

USDA
Form RD 449-36
(Rev. 4-00)

UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL DEVELOPMENT

FORM APPROVED
OMB NO. 0575-0137

ASSIGNMENT GUARANTEE AGREEMENT

Type of Loan: CF

Government Loan Identification Number

Applicable 7 CFR part 1980 subpart B

type exactly as on 449-34

ABC Bank of City, State

(Lender) has made a loan to (Borrower Name) exactly as it appears on Form RD 449-34

in the principal amount of \$ 1,000,000.00 as evidenced by a note(s) dated 5/1/2009. The United States of America, acting through the Rural Business-Cooperative Service, Rural Utilities Service, or Rural Housing Service (herein called "Government") entered into a Loan Note Guarantee (Form RD 449-34) with the Lender applicable to such loan to guarantee the loan not to exceed 90 % of the amount of the principal advanced and any interest (including any loan subsidy) due thereon and any capitalized interest, resulting from the restructuring of a loan and not exceeding statutory loan limits, as provided therein.

FTN Financial Capital Markets of Houston, TX

(Holder) desires to purchase from Lender 100 % of the guaranteed portion of such loan. Copies of Borrower's note(s) and the Loan Note Guarantee are attached hereto as a part hereof.

NOW, THEREFORE, THE PARTIES AGREE:

- The principal amount of the loan now outstanding is \$ 995,000.00. Lender hereby assigns to Holder 100 % of the guaranteed portion of the loan representing \$ 895,500.00 of such loan now outstanding in accordance with all of the terms and conditions hereinafter set forth. The Lender and Government certify to the Holder that the Lender has paid and Government has received the Guarantee Fee in exchange for the issuance of the Loan Note Guarantee.
- Loan Servicing.** The Lender will be responsible for servicing the entire loan and will remain mortgagee and/or secured party of record. The entire loan will be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the loan. The Lender will receive all payments on account of principal of, or interest (including any loan subsidy and any capitalized interest, resulting from the restructuring of a loan and not exceeding statutory loan limits) on, the entire loan and shall promptly remit to the Holder its pro rata share thereof determined according to their respective interests in the loan, less only the Lender's servicing fee.
- Servicing Fee.** Holder agrees that Lender will retain a servicing fee of .25 percent per annum of the unpaid balance of the guaranteed portion of the loan assigned hereunder.
- Purchase by Holder.** The guaranteed portion purchased by the Holder will always be a portion of the loan which is guaranteed. The Holder will hereby succeed to all rights of the Lender under the Loan Note Guarantee to the extent of the assigned portion of the loan. The Lender, however, will remain bound by all obligations under the Loan Note Guarantee and the program regulations found in the applicable subpart of 7 C.F.R. part 1980 now in effect and future regulations not inconsistent with the provisions hereof.
- Full Faith and Credit.** The 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 Holder has actual knowledge at the time of this assignment, or which it participates in or condones. Any Assignment Guarantee Agreement attached to or relating to a note which provides for capitalization of interest is void.
- Rights and Liabilities.** The guarantee and right to require purchase will be directly enforceable by Holder notwithstanding any fraud or misrepresentations by Lender or any unenforceability of the Loan Note Guarantee by Lender. Nothing contained herein shall constitute any waiver by Government of any rights it possesses against the Lender, and the Lender agrees that Lender will be liable

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According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-0137. The time required to complete this information collection is estimated to average 2 hours 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.

and will promptly reimburse Government for any payment made by Government to Holder which, if such Lender had held the guaranteed portion of the loan, Government would not be required to make. The Holder(s) upon written notice to the Lender may resell the unpaid balance of the guaranteed portion of the loan assigned hereunder. An endorsement may be added to the Form RD 449-36 to effectuate the transfer.

7. Repurchase by the Lender (Defaults). 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 pro rata share of any payment made by the borrower or any loan subsidy within 30 days of its receipt thereof. The repurchase by the Lender will be for an amount equal to the unpaid guaranteed portion of principal and accrued interest (including any loan subsidy), less the Lender's servicing fee. The loan note guarantee will not cover the note interest to the Holder on the guaranteed loan(s) accruing after 90 days from the date of the demand letter to the Lender requesting the repurchase. Holder(s) will concurrently send a copy of demand to Government. 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) and Government of its decision.

8. Purchase by Government. If Lender does not repurchase as provided by paragraph 7, Government will purchase from Holder the unpaid principal balance of the guaranteed portion together with accrued interest (including any loan subsidy) to date of repurchase, less Lender's servicing fee, within 30 days after written demand to Government from 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. Such demand will include a copy of the written demand made upon the Lender. The Holder(s) or its duly authorized agent will also include evidence of its right to require payment from Government. Such evidence will consist of either the original of the Loan Note Guarantee properly endorsed to Government or the original of the Assignment Guarantee Agreement properly assigned to Government without recourse including all rights, title, and interest in the loan. Government will be subrogated to all rights of Holder(s). The Holder will include in its demand the amount due including unpaid principal, unpaid interest (including any loan subsidy) to date of demand and interest (including any loan subsidy) subsequently accruing from date of demand to proposed payment date. Unless otherwise agreed to by Government, such proposed payment will not be later than 30 days from the date of demand.

The Government will promptly notify the Lender of its receipt of the Holder(s)'s demand for payment. The Lender will promptly provide the Government with the information necessary for Government'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. Government will notify both parties who must resolve the conflict before payment will be approved. Such a conflict will suspend the running of the 30 day payment requirement. Upon receipt of the appropriate information, Government will review the demand and submit it to the State Director for verification. After reviewing the demand the State Director will transmit the request to the Government Finance Office for issuance of the appropriate check. Upon issuance, the Finance Office will notify the office servicing the borrower and the State Director and remit the check(s) to the Holder(s).

9. Lender's Obligations. Lender consents to the purchase by Government and agrees to furnish on request by Government 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). Lender agrees that any purchase by Government does not change, alter or modify any of the Lender's obligations to Government arising from said loan or guarantee nor does it waive any of Government's right against Lender, and that Government shall have the right to set-off against Lender all rights inuring to Government as the Holder of this instrument against Government's obligation to Lender under the Loan Note Guarantee.

10. Repurchase by Lender for Servicing. If, in the opinion of the Lender, repurchase of the assigned portion of the loan is necessary to adequately service the loan, the Holder will sell the assigned portion of the loan to the Lender for an amount equal to the unpaid principal and interest (including any loan subsidy) on such portion less Lender's servicing fee. 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 demand letter of the lender or Government to the Holder(s) requesting the Holder(s) to tender their guaranteed portion(s).

- a. The Lender will not repurchase from the Holder(s) for arbitrage purpose or other purposes to further its own financial gain.
- b. Any repurchase will only be made after the Lender obtains Government written approval.
- c. If the Lender does not repurchase the portion from the Holder(s), Government at its option may purchase such guaranteed portions for servicing purposes.

11. Foreclosure. The parties owning the guaranteed portions and unguaranteed portion of the loan will join to institute foreclosure action, or in lieu of foreclosure, take a deed of conveyance to such parties.

12. Reassignment. Holder upon written notice to Lender and Government may reassign the unpaid guaranteed portion of the loan sold hereunder. Upon such notification, the assignee will succeed to all rights and obligations of the Holder hereunder.

13. Interest Capitalization. When delinquent interest is so treated as principal, the new principal amount may exceed the line of credit listed herein, but may not exceed statutory loan limits. The new principal amount and new guaranteed portion will be identified at restructuring in an addendum to this agreement. Such capitalized interest will be covered by this Assignment Guarantee Agreement. References to principal and interest herein, therefore, shall include any capitalized interest on the guaranteed portion of the loan resulting from the restructuring of a Farm Credit Programs loans and not exceeding statutory loan limits.

14. Notices. All notices and actions will be initiated through the Government County Name / County Office
for City, State (state) with mailing address
at the date of this assignment: Complete street address including City, State, and Zip Code

Dated this First day of May, 20 09.

LENDER: ABC Bank
"Lender's Street Address"
ADDRESS:

ATTEST:

Original Signature Required (SEAL)

By Original Signature Required
Title Name & Title

HOLDER: FTN Financial Capital Markets
920 Memorial City Way, 11th Floor
ADDRESS: Houston, TX 77024

ATTEST:

Name & Title (SEAL)

By _____
Title Name & Title

UNITED STATES OF AMERICA

(insert applicable agency)

ADDRESS: Agency Address

By Original Signature Required
Title Name & Title