

APPENDIX E

MANDATORY DEED RESTRICTION

FOR RENTAL PROJECTS

Affordable Housing Deed Restriction

To State Regulated Multi-Family Rental Property

With Covenants Restricting Rentals,

Conveyance, and Improvements

And Requiring Notice of Foreclosure and Bankruptcy

**DEED-RESTRICTED AFFORDABLE HOUSING UNIT WITH
RESTRICTIONS ON RESALE AND REFINANCING**

THIS DEED RESTRICTION, entered into as of this the _____ day of _____, 20____, by _____ (the “Owner”), a <State of Formation/Incorporation> <Type of Entity>, having offices at _____, the developer of a residential rental project known or to be known as _____ (the “Project”), located in the municipality of _____, _____ County, New Jersey, is granted in favor of _____ (the “Municipality”), a body corporate and politic of the State of New Jersey:

WITNESSETH

Article 1. Consideration

In consideration and as a condition of the municipal approvals for the Project, the Owner hereby agrees to abide by the covenants, terms, and conditions set forth in this Deed Restriction with respect to the affordable units of the Project, which is to be developed on property described in Article 2 hereof (the “Property”).

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Article 2. Description of Property

The Property consists of all of the land, and improvements thereon, located at the street address _____ in the Municipality, more fully described at Exhibit A annexed hereto and designated as Block No. ____, Lot No. ____.

There will be ____ total housing units in the Project. Among those housing units, ____ will be affordable housing units, of which ____ will be very-low-income units affordable to households making 30 percent or less of median income in the housing region, as defined in the Uniform Housing Affordability Controls, codified at N.J.A.C. 5:80-26.1 et seq. (the “UHAC Regulations”); ____ low-income units affordable to households making 50 percent or less of median income in the housing region; and ____ moderate-income units affordable to households making 80 percent or less of median income in the housing region (collectively, the “Affordable Units”). Of the ____ Affordable Units, ____ will be efficiency units, ____ will be one-bedroom units, ____ will be two-bedroom units, ____ will be three-bedroom units, and ____ will be units with four or more bedrooms. The Affordable Units <will / will not> be age-restricted, and ____ of the Affordable Units will be supportive housing. The Affordable Units are intended to count for ____ credits against the _____ round of affordable housing obligations for the Municipality, pursuant to the municipal housing element and fair share plan.

[] If this box is checked, the Owner and the Municipality agree that a preference for up to 50 percent of the Affordable Units in the Project will be provided to very-low-, low-, and moderate-income veterans who served in time of war or other emergency, pursuant to N.J.S.A. 52:27D-311(j).

The Affordable Units, designated by unit number, bedroom count, income restriction, target population, and type and initial rental, are listed below and shown on Exhibit B annexed hereto:

Unit Number	Bedroom Count	Affordability Type	Target Population(s) (Families/ Seniors/ Supportive Housing/ Veterans)	Initial Net Monthly Rental Payment	Initial Rent Level Percentage of Income

Article 3. Affordable Housing Covenants

The following covenants (the “Covenants”) run with the land for the period of time specified in Article 4 hereof (the “Control Period”), which is determined separately with respect to each Affordable Unit, commencing on the date of issuance of the initial Certificate of Occupancy for the Affordable Unit, and expiring as determined pursuant to the UHAC Regulations:

- A. The sale and use of the Property are governed by the UHAC Regulations.
- B. The Affordable Units may be used solely for the purpose of providing rental dwelling units for very-low-, low-, or moderate-income households, and no commitment for any such dwelling unit may be given or implied, without exception, to any person who has not been certified for that unit, in writing, by the administrative agent (the “Administrative Agent”). So long as any dwelling unit remains within its applicable Control Period, sale of the Property is expressly subject to this Deed Restriction; deeds of conveyance must have this Deed Restriction appended thereto; and no sale of the Property will be lawful unless approved in advance and, in writing, by the Administrative Agent.

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C. No improvements may be made to the Property that would affect the bedroom configuration of any of the Affordable Units.

D. The Owner shall notify the Administrative Agent and the Municipality of any foreclosure actions filed by any individual or entity with respect to the Property within three (3) business days after service upon the Owner.

E. The Owner shall notify the Administrative Agent and the Municipality within three (3) business days after the filing of any petition for bankruptcy, for protection from creditors, or reorganization filed by or on behalf of the Owner.

Article 4. Control Period for Affordable Units

The Control Period for the Affordable Units is ___ years, commencing on the ___ day of _____, 20__.

If this box is checked, the Property consists entirely of Affordable Units subject to this Deed Restriction and, thus, the Owner may elect to extinguish this Deed Restriction prior to the 30th year if participating in a State-administered preservation program or beginning in the 30th year if not participating in a State-administered preservation program, in either case provided that the Project enters into a new deed restriction that, in combination with this Deed Restriction, totals at least 60 years.

If this box is checked, an existing Control Period on the Affordable Units is being extended, the original Control Period having commenced on the ___ day of _____, ____, with the original term of ___ years and the extended term of ___ years, in combination, totaling ___ years.

Article 5. Remedies for Breach of Affordable Housing Covenants

A breach of the Covenants will cause irreparable harm to the Municipality, to the State, and to the public, in light of the public policies set forth in the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq.,

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the UHAC Regulations, and the constitutional obligation for the provision of very-low-, low-, and moderate-income housing.

A. In the event of a breach or threatened breach of any of the Covenants by the Owner, or any assigns or successors in interest of the Property, the Municipality and the State shall have all remedies provided at law or in equity, including the right to seek injunctive relief and specific performance.

B. Upon the occurrence of a breach of any of the Covenants by the Owner, or any assigns or successors in interest or other owner of the Property, the Municipality and the State shall have all remedies provided at law or in equity, including, but not limited to, forfeiture, foreclosure, acceleration of all sums due under any mortgage, recoupment of any funds from a sale in violation of the Covenants, divestment of rent proceeds from illegal rentals, injunctive relief to prevent further violation of the Covenants, specific performance, and entry on the premises.

Article 6. Binding Effect

This Deed Restriction runs with the land until the end of the Control Period for each Affordable Unit and is binding upon the Owner and its/their successors and/or assigns. The Municipality and Administrative Agent shall take all actions necessary to issue a new Deed Restriction as specified in the UHAC Regulations or to release and discharge this Deed Restriction with respect to each Affordable Unit upon the expiration of the Covenants with respect to any such Unit.

IN WITNESS WHEREOF, the Administrative Agent and the Owner have executed this Deed Restriction as of the date first above written.

Administrative Agent

BY:

Title

Owner

BY:

Title

APPROVED BY

THE STATE OF NEW JERSEY

BY _____

Title

ACKNOWLEDGEMENTS

STATE OF NEW JERSEY)

) ss.:

COUNTY OF _____)

BE IT REMEMBERED, that on this the _____ day of _____, 20__ the subscriber _____ appeared personally before me and who, being duly sworn by me, deposed and made proof to my satisfaction that (i) they are the <authorized signer for the Owner> named in the foregoing Deed Restriction and (ii) they executed the Deed Restriction with respect to the Property and for the purposes described and set forth therein.

Sworn to and subscribed before me, _____ on the date set forth above.

NOTARY PUBLIC

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CORPORATE PROOF BY SUBSCRIBING WITNESS

State of New Jersey, County of _____

I am either (check one) ____ a Notary Public or ____ a _____, an officer authorized to take acknowledgements and proofs in the State of New Jersey. On this the ____ day of _____, 20____, _____ (the “Witness”) appeared before me in person. The Witness was duly sworn by me, and under oath stated and proved to my satisfaction that:

1. The Witness is the _____ secretary of the corporation that is the Owner described as such in this document (the “Corporation”).

2. _____, the officer who signed this document, is the <title> _____ of the Corporation (the “Corporate Officer”).

3. The making, signing, sealing, and delivery of this document have been duly authorized by a proper resolution of the Board of Directors of the Corporation.

4. The Witness knows the corporate seal affixed to this document by the Corporate Officer is the corporate seal of the Corporation. The Corporate Officer signed and delivered this document as and for the voluntary act and deed of the Corporation. All this was done in the presence of the Witness, who signed this document as attesting witness. The Witness signs this proof to attest to the truth of these facts.

Sworn and signed before me on the date above written:

Witness: Sign above and print, stamp, or type name below

Officer’s signature: Sign above, and print, stamp, or type name below

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Note: If the Grantor is a limited liability company or partnership, the above jurat may be revised accordingly, whereby the authorized managing member or authorized partner shall be appropriately identified and whose signature must be acknowledged.

On this the ____ day of _____, 20__ before me came _____, known to me to be _____ of _____, the municipality identified as such in the foregoing Agreement, who stated that they are duly authorized to execute this Agreement on behalf of the Municipality, and that they have so executed the Agreement for the purposes stated therein.

NOTARY PUBLIC

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

EXHIBIT B

FLOOR PLAN SHOWING AFFORDABLE UNITS