



## **WORKFORCE HOUSING PROGRAM PURCHASE APPLICATION CHECKLIST**

Please complete the first four (4) pages of the attached application. Review the remaining pages, as it contains important information on the restrictions that will be recorded at settlement.

Every household member over the age of 18 must submit the following documents for qualification:

- Most recent Federal tax return
- Most recent paystubs covering three (3) months
- Most recent bank statements covering three (3) months
- Copy of a State or Federal photo ID

You can fax your application and information to 302-485-4898, scan or email to: [inclusionaryhousing@newcastlede.gov](mailto:inclusionaryhousing@newcastlede.gov). The physical address is 77 Reads Way in New Castle, DE. Feel free to put it in the mail.



**Did you remember to provide all documentation needed to process your application?**

**Did you sign the application on all pages?**

**Did you have any questions?**

Call 302-395-5600 or email

[inclusionaryhousing@newcastlede.gov](mailto:inclusionaryhousing@newcastlede.gov)





**New Castle County Department of Community Services  
Workforce Housing Program  
WORKFORCE HOUSING APPLICATION**

Applicant: \_\_\_\_\_

Co-Applicant: \_\_\_\_\_

Current Address: \_\_\_\_\_

Area/Dev: \_\_\_\_\_

City/St/Zip: \_\_\_\_\_

Email Address: \_\_\_\_\_

Phone #: (day) \_\_\_\_\_

(eve) \_\_\_\_\_

Do you currently own your home?  YES  NO

Do you currently own other property?  YES  NO

If YES, what are your plans with the home(s)? \_\_\_\_\_

**SECTION I - GENERAL INFORMATION**

DEPENDENT(S)

NAME	AGE
1.	
2.	
3.	
4.	

Other Household Occupants

1.	
2.	
3.	

TOTAL NUMBER OF OCCUPANTS IN HOUSEHOLD: \_\_\_\_\_

**SECTION II. EMPLOYMENT INFORMATION**

**Applicant**

Ever employed by New Castle County? \_\_\_\_\_

If **yes**, answer questions 1 through 5 on page 2

Employer: \_\_\_\_\_

Supervisor: \_\_\_\_\_

Phone #: \_\_\_\_\_

Position: \_\_\_\_\_

Length of employment: \_\_\_\_\_

Gross annual income: \_\_\_\_\_

Gross monthly income: \_\_\_\_\_

Previous employer: \_\_\_\_\_

Supervisor: \_\_\_\_\_

Phone #: \_\_\_\_\_

Position: \_\_\_\_\_

Length of employment: \_\_\_\_\_

**Co-Applicant**

Ever employed by New Castle County? \_\_\_\_\_

If **yes**, answer questions 1 through 5 on page 2

Employer: \_\_\_\_\_

Supervisor: \_\_\_\_\_

Phone #: \_\_\_\_\_

Position: \_\_\_\_\_

Length of employment: \_\_\_\_\_

Gross annual income: \_\_\_\_\_

Gross monthly income: \_\_\_\_\_

Previous employer: \_\_\_\_\_

Supervisor: \_\_\_\_\_

Phone #: \_\_\_\_\_

Position: \_\_\_\_\_

Length of employment: \_\_\_\_\_

(Attach sheet for employment/income information for additional household members age 18 and older)

**If you are or ever were an employee, appointed or elected Official of New Castle County or any department, division or section thereof, please complete the following section:**

Name: \_\_\_\_\_ Employee #: \_\_\_\_\_  
 Department: \_\_\_\_\_ Length of Employment: \_\_\_\_\_  
 Position/Title: \_\_\_\_\_

- |  | TRUE                     | FALSE                    |
|--|--------------------------|--------------------------|
| 1. I played no role in establishing the criteria under which the program for which I am applying operates.       | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. I played no role in selection or reviewing applicants for the program.  | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. I used no confidential information to apply for or obtain approval for the program.                           | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. I have never been involved with the administration of the program.  | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. I am not employed in and have no relatives, including in-laws, employed in the Community Services Department. | <input type="checkbox"/> | <input type="checkbox"/> |

How did you learn about the program? \_\_\_\_\_

**WARNING**

Be advised that by signing this document you understand that any document or information is provided under penalty of perjury. Any misrepresentation will subject you to potential criminal investigation and prosecution.

It is a Class A misdemeanor punishable by fine up to \$2,300, up to 1 year in prison, and restitution as the court deems appropriate, to knowingly make any false statements concerning any of the above facts as applicable under the provisions of Title 11, Delaware Code, Section 1233.

**I/we fully understand that knowingly making any false statements concerning any of the above facts will subject me to potential criminal investigation and prosecution for, perjury, false statement, and/or fraud.**

\_\_\_\_\_  
 Applicant's Signature

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Co-Applicant's Signature

\_\_\_\_\_  
 Date

**Privacy Act Notice: The information contained in your application is to be used by New Castle County or its assignees in determining whether you, the applicant, qualify as a prospective purchaser or tenant under the Workforce Housing Program. The information obtained will not be disclosed outside this agency. You do not have to provide us with this information, but if you do not your application for approval as a prospective purchaser or tenant may be delayed or rejected. The application will be used only to determine your household's eligibility for the Workforce Housing Program.**

**Information for Government Monitoring Purposes**

The following information is requested in order to monitor compliance with federal statutes that prohibit discrimination in housing. **You are not required to provide this information, but are encouraged to do so.**

Applicant	Co-Applicant
<input type="checkbox"/> I do not wish to provide this information	<input type="checkbox"/> I do not wish to provide this information
Ethnicity: <input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latino	Ethnicity: <input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latino
Race: <input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> White or Caucasian	Race: <input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> White or Caucasian
Sex: <input type="checkbox"/> Female <input type="checkbox"/> Male	Sex: <input type="checkbox"/> Female <input type="checkbox"/> Male

**New Castle County Department of Community Services  
Workforce Housing Program AUTHORIZATION FOR  
RELEASE**

Case # \_\_\_\_\_

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*The applicant identified below has applied for the Workforce Housing Program provided through New Castle County. Regulations require that in order for the family to be eligible, we must verify the family's income and other information related to eligibility. If you have any questions, please feel free to contact our office at (302) 395-5600 or [inclusionaryhousing@newcastlede.gov](mailto:inclusionaryhousing@newcastlede.gov).*

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**APPLICANT INFORMATION**

Applicant's Name: \_\_\_\_\_  
(Please print)

Agency Information: \_\_\_\_\_

The documents to be released are described or listed as:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Privacy Act Notice: This information is to be used by New Castle County or its assignees in determining whether you, the applicant, qualify as a prospective buyer under its program. The information obtained will not be disclosed outside this agency except as required and permitted by law. You do not have to provide us with this information, but if you do not, your application for approval as a prospective buyer may be delayed or rejected.**

*I do hereby authorize the agency above to release to New Castle County the information requested.*

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Co-Applicant's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

Be advised that by signing this document you understand that any document or information is provided under penalty of perjury. Any misrepresentation will subject you to potential criminal investigation and prosecution.

It is a Class A misdemeanor punishable by fine up to \$2,300, up to 1 year in prison, and restitution as the court deems appropriate, to knowingly make any false statements concerning any of the above facts as applicable under the provisions of Title 11, Delaware Code, Section 1233.



Tax Parcel No: ##-###-##-###  
Case/File No.: ##W###  
Prepared by/Return to: **Stephanie Rizzo**  
Department of Community Services  
77 Reads Way  
New Castle, DE 19720

**WORKFORCE HOUSING BUYER'S AGREEMENT  
IMPOSING RESTRICTIONS ON RESALE AND OCCUPANCY  
AND POTENTIAL LIEN AGAINST PROPERTY**

Owner Workforce Housing Buyer Name

Address of Unit: ## Address Street  
City, DE 19###

**This agreement imposes covenants, conditions, and restrictions on the Unit for fifteen years, including a promise by Owner to pay a resale profit to New Castle County in certain instances**  
**Loans obtained by Owner without prior County approval or the rental of this Unit may require substantial payment to the County.**

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**Section 1. General.**

- (a) This Workforce Housing Buyer's Agreement ("Agreement") is entered into as of this ##th day of Month, 20## by and between New Castle County ("County") and Workforce Buyer ("Initial Owner").
- (b) Workforce Housing Developer the developer of Workforce Housing Development (the "Developer") entered into a Workforce Housing Agreement with the County recorded as Instrument #20#####-##### in the office of the Recorder of Deeds in and for New Castle County, Delaware, ("Development Agreement"). Pursuant to the Development Agreement, the Developer agreed to sell certain homes in the Development or offsite of the Development to low and/or moderate income households at affordable prices (the "Workforce Units").
- (c) Owner intends to purchase the property located in New Castle County and more particularly described in the legal description attached as Exhibit A (the "Unit"). The Unit is one of the Workforce Units. The Unit has been designated by the County and the Developer as a Low/Moderate Unit, and this Agreement restricts future sales of the Unit to persons who qualify at less than 80% 100% 120% Area Median Income ("Income Eligible Households").
- (d) Pursuant to the Development Agreement, the Developer is required to ensure that affordability controls such as this Agreement are recorded against the unit, and the County therefore requires

Owner to execute this Agreement as a condition of Owner's purchase of the Unit. Owner has agreed to execute and comply with this Agreement in consideration of the Developer's agreement to sell the Unit to Owner at an affordable price, which may be below the fair market value of the Unit.

**Section 2. Purpose.** The purpose and intent of this Agreement is to place re-sale restrictions on the Unit and to require the payment of any excess proceeds of sale, refinance, or excess rental proceeds to the County. This Agreement also provides the County a right of first refusal to purchase the Unit at a restricted price during the fifteen-year affordability term, given in consideration of the economic benefits to Owner resulting from purchase of the Unit at a below market price under the County's Workforce Housing Program.

**Section 3. ATTENTION: THIS AGREEMENT LIMITS OWNER'S INTERESTS IN REAL PROPERTY. THIS AGREEMENT HAS THE FOLLOWING EFFECTS, AMONG OTHERS:**

- (a) It specifically restricts ability of Owner to re-sell, refinance, or rent the Unit and the price at which the Unit can be resold;
- (b) Loans obtained other than Approved Financing are subject and subordinate to this Agreement; (c) If Owner refinances the Unit without the County's approval, Owner may owe a substantial amount of money to County as County's Resale Profit;
- (d) Owner may not be able to recover any or all of Owner's investment in improvements to the Unit;
- (e) The determination of the Affordable Price of the Unit to a Resale Purchaser can be made only at the time of the proposed Transfer, and the sales price permitted hereunder may not increase or decrease in the same manner as other similar real property which is not encumbered by this Agreement. The Affordable Price will almost certainly be less than other similar properties that have no restrictions;
- (f) During the Affordability Term, the Unit may only be sold to an Eligible Purchaser.

**Section 4. Definitions.** Unless otherwise defined in this Agreement, capitalized terms used in this Agreement shall have the following meanings assigned to them:

TERM	DEFINITION
"Actual Resale Price"	Sales price actually paid by a Resale Purchaser on resale of the Unit.
"Affordable Price"	A sales price that results in a monthly housing cost (principal, interest, and monthly real estate taxes, insurance, a monthly maintenance reserve of 5 (five) percent of gross monthly income, and condominium or maintenance association assessments) that does not exceed thirty (30) percent (low or very low-income) or thirty-five (35) percent (moderate income) of monthly income for a household of the applicable income adjusted for household size as calculated pursuant to the policies and procedures promulgated by the Department of Community Services
"Affordability Term"	The fifteen (15) year term commencing on the date of sale to the Initial Owner.
"Approved Financing"	The mortgage loan(s) made by financial institution(s) reasonably acceptable to the County, the proceeds of which are used by an Owner to acquire the Unit.
"Certificate of Compliance"	The document issued by the County that certifies a Transfer in compliance with this Agreement.
"Certified Domestic Partner"	Two unmarried people, at least eighteen (18) years of age, who have lived together continuously for at least one (1) year and who are jointly responsible for basic living expenses incurred during their certified domestic partnership. Certified domestic partners may not be persons related to each other by blood or adoption such that their marriage would be barred in the state of Delaware. For purposes of this Agreement, an individual shall be considered a certified domestic partner of Owner upon presentation of an affidavit or other acceptable evidence by Owner to the County.
"County"	New Castle County, Department of Community Services, 77 Reads Way, New Castle, DE 19720
"Eligible Purchaser"	A household certified pursuant to the County as detailed in the Administrative Manual for Workforce Housing Programs. Eligibility includes but is not limited to: 1) Annual income at the time of purchase under 120% of the then current HUD published median income for New Castle County; 2) Evidence of completed housing counseling.
"Fair Market Value"	The fair market value of the Unit as determined by written appraisal prepared by a licensed certified appraiser and obtained by or at County's election or obtained by Owner or Resale Purchaser and approved by the County.
"Initial Owner"	The person or persons entering into this Agreement, as the initial owner(s) of the Unit.

“New Castle County’s Resale Profit”	The amount to be paid to the County by an Owner upon a Transfer within the Affordability Period pursuant to the calculation in Section 14, or upon refinancing for an amount exceeding that permitted by Section 11.
“Owner”	Either the Initial Owner or any Resale Purchaser.
“Refinancing”	Refinancing includes restructuring or modification of the Approved Financing, a replacement mortgage and/or adding subordinate financing.
“Resale”	Any sale of the Unit.
“Resale Purchaser”	A purchaser of the Unit from the Initial Owner or any Resale Purchaser.
“Sales Price”	The total consideration paid for a Unit.
“Transfer”	Transfer means any sale, assignment or transfer, voluntary or involuntary, of any interest in the Unit, including, but not limited to, a fee simple interest, a co-ownership interest, a life estate, a leasehold interest or any interest evidenced by an installment sale by which possession of the Unit is transferred but Owner retains title until final payment. Transfer does not mean an Exempt Transfer as defined in Section 12.
“Unit”	Real property that is the subject of this Agreement, further described in Exhibit A.

**Section 5. Affordability Term.** The term of this Agreement shall commence on the date entered in Section 1(a) above, or if no date is entered, on the date this Agreement is recorded and continues for a period of fifteen (15) years thereafter. If this Unit is sold during the fifteen (15) year affordability period, it must be resold to an Eligible Purchaser except as provided herein.

**Section 6. 90 Day Prior Notice to the County.** Before taking any action to market or sell the Unit, Owner shall provide County by certified mail, return receipt requested, at the address set forth in Section 4 or at any other address that County may designate, with not less than ninety (90) days prior written notice of Owner’s intent to sell the Unit. During such notice period County may exercise right of first refusal to purchase the Unit at the Affordable Price and settle within 90 days of receiving notice of intent to transfer. The County shall have the right to pursue any of the remedies in Section 27(b) if a Resale is made without the prior notice required by this Section.

**Section 7. County Referral of Buyer.** If the County refers an Eligible Purchaser, Owner shall sell the Unit to the Eligible Purchaser at the Affordable Price. If for any reason beyond the control of Owner, said Eligible Purchaser is unable to consummate the purchase of the Unit, Owner shall immediately notify County of such inability.

**Section 8. Sale if No County Referral or Purchase.** If County does not elect to purchase the Unit or is unable to refer an Eligible Purchaser, or an Eligible Purchaser is unable to complete settlement in one hundred eighty (180) days, the County shall notify Owner of the Affordable Price of the Unit which would be used for the calculation of the County’s Resale Profit, and Owner may sell the Unit to any Resale Purchaser.

**Section 9. Resale/Transfer/Lien or Mortgage.** During the Affordability Term, each and every Transfer, mortgage, or pledge of the Unit as collateral shall be subject to the restrictions in this Agreement. Any Transfer without satisfaction of the provisions of this Agreement is prohibited and shall constitute a Default by Owner for which the County may exercise the Remedies pursuant to Section 27(b).

**Section 10. Certificate of Compliance.** Upon permitted Transfer to Initial Owner or Resale Purchaser, seller and purchaser shall receive a Certificate of Compliance approving the Transfer and Approved Financing, and certifying compliance with the terms of this Agreement. This Certificate shall be recorded as an exhibit to the deed to the purchaser and shall also confirm that this Agreement is subordinate to Approved Financing.

**Section 11. Sales Price not to Exceed Affordable Price.** If any Owner sells the Unit prior to the end of the Affordability Term, the Sales Price shall not exceed the Affordable Price. Each and every contract purchase price for a Unit shall be expressly recited in the deed or other document effectuating the Transfer of such Unit. An Owner of a Unit may not permit any prospective buyer to assume any or all of such Owner’s customary closing costs, or accept any consideration not stated in the deed or other document effectuating the Transfer of such Unit. If a Unit is sold with furnishings or other personal property, no more than the fair market value of such personal property may be charged. Upon Transfer for a price that exceeds the Affordable Price, the selling Owner and Resale Purchaser are jointly and severally liable to the County for County’s Resale Profit.

**Section 12. Exempt Transfers.** The following conveyances are not considered Transfers for the purposes of this Agreement:

- (a) Resulting from the death of an Eligible Purchaser where the unit passes to such Eligible Purchaser’s spouse or Certified Domestic Partner; or co-owner who is an Eligible Purchaser;
- (b) Resulting from the death of an Eligible Purchaser where the Unit passes other than as described in Section 12(a) in which case the provisions of Section 28 apply;



- (c) By an Owner where the spouse or Certified Domestic Partner of such Owner becomes a co-owner of the applicable Unit;
- (d) Resulting from a decree of dissolution of the marriage, a property settlement agreement incidental to such a decree, a signed separation agreement, a protection from abuse order requiring separation, or other court order requiring separation or legal separation or from a property settlement agreement incidental to such a decree, by which a spouse or Certified Domestic Partner who is an Owner becomes the sole Owner of the Unit;
- (e) By Owner into an inter vivos trust by which beneficial ownership is not changed;
- (f) The refinancing of any Approved Financing that meets the requirements of Section 18.

**Section 13. Change of Use as Unqualified Sale.** Any change of use of the Unit from single-family, owner-occupied dwelling unit, including without limitation rental of the Unit other than as permitted in Section 23(e) or Section 23(f) shall be deemed a Default.

**Section 14. County's Resale Profit.** "See EXHIBIT B 'County's Resale Profit Worksheet'" In the event of a Transfer of a workforce dwelling unit, in an arms-length transaction, prior to the 15th anniversary of the date of acquisition of the workforce dwelling unit by the Initial Owner, and if the Owner receives consideration for such transfer in excess of the purchase price paid for the workforce dwelling unit, plus usual and customary closing costs (upon Owner's purchase and sale) approved by the County, plus properly documented capital improvements to the workforce dwelling unit made by or on behalf of the Owner ("Resale Profit"), the Owner agrees to pay the Resale Profit, multiplied by one (1) minus a fraction, the numerator of which is the number of complete calendar months since the date that the Initial Owner purchased the workforce dwelling unit, and the denominator of which is one hundred eighty (180) to New Castle County ("NCC's Resale Profit"). In the case of Refinancing without County approval, County's Resale Profit is the amount by which the principal amount of Refinancing exceeds the Affordable Price. Upon Transfer to a Resale Purchaser who is not an Eligible Purchaser where the Fair Market Value exceeds the Actual Resale Price by five percent (5%) or more, the County may elect to use Fair Market Value in place of the Actual Resale Price for determining County's Resale Profit.

**Section 15. Lien for Unpaid County's Resale Profit; Obligation Continuing After Sale.** In the event that the Owner fails to pay the NCC Resale Profit to New Castle County on the date of transfer of title to the workforce dwelling unit, New Castle County shall have a lien against the workforce dwelling unit for NCC's Resale Profit, plus interest thereon at the rate of ten (10) percent per annum. Any and all Resale Profit paid to New Castle County shall be deposited into the New Castle County Housing Trust Fund. To collect such unpaid County's Resale Profit and interest thereon, County may elect to pursue its remedies under Section 27(b). In the event of a Sheriff Sale, purchaser takes title free and clear of this Agreement; however, the lien for unpaid County's Resale Profit remains as a lien on the proceeds subordinate only to Approved Financing and Refinancing approved under Section 18, sheriff costs, lienable utilities, real estate taxes and transfer taxes. The lien for unpaid County's Resale Profit shall have priority over all unsecured creditors and the claims of all lien holders that are junior in priority to this Agreement.

In the event of foreclosure, or a deed in lieu of foreclosure of the First Mortgage, any provision herein or in any collateral agreement restricting the use of the Property or restricting the Borrower's ability to sell the Property, shall automatically have no further force or effect on subsequent owners or purchasers of the Property. Any Person, including his successors and assigns, (other than the Borrower or related entity or person to the Borrower) receiving title to the Property through a foreclosure or deed in lieu of foreclosure of the First Mortgage shall receive title to the Property free and clear from such restrictions.

**Section 16. Confession of Judgment.** Upon Transfer in violation of this Agreement, Owner hereby authorizes and empowers any Clerk Prothonotary or Attorney of any Court of Record to appear for Owner at the suit of the County on the obligations contained herein to confess judgment for the sum(s) due hereunder, plus costs of suit, premiums and attorneys fees as herein provided. Owner hereby for himself/herself, his/her heirs, executors, administrators and assigns, remises, releases and forever quitclaims unto the County, its successors, agents, employees and assigns, all manner of errors, misprisions, misentries, defects and imperfections whatever, in the entering of said judgment, or any proceeding thereon, or thereto, or anywise touching or concerning the same.

**Section 17. Limitation on Financing and Refinancing; Subordination and Priority.** This Agreement has priority over all subsequent liens on the Unit, other than Approved Financing, real estate taxes and lienable utilities. Any other loans secured by the Unit are subordinate in all respects to this Agreement unless the County subordinates its interest in writing to such loans or Refinancing.

**Section 18. Refinancing.** Owner may refinance so long as the total outstanding balance of principal on all loans secured by the Unit do not exceed the Affordable Price. Owner acknowledges that the requirements of this Section are necessary to ensure the continued affordability of the Unit to Owner and to minimize the risk of loss of the Unit through default and foreclosure of mortgage loans. Owner further acknowledges that violation of the provisions of this Section shall constitute a Default under this Agreement. Upon satisfaction of the County's requirements, the County shall subordinate this Agreement to the refinancing as Approved Financing. Any

agreement subordinating this Agreement to any refinancing to be executed by the County shall include notice and cure rights for the County.

**Section 19. Cash Out.** Owner may receive money from the refinancing proceeds provided the refinancing requirements set forth in Section 18 are met.

**Section 20. Housing Trust Fund.** All County's Resale Profit funds, excess rental proceeds as described in Section 23(e)(iv), any damages collected, and interest shall be deposited into the New Castle County Housing Trust Fund.

**Section 21. Owner Occupancy on Resale.** Eligible Purchaser shall provide written representations to County that the Eligible Purchaser is purchasing the Unit for their own use and occupancy.

**Section 22. Representations and Warranties.** Owner represents and warrants to the County that the financial and other information provided to qualify to purchase the Unit is true and correct in all material respects.

**Section 23. Covenants.** During the Affordability Term, Owner promises that Owner shall:

- (a) Fully comply with each and every term, covenant and restriction in this Agreement;
- (b) Use the Unit only as an owner-occupied, single-family dwelling and be Owner's primary residence;
- (c) Maintain the building improvements, grounds and equipment of the Unit in good repair and condition and in compliance with all applicable property maintenance codes. Owner shall keep the Unit reasonably free from graffiti and unrepaired vandalism and from accumulation of abandoned property, inoperable vehicles, unenclosed storage, debris, and waste materials. In the event of a casualty loss, Owner shall cause the restoration or replacement of the Unit in a timely manner provided that such restoration or replacement is then economically feasible;
- (d) Maintain a standard (i) personal liability insurance coverage, extending to the described unit and (ii) special coverage form policy as respects the dwelling equal to full replacement cost of the dwelling, adjusted annually, naming the County as loss payee. Owner shall provide County with a declarations page or insurance binder evidencing above coverage;
- (e) Not rent the Unit to another party, unless such rental is first approved in writing by the County; provided that the County shall approve the renting of the Unit only if all of the following conditions are met:
  - i. The term of the rental is not greater than twelve (12) months and cannot be extended without County approval;
  - ii. Owner demonstrates to the County's reasonable satisfaction that Owner will incur substantial hardship if not permitted to rent the Unit to a third party;
  - iii. The tenant would qualify as an Eligible Purchaser as certified by the County;
  - iv. The rent for the Unit does not exceed rent determined by County to be affordable to an Eligible Purchaser in accordance with standards set forth in the Administrative Manual ("Affordable Rent"). If Owner rents the Unit to a third party in violation of this Subsection 23(e)(iv), any excess rents paid to Owner by the Tenant over the Affordable Rent shall be due and payable to County immediately upon receipt thereof by Owner. Such excess rental proceeds shall be considered a personal debt of Owner to County, which the County may collect by legal action against Owner.
  - v. Any rental of the Unit in violation of this Agreement is prohibited, and shall be a Default under this Agreement. In this event, the full amount of any rental proceeds shall be recoverable as damages by the County, and any rental agreement terminated; and owner assigns to County the right to collect rent and the right to terminate the lease as a violation of this agreement and the right to file a summary proceeding for possession and rent.
- (f) Nothing in this Section shall be construed to prevent an Owner from renting a portion of the Unit while continuing to occupy the Unit.

**Section 24. Monitoring and Inspection by County**

- (a) The County or its designee may enter the Unit for inspection during normal hours following two (2) business days advance written notice for the purpose of determining compliance with this Agreement.
- (b) Owner shall retain all records related to compliance with obligations under this Agreement for a period of not less than two (2) years, and shall make such records available to the County or its designee for inspection and copying upon five (5) business days advance written notice.
- (c) The County shall monitor Owner's compliance with the requirements of this Agreement on an annual basis. Owner shall cooperate with County monitoring and provide required certifications and other information required by the County to determine compliance within ten (10) days of receipt of a written request by the County.

**Section 25. Nonliability for Negligence, Loss, or Damage.** Owner acknowledges, understands and agrees that the relationship between Owner and the County is solely that of a property owner and an administrator of a

County workforce housing program, and that the County does not undertake or assume any responsibility for or duty to Owner to select, review, inspect, supervise, pass judgment on, or inform Owner of the quality, adequacy or suitability of the Unit or any other matter. The County owes no duty of care to protect Owner against negligent, faulty, inadequate or defective building or construction or any condition of the Unit and Owner agrees that neither Owner, or Owner's heirs, successors or assigns shall ever claim, have or assert any right or action against the County for any loss, damage or other matter arising out of or resulting from any condition of the Unit.

**Section 26. Indemnity.** Owner agrees to defend, indemnify, and hold the County, its officers, directors and employees harmless from all losses, damages, liabilities, claims, actions, judgments, costs, and reasonable attorneys fees that the County may incur as a direct or indirect consequence of:

- (a) Owner's Default or failure to comply with the covenants, conditions and restrictions contained in this Agreement or failure to perform any obligations as and when required by this Agreement;
- (b) The failure at any time of any of Owner's representations to the County to be true and correct.

**Section 27. Default.**

- (a) One or more of the following events shall constitute a default ("Default") by Owner under this Agreement:
  - i. The County determines that Owner made a misrepresentation to qualify as an Eligible Purchaser or in connection with Owner's obligations under this Agreement;
  - ii. Owner fails to comply with this Agreement, including, without limitation, the covenant requiring Owner to personally occupy the Unit, as required pursuant to Section 23(b);
  - iii. Owner rents the Unit in violation of Section 23(e);
  - iv. Owner fails to provide information to the County necessary to determine Owner's compliance with the requirements of this Agreement;
  - v. Owner makes a Transfer in violation of this Agreement, including a conveyance that occurs without (1) a Certificate of Compliance or (2) being an Exempt Transfer;
  - vi. A notice of default is issued under Approved Financing or other financing secured by the Unit;
  - vii. A lien is recorded against the Unit other than Approved Financing;
  - viii. Owner places, or permits to be placed, a mortgage on the Unit in violation of Section 18; or
  - ix. Owner declares bankruptcy or makes an assignment of assets for the benefit of creditors.
- (b) Remedies. Following a Default:
  - i. The County shall give the Owner thirty (30) days written notice of such Default, which notice shall state the nature of the Default. To the extent reasonable under the circumstances, the County and Owner shall endeavor to identify a remedy for such Default by conference and conciliation; however, if the Default is not cured to the satisfaction of the County within thirty (30) days from the giving of such notice, the County may pursue any or all remedies available to it, as set forth in Section 27(b)(ii).
  - ii. The County hereby reserves the right to enforce this Agreement by pursuing any and all remedies provided by law or in equity. The County's remedies shall include, by way of example and not limitation, the right to require payment of County's Resale Profit, the right to specific performance of this Agreement, the right to a mandatory injunction requiring the sale of a Unit in conformance with this Agreement, and damages and injunctive relief for breach of this Agreement. All of the remedies available to the County shall be cumulative, and the County's election to pursue any remedy shall not preclude the County from then or later pursuing any one or more other remedies.
  - iii. In the event the County resorts to litigation with respect to any Default under this Agreement, and the County prevails, the County shall be entitled to recover its damages and interest thereon at the legal rate from the date of Default, costs, reasonable attorneys' fees and expert witness fees. Such fees shall include an amount to pay for the time, if any, of the County Attorney's office spent on such matter at the rates generally charged for similar services by private practitioners within the County.

**Section 28. Inheritance.** In the event the Unit passes as described in Section 12(b), the personal representative of Owner's estate, the person inheriting the Unit, or the person receiving the Unit as beneficiary of a trust shall provide written notice to the County of Owner's death within sixty (60) days of the date of death and the following procedures shall apply:

- (a) The person inheriting the Unit shall provide the County with documentation that he or she is an Eligible Purchaser. If the Inheriting Owner fails to provide required documentation, he or she shall be deemed not to qualify as an Eligible Purchaser. If the Inheriting Owner qualifies as an Eligible Purchaser, he or she shall succeed to Owner's interest and obligations under this Agreement. If the Inheriting Owner fails to qualify as an Eligible Purchaser, he or she shall be required to sell the Unit in accordance with the terms and conditions of this Agreement (including the County's right of first refusal described in Section 6; provided, however, that the

Inheriting Owner may own and occupy the Unit for up to one (1) year prior to providing a Notice of Intent to Transfer to the County pursuant to Section 6, and provided further that the Inheriting Owner remains in compliance with all other requirements of this Agreement. The Inheriting Owner shall not be required to occupy the Unit during this one (1) year time period, but shall not rent the Unit except as provided in Section 23(e).

- (b) Failure of an Inheriting Owner to follow the procedures and file the notices described in this Section shall constitute a Default under this Agreement and the County may then exercise any of the remedies set forth in Section 27(b), including, without limitation, exercise of the County's right of first refusal upon Default.

**Section 29. Perpetuities Savings Clause.** Any interest under this Agreement must vest within the lifetime of the last of the Initial Owners to survive (lives in being) plus twenty one (21) years.

**Section 30. Governing Law.** This Agreement shall be governed by Delaware law.

**Section 31. Severability.** Any illegal or unenforceable provision of this Agreement shall be severed and shall not render invalid the remaining portions of this Agreement.

**Section 32. No Waiver.** No waiver by the County of any Default under this Agreement shall be deemed to be a waiver of any other or subsequent Default. No delay or omission in the exercise of any right or remedy of County upon any Default by Owner shall impair such right or remedy or be construed as a waiver. The County's failure to insist in any one or more instance upon the strict observance of the terms of this Agreement shall not be considered a waiver of the County's right thereafter to enforce the provisions of this Agreement. The County shall not waive its rights to enforce any provision of this Agreement unless it does so in writing, signed by an authorized agent of the County.

**Section 33. Notices.** Notices required herein shall be in writing. Notices and other written communications by and between the parties shall be addressed to Owner at the unit address and to the County at address set forth in Section 4, or such other address as each respective party has designated by written notice to the other party. No party shall evade or refuse delivery of any notice.

**Section 34. Fair Housing Policy on Non-Discrimination.** It is the policy of the County and obligation of Owner to comply fully with all Federal, State, and local nondiscrimination laws and with rules and regulations governing Fair Housing and equal opportunity in housing.

**Section 35. Interpretation of Agreement.** The terms of this Agreement shall be interpreted so as to avoid speculation on the Unit and to ensure to the extent possible that its sales price remains affordable to Eligible Purchasers.

**Section 36. Recordation.** This Agreement shall be recorded in the Office of the Recorder of Deeds in and for New Castle County, Delaware.

**Section 37. Covenants Running with the Land; Binding Successors in Interest.**

- (a) Throughout the Affordability Term, this Agreement and the covenants set forth herein shall run with the land and shall be binding to the fullest extent permitted by law and equity; however, any lien for unpaid County's Resale Profit shall continue until released by the County. Such covenants shall inure to the benefit of the County and shall bind and be enforceable against Owner, Owner's heirs, legal representatives, executors, successors and assigns. Such covenants and restrictions shall run in favor of the County without regard to technical classification and without regard to whether the County is an owner of any land or interest therein to which such covenants and restrictions relate.
- (b) The Unit shall be held, conveyed, hypothecated, encumbered, leased, rented and occupied subject to the covenants, restrictions and limitations set forth herein, which are intended to constitute both equitable servitudes and covenants running with the land. Any buyer or transferee of the Unit or any portion thereof, by acceptance of a deed therefore, or by the signing of an agreement of sale to purchase same, shall, by acceptance of such deed or by the signing of such agreement of sale, be deemed to have consented to and accepted the covenants, conditions, restrictions and limitations set forth herein, whether or not there is any express reference to this Agreement in such deed or agreement of sale.

**Section 38. Exhibits.** This Agreement includes the Exhibits attached to it, which are incorporated into this Agreement by this reference.

**Section 39. Assignment of Surplus Proceeds; Insurance Proceeds.**

- (a) If a creditor acquires title to the Unit through a deed in lieu of foreclosure, a sheriff's deed upon sale, or otherwise, Owner (other than creditor) shall not be entitled to the proceeds of sale to the extent that such proceeds otherwise payable to Owner when added to the proceeds paid or credited to the creditor exceed the Affordable Price ("Excess Proceeds"). Owner hereby assigns

to the County such Excess Proceeds and Owner shall instruct the holder of such Excess Proceeds to pay such to the County in consideration of the benefits received by Owner through purchase of the Unit under this Agreement.

- (b) If the Unit is damaged or destroyed and Owner elects not to rebuild or repair the Unit, Owner shall pay the County the portion of any insurance proceeds received by Owner for such destruction or damage that exceeds the greater of the then current Affordable Price or the Owner's purchase price. Upon sale of the property insurance proceeds retained by Owner shall be added to the Sale's Price when computing County's Resale Profit

**Section 40. Amendments.** This Agreement may not be terminated, modified or amended, in whole or in part, without the written approval of the County and the current Owner.

**Section 41. Initial Owner's Copy.** County shall provide Initial Owner with a copy of this WORKFORCE HOUSING BUYER'S AGREEMENT at the time of execution or after recordation.

**IN WITNESS WHEREOF,** Initial Owner has executed this Agreement.

Signed, sealed, and delivered in the presence of:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Initial Owner:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Initial Owner:

STATE OF DELAWARE     )  
  ) SS.  
NEW CASTLE COUNTY     )

This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notarial Officer

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

**EXHIBIT A**

**Legal Description of the Unit**

**EXHIBIT B**

**County's Resale Profit Worksheet**

<b>NEW CASTLE COUNTY'S RESALE PROFIT WORKSHEET</b>			
<b>Property</b>	The Property which is subject to repayment of Resale Profit	Tax Parcel #:	
		Address:	
<b>Regulatory Agreement</b>	Recorded against the Property	Date:	
		Owner(s):	
<b>Affordable Price Calculation</b>	<b>Owner's Purchase Price</b>		\$
	<b>Closing Costs from Closing Disclosure to New Owner</b>		<b>EXAMPLE ONLY</b>
	Real Estate Commission		
	Transfer Tax		
	State		
	Local		
	<b>Prorations</b>		
	City/Town Tax		
	County/School Tax		
	Utilities		
	Maintenance Association		
	Condominium Fees		
	Other Proration		
	Settlement Help to Buyer		
	Seller's Concession*		
	Other Approved Cost*:		
	<b>*APPROVAL FORM MUST BE ATTACHED</b>		
	Total Allowable Increases	\$	
<b>Total of Purchase Price and Allowable Increases</b>		\$	
<b>Maximum Affordable Price (as of this date)</b>		\$	
<b>Resale Profit</b>	<b>Sales Price to New Owner from Closing Disclosure</b>		\$
	<b>Profit (Sales Price on Closing Disclosure less Total of Purchase Price and Allowable Increases)</b>		\$
	Number of Months Owned		
	Term of Regulatory Agreement in Months		180
	<b>Resale Profit*:</b> $RP \times 1 - (\#mos. \text{ owned}/180)$		\$
<b>Amount due Seller</b>		\$	
<b>*Resale Profit Amount Payable to NCC Housing Trust Fund</b>			