

STATE AGENCIES' MANUAL

APPENDIX L

ATTENTION: THE DEED OF CONVEYANCE MUST STATE THAT THE PROPERTY IS SUBJECT TO THIS AGREEMENT, AND THIS DOCUMENT MUST BE RECORDED IMMEDIATELY FOLLOWING THE RECORDATION OF THE DEED IN THE LAND RECORDS OF THE JURISDICTION IN WHICH THE PROPERTY IS LOCATED.

Federal Deposit Insurance Corporation
AFFORDABLE HOUSING PROGRAM

LAND USE RESTRICTION AGREEMENT:
PURCHASE OF SINGLE-FAMILY RESIDENCE OR CONDOMINIUM
BY A QUALIFYING OR RESIDENT HOUSEHOLD

This LAND USE RESTRICTION AGREEMENT (the "Agreement") is entered into as of the _____ day of _____ by and between _____ (the "Buyer") and the Federal Deposit Insurance Corporation (the "FDIC"), acting in its [*specify capacity*] _____] (the "Seller"), and their respective successors and assigns, with respect to certain real property and the improvements thereon, located at _____ and having the legal description set forth on Exhibit A hereto (the "Property").

The parties, intending to be lawfully bound, for good and valuable consideration, the receipt of which is hereby acknowledged, do hereby agree as follows:

1. **Termination.**

a. This Agreement shall terminate automatically, without further action by either the Buyer or the Seller, at 11:59 p.m. on the _____ day of _____, (the "Termination Date"), which is the date one (1) year after the date of this Agreement.

b. This Agreement shall terminate prior to the Termination Date, without further action by either the Buyer or the FDIC, only on such date that (i) a termination statement or a release of this Agreement, executed by the FDIC, is recorded by the Buyer in the land records of the jurisdiction in which the Property is located; (ii) the Property is transferred pursuant to

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a foreclosure proceeding instituted by a Mortgagee (as defined below) that extinguishes the right, title and interest of the Buyer in the Property; (iii) a deed in lieu of foreclosure is executed by the Buyer to a Mortgagee and recorded in the land records of the jurisdiction in which the Property is located; or Uv) a mortgage insured by the U.S. Department of Housing and Urban Development ("HUD") is assigned to HUD.

c. For purposes of this Agreement, "Mortgagee" shall mean (i) a federally insured financial institution; or (ii) an agency or corporation in the business of making home mortgage loans that has made a loan to the Buyer, secured by a first or second lien on the Property, for the purpose of financing the acquisition of, or the making of improvements to, the Property.

d. In the event of a termination of this Agreement due to a foreclosure instituted by a Mortgagee or the execution of a deed in lieu of foreclosure by the Buyer to a Mortgagee as described above in paragraphs b. and c., the restrictions on resale described herein shall have no further force or effect on either the Mortgagee or any subsequent owners or purchasers of the Property.

2. **Buyer's Intention to Occupy the Property as its Principal Residence.** The Buyer does hereby certify to the Seller that the Buyer intends to occupy the Property as the Buyer's principal residence for at least twelve (12) months from the date of this Agreement.

3. **Recapture Requirement.**

a. If the Buyer, prior to the Termination Date, (i) enters into a contract with another party that results in the transfer or conveyance of his/her interest in the Property or (ii) transfers or conveys his/her interest in the Property, for payment of money, the FDIC shall recapture seventy-five percent (75%) of the amount of any proceeds from the resale that exceeds the sum of (A) the original sales price for the acquisition of the Property by the Buyer, (B) the reasonable and customary closing costs incurred by the Buyer in connection with said acquisition less any closing cost credits received from Seller (together, (A) and (B) total _____ Dollars (\$_____)), plus (C) the actual cost of any improvements to the Property made after the date of the Buyer's acquisition of the Property.

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b. The payment of any amounts which may be recaptured pursuant to paragraph a. shall be a personal obligation of the Buyer.

c. For purposes of this Agreement, "actual cost of any improvements" shall mean such costs incurred and paid by the Buyer as a result of repairs or other physical improvements performed on the Property that are evidenced through invoices, receipts and like documents.

4. **Waiver of the Recapture Requirement**. The FDIC, in its-sole discretion, may waive said recapture requirement only for good cause shown, which may include any necessary relocation of the Buyer. In the event the Buyer desires to obtain a waiver of said recapture requirement, the Buyer must notify the FDIC, in writing, at the address set forth below, setting forth the reasons for such waiver request. The Buyer shall include a release of this Agreement, in recordable form, prepared at the Buyer's sole expense, with his/her waiver request. After receipt of the Buyer's waiver request, the FDIC shall have sixty (60) days to either grant or deny the request; in the event that the waiver request is granted, the FDIC shall execute the release of this Agreement, return said release to the Buyer and, upon the transfer of the Property, the Buyer shall record the release, at his/her sole expense, in the land records of the jurisdiction in which the Property is located.

5. **Sale Prior to Termination Date**. In the event that the Buyer intends to transfer or convey his/her interest in the Property prior to the Termination Date, without a waiver of said recapture requirement, the Buyer must notify the FDIC, in writing and at least sixty (60) days prior to said transfer or conveyance, at the address set forth below, of his/her intention and include the name and address of the responsible closing agent, to be notified as described below. The Buyer shall include a copy of this Agreement, copies of invoices or other written evidence of the actual cost of any improvements (in accordance with Section 3 above), and a release of this Agreement, in recordable form, prepared at the Buyer's sole expense, with said notification. The FDIC shall execute the release of this Agreement and send it to said closing agent with instructions as to the calculation and payment of the recapture amount set forth in Section 3a. above. The closing agent shall record the release, at the Buyer's sole expense, in the land records of the jurisdiction in which the Property is located.

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6. **Notice.** All correspondence to the FDIC shall be sent to the FDIC at the following address: Federal Deposit Insurance Corporation, 550 17 th Street, N.W., Washington, D.C. 20429, Attention: Office of Affordable Housing.

7. **Survival.** Any rights and/or remedies available to either the Seller or the Buyer with respect to the enforcement of this Agreement and/or the collection of the recapture amount as set forth in Section 3a. shall survive this Agreement and may continue to be enforced by either the Seller or the Buyer after the Termination Date specified in Section 1.

IN WITNESS WHEREOF, the parties hereto have executed this Land Use Restriction Agreement as of the date first above written.

BUYER

By: _____
Name (print): _____

SELLER

Federal Deposit Insurance Corporation,
in its _____

By: _____
Name (print): _____
Title: _____

**[ADD APPROPRIATE ACKNOWLEDGEMENTS FOR BUYER, SELLER, AND
FDIC]**

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EXHIBIT A
LAND USE RESTRICTION AGREEMENT
PURCHASE OF SINGLE-FAMILY RESIDENCE OR CONDOMINIUM
BY QUALIFYING OR RESIDENT HOUSEHOLD

LEGAL DESCRIPTION

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Single Family sales to Qualified or Resident Households
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