

APPENDIX B

MANDATORY DEED FORM FOR OWNERSHIP 95/5 UNITS

Deed

To State Regulated Property

With Covenants Restricting Conveyance

And Mortgage Debt—With 95/5 Recapture

THIS DEED is made on this the ____ day of _____, 20__ by and between

_____ (Grantor) and

_____ (Grantee).

Article 1. Consideration and Conveyance

In return for payment to the Grantor by the Grantee of _____ Dollars (\$_____), the receipt of which is hereby acknowledged by the Grantor, the Grantor hereby grants and conveys to the Grantee all of the land and improvements thereon as is more specifically described in Article 2, hereof (the Property).

Article 2. Description of Property

The Property consists of all of the land, and improvements thereon, that is located in the municipality of _____, County of _____, State of New Jersey, and described more specifically as Block No. ____, Lot No. ____, and known by the street address:

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Article 3. Grantor's Covenant

The Grantor hereby covenants and affirms that Grantor has taken no action to encumber the Property. The Grantor further acknowledges and agrees that the restrictions, conditions, and requirements of the within deed shall be covenants running with the land and shall remain binding upon the Grantor and upon all successors in interest.

Article 4. Affordable Housing Covenants

Sale and use of the Property is governed by regulations known as the Uniform Housing Affordability Controls, which are found in the New Jersey Administrative Code at Title 5, chapter 80, subchapter 26 (N.J.A.C. 5:80-26.1, et seq., the “Regulations”). Consistent with the Regulations, the following covenants (the “Covenants”) shall run with the land for the period of time commencing upon the earlier of (a) the date hereof or (b) the prior commencement of the “Control Period”, as determined according to the Regulations, and terminating upon the expiration of the Control Period as provided in the Regulations.

- A. The Property may be conveyed only to a household who has been approved in advance and, in writing, by the Housing Affordability Service of the New Jersey Department of Community Affairs, or other administrative agent appointed pursuant to the Regulations (hereinafter, collectively, the “Administrative Agent”).
- B. No sale of the Property shall be lawful, unless approved in advance and in writing by the Administrative Agent, and no sale shall be for a consideration greater than maximum permitted price (“Maximum Resale Price”, or “MRP”) as determined by the Administrative Agent.
- C. No refinancing, equity loan, secured letter of credit, or any other mortgage obligation or other debt (collectively, “Debt”) secured by the Property, may be incurred except as approved in advance and in writing by the Administrative Agent. At no time shall the Administrative Agent approve any such Debt, if incurring the Debt would make the total of all such Debt exceed Ninety-Five Percentum (95%) of the applicable MRP.

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- D. The owner of the Property shall at all times maintain the Property as his or her principal place of residence.
- E. Except as set forth in F, below, at no time shall the owner of the Property lease or rent the Property to any person or persons, except on a short-term hardship basis as approved in advance and in writing by the Administrative Agent.
- F. If the Property is a two-family home, the owner shall lease the rental unit only to income-certified very-low-, low-, or moderate-income households approved, in writing, by the Administrative Agent, shall charge rent no greater than the maximum permitted rent as determined by the Administrative Agent, and shall submit for written approval of the Administrative Agent copies of all proposed leases prior to having them signed by any proposed tenant.
- G. No improvements may be made to the Property that would affect its bedroom configuration, and in any event, no improvement made to the Property will be taken into consideration to increase the MRP, except for improvements approved in advance and, in writing, by the Administrative Agent.

Article 5. Remedies for Breach of Affordable Housing Covenants

A breach of the Covenants will cause irreparable harm to the Administrative Agent and to the public, in light of the public policies set forth in the New Jersey Fair Housing Act, the Uniform Housing Affordability Control rules found at N.J.A.C. 5:80-26, and the obligation for the provision of low- and moderate-income housing. Accordingly, and as set forth at N.J.A.C. 5:80-26.19:

- A. In the event of a threatened breach of any of the Covenants by the Grantee, or any successor in interest, or other owner of the Property, the Administrative Agent shall have all remedies provided at law or equity, including the right to seek injunctive relief or specific performance.
- B. Upon the occurrence of a breach of any Covenants by the Grantee, or any successor in interest, or other owner of the Property, the Administrative Agent shall have all remedies provided at law or equity including but not limited to forfeiture, foreclosure, acceleration of all sums due under any mortgage, recouping of any funds from a sale in violation of the Covenants, diverting of rent proceeds from illegal

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rentals, injunctive relief to prevent further violation of said Covenants, entry on the premises, those provided pursuant to N.J.A.C. 5:80-26.1 *et seq.*, and specific performance.

Article 6. Notice of Resale, Recapture Covenant, and 95/5 Purchase Options

- A. The owner of the Property is required to notify the [. . . ADMINISTRATIVE AGENT . . .] and the New Jersey Department of Community Affairs, Office of Local Planning Services by certified mail of any intent to sell the property 90 days prior to entering into an agreement for the first non-exempt sale of the Property after the conclusion of the Control Period, as set forth in the Uniform Housing Affordability Control rules at N.J.A.C. 5:80-26.6, as in effect at the time the Property was first restricted as part of the Affordable Housing Program.
- B. Upon the first such non-exempt sale of the Property Ninety-Five Percentum (95%) of the difference between (i) the actual sale price and (ii) the regulated maximum sales price that would be applicable were the Control Period still in effect, shall be paid at closing to the New Jersey Department of Community Affairs, acting as receiving agent for the local municipality.
- C. Such non-exempt sale is subject to the options provided for at N.J.A.C. 5:80-26.21 (Option to buy 95/5 units), 5:80-26.22 (Municipal option on 95/5 units), 5:80-26.23 (State option on 95/5 units), 5:80-26.24 (Non-profit option on 95/5 units), 5:80-26.25 (Seller option on 95/5 units), 5:80-26.26 (Municipal rejection of repayment option on 95/5 units), and 5:80-26.27 (Continued application of options to create, rehabilitate or maintain 95/5 units). Failure of the owner or any subsequent owner to fully comply with all of the foregoing requirements will not result in a release or waiver of the foregoing requirements and restrictions.

EXECUTION BY GRANTOR

Signed by the Grantor on the date hereof. If the Grantor is a corporation, this Deed is signed by a corporate officer who has authority to (a) convey all interests of the corporation that are conveyed by this Deed, and (b) to bind the corporation with respect to all matters dealt with herein.

Signed, sealed and de- _____ [seal]

livered in the presence

of or attested by:

_____ [seal]

_____ [seal]

_____ [seal]

CERTIFICATE OF ACKNOWLEDGEMENT BY INDIVIDUAL

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. I sign this acknowledgement below to certify that it was executed before me. On this the _____ day of _____, 20____ appeared before me in person. *(If more than one person appears, the words "this person" shall include all persons named who appeared before the officer making this acknowledgement).* I am satisfied that this person is the person named in and who signed this Deed.

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This person also acknowledged that the full and actual consideration paid or to be paid for the transfer of title to realty evidenced by this Deed, as such consideration is defined in P.L. 1968, c. 49, sec. 1(c), is \$_____.

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

CORPORATE PROOF BY SUBSCRIBING WITNESS

State of New Jersey, County of _____

I am either (check one) _____ a Notary Public or _____, an officer authorized to take acknowledgements and proofs in the state of New Jersey. On this the _____ day of _____, 20____, _____ (hereinafter 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 which is the Grantor described as such in this deed (hereinafter the "Corporation").
2. _____, the officer who signed this Deed is the (*title*) _____ of the Corporation (hereinafter the "Corporate Officer").
3. The making, signing, sealing, and delivery of this Deed 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 Deed is the corporate seal of the Corporation. The Corporate Officer affixed the seal to this Deed. The Corporate Officer signed and delivered this Deed as and for the voluntary act and deed of the Corporation. All this was done in the presence

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of the Witness who signed this Deed as attesting witness. The Witness signs this proof to attest to the truth of these facts.

The Witness also acknowledges that the full and actual consideration paid or to be paid for the transfer of title to realty evidenced by this Deed, as such consideration is defined in P.L. 1968, c. 49, sec. 1(c), is \$_____.

Sworn and signed before me on the date above written:

Witness: Sign above and print or type name below

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

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