

**AMENDED AND RESTATED**  
**AFFORDABLE HOUSING COVENANT**  
**TOWN OF WEST TISBURY**  
**AFFORDABLE HOUSING COMMITTEE**

This affordable housing covenant (“Covenant”) is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between **RICHARD T. SYLVA and CAITLIN SYLVA**, having a mailing address of 18 Bailey Park Road, West Tisbury, MA 02575 (“Owner”); the **TOWN OF WEST TISBURY**, a municipal corporation within the county of Dukes County, with a mailing address of P.O. Box 278, West Tisbury, Massachusetts 02575 (the “Town”), acting by and through its duly appointed Affordable Housing Committee (“AHC” which term shall include the Town unless the context otherwise requires); and the **DUKES COUNTY REGIONAL HOUSING AUTHORITY**, a duly organized body politic and corporate organized pursuant to the laws of Massachusetts, with a mailing address of P.O. Box 4538, Vineyard Haven, MA 02568 (the “DCRHA” or “Monitoring Agent”).

WHEREAS, the Town is organized exclusively for municipal purposes, including the development and preservation of decent, affordable housing for low and moderate income people in the Town, the promotion of neighborhood stability and improvement, and the creation of homeownership opportunities for low and moderate income people who otherwise lack such resources;

WHEREAS, the Town has enacted zoning by-laws in furtherance of the Town’s goals of providing affordable housing to individuals and families of low and moderate incomes by facilitating the development of such affordable housing, which zoning by-laws include but are not limited to the creation of Homesite Lots, as defined in Section 4.4-7 of the West Tisbury Zoning By-laws, which section provides that the property shall be subject to a permanent restriction in the record title of the land, limiting purchase, rental or transfer to persons qualified to own or rent affordable housing at a price level established by the Affordable Housing Committee;

WHEREAS, Owner purchased a Homesite Lot, being the real property located at 18 Bailey Park Road in West Tisbury, Massachusetts, as more particularly described on Exhibit A attached hereto and incorporated herein by reference, and in a deed (the “Deed”) from the Dukes County Regional Housing Authority to Richard T. Sylva dated May 30, 2001, and registered with the Dukes County Registry District Office of the Land Court (the “Registry”) as Document No. 48076 (the “Premises”) at a consideration which is less than the fair market value of the property;

WHEREAS, the Premises is encumbered by an Affordable Housing Covenant, dated May 30, 2001, attached to the Deed, as amended and restated in its entirety by an Affordable Housing Covenant dated August 31, 2012, and attached to that certain deed dated August 31, 2012, and

registered with the Registry as Document No. 75918 (“Existing Covenant”) and the parties wish to amend and restate the Existing Covenant in its entirety, as it relates to the Premises, by replacing said covenant with this Covenant; and

WHEREAS, **this Covenant limits refinance, purchase or transfer of the Premises in order to preserve the affordability thereof pursuant to the terms and conditions in said Covenant;** and

WHEREAS, the DCRHA has been retained to monitor compliance with and to enforce the terms of this Covenant, and eligible purchasers such as the Owner may be required to pay to the DCRHA, as the Monitoring Agent, or its successor, a small percentage of the resale price upon the Owner’s conveyance of the Premises, as set out in this agreement and as more fully provided herein; and

WHEREAS, the rights and restrictions granted herein to the Monitoring Agent and the Town serve the public’s interest in the creation and retention of affordable housing for persons and households of low and moderate income and in the restricting of the resale price of property in order to assure its affordability by future low and moderate income purchasers.

NOW THEREFORE, for good and valuable consideration, including the purchase of the Premises for less than fair market value, the receipt and sufficiency of which consideration are hereby acknowledged, the Owner, including his/her/their heirs, successors and assigns, hereby grants this Covenant to the Town and the Monitoring Agent and covenants and agrees that the Premises shall be subject to the following provisions, rights, covenants, agreements, restrictions, conditions, reservations, obligations, liens and other matters set forth herein (collectively the “restrictions”), which are imposed for the benefit of, and shall be enforceable by, the Town and the Monitoring Agent, and their respective agents, designees, successors and assigns, and shall be secured by a mortgage granted by the Owner to the Town, to be recorded herewith.

1. **Eligible Purchaser:** As used in this Covenant, “Eligible Purchaser” shall mean an individual or household which has an annual income equal to or less than the Base Income as defined below, and owning assets not in excess of the limit set forth in guidelines adopted by the AHC, and which individual or household has been qualified by the Monitoring Agent to own affordable housing pursuant to the Town’s Affordable Housing Program. Said individual or household must provide to the Monitoring Agent such certifications as to income, assets and residency as the Monitoring Agent may require to determine eligibility as an Eligible Purchaser. The Base Income shall be no more than **80%** of the median income, by household size, for the County of Duquesne County, as published from time to time by the Department of Housing and Community Development (“DHCD”) and will be adjusted from time to time according to DHCD guidelines. To be considered an Eligible Purchaser, the individual or household must intend to occupy and thereafter must occupy the Premises as his, her or their principal residence for at least eleven (11) months of each calendar year. Any use of the Premises or activity thereon which is inconsistent with such exclusive residential use, or not permitted pursuant to paragraph 6 below, is expressly prohibited.

2. **Maximum Resale Price:** (a) The Maximum Resale Price shall be the lesser of the appraised value of the Premises at the time of resale or **Two Hundred Ninety Four Thousand Two Hundred Sixty Five (\$294,265.00) DOLLARS**, as increased at the rate of 3% (three percent) per annum, not compounding, from the date of this Covenant, provided the Premises is in good repair at the time of resale (“good repair” meaning that all necessary repairs to the Premises and all fixtures therein have been made throughout the ownership of the Premises so as to keep the Premises and said fixtures in the same condition in which they are now or may hereafter be put, reasonable wear and tear (being the normal, gradual deterioration occurring due to aging and ordinary use of the Premises despite reasonable and timely maintenance and repair) only excepted), as such good repair is determined by an independent inspector, agreed upon by Owner and the Monitoring Agent, and the cost thereof borne by the Owner (in the event the Premises is not in good repair the Owner’s 3% increase per year will decrease by the cost of any necessary upgrade or repair to make the Premises in “good repair”); and provided that in no event shall the Maximum Resale Price be greater than the purchase price for which a credit-worthy Eligible Purchaser earning no more than 80 percent (80%) of the Area Median Income for a household size appropriate for the Premises could obtain mortgage financing (as such purchase price is determined by the Monitoring Agent using the same methodology then used by DHCD for its Local Initiative Program or similar comprehensive permit program).

(b) There will be a resale fee of 2% subtracted from the resale price to cover costs of any marketing, income certification or lottery process. This will be paid to the Monitoring Agent as compensation for monitoring and enforcing compliance with the terms of this Covenant, including the supervision of the resale process.

(c) For purposes of this Covenant, household size is determined as the number of bedrooms plus one; i.e., a two bedroom house shall be deemed appropriate for a three person household for the purposes of income eligibility and price setting; a three bedroom house shall be deemed appropriate for a four person household; a four bedroom house shall be deemed appropriate for a five person household; and a five bedroom house shall be deemed appropriate for a six person household.

Nothing in this Covenant constitutes a promise, commitment or guarantee by the AHC or the Monitoring Agent that upon resale the Owner shall actually receive the Maximum Resale Price for the Premises or any other price for the Premises.

All appraisals referenced above shall be prepared by a real estate appraiser hired by the Owner, at the Owner’s expense, which appraiser is acceptable to the Monitoring Agent, and is recognized as utilizing acceptable professional appraisal standards in Massachusetts. The Premises shall be appraised as if this Covenant does not burden the Premises.

3. **Resale and Transfer Procedure:** When the Owner, his successors or assigns, shall desire to sell, transfer, dispose or otherwise convey the Premises, or any portion thereof, the Owner shall notify the Monitoring Agent and AHC in writing of the Owner’s intention to so convey the Premises. The Monitoring Agent shall calculate the then Maximum Resale Price. The Monitoring Agent shall then seek to find an Eligible Purchaser, which efforts shall include:

(A) the placement of an advertisement for sale of the Premises stating the Maximum Resale Price (as defined), best contact telephone number, and the phrase: *“Sale of unit subject to certain guidelines and restrictions with respect to the maintenance and retention of affordable housing for households of low and moderate income”* and (B) the receipt of satisfactory evidence that the new purchaser qualifies as an Eligible Purchaser. The Monitoring Agent shall provide the AHC notice of its progress in locating an Eligible Purchaser.

If more than one Eligible Purchaser is located, the Monitoring Agent shall conduct a lottery or other like procedure in the Monitoring Agent’s discretion to determine the Eligible Purchaser entitled to the conveyance of the Premises at the Maximum Resale Price. In lieu of a sale to an Eligible Purchaser, the Town, its successors, assigns or designees, shall have the right to purchase the Premises for the Maximum Resale Price.

4. **Resale and Transfer Restrictions:** Except as otherwise stated herein, the Premises or any interest therein, shall not at any time be sold, transferred, disposed of, mortgaged or otherwise conveyed by the Owner, or the Owner’s successors and assigns, and no attempted sale, transfer, mortgage or other conveyance shall be valid, unless the aggregate value of all consideration and payments of every kind given or paid by the Eligible Purchaser, the Town (including its successors, assigns and designees) or the Mortgagee, as applicable, as provided above, to the then owner of the Premises for and in connection with the sale, transfer, mortgage or other conveyance of such Premises, is equal to or less than the Maximum Resale Price for the Premises.

No conveyance, sale, transfer, mortgage or other conveyance to an Eligible Purchaser or otherwise (if permitted herein), shall be valid unless a certificate is recorded, signed and acknowledged by the Monitoring Agent or its agent or designee and states that the conveyance is in compliance with the restrictions contained in this Covenant (“Compliance Certificate”).

Any good faith purchaser of the Premises, any lender or other party taking a security interest in such Premises and any other third party may rely upon such a Compliance Certificate as conclusive evidence of the matters stated therein.

Within ten (10) days of the conveyance of the Premises, the Owner shall deliver to the AHC and Monitoring Agent a true and certified copy of the deed of the Premises as recorded, together with information as to the place of recording thereof in the public records. Failure to comply with the preceding sentence shall not affect the validity of such conveyance. The Monitoring Agent shall promptly give the AHC written notice any time there is a conveyance, sale, transfer, mortgage or other conveyance of the Premises.

5. **Transfers Upon Death:** Upon the death of the Owner, or, if there is more than one Owner, the last surviving Owner, the Owner's executor(s) or administrator(s) shall, on or before the first business day occurring ninety (90) days after said Owner's death, cause the Monitoring Agent to receive written notice of the date of the Owner's death, of whether or not said Owner died intestate, and of the identity, address and relationship of all known heirs and devisees. In the event that a will is admitted for probate by a Court of competent jurisdiction, a copy of such will and all allowed codicils thereto shall be provided to the Monitoring Agent. Upon receipt of

such notice, the Monitoring Agent shall consent (which consent must be recorded in the Dukes County Registry of Deeds) to a transfer of the Premises to the spouse of the Owner, or the child or children of the Owner, provided that the spouse or child/children demonstrate to the Monitoring Agent that: (i) the Premises is the principal residence of such spouse or child/children, or shall be upon said Owner's death, (ii) the spouse or child/children is an Eligible Purchaser, and (iii) the Premises is the only real property currently owned by the spouse or child/children. The resale and transfer procedures and restrictions of Sections 3 and 4 above, and all other provisions of this Covenant, shall apply to any sale, transfer or other disposition of the Premises to any individual other than the Owner's spouse or child/children, as permitted above, and shall apply to any sale, transfer or other disposition of the Premises from the Owner's spouse or child/children. Said spouse or child/children ("Second Generation Owner") must sign a new covenant at the time of transfer to said Second Generation Owner, which new covenant shall provide a similar Transfer Upon Death Clause so that the Premises may pass down to the spouse or child/children of the Second Generation Owner upon death and so on through the generations, provided that all other terms of this paragraph are met, including but not limited to the requirement that the Premises is the principal residence of such spouse or child/children.

6. **Restrictions Against Leasing, Refinancing and Junior Encumbrances:** The Premises shall not be leased, refinanced, encumbered (voluntarily or otherwise) or mortgaged without the prior written consent of the Monitoring Agent which consent shall be evidenced by the Monitoring Agent's signature on a Permitted Mortgage Agreement (defined herein), which must be recorded in the Dukes County Registry of Deeds. **The Premises shall not be refinanced, encumbered (voluntarily or otherwise) or mortgaged for an amount greater than the Maximum Resale Price.** Any rents, profits, or proceeds from any transaction described above (including, but not limited to proceeds from foreclosure sales) which transaction has not received the prior written consent of the Monitoring Agent shall be paid to and shall be the property of the West Tisbury Affordable Housing Trust, to the fullest extent permitted by law. In the event that the Monitoring Agent, in the exercise of its absolute discretion, shall consent to any lease, or shall consent to any refinancing, encumbrance or mortgage as described above, it shall be a condition to such consent that all rents, profits or proceeds from such transaction which exceed the carrying costs of the Premises, as determined by the Monitoring Agent, in its sole discretion, shall be paid to and be the property of the West Tisbury Affordable Housing Trust.

7. **Rights and Obligations of Mortgagees:** The Owner may only mortgage the Premises (1) with the prior written consent of the Monitoring Agent, as stated in Paragraph 6 above, and (2) only if the lender, Owner and Monitoring Agent execute a Permitted Mortgage Agreement at the time of the loan closing, in a form approved by the Monitoring Agent, which agreement incorporates the terms and provisions of this paragraph.

In the event of a default in any of the Owner's obligations under the Mortgage, the holder of record of any mortgage on the Premises (each, a "Mortgagee") shall notify the Monitoring Agent of such fact and the Monitoring Agent shall promptly notify AHC. AHC shall have the right (but not the obligation) within 120 days after its receipt of such notice, to cure such default in the Owner's name and on the Owner's behalf, provided that current payments due the holder during such 120-day period (or such lesser time period as may have been required to cure such

default) are made to the holder. Said holder shall not have the right, unless such default shall not have been cured within such time, to accelerate the note secured by the Mortgage or to commence to foreclose under the Mortgage on account of such default.

If, after such cure period, the holder intends to accelerate the note secured by the Mortgage or initiate foreclosure proceedings under the Mortgage, in accordance with the provisions of this Covenant, the holder shall notify the Monitoring Agent and AHC of its intention to do so and AHC shall have the right, but not the obligation, upon notifying the holder within thirty (30) days of receipt of said notice from said holder, to pay off all indebtedness and any other sum or obligation secured by the Mortgage and to acquire the Mortgage.

In the event of acquisition of title to the Premises and the Owner's interest in the Premises by the Mortgagee by foreclosure sale or the delivery of a deed in lieu of foreclosure, the holder shall give the Monitoring Agent and AHC written notice of such acquisition, and the AHC or its designee shall have an option to purchase the Premises and Owner's interest in the Premises from the Permitted Mortgagee for the full amount owing to the holder of the Mortgage, provided, however, that the AHC notifies the holder in writing of the AHC's intent to make such purchase within thirty (30) days following the AHC's receipt of the holder's notice of such acquisition of the Premises and Owner's interest in the Premises; further provided that AHC or its designee shall complete such purchase within sixty (60) days of having given written notice of its intent to purchase; and provided that, if the AHC does not complete the purchase within such period, the holder of the Mortgage shall be free to sell the Premises and Owner's interest in the Premises to another person.

The Owner agrees to the delivery of all notifications from the Mortgagee to the Monitoring Agent and AHC and any other communications and disclosures made by the Mortgagee to the Monitoring Agent and AHC pursuant to this Agreement and Covenant.

In the event the foreclosing Mortgagee has complied with the terms of this Section, and the Town or its designee has not exercised its cure and/or purchase rights under this Section, the rights and restrictions contained in this Covenant shall not apply to such Mortgagee upon such acquisition of the Premises, any purchaser of the Premises at a foreclosure sale conducted by such Mortgagee, or any purchaser of the Premises of such Mortgagee, and such Premises shall thereupon and thereafter be free from all such rights and restrictions (a "Permitted Foreclosure").

In the event of a Permitted Foreclosure, the Mortgagee shall be entitled to recover the principal amount of the loan and accumulated interest, penalties, real estate taxes and its costs and expenses of foreclosure, including reasonable attorney's fees and court costs which are validated ("mortgage expenses") even though the total may exceed the Maximum Resale Price as defined above. In the event such holder of a mortgage forecloses and the Premises is sold for a price that exceeds the mortgage expenses, but does not exceed the Maximum Resale Price, the Owner of the Premises shall receive the remainder of the sale proceeds, up to said Maximum Resale Price, after the mortgage expenses are paid. In the event such holder of a mortgage forecloses and the Premises is sold for a price that exceeds both the mortgage expenses and the Maximum Resale Price, such excess above the Maximum Resale Price shall be paid to the West Tisbury Affordable Housing Trust (provided, that in the event that such excess shall be so paid to the

Town by such holder, the Town shall thereafter indemnify such holder against loss or damage to such holder, resulting from any claim made by the mortgagor of such mortgage to the extent that such claim is based upon payment of such excess by such holder to the Town in accordance herewith, provided that such holder shall give the Monitoring Agent prompt notice of any such claim and shall not object to the intervention by the AHC in any proceeding relating thereto).

8. **Construction:** The parties acknowledge that a principal residence has been constructed on the Premises and a certificate of occupancy from the building inspector of the Town of West Tisbury has been issued therefor.

9. **Condition of Conveyed Premises:** The Owner agrees that throughout the term of this Covenant, the Owner shall maintain the Premises, and improvements thereon, in good, safe and habitable condition in all respects and in full compliance with all applicable laws, by-laws, rules and regulations of any governmental authority with jurisdiction over matters concerning the condition of the Premises.

10. **Restrictions to Run with the Premises, Duration of Restrictions:** The Owner agrees and acknowledges that the restrictions in this Covenant are essential to the fulfillment of the purposes of the Town, are for the benefit of the Town, the Town's agents, successors, designees and assigns, including but not limited to the AHC, and are conditions and restrictions on the use of the Premises which are intended to, and shall, run with the land and shall be binding upon and enforceable against the Owner, the Owner's successors and assigns and any party holding title to the Premises. The restrictions shall be perpetual, to the maximum extent permitted by law, including but not limited to the provisions of M.G.L. Chapter 184, Sections 23, 26 – 32, and St. 2004, c. 445 (“An Act Authorizing Martha’s Vineyard Affordable Housing Covenants”), and, at a minimum, said restrictions shall be binding upon the Owner and the Town for a term of one hundred fifty (150) years from the date of recording hereof and shall remain in full force and effect in accordance with the provisions of M.G.L. Chapter 184, Section 27, as it may be amended from time to time, or as provided in similar successor provisions, which provisions of M.G.L. Chapter 184, Section 27 permit the extension of the period of enforceability of said restrictions by the recording of an extension in accordance with the provisions of said law before the expiration of the first thirty (30) years from the date of recording hereof, and before the expiration of each succeeding twenty (20) year period thereafter, or for such other maximum further periods of time as may be allowed by any amendments of said law or by any successor provisions. The Owner hereby agrees that any requirements of the law of the Commonwealth of Massachusetts to be satisfied in order for the provisions of this Covenant to constitute restrictions and covenants running with the land shall be deemed to be satisfied in full and that any requirements of privity of estate are also deemed to be satisfied in full.

It is the intention of the parties that all of the rights, restrictions and obligations created by this Covenant, including but not limited to the options to purchase created herein, shall be perpetual and run with the title to the Property, except where terminated pursuant to Section 7 above, and such rights and options shall be considered to be coupled with an interest. In the event that it should be adjudicated by final unappealable order of a court having jurisdiction over such issue that the Rule of Perpetuities applies to any right, obligation or option granted hereby or created herein, then, and only then, the right or option so limited, shall terminate twenty (20)

years after the death of the first survivor of the following persons: the children living as of the date hereof of any employees of the Town.

11. **Enforcement:** (a) The rights hereby granted shall include the right of the AHC and the Monitoring Agent to enforce this Covenant independently by appropriate legal proceedings and to obtain injunctive and other appropriate relief on account of any violations including without limitation relief requiring restoration of the Premises to the condition, affordability or occupancy which existed prior to the violation impacting such condition, affordability or occupancy (it being agreed that there shall be no adequate remedy at law for such violation), and shall be in addition to, and not in limitation of, any other rights and remedies available the AHC and the Monitoring Agent.

(b) Without limitation of any other rights or remedies of the AHC, or their successors and assigns, in the event of any sale, conveyance or other transfer or occupancy of the Premises in violation of the provisions of this Covenant, the AHC shall be entitled to the following remedies, which shall be cumulative and not mutually exclusive:

- (i) specific performance of the provisions of this Covenant;
- (ii) money damages for charges in excess of the Maximum Resale Price, if applicable;
- (iii) if the violation is as sale of the Premises to an Ineligible Purchaser, except as permitted herein, the AHC and/or Monitoring Agent shall have the option to locate an Eligible Purchaser on the terms and conditions provided herein, and the purchase price shall be a price which complies with the provisions of this Covenant; specific performance of the requirement that an Ineligible Purchaser shall, sell as herein provided, may be judicially ordered;
- (iv) the right to void any contract for sale or any sale, conveyance or other transfer of the Premises in violation of the provisions of this Covenant in the absence of a Compliance Certificate, by an action in equity to enforce this Covenant; and
- (v) money damages for the cost of creating or obtaining a comparable dwelling unit for an Eligible Purchaser.

(c) In addition to the foregoing, the Owner hereby agrees and shall be obligated to pay all fees and expenses (including legal fees) of the AHC and the Monitoring Agent in the event successful enforcement action is taken against the Owner or the Owner's successors or assigns. The Owner hereby agrees to grant a mortgage on the Premises to the AHC, to be recorded herewith, to secure payment of such fees and expenses in any successful enforcement action, and to secure the terms, provisions and obligations of the Owner herein. The AHC shall be entitled to seek recovery of fees and expenses incurred in a successful enforcement action of this Covenant against the Owner and to assert such a lien on the Premises to secure payment by the Owner of such fees and expenses.

(d) The Owner for himself, herself or themselves and his, her or their successors and assigns, hereby grants to the AHC and the Monitoring Agent the right to take all actions with respect to the Premises which the AHC and the Monitoring Agent may determine to be necessary or appropriate pursuant to applicable law, court order, or the consent of the Owner to prevent, remedy or abate any violation of this Covenant.



12. **Monitoring Agent/Services/Fees:** The Monitoring Agent shall monitor compliance with the terms of this Covenant and also have the right to enforce the restrictions herein. As partial compensation of providing these services, a resale fee shall be payable to the Monitoring Agent on the sale of the Premises to an Eligible Purchaser or any other purchaser in accordance with the terms of this Covenant. This fee, if imposed shall be paid by the Owner herein as a closing cost at the time of closing and payment of the fee to the Monitoring Agent shall be a condition to delivery and recording of its certificate, failing which the Monitoring Agent shall have a claim against the new purchaser, her/his or their successors or assigns, or the Monitoring Agent may bring an action and may seek an attachment against the Premises. Such fee may be added to the price paid to Owner by an Eligible Purchaser and not included in the Maximum Resale Price.

13. **Notice:** Any notices, demands, or requests that may be given under this Covenant shall be sufficiently serviced if given in writing and by hand delivered or posted in the United States mail by registered or certified mail addressed to the AHC, the Monitoring Agent and Owner at the addresses written above, or if addressed to the West Tisbury Affordable Housing Committee, to P.O. Box 278, West Tisbury, MA 02575, or such other addresses as may be specified by either party by such notice.

14. **Further Assurances:** The Owner agrees from time to time, as may reasonably be required by the AHC or the Monitoring Agent, to furnish a written statement, signed and, if requested, acknowledged, setting forth the condition and occupancy of the Premises, information concerning the resale of the Premises and other information pertaining to the Premises or the Owner's eligibility for and conformance with the requirements of this Covenant.

15. **Severability:** If any provisions hereof or the application thereof to any person or circumstances shall come, to any extent, to be invalid or unenforceable, the remainder hereof, or the application or such provision to the persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each provision hereof shall be valid and enforced to the fullest extent permitted by law and to the fullest extent permitted by the Rule Against Perpetuities.

16. **Town's Right to Assign:** The AHC shall have the right to assign this Covenant or any or all of the AHC's rights and duties herein, to the Dukes County Regional Housing Authority to the fullest extent permitted by law.

17. **INDEPENDENT COUNSEL:** THE OWNER ACKNOWLEDGES THAT HE, SHE OR THEY HAVE READ THIS DOCUMENT IN ITS ENTIRETY AND HAS HAD THE OPPORTUNITY TO CONSULT LEGAL AND FINANCIAL ADVISORS OF HIS, HER OR THEIR CHOOSING REGARDING THE EXECUTION, DELIVERY AND PERFORMANCE OF THE OBLIGATIONS HEREUNDER.

18. **Waiver:** The waiver by the AHC or the Monitoring Agent of, or the failure of the AHC to take action with respect to, any breach of any provisions herein contained, shall not be deemed to be a waiver of such term, covenant, condition, provision, restriction, reservation, obligation, lien or other matter, or subsequent breach of same, or of any other term,

covenant, condition, provision, restriction, reservation, obligation, lien or other matter herein contained.

19. **Captions:** All captions, headings or titles used in this Covenant are intended solely for convenience of reference and shall not affect that which is set forth in any of the provisions hereof.

20. **Modifications and Amendments:** This Covenant may only be modified, altered or amended by an agreement in writing executed by the parties hereto.

21. **Binding Agreement:** This Covenant shall bind and inure to the benefit of the parties hereto and their successors and assigns as are permitted by this Covenant.

22. **Singular Includes Plural:** Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall include the masculine, feminine and neuter.

23. **Choice of Law:** This agreement shall be governed by, construed in accordance with, and enforced under the laws of the Commonwealth of Massachusetts.

[SIGNATURE PAGE FOLLOWS]

EXECUTED as a sealed instrument on the day and date first written above.

**TOWN OF WEST TISBURY,**

**OWNER:**

By its Select Board

\_\_\_\_\_  
Richard T. Sylva

By: \_\_\_\_\_  
J. Skipper Manter, Chairperson

\_\_\_\_\_  
Caitlin Sylva

By: \_\_\_\_\_  
Cynthia E. Mitchell, Board Member

**AFFORDABLE HOUSING COMMITTEE,**

By: \_\_\_\_\_  
duly authorized signatory

**DUKES COUNTY REGIONAL HOUSING AUTHORITY,**

By: \_\_\_\_\_  
David Vigneault, Executive Director,  
duly authorized signatory

**COMMONWEALTH OF MASSACHUSETTS**

County of Dukes County, ss.

On this \_\_\_ day of \_\_\_\_\_, 202\_\_, before me, the undersigned notary public, personally appeared **J. Skipper Manter**, proved to me through satisfactory evidence of identification, which was \_\_\_\_\_, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily as her free act and deed for its stated purpose as **Chairperson of the West Tisbury Select Board**.

\_\_\_\_\_  
[Print Notary Name: \_\_\_\_\_]

My commission expires:

**COMMONWEALTH OF MASSACHUSETTS**

County of Dukes, ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily as his free act and deed for its stated purpose, as **Chairperson of the West Tisbury Affordable Housing Committee**.

\_\_\_\_\_  
[Notary Public/ print name: \_\_\_\_\_]

My commission expires:

**COMMONWEALTH OF MASSACHUSETTS**

County of Dukes, ss.

On this \_\_\_\_ day of \_\_\_\_\_, 202\_\_, before me, the undersigned notary public, personally appeared **David Vigneault**, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily as his free act and deed for its stated purpose, as **Executive Director of the Dukes County Regional Housing Authority**.

\_\_\_\_\_  
[Notary Public/ print name: \_\_\_\_\_]  
My commission expires:

**COMMONWEALTH OF MASSACHUSETTS**

County of Dukes County, ss.

On this \_\_\_\_ day of \_\_\_\_\_, 202\_\_, before me, the undersigned notary public, personally appeared **RICHARD T. SYLVA and CAITLIN SYLVA**, proved to me through satisfactory evidence of identification, which was \_\_\_\_\_, to be the persons whose name is signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily as their free act and deed for its stated purpose.

\_\_\_\_\_  
[Print Notary Name: \_\_\_\_\_]  
My commission expires:

**Exhibit A**  
(Description of Property)

That certain parcel of land situated in the Town of West Tisbury, County of Dukes County, Commonwealth of Massachusetts, bounded and described as follows:

Lots No. 32, 34, 36, 38, 40, 42, 44, 46, 48, 50, 52, 54, on the southerly side of Fifth Avenue, and Lots No. 33, 35, 37, 39, 41, 43, 45, 47, 49, 51, 53, 55, 57 on the northerly side of Fourth Avenue, as shown on subdivision plan # 12402C, Sheet 2, filed with Transfer Certificate #363 in the Dukes County Registry District Office of the Land Court.

For title see deed from Richard T. Sylva and Caitlin Sylva dated August 31, 2012, and registered with the Dukes County Registry District Office of the Land Court as Document No. 75918. See also Certificate of Title No. 13321.

Assessors Map 10, Parcel 226