

After recording, please return to:
State of Connecticut
Department of Economic Community Development
Office of Housing Development and Finance
505 Hudson Street
Hartford, CT 06106

**DECLARATION OF LAND USE RESTRICTIVE COVENANTS -
HOMEOWNERSHIP HOUSING WITHOUT RENTALS**

THIS DECLARATION OF LAND USE RESTRICTIVE COVENANTS, (this "Declaration") is made as of _____ 200_ by _____ (the "Eligible Owner") and is given as a condition precedent to the award of Neighborhood Stabilization Program funds ("NSP") pursuant to Title I of the Housing and Community Development Act of 1974, as amended, 24 CFR Part 570 of the regulations of the United States Department of Housing and Urban Development, as the same may be amended from time to time, Title III of Division B of the Housing and Economic Recovery Act of 2008 (P.L. 110-289) as amended by the American Recovery and Reinvestment Act of 2009 (P.L. 111-5), and 73 FR 58330 (October 6, 2008), and 24 CFR Part 92 of the regulations of the United States Department of Housing and Urban Development (the HOME Investment Partnerships Program), as amended, (collectively, the "Authority"), by the State of Connecticut (the "State"), acting by its Commissioner of Economic and Community Development (the "Commissioner") to _____ [name of entity that received the NSP Funds] (the "Third Party").

WITNESSETH:

WHEREAS, the Eligible Owner has this day purchased from the Third Party an NSP-assisted single family residential property located in the [City/Town] of _____, Connecticut, more particularly described in **Schedule A** hereto, (the "NSP-Assisted Unit"); and

WHEREAS, the NSP-Assisted Unit is located in a development known as _____ and identified by the State as Project No. _____ (the "Development"); and

WHEREAS, the Third Party has received financial assistance from the State for the purpose of acquisition, rehabilitation, new construction or combination, of housing within the Development, pursuant to the provisions of the Authority; and

WHEREAS, the Eligible Owner recognizes and agrees that NSP Funds must be used in accordance with the provisions of the Authority, and that the Third Party/State is responsible for monitoring the proper use of such funds; and

WHEREAS, the Eligible Owner has represented to the Third Party the use restrictions which shall be maintained by the Eligible Owner with respect to the NSP-Assisted Unit, for the period of

time set forth in the agreement for financial assistance from the State to the Third Party [date] (the “Assistance Agreement”), knowing and understanding that the State is relying on such representations; and

WHEREAS, HUD requires as a condition precedent to the awarding of NSP Funds that the Eligible Owner execute, deliver and record this Declaration on the official land records of the municipality in which the NSP-Assisted Unit is located, in order to create certain covenants running with the land for the purpose of enforcing the requirements of Subpart F of 24 CFR Part 92 and the Use Restrictions found in Section 4 of this Declaration, and the Authority, by regulating and restricting the use, occupancy, and transfer of the NSP-Assisted Unit, as set forth herein; and

WHEREAS, the regulatory and restrictive covenants set forth herein governing the use, occupancy, operation and transfer of the NSP-Assisted Unit shall be and are covenants running with the land for a term, which, except as otherwise is expressly provided in Section 5 of this Declaration, shall terminate [number in words] [number] years after the date of the recordation of this Declaration, and are binding upon all subsequent owners of the NSP-Assisted Unit for such term, and are not merely personal covenants of the Eligible Owner; and

WHEREAS, the State, as a condition of its extension of financial assistance to the Third Party, requires that the Eligible Owner shall, by entrance into the terms, conditions and covenants set forth below, consent thereby to be regulated and restricted by the State as provided herein and by any applicable statutes and rules, regulations, policies and procedures of the State and HUD.

NOW THEREFORE, in consideration of the award of the NSP Funds by the State, the Eligible Owner agrees as follows:

Section 1 - Definitions

All the words and phrases used in this Declaration shall have the same meaning as when used in 24 CFR Part 92, the Authority, and other applicable HUD regulations unless the context requires otherwise.

Section 2 – Recording, Filing, Covenants Run With the Land

(a) Upon execution of this Declaration by the Eligible Owner, the Third Party shall cause this Declaration and all amendments hereto to be filed on the land records of the municipality in which the NSP-Assisted Unit is located, and shall pay all fees and charges incurred in connection therewith. Upon recording, the Third Party shall immediately transmit to the State a receipt of the same and shall cause the recorded Declaration to be returned by the municipality to the State.

(b) The Eligible Owner intends, declares, and covenants, on behalf of the Eligible Owner and all future owners of the NSP-Assisted Unit during the term of this Declaration, that this Declaration and the covenants and restrictions set forth in this Declaration regulating and restricting the use, occupancy and transfer of the NSP-Assisted Unit (1) shall be and are covenants running with the land, encumbering the NSP-Assisted Unit for the term of this Declaration, binding upon the

Eligible Owner's successors in title and all subsequent owners of the NSP-Assisted Unit; and (2) are not merely personal covenants of the Eligible Owner; and (3) shall bind the Eligible Owner (and the benefits shall inure to the State) and the Eligible Owner's heirs, successors and assigns during the term of this Declaration.

(c) The Eligible Owner hereby agrees that any and all requirements of the laws of the State of Connecticut to be satisfied in order for the provisions of this Declaration to constitute deed restrictions and covenants running with the land shall be deemed to be satisfied in full, and that any requirements or privileges of estate are intended to be satisfied, or in the alternate, that an equitable servitude has been created to insure that these restrictions run with the NSP-Assisted Unit.

(d) For the term of this Declaration, each and every contract, deed or other instrument hereafter executed conveying the NSP-Assisted Unit, shall expressly provide that such conveyance is subject to this Declaration; provided, however, the covenants contained herein shall survive and be effective regardless of whether such contract, deed, or other instrument hereafter executed, conveying the NSP-Assisted Unit, provides that such conveyance is subject to this Declaration.

(e) The Eligible Owner covenants to obtain the consent of any prior recorded lien holder on the NSP-Assisted Unit to this Declaration and shall furnish a copy of such consent to the State. Such consent(s) shall be furnished to the State on or before the date of this Declaration.

Section 3 - Representations, Covenants and Warranties of the Eligible Owner

The Eligible Owner hereby represents, covenants, and warrants as follows:

(a) The Eligible Owner has the full legal right, power and authority to execute and deliver this Declaration.

(b) The execution and performance of this Declaration by the Eligible Owner (1) will not violate or, as applicable, has not violated any provision of law, rule or regulation or any order of any court or other agency or governmental body; (2) will not violate or, as applicable, has not violated any provision of any indenture, agreement, mortgage, mortgage note or the instrument to which the Eligible Owner is a party or by which the Eligible Owner or the NSP-Assisted Unit is bound; and (3) will not result in the creation or imposition of any prohibited encumbrance of any nature.

(c) The Eligible Owner will, at the time of execution and delivery of this Declaration have good and marketable title to the NSP-Assisted Unit free and clear of any lien or encumbrance except for encumbrances created pursuant to this Declaration and encumbrances permitted by the Third Party at the time of its sale of the NSP-Assisted Unit to the Eligible Owner.

(d) The NSP-Assisted Unit constitutes or will constitute an NSP-Assisted Unit as defined by the Authority and other applicable regulations.

(e) The Eligible Owner has not and will not execute any other declaration with provisions contrary to, or in opposition to, the provisions hereof, and that in any event, the

requirements of this Declaration are paramount and controlling as to the rights and obligations herein set forth and supersede any other requirements in conflict herewith.

(f) As of the date of this Declaration, the NSP-Assisted Unit meets the Affordability Requirements set forth in Section 4(a), (b) and (c) below.

Section 4 – Occupancy and Use Restriction.

The Eligible Owner represents, warrants, covenants and agrees that throughout the term of this Declaration and in order to satisfy the requirements of 24 CFR 92 and the Authority, the NSP-Assisted Unit shall constitute affordable housing and shall meet the following requirements:

(a) Homeowner Residency Requirements. The NSP-Assisted Unit must be the principal residence of the Eligible Owner of such unit. The ownership of the property must be either fee simple title or a ninety-nine (99) year leasehold interest.

(b) Income Limits. The Eligible Owner's gross income can not exceed one hundred twenty percent (120%) of the area median income as determined by HUD. With respect to the purchase by such Eligible Owner of existing housing, such Eligible Owner's income shall be ascertained as of the date that such party acquires title to the NSP-Assisted Unit. With respect to the purchase by such Eligible Owner of housing to be constructed, such Eligible Owner's income shall be ascertained as of the effective date of the contract executed by said Eligible Owner to purchase said NSP-Assisted Unit.

(c) Maximum Property Value. The maximum property value of a foreclosed upon home or residential property must be established through an appraisal made in conformity with the appraisal requirements of the URA at 49 CFR 24.103 and completed within 60 days prior to an offer made for the property by the Third Party and/or Third Party.

(d) Sale Approval Requirement. No sale of any NSP-Assisted Unit shall take place unless and until:

(i) The seller of such NSP-Assisted Unit shall have sent written notification of such intended sale to the municipal contact information. Such notification shall set forth the intended sales price, the gross income of the intended buyer and verification of the fact that such NSP-Assisted Unit will be the principal residence of such intended buyer; and

(ii) After receipt and review of such information, the authorized municipal agent or his/her designee, in the exercise of reasonable discretion, has approved such sale. Such approval shall be made by written instrument, in recordable form, sent to the intended seller.

Section 5 - Term of Declaration

(a) This Declaration, and the term of restricted use specified herein (the “**Affordability Period**”) apply to the NSP-Assisted Unit immediately upon recordation of this Declaration and the Eligible Owner shall comply with the restrictive covenants herein not later than the first day on which the NSP-Assisted Unit is first occupied. This Declaration shall terminate [number in words] (number) years after the date of its recording. Notwithstanding this stated term limit, the duration of this Declaration also shall extend for [number in words] (number) years following the date that the NSP-Assisted Unit is certified for occupancy. The Eligible Owner shall cooperate with the Third Party/Commissioner in executing and filing any documents necessary to effectuate such an extension.

(b) Pursuant to 24 CFR, Part 92.252, as amended, and the Authority, this Declaration and the term of affordability shall remain in effect for not less than the Affordability Period described in section 5 (a) above without regard to the term of any mortgage or other underlying security and without regard to any transfer of ownership.

Section 6 - Enforcement of Restrictions

(a) The Eligible Owner shall submit any other information, documents, or certifications requested by the Third Party or the State which the Third Party or the Third Party/State shall deem reasonably necessary to substantiate the Eligible Owner’s continuing compliance with the provisions of the restrictions specified in this Declaration.

(b) The Eligible Owner hereby agrees that the representations and covenants set forth herein may be relied upon by the Third Party/State and all persons interested in compliance under 24 CFR Part 92 and other applicable regulations of the Authority.

(c) The Eligible Owner covenants that the Eligible Owner will not knowingly take or permit any action that would result in a violation of the requirements of 24 CFR Part 92, the Authority, and other applicable regulations of this Declaration. Moreover, the Eligible Owner covenants to take any lawful action (including amendment of this Declaration as may be necessary, in the opinion of the Third Party/State) to comply fully with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed and published by HUD from time to time pertaining to the Eligible Owner’s obligations under 24 CFR Part 92 and the Authority.

(d) The Eligible Owner acknowledges that the primary purpose for requiring compliance by the Eligible Owner with the restrictions provided in this Declaration is to assure compliance of the Development and the Eligible Owner with 24 CFR Part 92, the Authority, and other applicable regulations, and by reason thereof, in consideration of NSP Funds provided by the State to the Third Party, hereby agrees and consents that the State or the Third Party or each of them, shall be entitled, for any breach of the provisions hereon, and in addition to all other remedies provided by law or in equity, to enforce specific performance by the Eligible Owner of its obligations under this Declaration in a court of competent jurisdiction. The Eligible Owner hereby further specifically

acknowledges that the beneficiaries of the Eligible Owner's obligations hereunder cannot be adequately compensated by monetary damages in the event of any default hereunder.

(e) The Eligible Owner agrees to take any and all actions reasonably required by the State to substantiate the Eligible Owner's compliance with the occupancy restrictions of 24 CFR Part 92 and the Authority as now constituted or subsequently amended.

(f) This Declaration shall be deemed a contract enforceable by the State, the Third Party, or both. In the event the Eligible Owner fails to satisfy the requirements of this Declaration and legal costs are incurred by the State or the Third Party, such legal costs, including attorney fees and court costs (including costs of appeal), are the responsibility of, and may be recovered from the Eligible Owner.

Section 7 – Record Keeping

This Declaration and the Third Party's contract for financial assistance of which it is a part may be enforced by the Third Party, the State or its designee, in the event the Eligible Owner fails to satisfy any of the requirements herein.

Section 8 - Miscellaneous

(a) **Severability.** The invalidity of any clause, part, or provision of this Declaration shall not affect the validity of the remaining portions thereof.

(b) **Notices.** All notices to be given pursuant to this Declaration shall be in writing and shall be deemed given when mailed by certified or registered mail, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate in writing. The State, the Third Party, and the Eligible Owner, may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

If to State:

Department of Economic and Community Development
505 Hudson Street
Hartford, Connecticut 06106-7106
Attn: Commissioner

With a copy to:

Assistant Attorney General - Housing
55 Elm Street
Hartford, Connecticut 06106

If to Eligible Owner:
.. [Address]

With a copy to: [Address]

If to Third Party:
[Address]

With a copy to: [Address]

or to such other address or person as shall be designated from time to time by notice.

(c) **Amendment.** The Eligible Owner agrees to take all actions necessary to effect amendment of this Declaration as may be necessary to comply with 24 CFR Part 92, the Authority, and any and all applicable rules, regulations, policies, procedures, rulings, or other official statements pertaining to the NSP assistance. The State and the Third Party, together with the Eligible Owner, may execute and record any amendment or modification to this Declaration and such amendment or modification shall be binding on third-parties granted rights under this Declaration.

(d) **Governing Law.** This Declaration shall be governed by the laws of the State of Connecticut and, where applicable, the laws of the United States of America.

Signature Page Follows

SCHEDULE A

Legal Description of NSP-Assisted Unit(s)