

RECORDING REQUESTED BY AND

WHEN RECORDED MAIL TO:

Fidela Garcia, City Clerk
City of Carpinteria
5775 Carpinteria
Carpinteria, CA 93013

A.P.N.: _____

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Address: _____ Carpinteria, CA

No Fee per Govt. Code Sec. 6103

GRANT OF PREEMPTIVE RIGHT:
RESALE RESTRICTION COVENANT AND OPTION TO PURCHASE
SECURED BY PERFORMANCE DEED OF TRUST

THIS GRANT OF PREEMPTIVE RIGHT, RESALE RESTRICTION COVENANT AND OPTION TO PURCHASE ("***Covenant***") is dated as of this _____ day of _____, 20____, by and between _____, ("***Purchaser***"); WARMINGTON CARPINTERIA ASSOCIATES, LLC ("***Seller***") and the City of Carpinteria, a body politic, ("***City***").

This Covenant applies to the real property commonly known as Unit _____, Carpinteria, California, which is more fully described in Exhibit "A" attached hereto and incorporated herein by this reference ("***Property***"). This Covenant rescinds and supersedes the previous affordability control document on the Property, which was titled "Interim Affordability Control Covenant" dated _____, 20____, and was recorded as Document No. _____, on _____, 20____.

RECITALS

WHEREAS, the City approved that certain development of the Property; and

WHEREAS, Seller and Purchaser have benefited from the City's approval of said development and as a result Purchaser has the opportunity to purchase the Property at a price substantially below fair market value; and

WHEREAS, the intent of the City in approving development of the Property is to preserve the affordability of the Property for persons with incomes within a specified range; and

WHEREAS, subsequent purchasers will benefit from the limitation on the purchase price of the Property, which this Covenant requires; and

WHEREAS, the intent of Seller and City is to preserve through this Covenant the affordability of the Property for persons with incomes between 121% and 200% of the Area Median Income, and to assign to the City the right to enforce compliance with this Covenant.

NOW, THEREFORE, in consideration of the benefits received by the Parties, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. INCORPORATION OF RECITALS. The above recitals are hereby incorporated herein as if fully set forth at this point.

2. DEFINITIONS.

Affordability Term. The term set forth in this Covenant during which the Property shall be subject to all provisions of this Covenant.

City. The City of Carpinteria or any subsequent successors, designees, or assigns.

Encumber. The execution or recordation of any mortgage, deed of trust, or other instrument intended to secure an obligation or indebtedness, whether purchase money debt or refinanced debt.

Institutional Lender. Any bank or savings and loan association that is licensed to engage in the business of providing purchase money mortgage financing for residential real property.

Owner. The Purchaser and any subsequent owner, whether an occupant owner or non-occupant title holder, devisee, heir, transferee, assign, grantee, executor, successor-in-interest, or any other holder of title of the Property or any portion thereof.

Transfer. Any sale, assignment, or transfer, either voluntary or involuntary, or by operation of law, whether by deed, contract of sale, gift, devise, bequest, trustee's sale, deed in lieu of foreclosure, or otherwise, of any interest in the Property, including but not limited to, a fee simple interest, joint tenancy, life estate, leasehold, or an interest evidenced by a land contract by which possession of the Property is transferred and Owner retains title.

3. TERM AND ENFORCEABILITY.

A. Affordability Term. This Covenant shall bind and the benefit hereof shall inure to the Owner, his or her heirs, legal representatives, executors, successors in interest and assigns, and to the City, for thirty (30) years from the date first appearing on this Covenant ("**Affordability Term**"). If an Owner occupies the Property for the full Affordability Term in compliance with this Covenant, this Covenant shall expire and the Owner may sell the Property to any buyer for any price without regard to this Covenant. However, if the Owner sells or transfers the Property during the term of this Covenant, the new owner shall execute and record a new covenant that begins a new thirty (30) year period of price and occupancy restrictions. This

requirement will continue for each new owner of the Property, but in no event shall the period of controls exceed ninety (90) years from the date first appearing on this Covenant.

B. Covenants Running With the Land; Equitable Servitude. The Property is held and hereafter shall be held, conveyed, hypothecated, encumbered, leased, rented, used, and occupied subject to these covenants, conditions, restrictions and limitations. All of the herein-stated covenants, conditions, restrictions and limitations are intended to constitute both equitable servitudes and covenants running with the land pursuant to California Civil Code § 1468.

C. Binding Effect. Any Owner of the Property or of any portion of or interest in the Property, by the acceptance of a deed therefore, whether from Owner or from any subsequent owner of the Property, or by the signing of a contract or agreement to purchase the same, shall, by the acceptance of such deed or by the signing of such contract or agreement be deemed to have consented to and accepted the covenants, conditions, restrictions and limitations set forth herein.

D. Enforceability. In order to preserve through this Covenant the affordability of the Property for persons with incomes within a specified range, the Owner hereby grants and assigns to the City the right to review and enforce compliance with this Covenant, and in furtherance of this right, grants to the City an Assignment of Rents, described in Section 14 of this Covenant, and an Option to Purchase the Property, described under Sections 4 and 10 of this Covenant, and assigns to the City any proceeds payable to the Owner from a sale, transfer, foreclosure or deed in lieu of foreclosure in excess of the Maximum Sales Price, as described in Section 13B of this Covenant. In addition, this Covenant is secured by that certain Performance Deed of Trust of even date herewith made by Owner, as Trustor, for the benefit of City, as beneficiary ("**Performance Deed of Trust**").

4. SUBORDINATION; DEFAULT UNDER DEED OF TRUST; NOTICE TO CITY.

A. Subordination to Institutional First Deed of Trust. This Covenant shall be subject and subordinate to the lien of the first deed of trust which secures a loan made by an Institutional Lender (hereinafter "Institutional First Deed of Trust"), subject to the following conditions and limitations:

1. The amount of the Institutional First Deed of Trust shall not exceed the City approved purchase price paid by Owner, less the approximate balance of City financing (if any) as of the date first appearing on this Covenant. The subordination of this Covenant pursuant to this Section 4 shall not apply to any Institutional First Deed of Trust that exceeds such amount, absent specific written approval from the City Community Development Director.

2. In the event of default under any deed of trust, including the Institutional First Deed of Trust and Performance Deed of Trust, the City shall have the same right as the Owner to cure the default and redeem the Property prior to foreclosure sale. Such redemption shall be subject to the same fees, charges and penalties which would otherwise be assessed against the Owner. Nothing herein shall be construed as creating an obligation on the part of

the City to cure any such default nor shall this right to cure and redeem operate to extend any time limitations in the default provisions of the underlying deed of trust or mortgage.

3. Any default under a deed of trust, including the Institutional First Deed of Trust and Performance Deed of Trust, shall trigger the City's right to exercise its option to purchase the Property, as described more fully in Section 14 below, and the City may exercise its option to purchase the Property pursuant to such provisions. The holder of the Institutional First Deed of Trust shall be under no obligation to provide notice of default to the City other than as required pursuant to a duly filed request for notice of default under Section 2924(b) of the California Civil Code. In the event the City elects in its sole discretion to exercise such option to purchase subsequent to a default on the Institutional First Deed of Trust, and notwithstanding any language contained herein to the contrary with regard to the rights of the City, the City must complete such purchase no later than the end of the period established by Section 2924(c) of the California Civil Code for the reinstatement of a monetary default under the deed of trust.

4. Notwithstanding the foregoing, the Institutional First Deed of Trust shall not in any way defeat, invalidate or impair the obligation or priority of the conditions of approval applicable to the Property (Project No. 16-1840-DP/CDP), including, but not limited to, the affordability restrictions, which shall be binding on any Owner whose title is derived through foreclosure sale, trustee's sale or otherwise. The affordability restrictions include, but are not limited to, those set forth in Carpinteria Municipal Code Chapter 14.75 and this Covenant.

B. Default Under Deed of Trust. Subject to the above-stated conditions and limitations, this Covenant and Performance Deed of Trust shall not impair the rights of such Institutional Lender, or such Institutional Lender's assignee or successor in interest, to foreclose or take title to the Property pursuant to the remedies in the Institutional First Deed of Trust, or accept a deed in lieu of foreclosure in the event of default by a trustor under the Institutional First Deed of Trust. Subsequent to the Institutional Lender acquiring title through foreclosure sale or accepting a deed in lieu of foreclosure under such Institutional First Deed of Trust, provided that this Covenant shall remain in full force or effect as an encumbrance against the Property (or any owners, tenants or encumbrancers in the chain of title), the Institutional Lender or subsequent transferee may sell the Property to any purchaser at any price or lease the Property to any tenant at any rental amount, that is consistent with this Covenant.

C. Notice of Default. Owner shall notify City of any deed of trust or mortgage recorded against the Property, and shall provide the City with the information needed by the City to record a Request for Notice of Default. Note that the City's approval of any financing is required under Sections 6 and 10 below.

5. OCCUPANCY, LEASING AND OWNERSHIP OF OTHER REAL PROPERTY.

A. Property as Principal Place of Residence. Owner shall occupy the Property as his/her principal place of residence. During the time the Property is vacant while being actively offered for sale by Owner, this owner-occupancy requirement shall not apply; however, Owner may not rent the Property during such period.

B. Rental of Property. Owner shall not rent or lease the Property or any portion thereof without prior written approval by the City. The City Community Development Director or the Director's designee may approve modifications to these occupancy requirements and rental restrictions if Owner demonstrates need due to illness, temporary employment relocation, sabbatical, extended travels, or other good cause. All leases shall conform to the moderate-income affordability conditions and maximum rents established by the City and in effect at the time of the lease. Any rental or lease without prior written approval by the City is in violation of this Covenant, and shall result in an assignment of all rents due or collected, as described in Section 14 below.

C. Ownership of Other Real Property. Owner may not own any other residential real estate, in whole or in part, concurrently with the ownership of the Property. The City Community Development Director or the Director's designee may approve modification to this restriction if Owner demonstrates need or other good cause. Ownership of any other residential real estate in whole or in part without written approval by the City is in violation of this Covenant, and shall result in default and remedies as described in this Covenant.

6. TRANSFER OF PROPERTY; REFINANCE OR OTHER ENCUMBRANCE.

A. Transfer of Property. Except as provided in this Covenant, the Property shall not be transferred, financed, refinanced or otherwise encumbered in any way without the prior written approval of the City Community Development Director.

B. Exceptions. The following transfers are exceptions to the requirements of Section 6.A. above and do not require written approval; however, Owner shall immediately notify the City in writing upon any of the following

1. A transfer resulting from the death of an Owner where the transfer is to a spouse who is also an Owner.
2. A transfer by an Owner where the spouse becomes the co-owner of the Property.
3. A transfer resulting from a decree of dissolution of the marriage or legal separation from a property settlement agreement incidental to such a decree by which a spouse who is an Owner becomes the sole Owner of the property.
4. A transfer by an Owner into an inter vivos trust in which the Owner is a beneficiary.

C. City Approval of Transfer. The City shall approve a proposed transfer of the Property provided that (i) Owner is not in default under this Covenant, (ii) the City does not elect to exercise its Option to Purchase, and (iii) the City determines that Owner and Owner's proposed purchaser/transferee (hereinafter "*Transferee*") have complied with all of the requirements and provisions of this Covenant.

7. CITY OPTION TO PURCHASE UPON SALE OR OTHER TRANSFER. In consideration of the benefits received by Owner, Owner hereby grants to the City, and the City hereby accepts, the right to purchase the Property at a price and under terms and conditions as set forth herein ("***Option to Purchase***"). The City may exercise its Option to Purchase anytime Owner intends to sell, transfer or convey the Property during the term of the Covenant, subject to the following:

1. Prior to selling or transferring the Property, Owner shall send to the City, at the address and in the manner specified in Section 17.F below, written notice of Owner's intent to sell or transfer the Property.

2. The City shall have thirty (30) days after receipt of such notice to send to Owner written notice of the City's intent to exercise its Option to Purchase.

3. The City shall then have an additional forty-five (45) days to purchase the Property at the Maximum Sales Price specified in Section 11 below. The length of any delays caused by Owner or Owner's agents shall extend such time. Owner shall be responsible for all costs and shall provide all reports as is customary for sellers of residential property in Santa Barbara County, including title insurance, zoning inspection, termite report, and required work to correct termite infestation. Should City elect to exercise its Option to Purchase, City and Owner shall enter into a standard California Association of Realtors Residential Purchase and Sale Agreement, or other similar purchase agreement mutually agreed to by the Parties.

8. REQUIRED DISCLOSURES UPON TRANSFER. During the term of this Covenant, if City does not exercise its Option to Purchase, Owner may identify a Transferee who is ready, willing and able to purchase the Property and meets the income eligibility requirements set forth in this Covenant. Prior to any transfer of the Property, Owner and Transferee shall provide in writing to the City Community Development Director, the following information:

1. The name, address and telephone number of each Transferee.

2. The Transferee shall submit in writing a signed financial statement in a form acceptable to the City, together with complete federal income tax returns and schedules from the past two years, payroll check stubs for the past three (3) months, a copy of any loan applications and loan approvals related to the purchase of the Property, and other documentation as requested by the City. The financial information shall be used by the City to determine the income eligibility of the Transferee. The Transferee shall pay to the City a reasonable fee to cover the City's costs of verifying information and administering its rights and obligations under this Covenant.

3. Owner shall submit the proposed sale contract, escrow instructions, and all other related documents that shall set forth the terms of sale or transfer of the Property. These documents shall incorporate the following terms:

a. The sale price.

- b. The price to be paid by the Transferee for Owner's personal property, if any, and for the services of Owner, if any.
- c. All other amounts of money or other consideration, if any, concerning the Property to be paid by the Transferee to the Owner, and reasons therefore.
- d. The down payment to be paid by the Transferee.
- e. Any additional financing obtained by the Transferee to purchase the Property, including all terms and conditions of the financing.
- f. The monthly payments to be paid by the Transferee in connection with the purchase and ownership of the Property, itemized for standard costs of ownership, including but not limited to loans, taxes, insurance, and homeowners association fees.

9. ELIGIBILITY OF TRANSFEEE. Any and all Transferee(s) shall meet the following requirements prior to transfer of the Property:

A. Each Transferee shall certify his or her intent to occupy the Property as his or her principal residence.

B. Transferee(s) shall not own other real property or any interest therein at the time of the close of escrow on the purchase of this Property. The Community Development Director may waive this requirement for good cause.

C. The combined annual gross income for all Transferees shall be between 121% and 200% of the Area Median Income (AMI) in Santa Barbara County, adjusted for household size as published by the U.S. Department of Housing and Urban Development (HUD). In the event such income figures are no longer published, or have not been updated for a period of at least eighteen (18) months, the City may use or develop such other reasonable figures as it may choose.

D. If Transferee has investment assets (stocks, bonds, cash, bank accounts, certificates of deposit, and other investment property, but not including retirement accounts), income will be counted or imputed from such assets. No income will be counted or imputed from those assets to be used for the down payment and closing costs on the Property, except to the extent that the down payment exceeds twenty percent (20%) of the purchase price. The Community Development Director or the Director's designee shall determine the method of imputing income.

E. The Transferee's down payment must not exceed 40% of the purchase price, and consequently the Transferee's income must be sufficient to support the mortgage payment on a mortgage for sixty percent (60%) of the purchase price. Transferees may receive all or a portion of the down payment as a gift provided the gift does not exceed twenty percent (20%) of the purchase price and the donor provides a gift letter in a form acceptable to the City. Gifts include funds given to Transferee within twelve (12) months prior to the purchase.

F. To ensure affordability to the Transferee, Transferee's income, less business expenses, shall be sufficient so that at least twenty-eight percent (28%) and no more than forty percent (40%) of such income will be required to pay for housing expenses, including loan

payments, homeowner's association fees, taxes, and insurance. The mortgage loan payment for this calculation shall be based on the fully indexed interest rate rather than an introductory or "teaser" rate.

G. To ensure continued affordability to the Transferee, no purchase money financing obtained or assumed by Transferee that requires graduated interest, graduated payments, a balloon payment or negative amortization shall be permitted.

H. Transferees purchasing units with three or more bedrooms must be households of at least three persons, and all adults must be owners of record. The Community Development Director may approve exceptions to this household size requirement in cases where the Transferee demonstrates a need for a large unit, or where necessary to prevent undue hardship.

10. REQUIREMENTS FOR APPROVED TRANSACTION. For the sale, transfer or Conveyance of the Affordable Unit to qualify as an approved transfer under this Covenant, the transaction shall meet the following minimum requirements as approved in writing by the City:

A. The sale price shall not exceed the Maximum Sales Prices, as calculated pursuant to Section 11 below.

B. Upon recordation of the Grant Deed or other conveyance of transfer of the Property, Owner and Transferee shall execute and cause to be recorded in the Office of the Santa Barbara County Recorder a new Resale Restriction Covenant and Option to Purchase ("**Replacement Covenant**") which shall replace this Covenant and be substantially similar to this Covenant and be approved by the City prior to recordation. The Replacement Covenant shall contain revisions to reflect any changes in the City's adopted affordability policies. The Replacement Covenant shall have a term of thirty (30) years, but in no event shall the affordability covenants and restrictions extend beyond ninety (90) years from the date first appearing on this Covenant.

C. Each Owner and Transferee shall approve and sign escrow instructions by the City, which shall instruct escrow regarding the requirements of this Covenant and City financing, if any. Owner and Transferee shall provide the City with a copy of the final sale contract, settlement statement, signed escrow instructions, and any other document that the City may reasonably request.

D. In the event a sale or transfer is made in violation of the terms of this Covenant or false or misleading statements are made in any documents or certification submitted to the City for its approval of the sale or transfer, the City may declare a default under the Covenant. The City shall also have the right to file an action at law or in equity to force the parties to terminate or rescind the sale contract and declare the sale void notwithstanding the fact that the sale or transfer may have closed and become final as between the seller and purchaser. In any event, any costs, liabilities or obligations incurred by the seller and purchaser for the return of any moneys paid or received in violation hereunder or for any costs and legal expenses, shall be borne by the seller and purchaser, and not by the City. The seller and purchaser shall hold the City and its designees harmless for any action the City reasonably takes in good faith in enforcing the terms

of this Covenant and shall pay to City all reasonable fees and costs, including attorneys' fees, incurred by City in its enforcement of this Covenant.

11. RESALE PRICE CALCULATION.

A. Resale Calculation. The initial purchase price for the Property shall be affordable for above-moderate income households, which is defined as households earning between 121% and 200% of the Area Median Income. Except as provided in Section III above, the sale price of the Property for the resale of the Property after the initial sale shall not exceed the City-approved purchase price paid by Owner (less the amount of mid-year adjustment, if applicable) adjusted by the percentage increase in the Area Median Income (AMI) for the Santa Barbara County area during the period in which the Owner owned the Property and occupied it in compliance with the requirements of this Covenant ("Maximum Sales Price"). In some cases a "mid-year adjustment" will apply, as specified below.

B. Mid-Year Adjustment. To allow for a projected change in the Maximum Sales Price between publication dates of the AMI, the Maximum Sales Price may be increased by a "mid-year adjustment" calculated as follows:

The City-approved purchase price paid by Owner, multiplied by the following estimate of the as yet unpublished change in the AMI:

One-half of the average annual percentage change in the AMI over the previous two years, divided by twelve and multiplied by the number of months between the last publication of the AMI and the date of sale of the Property. Note: this adjustment is based on "one-half of the average" in order to apply a conservative estimate of the increase in the AMI.

However, no mid-year adjustment shall be added unless at least four months have passed between the last publication of the AMI and the date of calculation of the sale price of the Property.

If the "mid-year adjustment" is included in the sale price at any sale, then for the next sale the price calculation shall be adjusted as follows: the amount of mid-year adjustment which was included in the price paid by Owner shall be subtracted from the price paid by Owner. This is to assure that the price is not changed by both the mid-year adjustment (which is based on a future estimate of the AMI), and the actual change in the AMI which later became known.

C. Owner Improvements. To help ensure continued affordability to subsequent purchasers, no price adjustment or other reimbursement shall generally be allowed for property improvements made by the Owner. The Owner is free to make improvements for the Owner's personal benefit and enjoyment, but shall not be compensated for such improvements upon sale of the Property. The Community Development Director may approve, on a case-by-case basis, exceptions to this policy, provided all of the following conditions are met:

1. The improvements are permanent and substantial.
2. The improvements are not of a decorative or maintenance nature, such as painting, wall coverings, window coverings, or replacement of carpeting. Landscaping, plantings and hardscape may be eligible for a price change, but only if such improvements were necessary to complete a large area (such as a rear yard) that the developer left unimproved.
3. The improvements are not of a luxury nature, such as a spa, whirlpool tub, or brick bar-b-que. A deck or patio may be eligible, but only to the extent needed to provide a reasonable amount of usable outdoor living space. A fireplace addition may be eligible.
4. The allowed price increase for all improvements may not exceed the lower of:
 - a. The actual out-of-pocket cost of eligible improvements paid by owner for design, materials and labor (as supported by receipts).
 - b. The actual present value of the improvements as determined by City staff. This is the amount that the improvements would increase the market value of the Property at the time of sale.
 - c. Ten percent (10%) of the otherwise maximum affordable sale price of the Property.
5. The combined actual present value of the eligible improvements as described above is at least one percent (1%) of the Maximum Sales Price of the Property;
6. The improvements were done with all required City permits and in compliance with any requirements imposed by the homeowners' association and CC&Rs.
7. No increase whatsoever shall be allowed during such time, if any, that Owner was in violation of any requirement of this Covenant.

D. Other Requirements and Conditions.

1. City staff or staffs designee shall be afforded reasonable opportunity to inspect the Property for damage or deferred maintenance. If the Property is damaged or if there is substantial deferred maintenance, the City may lower the Maximum Sales Price by the amount needed to repair the damage or to carry out the needed maintenance.
2. The Owner may not require the Transferee to pay any commissions or other costs of sale typically paid by sellers of residential property.

E. Maximum Sale Price Not Guaranteed. The Maximum Sales Price is not a guarantee that the Owner will be able to sell the Property for that price. If the Property sells for less than the Maximum Sales Price, such lower price will become the basis for the calculation of the Maximum Sales Price upon the next sale of the Property.

12. REQUIREMENTS FOR CITY APPROVAL OF FINANCING OR REFINANCING. The terms of all financing secured by the Property must be approved by the Community Development Director, whether at the time of sale or at any other time. The City Community Development Director shall generally approve a refinancing of the first mortgage loan if no additional cash is taken out other than the loan costs, and the terms of the new loan are more favorable than the prior loan and the Owner is in full compliance with this Covenant. If Owner wishes to refinance for the purpose of receiving cash funds, the City Community Development Director will consider the request on a case-by-case basis. Generally the Owner's debt payment-to-income ratio should not be higher than it was upon Owner's purchase of the property. If the City has provided financing secured by a deed of trust, the refinancing will be reviewed on a case-by-case basis to ensure that the City's security interest and the Owner's ability to repay remain strong. Financing that may result in negative amortization shall not be approved unless the City is satisfied in its sole discretion that there is adequate Owner equity (at least 20 to 25%) and good credit history.

13. BEQUEST OR FORECLOSURE, INSURANCE AND CONDEMNATION.

A. Transfer by Operation of Law. In the event of a transfer of the Property by operation of law such as by devise, bequest, foreclosure on any financing not exempted under Section 4 above, or deed in lieu of foreclosure on any such financing, to a person who does not meet the requirements of Section 9, the Transferee or the estate of the decedent shall be bound by the provisions of this Covenant; however, the City shall not declare a default before allowing such person a reasonable period of time, not less than ninety (90) days, to sell, transfer or convey the Property to an eligible purchaser in conformance with all of the provisions of this Covenant.

B. Proceeds from Foreclosure. In the event that the Property is transferred through foreclosure, a deed in lieu of foreclosure or a trustee's deed upon sale, a default in a contract of sale, or through any other means for the purpose of curing or preventing a default by Owner on a loan or obligation, any amount of the sale price which is over and above the Maximum Sales Price calculated according to Section 11 above, and which would otherwise be payable to Owner after full satisfaction of the lender's loan and costs, shall be due and owing to the City.

C. Insurance and Condemnation Proceeds. Any hazard insurance proceeds that are not used to repair or rebuild the Property, and any condemnation award, shall be distributed as follows:

1. First, to lenders according to the recording priority of their deeds of trust against the Property, as provided by law.
2. If any funds remain after the lenders have been paid, then to the Owner, up to but not to exceed the net amount (after payment of encumbrances) that Owner would have received under a sale at the Maximum Sales Price calculated according to Section 11 above.
3. If any funds remain after the Owner has been paid, the remainder shall be paid to the City.

14. DEFAULTS AND REMEDIES: ASSIGNMENT OF RENTS.

A. Declaration of Default. Upon any violation of the provisions of this Covenant the City may declare a default under this Covenant by delivering written notice thereof to the Owner. Upon the declaration of a default, the City may exercise its rights under the Performance Deed of Trust, and seek any and all remedies available at law or in equity, including but not limited to applying to a court of competent jurisdiction for specific performance of the Covenant, for an injunction prohibiting a proposed sale or transfer in violation of this Covenant, or for a declaration that the prohibited transfer is void.

B. Assignment of Rents. Owner hereby assigns to City the right to receive the rents due or collected during the entire period the Property is occupied in violation of any of the terms of this Covenant.

C. Remedies Not Exclusive. The remedies stated herein shall not be exclusive, but shall be cumulative to all other remedies and rights the parties may lawfully exercise.

15. PURCHASE OPTION UPON DEFAULT.

A. In addition to the remedies provided the City elsewhere in this Covenant, Owner hereby grants to the City the option to purchase the Property effective upon the declaration of a default ("**Default Option**").

B. The Default Option to purchase may be exercised upon a default under this Covenant or upon default under any notes or deeds Owner has executed in favor of the City, or any deed of trust, or any other lien, including a judgment lien, recorded against the Property. The City shall have thirty (30) days after declaring a default or receiving notice that a default is declared on any other obligation secured by this Property to notify the Owner of its decision to exercise its option to purchase. Not later than sixty (60) days after the certified mailing of the notice to exercise its Default Option, the City or its assignee shall purchase the Property for the following price:

The lesser of the following:

1. The Maximum Sales Price calculated in Section 11, less six percent (6%) to cover the City's resale costs, and less the amount necessary to repair any damage and correct deferred maintenance as reasonably determined by the City; or,

2. The appraised value of the Property as determined by a state licensed appraiser approved by Owner and City, less six percent (6%) to cover the City's resale costs, but not less than:

3. The amount necessary to pay the balance due on the outstanding first mortgage.

16. REQUIREMENTS FOR WRITTEN REPORTS FROM OWNER. Owner shall provide a written report to the City on the occurrence of any of the following:

A. As soon as possible after Owner has requested and obtained the City's written approval to rent the Property pursuant to Section 5.B above, Owner shall provide a report, which includes a copy of the lease or rental agreement, the names of the renters, the rent being charged, the reason for the rental, and the new temporary address of the Owner. Owner shall also provide a report upon changing the terms of any lease or rental agreement, and when the Owner re-occupies the Property.

B. Each year on October 15, or on such other date as specified by the City in writing, Owner shall submit an Annual Report, signed by Owner, which includes Owner's statement that Owner has occupied the Property and complied with all provisions of this Covenant, or includes Owner's explanation of any rental or violation of any provision of this Covenant.

C. The reports required under this Section shall be submitted within thirty (30) days of the specified date to the City of Carpinteria, Community Development Department, 5775 Carpinteria Avenue, Carpinteria, California, 93013, or to such other person or address designated by the City. Failure to provide a report in a timely manner, or any misrepresentations on the report, shall constitute a default under this Covenant

17. ADDITIONAL PROVISIONS.

A. Assignment of Rights. The City may assign its rights and delegate its duties hereunder without the consent of Owner. Upon such assignment the City shall notify the Owner.

B. Attorneys' Fees. If any action is brought to enforce the terms of this Covenant, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

C. Ownership of Other Real Estate. The Owner covenants that they have not and shall not execute any other agreement to purchase or purchase any other real property during their ownership of property subject of this Covenant.

D. Severability. If any one or more of the provisions contained in this Covenant shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Covenant and this Covenant shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

E. Choice of Law; Venue. The terms of this Covenant shall be interpreted under the laws of the State of California and the proper venue for any action related to this Covenant shall be the Superior Court of the County of Santa Barbara.

F. Notices. All notices required herein shall be sent by certified mail, return receipt requested, to the Owner at the address of the Property and to the City at: Community Development Department, 5775 Carpinteria Avenue, Carpinteria, CA 93013, or such other address that the City may subsequently provide in writing to the Owner.

G. Recordation of Notice of Default. Owner agrees to permit the City to record a Request for Notice of Default and a Request for Notice of Delinquency at any time.

H. Option Accepted. The Option to Purchase and Default Option are hereby accepted by the City of Carpinteria.

18. DECLARATIONS PRIOR TO SALE UNDER SECTION 9. Prior to any sale or transfer of the Property under Section 9, the following declarations shall be provided:

A. Declaration of Owner to City. The Owner shall provide to the City the following declarations:

1. I have been in compliance with the affordability and owner-occupancy requirements of the City during the entire period during which I owned the Property, and this sale is in compliance with those requirements.

2. I have not rented the Property except as has been approved by the City in writing.

3. The sale price of the Property in this transaction is the amount stated by the City in its declaration concurrently provided herewith, and I have not received and will not receive any payment or consideration from the purchasers except as is disclosed in the purchase contract and escrow documents, which have been delivered to the City.

4. I understand that any false statements or misrepresentations to the City in this transaction will constitute a default under this Covenant, and may constitute fraud.

B. Declaration of Transferee to City. Prior to any sale or transfer of the Property under Section 9, the Transferee shall provide to the City the following declarations:

1. The financial and other information provided by me is true and complete.

2. I have received a copy of the Replacement Covenant and agree to comply with all of the requirements of this Replacement Covenant.

3. I will occupy the Property as my principal residence.

4. No persons or entity will be on title to the Property other than as listed below as Occupant Purchasers or Non-Occupant Title-holders. I understand that the City must give its approval in writing before anyone else may be listed on the title.

5. The purchase price of the Property is the amount listed in the Declaration by City, below. I have not paid and will not pay any consideration to the seller, or any real estate commissions, or any costs normally paid by sellers, except as already disclosed in the purchase contract and escrow instructions which have been delivered to the City.

6. I understand that any false statements or misrepresentations to the City in this transaction will constitute a default under this covenant, and may constitute fraud.

C. Declaration of Non-occupant Holder (If Any). Prior to any sale or transfer of the Property under Section 9 that includes a non-occupant title holder, said person shall deliver to the City the following declarations:

1. I appear on the title to the Property as a tenant in common only because I am a co-borrower for the purpose of helping the Occupant-Purchaser(s) qualify for the purchase money loan. My equity interest in the Property will not be greater than one percent (1%) of the total equity of all owners of the Property, and I will receive no money from the sale of the property in excess of this one percent (1%), except as may be provided by the City, in its sole and absolute discretion.

2. I acknowledge and agree that I have not been approved by the City as an eligible transferee, and I am not permitted to occupy the Property at any time, and that my occupancy of the Property will constitute a default under the Covenant.

3. If I am named in the will of an Occupant-Purchaser I may receive an equity interest upon the death of the Occupant-Purchaser. However, unless at that time I am certified as an eligible transferee by the City, I will not be permitted to occupy the Property, and will be required to sell my interest to an eligible transferee under the provisions of the Covenant.

4. I understand that any false statements or misrepresentations to the City in this transaction will constitute a default under this covenant, and may constitute fraud.

D. Declaration by the City. Prior to any sale or transfer of the Property under Section 9 of this Covenant, the Community Development Director shall provide the following declarations:

1. The City has reviewed the financial information and other information submitted by the undersigned Occupant-Purchaser(s). Based on this information the City has found these Occupant-Purchaser(s) to be eligible transferees as required by the Covenant.

The sale price of the Property in this transaction (the City approved purchase price paid by Owner) is _____ AND 00/100 DOLLARS (\$_____). This price may include the following projected increase ("*mid-year adjustment*") in the sale price for the period from the latest change in the AMI to the date of sale: \$_____. At the date of this sale the Area Median Income = \$_____. The date of the initial sale of the Property is _____, 20____. For information purposes only, the amount of City financing (if any) provided at the initial sale of the property was \$_____, and the approximate balance on the City financing as of the date of this Covenant was \$_____.

IN WITNESS WHEREOF, the Parties have executed this Covenant as of the date written.

SELLER:

PURCHASER:

CITY OF CARPINTERIA, by:

Community Development Director

NOTE: This Covenant will be recorded; a notary must acknowledge the signature of the parties.

Approved as to Form:

Approved as to Content:

City Attorney

Community Development Director

EXHIBITS:

Exhibit "A" to Resale Restrictive Covenant – Legal Description of Property

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 20____, before me, _____
(here insert name and title of the officer), personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____ (Seal)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 20__, before me, _____
(here insert name and title of the officer), personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____ (Seal)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 20___, before me, _____
(here insert name and title of the officer), personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____ (Seal)

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

Condominium Unit No. ____ of Lot No. 1 of Tract No. 25,178, in the City of Carpinteria, County of Santa Barbara, State of California, as per Map recorded in Book 202, Pages 79 through 81 of Maps, and as shown and described on that certain Condominium Plan recorded on _____, 20____, as Instrument No. _____ of Official Records, all in the Office of the County Recorder of said County.

*Exhibit "A" to
Exhibit "E"*