

HACSB | *HAP Contract*

Part C of the HAP Contract: Tenancy Addendum

1. Housing Choice Voucher Program

- a. The owner is leasing the contract unit to the tenant for occupancy by the tenant's family with assistance for a tenancy under the HACSB's Moving to Work Housing Choice Voucher (HCV) program (voucher program) of the United States Department of Housing and Urban Development (HUD).
- b. The owner has entered into a Housing Assistance Payments Contract (HAP contract) with HACSB under the voucher program. Under the HAP contract, HACSB will make housing assistance payments to the owner to assist the tenant in leasing the unit from the owner.

2. Lease

- a. The owner has given HACSB a copy of the lease, including any revisions agreed by the owner and the tenant. The owner certifies that the terms of the lease are in accordance with all provisions of the HAP contract and that the lease includes the tenancy addendum.
- b. The tenant shall have the right to enforce the tenancy addendum against the owner. If there is any conflict between the tenancy addendum and any other provisions of the lease, the language of the tenancy addendum shall control.

3. Use of Contract Unit

- a. During the lease term, the family will reside in the contract unit with assistance under the voucher program.
- b. The composition of the household must be approved by HACSB. The family must promptly inform HACSB of the birth, adoption or court-awarded custody of a child. Other persons may not be added to the household without prior written approval of the owner and HACSB.
- c. The contract unit may only be used for residence by HACSB-approved household members. The unit must be the family's only residence. Members of the household may engage in legal profit making activities incidental to primary use of the unit for residence by members of the family.
- d. The tenant may not sublease or let the unit.
- e. The tenant may not assign the lease or transfer the unit.

4. Rent to Owner

- a. The rent to owner may not exceed the amount approved by HACSB in accordance with HUD requirements.
- b. Changes in the rent to owner shall be determined by the provisions of the lease. However, the owner may not raise the rent during the initial term of the lease.
- c. During the term of the lease (including the initial term of the lease and any extension term), the rent to owner may at no time exceed:
 - i. The reasonable rent for the unit as most recently determined or redetermined by HACSB in accordance with HUD requirements; or
 - ii. Rent charged by the owner for comparable unassisted units in the premises.

5. Family Payment to Owner

- a. The family is responsible for paying the owner any portion of the rent to owner that is not covered by HACSB housing assistance payment.
- b. Each month, HACSB will make a housing assistance payment to the owner on behalf of the family in accordance with the HAP contract. The amount of the monthly housing assistance payment will be determined by HACSB in accordance with HUD requirements for a tenancy under the Section 8 voucher program.
- c. The monthly housing assistance payment shall be credited against the monthly rent to owner for the contract rent.
- d. The tenant is not responsible for paying the portion of rent to owner covered by HACSB housing assistance payment under the HAP contract between the owner and HACSB. A HACSB failure

to pay the housing assistance payment to the owner is not a violation of the lease. The owner may not terminate the tenancy for nonpayment of HACSB housing assistance payment.

- e. The owner may not charge or accept, from the family or from any other source, any payment for rent of the unit in addition to the rent to owner. Rent to owner includes all housing services, maintenance, utilities and appliances to be provided and paid by the owner in accordance with the lease.
- f. The owner must immediately return any excess rent payment to the tenant.

6. Other Fees and Charges

- a. Rent to owner does not include cost of any meals or supportive services or furniture which may be provided by the owner.
- b. The owner may not require the tenant or family members to pay charges for any meals or supportive services or furniture which may be provided by the owner. Nonpayment of any such charges is not grounds for termination of tenancy.
- c. The owner may not charge the tenant extra amounts for items customarily included in rent to owner in the locality, or provided at no additional cost to unsubsidized tenants in the premises.

7. Maintenance, Utilities, and Other Services

- a. Maintenance
 - i. The owner must maintain the unit and premises in accordance with the HQS.
 - ii. Maintenance and replacement (including redecoration) must be in accordance with the standard practice for the building concerned as established by the owner.
- b. Utilities and appliances
 - i. The owner must provide all utilities needed to comply with the HQS.
 - ii. The owner is not responsible for a breach of the HQS caused by the tenant's failure to:
 - 1. Pay for any utilities that are to be paid by the tenant.
 - 2. Provide and maintain any appliances that are to be provided by the tenant.
 - iii. Family damage. The owner is not responsible for a breach of the HQS because of damages beyond normal wear and tear caused by any member of the household or by a guest.
 - iv. Housing services. The owner must provide all housing services as agreed to in the lease.

8. Termination of Tenancy by Owner

- a. Requirements. The owner may only terminate the tenancy in accordance with the lease and HUD requirements.
- b. Grounds. During the term of the lease (the initial term of the lease or any extension term), the owner may only terminate the tenancy because of:
 - i. Serious or repeated violation of the lease;
 - ii. Violation of Federal, State, or local law that imposes obligations on the tenant in connection with the occupancy or use of the unit and the premises;
 - iii. Criminal activity or alcohol abuse (as provided in paragraph c); or
 - iv. Other good cause (as provided in paragraph d).
- c. Criminal activity or alcohol abuse.
 - i. The owner may terminate the tenancy during the term of the lease if any member of the household, a guest or another person under a resident's control commits any of the following types of criminal activity:
 - 1. Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises.
 - 2. Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyments of their residences by, persons residing in the immediate vicinity of the premises;
 - 3. Any violent criminal activity or
 - 4. Any drug-related criminal activity;
 - ii. The owner may terminate the tenancy during the term of the lease if any member of the household is:
 - 1. Fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or
 - 2. Violating a condition of probation or parole under Federal or State law.

3. The owner may terminate the tenancy for criminal activity by a household member in accordance with this section if the owner determines that the household member has committed the criminal activity, regardless of whether the household member has been arrested or convicted for such activity.
 4. The owner may terminate the tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety or right to peaceful enjoyment of the premises by other residents.
- d. Other good cause for termination of tenancy
- i. Living During the initial lease term, other good cause for termination of tenancy must be something the family did or failed to do.
 - ii. During the initial lease term or during any extension term, other good cause may include:
 1. Disturbance of neighbors;
 2. Destruction of property; or
 3. or housekeeping habits that cause damage to the unit or premises.
 - iii. After the initial lease term, such good cause includes:
 1. The tenant's failure to accept the owner's offer of a new lease revision;
 2. The owner's desire to use the unit for personal or family use or for a purpose other than use as a residential rent unit; or
 3. A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, the owner's desire to rent the unit for a higher rent).
 - iv. The examples of other good cause in this paragraph do not preempt any State or local laws to the contrary.
 - v. In the case of an owner who is an immediate successor in interest pursuant to foreclosure during the term of the lease, requiring the tenant to vacate the property prior to sale shall not constitute other good cause, except that the owner may terminate the tenancy effective on the date of transfer of the unit to the owner if the owner: (a) will occupy the unit as a primary residence; and (b) has provided the tenant a notice to vacate at least 90 days before the effective date of such notice. This provision shall not affect any State or local law that provides for longer time periods or addition [sic] protections for tenants. **This provision will sunset on December 31, 2012, unless extended by law.**
- e. Protection for Victims of Abuse.
- i. An incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as serious or repeated violations of the lease or other "good cause" for termination of the assistance, tenancy, or occupancy rights of such a victim.
 - ii. Criminal activity directly relating to abuse, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's family is the victim or threatened victim of domestic violence, dating violence, or stalking.
 - iii. Notwithstanding any restrictions on admission, occupancy, or terminations of occupancy or assistance, or any Federal, State or local law to the contrary, HACSB, owner or manager may "bifurcate" a lease, or otherwise remove a household member from a lease, without regard to whether a household member is a signatory to the lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others. This action may be taken without evicting, removing, terminating assistance to, or otherwise penalizing the victim of the violence who is also a tenant or lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State, and local law for the termination of leases or assistance under the housing choice voucher program.
 - iv. Nothing in this section may be construed to limit the authority of HACSB, owner, or manager, when notified, to honor court orders addressing rights of access or control of the property, including civil protection orders issued to protect the victim and issued to

address the distribution or possession of property among the household members in cases where a family breaks up.

- v. Nothing in this section limits any otherwise available authority of an owner or manager to evict or HACSB to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the owner, manager, or HACSB does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate.
 - vi. Nothing in this section may be construed to limit the authority of an owner or manager to evict, or the public housing agency to terminate assistance, to any tenant if the owner, manager, or HACSB can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if the tenant is not evicted or terminated from assistance.
 - vii. Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.
- f. Eviction by court action. The owner may only evict the tenant by a court action.
 - g. Owner notice of grounds
 - i. At or before the beginning of a court action to evict the tenant, the owner must give the tenant a notice that specifies that grounds for termination of tenancy. The notice may be included in or combined with any owner eviction notice.
 - ii. The owner must give HACSB a copy of any owner eviction notice at the same time the owner notifies the tenant.
 - iii. Eviction notice means a notice to vacate, or a complaint or other initial pleading used to begin an eviction action under State or local law

9. Lease: Relation to HAP Contract. If the HAP contract terminates for any reason, the lease terminates automatically.

10. HACSB Termination of Assistance. HACSB may terminate program assistance for the family for any grounds authorized in accordance with HUD requirements and the Agency's Moving-to-Work Agreement. If HACSB terminates program assistance for the family, the lease terminates automatically.

11. Family Move Out. The tenant must notify HACSB and the owner before the family moves out of the unit.

12. Security Deposit

- a. The owner may collect a security deposit from the tenant.
- b. When the family moves out of the contract unit, the owner, subject to State and local law, may use the security deposit, including any interest on the deposit, as reimbursement for any unpaid rent payable by the tenant, any damages to the unit or any other amounts that the tenant owes under the lease.
- c. The owner must give the tenant a list of all items charged against the security deposit, and the amount of each item. After deducting the amount, if any, used to reimburse the owner, the owner must promptly refund the full amount of the unused balance to the tenant.
- d. If the security deposit is not sufficient to cover amounts the tenant owes under the lease, the owner may collect the balance from the tenant.

13. Prohibition of Discrimination. In accordance with applicable equal opportunity statutes, Executive Orders, and regulations, the owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status or disability in connection with the lease.

14. Conflict with Other Provisions of Lease

- a. The terms of the tenancy addendum are prescribed by HUD in accordance with Federal law and regulation, as a condition for Federal assistance to the tenant and tenant's family under the HCV program.
- b. In case of any conflict between the provisions of the tenancy addendum as required by HUD, and any other provisions of the lease or any other agreement between the owner and the tenant, the requirements of the HUD-required tenancy addendum shall control.

15. Changes in Lease or Rent

- a. The tenant and the owner may not make any change in the tenancy addendum. However, if the tenant and the owner agree to any other changes in the lease, such changes must be in writing, and the owner must immediately give HACSB a copy of such changes. The lease, including any changes, must be in accordance with the requirements of the tenancy addendum.

- b. In the following cases, tenant-based assistance shall not be continued unless HACSB has approved a new tenancy in accordance with program requirements and has executed a new HAP contract with the owner:
 - i. If there are any changes in lease requirements governing tenant or owner responsibilities for utilities or appliances;
 - ii. If there are any changes in lease provisions governing the term of the lease; or
 - iii. If the family moves to a new unit, even if the unit is in the same building or complex.
 - c. HACSB approval of the tenancy, and execution of a new HAP contract, are not required for agreed changes in the lease other than as specified in paragraph b.
 - d. The owner must notify HACSB of any changes in the amount of the rent to owner at least sixty days before any such changes go into effect, and the amount of the rent to owner following any such agreed change may not exceed the reasonable rent for the unit as most recently determined or redetermined by HACSB in accordance with HUD requirements.
- 16. Notices.** Any notice under the lease by the tenant to the owner or by the owner to the tenant must be in writing.
- 1. Third Party Exclusions.** HACSB does not assume any responsibility for injury to, or any liability to, any person injured as a result of the owner's action or failure to act in connection with management of the contract unit or the premises or, or as a result of any other action or failure to act by the owner.
- 17. Definitions**
- Contract unit.** The housing unit rented by the tenant with assistance under the program.
- Family.** The persons who may reside in the unit with assistance under the program.
- HACSB.** The Housing Authority of the County of San Bernardino.
- HAP Contract.** The housing assistance payments contract between HACSB and the owner. HACSB pays housing assistance payments to the owner in accordance with the HAP contract.
- Household.** The persons who may reside in the contract unit. The household consists of the family and any HACSB-approved live-in aide. (A live-in aide is a person who resides in the unit to provide necessary supportive services for a member of the family who is a person with disabilities.)
- Housing quality standards (HQS).** The HUD minimum quality standards for housing assisted under the Section 8 tenant-based programs.
- HUD.** The U.S. Department of Housing and Urban Development.
- HUD requirements.** HUD requirements for the Section 8 program. HUD requirements are issued by HUD headquarters, as regulations, Federal Register notices or other binding program directives.
- Lease.** The written agreement between the owner and the tenant for the lease of the contract unit to the tenant. The lease includes the tenancy addendum prescribed by HUD.
- Moving to Work Agreement.** The Agreement between HUD and HACSB that allows for waivers from certain HUD requirements to implement local initiatives.
- Premises.** The building or complex in which the contract unit is located, including common areas and grounds.
- Program.** The Housing Choice Voucher program authorized under Section 8 of the 1937 and HACSB's MTW Agreement.
- Rent to owner.** The total monthly rent payable to the owner for the contract unit. The rent to owner is the sum of the portion of rent payable by the tenant plus HACSB housing assistance payment to the owner.
- Section 8.** Section 8 of the United States Housing Act of 1937 (42 United States Code 1437f)
- Tenant.** The family member (or members who leases the unit from the owner).
- Voucher program.** The Section 8 Housing Choice Voucher (HCV) program. Under this program. HUD provides funds to an HACSB for rent subsidy on behalf of eligible families. The tenancy under the lease will be assisted with rent subsidy for a tenancy under the voucher program.



HOUSING AUTHORITY OF THE
COUNTY OF SAN BERNARDINO

Incorporation of Document

In accordance with HUD regulation § 982.308

(2) All provisions in the HUD-required tenancy addendum must be added word-for-word to the owner's standard form lease that is used by the owner for unassisted tenants. The tenant shall have the right to enforce the tenancy addendum against the owner, and the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

Incorporated in this lease agreement by reference is the attached HUD required "Tenancy Addendum- Section 8 Tenant Based Assistance Housing Choice Voucher Program" (HUD-52641-A).

Signature of Tenant

Date

Print Name of Tenant

Date

Signature of Landlord

Date

Print Name and title of Landlord/ Agent

Date