

make any contract or agreement to do any of the same, whether directly or indirectly, of the membership interests of Developer.

10.3 NO UNREASONABLE RESTRAINT

Developer hereby acknowledges and agrees that the restrictions on transfers set forth in this Article do not constitute an unreasonable restraint on Developer's right to transfer or otherwise alienate the Property or its rights under this Agreement. Developer hereby waives any and all claims, challenges, and objections that may exist with respect to the enforceability of such restrictions, including any claim that such restrictions constitute an unreasonable restraint on alienation.

ARTICLE 11 INSURANCE OBLIGATIONS; INDEMNIFICATION

11.1 INSURANCE OBLIGATIONS

11.1.1 Insurance Coverage. During the periods identified below, and in addition to any insurance policies required under the terms of the Declaration, Developer and/ or its General Contractor, as applicable, shall carry and maintain in full force and effect the following insurance policies:

- (a) Automobile Liability and Commercial General Liability Insurance - At all times after the Effective Date of this Agreement until such time as all obligations of Developer hereunder have been satisfied or have expired, Developer shall maintain and/or cause its contractor to maintain automobile liability insurance and commercial general liability insurance policies written so that each have a combined single limit of liability for bodily injury and property damage of not less than three million dollars (\$3,000,000.00) per occurrence, of which at least one million dollars (\$1,000,000.00) must be maintained as primary coverage, and of which the balance may be maintained as umbrella coverage; provided, however, that the foregoing statement as to the amount of insurance Developer is required to carry shall not be construed as any limitation on Developer's liability under this Agreement. The foregoing limits may be increased by District from time to time, in its reasonable discretion.
- (b) Workers' Compensation Insurance - At all times after the Effective Date of this Agreement until such time as all obligations of Developer hereunder have been satisfied or have expired, Developer shall maintain and cause its general contractor and any subcontractors to maintain workers' compensation insurance in such amounts as required by Applicable Laws.
- (c) Professional Liability Insurance - During development of the Project, Developer shall cause its architect and every engineer or other professional who will perform services in connection with the Project to maintain professional liability insurance with limits of not less than one million dollars (\$1,000,000.00) for each occurrence, including coverage for injury or damage arising out of acts or omissions with respect to all design and engineering professional services

provided by the architect of record, structural, electrical and mechanical engineers with a deductible acceptable to District.

- (d) Contractor's Pollution Legal Liability Insurance - At all times after the Effective Date of this Agreement until such time as all obligations of Developer hereunder have been satisfied or have expired, Developer shall not remove, store, transport, or dispose of demolition debris, hazardous waste or contaminated soil, without first obtaining (or causing its contractor to obtain) a Contractor's Pollution Legal Liability Insurance Policy covering Developer's liability during such activities. The policy shall include such coverage for bodily injury, personal injury, loss of, damage to, or loss of use of property, directly or indirectly arising out of the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquid or gas, waste materials, or other irritants, contaminants, or pollutants into or upon the land, the atmosphere, or any water course or body of water, whether it be gradual or sudden and accidental.

11.1.2 General Policy Requirements. Developer shall name District as an additional insured under all policies of liability insurance identified above. Any deductibles with respect to the foregoing insurance policies shall be commercially reasonable. All such policies shall include a waiver of subrogation endorsement. All insurance policies required pursuant to this Section 10.1 shall be written as primary policies, not contributing with or in excess of any coverage that District may carry. Such insurance shall be obtained through a recognized insurance company licensed to do business in the District of Columbia and rated by A.M. BEST as an A-X or above. Prior to any entry onto the Property at any time pursuant to this Agreement, Developer shall furnish to District certificates of insurance (or copies of the policies if requested by District) together with satisfactory evidence of payment of premiums for such policies. The policies shall contain an agreement by the insurer notifying District in writing, by certified U.S. Mail, return receipt requested, not less than thirty (30) days before any material change, reduction in coverage, cancellation, including cancellation for nonpayment of premium, or other termination thereof or change therein.

11.2 INDEMNIFICATION

Developer shall indemnify, defend, and hold harmless District and the District Parties from and against any and all losses, costs, claims, damages, liabilities, and causes of action (including reasonable attorneys' fees and court costs) arising out of death of or injury to any person or damage to any property occurring on or adjacent to the Property and directly or indirectly caused by any acts done thereon or any acts or omissions of Developer, its Members, agents, employees, or contractors; provided, however, that the foregoing indemnity shall not apply to any losses, costs, claims, damages, liabilities, and causes of action (including reasonable attorneys' fees and court costs) due to the gross negligence or willful misconduct of District. The obligations of Developer under this Section shall survive Closing or the earlier termination of this Agreement.

ARTICLE 12 NOTICES

12.1 TO DISTRICT

Any notices given under this Agreement shall be in writing and delivered by certified mail (return receipt requested, postage pre-paid), by hand, or by reputable private overnight commercial courier service, to District at the following addresses:

District of Columbia
Department of Housing and Community Development
801 North Capitol Street, N.E., 1st Floor
Washington, D.C. 20005
Attention: Perry Perry

With a copy to:

The Office of the Attorney General for the District of Columbia
1100 15th Street, N.W., Suite 800
Washington, D.C. 20005
Attn: Deputy Attorney General, Commercial Division

12.2 TO DEVELOPER

Any notices given under this Agreement shall be in writing and delivered by certified mail (return receipt requested, postage pre-paid), by hand, or by reputable private overnight commercial courier service, to Developer at the following addresses:

David Bernhardt, LLC
803 7th Street, NE Rear
Washington, DC 20002
Attn: David Bernhardt

Notices served upon Developer or District in the manner aforesaid shall be deemed to have been received for all purposes hereunder at the time such notice shall have been: (i) if hand delivered to a Party against receipted copy, when the copy of the notice is receipted; (ii) if given by overnight courier service, on the next Business Day after the notice is deposited with the overnight courier service; or (iii) if given by certified mail, return receipt requested, postage pre-paid, on the date of actual delivery or refusal thereof. If notice is tendered under the terms of this Agreement and is refused by the intended recipient of the notice, the notice shall nonetheless be considered to have been received and shall be effective as of the date provided in this Agreement.

ARTICLE 13 MISCELLANEOUS

13.1 PARTY IN POSITION OF SURETY WITH RESPECT TO OBLIGATIONS

Developer, for itself and its successors and assigns and for all other persons who are or who shall become, whether by express or implied assumption or otherwise, liable upon or subject to any obligation or burden under the Agreement, hereby waives, to the fullest extent permitted

by law and equity, any and all claims or defenses otherwise available on the grounds of its being or having become a person in the position of surety, whether real, personal, or otherwise or whether by agreement or operation of law, including, without limitation any and all claims and defenses based upon extension of time, indulgence or modification of this Agreement.

13.2 FORCE MAJEURE

Neither District nor Developer, as the case may be, nor any successor-in-interest, shall be considered in default under this Agreement with respect to their respective obligations to prepare the Property for development, or convey the Property, in the event of forced delay in the performance of such obligations due to Force Majeure. It is the purpose and intent of this provision that in the event of the occurrence of any such Force Majeure event, the time or times for performance of the obligations of District or of Developer shall be extended for the period of the Force Majeure; provided, however that: (a) the Party seeking the benefit of this Section 13.2 shall have first notified, within forty eight (48) hours, or as soon as possible after it becomes aware of the beginning of any such Force Majeure event, the other Party thereof in writing of the cause or causes thereof, with supporting documentation, and requested an extension for the period of the forced delay; (b) in the case of a delay in obtaining Permits, Developer must have filed complete applications for such Permits by the dates set forth in the Schedule of Performance and hired an expeditor reasonably acceptable to District to monitor and expedite the Permit process; and (c) the Party seeking the delay must take commercially reasonable actions to minimize the delay. If either Party requests any extension on the date of completion of any obligation hereunder due to Force Majeure, it shall be the responsibility of such Party to reasonably demonstrate that the delay was caused specifically by a delay of a critical path item of such obligation. Force Majeure delays shall not delay the Closing Date and shall not apply to any obligation to pay money. This provision shall survive Closing.

13.3 CONFLICT OF INTERESTS; REPRESENTATIVES NOT INDIVIDUALLY LIABLE

No official or employee of District shall participate in any decision relating to this Agreement which affects his or her personal interests or engage in any conduct or activity which may interfere with the official's or employee's full and proper discharge of his or her duties in the review, evaluation, award, implementation, monitoring and performance of contracts hereunder. No District employee, or any member of his or her immediate household, may acquire an interest in or operate any business or commercial enterprise which is in any way related, directly or indirectly, to the employee's official duties, or which might otherwise be involved in an official action taken or recommended by the employee, or which is in any way related to matters over which the employee could wield any influence, official or otherwise.

No official or employee of District shall be personally liable to Developer or any successor-in-interest in the event of any default or breach by District or for any amount which may become due to Developer or such successor-in-interest or on any obligations hereunder.

13.4 SURVIVAL; PROVISIONS MERGED WITH DEED

Unless expressly stated otherwise herein, the provisions of this Agreement are intended to and shall merge with the Deed transferring title to the Property from District to Developer.

13.5 TITLES OF ARTICLES AND SECTIONS

Titles and captions of the several parts, articles, and sections of this Agreement are inserted for convenient reference only and shall be disregarded in construing or interpreting Agreement provisions.

13.6 SINGULAR AND PLURAL USAGE; GENDER

Whenever the sense of this Agreement so requires, the use herein of the singular number shall be deemed to include the plural; the masculine gender shall be deemed to include the feminine or neuter gender; and the neuter gender shall be deemed to include the masculine or feminine gender.

13.7 LAW APPLICABLE; FORUM FOR DISPUTES

This Agreement shall be governed by, interpreted under, construed, and enforced in accordance with the laws of the District of Columbia, without reference to the conflicts of laws provisions thereof. District and Developer irrevocably submit to the jurisdiction of (a) the courts of the District of Columbia and (b) the United States District Court for the District of Columbia for the purposes of any suit, action, or other proceeding arising out of this Agreement or any transaction contemplated hereby. District and Developer irrevocably and unconditionally waive any objection to the laying of venue of any action, suit, or proceeding arising out of this Agreement or the transactions contemplated hereby in (a) the courts of the District of Columbia and (b) the United States District Court for the District of Columbia, and hereby further waive and agree not to plead or claim in any such court that any such action, suit, or proceeding brought in any such court has been brought in an inconvenient forum.

13.8 ENTIRE AGREEMENT; RECITALS; EXHIBITS

This Agreement constitutes the entire agreement and understanding between the Parties and supersedes all prior agreements and understandings related to the subject matter hereof. The Recitals of this Agreement are incorporated herein by this reference and are made a substantive part of the agreements between the Parties. All Exhibits are incorporated herein by reference, whether or not so stated. In the event of any conflict between the Exhibits and this Agreement, this Agreement shall control.

13.9 COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which shall together constitute one and the same instrument. Execution and delivery of this Agreement by facsimile shall be sufficient for all purposes and shall be binding on any Person who so executes.

13.10 TIME OF PERFORMANCE

All dates for performance (including cure) shall expire at 6:00 p.m. (Eastern time) on the performance or cure date. A performance date which falls on a Saturday, Sunday, or District holiday is automatically extended to the next Business Day.

13.11 SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon and shall inure to the benefit of, the successors and assigns of District and Developer, and where the term "Developer" or "District" is used in this Agreement it shall mean and include their respective successors and assigns.

13.12 THIRD PARTY BENEFICIARY

No Person shall be a third party beneficiary of this Agreement.

13.13 WAIVER OF JURY TRIAL

TO THE EXTENT PERMITTED BY LAW, ALL PARTIES HERETO WAIVE THE RIGHT TO TRIAL BY JURY IN CONNECTION WITH ANY LITIGATION ARISING IN RESPECT OF THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

13.14 FURTHER ASSURANCES

Each Party agrees to execute and deliver to the other Party such additional documents and instruments as the other Party reasonably may request in order to fully carry out the purposes and intent of this Agreement.

13.15 MODIFICATIONS AND AMENDMENTS

None of the terms or provisions of this Agreement may be changed, waived, modified, or removed except by an instrument in writing executed by the Party or Parties against which enforcement of the change, waiver, modification, or removal is asserted. None of the terms or provisions of this Agreement shall be deemed to have been abrogated or waived by reason of any failure or refusal to enforce the same.

13.16 ANTI-DEFICIENCY LIMITATION; AUTHORITY

13.16.1 Though no financial obligations on the part of District are anticipated, Developer acknowledges that District is not authorized to make any obligation in advance or in the absence of lawfully available appropriations and that District's authority to make such obligations is and shall remain subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§ 1341, 1342, 1349, 1350, 1351; (ii) D.C. Official Code Section 47-105; (iii) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01 – 355.08, as the foregoing statutes may be amended from time to time; and (iv) Section 446 of the District of Columbia Home Rule Act.

13.16.2 Developer acknowledges and agrees that any unauthorized act by District is void. It is Developer's obligation to accurately ascertain the extent of District's authority.

13.17 SEVERABILITY

If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future Applicable Laws, such provisions shall be fully severable, this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part of this Agreement, and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision

or by its severance from this Agreement. Furthermore, there shall be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

13.18 TIME OF THE ESSENCE; STANDARD OF PERFORMANCE

Time is of the essence with respect to all matters set forth in this Agreement. For all deadlines set forth in this Agreement, the standard of performance of the Party required to meet such deadlines shall be strict adherence and not reasonable adherence.

13.19 NO PARTNERSHIP

Nothing contained herein shall be deemed or construed by the Parties hereto or any third party as creating the relationship of principal and agent or of partnership or of joint venture between Developer and District.

13.20 EACH PARTY TO BEAR ITS OWN COSTS

Each Party shall bear its own costs and expenses incurred in connection with the negotiation of this Agreement and the performance of such Party's duties and obligations hereunder.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, District and Developer have each caused these presents to be signed, acknowledged and delivered in its name by its duly authorized representative.

DISTRICT OF COLUMBIA, by and through the
Department of Housing and Community
Development

By: _____
Name: Leila Finucane Edmonds
Title: Director

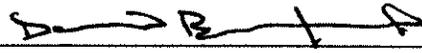
Approved as to legal sufficiency:

D.C. Office of the Attorney General

By: _____
Name: Qwendolyn N. Brown
Title: Assistant Attorney General

Date: _____

DAVID BERNHARDT, LLC,
a District of Columbia limited liability company

By:  _____
Name: David Bernhardt
Title: Sole Member and Manager

Exhibits:

Exhibit A	Legal Description
Exhibit B	Affordability Covenant
Exhibit C	Declaration of Covenants
Exhibit D	Deed
Exhibit E	Development and Completion Guaranty
Exhibit F	Schedule of Performance
Exhibit G	Performance Letter of Credit

IN WITNESS WHEREOF, District and Developer have each caused these presents to be signed, acknowledged and delivered in its name by its duly authorized representative.

DISTRICT OF COLUMBIA, by and through the
Department of Housing and Community
Development

By: _____
Name: Leila Finucane Edmonds
Title: Director

Approved as to legal sufficiency:

D.C. Office of the Attorney General

By: *Qwendolyn N. Brown*
Name: Qwendolyn N. Brown
Title: Assistant Attorney General

Date: 07/14/08

DAVID BERNHARDT, LLC,
a District of Columbia limited liability company

By: _____
Name: David Bernhardt
Title: Sole Member and Manager

Exhibits:

Exhibit A	Legal Description
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Exhibit D	Deed
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Exhibit F	Schedule of Performance
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EXHIBIT A

Legal Description

1713 New Jersey Avenue, NW

Lot 16 in CFE Richardson's Subdivision of lots in Square 507 as per plat recorded in Liber 10 at folio 105, of the records of the Office of the Surveyor for the District of Columbia.

475 Florida Avenue, NW

Lot Fifty-one (51) in a subdivision made by Maxwell in Block Five (5), "LeDroit Park," as per plat recorded in Liber County 7 at folio 71 among the Land Records of the Office of the Surveyor for the District of Columbia.

Note: At the date hereof the above described land is designated on the Records of the Assessor of the District of Columbia for taxation and assessment purposes as Lot 51 in Square 3094.

SUBJECT TO the right of way over part of said lot for a private alley in common with Lots 50 and 52 in said subdivision.

1001 Quebec Street, NW

Lot 63 in subdivision made by Ruddy of lots in Square 2902, as said in subdivision is recorded in Liber No. 66 at Folio 148 in the records of the Office of the Surveyor of the District of Columbia.

805 7th Street, NE

Lot numbered Fifteen (15) in Abner B. Kelly's Subdivision of Square numbered Eight Hundred and Eighty-Nine (889), as per plat recorded in Liber H.D.C. at folio 203, in the Office of the Surveyor for the District of Columbia.

Now known for taxation and assessment purposes as: Lot 15, Square 889

1504 6th Street, NW

Lot numbered One hundred and forty nine (0149) in Square four hundred and forty-five (0445) according to the records in the Department of Finance and Revenue, District of Columbia, being more fully described in Document No. 2002080489 in the Deed records of the District of Columbia, Washington, D.C.

EXHIBIT B

AFFORDABLE HOUSING COVENANT

(Home Again Initiative for Deteriorated and Abandoned Properties)

THIS AFFORDABLE HOUSING COVENANT (the “**Covenant**”) is made as of the ___ day of _____, 2008, by and for the benefit of the DISTRICT OF COLUMBIA, a municipal corporation, acting by and through the District of Columbia Department of Housing and Community Development (hereinafter referred to as “**Declarant**”).

RECITALS

WHEREAS, Declarant is the current owner of certain real property located in Washington, D.C. and set forth and described on Exhibit A attached hereto and made a part hereof (the “**Site**”), which Site is the subject of this Covenant;

WHEREAS, Declarant plans to convey the Site to DAVID BERNHARDT, LLC, a District of Columbia limited liability company (the “**Developer**”), pursuant to the terms and conditions of that certain Property Disposition Agreement dated the ___ day of _____, 2008, between the Declarant and the Developer (the “**Property Disposition Agreement**”);

WHEREAS, The Property Disposition Agreement requires the Declarant and the Developer to enter into this Covenant to obligate the Developer to assume and perform certain obligations for the development, construction or rehabilitation, marketing, ownership, and sale of an affordable single-family or multi-family residential housing project approved by the Declarant (the “**Affordable Unit**”) on the Site (the Affordable Unit and the Site are collectively, the “**Property**”), and for the sale of the Property to an Eligible Purchaser (as defined below), and to provide for the continued ownership and occupancy of the Property by an Eligible Purchaser for a period of fifteen (15) years following the date of first occupancy by such Eligible Purchaser; and

WHEREAS, as a condition precedent to the transfer of title of the Site from the Declarant to the Developer, the Developer has agreed that the Site shall be conveyed subject to this Covenant.

NOW, THEREFORE, Declarant hereby declares that the Property described hereinafter must be held, sold and conveyed, subject to the following covenants, conditions, and restrictions:

ARTICLE I Defined Terms

For the purposes of this Covenant, the capitalized terms used herein shall have the meanings ascribed to them below and, unless the context clearly indicates otherwise, shall include the plural as well as the singular:

“Affordable Owner”: has the meaning given in Article V, Section C.

“Affordable Unit”: has the meaning given in the Recitals.

“Agency”: has the meaning given in Article IV, Section B.

“AMI”: means the then most current area median household income as established periodically for the disbursement of funds under the Community Development Block Grant Programs (or in the event such programs no longer exist, such successor programs) by HUD for the Washington DC-Maryland-Virginia metropolitan statistical area.

“Business Day”: means Monday through Friday, inclusive, other than holidays recognized by the District government.

“Certificate of Eligibility of a Qualified Purchaser”: has the meaning given in Article IV, Section C(2).

“Certifying Authority”: has the meaning given in Article IV.

“CPI”: means Consumer Price Index for All Urban Consumers (Washington-Baltimore).

“DHCD”: means the District of Columbia Department of Housing and Community Development

“Eligible Purchaser” has the meaning given in Article III, Section B.

“HAI”: means the Home Again Program

“HUD”: means the United States Department of Housing and Urban Development, or its successor.

“Initial Resale Price” shall have the meaning shown on Exhibit B.

“IZIA Act”: has the meaning given in Article IV.

“Land Records”: means the real property records for the District of Columbia located in the Office of the Recorder of Deeds.

“Marketing Period” shall be the period beginning on the date that the Developer first offers the redeveloped Property for sale to Eligible Purchasers until the date the Developer transfers title to the Property to an Eligible Purchaser.

“Maximum Sales Price”: has the meaning given in Article V, Section C(2).

“Mortgagee”: has the meaning given in Article XIV.

“OAG”: Office of the Attorney General for the District of Columbia.

“Occupancy Period” shall be a continuous and consecutive period beginning on the date that an Affordable Owner first acquires the Property and ending fifteen (15) years thereafter. Ownership shall be deemed “continuous” for the purpose of calculating the fifteen (15) year term notwithstanding the death, marriage, civil union, or divorce of an Affordable Owner, if and only if (i) in the case of death, the surviving spouse or a party to a civil union having the rights of a surviving spouse or other similar rights that are recognized as such under the laws of the District of Columbia or an adult child is the devisee of the decedent’s interests in the Affordable Unit, and such devisee, occupied the Affordable Unit as its primary residence for the twelve (12) month period ending on the Affordable Owner’s death, (ii) in the case of divorce of a person in a marriage or separation of a person under a civil union, recognized as such under District of Columbia laws, the donee or grantee of the divorcing or separating Affordable Owner’s interest in the Affordable Unit was lawfully married to or in a civil union with the divorcing Affordable

Owner for the twelve (12) month period ending upon the conveyance of such interest or the Affordable Unit by the Affordable Owner, and (iii) in the case of marriage or civil union, such marriage or civil union is recognized as such under the laws of the District of Columbia. If an Affordable Owner shall convey any interest in the Affordable Unit prior to the end of the Occupancy Period, such period shall begin again on the date that the subsequent Affordable Owner and/ or Transferee acquires title to the Affordable Unit. Nothing herein shall modify or be deemed to modify the requirements set forth in Article IV.

“Person”: means any individual, or any corporation, limited liability company, trust, partnership, association or other entity.

“Property”: has the meaning given in the Recitals.

“Redevelopment Period” shall be the period beginning on the date that the Declarant transfers the Site to the Developer and ending on the date of Final Completion of the Project as stated in the Schedule of Performance and further defined in the Property Disposition Agreement.

“Release”: as defined in Article IX.

“Regulations”: has the meaning given in Article IV.

“Sale”: has the meaning given in Article V, Section C(2).

“Transferee”: has the meaning given in Article IV.

ARTICLE II Redevelopment Period

A. During the Redevelopment Period, Developer shall construct and complete the Project in accordance with the Approved Plans and Specifications (as defined in the Property Disposition Agreement) and in accordance with applicable laws and regulations and the Property Disposition Agreement. At the end of the Redevelopment Period, the Developer shall offer the Property for sale to Eligible Purchasers, only. In the event that the Developer fails or is unable to (i) complete the development of the Property and (ii) offer the Property for sale to Eligible Purchasers prior to the expiration of the Redevelopment Period, the Developer may request in writing prior to the expiration of the Redevelopment Period approval from the Declarant, for an extension not to exceed thirty (30) calendar days. The Developer shall include in the request for an extension an explanation of the need for the extension and the Developer's plans to complete the redevelopment and offer the Property for sale to Eligible Purchasers prior to the expiration of the extended Redevelopment Period. The Developer may make one (1) such request for an extension of the Redevelopment Period. The Declarant's decision to approve, disapprove or approve with conditions the Developer's request for an extension shall be determined in the sole and absolute discretion of the Declarant. Additional extensions of the Redevelopment Period shall be considered on a case by case basis with approval being withheld at the absolute discretion of Declarant, and any approval thereof may contain additional terms and conditions not previously specified or contained in these Covenants or the Property Disposition Agreement.

B. Following the sale and conveyance of the Property from the Declarant to the Developer, Developer shall not sell, transfer, convey, hypothecate or assign fee simple title to the Property, or any lesser interest therein, to any party other than an Eligible Purchaser, as defined below, unless otherwise permitted in writing by the Declarant.

C. Monitoring and Inspecting of the Redevelopment of the Property:

1. In addition to and notwithstanding any monitoring and inspecting requirements of the Developer's construction lender and any applicable District of Columbia building and health code requirements, the Declarant shall have the right to inspect the progress of rehabilitation of the Property by the Developer and to review and audit the records of the Developer relating to the Property at the Declarant's reasonable discretion. The Developer shall make available to the Declarant information and records which will enable evaluation of the Property and the progress of redevelopment by the Declarant. The Developer shall maintain all records in connection with and/or materially affecting the Property or the Developer's interest therein at its principal business office or such other location designated by Developer, including without limitation these Covenants, for a period of three (3) years from the date hereof.

2. The Developer shall notify the Declarant in writing of the following stages of construction, and the Declarant shall have an inspector review the construction within five (5) business days of written or oral notification from the Developer of:

(a) Completion of all necessary demolition in preparation for new construction or renovation;

(b) Completion of framing and rough-in of electrical and plumbing prior to closing of walls; and

(c) Completion of finishes.

3. In the event that the Declarant's inspector determines that the construction is not in compliance with the Plans and Specifications, the Declarant shall issue a written notice of non-compliance to the Developer. The Developer shall cure the items of non-compliance within fifteen (15) business days following the Developer's receipt of the notice of non-compliance. Developer shall bear the cost of any inspections required by Declarant to verify that Developer has cured the items of non-compliance.

ARTICLE III Marketing Period

A. The Developer shall market and offer for sale the Property solely to Eligible Purchasers in accordance with the Developer's marketing plan approved by the Declarant and made part of the PDA (the "**Marketing Plan**"). In the event that the Developer modifies the Marketing Plan, the Developer shall submit the modifications to the Marketing Plan to the Declarant for approval, which approval shall not be unreasonably withheld or delayed. In the event that the Property has not been placed under contract with an Eligible Purchaser in accordance with Article IV herein, within ninety (90) calendar days following the expiration of the Completion Date, the Developer shall provide monthly written reports to the Declarant describing the efforts of the Developer to market the Property for sale. The Declarant shall have the right to require the Developer to undertake reasonable additional marketing efforts if the Declarant determines in its sole judgment that the Developer's efforts are not customary or consistent with the local industry's standard for marketing properties of a similar nature.

B. “**Eligible Purchaser**” shall mean a household consisting of one (1) or more individuals that purchases the Property as his/her primary residence and the adult member(s) of which shall certify that he, she, or they shall use the Property as his, her, or their primary residence; and such adult member has a gross annual yearly household income, which does not exceed 60% percentage of AMI as designated on Exhibit B (the “**AMI Affordability Level**”).

C. Upon completion of the Affordable Unit, the Developer shall not sell the Affordable Unit for a price greater than the Initial Resale Price. Developer may not increase the Initial Resale Price for an Affordable Unit without the prior written approval of the Declarant and Declarant may withhold or condition its written approval, if any, in its sole and absolute discretion.

If Declarant approves in writing an increase to the Initial Resale Price for an Affordable Unit and that increase amounts to (i) a Sales Price, as defined below, in excess of five percent (5%) above the Initial Resale Price (such excess, the “**Excess Sales Price**”), and (ii) an increase in Developer’s Projected Profit of at least five percent (5%) (such increase, the “**Excess Profit**”), then fifty percent (50%) of the amount of the Excess Profit shall be recaptured by and distributed to the Declarant from the Developer. For purposes of these Covenants, the term “**Sales Price**” shall mean the sales price identified in the contract for sale between the Developer, as seller, and an Eligible Purchaser, as buyer, for the Property. Declarant reserves the right to approve or disapprove for any reason any Sales Price increases proposed by Developer.

ARTICLE IV Initial Sale; Re-Sale Restrictions

A. Any conveyance of the Affordable Unit shall be subject to the procedures contained in this Article IV.

B. If Declarant shall promulgate municipal rules and regulations effectuating the Inclusionary Zoning Implementation Amendment Act of 2006 (the “**IZIA Act**”) in order to establish, *inter alia*, an administrative body to administer the Inclusionary Zoning Program, as defined in the IZIA Act (the “**Regulations**”), and (a) such Regulations identify an office, agency or agencies of the District to administer the IZIA Act (“**Agency**”), and (b) such Agency (i) adopts rules for the certification and/or re-certification of Eligible Purchasers, (ii) issues certificates or other evidence of purchaser eligibility of Persons upon which Developer (as to the initial sale of an Affordable Unit), Affordable Owners, and owners of residential for-sale housing that are subject to the IZIA Act may lawfully rely, (iii) adopts a waiting list of Eligible Purchasers and (iv) adopts a procedure pursuant to which Developer (as to the initial sale of an Affordable Unit) and Affordable Owners, as applicable, may identify Eligible Purchasers for Affordable Units, then Developer and Affordable Owners, as applicable, shall abide by and be bound by such portions of the Regulations that relate solely to the qualification, certification and selection of prospective Eligible Purchasers to acquire Affordable Units [it being understood, and in the interest of clarity, that neither Developer (as to the initial sale of an Affordable Unit) nor any Affordable Owner, as applicable, otherwise shall be bound to or be obligated to comply with the IZIA Act or Regulations by virtue solely of this Covenant]. Upon request from the Developer or Affordable Owner, as applicable, the Agency shall provide multiple names of Eligible Purchasers for consideration by Developer or such Affordable Owner. Such names may be retained on a list of Eligible Purchasers maintained by Developer or any Affordable Owner, subject to re-qualification if such Eligible Purchaser does not close on the purchase of an

Affordable Unit within twelve (12) months of the Agency's delivery of its list identifying such Eligible Purchaser.

C. The following procedures shall apply to (i) Developer with respect to the initial sale of an Affordable Unit, and (ii) an Affordable Owner of an Affordable Unit desiring to sell his or her Affordable Unit if, within thirty (30) days after written request from Developer or an Affordable Owner, the Agency fails to identify at least one Qualified Purchaser acceptable to such Developer or Affordable Owner for an Affordable Unit being sold by such Developer or Affordable Owner:

(1) Developer, with respect to the initial sale of an Affordable Unit, and an Affordable Owner of an Affordable Unit desiring to sell his or her Affordable Unit shall notify in writing the entity or entities (the "**Certifying Authority**") selected by Declarant or DHCD as the party authorized to review and certify the eligibility of a person as a Qualified Purchaser. The Certifying Authority shall be one or more of the following: DHCD or HAI's designated agent or representative, a community development organization or other non-profit organization authorized by the DHCD to make such determinations, or a financial institution or mortgage company with an established affordable housing finance program or department experienced in making eligibility determinations.

(2) After the initial sale of the Affordable Unit, at any time there is no Certifying Authority approved by DHCD or if the Certifying Authority approved by DHCD fails to identify a Eligible Purchaser reasonably acceptable to an Affordable Owner desiring to sell his or her Affordable Unit within thirty (30) days after written request therefor, such Affordable Owner may, upon fifteen (15) days written notice to DHCD, select a Certifying Authority to qualify a prospective purchaser as a Eligible Purchaser, who, if applicable, shall execute a "**Certificate of Eligibility of a Qualified Purchaser**" in accordance with the terms hereof with respect to such sale and the determination of such Certifying Authority shall be effective for all purposes hereof.

(3) The Certifying Authority shall determine eligibility using the standards for "Eligible Purchaser" set forth above.

(4) A conveyance of an Affordable Unit shall only be effective if (i) a Certificate of Eligibility of a Eligible Purchaser duly executed by the Certifying Authority and dated within twelve (12) months of the closing of such sale is recorded prior to or contemporaneously with the deed conveying the Affordable Unit. The Affordable Owner, Developer (for the initial sale of an Affordable Unit), Mortgagee, DHCD and any title insurer shall each be a third party beneficiary of such Certificate of Eligibility. Failure to record such Certificate of Eligibility of Qualified Purchaser shall render the conveyance of title null and void ab initio. The Certificate of Eligibility of Qualified Purchaser shall certify that such Certifying Authority has informed the appropriate Person(s) of the rights and obligations of such Person(s) under Article IV and Article V of this Covenant.

(5) The determination of whether a proposed purchaser meets the requirements of a Eligible Purchaser shall be made exclusively by the Certifying Authority based on the criteria set forth in this Covenant.

(6) Each Affordable Owner of an Affordable Unit shall submit to the Certifying Authority the form of deed, which must include the language set forth below in Section V(C)(3), to be used to convey the Affordable Unit to an Eligible Purchaser for the Certifying Authority's prior written approval, together with a copy of this Covenant.

D. In the event an Affordable Owner, voluntarily or involuntarily transfers the Affordable Unit pursuant to operation of law, court order, divorce, death or other similar transfer

of legal or beneficial title to all or any part of the Affordable Unit to a Transferee, heir, devisee or other personal representative of such Affordable Owner (each "**Transferee**"), such Transferee, shall be automatically bound by all of the terms, obligations and provisions of this Covenant; provided that, and in furtherance of the District's public policy, such Transferee, either (i) shall obtain a Certificate of Eligibility of a Qualified Purchaser for himself or herself within the later of (1) sixty (60) days of the transfer by the applicable Qualified Purchaser, or (2) sixty (60) days after receiving the interest in the Affordable Unit following probate, and record same in the Land Records, together with a warranty deed in the form prescribed by this Covenant or (ii) shall promptly use its diligent and best efforts (as such term is defined below) to sell the Affordable Unit in accordance with this Covenant.

E. For purposes of this Article IV, "best efforts" shall mean that (i) an Affordable Owner or Transferee, as applicable, has provided the notice to the Agency, and the Agency has not identified a Qualified Purchaser acceptable to the Affordable Owner within 30 days of written request therefore; and (ii) an Affordable Owner or Transferee, as applicable, subsequently has selected a Certifying Authority pursuant to Section IV(C)(1) herein, and such Certifying Authority has not identified an Eligible Purchaser acceptable as to such Affordable Owner within ninety (90) days after receipt of such notice. For the purposes hereof, the term "acceptable" shall be determined in accordance with Section IV.

F. In connection with the sale of an Affordable Unit, the Developer or an Affordable Owner, as applicable, may reject any applicant seeking to acquire an Affordable Unit who has obtained a Certificate of Eligibility of a Qualified Purchaser or other evidence of eligibility adopted by District or the Agency whether or not pursuant to the IZIA Act or Regulations only if, based on such applicant's application, background and/or creditworthiness (including, without limitation, the applicant's inability to provide credible evidence that such applicant will qualify for sufficient financing to purchase the Affordable Unit), Developer or Affordable Owner, as applicable, shall in good faith and reasonably determine such applicant is unacceptable to purchase or inhabit an Affordable Unit.

G. In no event shall a Transferee reside in an Affordable Unit unless he or she is a Eligible Purchaser.

ARTICLE V Occupancy Period

A. During the Occupancy Period, an Eligible Purchaser and any subsequent Eligible Purchaser may not sell, lease, assign, release, hypothecate, or otherwise transfer any interest in the Property to any person or entity, other than another Eligible Purchaser, without Declarant's prior written consent. Prior to the execution of any purchase contract with an Eligible Purchaser, the Seller under such contract shall provide notice to the Declarant of the Seller's intent to enter into the contract. Such Seller shall not execute the contract until Declarant shall have had ten (10) business days to review the same. Any transfer of any interest in the Property during the Occupancy Period shall conspicuously reference these Covenants and the Eligible Purchaser's requirements discussed herein, and these Covenants shall be referenced in the original Deed from Declarant to Developer, and each subsequent deed to any Eligible Purchaser or Transferee during the Occupancy Period.

B. Intentionally Deleted.

C. Developer shall be responsible for compliance with the terms of this Covenant only during the period of Developer's ownership of the Project. After the initial sale of an

Affordable Unit, the fee title owner(s) of such Affordable Unit (the "**Affordable Owner**") shall be responsible for compliance with the terms of this Covenant only during the period of such Affordable Owner's ownership of the applicable Affordable Unit.

(1) Each Affordable Owner must use the Affordable Unit solely as his, her or their primary residence and shall not permit exclusive occupancy of the Affordable Unit by any other Person or lease any or all of the Affordable Unit to any Person (any such lease shall be null and void).

(2) Neither the Developer nor an Affordable Owner may convey all or any part of his, her or their fee interest ("**Sale**"), whether or not for consideration, in an Affordable Unit to any Person other than a Eligible Purchaser. The Developer and each Affordable Owner of such Affordable Unit shall sell to a buyer within the Designated Affordability Level applicable to such Affordable Unit and otherwise who is a Eligible Purchaser as determined in accordance with Article IV below. The sale price of each Affordable Unit upon Sale shall not exceed (the "**Maximum Sales Price**") the greater of (i) an amount determined using the following assumptions: (a) a 5% down payment with an additional 5% equity payment at closing, and (b) a monthly housing payment of principal, interest, taxes, insurance and condominium fees not exceeding 40% of the maximum allowable monthly gross income (i.e., at the allowable Designated Affordability Level) of a prospective Affordable Owner, assuming ninety percent (90%) loan-to-value, thirty (30) years fully amortizing mortgage, with a minimum ten (10) year term, at a then market rate of interest (which must be consistent with the applicable Designated Affordability Level) or (ii) the purchase price paid for the Affordable Unit by the Affordable Owner, plus the "Purchase Price Adjustment," if any. Such calculation shall be performed by the Affordable Owner and the Applicable Certifying Authority.

For the second and all subsequent sales of an Affordable Unit, the "Purchase Price Adjustment" shall equal the costs of all permanent improvements made by such Affordable Owner to the Affordable Unit and replacement of interior components permitted by this Covenant, multiplied by a fraction, the numerator of which is the Consumer Price Index on the date the Purchase Price Adjustment is calculated, and the denominator of which is the Consumer Price Index on the date on which that Affordable Owner purchased the Affordable Unit, so long as such percentage does not exceed 125% (For example, \$10,000 x 105% increase in CPI = \$10,500 Price Adjustment).

(3) During the Occupancy Period, each deed used to convey an Affordable Unit shall expressly state in 12 point type and in all caps on the front page thereof:

THIS DEED IS DELIVERED AND ACCEPTED SUBJECT TO ALL MATTERS OF RECORD RECORDED AMONG THE LAND RECORDS OF THE DISTRICT OF COLUMBIA TO THE EXTENT LAWFULLY AFFECTING THE REAL PROPERTY WHICH IS THE SUBJECT OF THIS DEED, INCLUDING ALL OF THE PROVISIONS AND CONDITIONS SET FORTH IN THAT CERTAIN AFFORDABLE HOUSING COVENANT, DATED AS OF _____, 2008, RECORDED AMONG THE LAND RECORDS OF THE DISTRICT OF COLUMBIA AS INSTRUMENT NUMBER _____, ON _____, 2008.

(4) Except as otherwise provided herein, all proceeds of a Sale in excess of the Maximum Sales Price shall be paid to the District of Columbia for deposit into the Department of Housing and Community Development's Home Again Program or such other fund established by applicable law.

(5) Any sale of an Affordable Unit in violation of this Covenant shall be null and void.

ARTICLE VI
Evidence of Compliance

A. The Developer and any Eligible Purchaser and any other party bound, directly or indirectly, by the obligations hereunder, shall provide to the Declarant written verification or such other written documentation as may be required by the Declarant, to evidence and substantiate the qualification of any and all persons claiming to be an Eligible Purchaser, prior to the execution of a sales agreement for an Unit. All such evidence shall be satisfactory to the Declarant in its sole and absolute discretion.

B. By acceptance of a deed for the Affordable Unit, each Eligible Purchaser shall be deemed to represent and warrant to, and agree with, Declarant, and Developer and the Certifying Authority, as applicable, each of whom may rely on the following: that (i) he or she is an Eligible Purchaser, (ii) the sales price satisfies the terms of this Covenant, (iii) he or she is purchasing the Affordable Unit as his or her full time residence and has no ownership interest in any other housing, (iv) he or she will not rent any or all of the Affordable Unit to any person or party, (v) he or she will not allow any other party to reside at the Affordable Unit with the Eligible Purchaser except in strict compliance with all applicable laws and this Covenant, (vi) no more than the number of persons, including the Eligible Purchaser, shall reside at the Affordable Unit greater than that which is permitted under applicable law and this Covenant, (vii) he or she will comply with the provisions of Article IV hereof and sell the Affordable Unit only to a Eligible Purchaser, and (viii) such Eligible Purchaser is the beneficiary of DHCD's public policy of increasing the affordable housing stock in the District of Columbia and in particular, on the Property, and desires through his or her ownership, use, and sale of the Affordable Unit to further such public policy

ARTICLE VII
Enforcement

Declarant is and shall be entitled to enforce these Covenants, and any and all covenants or agreements contained herein, through the exercise of all remedies available to it, including without limitation by a proceeding, at law or in equity, against any person or persons violating or attempting to violate, intentionally or otherwise, any covenant or restriction herein contained, and such proceeding may be for the purpose of restraining any violation hereof or recovering damages or monies, or to proceed against the Property in the enforcement of any lien or obligation created by or resulting from these Covenants. Notwithstanding any of the foregoing to the contrary, these Covenants constitute a Lien against the Property and Declarant may enforce the Lien created by these Covenant in the same manner as a common law mortgage any time after the Lien becomes due and payable. These Covenants and the rights and obligations created hereunder shall be construed in accordance with the laws of the District of Columbia.

ARTICLE VIII
Covenants Binding on Successors and Assigns

These Covenants are and shall be binding upon the Property and shall run with the land for the period of time stated herein and until all obligations required to be performed under these Covenants are fulfilled. The rights and obligations of the Declarant, the Developer, the Eligible Purchaser and their respective successors and assigns shall be binding upon and inure to the

benefit of the foregoing parties and their respective successors and assigns; provided however that, all rights of the Declarant pertaining to the monitoring and/or enforcement of the obligations of the Developer or Eligible Purchaser hereunder shall not convey with the transfer of title or any lesser interest in the Property, but shall be retained by the District of Columbia, or such other transferee as the Declarant may so determine.

ARTICLE IX
Amendment of Covenants

These Covenants may be amended, modified or released by an instrument in writing executed by the Declarant. Any such amendment, modification or release shall relate back to the date of recordation of these Covenants. Any amendment by the Declarant to these Covenants that amends, modifies, or releases the terms of these Covenants shall be recorded among the Land Records before it shall be deemed effective.

ARTICLE X
Settlement

The Developer shall deliver to the Declarant, any written documentation requested pursuant to this Covenant (the "Documents"), at least thirty (30) calendar days prior to the settlement date for the sale of the Property from the Developer to an Eligible Purchaser (the "**Settlement**"). The Documents shall include the name and contact information of the escrow agent designated by the parties ("**Escrow Agent**") for the sale of the Property to the Eligible Purchaser. The Declarant shall have eleven (11) business days from receipt of the Documents to review the same and notify the Developer of any material deficiencies or errors in the Documents. Provided that Developer or Eligible Purchaser cure such deficiencies or errors to Declarant's reasonable satisfaction, Declarant shall provide written approval of Settlement (the "**Settlement Approval**") and deliver the Settlement Approval and such other documents necessary to conduct the Settlement, including a partial release of these Covenants with respect to the Developer and its Redevelopment obligations, to the Escrow Agent a reasonable period of time prior to the Settlement on the Property, for Escrow Agent to hold in escrow pending such Settlement.

ARTICLE XI
Termination and Release of Covenants

These Covenants may be amended and/ or released in whole or in part by Declarant in writing at any time, without notice to the Developer, any Eligible Purchaser or Transferee.

ARTICLE XII
Notices

Any notices given under this Covenant shall be in writing and delivered by certified mail (return receipt requested, postage pre-paid), by hand, or by reputable private overnight commercial courier service, to Declarant at the following addresses: