

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

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 street address \_\_\_\_\_, the developer of a residential rental project that shall be known as \_\_\_\_\_ (the “Project”), located in the municipality of \_\_\_\_\_, County of \_\_\_\_\_, 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 of the benefits received by the Owner from the Municipality and/or as a condition of the 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 on the land more specifically described in Article 2 hereof (the “Property”).

Article 2. Description of Property

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The Property consists of all of the land, and improvements thereon, that is located at the street address \_\_\_\_\_ in the municipality of \_\_\_\_\_, County of \_\_\_\_\_, State of New Jersey, and described on Exhibit A annexed hereto and designated as Block No. \_\_\_\_, Lot No. \_\_\_\_.

There shall be \_\_\_\_ total housing units in the Project. Among those housing units, \_\_\_\_ shall be affordable housing units, of which \_\_\_\_ shall 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 Controls (as defined in Section 3.A below); \_\_\_\_ low-income units affordable to households making 50 percent or less of median income in the housing region, as defined in the Uniform Controls; and \_\_\_\_ moderate-income units affordable to households making 80 percent or less of median income in the housing region, as defined in the Uniform Controls (the "Affordable Units"). Of the \_\_\_\_ Affordable Units, \_\_\_\_ shall be efficiency units, \_\_\_\_ shall be one-bedroom units, \_\_\_\_ shall be two-bedroom units, \_\_\_\_ shall be three-bedroom units, and \_\_\_\_ shall be units with four or more bedrooms. The Affordable Units <shall / shall not> be age-restricted, and \_\_\_\_ of the Affordable Units shall 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 agrees to provide a preference for up to 50 percent of the Affordable Units in the Project 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).

More specifically, the Affordable Units, designated by unit number, bedroom count, income restriction, target population, and type and number of credits sought, are listed below and shown on Exhibit B annexed hereto:

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Unit Number	Bedroom Count	Affordability Type	Target Population (Families/ Seniors/ Supportive Housing/ Veterans)	Bonus Credit Type (if any)	Number of Credits

Article 3. Affordable Housing Covenants

The following covenants (the “Covenants”) shall run with the land for the period of time specified in Article 4 (the “Control Period”), determined separately with respect to each Affordable Unit, commencing on the date of the initial Certificate of Occupancy of each Affordable Unit, and expiring as determined under the Uniform Controls, as defined below.

- A. Sale and use of the Property is governed by regulations known as the Uniform Housing Affordability Controls, which are found at N.J.A.C. 5:80-26.1 et seq. (the “Uniform Controls”).
- B. The Affordable Units shall 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 shall be given or implied, without exception, to any person who has not been certified for that unit, in writing, by the Administrative Agent. So long as any dwelling unit remains within its Control Period, sale of the Property must be expressly subject to this Deed Restriction, deeds of conveyance must have this Deed Restriction appended thereto, and no sale of the Property shall be lawful, unless approved in advance and in writing by the administrative agent (hereinafter, collectively, 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 its Affordable Units.
- D. The Owner shall notify the Administrative Agent and the Municipality of any foreclosure actions filed with respect to the Property within five (5) 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 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 shall be \_\_\_ years.

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, the Uniform Housing Affordability Control rules found at N.J.A.C. 5:80-26, and the obligation for the provision of very-low-, low-, and moderate-income housing.

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- A. In the event of a breach or threatened breach of any of the Covenants by the Owner, or any successor in interest of the Property, the Municipality and the State 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 Municipality 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 rentals, injunctive relief to prevent further violation of said Covenants, entry on the premises, those provided under N.J.A.C. 5:80-26.1 et seq., and specific performance.

Article 6. Binding Effect

This Deed Restriction shall run with the land until the end of the Control Period for each Affordable Unit and shall be binding upon Declarant's successors and/or assigns. The Municipality and Administrative Agent shall take all actions necessary to issue a new Deed Restriction as specified in the Uniform Controls or to release and discharge this Deed Restriction with respect to each Affordable Unit upon the expiration of the Covenants with respect to such unit.

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

BY:

\_\_\_\_\_

Title

BY:

\_\_\_\_\_

Title

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APPROVED BY

THE STATE OF NEW JERSEY

BY \_\_\_\_\_

Title

*ACKNOWLEDGEMENTS*

On this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ before me came \_\_\_\_\_, to me known and known to me to be the \_\_\_\_\_ of the Department of Community Affairs of the State of New Jersey, who states that (s)he has signed said Agreement on behalf of said State for the purposes stated therein.

\_\_\_\_\_  
NOTARY PUBLIC

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 states that (s)he is duly authorized to execute said Agreement on behalf of said Municipality, and that (s)he has so executed the foregoing Agreement for the purposes stated therein

\_\_\_\_\_  
NOTARY PUBLIC

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

EXHIBIT B

FLOOR PLAN SHOWING AFFORDABLE UNITS