

Health Resources and Services Administration  
Health Care Facility Loan Guarantee Program

LOAN NOTE GUARANTEE

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

Lender	Borrower
Lender's Address	Borrower's Address
Principal Amount of Loan	Health Center
Project Description and Address	Health Center Address

The guaranteed portion of the loan is \$ \_\_\_\_\_, which is eighty (80%) percent of the outstanding loan principal. The principal amount of loan is evidenced by \_\_\_\_\_ note(s) described below. The guaranteed portion of each note is indicated below. This instrument is attached to note \_\_\_\_\_ in the face amount of \$ \_\_\_\_\_ and is number \_\_\_\_\_ of \_\_\_\_\_.

<i>LENDER'S IDENTIFYING NUMBER</i>	<i>FACE AMOUNT</i>	<i>PERCENT OF TOTAL FACE AMOUNT</i>	<i>AMOUNT GUARANTEED</i>
	\$	%	\$
	\$	%	\$
	\$	%	\$
	\$	%	\$
<b>TOTAL</b>	<b>\$</b>	<b>100%</b>	<b>\$</b>

In consideration of the making of the subject loan by the above named Lender, the Health Resources and Services Administration ("HRSA"), an agency of the United States Department of Health and Human Services, an executive branch department of the government of the United States of America, acting through the Bureau of Primary Health Care, a bureau within HRSA, pursuant to the Health Care Facility Loan Guarantee Program established pursuant to Title XVI, Part A of the Public Health Service Act, 42 U.S.C. 300q *et seq.* and the rules and regulations thereunder, as may be amended (the "Program"), does hereby agree that in accordance with and subject to the conditions and requirements herein and under the Program, it will pay to:

- A. Any Holder 100 percent of any loss sustained by such Holder on the guaranteed portion and on interest due on such portion; provided that, this Loan Note Guarantee shall not cover the note interest to the Holder on the guaranteed loan accruing after 90 days from the date of the demand letter to the Lender requesting the repurchase.
- B. The Lender the lesser of 1. or 2. below:
  - 1. Any loss sustained by the Lender on the guaranteed portion including:
    - a. Principal and interest indebtedness as evidenced by said note(s) or by, assumption agreement(s); provided that this Loan Note Guarantee shall not include interest accruing after 90 days from the date of the Lender's original demand letter to HRSA, and
    - b. Principal and interest indebtedness on secured protective advances for protection and preservation of collateral made with HRSA's authorization, including but not limited to, advances for taxes, annual assessments, any ground rents, and hazard or flood insurance premiums affecting the collateral, or
  - 2. The guaranteed principal advanced to or assumed by the Borrower under said note(s) or assumption agreement(s) and any interest due thereon; provided that this Loan Note Guarantee shall not include interest accruing after 90 days from the date of the Lender's original demand letter to HRSA.

If HRSA conducts the liquidation of the loan, loss occasioned to the Lender by accruing interest after the date HRSA accepts responsibility for liquidation will not be covered by this Loan Note Guarantee. If the Lender conducts the liquidation of the loan, accruing interest shall be covered by this Loan Note Guarantee to date of final settlement when the Lender conducts the liquidation expeditiously in accordance with the liquidation plan approved by HRSA.

#### Definition of Holder.

A Holder is a person or organization other than the Lender who holds all or part of the guaranteed portion of the loan with no servicing responsibilities. Holders are prohibited from obtaining any part(s) of the Guaranteed portion of the loan with proceeds from any obligation, the interest on which is excludable from income, under Section 103 of the Internal Revenue Code, as amended (IRC). When the Lender assigns a part(s) of the guaranteed loan to an assignee, the assignee becomes a Holder only when an "Assignment Guarantee Agreement" is used.

#### Definition of Lender.

The Lender is the person or organization making and servicing the loan that is guaranteed in accordance with the requirements of the Program. The Lender is also the party requesting a loan guarantee and the holder of the unguaranteed portion of a loan.

### CONDITIONS OF GUARANTEE

#### 1. Loan Servicing.

The Lender will be responsible for servicing the entire loan and the Lender will remain mortgagee and/or secured party of record notwithstanding the fact that another party may hold a portion of the loan. When multiple notes are used to evidence a loan, the Lender will structure repayments as provided in its loan agreement with the Borrower.

#### 2. Priorities.

The entire loan will be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the loan. The unguaranteed portion of the loan will not be paid first nor given any preference or priority over the guaranteed portion.

#### 3. Full Faith and Credit.

This Loan Note Guarantee constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which the Lender or any Holder has actual knowledge at the time it became the Lender or such Holder or which the Lender or any Holder participates in or condones. If the note to which this is attached or relates provides for the payment of interest on interest, then this Loan Note Guarantee is void. In addition, this Loan Note Guarantee will be unenforceable by the Lender to the extent any loss is occasioned by the violation of usury laws, negligent servicing, or failure to obtain the required security regardless of the time at which HRSA acquires knowledge of the foregoing. Any losses occasioned will be unenforceable to the extent that loan funds are used for purposes other than those specifically approved by HRSA in its Conditional Commitment for Guarantee. Negligent servicing is defined as the failure to perform those services which a reasonably prudent lender would perform in servicing its own portfolio of loans that are not guaranteed. The term includes not only the concept of a failure to act but also not acting in a timely manner or acting in a manner contrary to the manner in which a reasonably prudent lender would act up to the time of loan maturity or until a final loss is paid.

#### 4. Rights and Liabilities.

The guarantee and right to require purchase will be directly enforceable by any Holder notwithstanding any fraud or misrepresentation by the Lender or any unenforceability of this Loan Note Guarantee by the Lender. Nothing contained herein will constitute any waiver by HRSA of any rights it possesses against the Lender. The Lender will be liable for, and will promptly pay to HRSA, any payment made by HRSA to any Holder which, if the Lender had held the guaranteed portion of the loan, HRSA would not otherwise have been required to pay to the Lender.

#### 5. Payments.

The Lender will receive all payments of principal or interest on account of the entire loan and will promptly remit to the Holder(s) its(their) pro rata share thereof determined according to its respective interest in the loan, less only the Lender's servicing fee.

#### 6. Protective Advances.

Protective advances made by the Lender pursuant to the Loan Guarantee Agreement will be guaranteed against a percentage of loss to the same extent as provided in this Loan Note Guarantee notwithstanding the guaranteed portion of the loan that is held by another.

#### 7. Repurchase by Lender.

The Lender has the option to repurchase the unpaid guaranteed portion of the loan from the Holder(s) within 30 days of written demand by the Holder(s) when: (a) the Borrower is in default not less than 60 days on principal or interest due on the loan or (b) the Lender has failed to remit to the Holder(s) its(their) pro rata share of any payment made by the Borrower within 30 days of the Lender's receipt thereof. The repurchase by the Lender will be for an amount equal to the unpaid guaranteed portion of principal and accrued interest less the Lender's servicing fee. This Loan Note Guarantee will not cover the note interest to the Holder(s) on the guaranteed loan accruing after 90 days from the date of the demand letter to the Lender requesting the repurchase. The Holder(s) will concurrently send a copy of the demand letter to HRSA and the Lender Coordinator. The Lender will accept an assignment without recourse from the Holder(s) upon repurchase. The Lender is encouraged to repurchase the loan to facilitate the accounting for funds, resolve the problem, and to permit the Borrower to cure the default, where reasonable. The Lender will notify the Holder(s), HRSA and the Lender Coordinator of its decision.

#### 8. HRSA Purchase.

If the Lender does not repurchase as provided by paragraph 7 hereof, the Holder may submit a written demand to HRSA to purchase from the Holder the unpaid principal balance of the guaranteed portion together with accrued interest to date of repurchase less the Lender's servicing fee. The Holder will concurrently send a copy of the demand to HRSA, the Lender Coordinator and the Lender. The Holder will include in its demand to HRSA: (a) evidence of its right to require payment from HRSA; and (b) the amount due including

unpaid principal, unpaid interest to date of demand and interest subsequently accruing from date of demand to proposed payment date. Such evidence will consist of either the originals of this Loan Note Guarantee and note properly endorsed to HRSA or the original of the Assignment Guarantee Agreement properly assigned to HRSA without recourse including all rights, title, and interest in the loan. HRSA will be subrogated to all rights of the Holder. The Loan Note Guarantee will not cover the note interest to the Holder on the guaranteed loans accruing after 90 days from the date of the original demand letter of the Holder to the Lender requesting the repurchase. Unless otherwise agreed to by HRSA, such proposed payment will not be later than 30 days from the date of the Holder's demand to HRSA.

HRSA or the Lender Coordinator will promptly notify the Lender of its receipt of the Holder(s)'s demand for payment. The Lender will promptly provide HRSA with the information necessary for HRSA's determination of the appropriate amount due the Holder(s). Any discrepancy between the amount claimed by the Holder(s) and the information submitted by the Lender must be resolved before payment will be approved. HRSA will notify both parties who must resolve the conflict before payment by HRSA will be approved. Such conflict will suspend the running of the 30 day payment requirement. Upon receipt of the appropriate information, HRSA will review the demand and submit it to Treasury for verification. After reviewing the demand, HRSA will transmit the request to Treasury for issuance of the appropriate check. Upon issuance, the Treasury will notify HRSA and remit the check(s) to the Holder(s).

9. Lender's Obligations.

The Lender consents to the purchase by HRSA and agrees to furnish on request by HRSA a current statement certified by an appropriate authorized officer of the Lender of the unpaid principal and interest then owed by Borrowers on the loan and the amount then owed to any Holder(s). The Lender agrees that any purchase by HRSA does not change, alter or modify any of the Lender's obligations to HRSA arising from said loan or guarantee nor does it waive any of HRSA's rights against the Lender, and that HRSA will have the right to set-off against the Lender all rights inuring to HRSA as the Holder of this instrument against HRSA's obligation to the Lender under this Loan Note Guarantee.

10. Repurchase by Lender for Servicing.

If, in the opinion of the Lender, repurchase of the guaranteed portion of the loan is necessary to adequately service the loan, the Holder will sell the portion of the loan to the Lender for an amount equal to the unpaid principal and interest on such portion less the Lender's servicing fee. This Loan Note Guarantee will not cover the note interest to the Holder on the guaranteed loans accruing after 90 days from the date of the demand letter from the Lender or HRSA to the Holder(s) requesting the Holder(s) to tender its(their) guaranteed portion(s).

a. The Lender will not repurchase from the Holder(s) for arbitrage purposes or other purposes to further its own financial gain.

b. Any repurchase will only be made after the Lender obtains HRSA written approval.

c. If the Lender does not repurchase the portion from the Holder(s), HRSA at its option may purchase such guaranteed portions for servicing purposes.

11. Custody of Unguaranteed Portion.

The Lender shall retain the unguaranteed portion of the loan and may not sell any part of the unguaranteed portion of the loan through participation or otherwise. Participation, as used in this instrument, means the sale of an interest in the loan wherein the Lender retains the note, collateral securing the note, and all responsibility for loan servicing and liquidation.

12. When Guarantee Terminates.

This Loan Note Guarantee will terminate automatically (a) upon full payment of the guaranteed loan; or (b) upon full payment of any loss obligation hereunder; or (c) upon written notice from the Lender to HRSA that the guarantee will terminate 30 days after the date of notice, provided the Lender holds all of the guaranteed portion and all Loan Note Guarantees are returned to be cancelled by HRSA.

13. Settlement.

The amount due under this instrument will be determined and paid as provided in the Program's rules and regulations in effect on the date of this instrument.

14. Notices.

All notices will be initiated to HRSA and the Lender Coordinator:

If to HRSA:                      Health Resources and Services Administration  
    Bureau of Primary Health Care  
    Office of Policy and Program Development  
    5600 Fishers Lane  
    Rockville, Maryland 20857  
    Attention: Health Center Loan Guarantee Program

If to the Lender  
Coordinator:

UNITED STATES OF AMERICA  
The Health Resources and Services Administration

By \_\_\_\_\_

Title \_\_\_\_\_

Assumption Agreement by \_\_\_\_\_ dated \_\_\_\_\_, \_\_\_\_\_

Assumption Agreement by \_\_\_\_\_ dated \_\_\_\_\_, \_\_\_\_\_