Subdivision or Development Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Also known as: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)

MONTGOMERY COUNTY, MARYLAND

DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

1401 Rockville Pike, 4th Floor, Rockville, Maryland 20852

**MODERATELY PRICED DWELLING UNITS**

**DECLARATION OF COVENANTS**

**FOR SALE SUBDIVISIONS**

**THIS DECLARATION OF COVENANTS**, made this day of , 20\_\_ , hereinafter set forth by , owner (hereinafter referred to as **Declarant**).

**NOW, THEREFORE**, Declarant hereby declares that all of the properties listed on Exhibit 1 attached hereto and hereinafter described as the Moderately Priced Dwelling Units (**MPDUs**) must be held, sold and conveyed subject to the following covenants, conditions, and restrictions:

**ARTICLE I**

Declarant is the owner of all of the MPDUs set forth and described in Exhibit 1, which MPDUs are the subject of this Declaration of Covenants (**Covenants**).

**ARTICLE II**

Except in a foreclosure proceeding, for a period of thirty (30) years beginning on the date of recordation of the deed from the Declarant to the initial purchaser of an MPDU, or such other period as established by law (the **Control Period**), each MPDU and the improvements thereon, and the improvements that may subsequently be made to the MPDU, must not be sold or the mortgage or deed of trust note secured by the MPDU refinanced for an amount in excess of the maximum sales price established in accordance with Chapter 25A of the Montgomery County Code, 2014, as amended, and all applicable Executive Regulations (**Chapter 25A** or **Code**). The resale price calculation for each MPDU will be made in accordance with Chapter 25A. If an MPDU is sold during the Control Period, the provisions contained in these Covenants will be effective for an additional thirty (30) years from the date of the recordation of the deed for the subsequent sale of an MPDU; further, the thirty (30) year Control Period will be renewed each and every time an MPDU is sold during the Control Period. Each MPDU offered for resale during the Control Period must first be offered to the Department of Housing and Community Affairs (**DHCA**) of Montgomery County, Maryland (the **County**) and to the County’s Housing Opportunities Commission (**Commission**) before it can be sold to a third party.

**ARTICLE III**

For the first sale of each MPDU after the expiration of the Control Period, the seller of the MPDU, as a condition of transferring good title, must make a payment to the Housing Initiative Fund in accordance with the provisions contained in Chapter 25A. After the required payment has been received by the County Department of Finance, the restrictions contained in these Covenants will be released. The Commission and other housing development agencies or non-profit corporations approved by the County Executive are exempt from the provision of this Article III of these Covenants.

**ARTICLE IV**

Owners of an MPDU must occupy the MPDU as their primary residence during the Control Period. Owners of an MPDU, except for the Commission and other housing development agencies or non-profit corporations approved by the County Executive, are not permitted to lease or rent their MPDU to other parties during the Control Period. This restriction may be waived by the County to allow a temporary rental of the MPDU for good and sufficient cause. The MPDU must be rented in accordance with regulations established by the County Executive and owners must receive prior written permission from the County to rent their MPDU temporarily.

**ARTICLE V**

Declarant, its heirs, successors, and assigns, hereby irrevocably assigns, transfers, and conveys unto the County all its right, title, interest, or obligation to enforce and maintain in full force and effect, the terms, conditions, and requirements of these Covenants.

**ARTICLE VI**

The Declarant or the County may enforce these Covenants by a proceeding at law or in equity against any person or persons violating or attempting to violate intentionally or otherwise, any covenant or restriction herein contained, either to restrain any violation hereof or to recover damages or monies, or to proceed against the MPDU that is the subject of the violation to enforce any lien or obligation created by or resulting from these Covenants. No remedy conferred upon or reserved to the County by these Covenants is intended to be exclusive of any other remedy or remedies available at law or in equity, but each and every such remedy is cumulative and is in addition to every other remedy given under these Covenants. No delay or omission by the County in exercising any right or power accruing upon any failure to perform under this Article will impair any such right or power or will be construed to be a waiver thereof.

**ARTICLE VII**

These Covenants are binding upon the MPDUs, upon the Declarant and the MPDU Owners, upon the Declarant’s and the MPDU owners’ heirs, successors, and assigns, and upon all transferees and transferors of the title to the MPDUs, during the Control Period and thereafter until all requirements of these Covenants have been met, herein, including the payment required to be made to the Housing Initiative Fund under Article III.

**ARTICLE VIII**

All deeds of conveyance transferring each MPDU, including the original deed of conveyance from the Declarant to each initial MPDU owner, and all subsequent deeds of conveyance out by the initial owner and all subsequent owners of the MPDU, must, during the Control Period, be a two-party deed that contains conspicuous language specifically reciting that the MPDU is subject to these Covenants and the requirements of Chapter 25A. The deed must also conspicuously reference the recording date of these Covenants among the land records of Montgomery County (**Land Records**), including the Book and Page reference, on the face of the deed. Notice must also be included in all contracts of sale for an MPDU fully and completely disclosing the rental and resale price restrictions and controls established herein. All subsequent owners of an MPDU must likewise provide such notice in contracts of sale.

**ARTICLE IX**

These Covenants cannot be terminated without the written consent of the County, except that as to an individual MPDU, these Covenants shall terminate upon (i) expiration of the Control Period and payment of the required amount to the Housing Initiative Fund as provided in Article III. After receiving the appropriate payment for the Housing Initiative Fund, a termination statement, executed by the County Executive of the County or their designee, will be recorded among the Land Records, with respect to the applicable MPDU. These covenants may also be terminated as part of a transfer pursuant to a foreclosure action (including a deed in lieu of foreclosure) as provided in Article X.

**ARTICLE X**

A mortgagee or other secured party who has initiated foreclosure proceedings on a debt secured by a mortgage or deed of trust on an MPDU must notify the Department of Housing and Community Affairs in writing at least thirty (30) days prior to the date of the foreclosure sale. If the MPDU is sold at a foreclosure (including by a deed in lieu of foreclosure) by the lender, the County shall cooperate with the lender and sign the necessary documentation to terminate these Covenants and record such termination among the Land Records. The County reserves the right to make a claim for payment to the County’s Housing Initiative Fund from any surplus proceeds resulting from such transfer, in accordance with Chapter 25A.

**ARTICLE XI**

If any default occurs and is continuing, the County may apply to any state or federal court having jurisdiction for specific performance of these Covenants, for an injunction against any violation of these Covenants, or for such other relief at law or in equity as may be appropriate and consistent with applicable requirements of these Covenants. No remedy conferred upon or reserved to the County by these Covenants is intended to be exclusive of any other remedy or remedies available at law or in equity, but each and every such remedy is cumulative and is in addition to every other remedy given under these Covenants. No delay or omission by the County in exercising any right or power accruing upon any failure to perform under this Article will impair any such right or power or will be construed to be a waiver thereof. If, upon or after the occurrence of any default hereunder, the County incurs expenses for the enforcement or performance or observance of any obligation or agreement on the part of others contained herein, the County must be reimbursed upon demand by the defaulting party or parties for reasonable expenses paid to third parties incurred to enforce these Covenants and Chapter 25A.

**ARTICLE XII**

In the event any provision of these Covenants shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of these Covenants.

**JURATS APPEAR ON FOLLOWING PAGE**

**IN WITNESS WHEREOF,** Declarant has caused these presents to be executed by (name) its (title), and does appoint \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name) its authorized agent to acknowledge and deliver these presents.

**DECLARANT:**

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

(Insert typed name of business entity)

BY: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**STATE OF** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **)**

**) ss:**

**COUNTY OF** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **)**

**I HEREBY CERTIFY** that on this day of , 20 , before me, a Notary Public in and for the aforesaid jurisdiction, personally appeared (name), \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(title) of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Declarant) and that he/she did acknowledge that he/she executed the foregoing instrument on behalf of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Declarant) for the purposes therein contained, and further acknowledged the foregoing instrument to be the act of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Declarant).

**IN WITNESS WHEREOF,** I have hereunto set my hand and official seal.

My Commission Expires: \_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**NOTARY PUBLIC**

**Exhibit 1**

**Property Description**

Subdivision or Development Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Also known as: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)

This property was acquired by on (date).

The Deed is recorded at Book Page .

The Record Plat is recorded in Plat Book \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ at Plat Number \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**LIST OF MPDUs**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Lot** | **Block** | **Street Address** | **Unit No.\*** | **Property Tax ID No.** |
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\*if applicable

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