[**NOTE**: for use by rental projects located OUTSIDE the Geographic Exclusion Area that are applying for benefits pursuant to RPTL 421-a (1) through (15). Please submit a completed DRAFT of this restrictive declaration together with your 421-a application submission for the 421-a staff’s review. Once the staff approves the DRAFT, you must execute and record against the Property before the Preliminary Certificate of Eligibility can be approved.]

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

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

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

**WHEREAS**, the Property contains one or more multiple dwellings receiving an exemption from real property taxation pursuant to Real Property Tax Law §421-a, Administrative Code §11-245, §11-245.1, and §11-245.1-b, and Chapter 6 of Title 28 of the Rules of the City of New York (collectively "§ 421-a") pursuant to § 421-a Application TEOXXXX; and

**WHEREAS**, Owner has agreed that \_\_\_\_\_\_\_\_\_ dwelling units, constituting twenty percent (20%) of the dwelling units in the Property, shall be rented to families of Low and Moderate Income as defined in Section 6-01(c) of Chapter 6 of Title 28 of the Rules of the City of New York ("Affordability Requirement"); and

**WHEREAS**, eligibility for exemption from real property taxation pursuant to §421-a is also conditioned upon the rental units subject to the Affordability Requirement ("AffordableUnits")being registered as rent stabilized units with the State of New York Division of Housing and Community Renewal or any successor agency or department thereto ("Rent Stabilization Requirement"); and

**WHEREAS**, to ensure compliance with the Affordability Requirement, the initial rents for the AffordableUnits as registered and subsequently adjusted by the Rent Stabilization Law of 1969 and the Emergency Tenant Protection Act of 1974 and all regulations promulgated in connection therewith (“Rent Stabilization Laws”) cannot exceed 30% of the applicable income limit for such units, minus the amount of any applicable utility allowance if the tenant makes utility payments in addition to rent payments.

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

1. The Property shall be subject to the Affordability Requirement for a period commencing upon the date of completion of construction, which shall be deemed to have occurred upon the issuance of the earlier of (a) the first temporary certificate of occupancy for all of the residential areas in the Property or (b)a permanent certificate of occupancy for the Property (“Completion Date”), and terminating on a date which is twenty-five (25) years from the date of completion of construction ("Term").

2. The Affordable Units shall be subject to the Rent Stabilization Requirement during the Term. Furthermore, no increase authorized pursuant to 28 R.C.N.Y. §6-04(b) and no exemption or exclusion from any requirement of the Rent Stabilization Laws, including, but not limited to, any exemption or exclusion from the rent limits, renewal lease requirements, registration requirements, or other provisions of the Rent Stabilization Laws due to (a) the vacancy of a unit where the rent exceeds a prescribed maximum amount, (b) the fact that tenant income and/or unit rent exceed prescribed maximum amounts, (c) the nature of the tenant, or (d) any other factor, may be applied to any Affordable Unit during the Term ("Deregulation Protection Requirement").

3. During the Term, the rents for each AffordableUnit shall be the lesser of (a) the rent permitted under the Rent Stabilization Laws, or (b) 30% of the applicable income limit for such AffordableUnit, minus the amount of any applicable utility allowance if the tenant makes utility payments in addition to rent payments (“Rent Cap”).

4. Tenants in occupancy of Affordable Units at the expiration of the Term shall continue to be subject to the Rent Stabilization Requirement and the Deregulation Protection Requirementfor the duration of their occupancy ("Continuation Requirement").

5. Unless preempted by federal requirements, (a) all Affordable Units must have a comparable number of bedrooms and a unit mix proportional to the market rate units contained in the Property, or (b) at least fifty percent (50%) of the Affordable Units must have two or more bedrooms and not more than fifty percent (50%) of the remaining Affordable Units can be smaller than one bedroom, or (C) the floor area of the Affordable Units must be no less than twenty percent of the total floor area of all dwelling units in the Property ("Unit Distribution Requirement").

6. The lease for each Affordable Unit and for the renewal thereof must contain a notice in at least twelve (12) point type stating the approximate date on which such twenty-five year period is expected to expire and informing such tenant that after such twenty-five year period, (a) the Affordable Unit will no longer have to comply with the Affordability Requirement and (b) if the tenant is holding a lease and in occupancy at the expiration of such twenty-five year period, such tenant shall have the right to remain as a rent stabilized tenant for the duration of such tenant's occupancy. The rent stabilization and lease rider requirements contained in 28 R.C.N.Y. §6-02(g) shall continue to apply to the multiple dwellings owned and operated as a rental containing such Affordable Units to the extent that they do not conflict with this paragraph ("Lease Rider Requirement").

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

8. The Affordability Requirement, Rent Stabilization Requirement, Deregulation Protection Requirement,Rent Cap, Continuation Requirement, Unit Distribution Requirement and Lease Rider Requirementset forth in this Restrictive Declaration shall run with the land, shall inure to the benefit of the City of New York, the State of New York, and all tenants of the Property, and shall bind and be enforceable against Owner and its successors and assigns to the fullest extent permitted by law and equity.

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

10. At any time prior to the Completion Date *[if subject to ground lease: and following termination of the Lease]*, the Owner may terminate this Restrictive Declaration by written notice to the City of New York Department of Housing Preservation and Development *[if subject to ground lease:(“HPD”)]*. *[if subject to ground lease: At any time prior to the Completion Date, the Applicant may terminate this Restrictive Declaration* *by written notice to HPD.]* The exemption from real property taxation pursuant to §421-a shall thereafter terminate, retroactive to the effective date of such exemption. After the Completion Date, Owner *[if subject to ground lease: and/or Applicant]* may not terminate this Restrictive Declaration.

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

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

STATE OF NEW YORK )

 ) SS:

COUNTY OF NEW YORK)

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

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

NOTARY PUBLIC

Record and Return to:

John Leonard, Executive Director

Tax Incentives Programs

Department of Housing Preservation and Development

100 Gold Street, Room 8-D09

New York, New York 10038