

VIRGINIA HOUSING DEVELOPMENT AUTHORITY
FORBEARANCE AGREEMENT

Dated as of: [First Month of Forbearance Period] 1, 2020

[NAME OF OWNER]

Re: VHDA Loan No. [Loan Number(s) – want this to be loans selected in application for forbearance (not all loan numbers for deal)] (individually and collectively referred to herein as the "Loan")
[Development Name] Apartments (the "Property")
Forbearance and Non-Waiver

Reference is hereby made to the multifamily Deed of Trust Note(s) (individually and collectively referred to herein as the "Note"), executed by [NAME OF OWNER] ("Borrower"), payable to the order of the Virginia Housing Development Authority ("VHDA"), the current owner and holder of the Note. Capitalized terms not defined herein shall have the meaning ascribed to such term in the Note, the VHDA deed of trust(s) (individually and collectively referred to herein as the "Deed of Trust") securing the Note, and the VHDA regulatory agreement(s) (individually and collectively referred to herein as the "Regulatory Agreement"), if applicable, containing certain requirements for the operation of the Property (the Note, the Deed of Trust and the Regulatory Agreement, if applicable, including any amendments thereto, are referred to herein, collectively, as the "Loan Documents").

Notwithstanding the forgoing or anything to the contrary herein, in the event the Virginia Department of Housing and Community Development ("DHCD") or the Virginia Housing Trust Fund ("VHTF") is the holder of the Note and the secured party in the Deed of Trust, VHDA is executing this Agreement as the Loan servicer ("Servicer") on behalf of DHCD or VHTF, as applicable. In which case, references, as applicable, to VHDA shall mean either "VHDA, as Servicer for DHCD" or "VHDA as Servicer for VHTF," as appropriate.

1. On March 11, 2020, the World Health Organization Director-General characterized the spread of the COVID-19 virus as a pandemic (the "Health Crisis"). On March 13, 2020, the President of the United States of America declared a federal emergency in response to the Health Crisis. Because of the Health Crisis, Borrower has failed to make or reasonably foresees its inability to make the required monthly payment under the Note. Borrower's obligation to make these monthly payments under the Note has not been waived by VHDA but continue to be due and payable, subject to the terms and conditions described herein.

2. Borrower represents to VHDA that the operations and financial performance of the Property have suffered a hardship as a result of the Health Crisis such that short-term relief from Borrower's obligations is needed. As an accommodation to Borrower to allow Borrower the opportunity to stabilize the operations of the Property, and to commence processing applicable insurance claims or other claims for relief from available resources, and notwithstanding the defaults as a result of the delinquent monthly payments and/or other defaults that may exist, VHDA has agreed to forbear from exercising its rights and remedies under the Note and other Loan Documents on the terms set forth herein.
3. The amount forborne hereunder shall be the monthly payment of principal and interest and deposits to replacement reserves; however, the Borrower shall continue to make deposits to escrows for taxes and insurance. VHDA will continue to forbear from exercising its rights and remedies until [Last day of last month of forbearance period selected in application], 2020 ("Forbearance Expiration Date"); conditioned, however, on Borrower's cooperation with and providing VHDA with such monthly reporting, as reasonably requested by VHDA, by the 20th of the following month. Such reporting may include monthly rent rolls, monthly rent collection reports, monthly operating statements, and such other information as reasonably requested by VHDA to determine the on-going nature of the hardship, the extent of the operational needs of the Property and such other action or relief that may be necessary. In the event VHDA determines, in its discretion, based upon such reports that the Borrower's financial hardship has terminated, VHDA may terminate the forbearance upon ten days' written notice to Borrower.

To the extent the Forbearance Expiration Date exceeds thirty (30) days from the date hereof, and any Loan subject hereto is a "Federally backed multifamily mortgage loan" under Section 4023 of the CARES Act, this Agreement constitutes a request by Borrower for, and approval by VHDA of, the extension or extensions allowed under the CARES Act to be entitled to the total period of relief granted herein.

4. Borrower will be required to bring the Loan current at the Forbearance Expiration Date or through the payment of the outstanding forbearance amounts (principal and interest) due in equal monthly installments to be repaid on a schedule not to exceed the earlier of forty-eight (48) months following the Forbearance Expiration Date or (ii) the maturity date of the Loan and to be repaid in addition to the then current monthly obligation due under the Note and other Loan Documents. Forborne replacement reserve deposits will not be required to be replenished, absent unusual circumstances as determined by VHDA. If Borrower elects to repay the outstanding forbearance amounts due in monthly installments, Borrower may prepay the outstanding forbearance amounts due at any time without a prepayment premium. Notwithstanding the foregoing, Borrower shall bring the Loan current upon receipt of business income (business interruption/rent loss) insurance proceeds by Borrower or VHDA or upon receipt of any other financial relief or assistance

available to Borrower from any other source, including, but not limited to, any local, state, or federal government assistance or relief program.

In the event Borrower fails to timely perform any of its obligations under this paragraph 4, VHDA's agreement to forbear from exercising its rights and remedies under the Note and other Loan Documents shall immediately terminate, without further notice or demand, and VHDA may, at its option, accelerate the Note and/or exercise any and all other rights and remedies available to it under the Loan Documents, at law or in equity.

5. If VHDA is in receipt of Borrower's insurance proceeds, these insurance proceeds and any other insurance proceeds with respect to the Property (including business income/business interruption/rent loss insurance) will be held in escrow by VHDA, on behalf of VHDA, pending Borrower's completion and delivery of those items described in the Loan Documents, with respect to the use of the insurance proceeds. Such insurance proceeds shall continue to be held in escrow by VHDA in an Insurance Proceeds Collateral Account for reimbursement to Borrower for costs of stabilizing the Property and/or applied to the Loan, as provided by the Loan Documents.
6. Monthly installments under the Note are due on the applicable date specified in Note and are subject to a late fee if received after the applicable date specified in the Note. In addition, the Note and other Loan Documents may provide for the charging of interest at a default rate during the period that Borrower is in default. Upon the timely performance by Borrower of its obligations listed in paragraph 3 above, VHDA agrees to waive collection of such late fees and any default interest. In the event, however, Borrower fails to perform as described in paragraph 3 above or seeks protection under federal or state bankruptcy or insolvency laws prior to the expiration of VHDA's agreement to forbear, such late fees and any default interest shall be fully due and payable by Borrower.
7. As additional consideration for the relief granted herein by VHDA, Borrower expressly agrees to not (1) pursue or initiate, and agrees to defer, halt, cease, and abate, any eviction or similar action against any tenant solely on the basis of such tenant's inability to pay his or her rent obligation to Borrower, and (2) charge any late fees, penalties, or other charges to a tenant described in (1) of this paragraph for late payment of rent. Borrower agrees to be bound by the eviction suspension and waiver of late fees, penalties, or other charges until the longer of (i) the moratorium imposed under Sec. 4024 of the CARES Act including the notice provision thereof (regardless of whether the Development is covered by Section 4024 pursuant to its express terms), (ii) the Forbearance Expiration Date and the notice provision of Section 4023 of the CARES Act (regardless of whether the Development is covered by Section 4023 pursuant to its express terms), or (iii) any longer period otherwise mandated by law.

Borrower also agrees to not raise the rent of any tenant having an executed lease agreement commencing before or on the beginning date of the forbearance period until after the Forbearance Expiration Date.

VHDA's policy is to encourage any tenant that can pay their rent to do so. Borrowers will use their best efforts to work with tenants unable pay their rent to develop a reasonable repayment plan, in the Borrower's professional judgment, including possible waiver of late fees (in addition to the waiver of late fees, penalties, or other charges required by this Section).

8. Until Borrower is current on its obligations to VHDA, Borrower agrees any revenue or income generated by the Property, whether from rents or other sources, will be used solely for allowable normal and customary operating expenses and approved capital expenditures. Borrower further agrees no fees, charges, or compensation, except as provided herein for management fees, shall be paid or distributed to Borrower, its general partners, limited partners, members, or other related persons or entities, if any, or to any affiliates thereof, until the date that is four (4) months after the Forbearance Expiration Date and only then if Borrower is paying as agreed on its obligations to VHDA.

During the forbearance period, Borrower may elect to remit to VHDA, no more frequently than monthly, and prior to the 15th of the month, a payment to be applied to deferred interest. The receipt and application of such funds by VHDA shall not constitute a waiver of any amounts due under the Loan Documents or of any default in connection therewith.

9. Notwithstanding VHDA's agreement to forbear from exercising its rights and remedies, and the acceptance of any partial payments as described in the preceding section by VHDA, the Note remains in default, and VHDA does not waive any defaults set forth in this letter, or any other defaults which may exist or arise under the Note and any Loan Document executed in connection with the Note. This letter is to evidence VHDA's and Borrower's agreement for forbearance and does not, and should not be deemed to, amend or modify the Note, the other Loan Documents or Borrower's obligations thereunder. Acceptance of late payments does not imply that any future late payments will be accepted by VHDA, and shall not be deemed a waiver of VHDA's right to reject late payments, assess late charges, charge a default rate of interest, or prevent VHDA from exercising any right, remedy, or power available to VHDA, including, without limitation, all rights, remedies, and powers granted under the Note and any Loan Documents and at law or in equity.
10. By signing the Acceptance included herein, Borrower unconditionally acknowledges to be indebted to VHDA for all amounts presently unpaid and outstanding under the Note, in principal, interest, and other amounts, without defense, setoff, deduction or counterclaim of any kind whatsoever, all of which are forever waived and released.

11. By signing the Acceptance included herein, Borrower additionally unconditionally acknowledges and agrees that no act, event or circumstance occurring since the date of the Note and the other Loan Documents shall give rise to any claim or cause of action (regardless of whether based on common or civil law, equity, statute, regulation, or other grounds) against VHDA, or against any of their respective officers, directors, employees, successors, assigns, agents, and attorneys (collectively, the "Released Parties"), with Borrower hereby unconditionally and fully releasing and forever discharging the Released Parties from all actions, causes of action, claims and/or demands of every nature whatsoever, whether at law or in equity, in tort or in contract, or otherwise, and whether known or unknown, or present or contingent, including release of any rights to recover consequential or punitive damages, that Borrower may now have as against any Released Party, further including any and all claims in connection with the Loan, this forbearance agreement, or any extension of credit, refusal to extend credit, waiver, acquiescence, or any other act or failure to act in connection with any matter pertaining to the Note, the Deed of Trust, and/or the Loan Documents. Borrower expressly acknowledges this paragraph is intended to include any claim or action Borrower may assert now or in the future against VHDA arising out of or from the Borrower's agreement to the eviction suspension described herein.
12. Borrower represents: (i) it is a sophisticated commercial real estate investor that has had the opportunity to be represented by independent counsel of its own choosing, (ii) it or its authorized parties have carefully read and fully understand this agreement in its entirety, and (iii) it is fully aware of the contents herein and its meaning, including any risks related thereto. Borrower further represents the individual executing this letter has been duly authorized to act on behalf of Borrower, has executed this agreement free from coercion, duress or undue influence, and that the agreements set forth herein are part of an arms-length transaction. Borrower affirms it has not relied upon any guidance from VHDA in its decision to enter into this agreement.
13. This Agreement must be executed by the Borrower using electronic signatures. This Agreement may be executed in as many counterparts (that are electronic records and executed electronically) as necessary or convenient. Each executed counterpart shall be deemed an original, and all such counterparts shall constitute one and the same agreement. An electronic copy of a document signed by VHDA's duly authorized representative shall be considered as effective as an original. By signing this Agreement, Borrower agrees that VHDA may deliver communications electronically, that this Agreement, other Loan Documents, and any communications may, at VHDA's option, be signed or executed using electronic signatures, and that the use of electronic records and signatures will be in place of written documents and handwritten signatures. Borrower agrees that the electronic mark affixed to this Agreement constitutes the signature of an individually legally authorized to act on behalf of Borrower and will be enforceable as and to the full extent of a hand-written signature.

14. VHDA expects that the Virginia General Assembly may enact legislation giving owners of rental property additional foreclosure protections, such as stays of foreclosures. The Borrower agrees that the forbearance period provided in this Agreement constitutes a stay in the exercise by VHDA of its rights under the Deed of Trust, and this Agreement shall satisfy, in whole or in part (for the number of days in the forbearance period), any stay in the exercising of such rights that is or may be required under Virginia law in response to the COVID-19 pandemic.

If you have any questions regarding this matter, please do not hesitate to call Ms. Nina B. Nolley, Director of Rental Servicing, at nina.nolley@vhda.com.

Sincerely,

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

By: /s/ Arthur N. Bowen, III

Name: Arthur N. Bowen, III

Title: Director of Rental Housing

BORROWER ACCEPTANCE:

ACCEPTED AND AGREED as of the date first written above.

[Name of Owner]

[Need to automate Borrower signature]

By: _____
Name _____
Title: _____