds for any claim by the Member against NACA.

If **HAND** determines that the Contractor(s) and/or Subcontractor(s) will not be able to provide adequate rehabilitation services, **HAND**, at its sole discretion, which could result in any of the following: (1) determine that the project does not meet **HAND**'s program criteria and that the Member does not qualify for NACA Credit Access, (2) NACA does not support the loan and the lender cannot approve the mortgage application through the NACA program, or (3) prevent work on the property until there are approved Contractor(s) and/or Subcontractor(s). The Member is obligated to pay all money due and owing under any agreement with the Contractor(s) and/or Subcontractor(s). If the Member disputes a payment, they are responsible for defending their position if the Contractor(s) and/or Subcontractor(s) pursue the payment through any and all proceedings, including arbitration or court proceedings. The Member agrees to indemnify and hold NACA harmless for any disputes that arise out of or between the Member and the Contractor(s) and/or Subcontractor(s).

H. **HAND** Fee:

The Member shall pay NACA a fee, as identified in Section 5, as part of the renovation costs and the cost of NACA's administration of **HAND**'s the Rehabilitation Program. This fee shall be paid regardless of whether NACA provides any specific services directly to the Member. The fee paid to NACA is not a fee for services to the member and therefore is not based on performance of specific services.

## **2. REHABILITATION PROCESS:**

A. **NACA Repair List and Cost Estimates:**

If the Member decides to purchase a property that requires repairs that the seller does not agree to perform, NACA requires that the Member address all repair issues determined by the **HAND** department necessary for repair and/or replacement. The **HAND** department will identify the scope and projected cost of work necessary to make the property meet NACA guidelines and submit this as the Repair List to the Member. The Member may include additional upgrade renovations if the funds are within their approved loan amount and meet appraised value.

The Member understands that the cost estimate are not exact, and that the process of construction often involves uncertainty, unexpected costs and problems. **HAND** does not promise or guarantee that the Repair List includes all the work that may be required or that the cost of the work will not exceed the estimate. The Member is responsible for and accepts all the risk if the Repair List is incomplete or inaccurate, or if the ultimate cost exceeds the estimate.

NACA and its **HAND** department make no representations, promises or warranties to the Member of any kind concerning the property, the repair/rehabilitation, or the scope, timing, completeness, quality or cost of work to be performed. If the Member wants such promises or warranties, **HAND** encourages them to retain a construction manager or insist upon such promises or warranties from the Contractor who the Member has retained to perform such work. Although NACA will provide the Member with assistance, the Member is not entitled to rely upon such assistance or any documentation produced by **HAND**, or to substitute this work for their obligation to be solely responsible for the rehabilitation and to ensure its quality and completeness. It is the Member's choice to purchase a property through the NACA program, and as they have chosen to purchase a property that requires

rehabilitation, the Member may not sue or file any claim against NACA if something goes wrong before, during or after construction.

B. Mortgage Application:

If the Member decides to proceed and NACA determines that the property remains within the guidelines of the Rehabilitation Program, and that the Member's application for NACA Credit Access is approved, NACA will submit the Member's mortgage application to the lender. The Member will apply for a mortgage for the amount of the purchase price and the estimated cost of work identified on the approved Final Rehab Budget. Once all bids are approved and the applicable Contractor Agreement is signed by both the Member and the approved Contractor it is faxed to **HAND** for review and, if all the repair items have been addressed, the loan can be submitted for closing. .

C. Contractor and/or Subcontractor Bids:

Following submission of the mortgage application, the Member will be responsible for obtaining bids for the work from Contractors and/or Subcontractors that meet **HAND**'s and the Lender's guidelines. The Contractors need to prepare bids for the items in the Repair List. The Member shall make all reasonable efforts to obtain bids from at least three Contractors and/or Subcontractors that meet **HAND**'s minimum guidelines. The **HAND** department may assist the Member in obtaining referrals to Contractors and/or Subcontractors. If **HAND** determines that the Member is not cooperating with the process, **HAND** reserves the right to not support the loan resulting in the Lender's inability to approve it through the NACA program.

During the bid process a Contractor, Subcontractor or **HAND** may determine that additional work beyond the Repair List is required. If NACA is to continue supporting the loan application, the Member must agree with this determination. NACA may insist that the Member work with the **HAND** department to reach agreement concerning the additional work. If no such agreement can be reached or other funds are not available, NACA will not support the loan and the Member may decide not to purchase the property through the NACA program or to obtain additional funds from their own resources in order to pay for their desired work.

D. Contractor and/or Subcontractor Selection:

The Member will review the Contractor(s) and/or Subcontractor(s) bids to select from and enter into a contract. If a bid exceeds available funds, the **HAND** department is available to assist the Member in determining if there is work that can be eliminated so that the Member remains within NACA guidelines. The Member is not required to accept any particular Contractor(s) and/or Subcontractor(s), since at this stage the Member still has the right to decide not to purchase the property.

If the Member accepts a bid, they will sign a contract with the Contractor(s) and/or Subcontractor(s) to perform that work. This contract will be submitted to the **HAND** department for review and approval. **HAND**'s approval does not make **HAND** responsible for the Contractor's and/or Subcontractor's work or performance even if NACA staff and/or the **HAND** department advised the Member to use them. The Member is solely responsible for the selection and work of the Contractor and/or Subcontractor. The rehabilitation costs and the purchase price will be used to determine the amount the Member needs to borrow. The amount the Member can borrow cannot exceed the maximum amount they were qualified for by their Housing Consultant.

E. Rehabilitation Work:

Once the Member has signed the closing documents and purchased the property from the owner, the Member is solely responsible for the property and rehabilitation. The Member is responsible for the mortgage payments, property taxes, hazard insurance premiums and other costs associated with the ownership of the property.

The Member is responsible for contacting the Contractor(s) and/or Subcontractor(s) to initiate the rehabilitation work. The Member must visit and inspect the property at least three (3) times a week including: whenever a portion of the work is completed; whenever the **HAND** department requests the Member to inspect the property; whenever the Contractor requests the Member to inspect the property; or whenever an inspection is necessary for a draw or for the Member to evaluate the quality and completeness of construction to prevent defects and problems. The Member is responsible for maintaining communication with the Contractor(s) and/or Subcontractor(s) or any other professional they retain in order to know how, when and what they must inspect.

The Member, not **HAND** is responsible for monitoring the progress and quality of work to the property. The Contractor(s) and/or Subcontractor(s) will be working for the Member and it will be up to the Member to approve the request for payments to the Contractor(s) and/or Subcontractor(s) as they complete the work that was contracted for with them. The Member is responsible for determining whether the work completed was completed in a manner satisfactory to them before agreeing to pay for it. **The Member is not to authorize payment for any work not actually completed in a satisfactory manner.** The Member will have to make this determination based on their inspection of the property. The Member agrees that the Inspector and **HAND** do not owe them any duty to provide them with an accurate assessment of the work.

The Inspector will monitor projects for the **HAND** department. The Member must cooperate with **HAND** and the Inspector. The Inspector will not be working for the Member and neither **HAND** nor the Inspector owe the Member any duties arising out of or relating to their work to monitor the project. **HAND** will allow the Member, at his/her risk, to use the documentation prepared by the independent Inspector.

The **HAND** department will not approve a payment unless it agrees that the work has been done in a manner that satisfies **HAND**. The Inspector may notify **HAND** of the progress of the work and provide information necessary for **HAND** to determine if the work is completed in a manner satisfactory to **HAND**. **HAND**'s evaluation is for itself, and its decision does not constitute a representation, promise, warranty or guarantee to the Member that the work is satisfactory or free of defect. **HAND** is not liable to the Member for any payments the Member makes to a Contractor and/or Subcontractor for unsatisfactory or defective work.

**HAND** submits a request for disbursement of funds to the Lender or escrow agent. They will issue a check or wire funds in the Contractor(s) and/or Subcontractor(s) name. The Member will approve all disbursements of funds to the Contractor(s) and/or Subcontractor(s) by signing the draw request made out to the Contractor and/or the Subcontractor.

While it is the Member who is responsible for all aspects of and decisions concerning the renovation, **HAND** will only support the project if the Member and the project meet **HAND**'s requirements. If the Member fails to follow the requirements or the project no longer meets **HAND**'s requirements, NACA reserves the right, at its sole discretion, to withdraw its support. Without NACA's support, funding may be denied and/or work may not be performed. In the case where fraud is discovered on the part of the Member, all escrow funds will be returned to the lender and applied towards the members principle balance. Examples of fraud would be falsified documentation, coordination with contractors, inspectors or suppliers for kickbacks, or other behaviors directly conflicting with NACA's requirements.

The Member is also responsible for the costs of all repairs and damages that occur to the property and any injuries sustained by guests or occupants of the property. NACA does not have any responsibility for the property and will not pay for or help defray any costs that may occur once the Member has purchased the property. NACA will not reimburse the Member for any fees they have paid NACA or its agents. NACA will not be responsible for any additional costs the Member may incur during the rehabilitation work due to negligence, gross negligence, malfeasance, fraud or for any reason by any Contractor, Subcontractor, NACA staff, **HAND** department, NACA agents or vendors that performs any work in connection with the rehabilitation of the property. It is the responsibility of the Member to seek temporary insurance coverage covering the rehabilitation project period and to seek guidance of insurance options from local insurance agents. A basic Homeowner's policy does not always cover damages caused during a renovation. The Member must determine if they have adequate coverage during the project period.

### **3. NACA REHABILITATION GUIDELINES:**

- A. The total cost of the purchase and rehabilitation cannot exceed the amount the NACA Housing Consultant has determined the Member can afford;
- B. The Contractor(s) and/or Subcontractor(s) selected by the Member must timely and completely submit all documentation required by **HAND** so that it may evaluate for its own interests the scope and progress of construction;
- C. The Member and Contractors and/or Subcontractors must agree on a contract which meets **HAND**'s requirements but to which NACA will not be a party. The NACA Contactor's Agreement form is the standard for all rehab projects. The **HAND** department determines the need for the Contactor's Agreement a relation to the scope of work is deemed intensive, the time period needed to complete the work, or other factors in the **HAND** department's sole discretion.
- D. All work necessary to make the property safe, up to code, and significant items addressed and in working order with a reasonable life expectancy, must be either included in the project or performed by the seller before the Member closes on the property;
- E. Contractor(s) and/or Subcontractor(s) that perform work on the project must have all appropriate licenses and permits in the jurisdiction where the property is located. They must have a tax identification number, proper insurance as required by **HAND** in its sole discretion. **HAND**, in its sole discretion, would approve the Contractor(s) and

Subcontractor(s) and obtain appropriate documents and verifications. However, the Member is ultimately responsible for the Contactor(s) and Subcontractor(s) including verification of their licenses, insurance, permits, and any other requirements.

- F. The Member must participate in all aspects of the project and demonstrate the commitment and ability to make all the decisions necessary to proceed through the project;
- G. **HAND**, in its sole discretion, may not approve a request for disbursement for any work not included in the Contractor's Agreement or statement of work. **HAND** will review the disbursement to determine if the scope changed in order to address needed repairs in which case a Change Order must be submitted and approved in **HAND's** sole discretion.
- H. **HAND**, in its sole discretion, may not approve any disbursement request for any funds to a Contractor and/or Subcontractor that was not approved by **HAND** or the lender prior to closing the loan. **HAND** will review all disbursements to determine if the previously approved Contractor and/or Subcontractor is not willing to or capable of completing the Rehabilitation Project in a satisfactory manner and can be replaced with a new Contractor and/or Subcontractor who meets **HAND's** criteria.
- I. The Member shall not approve any disbursement requests for any funds to a Contractor and/or Subcontractor for work not yet completed. **HAND**, in its sole discretion, may not approve any such disbursements even if approved by the Member.
- J. The Member must pay all the costs incurred during the project. These costs include but are not limited to full, complete payment to all Contractors and/or Subcontractors entitled to payment, and all rehabilitation fees deemed due to NACA. Because of the complex nature of the project, there may be additional costs not accounted for in the final bid selected by the Member. Increased costs could include, but are not limited to, the cost of additional work that was not discovered at the time of the bid but is required before the project meets **HAND's** requirements. The Member must pay these additional costs if the Contractor(s) and/or Subcontractor(s) are entitled to them. In addition, the Member must pay all costs for professional services such as structural engineering and architectural drawings required by state and local building codes or to address safety issues that may not have been anticipated in the original scope of work.

#### **4. SERVICES:**

The **HAND** department, Inspector, or other vendor(s) may provide the services identified below to successfully complete the rehabilitation. The Member must fully cooperate with **HAND** and others identified by **HAND** throughout the rehab process, including but not limited to providing access to the property and necessary information.

##### **Phase I – Home Inspection:**

- Preliminary review of the Homegauge home inspection report and estimate required repairs necessary for property approval.
- Additional inspections such as Termite and Structural reports may be required if warranted.
- Consult with building professional and the Member to determine project feasibility

- Evaluate the scope of necessary repairs to determine if the Member can afford such expenses, and evaluate scope of discretionary repairs or improvements desired by the Member
- The member may need a full Work Write-Up and project specifications in the specified manner for approval of the Member and submission to **HAND**.
- Add Member desired upgrade repairs to the scope of work if within the approved loan amount which may include interest rate buy-down options.

#### **Phase II – Negotiations of Repairs:**

- Submit a list of required repairs (“Repair List”) to the Member and their real estate agent to review and negotiate with the seller to contribute funds for all necessary repairs to be used to buy-down the interest rate with a corresponding increase in the mortgage amount to cover the repairs, or have repairs completed prior to closing by the seller, or a combination of the above.
- Accept signed addenda or amendments to the Purchase and Sales Contract showing sellers responsibility for repairs and/or contribution.

#### **Phase III - Contractor Bid and Selection:**

- Provide general assistance to the Member in identifying and selecting licensed and insured Contractors and/or Subcontractors for bidding (i.e., Carpentry, Electrical, Plumbing, Dry Wall, Insulation, etc.).
- Conduct site meeting for bidding Contractors (along with the Member). **HAND** recommends that the Member obtains more than one serious bids for price comparison and back-up bids.
- Review bids with the Member.
- Generally, assist Member in revising the scope of work as necessary based on the bids and additional information.
- Generally, assist the Member in the negotiation of the final contract with the Contractor(s) and/or Subcontractor(s).
- Prepare a “Rehabilitation Package” for submission to the **HAND** department.

#### **PHASE V – CONSTRUCTION** (This section is the responsibility of Member):

- Insure that Contractor(s) and/or Subcontractor(s) obtain proper permits
- Inspect work on a weekly basis unless otherwise determined by the **HAND** department.
- Review change orders and obtain signatures from Contractor
- Obtain all necessary signatures for payment approvals to Contractor(s) and/or Subcontractor(s). These requests must have all parties’ signatures, including the Contractor(s) and/or Subcontractor(s), the Member and other parties. The payment approval request must also be approved by the **HAND** department.
- Obtain a lien waiver from the Contractor and/or Subcontractors for all payment requests.
- Schedule final inspections and obtain necessary approvals and documentation (i.e., lead abatement compliance letter, lien releases, certificate of occupancy, etc.)

### **5. FEES:**

The Member shall pay the following fees for the administration and oversight of the rehab project according to the fee schedule outlined below.

- 3% Rehab (**HAND**) Fee:  
Based on the total amount of the rehab. This fee will be included in the rehab loan amount and disbursed to NACA at the closing.
- Inspector Fee:  
This covers the cost of draw inspections for projects involving lenders who do not include this cost as part of their service. The Member can request from the **HAND** department the Inspector's fee structure. This fee is often included in the rehab loan amount and disbursed to NACA at closing and will be paid to the Inspector as work is satisfactory completed.
- Construction Management Fee:  
This pays for the services of a Construction Manager to monitor and facilitate the construction. The amount of the Fee is negotiated with the Construction Manager and the Member to be approved by **HAND** for each individual project in which **HAND** recommends this service. The Management Fee is paid by the Member.
- Work Write-up Fee (if applicable):  
This is paid by the Member prior to a Rehab Specialist to development the scope of work for a major rehab. This is an out of pocket cost for the Member and is not part of the financed loan. This fee is non-refundable once the Rehab Specialist has provided the Work Write-up to the Member.

***The Member shall not make any direct payments to the Contractor, Subcontractor, or Inspector under any circumstance while the project is under construction.***

## **6. MEMBERSHIP SERVICES:**

The Member needs to pay special attention to the rehabilitation costs, the progress of the rehabilitation, and the quality of the work. The Member needs to contact the **HAND** department and NACA immediately if they are concerned about these or any other issues. Examples may be that the Contractor is not following the scope of work, or that the rehabilitation has not started in a timely manner or has been delayed. These concerns need to be relayed to the **HAND** department at 1-877-952-6222. If they do not respond within a reasonable time not to exceed two (2) days, or shorter if an immediate response is necessary, then call NACA's Membership Services Director, at 1-888-297-5568 ext. 281.

## **7. OBLIGATIONS:**

NACA provides a homeownership workshop and counseling to assist the Member in determining if they are qualified to purchase a home and to assist in determining how much they can and want to spend on a mortgage. NACA has offered the Member information on the home purchase or refinance process. The Member has been qualified by NACA to purchase or refinance a home and NACA has offered the Member the opportunity to either purchase a home that is ready to live in or to buy a property that needs rehabilitation. If the Member chooses to purchase a home that needs rehabilitation, the Member will be solely responsible for making sure that the necessary work is done in a manner acceptable to the Member and NACA.

The choice to purchase or refinance a home is the Member's and theirs alone. The Member is completely responsible for making sure that they are satisfied with the property. **HAND**, at its sole discretion, may review the inspection report to determine if the property meets **HAND**'s guidelines.

If the Member chooses a property that they decide needs rehabilitation, or if **HAND** determines that the property requires repairs before it qualifies for the NACA program, the Member will have to decide on how to proceed. The Member can decide not to purchase the property through the NACA program, demand that the seller make the repairs, agree to set aside enough of their own funds to complete the repairs, or the Member can seek to finance the repairs through the NACA Rehabilitation Program.

NACA may monitor the progress of the rehabilitation but will do so for its own benefit only. If the Member is unable or unwilling to monitor the progress, quality and completeness of the rehabilitation on their own, **HAND** encourages the Member to retain at their cost a Construction Manager to monitor construction. While **HAND** is willing and available to provide the Member with assistance, advice and information throughout the project, the Member agrees to hold NACA harmless from any suits or claims related to such assistance, advice or information since the Member (or persons retained by the Member) is completely responsible for all aspects of the Rehabilitation Project. The Member (or persons retained by the Member) is responsible for the consequences that result from problems or delays in any part of the project. The Member will have an opportunity to withdraw from the purchase at any time up to the day of the closing.

## **8. MISCELLANEOUS:**

The Member is prohibited from paying the Inspector any funds or retaining them to perform any work on their behalf unless authorized by **HAND**. The authorization from **HAND** must be in writing. If the Inspector offers to perform any work for the Member other than that authorized by **HAND**, the Member is required to report the offer to the **HAND** department immediately. If the Member accepts any work from the Inspector other than work authorized by **HAND**, **HAND** reserves the right to withhold draw requests and change the rehab project as appropriate.

The Contractor(s) and/or Subcontractor(s) are not to perform any work other than that identified in the Contractor Agreement work specification as approved by **HAND** until after the **HAND** - approved rehabilitation has been fully completed and the loan has closed. If prior to the completed rehab, the Member wants to change a Contractor and/or Subcontractor or the scope of work in the Contractor Agreement, the Member must submit the appropriate documentation similar to the original scope of work, bids and Contractor approval forms to the **HAND** department. **HAND** will review the submission to determine if the changes meet the **HAND** criteria. **HAND**, at its sole discretion, will make this determination.

Neither the Member nor their relatives, friends or agents are authorized to perform any work on the project or any work on the property until the rehabilitation project is completed unless they have received prior written authorization from the **HAND** department. **HAND** reserves the right not to approve any disbursement requests submitted by the Member for unauthorized work.

## **9. EXPRESS LIMITATIONS ON LIABILITY AND ARBITRATION:**

In addition to those waiver and arbitration provisions set forth and agreed to in the NACA Disclosure Statement, which are incorporated herein, the Member agrees to indemnify, hold harmless and waive any and all present or future claims against NACA and its subsidiaries from

all loss, liability, damage and expense, including reasonable attorney's fees, occasioned by or associated with any claims, suits or actions arising from or related to the Work Write-Up, construction, rehabilitation, inspections and/or other services completed or not completed in connection with or related to the rehabilitation, including but not limited to legal actions brought by the Member or any Contractor and/or Subcontractor.

The Member further acknowledges that **HAND** is not a licensed lead paint inspector. That **HAND** shall not conduct any test the purpose of which is to determine whether there is lead paint present in the property, and that NACA shall not be liable for any costs or damages related to or arising out of the presence or non-detection of lead in the property. If the Member desires to determine whether the property contains lead paint, then the Member shall obtain a licensed lead paint inspector to conduct this test.

Any claim or dispute brought for or by any party hereto regarding the terms or conditions of this Agreement, or the performance of NACA or any other person, which relates in any way, directly or indirectly, to the subject matter of this Agreement, including without limitation whether any claim or dispute is subject to arbitration, shall be submitted to arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect. Any arbitration hereunder shall be held in Boston, Massachusetts or other location as determined by NACA. The judgment in the arbitration proceeding shall be final and binding on the parties, and the judgment on such award may be entered in any court having competent jurisdiction. Each party required to participate shall be personally responsible for one-half of the costs of arbitration, excluding costs associated with each party's presentation which shall be borne by that party; provided, however, that if NACA prevails in any such arbitration, NACA shall, in addition to all other remedies provided by law, be entitled to an award of its attorneys' fees and costs. The arbitrators shall be specifically empowered to order specific performance and/or injunctive relief, as they may deem appropriate. Demand for arbitration shall be filed in writing with the other parties to this Agreement and with the American Arbitration Association. This Section shall survive the cancellation, expiration, or termination of this Agreement.

The **HAND** program has been developed to support the Member in the process of renovating their home in an efficient and cost-effective manner. It is critical that the Member understands and follows the guidelines as written in this disclosure and any other documents or manuals that have been provided. The Member needs to take the time to read thoroughly all documents including this disclosure.

By signing this Member Rehabilitation Disclosure, the Member certifies that they fully understand the contents. The Member agrees to provide the information required and agrees to follow the process outlined herein and in other rehab documents provided to the Member. In addition, the Member agrees to abide by the terms and conditions described herein. The Member agrees to cooperate with NACA and its representatives. The Member understands that if NACA determines that the Member has failed to comply with the outlined terms and conditions, NACA may, in addition to other remedies, withdraw its support of the Member and the Member may have to seek financing elsewhere.

Member: \_\_\_\_\_ Date: \_\_\_\_\_

Member: \_\_\_\_\_ Date: \_\_\_\_\_