

Rider to Residential Contract of Sale Affordable Dwelling Unit (ADU) Program

This Rider to Residential Contract of Sale Affordable Dwelling Unit (ADU) Program (“Rider”) is made on _____, 20____ to that certain Sales contract (“Contract”) dated _____, 20____ between _____ (“Purchaser”) and _____ (“Seller”) for the purchase and sale of the property (“Property”) having an address of _____, _____ Virginia, _____ and being more particularly described in the Contract.

Purchaser and Seller mutually agree, any other provisions of the Contract to the contrary notwithstanding, that the following provisions are hereby incorporated into the Contract:

1. **Purchase Price.** The purchase price (the "Purchase Price") of the Property is \$_____. The Purchase Price has been established in accordance with the provisions of the Fairfax County Affordable Dwelling Unit Program as set forth in Part 8, Article 2 of the Fairfax County Zoning Ordinance, and regulations established with respect thereto, as the same may be amended from time to time (such ordinance provisions and regulations are collectively referred to as the “Ordinance.”).
2. **Notice of Principal Residence.** Purchaser hereby acknowledges and agrees that Purchaser will occupy the Property as Purchaser's principal residence in accordance with the provisions of the Ordinance.
3. **Compliance with Affordable Dwelling Unit Ordinance.** It is agreed and understood that the Property is subject to the terms and conditions of the Ordinance, including, without limitation, price controls, occupancy requirements and financing and sales restrictions applicable to the Property. Pursuant to the Fairfax County Affordable Dwelling Unit Program, the Property is subject to a Declaration of Affordable Dwelling Units Covenants recorded in Deed Book _____, Page _____ that incorporates certain provisions of the Ordinance as amended that became effective on February 28, 2006 (the “ADU Covenants”), a copy of which is attached hereto as Exhibit A. In addition, it is acknowledged and understood by Purchaser and Seller that the ADU Covenants state that the Property is subject to all the provisions of the Ordinance, as amended from time to time. In confirmation of the foregoing, in connection with the execution of the Contract, Seller and Purchaser shall execute the Monetary Liens and Fairfax County Affordable Dwelling Unit Program Purchaser Certificate in the form as set forth on Exhibit B, attached hereto and cause it to be delivered in fully executed form to the ADU Program administrator at the Fairfax County Department of Housing and Community Development, 3700 Pender Drive, Fairfax, Virginia 22030 within three (3) business days after ratification of the Contract.

_____/_____
initials/Purchaser

_____/_____
initials/Seller

4. **Deed Provisions Required to be Included in Deed to Purchaser from Seller.**

Purchaser and Seller acknowledge and agree that each of them has read and understood the following deed provision text which is to be included in the deed conveying the Property to Purchaser and to which the Property will then be subject. Purchaser and Seller agree that the following text shall be included in the deed conveying the Property to Purchaser from Seller pursuant to this Contract:

The property hereby conveyed is expressly subject to the Declaration of Affordable Dwelling Unit Covenants recorded among the land records of Fairfax County, Virginia in Deed Book _____ at page _____ (referred to herein as the “ADU Covenants”) pursuant to the Affordable Dwelling Unit Program as set forth in Part 8 of Article 2 of the Fairfax County Zoning Ordinance and the regulations established with respect thereto, as the same may be amended from time to time (collectively such ordinance and regulations as amended from time to time are referred to herein as the “Ordinance”).

AMONG OTHER THINGS, THE ADU COVENANTS AND THE ORDINANCE INCLUDE RESTRICTIONS ON FUTURE TRANSFERS OF THE PROPERTY HEREBY CONVEYED, INCLUDING, BUT NOT LIMITED TO, A REQUIREMENT THAT SUCH PROPERTY MAY ONLY BE SOLD TO QUALIFIED FIRST-TIME HOMEBUYERS AT UP TO A MAXIMUM CONTROLLED PRICE, SUBJECT TO AN EXCLUSIVE RIGHT OF THE FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY TO ACQUIRE THE PROPERTY HEREBY CONVEYED ON CERTAIN TERMS IN THE EVENT SUCH PROPERTY IS OFFERED FOR RESALE.

FURTHER, THE ADU COVENANTS AND THE ORDINANCE, AMONG OTHER THINGS, ALSO PROVIDE: THAT, UPON ANY RESALE OR TRANSFER DURING THE PERIOD THAT THE ADU COVENANTS AND THE ORDINANCE APPLY TO THE PROPERTY HEREBY CONVEYED, THE PERIOD THAT THE ADU COVENANTS AND THE ORDINANCE SHALL APPLY TO SUCH PROPERTY SHALL BE RENEWED AND BEGIN AGAIN; THAT THE TOTAL AGGREGATE AMOUNT OF INDEBTEDNESS THAT MAY BE SECURED BY THE PROPERTY HEREBY CONVEYED SHALL NOT EXCEED THE PURCHASE PRICE FOR THE PROPERTY HEREBY CONVEYED, AS ADJUSTED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 2-812(4) OF THE ORDINANCE,

initials/Purchaser

initials/Seller

AND PROVIDE THAT OTHER TERMS AND CONDITIONS APPLY, INCLUDING, BUT NOT LIMITED TO, A RIGHT OF THE FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY OR A NONPROFIT AGENCY DESIGNATED BY THE COUNTY EXECUTIVE OF FAIRFAX COUNTY, VIRGINIA TO ACQUIRE THE PROPERTY HEREBY CONVEYED ON CERTAIN TERMS IN THE EVENT OF A PENDING FORECLOSURE SALE OF SUCH PROPERTY.

5. **Purchaser to Advise Lenders of ADU Program Requirements.** Purchaser shall provide each lender to which Purchaser applies for financing of the purchase of the Property a complete copy of the Contract including this ADU Program Rider and advise each lender that the ADU Covenants include requirements with which any financing documents provided must comply.

6. **No Liability of ADU Program (as defined in this paragraph).** The Purchaser and Seller each expressly acknowledge and agree that the Board of Supervisors of Fairfax County, the Fairfax County Redevelopment and Housing Authority and the Fairfax County Department of Housing and Community Development and all of the employees, agents, contractors, representative and counsel of each of them (collectively and each individually referred to in this paragraph 6 as the “ADU Program”) shall have no liability to either party and are hereby unconditionally and forever released from any and all liability whatever in connection with the purchase and sale of the Property. Purchaser and Seller expressly acknowledge that each of them intends the ADU Program to be the beneficiary of such release.

7. **Seller Pays Three Percent (3%) of Purchase Price for legal and closing costs of Purchaser.** In compliance with sales price provisions and regulations issued under the Ordinance, Seller covenants and agrees that Seller shall contribute and pay on behalf of Purchaser three percent (3%) of the Purchase Price for legal and settlement and closing costs that would otherwise be paid by the Purchaser, regardless of (a) the title company selected by Purchaser as settlement or closing agent and (b) the lender selected by Purchaser. Such three percent (3%) of the Purchase Price payment by Seller shall apply, among other things to pay: one percent for a permanent loan origination fee, Fairfax County tax certificates, transfer taxes and charges, tax/stamps on the deed, tax/stamps on deeds of trust, recordation charges, title examination fees, lender’s and owner’s title insurance, settlement and attorney fees, notary fees, fees for preparation of a deed of conveyance, fees for preparation of the deed of trust or mortgage and deed of trust or mortgage note, house location survey plat, credit report charges, and appraisal fees. Seller further covenants and agrees to provide a copy of the executed, final HUD -1 settlement document for the sale and purchase of the Property by Purchaser to the ADU Program administrator at the Fairfax County Department of Housing and Community Development, 3700 Pender Drive, Fairfax, Virginia 22030 within ten (10) business days after the date of the settlement.

initials/Purchaser

initials/Seller

8. **Settlement Not Required Until at Least Thirty (30) Days After Contract is Fully Executed.** Seller covenants and agrees that Purchaser shall not be required to settle and close the purchase of the Property until at least thirty (30) days after the Contract is fully executed by all parties and not until the residential use permit allowing occupancy of the Property has been issued. Seller further covenants and agrees that Purchaser shall not be in default under the Contract or otherwise liable to pay any amount whether as liquidated damages or of any other kind related to the timing of settlement of the purchase of the Property in the event Purchaser settles and closes on the purchase of the Property within thirty (30) days after the Contract is fully executed by all parties, or such longer time as may be agreed by Seller and Purchaser, and Purchaser shall not be required to settle on the Property until the residential use permit allowing occupancy of the Property has been issued.

9. **This Rider Controls over Conflicting Terms.** In the event of any conflict between the terms and conditions of this Rider and any of the terms or conditions of the Contract or any addendum thereto, the terms and conditions of this Rider shall control and apply. All other terms and conditions of the Contract and the addendums thereto shall remain unmodified.

Witness our signatures and seals:

SELLER:

PURCHASER:

_____/_____
Date Signature

_____/_____
Date Signature

_____/_____
Date Signature

_____/_____
Date Signature

Seller's Sales Representative:

_____/_____
Date Signature

_____/_____
initials/Purchaser

_____/_____
initials/Seller

EXHIBIT A

ADU COVENANTS

[to be attached beginning on next page]

initials/Purchaser

initials/Seller

EXHIBIT B

Monetary Liens and Fairfax County Affordable Dwelling Unit Program Purchaser Certificate
Form

[to be attached beginning on next page]

_____/_____
initials/Purchaser

_____/_____
initials/Seller