

**REHAB-2-RENTAL PROGRAM
FINANCIAL RESPONSIBILITY AGREEMENT**

This Agreement is entered into on _____, 20__ (herein referred to as the “**Effective Date**”) between: **Service Provider**, a **New Mexico non-profit corporation** (herein referred to as “**Program Administrator**”) and _____ (herein referred to as “**Owner**”) who owns the real property located at, _____, New Mexico _____ (herein referred to as “**Property**”).

Owner has applied to the Rehab-2-Rental Program (herein referred to as “**Program**”) offered by Program Administrator. As part of evaluating Owner’s application, the Program Administrator will expend funds to obtain a title search and will conduct a site inspection. In order to proceed in incurring these costs, and further processing Owner’s application, Program Administrator requires Owner to agree to the following conditions which include Owner agreeing to pay Program Administrator back (1) for expenses the Program Administrator has incurred if Owner decides it will not proceed with the project outlined in the application, and (2) for Program Funds spent on the Project if Owner fails to comply with the Program’s regulations and requirements. Please read the below carefully to understand your financial obligations in connection with the Program.

The Owner(s) agrees to the following:

The Owner will be responsible to pay back any and all expenses that the Program Administrator has incurred while processing the Owner’s application for eligibility if either of the following events occur:

1. Owner(s) decides it/they will not move forward with the project, but the Program Administrator has already begun processing Owner’s application and has incurred costs in doing so. (If Owner no longer wishes to move forward with their application Owner must advise Program Administrator as soon as possible in writing); or
2. If it is determined that the Owner(s) omitted, misrepresented, or made false claims, that result in non-compliance with the Program’s regulations and requirements.

If either (1) or (2) above occur and Program Administrator has incurred costs in the processing of Owner’s application, a copy of the actual charges and cost will be provided to the Owner along with invoices. The Owner will have (30) thirty days in which to repay the Program Administrator for all costs incurred on their project.

By signing below, the Owner(s) understand and acknowledge the following:

- _____ 1. I/we have reviewed an example of the Award and Restrictive Covenant Agreement (Exhibit A) (the "Restrictive Covenant Agreement") and I/we understand that upon completion of repairs to the home receiving rehabilitation, there will be a lien filed on the Property for a period of time based on the amount of funding provided for the rehabilitation of the Property securing a non-interest-bearing loan. I/we have had the opportunity to ask questions about any aspects of the Restrictive Covenant Agreement that I/we did not understand.
- _____ 2. Further I/we understand that contingent upon fulfillment of the terms of the Restrictive Covenant Agreement, the loan will be forgiven on a pro rata basis. Program Administrator will release the Restrictive Covenant Agreement upon fulfillment of the terms.
- _____ 3. I/we understand that should I not fulfill the terms of the Restrictive Covenants Agreement, the Program Administrator will determine the balance of the loan owed to the Program Administrator in order for the Program Administrator to release the lien filed on the property. The balanced owed will be based on the terms of the Restrictive Covenants Agreement.
- _____ 4. The purpose of this Program is to make my home safe and affordable to rent to voucher housing holders and consistent with the [Enter Standards Used Here, for example: Department of Housing and Urban Development (HUD) National Standards For The Physical Inspection Of Real Estate (NSPIRE)] standards. I/we understand that repairs will not be performed for luxury or cosmetic purposes.
- _____ 5. I/we understand that if I/we cancel the home repair after assessments have been completed, I/we will be legally obligated to repay the costs of the assessments incurred by Program Administrator within thirty (30) days of receipt of invoices from Program Administrator.
- _____ 6. I/we understand that if I/we cancel the rehabilitation of the Property after approval has been received, I/we may no longer be eligible able to qualify for the Program in the future.

PLEASE REVIEW the attached Restrictive Covenants Agreement in detail and if you have any questions or concerns, please immediately contact the Program Administrator by phone at XXX-XXX-XXXX or email XXX@XXX.com

IN WITNESS WHEREOF, Owner(s) has executed this Agreement.

Owner

Owner

Return after recording to:

[SERVICE PROVIDER]

Attn: _____

ADDRESS

CITY, STATE, ZIP

**REHAB-2-RENTAL PILOT PROGRAM
AWARD AND RESTRICTIVE COVENANTS AGREEMENT**

This **AWARD AND RESTRICTIVE COVENANTS AGREEMENT** ("Agreement") is entered into this ___ day of [Day and Month], [Year] by [Homeowner Name] ("Owner"), a landlord of [Property Address] securing Owner's obligations to [Service Provider Name] ("**Service Provider**"), a New Mexico [organization type such as non-profit corporation, publish housing authority, municipality];

1. Award of Funds and Restrictions on Property.

Owner in consideration of Owner's receipt of Rehab-2-Rental Program funds in the amount of _____ **Dollars (\$)** ("Award") from Service Provider, a New Mexico [organization type], does hereby agree to the restrictions outlined herein and for such consideration paid does hereby mortgage, grant and convey to Service Provider all of the Owner's right, title and interest in and to the following described real estate located in [County], New Mexico, which has an address of [Property Address], and which is more particularly described as follows:

Insert TITLE PLOT INFORMATION (LEGAL DESCRIPTION) HERE

Together with all improvements now or hereafter erected on the property, and all easements, rights, appurtenances and rents, all of which shall be deemed to be and remain a part of the property covered by this Agreement; and all of the foregoing together with said property (or the leasehold estate if this Agreement is on a leasehold) are hereinafter referred to as the "Property."

Owner covenants that Owner is lawfully in possession of the Property (estate) described above and has the right to mortgage, grant and convey the Property. Owner covenants that Owner warrants and will defend generally the title to the Property against all claims and demands, subject to encumbrances of record.

This Agreement secures the performance of the following obligations, with mortgage covenants, and is upon the statutory mortgage condition for the breach of which it is subject to foreclosure as provided by law:

- (a) Repayment of the Award, including all renewals, modifications and amendments of this Agreement, including any increase in the principal amount of the Award made subsequent to the date of this Agreement, and
- (b) The performance of all of Owner's obligations, covenants, and agreements contained in this Agreement, as may be amended from time to time, and imposed upon the use of the Property.

This Agreement secures all future advances of funds to Owner by Service Provider in connection with this

Agreement, and the lien of each such advance will relate back to the date of recordation of this Agreement. Owner acknowledges and agrees that the Award amount shall increase by the amount of any additional advances, and shall decrease if the total amount of the Award is not needed to complete the rehabilitation, and that an amendment to this Agreement in the form of Exhibit 1 ("Amendment") shall be completed by Service Provider with respect to any change to the Award, and further that as a condition of the Award, Owner shall be required to execute the Amendment which will be recorded in the records of clerk of [County] County, New Mexico. Failure to execute an Amendment shall be a breach of this Agreement for which Service Provider may exercise those remedies outlined in paragraph 13 of this Agreement and any other remedies available at law or in equity.

2. Owner's Promise to Pay; Reduction of Principal.

Owner promises to pay the Award, as may be amended from time to time, as follows:

No interest will accrue on the Award. However, Owner shall promptly pay the entire, outstanding principal balance of the Award, as may be amended from time to time, and any other indebtedness evidenced by this Agreement if at any time during the Total Restriction Period (defined below) Owner rents to, sells or transfers the Property to a party ineligible for assistance under the Regulations (defined below); refinances in whole or in part any mortgage against the Property that is superior to this Mortgage, provided that Service Provider may, in its sole discretion, approve, in writing, refinances in whole or in part of any mortgage against the Property that is superior to this Mortgage, provided that a condition of any such approval will be the agreement of the senior lender to close on the refinance with this Agreement remaining in place, and provided further that Service Provider may agree in its sole discretion to subordinate this Agreement to a new senior lender; in any manner conveys title to the Property; fails to maintain the Property as housing voucher renter-occupied, residential property during the term of the Total Restriction Period; or otherwise fails to abide by the Restrictive Covenants and terms of this Agreement.

Provided that Owner is in compliance with the Restrictive Covenants and other requirements set forth in Paragraph 3 of this Agreement, the principal balance due on this Award shall be reduced on a monthly basis on the anniversary of the date of this Agreement ("Period of Forgiveness") as follows:

3. Restrictive Covenants.

This Agreement restricts the use of the Property and is in consideration of the Award from Service Provider to Owner as evidenced by this Agreement. The Award has been made to Owner through Service Provider's Rehab-2-Rental Program and has been funded with moneys from the State of New Mexico and can be made to Owner only if Owner promises to comply with the restrictions and requirements set forth herein, the Affordable Housing Act, NMSA 1978 Sections 6-27-1 et seq. (referred to herein as the "Regulation").

In consideration of the Award and of the mutual covenants and understandings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Service Provider and Owner agree as follows:

A. Restrictive Occupancy Requirement. Owner shall maintain the Property as a rental property exclusively serving low-income housing voucher holders or low-income households that began tenancy with a housing voucher holder, for a total of 60 months within a 72-month period or so long as any or all of the Award is unpaid and outstanding, whichever is later. No more than three months will be

allowed between tenancy of housing voucher holders or low-income households that began tenancy with a housing voucher. Owen shall receive credit towards forgiveness for up to one month between tenancies of low-income housing voucher holders. Should more than three months pass between the tenancy of low-income housing voucher holders or low-income households that began tenancy with a housing voucher, or the Owner rents the property to a household other than a low-income housing voucher holder, Owner will be required to pay to Service Provider the balance of the Award amount. The amount due will be determined by the last month that the Owner rented the Property to a low-income housing voucher holder and forgiveness will be based on a rate of 1.67% per month of compliance with the restrictive occupancy requirements.

The Total Restriction Period is 60 months within a 72-month period. The Total Restriction Period will begin on the first day of the month following the month during which rehabilitation was completed, which is ____ day of _____, 20__ and must be fulfilled by ____ day of _____, 20__.

B. Rehabilitation. Owner agrees that the entire amount of the Award, as may be amended from time to time, will be used to perform the rehabilitation work (the "Work") on the Property. Owner expressly authorizes inspection of the Property by Service Provider or Service Provider's agent(s) prior to or following completion of the Work.

C. No Transfer. Owner promises that the Property may not be sold, transferred or title to the Property conveyed, and Owner promises that the entire balance due on the Award will be due and payable upon any such sale or transfer, except as provided for in Paragraph 3D of this Agreement. If Owner fails to pay these sums upon the sale, transfer or conveyance of the Property, Service Provider may invoke any remedies permitted by law or this Agreement without further notice or demand on Owner.

D. Exception to Transfer Restriction. Notwithstanding any other provision of this Agreement, the Property may be transferred if the transfer is to a person or family ("the Transferee") or Heir (defined below) who covenants and promises in writing to maintain the Property as a rental property exclusively serving housing voucher holders for the remainder of the Total Restriction Period and to otherwise to comply with and assume all the terms and conditions of this Agreement; and,

- I. if to an Heir, the transfer is the result of the death of the Owner and the transfer is by devise or operation of law to a member of the Owner's immediate family ("Heir"). Immediate family, for the purposes of this Agreement, is defined as a spouse, children (including stepchildren), mother, father, brother, sister, grandparent, mother-in-law, father-in-law, brother-in-law, sister-in-law, aunt, or uncle. Such a transfer upon the death of the Owner will cause an immediate termination of the Total Restriction Period.

Service Provider reserves the right to deny approval of a request to assume or transfer this Agreement and the Award.

F. Termination of Total Restriction Period. Owner understands that the Total Restriction Period will not terminate prior to the termination date indicated by this Agreement, except under the circumstances indicated in Paragraph 3D (i) or in the event of foreclosure and sale of the Property pursuant to an order of a court of competent jurisdiction.

4. Prior or Subsequent Mortgages and Deeds of Trust; Charges; Liens. Owner shall perform all of

Owner's obligations under any mortgage or encumbrance on the Property, whether superior or junior to this Agreement. Owner shall pay or cause to be paid all taxes, assessments, and other charges, fines, and impositions attributable to the Property, and leasehold payments or ground rents, if any. Any default by Owner under a prior or subordinate mortgage or encumbrance against the Property or by Owner's failure to pay all taxes, assessments and other charges, fines, and impositions attributable to the Property shall constitute a default under this Agreement and shall entitle Service Provider to all legal and equitable relief as set forth herein.

5. Preservation and Maintenance of Property; Leaseholds; Condominiums; Planned Unit Developments. Owner shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property.

6. Protection of Service Provider's Security. If Owner fails to perform the covenants and agreements contained in this Agreement, or if any action or proceeding is commenced which materially affects Service Provider's interest in the Property, then Service Provider may at its option and upon notice to Owner, make such appearances, disburse such sums, including reasonable attorneys' fees and costs, and take such action as is necessary to protect Service Provider's interest. Any amounts disbursed by Service Provider pursuant to this paragraph, including any reasonable attorneys' fees and costs incurred by Service Provider, with interest thereon, at the statutory rate, shall become additional indebtedness of Owner secured by this Agreement. Unless Owner and Service Provider agree to other terms of payment, such amounts shall be payable upon notice from Service Provider to Owner requesting payment thereof. Nothing contained in this Paragraph 6 shall require Service Provider to incur any expense or take any action hereunder.

7. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation to the extent of the Award, are hereby assigned and shall be paid to Service Provider, subject to the terms of any mortgage, deed of trust or other security agreement with a lien that has priority over this Agreement.

8. Owner Not Released; Forbearance by Service Provider Not a Waiver. Any forbearance by Service Provider in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.

9. Successors and Assigns Bound; Joint and Several Liability; Co-signers. The covenants and agreements contained herein shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Service Provider and Owner, subject to the provisions of Paragraph 3 hereof. All covenants and agreements of Owner shall be joint and several.

10. Notice. Except for any notice required under applicable law to be given in another manner, (a) any notice to Owner provided for in this Agreement shall be given by delivering it or by mailing such notice by certified mail addressed to Owner at the address provided below or at such other address as Owner may designate by notice to Service Provider as provided herein, and (b) any notice to Service Provider shall be given by certified mail to Service Provider's address stated herein or to such other address as Service Provider may designate by notice to Owner as provided herein. Any notice provided for in this Agreement shall be deemed to have been given to Owner or Service Provider when given in the manner designated herein.

Owner Name
Address
City, State, ZIP

11. Governing Law; Severability. The state and local laws applicable to this Agreement shall be the laws of the jurisdiction in which the Property is located. The foregoing sentence shall not limit the applicability of Federal law to this Agreement. In the event that any provision or clause of this Agreement conflicts with applicable law, such conflict shall not affect other provisions of this Agreement, which can be given effect without the conflicting provision, and to this end the provisions of this Agreement are declared to be severable.

12. Owner's Copy. Owner shall be furnished a fully executed copy of this Agreement, and any amendments, at the time of execution or after recordation hereof.

13. Acceleration; Remedies. Except as provided in Paragraph 3D hereof, upon Owner's breach of any covenant in this Agreement, including the covenants to pay when due any sums secured by and under this Agreement, Service Provider shall give notice to Owner as provided in Paragraph 10 hereof specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than ten (10) days from the date the notice is mailed to Owner, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Agreement, foreclosure by judicial proceeding, and sale of the Property. The notice shall further inform Owner of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the nonexistence of a default or any other defense of Owner to foreclosure. If the breach is not cured on or before the date specified in the notice, Service Provider, at Service Provider's option, may declare all of the sums secured by this Agreement to be immediately due and payable without further demand, and may foreclose this Agreement by judicial proceeding. Service Provider shall be entitled to collect in such proceeding all expenses of foreclosure, including, but not limited to, reasonable attorneys' fees, and costs of documentary evidence, abstracts and title reports.

14. Owner's Right to Reinstate. Notwithstanding Service Provider's acceleration of the sums secured by this Agreement due to Owner's breach, Owner shall have the right to have any proceedings begun by Service Provider to enforce this Agreement discontinued at any time prior to entry of a judgment enforcing this Agreement if: (a) Owner cures all breaches of any covenants or agreements of Owner contained in this Agreement; (b) Owner pays all reasonable expenses incurred by Service Provider in enforcing the covenants and agreements of Owner contained in this Agreement, and in enforcing Service Provider's remedies as provided in Paragraph 13 hereof, including, but not limited to, reasonable attorneys' fees and costs; and (c) Owner takes such action as Service Provider may reasonably require to assure that the lien of this Agreement, Service Provider's interest in the Property and Owner's obligations secured by this Agreement shall continue unimpaired. Upon such cure by Owner, this Agreement and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

15. Release. Upon payment of all sums secured by this Agreement, Service Provider shall release this Agreement without charge to Owner.

REQUEST FOR NOTICE OF DEFAULT
-----AND FORECLOSURE UNDER SUPERIOR-----

MORTGAGES OR DEEDS OF TRUST

Owner and Service Provider request the holder of any mortgage, deed of trust or other encumbrance with a lien which has priority over this Agreement to give Notice to Service Provider, at Service Provider's address set forth on page one of this Agreement of any default under the superior encumbrance and of any sale or other foreclosure action.

IN WITNESS WHEREOF, Owner has executed this Agreement.

Homeowner Name HERE

Acknowledgment

STATE OF NEW MEXICO)

) ss

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of ____ 20__ by

My commission expires: _____

NOTARY PUBLIC

EXHIBIT 1

Return after recording to:

[SERVICE PROVIDER]

Attn: _____

ADDRESS

CITY, STATE, ZIP

**REHAB-2-RENTAL PILOT PROGRAM
AMENDMENT TO
AWARD AND RESTRICTIVE COVENANTS AGREEMENT**

This **AMENDMENT TO AWARD AND RESTRICTIVE COVENANTS AGREEMENT** ("Amendment") amends that certain **AWARD AND RESTRICTIVE COVENANTS AGREEMENT** (defined below) and is made and entered into by [Homeowner Name HERE] ("Owner") securing Owner's obligations to [SERVICE PROVIDER], a New Mexico nonprofit corporation ("Service Provider") this ____ day of _____, 20__.

WHEREAS, pursuant to the Agreement, Service Provider made an Award to Owner in the amount of _____ **Dollars (\$)** ("Award") for rehabilitation of the Property located at (Homeowner Address HERE) and which is more particularly described as follows:

Insert TITLE PLOT INFORMATION (LEGAL DESCRIPTION) HERE ;

WHEREAS, subsequent to the execution of the Agreement additional advances were made by Service Provider on behalf of Owner in the principal amount of _____ **Dollars (\$)**; and

WHEREAS, the rehabilitation of the Property is now complete and the total amount needed to complete the rehabilitation was _____ **Dollars (\$)** less than the Award; and

WHEREAS, pursuant to Section 1 of the Agreement, Owner and Service Provider are entering into this Amendment Agreement to document the total Amended Award amount (shown below) and to reaffirm Owner's obligations under the Agreement with respect to the Award, as amended.

NOW, THEREFORE, Service Provider and Owner agree the Agreement is amended as follows:

1. The Award first defined in Section 1 and referenced throughout the Agreement shall include the total shown below:

Original Award	[INSERT ORIGINAL AWARD AMOUNT \$]
Change to Award	[INSERT ADDITIONAL ADVANCE AMOUNT \$]
TOTAL AMENDED AWARD	[INSERT TOTAL AWARD AMOUNT]

2. The Agreement, as amended by this Amendment Agreement, continues to secure the performance of the following obligations, with mortgage covenants, and is upon the statutory mortgage condition for the breach of which it is subject to foreclosure as provided by law:

- (a) Repayment of the Award, including all renewals, modifications, or amendments to this Agreement, including any increase in the principal amount of the Award made subsequent to the date of this Agreement, and
 - (b) The performance of all of Owner's obligations, covenants, and agreements contained in this Agreement as amended and imposed upon the use of the Property.
3. Except as specifically modified and amended herein, all of the terms, provisions, requirements and specifications contained in the Agreement remain in full force and effect. Except as otherwise expressly provided herein, the parties do not intend to, and the execution of this Amendment Agreement shall not, in any manner, impair the Agreement.
 4. Nothing herein contained shall be construed as a substitution or novation of the obligations of the parties under this Amendment Agreement.
 5. This Amendment Agreement shall be construed and governed by the Laws of the State of New Mexico.

IN WITNESS WHEREOF, Owner has executed this Agreement.

Homeowner Name HERE

Acknowledgment

STATE OF NEW MEXICO)
) ss
 COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of ___ 20__ by

My commission expires: _____

NOTARY PUBLIC