

DEED RESTRICTION AGREEMENT

THIS DEED RESTRICTION AGREEMENT (the "Agreement") is entered into this ____ day of _____, 2021 (the "Effective Date") by and between Housing North, a Michigan nonprofit with a mailing address of P.O. Box 1434, Traverse City, 49685 (the "Grantee"), and NAME with an address of ADDRESS, ("Owner") (each a "Party" and collectively the "Parties").

WHEREAS, Owner desires to donate certain restrictions on the use of the Property for the benefit of the Grantee by requiring occupancy of the Property according to the occupation obligations as described below. This restriction agreement is given in consideration for a sum less than \$100.00 Dollars. This restriction agreement does not constitute a transfer of ownership under MCL 211.27a(6)(a)-(k).

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the Parties agree as follows:

1. Property. The following real property is hereby burdened with the covenants and restrictions specified in this Agreement: ADDRESS as more specifically described in **Exhibit A**.
2. Definitions. For purposes of this Agreement, the following terms shall have the following meanings:
 - a. *Person* means a natural person, and excludes any type of entity.
 - b. *Principal Place of Residence* means the home or place in which one's habitation is fixed and to which one has a present intention of returning after a departure or absence therefrom. To determine a person's Principal Place of Residence, the criteria set forth in M.C.L. 168.11 shall apply.
 - c. *Qualified Household* means one Qualified Resident or a group of persons that contains at least one Qualified Resident. A Qualified Household may have occupants that are not Qualified Residents as long as at least one occupant is a Qualified Resident.
 - d. *Qualified Resident* means a person who occupies the Property as the Owner or tenant with the Property being the Owner's or tenant's primary residence. The Owner or tenant will be considered as occupying the Property as his/her/their primary residence if the Owner is living at the Property for at least ten (10) months out of each calendar year. Housing North may, in its sole discretion, grant a temporary waiver of this occupancy requirement for good cause such as illness, temporary job relocation, military deployment or sabbatical. The Owner or tenant must provide written request for a temporary waiver of the owner occupancy requirement to be a qualified resident at least thirty (30) days prior to such temporary vacancy if reasonably

possible. The Owner's or tenant's failure to comply with the provisions of this paragraph may, following a three (3) month notice to cure, be deemed a breach of this Deed Restriction, allowing Housing North or the City of Petoskey to enforce this agreement.

e. *Managing Entity*: Housing North shall act as the managing entity under this Agreement. As such, Housing North shall be responsible for receiving and maintaining the Annual Verification statements as described below in paragraph 5.

3. Occupancy Restrictions.

a. At least one Qualified Resident shall continuously occupy the Property as his or her principal place of residence.

b. Owner may rent the Property as long as the Property is continuously occupied by a Qualified Household.

c. A Qualified Resident may lease a room or rooms in the Property to one or more persons, provided that the Qualified Resident still occupies the Property as his or her principal place of residence. For purposes of this provision, no lease shall be less than one month.

d. If the Qualified Resident is renting the Property, the initial lease term must be for a minimum of twelve (12) months. After the initial 12 months, a lease agreement may be renewed for a shorter term, but no less than one month.

e. The Property shall be used for residential purposes only. No commercial activity shall occur on or in the Property other than home occupations as may be permitted within the zone district applicable to the Property.

4. Annual Verification. No later than February 1st of each year, beginning in the year following this agreement, Owner shall submit a written statement to the Managing Entity including the following information and stating that such information is true and correct to the best of Owner's knowledge and belief:

a. Evidence to establish that the Property was occupied by a Qualified Resident during all of the prior calendar year;

b. If applicable, a copy of the lease form currently used for the Property; and

c. If applicable, a list of tenants who occupied the Property in the prior calendar year and the evidence submitted by each tenant to establish that they were a Qualified Resident, as set forth in the Qualification Guidelines.

5. Subdivision of Property. If the Property is subdivided or more than one dwelling is created or constructed on the Property, the requirements of this Deed Restriction Agreement shall apply to all new parcels created from the division of the Property and/or any dwelling unit constructed on the Property.

6. Breach.

a. It is a breach of this Agreement for Owner to violate any provision of this Agreement, or to

default in payment or other obligations due to be performed under a promissory note secured by a mortgage encumbering the Property. Owner shall notify the Grantee, in writing, of any notification received from any lender of past due payments or defaults in payments or other obligations within 5 days of receipt.

b. If the Grantee has reasonable cause to believe Owner is violating this Agreement, the Grantee or its agent including the Managing Entity may inspect the Property between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, after providing Owner with 24 hours written notice of the time and individual or individual(s) inspecting the Property. This Agreement shall constitute Owner's permission to enter the Property during such times upon such notice.

7. Enforcement. This Deed Restriction Agreement may be enforced by Housing North any agent, successor, or assign. This Agreement may also be enforced by the City of Petoskey, which is an express third-party beneficiary to this Agreement.

8. Delay in Enforcement. A delay in enforcement shall not be construed as a waiver of Grantee's right to enforce the terms of this Deed Restriction. Similarly, a decision not to enforce this Deed Restriction is not a waiver of the rights held by Grantee to pursue remedies in the future.

9. Remedies.

a. The Grantee or City shall have any and all remedies provided by law and in equity for a violation of this Deed Restriction, including without limitation: (i) damages; (ii) specific performance; and (iii) injunctions, including without limitation an injunction requiring eviction of the occupant(s) and an injunction to prohibit the occupancy of the Property in violation of this Deed Restriction. All remedies shall be cumulative.

b. The cost to the Grantee or City of any activity taken in response to any violation of this Deed Restriction, including reasonable attorney fees, shall be paid promptly by Owner.

10. Foreclosure.

a. In the event of a foreclosure, acceptance of a deed-in-lieu of foreclosure, or assignment, this Agreement shall remain in full force and effect.

b. Owner shall give immediate notice to the Grantee: of any notice of foreclosure under the mortgage or any other subordinate security interest in the Property; or when any payment on any indebtedness encumbering the Property is required to avoid foreclosure of the mortgage or other subordinate security interest in the Property.

c. Within 60 days after receipt of any notice described herein, the Grantee may (but shall not be obligated to) proceed to make any payment required to avoid foreclosure. Upon making any such payment, the Grantee may place a lien on the Property in the amount paid to cure the default and avoid foreclosure, including all fees and costs resulting from such foreclosure.

d. The Grantee shall have 30 days after issuance of the public trustee's deed or the acceptance of a deed in lieu of foreclosure by the holder in which to purchase by tendering to the holder, in cash or certified funds, an amount equal to the redemption price which would have been required of the borrower or any person who might be liable upon a deficiency on the last day of the statutory redemption period(s) and any additional

reasonable costs incurred by the holder related to the foreclosure.

11. Miscellaneous.

a. Modification. This Agreement may only be modified by subsequent written agreement of the Parties.

b. Integration. This Agreement and any attached exhibits constitute the entire agreement between Owner and the Grantee, superseding all prior oral or written communications.

c. Runs with the Land. The benefits and obligations of the Parties under this Agreement shall run with the land, and Owner's obligations hereunder shall be binding on any subsequent holder of an ownership interest in the Property.

d. Severability. If any provision of this Agreement is determined to be void by a court of competent jurisdiction, such determination shall not affect any other provision hereof, and all of the other provisions shall remain in full force and effect.

e. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Michigan, and any legal action concerning the provisions hereof shall be brought in Charlevoix County, Michigan.

f. Agreement Binding; Assignment. This Agreement, and the terms, covenants, and conditions herein contained, shall inure to the benefit of and be binding upon the heirs, personal representatives, successors, and assigns of the Parties.

g. Third Parties. The City of Petoskey is an express third-party beneficiary to this Agreement. There are no other intended third-party beneficiaries to this Agreement.

h. No Joint Venture. Notwithstanding any provision hereof, the Grantee shall never be a joint venture in any private entity or activity which participates in this Agreement, and the Grantee shall never be liable or responsible for any debt or obligation of any participant in this Agreement.

i. Notice. Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail to the Party at the address set forth on the first page of this Agreement.

j. Recording. This Agreement shall be recorded with the Charlevoix County Clerk and Recorder.

k. Savings Clause. If any of the terms, covenants, conditions, restrictions, uses, limitations, obligations or options created by this Agreement are held to be unlawful or void for violation of: the rule against perpetuities or some analogous statutory provision; the rule restricting restraints on alienation; or any other statutory or common law rules imposing like or similar time limits, then such provision shall continue only for the period of the lives of the current duly elected and seated members of the Charlevoix City Council, their now living descendants, if any, and the survivor of them, plus 21 years.

12. Cessation of Existence. If the Grantee ceases to exist, then this Deed Restriction shall become vested in another entity, which shall be the City of Petoskey or another Michigan nonprofit organization, which is

has similar organizational purposes as Grantee, and which agrees to assume Grantee's rights and responsibilities under this Deed Restriction. Owner shall be promptly notified of the name and contact information for the successor entity.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

HOUSING NORTH, a Michigan Nonprofit

Yarrow Brown, Executive Director

STATE OF MICHIGAN } §
COUNTY OF CHARLEVOIX

The foregoing instrument was subscribed, sworn to and acknowledged before me this _____ day of _____, 2021, by _____.

SIGNATURE: _____
PRINT NAME: _____
Notary Public
Certified in _____ County, Michigan
Acting in _____ County, Michigan
My commission expires: _____

OWNER

_____ [ENTITY NAME IF APPLICABLE]

_____ [TYPED NAME]

STATE OF MICHIGAN } §
COUNTY OF CHARLEVOIX

The foregoing instrument was subscribed, sworn to and acknowledged before me this _____ day of _____, 2021, by _____.

SIGNATURE: _____
PRINT NAME: _____
Notary Public
Certified in _____ County, Michigan
Acting in _____ County, Michigan
My commission expires: _____

Drafted by:
Abbie Hawley
Olson, Bzdok & Howard
420 East Front Street
Traverse City, MI 49686

When recorded return to:
Yarrow Brown, Housing North
P.O. Box 1434
Traverse City, Michigan 49685

**EXHIBIT A
LEGAL DESCRIPTION**

Land located in the City of Petoskey, Emmet County, Michigan: