

APPENDIX E-1

MANDATORY DEED RESTRICTION FOR RENTAL PROJECTS

Deed Restriction

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

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 and between the [ Administrative Agent ] ("Administrative Agent"), and \_\_\_\_\_ a New Jersey [Corporation / Partnership / Limited Partnership] having offices at \_\_\_\_\_ the developer/sponsor (the "Owner") of a residential low- or moderate-income rental project subsidized by the State Of New Jersey (the "State") in cooperation with the Administrative Agent, under the [ Name of Program] (the "Project"):

WITNESSETH

Article 1. Consideration

In consideration of the subsidies received 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 land and improvements more specifically described in Article 2, hereof (the Property).

Article 2. Description of Property

[If the project is a 100 percent affordable development, use the following:]

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:

\_\_\_\_\_  
\_\_\_\_\_

[Where restrictions are limited to specific units within the project, use the following:]

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The Property consists of all of the land, and a portion of the 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:

\_\_\_\_\_  
\_\_\_\_\_

More specifically designated as:

(List specific affordable units by address or apartment number.)

Article 3. Affordable Housing Covenants

The following covenants (the "Covenants") shall run with the land for the period of time (the "Control Period"), determined separately with respect for each dwelling unit, commencing upon the earlier of the date hereof or the date on which the first certified household occupies the unit, and shall and expire as determined under the Uniform Controls, as defined below.

In accordance with N.J.A.C. 5:80-26.11, each restricted unit shall remain subject to the requirements of this subchapter, the "Control Period," until the municipality in which the unit is located elects to release the unit from such requirements. Prior to such a municipal election, a restricted unit must remain subject to the requirements of this subchapter for a period of at least 30 years; provided, however, that:

1. Units located in high-poverty census tracts shall remain subject to these affordability requirements for a period of at least 10 years; and
  2. Any unit that, prior to December 20, 2004, received substantive certification from COAH, was part of a judgment of compliance from a court of competent jurisdiction or became subject to a grant agreement or other contract with either the State or a political subdivision thereof, shall have its control period governed by said grant of substantive certification, judgment or grant or contract.
- A. Sale and use of the Property is governed by regulations known as the Uniform Housing Affordability Controls, which are found in New Jersey Administrative Code at Title 5, chapter 80, subchapter 26 (N.J.A.C. 5:80-26.1, *et seq.*, the "Uniform Controls").
  - B. The Property shall be used solely for the purpose of providing rental dwelling units for 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 these Deed Restrictions, deeds of conveyance must have these Deed Restrictions appended thereto, and no sale of the Property shall be lawful, unless approved in advance and in writing by the Administrative Agent.
  - C. No improvements may be made to the Property that would affect the bedroom configuration of any of its dwelling units, and any improvements to the Property must be approved in advance and in writing by the Administrative Agent.
  - D. The Owner shall notify the Administrative Agent and the State of any foreclosure actions filed with respect to the Property within five (5) business days of service upon Owner.

updated June 2007

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

Article 4. Remedies for Breach of Affordable Housing Covenants

A breach of the Covenants will cause irreparable harm to the Administrative Agent, 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 low and moderate-income housing.

- A. In the event of a threatened breach of any of the Covenants by the Owner, or any successor in interest of the Property, the Administrative Agent 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 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 rentals, injunctive relief to prevent further violation of said Covenants, entry on the premises, those provided under Title 5, Chapter 80, Subchapter 26 of the New Jersey Administrative Code and specific performance.

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

[THE ADMINISTRATIVE AGENT]

BY: \_\_\_\_\_  
 XXXXXXXXXXXXXXXX  
 Title

[THE OWNER]

BY: \_\_\_\_\_  
 XXXXXXXXXXXXXXXX  
 Title

APPROVED BY THE STATE OF NEW JERSEY

BY: \_\_\_\_\_  
 XXXXXXXXXXXXXXXX  
 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.

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NOTARY PUBLIC

On this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ before me came \_\_\_\_\_, to me known and known to me to be \_\_\_\_\_, the Owner of the Property, who states that (s)he has signed said Agreement for the purposes stated therein.

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NOTARY PUBLIC

On this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ before me came \_\_\_\_\_ known and known to me to be \_\_\_\_\_ of \_\_\_\_\_, the Administrative Agent identified as such in the foregoing Agreement, who states that (s)he is duly authorized to execute said Agreement on behalf of the State, and that (s)he has so executed the foregoing Agreement for the purposes stated therein

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NOTARY PUBLIC