OMB NO. 0575-0066
Exp. 05/31/2021

SAMPLE FORBEARANCE AGREEMENT – USDA 538 GUARANTEED MULTIFAMILY LOANS
(4-13-20)
[LENDER LETTERHEAD]

[Date], 2020

Borrower
Borrower Address

Re: Borrower Name: _____ ("**Borrower**")
Project Name: _____
USDA Case No. _____ ("**Project**")
Lender/Servicer Loan No. _____

Dear Borrower:

This letter agreement ("**Agreement**") is delivered pursuant to the provisions of Section 4023 of the Coronavirus Aid, Relief, and Economic Security Act or the ''CARES Act.''

[Name of Lender], and its successors and assigns ("**Lender**") is the current owner of the above-referenced loan ("**Loan**"), which is guaranteed by the U.S. Department of Agriculture, Rural Housing Service, Rural Development ("**USDA**") under Section 538 of the Housing Act of 1949, as amended. The Note, Deed of Trust or Mortgage, Loan Agreement, Regulatory Agreement and all other documents executed in connection with the Loan are referred to collectively in this Agreement as "**Loan Documents**." Capitalized terms not otherwise defined in this Agreement will have the respective meanings ascribed to such terms in the Loan Documents.

We are in receipt of Borrower's Certification requesting forbearance in connection with the impact of the coronavirus (COVID-19) ("**Public Health Event**"). We understand that the tenants and/or operations at the Project have been significantly affected by this Public Health Event and that consequently the Borrower has been unable to maintain normal operations at this time. We would like to assure the Borrower that the Lender intends to work with the Borrower over the coming months to help until normal operations can be restored.

So long as the Borrower accepts the terms of this Agreement within five business days of the date of this letter or by December 31, 2020 or as long as the national emergency is in effect, we will agree to a forbearance ("**Forbearance**") of one monthly payment ("**Initial Forbearance Period**"); provided that the Initial Forbearance Period may be extended for two additional periods of one month each (each, an "**Extension Forbearance Period**"), upon the written

request of Borrower received by Lender at least fifteen days prior to the end of the Initial Forbearance Period or the end of the initial Extension Forbearance Period, as applicable.

The only amounts due under the Loan Documents that do not have to be paid in full during the Forbearance Period are the following: interest, principal (if applicable), and deposits into the Reserve Fund for Replacements. Notwithstanding this Agreement, all other amounts due under the Loan Documents, including without limitation, deposits for taxes, insurance, USDA Guarantee Fee, and ground rents (if applicable) must be paid in full as and when due.

The Forbearance is effective with the monthly installment due on [_____ 1, 2020], and remains in effect for the Initial Forbearance Period and each applicable Extension Forbearance Period (collectively, and as applicable, "**Forbearance Period**"). For avoidance of doubt, in no event shall the Forbearance Period exceed three months. The total amount due to Lender at the end of the Forbearance Period for unpaid interest, principal (if applicable), and deposits into the Reserve Fund for Replacements is referred to as the "**Forbearance Period Total**".

The Forbearance Period Total will be repaid without late fees, additional interest, prepayment premiums or other charges in no more than 12 equal monthly installments ("**Forbearance Period Repayment Installment**"), remitted together with each regularly scheduled monthly installment, beginning with the first monthly installment due after the end of the Forbearance Period ("**Repayment Period**"). No default interest, late fees or other charges will be assessed with respect to the Forbearance Period Total, nor will the Forbearance change the amortization schedule for the Loan. If the Maturity Date or full loan repayment occurs before the end of the Repayment Period, then any remaining balance of the Forbearance Period Total will be payable in full when the Loan is paid off. As a condition of granting this Forbearance, Borrower hereby agrees to the following:

1 For standalone 538 loans, the lender may apply in its sole discretion, to the monthly amounts due under the Loan or due to Lender under this Agreement, the balance of any reserves or escrows held by Lender in connection with the Loan Documents, including specifically, but without limitation, the Reserve for Replacements (provided that in no event shall the amounts held in the Reserve for Replacements be lowered to less than $500 per unit), any Operating and Maintenance Reserve, or any otherwise excess funds held in the escrows for real estate taxes or insurance.

2. Borrower shall not take any distributions of Surplus Cash until all amounts due to Lender under this Agreement have been repaid in full.

3. The email address provided below may be used, in addition to Borrower's current mailing address, for written notices in connection with this Agreement.

4. Within five business days after any material change or impact to Project operations due to the ongoing Public Health Event, Borrower will provide written updates to the Lender regarding the change and how this has affected Borrower's financial condition, tenants and/or occupancy of the Project. Each written update will include (or be deemed to

include) a certification that the information submitted by the Borrower is true, accurate, correct and complete.

5. Borrower will not (i) evict or initiate the eviction of a tenant from a dwelling unit located in or on the Project solely for nonpayment of rent or other fees or charges; or (ii) charge any late fees, penalties, or other charges to a tenant described in (i) for late payment of rent during the Forbearance Period, and (iii) upon expiration of the Forbearance period, may not require a tenant to vacate a dwelling unit located in or on the applicable property before the date that is 30 days after the date on which the borrower provides the tenant with a notice to vacate; and (iv) may not issue a notice to vacate under paragraph (iii) until after the expiration of the forbearance.

6. During the Forbearance Period, (i) Borrower will use collected rents for no purpose other than the necessary operation and maintenance of the Project or making payments of amounts due to Lender under the terms of the Loan Documents, and (ii) Borrower shall not pay (or permit the payment of) any advances from members, partners or other principals of Borrower, bridge loans, subordinate loans, or any other financing to which Borrower is a party or which Borrower is otherwise obligated to pay. Borrower bears the responsibility for negotiating terms of forbearance with the lenders (or other counterparty, as the case may be) of such other loans or financing, provided that such terms shall not conflict with Borrower's obligations under this Agreement.

7. Borrower will remain in compliance with all other terms and conditions of the Loan Documents.

8. Should the local taxing authorities offer real estate tax relief and Borrower elects such relief, Borrower must advise the Lender of the terms and conditions prior to accepting such relief.

9. Borrower must remain current with all tax, water, sewage or other such bills as they become due, unless the Borrower has obtained written forbearance relief from such authorities.

10. Borrower may repay the full amount of the Forbearance Period Total at any time prior to the end of the Repayment Period.

11. Borrower may terminate the Forbearance Period at any time by written notice to the Servicer, and then must resume making regularly-scheduled monthly installment payments, together with applicable Forbearance Period Repayment Installments, on the next installment due date, which date will also be the first payment date of the Repayment Period.

12. If Borrower fails to fully comply with any of the non-monetary conditions ("**Covenant Event of Default**") listed above, which continues for a period of 30 days after notice of such failure by Lender to Borrower, such failure shall constitute a monetary Event of Default under the Note, and the Lender may terminate this Agreement by giving

Borrower 10 days' written notice, which will be effective on the tenth day of the date on the notice.

13. Upon termination of this Agreement, for either a Forbearance Payment Default or Covenant Event of Default:

    (a) all terms of the Loan Documents will remain in full force and unmodified;
    (b) all remaining Forbearance Period Total amounts will be immediately due and payable, and will begin to accrue late charges and default interest as of the date Lender terminates this Agreement; and
    (c) Lender may exercise any remedies available to Lender at law or in equity.

14. Release of Claims. Borrower for and on behalf of itself and its representatives, principals, agents, employees, officers, directors, shareholders, members, partners, successors and assigns (jointly and severally, the "**Releasing Parties**"), expressly release and discharge Lender and its representatives, principals, agents, employees, officers, directors, shareholders, successors and assigns (jointly and severally, the "**Released Parties**"), from any and all claims, demands, rights, fees, obligations, damages and expenses of any nature, whether in law or in equity, on any legal theory or basis of any nature, which any Releasing Parties may have had against any Released Parties, to the extent they arise out of, or relate to, this Agreement, including specifically the restriction on eviction of tenants during the Forbearance Period. The Releasing Parties recognize that they may be releasing claims of which they do not yet have knowledge, but Releasing Parties nevertheless acknowledge that this provision has been specifically bargained for by Lender as a material inducement to the execution of this Agreement.

15. Releasing Parties agree to indemnify and hold harmless the Released Parties from any and all expenses, costs, liability and fees incurred by any such Released Party as a result of any such action or proceeding instituted by Releasing Parties or any third party; provided that shall be limited to (i) amounts mandated by state law, if any, (ii) coverage afforded under any liability insurance carried by the Borrower and (iii) available "surplus cash" of the Borrower as defined in the Regulatory Agreement.

Execution of this Agreement shall not in and of itself affect the status of Borrower (or its representatives, principals, agents, employees, officers, directors, shareholders, members, partners, as applicable) for purposes of the previous participation requirements (as set forth in Form RD 1944-37, Previous Participation Certification, or 7 CFR § 3565.154, et seq.), including, without limitation, that execution will not in and of itself result in the placing of any "flags" against any of the foregoing parties.

Nothing in this Agreement shall affect the opportunity for the Borrower and Lender to pursue (i) issuance of a USDA Conditional Commitment for a Section 538 loan to refinance the Loan, or (ii) approval of an Interest Rate Reduction during or after the end of the Forbearance Period provided that the Borrower is in compliance with the terms of this Agreement and the Borrower and Project otherwise satisfy the requirements of the 538 loan program or for an Interest Rate

Reduction, including that the Loan is current as of the closing of the Section 538 loan or Interest Rate Reduction transaction.

Execution of this Agreement shall not in and of itself affect the right of Lender to exercise its rights under the USDA Guarantee, including, without limitation, the time periods for such exercise.

Except as provided above, delivery of this Agreement may not be deemed a waiver of any of the rights or remedies available to the Lender under the Loan Documents or at law, equity or otherwise. The terms and conditions set forth in this Agreement may not be construed as an agreement by Lender or USDA to extend or modify the Loan, or to grant any additional forbearance with regard to the Loan. This Agreement may not be amended or altered except by a written instrument executed by Lender and the Borrower.

If Borrower agrees with the terms of this Agreement, please sign and date this Agreement where indicated and return a copy by email to [Lender's email address], to be received no later than _____, _____, 2020, followed by delivery of an originally-signed version via hand delivery, U.S. Express Mail, or commercial overnight courier to [Lender's Address].

Sincerely,

_____
Lender Representative

cc: [Lender Asset Management]
[USDA]

THE UNDERSIGNED REPRESENTATIVE OF BORROWER, BEING LAWFULLY AUTHORIZED TO ENTER INTO THIS AGREEMENT AND INTENDING TO BE BOUND THEREBY, HEREBY AGREE TO AND ACCEPT ALL OF THE FOREGOING TERMS AND CONDITIONS AND HEREBY CERTIFIES THAT ALL INFORMATION SUBMITTED TO DATE IS TRUE, ACCURATE AND COMPLETE AND THEY FURTHER CONFIRM THAT THEY HAVE REVIEWED THE EFFECT OF THIS AGREEMENT WITH LEGAL COUNSEL OF THEIR CHOICE, OR HAVE BEEN AFFORDED THE OPPORTUNITY TO DO SO, PRIOR TO EXECUTION OF THIS AGREEMENT.

The Effective Date of this Agreement will be the Execution Date filled in by the Borrower below Borrower's signature.

BORROWER:

By: _____
Name: _____
Its: _____
Execution Date: _____

Borrower Email Address(es) to be used for notices under this Agreement:

_____

_____

According to the Paperwork Reduction Act of 1995, no persons are required to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information is 0575-0066. The time required to complete this information collection is estimated to average 60 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.