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Page: 1 of 30 03/31/2015 03:47 PM



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### AFFORDABLE HOUSING RESTRICTION

**DATE: As of March 25, 2015**

GRANTOR:	Bedford Place LLC
PROPERTY NAME:	Bedford Green
TOTAL NUMBER OF UNITS:	70
TOTAL NUMBER OF RESTRICTED UNITS:	69
NUMBER OF HIGH MODERATE INCOME UNITS (110% AMI): <sup>1</sup>	0
NUMBER OF MODERATE INCOME UNITS (80% AMI):	0
NUMBER OF LOW INCOME UNITS (60% AMI):	51
NUMBER OF VERY LOW INCOME UNITS (50% AMI):	0
NUMBER OF EXTREMELY LOW INCOME UNITS (30% AMI):	18
PROPERTY ADDRESS:	200 Springs Road Bedford, Massachusetts

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AFFORDABILITY TERM: 31 years and 1 month (subject to extension for any extension of the construction period and/or extension of one or more of the Loans to which this Restriction relates, as set forth below)

This Affordable Housing Restriction (this "Restriction") is granted by the undersigned Grantor, a Massachusetts limited liability company having a mailing address of c/o Peabody Properties, Inc., 536 Granite Street, Braintree, Massachusetts 02184, for the benefit of The Commonwealth of Massachusetts acting by and through the Department of Housing and Community Development having a mailing address of 100 Cambridge Street, Suite 300, Boston, Massachusetts 02114-2524 ("DHCD"); The Commonwealth of Massachusetts, acting by and through the Department of Housing and Community Development under the Affordable Housing Trust Fund Statute, M.G.L. c. 121D, by the Massachusetts Housing Finance Agency ("MHFA"), as Administrator, having an address at One Beacon Street, Boston, Massachusetts 02108 ("AHT"); and Community Economic Development Assistance Corporation, having a mailing address of One Center Plaza, Suite 350, Boston, Massachusetts 02108, as agent for The Commonwealth of Massachusetts, acting by and through the Department of Housing and Community Development under the Housing Innovations Trust Fund Statute, M.G.L. c. 121E ("HITF").

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<sup>1</sup> Numbers in parentheses are the percentage of median income for the Area (AMI, as defined below), adjusted for family size, as determined from time to time by HUD (as defined below) pursuant to Section 8 of the United States Housing Act, as amended.

**AFFORDABLE HOUSING RESTRICTION****BACKGROUND**

- A. The Grantor holds or will acquire a leasehold interest in the Property and intends to construct a 70-unit rental housing development, consisting of one residential building, at the Property (the "Project").
- B. As a condition of the Loan, the Grantor has agreed that this Restriction be imposed upon the Property as a covenant running with the land and binding upon any successor to the Grantor, as owner thereof.

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**RESTRICTIONS**

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor hereby covenants as follows:

- 1. Definitions.** Capitalized terms used herein are defined herein and in Exhibit D attached hereto.
- 2. Use Restrictions.** The Property shall be reserved and used for the Permitted Uses and for no other purpose. The Restricted Units shall include at least 69 one-bedroom Units. Furthermore, if during the Term the Section 8 Contract is not renewed at the end of its term or is terminated or otherwise is no longer in full force and effect, the Holders will consider a request by the Grantor to modify the mix of Restricted Units by converting Extremely Low Income Units to Very Low Income Units or Low Income Units. A decision by the Holders on such a request shall take into consideration the financial viability of the Property and shall be made in the sole reasonable discretion of the Participating Lenders who have required such Extremely Low Income Units, as shown on Exhibit C. The Property also shall include at least nine (9) Units accessible to individuals with mobility impairments and at least one (1) additional Unit accessible to individuals with sensory impairments. Each Unit shall contain complete facilities for living, sleeping, eating, cooking and sanitation that are to be used on other than a transient basis. Each Unit shall meet the housing quality standards set forth in the regulations of HUD at 24 C.F.R. §982.401 or any successor thereto, the accessibility requirements at 24 C.F.R. Part 8 or any successor thereto (which implement Section 504 of the Rehabilitation Act of 1973) and, if applicable, the design and construction requirements of 24 C.F.R. §100.205 or any successor thereto (which implement the Fair Housing Act). The Restricted Units shall be of comparable quality to the other Units at the Property. The Grantor shall at all times maintain a social service program administered by a social service provider acceptable to the Holders. Throughout the term hereof, the Grantor shall maintain the Property and the Improvements in good, safe and habitable condition in all respects and in full compliance with all applicable laws, by-laws, rules and regulations of any governmental (or quasi-governmental) body with jurisdiction over matters concerning the condition of the Property.
- 3. Occupancy Restrictions.** The following restrictions shall apply during the period commencing with the first date on which any Units are occupied and continuing for the balance of the Affordability Term, subject always to any applicable rent restrictions of the federal low-income

**AFFORDABLE HOUSING RESTRICTION**

housing tax credit program under Section 42 of the Internal Revenue Code of 1986, as amended, and any provision herein that conflicts with the requirements of the federal low-income housing tax credit program shall be suspended so long as the restrictions under the federal low income housing tax credit program are in effect.

- A. Low Income Units.** At least 51 of the Units of the types shown on Exhibit C attached hereto shall be leased exclusively to Low Income Families ("Low Income Units"). The monthly rent charged to a Family occupying a Low Income Unit shall not exceed the lesser of Fair Market Rent or an amount equal to (x) one-twelfth of thirty percent (30%) of sixty percent (60%) of the Bedroom Adjusted AMI, minus (y) if applicable, an allowance established by the Holders for any utilities and services (excluding telephone) to be paid by the occupying Family. A Family who resides in a Restricted Unit, who qualified as a Low Income Family at the time of such Family's initial occupancy at the Property and whose Household Income exceeds sixty percent (60%), but does not exceed eighty percent (80%) of the Family-size Adjusted AMI, shall continue to be treated as a Low Income Family and the foregoing maximum rent shall continue to apply to such Family. A Family who resides in a Restricted Unit, who qualified as a Low Income Family at the time of such Family's initial occupancy at the Property and whose Household Income exceeds eighty percent (80%) of the Family-size Adjusted AMI, shall, from and after the expiration of the then-current term of such Family's lease, no longer be treated as an income-qualified Family and (i) until such time as the Property again has the required number of income-qualified Families at all income levels hereunder must pay as monthly rent the Over-income Rent and (ii) once the Property again has the required number of income-qualified Families at all income levels hereunder, such Family's Unit shall, from and after the expiration of the then-current term of such Family's lease, no longer be deemed a Restricted Unit hereunder.
- B. Extremely Low Income Units.** At least 18 of the Units of the types shown on Exhibit C attached hereto shall be leased exclusively to Extremely Low Income Families ("Extremely Low Income Units"). The monthly rent charged to a Family occupying an Extremely Low Income Unit shall not exceed the lesser of Fair Market Rent or (x) one-twelfth of thirty percent (30%) of thirty percent (30%) of the Bedroom Adjusted AMI, minus (y) if applicable, an allowance established by the Holders for any utilities and services (excluding telephone) to be paid by the occupying Family. A Family who resides in a Restricted Unit, who qualified as an Extremely Low Income Family at the time of such Family's initial occupancy at the Property and whose Household Income exceeds thirty percent (30%), but does not exceed fifty percent (50%) of the Family-size Adjusted AMI, shall continue to be treated as an Extremely Low Income Family but, from and after the expiration of the then-current term of such Family's lease, must pay as monthly rent the Over-income Rent. A Family who resides in a Restricted Unit, who qualified as an Extremely Low Income Family at the time of such Family's initial occupancy at the Property and whose Household Income exceeds fifty percent (50%), but does not exceed eighty percent (80%), of the Family-size Adjusted AMI, shall, from and after the expiration of the then-current term of such Family's lease, be treated as a Low Income Family and



#### AFFORDABLE HOUSING RESTRICTION

must pay as monthly rent the lesser of (x) the maximum amount payable by the Family under the laws of the municipality in which the Property is located or of The Commonwealth of Massachusetts, (y) one-twelfth of thirty percent (30%) of sixty percent (60%) of the Bedroom Adjusted AMI (minus, if applicable, an allowance established by the Holders for any utilities and services [excluding telephone] to be paid by the occupying Family) or (z) the comparable market rent for the Family's Unit. A Family who resides in a Restricted Unit, who qualified as an Extremely Low Income Family at the time of such Family's initial occupancy at the Property and whose Household Income exceeds eighty percent (80%) of the Family-size Adjusted AMI, shall, from and after the expiration of the then-current term of such Family's lease, no longer be treated as an income-qualified Family and (i) until such time as the Property again has the required number of income-qualified Families at all income levels hereunder must pay as monthly rent the Over-income Rent and (ii) once the Property again has the required number of income-qualified Families at all income levels hereunder, such Family's Unit shall, from and after the expiration of the then-current term of such Family's lease, no longer be deemed a Restricted Unit hereunder.

- C. Applicable Lease Term, Change of Status.** References in the foregoing provisions of the "then-current term of such Family's lease" shall refer to the term of the lease or occupancy agreement in effect on the date of the required delivery of the income certification that reflects (or that, if duly delivered, would have reflected) the applicable increase in such Family's income or, as applicable, the term of the lease or occupancy agreement in effect at the time the Property regains the required number of income-qualified Families. If, with the Holders' consent, the Grantor does not require that a lease be signed for a Restricted Unit (e.g., a property providing short-term transitional housing), the provisions set forth above shall apply, except that the applicable date on which a Family's income-qualified status and/or applicable rent restriction is modified shall be the first day of the month that is at least thirty (30) days following the date of the required delivery of the income certification that reflects (or that, if duly delivered, would have reflected) the applicable increase in such Family's income and the applicable date on which a Restricted Unit's status is modified shall be the first day of the month that is at least thirty (30) days following the date on which the Property regains the required number of income-qualified Families.
- D. Federal or State Rental Subsidy.** If a Restricted Unit or the Family occupying such Unit receives federal or state rental subsidy, then the Family's contribution towards rent shall be the contribution allowable under the federal or state rental subsidy program and the maximum rent (i.e., tenant contribution plus rental subsidy) shall be the rent allowable under the federal or state rental subsidy program.
- E. Next Available Unit Rule.** If at any time fewer than the required number of Units are leased, rented or occupied by Extremely Low Income Families, the next available Units shall all be leased, rented or otherwise made available to Extremely Low Income Families until the required number of Units occupied by Extremely Low Income Families is again obtained. Subject to the foregoing, if at any time fewer than the required number of Units

**AFFORDABLE HOUSING RESTRICTION**

are leased, rented or occupied by Low Income Families, the next available Units shall all be leased, rented or otherwise made available to Low Income Families until the required number of Units occupied by Low Income Families is again obtained. The foregoing provisions shall be applied so as to maintain a mix of Restricted Units that is comparable in size, features and number of bedrooms to the originally designated Restricted Units (i.e., a Unit will not be considered an available Unit for purposes of this Paragraph if classification of such Unit as a Restricted Unit would cause the then current mix of Restricted Units to no longer be comparable to the original mix of Restricted Units described in Section 2 above and as shown on Exhibit C).

**Target Population.** Restricted Units shall be leased exclusively to Families who will benefit from the availability of support services and who face multiple barriers to securing permanent housing, such as poor credit, prior evictions, past criminal offenses, poor rental history and multiple shelter placements. The Grantor shall prepare an individualized and detailed assessment of each Family's strengths and areas of needed support and improvement (a "Needs Assessment"). The resident selection policies required under Section 5.B below shall specifically describe the methods to be used in preparing Needs Assessments. The Grantor shall develop an individualized service plan (a "Service Plan") for each Family occupying a Restricted Unit. A Service Plan shall be based on the Family's Needs Assessment and shall include measurable goals and objectives. Each Service Plan shall address the following: (i) maintaining a successful tenancy; (ii) securing quality childcare, education, healthcare and recreational activities for any children in the Family; (iii) securing or improving adult education attainment and employment; (iv) improving and maintaining behavioral and physical health; (v) improving financial and asset management skills; and (vi) improving community connections. The Grantor shall track and document each Family's engagement and progress toward the goals and measures outlined in the Service Plan. Persons with disabilities will not be required to accept any medical or disability-related services, although exceptions may apply to treatment for substance abusers.

**4. Rent Schedule.** Except as is set forth in Section 3D, projected initial monthly maximum rents including utilities for all Restricted Units shall be as set forth in Exhibit B attached hereto. If permitted maximum rents and utility allowances as reflected in the annual schedule of rents and utility allowances issued by DHCD increase prior to initial occupancy of the Project, the initial monthly maximum rents and utility allowances shall be as set forth in the latest schedule issued by DHCD. Notwithstanding the rent restrictions set forth in Section 3 above, the maximum monthly rent permitted to be charged for a Restricted Unit at any particular income level is not required to be lower than the maximum rent applicable at such income level pursuant to Exhibit B or such higher initial maximum rent applicable at such income level pursuant to the immediately preceding sentence, regardless of changes in fair market rents or in median income over time (subject only to the restrictions applicable in the event of any federal or state subsidy, as set forth in Section 3 above). Rents for Restricted Units shall not be increased above applicable maximums without all Holders' prior written approval of a specific request by the Grantor for a rent increase, except for increases implemented in accordance with an annual schedule of maximum rents and allowances issued by DHCD. Notwithstanding the foregoing, rent increases



**AFFORDABLE HOUSING RESTRICTION**

shall be subject to the provisions of outstanding leases and shall not be implemented without at least thirty (30) days' prior written notice by the Grantor to all affected Residents and notwithstanding any provision in a lease or occupancy agreement to the contrary, in the event of any increase in the rent payable by such Residents in connection with an increase in the income of such Residents, consistent with the terms hereof, the Residents shall have the right to terminate their lease or occupancy agreement by written notice to the Grantor delivered within such thirty-day period.

**5. Resident Selection.**

**A. Nondiscrimination.** The Grantor shall not discriminate on the basis of race, religious creed, color, sex, age, marital status, sexual orientation (which shall not include persons whose sexual orientation involves minor children as the sex object), gender identity, genetic information, veteran status, membership in the armed forces, ancestry, national origin, handicap, blindness, hearing impairment, or because a person possesses a trained guide dog as a consequence of blindness, hearing impairment or other handicap of such person or any other basis prohibited by law in the lease, use and occupancy of the Units or in connection with the employment or application for employment of persons for the operation and management of the Units. The Grantor shall not discriminate against, or refuse to lease, rent or otherwise make available the Units to, a holder of a certificate or voucher under the Federal Rental Certificate Program or the Federal Rental Voucher Program because of the status of the prospective tenant as a holder of such certificate, voucher.

**B. Selection Policies.** The Grantor shall adopt and submit to the Holders for approval resident selection policies and criteria for the Restricted Units that:

- (i) Are consistent with the purpose of providing housing for a Low Income Family or an Extremely Low Income Family, as defined below and required herein;
- (ii) Are reasonably related to eligibility of prospective tenants under the Programs and to the prospective tenants' ability to perform the obligations of the Grantor's form lease; and
- (iii) Provide for (x) the selection of Residents from a written waiting list in the chronological order of their application, insofar as practicable, and (y) the prompt written notification to any rejected applicant of the grounds for any rejection.

The Grantor shall also provide the Holders with an affirmative marketing plan acceptable to all Holders. The affirmative marketing plan must comply with all applicable statutes, regulations and executive orders, with all Holders' affirmative marketing requirements and with DHCD's directives reflecting the agreement between DHCD and HUD in the case of NAACP, Boston Chapter v. Kemp. The approved marketing plan and the approved resident selection policies and criteria shall be adhered to in every respect and any changes thereto shall be subject to the prior written approval of the Holders. The Grantor shall list vacancies in Restricted Units in the MassAccess Housing Registry at <http://www.massaccesshousingregistry.org>.

**6. Lease Form.** The Grantor shall not include in any lease for a Restricted Unit any of the following provisions:



**AFFORDABLE HOUSING RESTRICTION**

- A. Agreement by the tenant to be sued, to admit guilt or to a judgment in favor of the Grantor in a lawsuit brought in connection with the lease.
- B. Agreement by the tenant that the Grantor may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the Unit after the tenant has moved out of the Unit. The Grantor may dispose of such personal property in accordance with state law.
- C. Agreement by the tenant not to hold the Grantor or the Grantor's agents legally responsible for any action or failure to act, whether intentional or negligent.
- D. Agreement of the tenant that the Grantor may institute a lawsuit without notice to the tenant.
- E. Agreement by the tenant that the Grantor may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties.
- F. Agreement by the tenant to waive any right to a trial by jury.
- G. Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease.
- H. Agreement by the tenant to pay attorney's fees or other legal costs even if the tenant wins in a court proceeding by the Grantor against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.

All leases for Restricted Units shall be consistent with the requirements set forth herein, shall be on a form reasonably approved by the Holders, shall be for terms of not less than one (1) year (unless a shorter term is specified by mutual agreement between the Resident and the Grantor, subject to the Holders' program requirements) and shall require tenants to provide information required for the Grantor to meet its reporting requirements hereunder. The Grantor may not terminate the tenancy except (i) for serious or repeated violation of the terms and conditions of the lease; (ii) for violations of applicable federal, state or local law; (iii) for completion of the tenancy period for transitional housing; or (iv) for other good cause. Any termination or refusal to renew must be preceded by not less than thirty (30) days by the Grantor's service on the tenant of a written notice specifying the grounds for the action.

**7. Transfer Restrictions.** The Grantor shall not sell, transfer, convey, rent (except for leases or occupancy agreements made in connection with the Permitted Uses that are substantially in the form approved by the Holders), encumber as security for financing, or in any other way exchange all or any portion of the Property nor shall the Grantor permit the sale, transfer or pledge of any direct or indirect interests in the Grantor, without the express written permission of the Holders. Without limiting the generality of the foregoing, the Permitted Encumbrances are hereby approved by the Holders. Any sale, transfer or other disposition (each, a "transfer") of all or any part of the Property shall further be subject to the Purchase Option and

**AFFORDABLE HOUSING RESTRICTION**

First Refusal Right, as described below, and to such further terms and conditions with respect thereto as may be set forth in the HIF Statute, the HIF Regulations and the HIF Guidelines. Upon request by the Grantor, DHCD shall sign a certificate, in form and substance reasonably acceptable to DHCD, stating whether, as of a specified date, any Purchase Option or First Refusal Right in favor of DHCD remains in effect, or has been exercised, terminated, waived or assigned, and otherwise conforming with the certification requirements described below. No transfer of all or any part of the Property to any party other than DHCD or its assignee shall be consummated unless and until (i) the period for the exercise of all Purchase Options and/or First Refusal Rights, as applicable, shall have expired without DHCD's exercise of rights thereunder or (ii) DHCD shall have unconditionally waived its rights thereunder in writing. Notwithstanding the foregoing: (i) the investor member interest of Grantor held by NEF Assignment Corporation, as nominee (the "Investor") may be transferred to an entity in which the Investor or an affiliate of the Investor is the majority owner or to a limited partnership or limited liability company in which the Investor or an affiliate of the Investor is the general partner or managing member, provided that the Holders receive notice of such transfer and (ii) the Grantor's investor member may remove and replace the manager of the Grantor in accordance with the provisions of the Grantor's operating agreement upon the consent of the Holders, which consent will not be unreasonably withheld, conditioned or delayed.

**8. HIF Purchase Option.**

- A.** Upon the expiration of the Affordability Term (as defined in Section 10 below), DHCD shall have the right to purchase the Grantor's interest in the Property from the Grantor, at a price equal to the then-current appraised value of the Property, less the total outstanding balance, at the time of such purchase, of all principal, interest and any other charges payable under the HIF Loan, and any and all other outstanding obligations of the Grantor with respect thereto (the "Purchase Option"), by delivering written notice to the Grantor of its election to exercise the Purchase Option by or before the date that is one hundred twenty (120) days after the expiration of the Affordability Term (the "Option Exercise Deadline"). If DHCD shall have failed to deliver such written notice of its election to exercise the Purchase Option to the Grantor by the Option Exercise Deadline, DHCD shall be deemed to have unconditionally waived the Purchase Option, and the Purchase Option shall automatically terminate, and shall have no further force or effect.
- B.** DHCD shall have the right at any time to assign its rights under this Purchase Option to a qualified developer selected by DHCD in accordance with the HIF Statute and the HIF Regulations, and effective as of any such assignment, all rights and obligations of DHCD with respect to such Purchase Option shall automatically be deemed to apply to such assignee, and all references to "DHCD" in this Section shall automatically be deemed to refer to such assignee (except to the extent a provision explicitly provides otherwise).
- C.** Promptly upon request by DHCD at any time or from time to time, either before the Option Exercise Deadline or after DHCD's exercise of the Purchase Option, the Grantor shall provide DHCD with a copy of, or otherwise make available for DHCD's review at a mutually convenient time and location, any and all material owned by or readily available to the



**AFFORDABLE HOUSING RESTRICTION**

Grantor that an unrelated third-party potential buyer would reasonably request in connection with its due diligence for the acquisition of the Property, including, by way of example but not of limitation, deeds, title insurance policies, appraisals, studies, reports, and other materials relating to the Property and/or any encumbrance(s) subject to which the Property is to be conveyed, or otherwise reasonably necessary or appropriate for DHCD to review in connection with its exercise of the Purchase Option.

- D.** The appraised value of the Property shall be determined at DHCD's request by the method specified in the HIF Statute (as may be more fully described in the HIF Regulations and HIF Regulations) and in accordance with DHCD policies, and the costs of the appraisers shall be shared equally by DHCD and the Grantor (unless the HIF Regulations provide otherwise). Notwithstanding anything to the contrary contained in this Restriction, the Grantor shall not be required to use its own funds to repay any debt secured by the Property in the event the appraised value of the Property is less than the aggregate of all permitted debt secured by the Property.
- E.** The closing for the sale of the Property to DHCD shall take place in accordance with applicable provisions of the HIF Regulations, by or before the date that is one hundred twenty (120) days after the Option Exercise Deadline (i.e., on or before the date that is two hundred forty (240) days after the expiration of the Affordability Term), by the close of the business day, at the Registry of Deeds; provided, however, that if DHCD reasonably determines additional time is necessary to effect the closing due to delays of the Grantor in providing DHCD with the due diligence material described above or any other failure by the Grantor fully to cooperate with preparations for the sale, the closing date may be extended to a date reasonably determined by DHCD as necessary to redress the delays caused by the Grantor, which shall be specified in a written notice from DHCD setting forth the reasons for such extension, delivered to the Grantor by or before the date originally scheduled for the closing. The parties may also mutually agree to extend the date of the closing by written instrument.
- F.** The transfer to DHCD pursuant to the Purchase Option shall be subject to such other requirements as may be more fully described in the HIF Regulations consistent with the HIF Statute. Adjustments in the purchase price for recording fees, deed stamps and other charges shall be made, and any other issues associated with the transfer shall be resolved, in accordance with standard conveyancing practice in The Commonwealth of Massachusetts. If either party so desires, the parties shall enter into a purchase and sale agreement memorializing the terms of the sale, consistent with the terms hereof and of the HIF Statute; provided, however, that the Purchase Option shall be binding regardless of whether the parties execute a purchase and sale agreement. Notwithstanding any other provision hereof to the contrary, if, after delivering notice of its intention to exercise the Purchase Option, DHCD determines, in its sole discretion, that it is not in the best interests of DHCD to effect the purchase, DHCD may terminate the Purchase Option at any time, upon written notice to the Grantor recorded with the Registry of Deeds; provided, however, that such termination right shall apply to DHCD only and not to any assignee.



**AFFORDABLE HOUSING RESTRICTION**

- G.** Concurrently with its acquisition of the Property, DHCD shall cause to be recorded with the Registry of Deeds an affordable housing restriction, in compliance with the HIF Statute and any other applicable statutory requirements for the same (and, in the case of an assignee, in form acceptable to DHCD, in its discretion), which shall require that the Property shall be used only for the purposes of preserving or providing affordable housing thereon, which housing shall remain affordable for a period of not less than fifty (50) years.

**9. HIF First Refusal Right.**

- A.** If the Grantor intends at any time or from time to time prior to DHCD's exercise (or unconditional waiver) of the Purchase Option, as described above, to transfer all or any part of its interest in the Property, and the Grantor receives a bona fide offer for such transfer that the Grantor desires to accept (each, an "Offer"), the Grantor shall promptly deliver to DHCD written notice of the same (which shall not be deemed to have been duly delivered to DHCD unless it contains a copy of clause C. below), together with a copy of such Offer (the "Offer Notice"). The Grantor shall provide DHCD with such reasonable evidence as DHCD may require to satisfy DHCD as to the bona fide nature of the Offer. A transfer of a member interest in the Grantor shall be considered an Offer that triggers the DHCD First Refusal Right if (x) such member interest is all or substantially all of the non-managing member interests in the Grantor (except for transfers to affiliates of the member) and (y) such transfer takes place within one year of a transfer of a managing member interest in the Grantor or of a controlling interest in a managing member of the Grantor to the transferee of the member interest or an affiliate of such transferee, provided that a removal of a managing member by a member pursuant to a removal provision in the operating agreement of the Grantor and the substitution of a new managing member that is an affiliate of such member shall not constitute a transfer of a managing member interest for purposes of this clause.
- B.** DHCD shall have the right to purchase the Grantor's interest in the Property (or the portion(s) thereof to which the Offer relates), at the same price and on the same terms set forth in such Offer (the "First Refusal Right"), by delivering to the Grantor and recording with the Registry of Deeds written notice of its election to exercise such First Refusal Right, in accordance with the terms set forth below (the "Exercise Notice"), by or before the date that is one hundred twenty (120) days after DHCD's receipt of such Offer Notice (such 120-day period, the "First Refusal Period"). If DHCD does not intend to exercise the First Refusal Right, DHCD may, but shall have no obligation to, notify the Grantor in writing that the First Refusal Right will not be exercised (a "Waiver Notice").
- C.** If, by the expiration of the First Refusal Period with respect to an Offer, DHCD shall have failed to deliver to the Grantor an Exercise Notice or a Waiver Notice, DHCD shall be deemed to have waived its First Refusal Right with respect to such Offer, subject to any revived First Refusal Right with respect to a modified Offer, as described below. However, DHCD shall retain a First Refusal Right for subsequent Offers and the Purchase Option as described above, notwithstanding any prior actual or deemed waiver of the First Refusal Right, or any intervening transfer of the Property or any portion(s) thereof. The First

**AFFORDABLE HOUSING RESTRICTION**

Refusal Right shall automatically expire upon the waiver, expiration or exercise of the Purchase Option.

- D.** If any of the terms of an Offer shall be revised from the terms reflected in the Offer Notice in such a manner as to be materially more favorable to the buyer or if a closing pursuant to the Offer has not occurred on or before the date six months after the date of the Offer Notice but the Grantor desires to continue pursuing a sale pursuant to such Offer, the Grantor shall promptly deliver to DHCD an Offer Notice with respect to such revised or continued Offer (which shall not be deemed to have been duly delivered to DHCD unless it contains a copy of clause C. above), and DHCD shall have a new First Refusal Right with respect to such modified or continued Offer. The First Refusal Period for such new First Refusal Right shall run for a period of one hundred twenty (120) days from the date of DHCD's receipt of the Offer Notice with respect to such revised or continued Offer.
- E.** DHCD shall have the right at any time to assign its rights under the First Refusal Right to a qualified developer selected by DHCD in accordance with the HIF Statute and HIF Regulations and, effective as of any such assignment, the rights and obligations of DHCD with respect to such First Refusal Right shall automatically be deemed to apply to such assignee, and all references to "DHCD" in this Section shall automatically be deemed to refer to such assignee (except to the extent a provision explicitly provides otherwise). DHCD shall provide written notice of any such assignment to the Grantor.
- F.** In accordance with the provisions of the HIF Statute:
- (i) An Offer Notice containing the required language as described above shall be deemed to have been duly delivered if sent by regular and certified mail, return receipt requested (or by such other method as may be authorized under the HIF Statute and HIF Regulations), addressed to DHCD (or to any assignee of DHCD, if DHCD has previously given the Grantor notice of such assignment, including the name and notice address of such assignee, in accordance with the notice provisions set forth herein) in the care of the keeper of records for DHCD, which for purposes hereof shall be deemed to be the General or Chief Counsel of DHCD (or in care of the keeper of records for such assignee of DHCD, as applicable).
  - (ii) The Exercise Notice or Waiver Notice shall be duly signed by a designated representative of DHCD or of the assignee of DHCD, as the case may be, and (x) mailed to the Grantor by certified mail (or such other method as may be authorized under the HIF Statute) at the notice address set forth in the Offer Notice and (y) recorded with the Registry of Deeds by the expiration of the First Refusal Period. If DHCD shall have assigned the First Refusal Right to a qualified developer prior to delivery of the Exercise Notice, the Exercise Notice shall include the name and address of such assignee and the terms and conditions of such assignment.
  - (iii) An affidavit acknowledged by a notary public that DHCD or its designated representative has mailed an Exercise Notice or a Waiver Notice (the "Affidavit") shall conclusively establish the manner and time of the giving of such notice. Any Affidavit

**AFFORDABLE HOUSING RESTRICTION**

may be recorded with the Registry of Deeds by either party. Each Affidavit shall have attached to it a copy of the Offer Notice to which it relates.

- (iv) Each Offer Notice, Exercise Notice and Waiver Notice shall contain the name of the record owner of the Property and a description of the premises to be transferred, in form adequate to identify the same.
- G.** The closing for the sale of the Property (or, if applicable, the part thereof that is the subject of the Offer) to DHCD shall take place in accordance with applicable provisions of the HIF Regulations, by or before the date that is one hundred twenty (120) days after the expiration of the First Refusal Period (i.e., on or before the date that is two hundred forty (240) days after DHCD's receipt of the relevant Offer Notice), by the close of the business day, at the Registry of Deeds (such date, the "Closing Deadline"); provided, however, that if DHCD reasonably determines additional time is necessary to effect the closing, due to delays of the Grantor in providing DHCD with the due diligence material described below or any other failure by the Grantor fully to cooperate with preparations for the sale, the Closing Deadline may be extended to a date reasonably determined by DHCD as necessary to redress the delays caused by the Grantor, which shall be specified in a written notice from DHCD setting forth the reasons for such extension, delivered to the Grantor and recorded with the Registry of Deeds, by or before the date originally scheduled for the closing. The parties may also mutually agree to extend the Closing Deadline, by written instrument; provided, however, that in such event, the parties shall execute an instrument reflecting such extension, which shall be recorded with the Registry of Deeds by or before the date originally scheduled for the closing.
- H.** Concurrently with the delivery of the Offer Notice, the Grantor shall provide DHCD with a copy of, or otherwise make available for DHCD's review at a mutually convenient time and location, all material relating to the Property (or the part thereof that is the subject of the Offer) and/or the proposed sale, transfer, or other disposition thereof that has been made available to the party making the Offer, and shall thereafter promptly make available to DHCD any additional material made available to such party. Promptly upon any request therefor by DHCD, the Grantor shall provide DHCD with a copy of, or otherwise make available for DHCD's review at a mutually convenient time and location, any and all other material owned by or readily available to the Grantor that an unrelated third-party buyer would reasonably request in connection with its due diligence for an acquisition of such Property, including, by way of example but not of limitation, deeds, title insurance policies, appraisals, studies, reports, or other materials relating to such Property and/or any encumbrance(s) subject to which the Property is to be conveyed, or otherwise reasonably necessary or appropriate for DHCD to review in connection with its exercise of the First Refusal Right.
- I.** The transfer to DHCD pursuant to the First Refusal Right shall be subject to such other requirements as may be more fully described in the HIF Regulations consistent with the HIF Statute. Adjustments in the purchase price for recording fees, deed excise stamp taxes and other charges shall be made, and any other issues associated with the transfer shall



**AFFORDABLE HOUSING RESTRICTION**

be resolved, in accordance with standard conveyancing practice in The Commonwealth of Massachusetts. If either party so desires, the parties shall enter into a purchase and sale agreement memorializing the terms of the sale, consistent with the terms hereof and of the HIF Statute; provided, however, that the First Refusal Right shall be binding regardless of whether the parties execute a purchase and sale agreement. Notwithstanding any other provision hereof to the contrary, if, after delivering notice of its intention to exercise the First Refusal Right, DHCD determines, in its sole discretion, that it is not in the best interests of DHCD to effect the purchase, DHCD may terminate the First Refusal Right at any time, upon written notice delivered to the Grantor and recorded with the Registry of Deeds; provided, however, that such termination right shall apply to DHCD only, and not to any assignee. If DHCD exercises such termination right or if either DHCD or its assignee fails to perform hereunder on or before the Closing Deadline through no fault of the Grantor, then the First Refusal Right shall lapse and be of no further force or effect.

- J. Concurrently with its acquisition of the Property, DHCD shall cause to be recorded with the Registry of Deeds an affordable housing restriction, in compliance with the HIF Statute and any other applicable statutory requirements for the same (and, in the case of an assignee, in form acceptable to DHCD, in its discretion), which shall require that such Property shall be used only for the purposes of preserving or providing affordable housing thereon, which housing shall remain affordable for a period of not less than fifty (50) years.

**10. Term of Restrictions; Covenants to Run with Land.** The term of this Restriction shall be the sum of the Affordability Term plus the Option Term. The "Affordability Term" shall be 31 years and 1 months from the date hereof, provided that if the Project is not completed within 13 months after the date of this Restriction for any reason, any Holder shall have the right to extend the Affordability Term by recording in the Registry of Deeds a certificate of extension certifying the length of the delay in completing the Project, whereupon the Affordability Term shall automatically be extended by an amount of time equal to the length of such delay and provided further that the term hereof shall automatically be extended for the period of the extension of any of the Loans to which this Restriction relates. The "Option Term" shall be the period from the expiration of the Affordability Term through the Option Exercise Deadline (as defined in Section 8 above) plus any additional period necessary for the consummation of a purchase of the Property under either the Purchase Option or the First Refusal Right, if applicable, under Section 8 or 9 above. Notwithstanding any provision to the contrary herein or in any of the other Loan Documents, this Restriction shall remain in full force for the full term set forth herein including any extension, notwithstanding any prepayment of the Loan. The restrictions contained herein shall run with the land, shall bind the successors and assigns of the Grantor, and shall inure to the benefit of the Holders and their successors and assigns as permitted herein. Notwithstanding the foregoing, at the end of the term of affordability for a particular program, as set forth on Exhibit C, as it may have been extended, provided that all obligations under the loan provided by such Program have been satisfied in full at that time, as determined by the appropriate Holder, the Grantor may request that the Holders modify this Restriction to eliminate the requirements

**AFFORDABLE HOUSING RESTRICTION**

imposed by or otherwise relating to such Program set forth in this Restriction. The parties shall cooperate to prepare an appropriate amendment to this Restriction, which amendment shall be duly recorded with the Registry of Deeds by the Grantor at its cost and expense.

**11. Subsequent Conveyances.** Each and every contract, deed or other instrument hereafter executed conveying the Property or portion thereof shall expressly provide that such conveyance is subject to this Restriction, provided, however, that the covenants contained herein shall survive and be effective regardless of whether such contract, deed or other instrument hereafter executed conveying the Property or portion thereof provides that such conveyance is subject to this Restriction.

**12. Income Verification.** The Grantor represents, warrants and covenants that the determination of whether a Family occupying a Restricted Unit meets the income requirements set forth herein shall be made by the Grantor at the time of leasing of a Restricted Unit and thereafter at least annually on the basis of the current income of such Family. In initially verifying a Family's income, the Grantor shall examine the source documents evidencing annual income (e.g., wage statements, interest statements, unemployment compensation statements) for the Family.

**13. Reporting Requirements.**

- A. DHCD Web-Based Report.** Annually, no later than September 30, Grantor shall submit to DHCD, via the web-based annual reporting system located at <https://hedhsgdevannualreport.azurewebsites.net>, or as otherwise instructed, an annual report consisting of all data required by DHCD regulations at 760 CMR 61.00 promulgated pursuant to Chapter 334 of the Acts of 2006 and all applicable DHCD directives, guidelines and forms as may be amended from time to time. The Grantor shall collect said data for the express purpose of reporting to DHCD, and the collection and reporting of said data shall comply with said regulations, directives, guidelines and forms.
- B. Annual Report.** Annually, no later than September 30, Grantor shall submit to each Holder an annual report consisting of the following:
- (i) Annual adjusted income of each Family occupying a Restricted Unit.
  - (ii) Monthly gross rents (rents plus utility allowances, if applicable) for all Restricted Units, such rents to be consistent with the schedule of maximum rents published annually by DHCD. The rent schedule shall include the maximum rents applicable to Restricted Units under Section 3 as well as the actual rents to be charged to over-income Families under Section 3.
  - (iii) The Grantor's certification, made to the best knowledge and belief of the officer or individual signing such certification, that:
    - (a) The Property continues to be used for the Permitted Uses.
    - (b) The Property continues to contain the required number of Low Income Units and Extremely Low Income Units and to comply with the rent and other restrictions applicable to such Restricted Units.



**AFFORDABLE HOUSING RESTRICTION**

- (c) Grantor has not transferred, pledged or encumbered any interest in the Property, except as specifically provided in, and in accordance and compliance with the terms of, this Restriction.
- (d) Grantor has caused the Property to be maintained in a manner consistent with the Statute, Regulations and Guidelines and no children under six years old reside in or occupy the Property within the meaning of the Lead Paint Law or, if such children do reside in or occupy the Property, that the Property is in compliance with the Lead Paint Law.
- (e) The information submitted pursuant to this Paragraph B is true and accurate.
- C. Confidentiality.** The Holders and the Grantor shall treat as confidential any of the foregoing information relating to a specific Resident or Unit in compliance with all applicable state and federal statutes and regulations, including M.G.L. c. 66A, and shall implement adequate systems and procedures for maintaining the confidentiality of such information (but the Holders and the Grantor may release general statistical and other information about the Property, so long as the privacy rights and interests of the individual Residents are protected). The Holders and the Grantor shall not use any of the foregoing information in Paragraph A.(iii) for any purpose described in Section 603(d)(1) of the federal Fair Credit Reporting Act (15 U.S.C. § 1681a(d)(1)) or in any manner that would cause a Holder or Grantor to be considered a "consumer reporting agency" under Section 603(f) of the federal Fair Credit Reporting Act (15 U.S.C. § 1681a(f)).
- D. Additional Reports.** Grantor shall prepare and submit to the Holders such additional reports as any Holder may deem necessary to ensure compliance with the requirements of this Restriction and of the Programs.
- E. Records.** The Grantor shall maintain as part of its records (i) copies of all leases of Restricted Units; (ii) all initial and annual income certifications by Residents of Restricted Units and (iii) such additional records as any Holder may deem necessary to ensure compliance with the requirements of this Restriction and of the Programs.
- F. Additional Reporting Requirements.** Additional reporting requirements are stipulated in the Loan Agreement.
- 14. No Demolition.** The Grantor shall not demolish any part of the Improvements or substantially subtract from any real or personal property included within the Property except in conjunction with renovation or rehabilitation of the Units or construction of a new project on the Property, in either case subject to the prior written consent of all Holders, which consent may be granted or withheld in a Holder's sole judgment.
- 15. Casualty.** The Grantor represents, warrants and agrees that if the Property, or any part thereof, shall be damaged or destroyed, the Grantor (subject to the approval of the lender(s) providing financing) will use its best efforts to repair and restore the Units to substantially the same condition as existed prior to the event causing such damage or destruction, and the Grantor

**AFFORDABLE HOUSING RESTRICTION**

represents, warrants and agrees that the Units shall thereafter continue to operate in accordance with the terms of this Restriction.

**16. Inspection.** The Grantor hereby grants to each Holder and its duly authorized representatives the right to enter the Property (a) at reasonable times and in a reasonable manner for the purpose of inspecting the Property to determine compliance with this Restriction or any other agreement between the Grantor and such Holder and (b) after thirty (30) days' prior written notice, to take any reasonable and appropriate action under the circumstances to cure any violation of the provisions of this Restriction. The notice referred to in clause (b) shall include a clear description of the course and approximate cost of the proposed cure.

**17. Enforcement.** Upon violation by the Grantor of any of the provisions of this Restriction that remains uncured for more than thirty (30) days after notice thereof from any Holder (or for such longer period not to exceed thirty (30) days as shall be reasonably required under the circumstances to cure such violation, provided that the Grantor has commenced the cure of such violation within the initial thirty (30) day period and is thereafter diligently pursuing the cure to completion), any Holder, at its option (without liability to any party for failure to do so), may apply to any court, state or federal, for specific performance of this Restriction or an injunction against any violation of this Restriction, or for such other relief as may be appropriate, since the injury arising from the default under any of the terms of this Restriction would be irreparable and the amount of damage would be difficult to ascertain and may not be compensable by money alone. In each such default notice, the Holder giving such notice shall specify the violation in question and the actions such Holder believes are necessary and feasible to remedy such violation. No waiver by a Holder of any breach of this Restriction shall be deemed a waiver of such breach by any other Holder or a waiver of any other or subsequent breach. No act or omission by any Holder, other than a writing signed by it waiving a breach by the Grantor in accordance with the next Section hereof, shall constitute a waiver thereof. Any Holder shall be entitled to recover from the Grantor all of such Holder's reasonable costs of an action for enforcement of this Restriction, including reasonable attorneys' fees (including the time of any in-house counsel of a Holder charged at the same rate as comparable outside attorneys). By its acceptance of this Restriction, no Holder undertakes any liability or obligation relating to the condition of the Property. Without limiting any other rights or remedies available to a Holder, any transfer of all or any other portion of the Property in violation of the provisions hereof, in the absence of a certification from all Holders approving, or waiving any restrictions with respect to, the same, all as set forth above, shall, to the maximum extent permitted by law, be voidable by any Holder, by suit in equity to enforce the restrictions hereof.

**18. Compliance Certification.** Upon written request therefor, a Holder shall provide a statement in form acceptable for recording certifying that the Grantor is in full compliance with the provisions hereof as relate to that Holder, provided such Holder believes that the Grantor is so in compliance. Upon receipt of a written request therefor, if a Holder shall believe that the Grantor is not so in compliance, such Holder shall provide such a recordable certification specifying in detail the section or sections hereof with which such Holder believes the Grantor not to be in compliance. Any third party dealing with the Grantor may rely for all purposes on the truth and completeness of such a certification of a Holder.



**AFFORDABLE HOUSING RESTRICTION****19. Senior Lender Foreclosure.**

- A.** Notwithstanding anything herein to the contrary, but subject to the provisions of this Section, if the holder of record of a first mortgage granted to a state or national bank, state or federal savings and loan association, cooperative bank, mortgage company, trust company, insurance company or other institutional or governmental lender shall acquire the Property by reason of foreclosure or similar remedial action under the provisions of such mortgage or upon conveyance of the Property in lieu of foreclosure, and provided that the holder of such mortgage has given the Holders not less than sixty (60) days' prior written notice of its intention to foreclose upon its mortgage or to accept a conveyance of the Property in lieu of foreclosure to attempt to structure a workout or other arrangement to avoid such foreclosure, conveyance in lieu of foreclosure, or similar remedial action, then except as provided below, the rights and restrictions herein contained shall not apply to such mortgage holder upon such acquisition of the Property or to any purchaser of the Property from such mortgage holder, and such Property shall, subject to Paragraph B. below, thereafter be free from all such rights and restrictions. Notwithstanding the foregoing, the rights and restrictions contained herein shall terminate only to the extent it is financially infeasible to maintain the level of affordability required by this Restriction or some lesser level of affordability (i.e., fewer Restricted Units or Restricted Units affordable to Families with higher Household Incomes than those required by this Restriction). "Financially infeasible" shall mean (i) with respect to the operation of the Property, that the rent and other income from the Property is, or is reasonably projected to be, less than the reasonable expenses required (or reasonably projected to be required) to maintain and operate the Property and (ii) with respect to a sale of the Property, that the restrictions would prevent (or be reasonably projected to prevent) the senior mortgage holder from recovering all amounts due and owing with respect to its financing of the Property, including without limitation, principal, interest, charges, costs, expenses, late fees and prepayment premiums. Financial infeasibility shall be determined by the senior mortgage holder in its sole discretion after consultation with the Holders. The senior mortgage holder shall notify the Holders of the extent to which the rights and restrictions contained herein shall be terminated and the Grantor agrees to execute any documents required to modify this Restriction to conform to the senior mortgage holder's determination. The Grantor hereby irrevocably appoints any senior mortgage holder and each of the Holders, its true and lawful attorney-in-fact, with full power of substitution, to execute, acknowledge and deliver any such documents on behalf of the Grantor should the Grantor fail or refuse to do so.
- B.** The rights and restrictions contained herein shall not lapse if the Property is acquired through foreclosure or deed in lieu of foreclosure by (i) the Grantor, (ii) any person with a direct or indirect financial interest in the Grantor, (iii) any person related to a person described in clause (ii) by blood, adoption or marriage, (iv) any person who is or at any time was a business associate of a person described in clause (ii), and (v) any entity in which any of the foregoing have a direct or indirect financial interest (each a "Related Party"). Furthermore, if the Property is subsequently acquired by a Related Party during

**AFFORDABLE HOUSING RESTRICTION**

the period in which this Restriction would have remained in effect but for the provisions of this Section, this Restriction shall be revived and shall apply to the Property as though it had never lapsed.

- C. In the event such mortgage holder conducts a foreclosure or other proceeding enforcing its rights under such mortgage and the Property is sold for a price in excess of the sum of the outstanding principal balances of all notes secured by mortgages of the Property plus all future advances, accrued interest and all reasonable costs and expenses which the holders thereof are entitled to recover pursuant to the terms of such mortgages, such excess shall be paid to the Holders in consideration of the loss of the value and benefit of the rights and restrictions herein contained and released by the Holders pursuant to this Section in connection with such proceeding, provided that in the event that such excess shall be so paid to the Holders by such mortgage holder, the Holders shall thereafter indemnify such mortgage holder against loss or damage to such mortgage holder resulting from any claim made by the mortgagor of such mortgage to the extent that such claim is based upon payment of such excess by such mortgage holder to the Holders in accordance herewith, provided that such mortgage holder shall give the prompt notice of any such claim and shall not object to intervention by the Holders in any proceeding relating thereto. The Holders shall share any such excess pro rata in proportion to the respective amounts of principal and interest (if any) then outstanding on their portions of the Loan and the liability of a Holder under the foregoing indemnity shall be limited to the amount of such excess received by it. To the extent the Grantor possesses any interest in any amount which would otherwise be payable to the Holders under this Paragraph, to the full extent permissible by law, the Grantor hereby assigns its interest in such amount to said mortgage holder for payment to the Holders.

**20. Notices.** Any notice, request or other communication which any party hereto may be required or may desire to give hereunder shall be made in writing, and shall be deemed to have been properly given if hand delivered, if sent by recognized national overnight courier, receipt confirmed, or if mailed by United States registered or certified mail, postage prepaid, return receipt requested, addressed, in the case of the Grantor, to the Grantor's address set forth above and, in the case of one or more Holders, to the address(es) of such Holder(s) as set forth above. Any party may change its notice address by furnishing in writing to all other parties hereto a notice of such new notice address. A notice sent by certified or registered mail shall be deemed given three days after mailing; a notice sent by overnight courier shall be deemed given one day after deposit with such courier; and a notice delivered by hand shall be deemed given upon receipt. The Holders shall use reasonable efforts to send courtesy copies of all notices sent to the Grantor to the Grantor's investor at the address set forth below, provided that any failure to send such a courtesy copy shall not affect the validity of any notice: NEF Assignment Corporation, 10 South Riverside Plaza, Suite 1700, Chicago, Illinois 60606, Attn: General Counsel.

**21. Successors and Assigns; No Third-Party Beneficiaries.** This Restriction shall be binding upon the Grantor and its successors and assigns, and shall burden the Property as specified herein. This Restriction shall also be binding upon the Holders, and shall inure to the benefit of their successors and assigns, provided that a Holder shall not voluntarily assign its rights

**AFFORDABLE HOUSING RESTRICTION**

hereunder unless (a) such Holder believes in good faith that it is no longer reasonably capable of performing its duties hereunder, and (b) such assignment shall be to a governmental body or an entity of a similar character and purposes to such Holder which is reasonably capable of performing such duties hereunder (except that DHCD's rights with respect to the Purchase Option and First Refusal Right are assignable, as set forth herein). Notwithstanding the delegation of authority by DHCD to CEDAC for CEDAC to act as a Holder hereunder, DHCD shall also be a Holder hereunder and may act at any time in its own name to pursue any rights and remedies of a Holder hereunder; provided that as to the Grantor or any third party, any recorded instrument granting any approval or consent or otherwise affecting the Property, which instrument is duly executed by either CEDAC or DHCD, shall be binding on the other for all purposes. Notwithstanding the delegation of authority by DHCD to the Administrator for the Administrator to act as a Holder hereunder, DHCD shall also be a Holder hereunder and may act at any time in its own name to pursue any rights and remedies of a Holder hereunder; provided that as to the Grantor or any third party, any recorded instrument granting any approval or consent or otherwise affecting the Property, which instrument is duly executed by either the Administrator or DHCD, shall be binding on the other for all purposes.

**22. Severability; Construction.** All rights, powers and remedies provided herein may be exercised only to the extent that exercise thereof does not violate any applicable law, and are intended to be limited to the extent necessary so that they will not render this Restriction invalid, unenforceable or not entitled to be recorded, registered or filed under applicable law. If any provision or part hereof shall be affected by such holding, the validity of other provisions of this Restriction and of the balance of any provision held to be invalid, illegal or unenforceable, in part only, shall in no way be affected thereby, and this Restriction shall be construed as if such invalid, illegal, or unenforceable provision or part hereof had not been contained herein. In the event of any actual or potential inconsistency between the terms of this Restriction and any of the Statutes and/or the Regulations, such terms shall be interpreted, to the extent reasonably possible, so as to reconcile any such inconsistencies. If such provisions cannot reasonably be reconciled, the provisions of the Statutes, the Regulations and this Restriction, in the foregoing order of priority, shall control.

**23. Governing Law.** This Restriction shall be governed by the laws of The Commonwealth of Massachusetts. Inasmuch as the restrictions contained herein have been imposed upon the Property in part to satisfy requirements of various governmental bodies referred to herein, including, without limitation, DHCD, the restrictions contained herein are intended to be construed as a restriction held by a governmental body with the benefit of Section 26 of Chapter 184 of the Massachusetts General Laws as existing as of the date hereof, such that the restrictions contained herein shall not be limited in duration by any rule or operation of law, but rather shall run for the full term thereof.

**24. Recording.** The Grantor, at its cost and expense, shall cause this Restriction and any amendment hereto to be duly recorded with the Registry of Deeds (and if necessary or appropriate, re-recorded), shall pay or cause to be paid all recording, filing, or other taxes, fees and charges and shall comply with all such statutes and regulations as may be required by law in

**AFFORDABLE HOUSING RESTRICTION**

order to establish, preserve and protect the ability of the Holders and their successors and assigns to enforce this Restriction.

**25. Further Assurances.** Each Holder is authorized to record or file any notices or instruments appropriate to assuring the enforceability of this Restriction; and the Grantor on behalf of itself and its successors and assigns appoints each Holder its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Grantor and its successors and assigns agrees to execute any such instruments upon request. The benefits of this Restriction shall be in gross and shall be assignable by any Holder. The Grantor and the Holders intend that the restrictions arising hereunder take effect upon the date hereof, and to the extent enforceability by any person ever depends upon the approval of governmental officials, such approval when given shall relate back to the date hereof regardless of the date of actual approval or the date of filing or recording of any instrument evidencing such approval.

**26. Counterparts.** This Restriction may be executed in several counterparts, each of which when executed and delivered shall be an original, but all of which together shall constitute one instrument. In making proof of this Restriction, it shall not be necessary to produce or account for more than one such counterpart executed by the party against whom enforcement of this Restriction is sought.

**27. Incorporation of Exhibits and Riders.** Any and all exhibits and riders attached hereto or otherwise referenced herein are hereby incorporated by reference, the same as if each were fully set forth herein.

**28. Amendment; Waiver.** This Restriction may not be amended, nor may any obligation hereunder be waived or released, without first obtaining the written consent of all Holders.

**29. Enhanced-Use Lease.** Notwithstanding any other terms of this agreement, the terms of this agreement are, in all respects, subject and subordinate to the terms and conditions of the Enhanced-Use Lease between the U.S. Department of Veterans Affairs (VA), as Ground Landlord, and the Grantor, as Ground Tenant, dated December 27, 2011, as amended and restated in its entirety by Amendment #1 to the Enhanced-Use Lease, dated as of March 27, 2015, and all rights and remedies contained therein.

No documentary stamps are required as this Restriction is not being purchased by the Holders.



**AFFORDABLE HOUSING RESTRICTION**

Executed under seal as of the date set forth above.

**BEDFORD PLACE LLC**

By: BEDFORD PLACE MANAGING MEMBER LLC,  
its Managing Member

By: Windover Veterans Supportive Housing II LLC,  
its Managing Member

By:   
Name: LEE R DELICKER  
Its: MANAGER

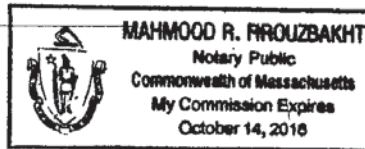
- EXHIBIT A Property Description
- EXHIBIT B Projected Initial Rent Schedule
- EXHIBIT C Initial Affordability Matrix
- EXHIBIT D Additional Definitions

**COMMONWEALTH OF MASSACHUSETTS**

Essex County, ss.

On this 2<sup>nd</sup> day of March, 2015, before me, the undersigned notary public, personally appeared Lee R. Dellicker, the Manager of Windover Veterans Supportive Housing II LLC, Managing Member of Bedford Place Managing Member LLC, proved to me through satisfactory evidence of identification, which was (a current driver's license) (a current U.S. passport) (my personal knowledge of the identity of the principal), to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily, in such capacity, for its stated purpose.

  
Notary Public  
My commission expires:



## EXHIBIT A

## PARCEL I:

A certain lease area on a parcel of land now or formerly of the United States of America (shown on a plan referenced herein below) situated in the Town of Bedford, Middlesex County, Commonwealth of Massachusetts, bounded and described as follows:

Beginning at a point, said point being a concrete bound with drill hole, located at the northerly corner of land now or formerly of the United States of America located at 200 Springs Street, Bedford, MA. Thence S 88°57'02" E, seven hundred ninety four and four hundredths (794.04') feet by land now or formerly of The Town of Bedford. Thence by a tie line S 01°02'58" W, two hundred eighty six and twenty hundredths (286.20') feet, to the True Point of Beginning; thence

S 78°53'52" E a distance of one hundred fifty-nine and no hundredths (159.00') feet, thence

S 00°58'18" E a distance of two hundred forty-seven and twenty-six hundredths (247.26') feet, thence;

S 29°14'27" E a distance of two hundred thirty-two and fifty-five hundredths (232.55') feet, thence;

S 18°22'21" E a distance of sixty and eighteen hundredths (60.18') feet, thence;

S 00°00'00" E a distance of thirty-nine and seventy-two hundredths (39.72') feet, thence;

S 33°18'53" W a distance of thirty-two and fifty-four hundredths (32.54') feet, thence;

S 52°06'42" W a distance of seventy-four and twenty-three hundredths (74.23') feet, thence;

S 75°43'48" W a distance of fifty two and no hundredths (52.00') feet, thence;

N 88°2'6'38" W a distance of two hundred thirteen and no hundredths (213.00') feet, thence;

N 77°46'08" W a distance of one hundred eleven and no hundredths (111.00') feet, thence;

N 68°32'19" W a distance of sixty six and no hundredths (66.00') feet, thence;

N 12°33 '13" E a distance of four hundred twenty-eight and fifty hundredths (428.50') feet, thence;

N 25°44'55" E a distance of one hundred seventy and fifty hundredths (170.50') feet, thence;

N 52°39'53" E a distance of sixty-two and fifty hundredths (62.50') feet to the True Point of Beginning. The following thirteen courses being on land now or formerly of the United States of America. Said parcel is shown on a plan entitled "Plan of Land in Bedford, MA for: U.S.

Veterans Administration," dated January 28, 1976 and prepared by Joseph W. Moore Co. (A Division of Boston Survey Consultants, Inc.).

The above Lease contains an area of 5.20 Acres (226,700 square feet, more or less), and is more particularly shown as "EUL Lease Area" on a plan entitled "Enhanced Use Lease, Bedford VAMC – 200 Springs Road, Bedford, MA" dated March 19, 2015, prepared by Horsley Witten Group, recorded with the Middlesex South Registry of Deeds as Plan No. 225 of 2015.

PARCEL II:

Together with the right to use Springs Road, Avenue C, Avenue E, Avenue T and Parking Lots 1 and 2, beyond the development site, all as shown on the plan titled "Access Plan, Bedford Green, 200 Springs Road, Bedford, MA," dated December 30, 2014 by Horsley Witten Group, for general vehicular ingress and egress, and the sidewalks across the VAMC for pedestrian ingress and egress to and from the Property, as recited in Amendment #1 to the Enhanced-Use Lease by and between Bedford Place LLC, as Lessee, and the United States of America, acting by and through the Secretary of Veterans Affairs, as Lessor, a Memorandum of which is dated March    , 2015, recorded herewith.



**AFFORDABLE HOUSING RESTRICTION**

**EXHIBIT B : PROJECTED INITIAL RENT SCHEDULE**

(Rents assume that the Grantor pays all utilities. An allowance for any utilities paid by tenants must be deducted from these rents. Utility allowances are available from the local housing authority.)

UNIT TYPE	INCOME LEVEL				
	EXTREMELY LOW INCOME	VERY LOW INCOME	LOW INCOME	MODERATE INCOME	HIGH MODERATE INCOME
SRO	\$371.00	\$617.00	\$741.00	\$889.00	\$1,359.00
STUDIOS	\$495.00	\$823.00	\$988.00	\$1,186.00	\$1,812.00
1-BR	\$530.00	\$882.00	\$1,059.00	\$1,270.00	\$1,941.00
2-BR	\$636.00	\$1,058.00	\$1,270.00	\$1,525.00	\$2,329.00
3-BR	\$735.00	\$1,223.00	\$1,468.00	\$1,761.00	\$2,692.00
4-BR	\$820.00	\$1,365.00	\$1,638.00	\$1,965.00	\$3,003.00





**AFFORDABLE HOUSING RESTRICTION**

**EXHIBIT C: INITIAL AFFORDABILITY MATRIX**

NUMBER/SIZE OF UNITS REQUIRED BY	TERM	INCOME CATEGORY					EXTREMELY LOW INCOME (30% AMI)
		HIGH MODERATE INCOME (110% AMI)	MODERATE INCOME (80% AMI)	LOW INCOME (60% AMI)	VERY LOW INCOME (50% AMI)		
HIF	30 years*	___ SRO	___ SRO	___ SRO	___ SRO	___ SRO	___ SRO
		___ Studio	___ Studio	___ Studio	___ Studio	___ Studio	___ Studio
		___ 1-BR	___ 1-BR	___ 51 1-BR	___ 1-BR	___ 18 1-BR	___ 18 1-BR
		___ 2-BR	___ 2-BR	___ 2-BR	___ 2-BR	___ 2-BR	___ 2-BR
HPSTF	30 years*	___ 3-BR	___ 3-BR	___ 3-BR	___ 3-BR	___ 3-BR	___ 3-BR
		___ 4-BR	___ 4-BR	___ 4-BR	___ 4-BR	___ 4-BR	___ 4-BR
		___ SRO	___ SRO	___ SRO	___ SRO	___ SRO	___ SRO
		___ Studio	___ Studio	___ Studio	___ Studio	___ Studio	___ Studio
AHT	30 years*	___ 1-BR	___ 1-BR	___ 51 1-BR	___ 1-BR	___ 18 1-BR	___ 18 1-BR
		___ 2-BR	___ 2-BR	___ 2-BR	___ 2-BR	___ 2-BR	___ 2-BR
		___ 3-BR	___ 3-BR	___ 3-BR	___ 3-BR	___ 3-BR	___ 3-BR
		___ 4-BR	___ 4-BR	___ 4-BR	___ 4-BR	___ 4-BR	___ 4-BR
COMPOSITE		___ SRO	___ SRO	___ SRO	___ SRO	___ SRO	___ SRO
		___ STUDIO	___ STUDIO	___ STUDIO	___ STUDIO	___ STUDIO	___ STUDIO
		___ 1-BR	___ 1-BR	___ 51 1-BR	___ 1-BR	___ 18 1-BR	___ 18 1-BR
		___ 2-BR	___ 2-BR	___ 2-BR	___ 2-BR	___ 2-BR	___ 2-BR
		___ 3-BR	___ 3-BR	___ 3-BR	___ 3-BR	___ 3-BR	
		___ 4-BR	___ 4-BR	___ 4-BR	___ 4-BR	___ 4-BR	

**AFFORDABLE HOUSING RESTRICTION**

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**EXHIBIT D: ADDITIONAL DEFINITIONS**

Following are additional definitions used in this Affordable Housing Restriction:

"AHT Guidelines" shall mean the guidelines issued by DHCD regarding the AHT Program, as the same may be amended, supplemented, replaced or otherwise modified from time to time.

"AHT Program" shall mean the Affordable Housing Trust Fund loan program established under the AHT Statute under which AHT makes loans available to sponsors of affordable housing for Low Income and Extremely Low Income Families.

"AHT Statute" shall mean the Massachusetts Affordable Trust Fund Statute, M.G.L. c.121D.

"Alternative Form of Housing" shall mean housing that involves an unusual or specialized level of management or social services, an innovative financing or ownership structure or other innovative features, including, without limitation, any of the various types of housing defined and described in 760 CMR 23.02 of the HIF Regulations (as defined below) or as otherwise described in the HIF Statute.

"Area" shall mean Boston-Cambridge-Quincy, MA-NH HMFA.

"Bedroom Adjusted AMI" applicable to a Unit shall mean the median income for the Area, with adjustments for the number of bedrooms in such Unit, as determined from time to time by HUD pursuant to Section 8 of the United States Housing Act of 1937, as amended. For purposes of adjustments for the number of bedrooms in a Unit, a Unit that does not have a separate bedroom is assumed to be occupied by one individual and a Unit with one or more separate bedrooms is deemed assumed to be occupied by 1.5 individuals for each bedroom (with the total number of individuals rounded up).

"Extremely Low Income Family" shall mean a Family whose Household Income is less than or equal to thirty percent (30%) of the Family-size Adjusted AMI.

"Fair Market Rent" shall mean the fair market rent in the Area for a comparably-sized dwelling as established by HUD under regulations promulgated at 24 C.F.R. §888.11 (or successor regulations), minus a monthly allowance established by the Holders for any utilities and services (excluding telephone) to be paid by the occupying Family.

"Family" shall have the meaning set forth in 24 C.F.R. §5.403 (or any successor regulation). Notwithstanding the foregoing, a household comprised of a full-time student or students shall not qualify as a Family except as permitted under the federal low-income housing tax credit program pursuant to Section 42(i)(3)(D) of the Internal Revenue Code of 1986, as amended.

"Family-size Adjusted AMI" shall mean the median income for the Area, adjusted for family size, as determined from time to time by HUD pursuant to Section 8 of the United States Housing Act of 1937, as amended.

"Grantor" shall mean the Grantor named on the first page hereof or any successor or assign thereof permitted under Section 8 of this Restriction, including any party holding ownership interests in or with respect to the Property.

**AFFORDABLE HOUSING RESTRICTION**

"Guidelines" shall mean the HIF Guidelines and the AHT Guidelines.

"HIF Guidelines" shall mean the guidelines issued by DHCD regarding the HIF Program, as the same may be amended, supplemented, replaced or otherwise modified from time to time.

"HIF Program" shall mean the sixth phase of the Housing Innovations Fund loan program established under the HIF Statute for the purpose of facilitating the creation and retention of alternative forms of housing, under which DHCD contracts to make funds available through CEDAC and other financial intermediaries, for such financial intermediaries to loan to sponsors of Alternative Forms of Housing for Low Income Families, subject to and in accordance with the provisions of the HIF Statute.

"HIF Regulations" shall mean the regulations relating to the HIF Program promulgated by DHCD at 760 Code of Massachusetts Regulations, Section 23.00 et seq., as the same may be amended, supplemented, replaced or otherwise modified from time to time.

"HIF Statute" shall mean the Massachusetts Housing Innovations Trust Fund Statute, M.G.L. c. 121E, as affected by Chapter 129 of the Acts of 2013 (budget line item 7004-0046), as the same may be amended, supplemented, replaced or otherwise modified from time to time.

"High Moderate Income Family" shall mean a Family whose Household Income is less than or equal to one-hundred-ten percent (110%) of the Family-size Adjusted AMI.

"Holder" shall mean each of DHCD, AHT, HITF and HPSTF, or, as applicable, each successor or assign of the foregoing and "Holders" shall mean all of the foregoing parties, collectively.

"Household Income" shall mean a Family's adjusted annual income determined in the manner set forth in 24 C.F.R. §5.609 (or any successor regulations).

"HPSTF Program" shall mean the Housing Preservation and Stabilization Trust Fund loan program established under the HPSTF Statute, under which DHCD contracts to make funds available through CEDAC for lending to sponsors of affordable housing for Low Income and Extremely Low Income Families, subject to and in accordance with the provisions of the HPSTF Statute.

"HPSTF Statute" shall mean the Massachusetts Housing Preservation and Stabilization Trust Fund Statute, M.G.L. c. 121B, §60 as the same may be amended, supplemented, replaced or otherwise modified from time to time.

"HUD" shall mean the United States Department of Housing and Urban Development.

"Improvements" shall mean the building or buildings on the Property presently containing, or after completion of the planned construction to contain, the number of Units indicated on the first page hereof, and all other authorized buildings, structures and improvements located on the Property from time to time, all equipment and fixtures therein, and any authorized repair, improvement, reconstruction, restoration, renovation, or replacement of a capital nature thereto or otherwise on the Property.

"Loan" shall mean collectively, the loans for the Project being provided to the Grantor under the Programs.

**AFFORDABLE HOUSING RESTRICTION**

"Low Income Family" shall mean a Family whose Household Income is less than or equal to sixty percent (60%) of the Family-size Adjusted AMI.

"Moderate Income Family" shall mean a Family whose Household Income is less than or equal to eighty percent (80%) of the Family-size Adjusted AMI.

"Over-income Rent" shall mean, for a particular over-income Family, a monthly rent equal to the lesser of (x) the maximum amount payable by the Family under the laws of the municipality in which the Property is located or of The Commonwealth of Massachusetts, (y) one-twelfth of thirty percent (30%) of the Family's Household Income as recertified annually or (z) the comparable market rent for the Family's Unit, but in no event lower than the rent such Family was paying prior to becoming an over-income Family.

"Permitted Encumbrances" shall mean those encumbrances on the Property identified in the mortgage granted to the Holders of even or near date herewith.

"Permitted Uses" shall mean use of the Improvements for the number of rental Units indicated on the first page hereof comprising an Alternative Form of Housing, consistent with the HIF Statute, HIF Regulations and HIF Guidelines, including the number of Restricted Units indicated on the first page hereof. Such Permitted Uses shall include activities and/or services of a nature to benefit the Residents of the Restricted Units and/or to benefit the use of the Improvements as an Alternative Form of Housing.

"Programs" shall mean the HIF Program and the AHT Program.

"Property" shall mean that certain parcel or parcels of land located at the Property Address indicated on the first page hereof and more particularly described in Exhibit A attached hereto, together with all Improvements thereon.

"Registry of Deeds" shall mean the Middlesex South Registry of Deeds.

"Regulations" shall mean the HIF Regulations.

"Residents" shall mean the lawful occupants of the Units.

"Restricted Unit" shall mean a Unit required by the terms hereof to be rented to a Low Income Family or an Extremely Low Income Family.

"SRO Unit" shall mean a single-room (zero bedroom) Unit intended for occupancy by a single eligible Resident and that may contain partial food preparation and/or sanitary facilities.

"Statutes" shall mean the HIF Statute and the AHT Statute.

"Studio Unit" shall mean a single-room (zero bedroom) Unit that contains a complete kitchen and bathroom.

"Unit" shall mean any residential unit located on the Property.

"Very Low Income Family" shall mean a Family whose Household Income is less than or equal to fifty percent (50%) of the Family-size Adjusted AMI.

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