[**NOTE**: for use by rental projects that are applying for benefits pursuant to RPTL 421-a(16). Please submit a completed DRAFT of this restrictive declaration together with your 421-a application submission for the 421-a staff’s review. Once the staff approves the DRAFT, you must execute and record against the Property before the Certificate of Eligibility can be approved.]

**THIS RESTRICTIVE DECLARATION** ("Restrictive Declaration"), entered into as of the \_\_\_\_ day of \_\_\_, 201\_\_, by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, having its principal office at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ("Owner") *[if subject to a ground lease: and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, having its principal office at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Applicant”)]*.

**WHEREAS**, Owner holds title to certain real property located in the Borough of \_\_\_\_\_\_\_\_\_ in the City and State of New York, known as and by the street address \_\_\_\_\_\_\_\_\_\_\_\_\_ [*address*]**,**  and identified as Block \_\_\_\_\_\_\_, Lots(s) \_\_\_\_ on the Tax Map of the City of New York ("Property"); and

*[if subject to a ground lease: WHEREAS, Applicant holds title to the leasehold estate in the Property pursuant to that certain lease having a term ending on \_\_\_\_\_\_\_\_\_\_\_ between Owner and Applicant, dated \_\_\_\_\_\_\_\_\_\_,201****\_*** *(“Lease”);and]*

**WHEREAS**, the Property contains one or more Eligible Multiple Dwellings receiving an exemption from real property taxation pursuant to Subdivision 16 ofReal Property Tax Law §421-a and Chapter 51 of Title 28 of the Rules of the City of New York (collectively “§ 421-a(16)”) pursuant to § 421-a(16)Tax Exemption Benefit Application TEOXXXXX; and

**WHEREAS,** unless otherwise defined in this Restrictive Declaration, capitalized terms used herein shall have the meaning set forth in § 421-a(16), and

**WHEREAS**, eligibility for exemption from real property taxation pursuant to §421-a(16) is conditioned upon the Propertymeeting Affordability Option A, B, C, E, F or G as set forth in §421-a(16) upon initial rental of such units and upon all subsequent rentals of such units after a vacancy, during the Restriction Period or the Extended Restriction Period, as applicable (“Affordability Requirement”); and

**WHEREAS**, eligibility for exemption from real property taxation pursuant to §421-a(16) is also conditioned upon the Affordable Housing Units being subject to Rent Stabilization during the Restriction Period or the Extended Restriction Period, as applicable (“Rent Stabilization Requirement”);

**WHEREAS**, to ensure compliance with the Affordability Requirement, §421-a(16) mandates that all Affordable Housing Units be rented to eligible tenantsat or below the Permitted Rent;

**WHEREAS**, §421-a(16) also mandates that a Marketing Monitor approved by the Agency enter into a Monitoring Contract requiring that such Marketing Monitor: (a) be provided monthly rent rolls for all Affordable Housing Units; (b) be notified no fewer than seven business days after an Affordable Housing Unit becomes vacant; (c) ensure that any Affordable Housing Unit that becomes vacant during the Restriction Period or Extended Restriction Period, as applicable, (i) is not held off the market for a period that is longer than is reasonably necessary to perform needed repairs, (ii) is promptly marketed, (iii) is rented to a household that meets the applicable income and occupancy requirements for such Affordable Housing Unit and that has been approved by the Agency prior to execution of a lease, (iv) is not offered to or rented by a corporation, partnership or other entity, and (v) is offered for occupancy pursuant to a rent stabilized lease for a term of one or two years, at the option of the tenant; and (d) submit quarterly rent rolls for all Affordable Housing Units to the Agency (“Monitoring Requirements”); and

**WHEREAS**, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is the Completion Date in accordance with Real Property Tax Law §421-a(16)*.*

**NOW THEREFORE**, in order to obtain an exemption from real property taxation pursuant to §421-a(16), the Owner has *[if subject to a ground lease: and Applicant have*] agreed to execute and record this instrument, which provides as follows:

1. The Property shall be subject to the Affordability Requirement for a period commencing upon the Completion Date and terminating on a date which is [*with respect to Restriction Period projects,* thirty-five years …or*…with respect to an Extended Restriction Period projects,* forty years…] from the Completion Date.

2. Each Affordable Housing Unit in the Property is identified in Exhibit A attached hereto, which also provides the number of bedrooms such Affordable Housing Unit contains, whether such Affordable Housing Unit is an Affordable Housing Forty Percent Unit, an Affordable Housing Sixty Percent Unit, an Affordable Housing Seventy Percent Unit, an Affordable Housing Eighty Percent Unit, an Affordable Housing One Hundred-Twenty Percent Unit or an Affordable Housing One Hundred-Thirty Percent Unit.

3. The Affordable Housing Units shall be subject to the Rent Stabilization Requirement during the Restriction Period or the Extended Restriction Period, as applicable.

4. During the Restriction Period or the Extended Restriction Period, as applicable, each Affordable Housing Unit shall be rented at or below the Permitted Rent (“Permitted Rent Requirement”).

5. During the Restriction Period or the Extended Restriction Period, as applicable, no Affordable Housing Unit shall be held off the market for a period that is longer than is reasonably necessary or offeredto a corporation, partnership or other entity (“Rental Requirement”).

6. No portion of the Property shall be operated as a Hotel during the Restriction Period or the Extended Restriction Period, as applicable (“Hotel Prohibition Requirement”).

7. Tenants in occupancy of Affordable Housing Units at the expiration of the Restriction Period or the Extended Restriction Period, as applicable, shall continue to be subject to the Rent Stabilization Requirement for the duration of their occupancy (“Continuation Requirement”).

8. The Affordable Housing Units shall be subject to the Monitoring Requirement during the Restriction Period or the Extended Restriction Period, as applicable.

9. This Restrictive Declaration may be enforced by the City of New York and any of its agencies and instrumentalities, the State of New York and any of its agencies and instrumentalities, and any tenant.

10. The Affordability Requirement, Rent Stabilization Requirement, Permitted Rent Requirement, Rental Requirement, Hotel Prohibition Requirement**,** Continuation Requirement, and Monitoring Requirement set forth in this Restrictive Declaration shall run with the land, shall inure to the benefit of the City of New York, the State of New York, and all tenants of the Property, and shall bind and be enforceable against Owner and its successors and assigns to the fullest extent permitted by law and equity.

*[\_\_. [if subject to ground lease: Applicant shall be obligated to perform or cause performance of the terms of this Restrictive Declaration during the term of the Lease and Owner shall be obligated to perform or cause performance of the terms of this Restrictive Declaration following the termination of the Lease. Further, in such instance, Owner shall have the right to enter into another lease of the Property, in which event the tenant thereunder shall be the party obligated under this Restrictive Declaration.]*

11. At any time prior to the Completion Date, the Owner may terminate this Restrictive Declaration by written notice to the City of New York Department of Housing Preservation and Development. *[if subject to ground lease: At any time prior to the Completion Date, the Applicant may terminate this Restrictive Declaration* *by written notice to the City of New York Department of Housing Preservation and Development.]* The exemption from real property taxation pursuant to §421-a(16) shall thereafter terminate, retroactive to the effective date of such exemption.

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

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

STATE OF NEW YORK )

) SS:

COUNTY OF NEW YORK)

On this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 201\_\_, before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to inthe within instrument and acknowledged to me that [s]he executed the same in [her]his capacity, and that by [her]his signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

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

NOTARY PUBLIC

Record and Return to:

John Leonard, Executive Director

Tax Incentives Programs

Department of Housing Preservation and Development

100 Gold Street, Room 8-D09

New York, New York 10038

EXHIBIT A

|  |  |  |
| --- | --- | --- |
|  |  |  |
| **Apartment Number**  (e.g. Unit 1A, etc.) | **# of Bedrooms** (e.g. Studio, 1BR, 2BR, etc.) | **AMI Limit** (e.g. 40% AMI,  60% AMI,  70% AMI,  80% AMI,  120% AMI, or  130% AMI) |
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