WHEN RECORDED MAIL TO:

Department of Housing Stability
Attention: Catalytic Projects Team
201 W. Colfax Ave., Dept. 1101
Denver, CO 80202

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE

RENTAL AND OCCUPANCY COVENANT

THIS RENTAL AND OCCUPANCY COVENANT is made this ____ day of _____, 20____, by _____, a _____ ("Owner"), and enforceable by the City and County of Denver, Colorado ("City").

RECITALS:

WHEREAS, Owner owns the following described real property in the City and County of Denver, State of Colorado (the "Subject Property"):

[fill in]

WHEREAS, pursuant to the provisions of the Mandatory Affordable Housing Ordinance as set forth in Article X of Chapter 27 of the Denver Revised Municipal Code as amended from time to time (the "MAH Ordinance") and the Mandatory Affordable Housing Ordinance & Affordable Housing Permanent Funds Ordinance Administrative Rules and Regulations (the "Rules"), Owner shall provide that certain units within the Subject Property will be built as Income Restricted Units as defined in the Affordable Housing Plan (defined below), and this Covenant;

WHEREAS, in order to document compliance with the MAH Ordinance and a plan for construction of Income Restricted Units, the City approved the Affordable Housing Plan submitted by the Owner, dated _____ and recorded under Reception No. _____ in the real estate records of the City and County of Denver; and

WHEREAS, the MAH Ordinance and Rules require Owner to record a covenant that shall apply to the Subject Property and run with the land to ensure that certain rental and occupancy limitations, and administrative requirements for the Income Restricted Units are met and to assign to the City the right to enforce compliance with this Covenant.

NOW THEREFORE, the following are established as covenants running with the Subject Property:

1. **Definitions**

i. "Area Median Income" (AMI) means the area median income, adjusted for household size, for the Denver metropolitan area as determined by the U.S. Department of Housing and Urban Development.

ii. Income Restricted Units ("IRUs") means those _[# of units]___ rental housing units located within the Subject Property as are designated from time to time by Owner. IRUs must be restricted as to the rent charged and resident income allowed pursuant to the Covenant.

iii. "Compliance Report" means the annual reporting mechanism submitted to HOST, the form of which will be maintained on HOST's website or otherwise supplied by HOST, that Owner shall prepare and provide to the City pursuant to Section 5 of this Covenant.

iv. "Eligible Household" means a natural person who, at the time of entering into the lease for an IRU or a renewal of such lease, verifies to Owner on the Income Verification that the total gross income earned by such person is [XX]%, [YY]%, or [FILL IN AS NECESSARY]%) or less of the of AMI for the resident's household size.

v. "Income Verification" means the process by which a household has been determined to be eligible to occupy or purchase an IRU.

vi. "Initial Leasing Period" means the period commencing on the first date a certificate of occupancy is issued for any building within the Subject Property that contains IRUs and ending on the earlier of the date when all IRUs have been fully leased or six months after certificate of occupancy.

vii. "Resident Income Certification" (RIC) means a certification, the form of which will be maintained on HOST's website or otherwise supplied by HOST, regarding resident eligibility to live in the Affordable Unit; and any successor certification, as required by HOST from time to time.

2. **Rent Limitations**. The rent limitation for the IRUs are as follows:

i. (##) of the IRUs (the "XX% Units") will have rents not exceeding the amount posted on the website of the City and County of Denver's Department of Housing

Stability ("HOST"), or any successor agency which is assigned responsibility for the City's MAH Ordinance, for households earning [XX]% or less of AMI.

ii. (##) of the IRUs (the "YY% Units") will have rents not exceeding the amount posted on the website of HOST for households earning [YY]% or less of AMI.

iii. [REPEAT AS NECESSARY]

iv. The maximum allowable rents posted on HOST's website are based upon the AMI threshold published by the U.S. Department of Housing and Urban Development. Using these gross rental limits, HOST's maximum allowable net rents are calculated by subtracting the utility allowance published annually by the Colorado Department of Local Affairs (DOLA) and any other "non-optional" fees charged to residents.

3. **Occupancy/Income Limitations**. The occupancy and income limitations for the IRUs are as follows:

i. The XX% Units shall be occupied by Eligible Households whose incomes are at or below [XX]% of AMI.

ii. The YY% Units shall be occupied by Eligible Households whose incomes are at or below [YY]% of AMI.

iii. [REPEAT AS NECESSARY]

iv. Owner shall have responsibility to assure that a household or individual is an Eligible Household before executing a lease contract, and shall complete an Income Verification for each Eligible Household. Owner shall also offer the IRUs to Eligible Households through a fair and equitable system and use good-faith efforts to enter into leases with and market to Eligible Households.

4. **Amount of Income Restricted Units**. Owner shall provide no less than (__) IRUs on the Subject Property. All of the IRUs are floating and are designated as follows:

BEDROOMS	**XX% Units**	**XX% Units**	**XX% Units**	**XX% Units**	**XX% Units**	**XX% Units**

Studio						
1 Bedroom						
2 Bedroom						
3 Bedroom						
TOTAL						

5. **Compliance and Reporting.**

i. At the end of the Initial Leasing Period, Owner shall submit a Compliance Report, indicating how many IRUs were made available and leased during the Initial Leasing Period and a copy of a signed Resident Income Certification (RIC) for each Eligible Household that entered into a lease during the Initial Leasing Period.

ii. Owner shall demonstrate continued compliance with this Covenant after the Initial Leasing Period by submitting to the City a Compliance Report on an annual basis during the term of this Covenant. Reports are to be submitted within 30 days of HOST's request.

iii. The Income Verifications for each Eligible Household shall be maintained by Owner at the management office at the Subject Property or such other place where Owner's books and records are kept in the Denver metropolitan area for so long as the Eligible Household occupies an IRU. HOST reserves the right to request Income Verification documentation as needed to verify compliance.

iv. Upon reasonable notice and during the normal business hours maintained by Owner at the management office at the Subject Property or such other place where the requested books and records are kept in the Denver metropolitan area, Owner shall permit any duly authorized representative of the City to inspect any books or records of Owner pertaining to the project at the Subject Property containing IRUs which reasonably relate to Owner's compliance with the terms and conditions of this Covenant.

v. Owner acknowledges that the City may, upon reasonable notice and during the normal business hours maintained by the Owner, perform housing quality standard inspections as necessary to ensure IRUs are maintained at minimum quality standards in accordance with the Rules. These inspections may take place during the Initial Leasing Period as well as throughout the term of affordability.

vi. Owner acknowledges that the City may, at its election, hire a compliance agent, to monitor Owner's compliance with this Covenant. In such an event, Owner shall be authorized to rely upon any written representation made by the compliance agent on behalf of the City.

6. **Termination of Lease**. The form of lease to be used by Owner in renting any IRUs to Eligible Households shall also provide for termination of the lease and consent by such resident to immediate eviction if such resident subleases the IRU, attempts to sublease the IRU, or provides the IRU as a short-term rental as defined by Article III, Chapter 33 of the Denver Revised Municipal Code.

7. **Term**. This Covenant shall encumber the Subject Property for a period of ninety-nine (99) years from the date of recording hereof and shall not be amended or modified without the express written consent of the City and County of Denver.

8. **Run with the Land**. The Covenant shall run with the Subject Property and shall be binding on all persons having or acquiring an interest in title to the Subject Property, all upon terms, provisions, and conditions set forth in this Covenant.

9. **Seniority of Covenant**. The Covenant is senior to all instruments securing permanent financing.

10. **Survivability**. If any provision of this Covenant shall be held by a court of proper jurisdiction to be invalid, illegal or unenforceable, the remaining provisions shall survive and their validity, legality or enforceability shall not in any way be affected or impaired thereby.

11. **Enforcement**. This Covenant may be enforced by the City and County of Denver, or the Executive Director of HOST.

12. **Memorandum of Acceptance**. Upon any sale of the Subject Property, Owner shall require the grantee of the Subject Property to execute a Memorandum of Acceptance and shall deliver a copy of such Memorandum of Acceptance to the Executive Director of HOST not less than thirty (30) days after such sale is consummated.

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IN WITNESS WHEREOF, Owner has caused this Covenant to be executed on the date first written above.

OWNER: _____,

a _____ _____

By: _____

Name: _____

Title: _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of_____ _____, 20__, by _____ as _____ of _____, a _____ _____.

Witness my hand and official seal.
My commission expires:_____.

_____
Notary Public

ACCEPTANCE BY THE CITY AND COUNTY OF DENVER

The foregoing Rental and Occupancy Covenant, and its terms are hereby accepted by the City and County of Denver, Colorado.

CITY AND COUNTY OF DENVER, COLORADO

By:_____
Name:_____
Title:_____

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this _____ day of _____, 20___, by _____ as _____ of the City and County of Denver, Colorado.

Witness my hand and official seal.
My commission expires:_____.

_____
Notary Public