

THE 619 CONDOMINIUM
AFFORDABLE HOUSING COVENANT

KNOW ALL PERSONS BY THESE PRESENTS that **Allison Nicole Horowitz and Noah Carrington Maxner**, of the Town of West Tisbury, County of Dukes County, Commonwealth of Massachusetts, his/her/their heirs, successors and assigns (hereinafter the “Homeowner”) for ONE and NO/100 (\$1.00) DOLLAR and other valuable consideration the receipt of which is hereby acknowledged, paid and/or granted by **Island Housing Trust Corporation**, a Massachusetts not-for-profit Corporation (hereinafter “IHT”), does hereby subject the following described premises owned by the Homeowner to certain covenants and restrictions which shall run with the premises and shall be perpetual, unless sooner terminated by reason of the terms and conditions hereof.

Said premises are all and the same property conveyed to the Homeowner by UNIT Deed of even date herewith and recorded herewith in the Dukes County Registry of Deeds and being the **condominium Unit No. 3** (hereinafter the “Unit”), of The 619 Condominium, located at 619 Edgartown West Tisbury Road, West Tisbury, Massachusetts.

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RECITALS

WHEREAS, the IHT is organized exclusively for charitable purposes, including the development and preservation of decent, affordable housing and the creation of homeownership opportunities for low- and moderate-income people who otherwise would be denied such opportunities because of limited financial resources; and

WHEREAS, a goal of the IHT is to stimulate the conveyance of decent, affordable housing among low- and moderate-income people by providing access to housing for such persons at affordable prices; and

WHEREAS, the Homeowner shares the purpose and goals of the IHT and has agreed to enter into this Covenant not only to obtain those benefits to which the Homeowner is entitled under this Covenant, but also to further the charitable purposes of IHT; and

WHEREAS, IHT and Homeowner recognize the special nature of the terms and conditions of this Covenant, and each of them, with the independent and informed advice of legal counsel, freely accept these terms and conditions, including these terms and conditions, that may affect the marketing and resale price of the Unit; and

WHEREAS, it is mutually understood and accepted by IHT and the Homeowner that the terms and conditions of this Covenant further their shared goals over an extended period of time and through a succession of ownership;

NOW THEREFORE, in consideration of the foregoing recitals, of mutual promises of IHT and the Homeowner, and of other good and valuable consideration as aforesaid, the receipt and sufficiency of which are hereby acknowledged, IHT and Homeowner agree as follows:

ARTICLE I.

REQUIREMENT OF UNIT AFFORDABILITY IN PERPETUITY

A. Pursuant to and as set forth in the Decision of the Planning Board of the Town of West Tisbury dated July 29, 2008 and recorded at the Dukes County Registry of Deeds in Book 1245, Page 949 on May 19, 2011 Unit #3 being one (1) of the two (2) affordable Units set forth in said Decision as affordable housing units will remain as an affordable housing unit in perpetuity as set forth in said Decision.

B. Letters of Stipulation and Acknowledgment attached and made a part of this Affordable Housing Covenant by reference are “Exhibit A, Letter of Stipulation of Covenantor”, and “Exhibit B, Letter of Acknowledgment of Covenantor’s Attorney”, setting forth their respective review and understanding of this Affordable Housing Covenant (in particular, ARTICLE VI regarding the transfer, sale, or disposition of the Unit) and related documents for this transaction. Further setting forth that the Homeowner understands and agrees to the goal of the IHT to keep IHT houses permanently affordable for lower income households from one IHT homeowner to the next and that he/she will honor all the terms and conditions of this Covenant.

ARTICLE II.

USE OF CONDOMINIUM’S AFFORDABLE UNITS

A. **Residential Use Only:** Subject to the restrictions set forth in Exhibit F, Homeowner shall use the Unit as his/her/their primary residence, and shall use and shall cause all

occupants to use, the Unit only for residential purposes and any incidental activities related to residential use that are permitted by applicable law and regulations, The Master Deed of The 619 Condominium (hereinafter referred to as “The Master Deed”), The 619 Condominium Trust (hereinafter referred to as “Condominium Trust”), and the Rules and Regulations adopted thereunder (all of which Condominium Documents are hereinafter referred to as “The Condominium Documents”).

B. **Responsible Use And Compliance With Law**: Homeowner shall use the Unit in a manner so as not to cause harm to others or create any nuisances, public or private; and shall dispose of any and all waste in a safe and sanitary manner. Homeowner shall maintain the Unit in good, safe, and habitable condition in all respects, in full compliance with all applicable laws and regulations, The Master Deed, the Condominium Trust and the Rules and Regulations adopted thereunder, and in such condition as is required to maintain the insurance coverage required by ARTICLE V, Section D of this Covenant.

C. **Responsible For Others**: Homeowner shall be responsible for the use of the Unit by all residents and their families, friends, guests, and visitors and anyone else using the Unit with their consent and shall make all such people aware of the spirit, intent and appropriate terms of this Covenant, the Master Deed, the 619 Condominium Trust, and the Rules and Regulations adopted thereunder.

D. **Occupancy**: Homeowner shall occupy the Unit for at least eleven (11) months of each year, unless otherwise agreed by IHT and the West Tisbury Affordable Housing Committee.

E. **Inspection**: IHT may inspect any portion of the Unit at any reasonable time, upon at least forty-eight (48) hours’ oral notice to Homeowner. In the event of emergency, IHT may inspect any portion of the Unit without notice provided IHT shall have made reasonable efforts to give advance notice to Homeowner.

F. **Homeowner’s Right To Peaceful Enjoyment**: Homeowner has the right to undisturbed enjoyment of the Unit, and IHT has no desire or intention to interfere with the personal lives, associations, expressions, or actions of Homeowner, subject to the provisions of this Covenant.

ARTICLE III. LIENS

Prohibition Of Liens: Except for Permitted Mortgages, as defined herein after, and the Condominium Common Fees as defined in the Condominium Documents, no lien of any type shall attach to Homeowner’s title to the Unit. Homeowner shall not permit any statutory or similar lien to be filed against the Unit, or any interest of IHT or Homeowner that remains more than sixty (60) days after it has been filed. Homeowner shall cause any such lien to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction, or as otherwise permitted by law. If Homeowner fails to cause such lien to be discharged within the 60-day period, then, in addition to any other right or remedy, IHT may, but shall not be obligated to, discharge the lien by paying the amount in question. Homeowner may, at Homeowner’s expense, contest the validity of any such asserted lien, provided Homeowner has furnished a bond in an amount sufficient to release the Unit from such lien. Any amounts paid by IHT to discharge such liens shall be deemed owed by the Homeowner to IHT payable by Homeowner upon demand.

**ARTICLE IV.
FINANCING**

A. **Permitted Mortgage:** Homeowner may mortgage the Unit either for the purchase or refinance of Unit, only with the prior written consent of IHT and only pursuant to a mortgage or other security instrument satisfying all of the requirements for a “Permitted Mortgage,” as hereinafter defined and described in Section A of the attached Exhibit E, Permitted Mortgages. By signing this Covenant, IHT gives written permission for any mortgage signed by the Homeowner effective on the day this Covenant is signed for the purpose of financing Homeowner’s purchase of the Unit.

B. **Rights And Obligations Of Permitted Mortgagee:** Any holder of a Permitted Mortgage (“Permitted Mortgage”) shall without requirement of consent by IHT have the rights identified and defined in Section B of the attached Exhibit E, Permitted Mortgages. Any Permitted Mortgagee shall be bound by each of the requirements stated in Exhibit E, Permitted Mortgages, which is made a part of this Covenant by reference, unless the particular requirement is removed, contradicted, or modified by a rider to this Covenant signed by the Homeowner and IHT to modify the terms of the Covenant during the term of the Permitted Mortgage

C. **Refinancing Or Other Subsequent Mortgages:** If, at any time subsequent to the purchase of the Unit and the signing of this Covenant, the Homeowner seeks a loan that is to be secured by a mortgage on the Unit (to refinance an existing Permitted Mortgage or to finance an Addition or home repairs or for any other purpose), the Homeowner must inform IHT in writing, of the proposed terms and conditions of such mortgage as follows: Not less than thirty (30) days (or such shorter period as may be approved by the IHT) prior to the date on which Homeowner (or a prospective Homeowner who has contracted to purchase the Unit) requests IHT’S consent to a mortgage or other security instrument to be effective, Homeowner (or prospective Homeowner) shall provide to IHT a completed “Lending Criteria For Island Housing Trust: checklist (which IHT shall provide on its website and promptly upon written request of the Homeowner). IHT may choose to consent to any mortgage and/or security interest, and in so doing shall designate such mortgage and/or security interest as a “Permitted Mortgage.” However, IHT shall be required to consent to a mortgage and/or security interest only if:

(a) at the time proposed by Homeowner (or prospective Homeowner) for the execution of such mortgage and/or security interest, no default under this Covenant is then outstanding;

(b) the mortgage and/or security interest so submitted is a Permitted Mortgage as defined in the attached Exhibit E, Permitted Mortgages; and

(c) the Homeowner and any mortgage and/or security interest so submitted complies with IHT’s Refinancing Procedure (which IHT shall provide on its website and promptly upon written request of the Homeowner) in effect at that time.

Homeowner shall pay to IHT at IHT’S option, all fees, costs, and expenses, including, without limitation, reasonable attorneys’ fees, incurred by IHT in connection with any Permitted Mortgage.

D. **Removal Of Certain Provisions Pursuant To Foreclosure:** In the event of foreclosure sale by a Permitted Mortgagee or the delivery of a deed to a Permitted Mortgagee in lieu of foreclosure or other remedy exercised by a Permitted Mortgagee the effect of which is to divest Homeowner of title to the Unit after default by Homeowner under such Permitted Mortgagee's lending documents in accordance with the provisions of this Covenant, at the election of the Permitted Mortgagee all or parts of the provisions of ARTICLE VI, Sections A through L, inclusive, and ARTICLE X, Section E, shall be deleted and thereupon shall be of no further force or effect as to only so much of the Security (as such term is defined in the attached Exhibit E), so foreclosed upon or transferred.

E. **IHT'S Right To Proceeds In Excess Of Purchase Option Price:** The parties recognize that it would be contrary to the fundamental concept of this Covenant and an incentive to abuse Homeowner's authorization to encumber its Unit interest with a Permitted Mortgage if Homeowner could realize more than the Purchase Option Price as the result of any foreclosure of any mortgage. Accordingly, Homeowner hereby irrevocably assigns to IHT any and all net proceeds of sale of the Unit remaining after payment of costs of foreclosure and satisfaction of the lien of any Permitted Mortgagee which would otherwise have been payable to Homeowner, to the extent such net proceeds exceed the net proceeds that Homeowner would have received had the property been sold for the Purchase Option Price established in ARTICLE VI of this Covenant, and authorizes and instructs the Permitted Mortgagee or any party conducting any sale to pay the amount of said excess proceeds directly to IHT. In the event that, for any reason, such excess proceeds are paid to Homeowner, Homeowner hereby agrees to promptly pay the amount of such excess proceeds to IHT. Notwithstanding the foregoing to the contrary, such excess proceeds beyond the Purchase Option Price shall be paid as set forth in the attached Exhibit F, Restrictions.

F. **Amendments Subject To Approval By Permitted Mortgagee:** Any amendments to this Covenant shall be subject to the written approval of the Permitted Mortgagee, if any, which approval shall not be unreasonably withheld or delayed. The passage of thirty (30) days after submittal to a Permitted Mortgagee of a proposed amendment without approval or disapproval by said Permitted Mortgagee shall be deemed approval thereof.

**ARTICLE V.
LIABILITY, INSURANCE, DAMAGE AND DESTRUCTION,
EMINENT DOMAIN**

A. **Homeowner's Liability:** Homeowner assumes sole responsibility and liability to all persons and authorities related to its possession, occupancy, and use of the Unit.

B. **Indemnification Of IHT:** Homeowner shall defend, indemnify, and hold IHT harmless against all liability and claims of liability for injury or damage to person or property from any cause on or about the Unit. Homeowner waives all claims against IHT for such injury or damage. However, IHT shall remain liable (and Homeowner shall not indemnify and defend IHT against such liability or waive such claims of liability) for injury or damage due to the negligent or intentional acts or omissions of IHT or IHT'S agents or employees.

C. **Payment By IHT:** In the event IHT shall be required to pay any sum that is Homeowner's responsibility or liability, Homeowner shall reimburse IHT for such payment and for reasonable expenses caused thereby.

D. **Insurance:** Homeowner shall, at Homeowner sole expense, keep the standard Condominium Unit Owner's Insurance on the Unit as required under the Condominium Documents. The dollar amounts of this coverage shall be adjusted at two (2)-year intervals, beginning on the date this Covenant is signed, or upon IHT'S demand given not more often than annually, upon thirty (30) days' notice to Homeowner.

Should the Unit lie in a flood hazard zone as defined by the National Flood Insurance Program, the Homeowner shall keep in full force and effect flood insurance in the maximum amount available.

Homeowner shall, at Homeowner's sole expense, maintain continuously in effect personal liability insurance covering the Unit in the amounts of not less than five hundred thousand dollars (\$500,000) for injury or death to persons or property damage to property of others. Homeowner shall name IHT as an additional Insured on said personal liability policy.

Homeowner shall provide IHT with copies of all policies and renewals of policies. All policies shall also contain endorsements providing that they shall not be cancelled, reduced in amount or coverage or otherwise modified by the insurance carrier involved without at least thirty (30) days prior written notice to Homeowner. IHT shall be entitled to participate in the settlement or adjustment of any losses covered by such policies of insurance.

E. **Damage Or Destruction:** Except as provided below and in the Condominium Documents, in the event of fire or other damage to the Unit, Homeowner and the Condominium Trustees shall take all steps necessary to ensure the repair of such damage and the restoration of the Unit to its' condition immediately prior to the damage. All such repairs and restoration shall be completed as promptly as possible. Homeowner shall also promptly take all steps necessary to ensure that the Unit is safe and that the damaged Unit do not constitute a danger to persons or property.

The insurance proceeds shall be paid first to cover any expenses of collecting the proceeds. Remaining proceeds shall be paid first to Permitted Mortgagee to the extent required by the Permitted Mortgage, with the balance then paid to the Homeowner, provided that the total amount paid to the Homeowner and the Permitted Mortgagee does not exceed the then applicable IHT'S Purchase Option Price (as of immediately prior to the damage) calculated according to the provisions of ARTICLE VI below. The balance of such proceeds, if any, shall be paid to IHT.

F. **Eminent Domain And Public Dedication:** In the event of a taking of the Unit, either in its entirety or to such extent that the Unit is lost or damaged beyond repair, by reason of eminent domain or other action of public authority prior to the expiration of this Covenant, this Covenant shall terminate as of the date Homeowner is required to give up possession of the Unit, and the entire amount of any award(s) paid shall be allocated in the way described in Section E above for insurance proceeds.

In the event of a taking of a portion of the Unit that does not result in damage to the Unit or substantial reduction in the usefulness or desirability of the Unit for residential purposes, then any monetary compensation for such taking shall be allocated entirely to IHT.

In the event of a taking of a portion of the Unit that results in damage to the Unit only to such an extent that the Unit can reasonably be restored to a residential use consistent with this Covenant, IHT may in its discretion allocate some or all the monetary compensation to enable Homeowner to accomplish such a restoration. Any balance remaining after or in the absence of such allocation shall be allocated as provided above for a taking of the entire Unit.

Any and all proceedings brought by a party in connection with any damages as a result of any taking referred to in this Section shall be conducted at the sole expense of such

party. If any provision of law requires that such proceedings be brought by or in the name of any owner of the Unit, such party shall join in such proceedings or permit the same to be brought in its name. Each party agrees to do all acts and to execute all documents that may be required to enable the other to maintain such proceedings. If the party required to join in the proceedings incurs any cost or expense in doing so, such party shall be entitled to reasonable reimbursement and this entitlement shall constitute a first charge against any award.

**ARTICLE VI.
TRANSFER, SALE, OR DISPOSITION OF UNIT**

A. **Intent:** It is the understanding of the parties that the terms of this Covenant, and in particular of this ARTICLE VI, are intended to preserve the affordability of the Unit for lower-income households and expand access to homeownership opportunities for such households.

B. **Transfers To Income-Qualified Persons:** Homeowner may sell, transfer or otherwise dispose of its interest in the Unit only to IHT or an Income-qualified Person as defined below or otherwise only as explicitly permitted by the provisions of this ARTICLE VI. In addition, transfer to Income-qualified Persons shall be further limited by the restrictions set forth in the attached Exhibit F, Restrictions. All such sales, transfers and other dispositions shall be subject to the price limitations set forth herein, including, without limitation, those set forth in ARTICLE VIII, and to IHT’S review and purchase option rights, as hereinafter set forth in this ARTICLE VI. Any purported sale, transfer or other disposition done without following the procedures set forth below or in violation of such price limitations (except in the case of a sale, transfer or other disposition to a Permitted Mortgagee in lieu of foreclosure in accordance with ARTICLE IV, Section D above) shall be null and void.

“Income-qualified Person” shall mean a person or group of persons whose household income does not exceed Eighty Percent (80%) of the median household income for Dukes County as calculated and adjusted for household size from time to time by HUD and the individual or household must intend to occupy and thereafter must occupy the Unit as his, her or their principal residence for at least eleven (11) months of each calendar year.

C. **Transfer To Homeowner’s Heirs:** In the event of the death of the Homeowner, upon receipt of notice from the personal representative of the decedent’s estate duly appointed by a formal probate proceeding, given within ninety (90) days of the death of Homeowner (or the last surviving co-owner of the Unit) IHT shall, unless for good cause shown, consent to a transfer of the Unit and an assumption of this Covenant to and by one or more of the possible heirs of Homeowner listed below as “1” or “2 (each such party hereinafter a “Permitted Heir” and, collectively, “Permitted Heirs”), provided that the Unit shall be the principal residence of the Permitted Heir and that any such Permitted Heir is an Income-Qualified Person and provided that a Letter of Stipulation and a Letter of Acknowledgment of legal counsel (similar to those attached hereto as Exhibits A and B), setting forth such Permitted Heirs’ review, understanding and acceptance of the terms of this Covenant, are submitted to IHT to be attached to this Covenant when it is transferred to such Permitted Heirs. In addition, transfer to Homeowner’s heirs shall be further limited by the restrictions set forth in the attached Exhibit F, Restrictions.

1. the spouse of Homeowner; or
2. the child or children of Homeowner.

Any other heirs, legatees, or devisees of Homeowner must, in addition to submitting Letters of Stipulation and Acknowledgment as provided above, demonstrate to IHT'S reasonable satisfaction that they are Income-qualified Persons who will make the Premises their principal residence as defined above, or, if unable to do so, shall not be entitled to possession of the Unit and must transfer the Unit in accordance with the provisions of this ARTICLE VI.

Notwithstanding the foregoing, Homeowner may make a recommendation in his/her will or other written instrument that the Unit be transferred to the party specified therein upon the death of Homeowner, which recommendation IHT may, but shall not be obligated to, accept, as IHT may elect, in its sole discretion.

D. **Homeowner's Notice Of Intent To Sell:** Except in the case of a sale, transfer or other disposition to a Permitted Mortgagee in lieu of foreclosure, in the event that Homeowner contemplates an assignment of its interest herein or a sale, transfer or other disposition of the Unit to a third party (any of the foregoing being a "Transfer"), Homeowner shall notify IHT, in writing, of such wish (the "Intent-To-Sell Notice"). Such Intent-To-Sell Notice shall include a statement as to whether Homeowner wishes to recommend a prospective buyer as of the date of the Notice.

E. **IHT'S Purchase Option:** Upon receipt of an Intent to Sell Notice from Homeowner, IHT shall have the option to purchase the Unit (the "Purchase Option") at the Purchase Option Price calculated as set forth below.

The Purchase Option is designed to further the purpose of preserving the affordability of the Unit for succeeding Income-qualified Persons while taking fair account of the investment by Homeowner.

If IHT elects to purchase the Unit, IHT shall exercise the Purchase Option by notifying Homeowner, in writing, of such election (the "Notice of Exercise of Option") within forty-five (45) days of the receipt of the Intent-To-Sell Notice or forty-five (45) days following IHT'S receipt of an appraisal carried out in accordance with Section I of this ARTICLE VI, whichever shall be the later to occur, or the Purchase Option shall expire. Having given such notice, IHT may either proceed to exercise the Purchase Option directly by purchasing the Unit, or may assign the Purchase Option to an Income-qualified Person.

The purchase (by IHT or IHT'S assignee) must be completed within sixty (60) days of IHT'S Notice of Exercise of Option, or Homeowner may sell the Unit as provided in Section F below. The time permitted for the completion of the purchase may be extended by mutual agreement of IHT and Homeowner.

Homeowner may recommend to IHT a prospective buyer who is an Income-qualified Person and is prepared to submit Letters of Stipulation and Acknowledgment indicating informed acceptance of the terms of this Covenant. IHT may, but shall not be obligated to, accept, such recommendation from Homeowner, as IHT may elect, in its sole discretion.

F. **If Purchase Option Expires:** If the Purchase Option has expired or if IHT has failed to complete the purchase within the 60-day period allowed by Section E above, Homeowner may Transfer the Unit and this Covenant to any Income-qualified Person, for not more than the then applicable Purchase Option Price. If, six months after the expiration of the Purchase Option or the expiration of said 60-day period, the Unit still have not been Transferred, Homeowner may Transfer the Unit and this Covenant, for not more than the then applicable

Purchase Option Price, to any party regardless of whether that party is an Income-qualified Person.

G. **IHT’S Power Of Attorney To Conduct Sale:** In the event IHT does not exercise its Purchase Option and complete the purchase of the Unit as set forth above, and Homeowner (a) is not then residing in the Unit and (b) continues to hold the Unit out for sale but is unable to locate a buyer and execute a binding purchase and sale agreement within one (1) year of the giving of the Intent to Sell Notice, Homeowner does hereby appoint IHT its attorney in fact to seek a buyer, negotiate a reasonable price that furthers the goals set forth in this Covenant; Transfer the Unit and distribute proceeds of sale, minus IHT’S costs of sale and any other sums owed IHT by Homeowner.

H. **Purchase Option Price:** In no event may the Unit be transferred for a price that exceeds the Purchase Option Price. The Purchase Option Price shall be equal to the lesser of (a) the value of the Unit as determined by the Appraisal commissioned and conducted at the discretion of IHT as provided in Section I below or (b) the price calculated in accordance with the formula described in Section J below (the “Formula Price”).

I. **Appraisal:** No later than ten (10) days after IHT’S receipt of Homeowner’s Intent-To-Sell Notice, a market valuation of the Unit (the “Appraisal”) may be commissioned at the discretion of IHT to be performed by a mutually acceptable and duly licensed appraiser. If IHT and Homeowner cannot agree to a mutually acceptable appraiser, IHT may invoke arbitration pursuant to ARTICLE IX and the third arbitrator (as that term is used in ARTICLE IX) shall be an experienced real estate appraiser who shall conduct the Appraisal. IHT shall commission and pay the cost of such Appraisal. The Appraisal shall be conducted by analysis and comparison of comparable properties disregarding the restrictions of this Covenant on the use of the UNIT. Copies of the Appraisal are to be provided to both IHT and Homeowner.

J. **Calculation Of The Formula Price:** The Formula Price shall be equal to the Base Price (Homeowner’s Purchase Price as defined below plus the Inflation Adjustment, calculated as described below).

- **Base Price:** The parties agree that the Base Price is the Purchase Price.
- **Homeowner’s Purchase Price:** The parties agree that the Homeowner’s Purchase Price for the Unit is Three Hundred Five Thousand and 00/100 Dollars (\$305,000.00).
- **Inflation Adjustment:** The parties agree that the Inflation Adjustment is defined as the Homeowner’s Purchase Price times the percent change in the AMI for Dukes County since the time of purchase as may be applicable. The Base Price plus the Inflation Adjustment shall be the Formula Price. The AMI shall be for Dukes County as reported by HUD. In any event, and in order to balance years of anomaly in the AMI, the increase in the index shall not be greater than an average of four percent (4%) per year. If the percentage change in AMI is greater than an average of four percent (4%) per year during the period of ownership, the percent change in AMI shall be figured as four percent (4%) per year. In the event that HUD no longer continues to determine and promulgate an AMI or comparable figure for the region, IHT shall reasonably select another measure of the change in consumer costs in Dukes County over the relevant time period, such other measure shall in that case be used to determine the percent change to be applied.

The Purchase Option Price determines the maximum price for which a Unit can be sold and is NOT a guarantee of expected sale price. In no event shall the Purchase Option Price be greater than the purchase price for which a credit-worthy Income-qualified Person

earning no more than 80 percent (80%) of the AMI for a household size appropriate for the Premises could obtain mortgage financing.

K. **New Covenant:** An Income-qualified Person who purchases the Unit in accordance with the provisions of this ARTICLE shall enter into a new Covenant from IHT, which new Covenant shall be substantially the same as this Covenant in the rights, benefits and obligations assigned to Homeowner and IHT. In addition, transfer to any such person or entity shall be further limited by the restrictions set forth in the attached Exhibit F, Restrictions.

L. **Deferred Maintenance And Condition Of Unit At Time Of Sale:** It is expected and understood that the Homeowner maintain the Unit in good, safe and habitable condition as outlined in ARTICLE II, Section B throughout the term of the Covenant. At the time of transfer, Homeowner agrees to transfer the Unit in good, safe and habitable condition.

The IHT shall use the requirements of the mortgage lender for the person purchasing the Improvements as the basis for identifying deferred maintenance problems, if any, that must be corrected prior to sale of the Unit. Homeowner shall complete, or cause to be completed, all required repairs identified by the mortgage lender's requirements. All work must be completed in a professional manner and prior to closing. Homeowner shall bear the full cost of said repairs. All costs that cannot be paid in advance by Homeowner shall be paid from Homeowner's proceeds at closing.

M. **Monitoring Fee:** IHT shall be entitled to a fee of one percent of the established sale price of the Unit for the services performed monitoring the resale and transfer of this Covenant. This fee shall be paid by the buyer of Homeowner's interest as a closing cost at the time of closing.

ARTICLE VII. ASSIGNMENT AND SUBLEASE

Except as otherwise provided in ARTICLE IV (including Exhibit E, Permitted Mortgages) and ARTICLE VI, Homeowner shall not assign, lease, sell, or otherwise transfer or convey any of Homeowner's rights under this Covenant without the prior written consent of IHT. Homeowner agrees that IHT shall have broad and full discretion to withhold such consent in order to further the mutual purposes and goals set forth in this Covenant. If permission is granted, any assignment or lease or other transfer shall be subject to the following conditions.

a) Any such assignment or lease shall be subject to all the terms of this Covenant, including, without limitation, all prohibitions, restrictions and other provisions applicable to the sale, assignment, lease, or other transfer of the Unit and/or this Covenant as provided herein;

b) In the case of a lease, the Unit shall not be leased to any third party who is not qualified by IHT or IHT's agent as an Income-qualified Person, and the rental or occupancy fee charged the lessee shall not be more than an amount approved by IHT to cover the carrying costs of the Unit. In addition, renting to income-qualified persons shall be further limited by the restrictions set forth in the attached Exhibit F, Restrictions. All rents, profits or proceeds from such transaction which exceed the carrying costs of the Unit as determined by IHT in its sole and absolute discretion shall be paid to and be the property of IHT; and

c) In the case of an assignment, the total consideration for such assignment and the related sale or transfer of the Unit shall not exceed the Purchase Option Price as calculated in accordance with ARTICLE VI above.

ARTICLE VIII. DEFAULT

A. **Default By Homeowner:** It shall be an event of default if Homeowner fails to abide by any other material term or condition in this Covenant, and such failure is not cured by Homeowner or a Permitted Mortgagee within sixty (60) days after notice of such failure is given by IHT to Homeowner and Permitted Mortgagee. However, in the case where Homeowner or Permitted Mortgagee has commenced to cure such default within such sixty (60)-day period and is continuing such cure with all due diligence but cannot by the exercise of due diligence cure such default within such period, such period shall be extended for such additional period as may be reasonably required under the circumstances to complete such cure.

B. **Default By Homeowner Resulting From Judicial Process:** It shall be an event of default if the Unit is taken on execution or by other process of law, or if Homeowner is judicially declared bankrupt or insolvent according to law, or if any assignment is made of the property of Homeowner for the benefit of creditors, or if a receiver, trustee in involuntary bankruptcy or other similar officer is appointed to take charge of any substantial part of Homeowner’s property by a court of competent jurisdiction, or if a petition is filed for the reorganization of Homeowner under any provisions of the Bankruptcy Act now or hereafter enacted, or if Homeowner files a petition for such reorganization, or for arrangements under any provision of the Bankruptcy Act now or hereafter enacted and providing a plan for a debtor to settle, satisfy or extend the time for payment of debts. Rights exercised by a Permitted Mortgagee shall not constitute a default under this Section B.

C. **IHT remedy in the event of the occurrence of any of the event(s) of default:** In the event of a default under this ARTICLE VIII then the IHT shall have the right to treat it the same as an Intent to Sell Notice from Homeowner under ARTICLE VI, Section D and to proceed as set forth under that ARTICLE.

D. **Default By IHT:** IHT shall in no event be in default in the performance of any of its obligations under this Covenant unless and until IHT has failed to perform such obligations within sixty (60) days, or such additional time as is reasonably required to correct any default, after notice by Homeowner to IHT properly specifying IHT’S failure to perform any such obligation.

ARTICLE IX. DISPUTE RESOLUTION PROCESS

Any controversy or claim between IHT and Homeowner arising out of or relating to this Covenant, or the breach thereof (hereinafter “Dispute”) shall be resolved as follows:

A. **Small Claims Court:** Disputes that fall within the jurisdiction of the Massachusetts small claims courts shall be brought only in small claims court in Dukes County. The parties are encouraged to seek mediation through the small claims court if mediation is offered to the parties.

B. **Arbitration:** Disputes which are not submitted to small claims under section A above shall be settled by final and binding arbitration before a single arbitrator administered by the American Arbitration Association (“AAA”) under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The parties also agree that the AAA Optional Rules for Emergency Measures of Protection shall apply to the proceedings.

ARTICLE X. GENERAL PROVISIONS

A. **Notices:** Whenever this Covenant requires either party to give notice to the other, the notice shall be given in writing and delivered in person or mailed, by certified or registered mail, return receipt requested, to the party at the address set forth below, or such other address designated by like written notice. If to IHT: Island Housing Trust Corporation, P.O. Box 779, West Tisbury, MA 02575 (name of IHT). If to Homeowner: Allison Nicole Horowitz and Noah Carrington Maxner, P.O. Box 1042, West Tisbury MA 02575. In addition, copies of all notices that may be given under this Covenant shall be delivered to parties identified in paragraph 9 of the attached Exhibit F, Restrictions.

All notices, demands and requests shall be effective upon being deposited in the United States Mail or, in the case of personal delivery, upon actual receipt.

C. **No Brokerage:** Homeowner warrants that it has not dealt with any broker in connection with its acquisition of the Unit and in the event any claim is made against IHT relative to dealings with brokers, Homeowner shall defend the claim against IHT with counsel of IHT’S selection and save harmless and indemnify IHT on account of loss, cost or damage which may arise by reason of any such claim.

Severability And Duration Of: If any part of this Covenant is unenforceable or invalid, such material shall be read out of this Covenant and shall not affect the validity of any other part of this Covenant or give rise to any cause of action of Homeowner or IHT against the other, and the remainder of this Covenant shall be valid and enforced to the fullest extent permitted by law. Without limiting the generality of the foregoing, it is the intention of the parties that their respective options to purchase and all other rights under this Covenant shall continue in effect for the full term of this Covenant and any renewal thereof, and such options and other rights shall be considered to be coupled with an interest. The Homeowner agrees and acknowledges that the restrictions in this Covenant are essential to the fulfillment of the purposes of IHT, are for the benefit of IHT, IHT’s agents, successors, designees and assigns, and are conditions and restrictions on the use of the Unit which are intended to, and shall, run with the land and shall be binding upon and enforceable against the Homeowner, the Homeowner’s successors and assigns, and any party holding title to the Unit. This Covenant shall be perpetual, unless released pursuant to the terms hereof, 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 Covenant shall be binding upon the IHT and Homeowner 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 IHT and Homeowner hereby agree 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 Unit shall be deemed to be satisfied in full and that any requirements of privity of estate are also deemed to be satisfied in full. Further, the parties intend such options and other rights to be ones arising out of a non-donative transfer within the meaning of M.G.L. c. 184A, Section 4, as the same is now in effect and therefore not subject to any limitations otherwise imposed by said M.G.L. c. 184A. In the event any such option or right shall be adjudicated by final unappealable order of a court having jurisdiction over such issue to be subject to any rule of law limiting the duration of such option or right, then, and only then, the time period for the exercising of such option or right shall be construed to expire twenty (20) years after the death of the last survivor of the following persons:

The children living as of the date hereof of any of the directors or employees of the Island Housing Trust.

E. **Right Of First Refusal In Lieu Of Option:** If the provisions of the purchase option set forth in ARTICLE VI of this Covenant shall become unenforceable for any reason other than termination following the exercise of rights of a Permitted Mortgagee under its mortgage, IHT shall nevertheless have a right of first refusal to purchase the Unit. This right shall be as specified in the attached Exhibit D. Any sale or transfer contrary to this Section, when applicable, shall be null and void.

F. **Waiver:** The waiver by IHT at any given time of any term or condition of this Covenant, or the failure of IHT to take action with respect to any breach of any such term or condition, shall not be deemed to be a waiver of such term or condition with regard to any subsequent breach of such term or condition, or of any other term or condition of this Covenant. IHT may grant waivers of the terms of this Covenant, but such waivers must be in writing and signed by IHT before being effective.

G. **IHT'S Right To Prosecute Or Defend:** IHT shall have the right, but shall be under no obligation, to prosecute or defend, in its own or Homeowner's name, any actions or proceedings appropriate to the protection of its interest in, and Homeowner's interest in, the Unit or under this Covenant. Whenever requested by IHT, Homeowner shall give IHT all reasonable aid in any such action or proceeding.

H. **Construction:** Whenever in this Covenant a pronoun is used it shall be construed to represent, the singular or the plural, masculine or feminine, as the case shall demand.

I. **Captions And Table Of Contents:** The captions and table of contents appearing in this Covenant are for convenience only, and are not a part of this Covenant and do not in any way limit or amplify the terms or conditions of this Covenant.

J. **Parties Bound:** This Covenant sets forth the entire agreement between IHT and Homeowner with respect to the Unit, its sale, transfer and financing; it is binding upon and inures to the benefit of these parties and, in accordance with the provisions of this Covenant, their respective successors in interest. This Covenant may be altered or amended only by written notice executed by IHT and Homeowner or their legal representatives or, in accordance with the provisions of this Covenant, their successors in interest.

K. **Governing Law:** This Covenant shall be interpreted in accordance with and governed by the laws of the Commonwealth of Massachusetts. The language in all parts of this Covenant shall be, in all cases, construed according to its fair meaning and not strictly for or against IHT or Homeowner.

L. **Recording:** The parties agree that the entire Covenant including exhibits and any subsequent amendments thereto, shall be recorded at the Registry of Deeds in the County where the Unit are located.

M. **Homeowners:** Notwithstanding anything herein to the contrary, Homeowner under this Covenant shall at all times be one or more natural persons or a trust of which the Homeowner is the Trustee and IHT the sole beneficiary, and any transfer by Homeowner of its interest hereunder to a corporation, trust (except as set forth above), partnership or any other entity in violation of the foregoing prohibition shall be deemed null and void.

N. The parties acknowledge and agree that this Covenant is subject to the terms and conditions of those certain Town Restrictions attached hereto as Exhibit F. If any terms of this Covenant conflicts in any way with the Town Restrictions, then the term or provision of the Town Restriction shall govern. The parties hereto agree that at all times, the Town shall maintain the right to enforce this Covenant and the Town Restrictions.

ARTICLE XI MONITORING FEE

A. **Monitoring Fee:** In consideration of the possession, continued use, and occupancy of the Premises, Homeowner shall pay to IHT a monthly Monitoring Fee (the “Monitoring Fee”) of fifty (\$50.00) dollars per month.

B. **Payment of Monitoring Fee:** The Monitoring Fee shall be payable to IHT, at the address specified in this Covenant as IHT’s address, on the first day of each month for as long as this Covenant remains in effect, unless, with IHT’s prior written consent, the Monitoring Fee is to be escrowed by a Permitted Mortgagee, in which case payment shall be made as specified by that Mortgagee. If this Covenant commences on a day other than the first of the month, a pro-rata portion of the Monitoring Fee shall be paid for the balance of the month at the time this Covenant is executed.

In the event that any amount of payable Monitoring Fee remains unpaid when the Improvements are sold and this Covenant is terminated or assigned to another party, the amount of payable Monitoring Fee shall be paid to IHT out of any proceeds from the sale of the Improvements otherwise due to Homeowner at the time of such sale. IHT shall have, and the Homeowner hereby consents to, a lien upon the Unit for any unpaid Monitoring Fee. Such lien shall be prior to all other liens and encumbrances on the Unit except (a) liens and encumbrances recorded before the recording of the Covenant, (b) Permitted Mortgages, and (c) liens for real property taxes and other governmental assessments or charges against the Unit.

C. **Calculation of Monitoring Fee:** The Monitoring Fee specified herein shall be the same as the then-current Monitoring Fee charged by the IHT for equivalent development for which the IHT maintains Ground Leases as Lessor .

D. **Reduction, Delay or Waiver of Monitoring Fee:** IHT may reduce, delay or waive entirely the Monitoring Fee at any time and from time to time for the purpose of ensuring affordable monthly housing costs for Homeowner. Any such reduction, delay, or waiver must be in writing and signed by IHT before being effective and no such adjustment or waiver in one instance will be binding in other instances.

E. **Adjustment of Monitoring Fee:** The Monitoring Fee stated herein, as adjusted in the way provided below, shall be applicable during the term of this Covenant. However, in the event that, for any reason, the provisions of this Covenant regarding transfers of the Unit regarding occupancy are suspended or invalidated for any period of time, then during that time, at the option of IHT, the Monitoring Fee shall be increased to an amount reasonably calculated by IHT to equal the fair rental value of the Unit for use not restricted by the provisions of the suspended portions of this Covenant. In such event, IHT shall notify Homeowner of the amount calculated in this way, and the Monitoring Fee shall then be this amount as of the first day of the month immediately following such notice.

In order to keep the Monitoring Fee reasonably current, the amount specified herein (and the amount specified in the preceding paragraph) shall be subject to adjustment every five years during the term of this Covenant, provided any increase in the Monitoring Fee shall not exceed an effective annual increase of three percent (3%). At such intervals, the amount shall be recalculated through such reasonable process as IHT shall choose, based upon the standard practice for adjusting Monitoring Fee for properties as demonstrated by the charges for equivalent development for which the IHT maintains Ground Leases as Lessor. Upon the final determination of the recalculated Monitoring Fee in accordance with the terms of this Section, IHT shall maintain in its file a certification of the amount of such recalculated Monitoring Fee and the process by which it was determined.

ARTICLE XII IMPROVEMENTS

A. **ALTERATION AND ADDITIONS:** Any construction in connection with an existing or new Unit is subject to the following conditions: (a) all costs shall be borne and paid for by Homeowner; (b) all construction shall be performed in a workmanlike manner and shall comply with all applicable laws and regulations; (c) all construction shall be consistent with the permitted uses set forth in the Master Deed and Special Permit.

This instrument shall inure to the benefit of, and shall be binding upon, each of the parties hereto, and their respective heirs, successors, and assigns.

ARTICLE XIII TOWN RESTRICTION

The parties acknowledge and agree that this Covenant is subject to the terms and conditions of those certain Town Restrictions attached hereto as Exhibit F. If any terms of this Covenant conflict in any way with the Town Restrictions, then the term or provision of the Town

Restrictions shall govern. The parties hereto agree that at all times, the Town shall maintain the right to enforce this Covenant and the Town Restrictions.

[Remainder of page intentionally left blank. Signature page follows.]

Dated at _____, Massachusetts, this ____ day of _____ 2022.

In The Presence of

ISLAND HOUSING TRUST CORPORATION

By: _____

Philippe Jordi, Executive Director

Witness

Its Duly Authorized Agent

COVENANTOR

By: _____

Witness

Allison Nicole Horowitz

By: _____

Witness

Noah Carrington Maxner

COMMONWEALTH OF MASSACHUSETTS
DUKES COUNTY, ss.

On this day of _____ 2022 before me, the undersigned Notary Public, personally appeared the above-named **Philippe Jordi**, 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 the foregoing Instrument to be his free act and deed, and signed it voluntarily for its stated purpose, as the Executive Director of IHT.

Notary Public

Before me, _____

My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS
DUKES COUNTY, ss.

On this day of _____ 2022, before me, the undersigned Notary Public, personally appeared the above-named **Allison Nicole Horowitz**, 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 the foregoing Instrument to be her free act and deed, and signed it voluntarily for its stated purpose, as the duly authorized agent of _____

Notary Public

Before me, _____

My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS
DUKES COUNTY, ss.

On this day of _____ 2022, before me, the undersigned Notary Public, personally appeared the above-named **Noah Carrington Maxner**, 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 the foregoing Instrument to be his free act and deed, and signed it voluntarily for its stated purpose,

Notary Public

Before me, _____

My Commission Expires:

**EXHIBIT A
LETTER OF STIPULATION OF COVENANTOR**

To: Island Housing Trust Corporation (the “IHT”)

Date: _____, 2022

This letter is given to the IHT to become an exhibit to a Covenant between the IHT and me. I will be purchasing, at less than fair market value, a Condominium Unit, the right to purchase, which I was awarded through an affordable housing program administered by the IHT. I will therefore become what is described here as an “IHT homeowner.”

My legal counsel, Geoghan E. Coogan, Esq. has explained to me the terms and conditions of the Covenant and other legal documents that are part of this transaction. I understand the way these terms and conditions will affect my rights as an IHT homeowner, now and in the future.

In particular I understand and agree with the following points:

- One of the goals of the IHT is to keep IHT homes affordable for lower-income households from one IHT homeowner to the next. I support this goal as an IHT homeowner and as a member of the IHT.
- The terms and conditions of my Covenant will keep my home affordable for future “Income-Qualified Persons” (as defined in the Covenant). If and when I want to sell my home, the Covenant requires that I sell it either to the IHT or to another Income-Qualified Person. The terms and conditions of the Covenant also limit the price for which I can sell the home, in order to keep it affordable for such Income-Qualified Persons.
- It is also a goal of the IHT to promote resident ownership of IHT homes. For this reason, my Covenant requires that I, and my family must reside in the Unit for 11 months per year, and that if I, and my family move out of our home permanently, we must sell it. We cannot continue to own it as absentee owners.
- As an IHT homeowner it is my desire to see the terms of the Covenant and related documents honored. I consider these terms fair to me, and others.

Sincerely,

Allison Nicole Horowitz

Noah Carrington Maxner

EXHIBIT B
LETTER OF ACKNOWLEDGEMENT OF COVENANTOR’S ATTORNEY

I, Geoghan E. Coogan, Esq. have been independently employed by Allison Nicole Horowitz and Noah Carrington Maxner (hereinafter the “Client”) who intend to purchase a Condominium Unit at less than fair market value, the right to purchase which my client was awarded through an affordable housing program administered by the Island Housing Trust Corporation (the “IHT”). The Condominium Unit is Unit #3 at 619 Edgartown West Tisbury Road, West Tisbury, Massachusetts.

In connection with the contemplated purchase of the Condominium Unit, I reviewed with the Client the following documents relating to the transaction:

- a. this Letter of Acknowledgment and a Letter of Stipulation from the Client
- b. a proposed Unit Deed conveying the Condominium Unit to the Client
- c. a proposed Affordable Housing Covenant and all exhibits thereto
- d. other written materials provided by the IHT, including:
 - i. Master Deed of The 619 Condominium
 - ii. The 619 Condominium Trust
 - iii. The 619 Rules and Regulations, and Right of First Refusal
 - iv. Trust of which my client is the Trustee and IHT the beneficiary

The Client has received full and complete information and advice regarding this conveyance and the foregoing documents. My advice and review has been given to reasonably inform the Client of the present and foreseeable risks and legal consequences of the contemplated transaction.

The Client is entering the aforesaid transaction in reliance on her own judgment and upon her investigation of the facts. The full and complete advice and information provided by me was an integral element of such investigation.

Signature _____ Date _____

Title _____

Firm/Address _____

EXHIBIT C
CONDOMINIUM UNIT
(LEGAL DESCRIPTION OF THE UNIT)

Unit Description

The dwelling unit (the Unit) located at 619 Edgartown West Tisbury Road, in West Tisbury, County of Dukes County, Massachusetts, known as Unit 3 of the 619 Condominium created by a Master Deed dated July 27, 2011 and recorded with the Dukes County Registry of Deeds (the “Registry”) in Book 1251, Page 328, amended on October 26, 2012 and recorded with the Registry in Book 1296, Page 1091, and further amended on May 30 2013 and recorded with the Registry in Book 1318 Page 1035, in accordance with and subject to the provisions of Chapter 183A of the General Laws of the Commonwealth of Massachusetts, together with a 25.5% undivided interest in the Common Elements which consist of (i) the common areas and facilities as described in said Master Deed as amended specifically excluding “Lot 1B 2,913 s.f. ±” shown on plan of land prepared for the 619 Condominium dated April 22, 2021, recorded with the Registry in Plan Book 19, Page 119, and (ii) “Lot 3 2,913 s.f. ±” shown on a plan of land prepared for Clarke Bruno and Julie Braverman Bruno dated August 5, 2021, recorded with the Registry in Plan Book 19, Page 120 (the “Common Elements”). A plan of Unit 3 is filed with a site plan for the Condominium with the Registry in Plan Book 17 Page 63.

**EXHIBIT D
RIGHT OF FIRST REFUSAL**

Whenever any party under the Covenant shall have a right of first refusal as to certain condominium unit(s), the following procedures shall apply. If the owner of the Unit offering it for sale (“Offering Party”) shall within the term of the Covenant receive a bona fide, third-party offer to purchase the Unit that such Offering Party is willing to accept, the holder of the right of first refusal (the “Holder”) shall have the following rights:

- a. Offering Party shall give written notice of such offer (“the Notice of Offer”) to Holder setting forth (a) the name and address of the prospective purchaser of the Unit, (b) the purchase price offered by the prospective purchaser and (c) all other terms and conditions of the sale. Holder shall have a period of forty-five (45) days after the receipt of the Notice of Offer (“the Election Period”) within which to exercise the right of first refusal by giving notice of intent to purchase the Unit (“the Notice of Intent to Purchase”) for the same price and on the same terms and conditions set forth in the Notice of Offer. Such Notice of Intent to Purchase shall be given in writing to the Offering Party within the Election Period.
- b. If Holder exercises the right to purchase the Unit, such purchase shall be completed within sixty (60) days after the Notice of Intent to Purchase is given by Holder (or if the Notice of Offer shall specify a later date for closing, such date) by performance of the terms and conditions of the Notice of Offer, including payment of the purchase price provided therein.
- c. Should Holder fail to exercise the right of first refusal within the Election Period, then the Offering Party shall have the right (subject to any other applicable restrictions in the Covenant) to go forward with the sale which the Offering Party desires to accept, and to sell the Unit within one (1) year following the expiration of the Election Period on terms and conditions which are not materially more favorable to the purchaser than those set forth in the Notice. If the sale is not consummated within such one-year period, the Offering Party’s right so to sell shall end, and all the foregoing provisions of this Right of First Refusal shall be applied again to any future offer, all as aforesaid.
- d. All terminology used in this Exhibit D shall have the meaning assigned to it in the Covenant.

EXHIBIT E
PERMITTED MORTGAGES

The provisions set forth in this Exhibit shall be understood to be provisions of ARTICLE IV of the Covenant to which the Exhibit is attached and in which the Exhibit is referenced. Any Permitted Mortgagee shall be bound by each of the following requirements unless the particular requirement is removed, contradicted, or modified by an amendment to this Covenant signed by the Homeowner and IHT to modify the terms of the Covenant during the term of the Permitted Mortgage. All terminology used in this Exhibit shall have the meaning assigned to it in the Covenant.

A. **PERMITTED MORTGAGE:** A “Permitted Mortgage,” as identified in ARTICLE IV, Section A of the Covenant to which this Exhibit is attached, shall be a mortgage or other security instrument(s) securing obligations to a Permitted Mortgagee, as defined below, (“Mortgage”) that meets the following requirements:

1. Such Mortgage shall run in favor of either (a) a so-called institutional lender such as, but not limited to, a federal, state, or local housing finance agency, a bank (including savings and loan association or insured credit union), an insurance company, a pension and/or profit-sharing fund or trust, or any combination of the foregoing, the policies and procedures of which institutional lender are subject to direct governmental supervision, or (b) a “community development financial institution” as certified by the U.S. Department of the Treasury, or similar nonprofit lender to housing projects for low- and moderate-income persons.
2. Such Mortgage shall be a first lien on the Unit and the Homeowner’s interest in the Common Elements (the “Security”).
3. Such Mortgage and related documentation shall provide, among other things, that in the event of a default in any of the mortgagor’s obligations there under, the holder of such Mortgage shall notify IHT of such fact and IHT shall have the right (but shall not have the obligation) within 120 days after its receipt of such notice, to cure such default in the mortgagor’s name and on mortgagor’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, and shall further provide that said holder shall not have the right, unless such default shall not have been cured within such time, to accelerate the note secured by such Mortgage or to commence to foreclose under the Mortgage on account of such default.
4. Such Mortgage and related documentation shall provide, among other things, that if after such cure period the holder intends to accelerate the note secured by such Mortgage or initiate foreclosure proceedings under the Mortgage, in accordance with the provisions of this Covenant, the holder shall first notify IHT of its intention to do so and IHT 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 the indebtedness secured by such Mortgage and to acquire such Mortgage.
5. Such Mortgage and related documentation shall provide, among other things, that, in the event of acquisition of title to the Unit by the Permitted Mortgagee by foreclosure sale or

the delivery of an instrument of transfer and assignment of the Covenant to a Permitted Mortgagee in lieu of foreclosure, the Permitted Mortgagee shall give the IHT written notice of such acquisition and the IHT shall have an option to purchase the Unit from the Permitted Mortgagee for the full amount owing to the Permitted Mortgagee under the Permitted Mortgage, together with all other costs, fees, expenses, or transfer charges (including, without limitation, attorney fees) incurred or to be incurred by the Permitted Mortgagee in conveying the Unit to IHT ; provided, however, that the IHT gives written notice to the Permitted Mortgagee of the IHT'S intent to purchase the Unit and acquire the Homeowner's interest in the Unit within thirty (30) days following the IHT'S receipt of the Permitted Mortgagee's notice of such acquisition of the Unit and Homeowner's interest; further provided that IHT shall complete the purchase of the Unit and acquisition of Homeowner's interest in the Unit within sixty (60) days of having given written notice of its intent to purchase; and provided that, if the IHT does not complete the purchase within such period, the Permitted Mortgagee shall be free to sell the Unit and transfer the Homeowner's interest in the Unit to another person;

6. Such Mortgage and related documentation shall not contain any provisions other than provisions customarily contained in mortgages used for residential real estate transactions for condominiums in Dukes County by institutional mortgagees.
7. Such Mortgage and related documentation shall not contain any provisions which could be construed as rendering IHT or any subsequent holder of the IHT'S interest in and to this Covenant, or their respective heirs, executors, successors or assigns, personally liable for the payment of the debt evidenced by such note and such Mortgage or any part thereof.
8. Such Mortgage and related documentation shall contain provisions to the effect that the holder of such Mortgage shall not look to IHT or IHT'S beneficial interest in the Unit, but will look solely to Homeowner or Homeowner's interest in the Unit for the payment of the debt secured thereby or any part thereof (It is the intention of the parties hereto that IHT'S consent to such Mortgage shall be without any liability on the part of IHT for any deficiency judgment).
9. Such Mortgage and related documentation shall provide that in the event any part of the Security is taken in condemnation or by right of eminent domain, the proceeds of the award shall be paid over to the holder of the Mortgage in accordance with the provisions of ARTICLE V of the Covenant.

B. RIGHTS OF PERMITTED MORTGAGEE: The rights of a holder of a Permitted Mortgage ("Permitted Mortgagee") as referenced under ARTICLE IV, Section B of the Covenant to which this Exhibit is attached shall be as set forth below.

1. Permitted Mortgagee shall without requirement of consent by the IHT have the right, but not the obligation, to:
 - a. cure any default under this Covenant, and perform any obligation required under this Covenant, such cure or performance by a Permitted Mortgagee being effective as if it had been undertaken and performed by Homeowner;
 - b. acquire and convey, assign, transfer, and exercise any right, remedy or privilege granted to Homeowner by this Covenant or otherwise by law, subject to the provisions, if any, in

- said Permitted Mortgage, which may limit any exercise of any such right, remedy or privilege; and
- c. rely upon and enforce any provisions of the Covenant to the extent that such provisions are for the benefit of Permitted Mortgagee.
 2. Permitted Mortgagee shall not, as a condition to the exercise of its rights under the Covenant, be required to assume personal liability for the payment and performance of the obligations of the Homeowner under the Covenant. Any such payment or performance or other act by Permitted Mortgagee under the Covenant shall not be construed as an agreement by Permitted Mortgagee to assume such personal liability except to the extent Permitted Mortgagee actually takes possession of the Unit. In the event Permitted Mortgagee does take possession of the Unit and thereupon transfers the Unit, any such transferee shall be required to enter into a written agreement assuming such personal liability and upon any such assumption the Permitted Mortgagee shall automatically be released from personal liability under the Covenant.
 3. In the event that title to the estates, of both IHT and Homeowner, shall be acquired at any time by the same person or persons, no merger of these estates shall occur without the prior written declaration of merger by Permitted Mortgagee, so long as Permitted Mortgagee owns any interest in the Security or in a Permitted Mortgage. In the event that the estate of IHT is owned at any time by Homeowner (regardless of a merger), or by any person in which Homeowner' has a direct or indirect interest, Permitted Mortgagee shall not be obligated to cure any default of Homeowner under the Covenant as condition to the forbearance by IHT in the exercise of IHT'S remedies as provided in the Covenant.
 4. In the event the Homeowner's interest in the Covenant has been terminated, forfeited, or surrendered as provided in the Covenant, and the Permitted Mortgage remains outstanding, a new Covenant shall automatically be created between the IHT and the Permitted Mortgagee, and shall be subject to the same terms of the Covenant as would be applicable where the Permitted Mortgagee had accelerated its note, foreclosed on the Permitted Mortgage, taken an assignment in lieu of foreclosure, or exercised its other remedies for default.
 5. The IHT shall have no right to terminate the Covenant during such time as the Permitted Mortgagee has commenced foreclosure in accordance with the provisions of the Covenant and is diligently pursuing the same.
 6. In the event that IHT sends a notice of default under the Covenant to Homeowner, IHT shall also send a notice of Homeowner's default to Permitted Mortgagee. Such notice shall be given in the manner set forth in ARTICLE X, Section B of the Covenant to the Permitted Mortgagee at the address that has been given by the Permitted Mortgagee to IHT by a written notice to IHT sent in the manner set forth in said ARTICLE X, Section B of the Covenant.
 7. Before becoming effective, any amendments to the Covenant must be approved in writing by Permitted Mortgagee, which approval shall not be unreasonably withheld. If Permitted Mortgagee has neither approved nor rejected a proposed amendment within 60 days of its submission to Permitted Mortgagee, then the proposed amendment shall be deemed to be approved.

C. STANDARD PERMITTED MORTGAGE AGREEMENT. A Standard Permitted Mortgage Agreement, as identified in Article IV Section A of this Covenant, shall be written as follows, and shall be signed by Mortgagee and Homeowner.

This Agreement is made by and among:

_____ (*Mortgagee*)
_____ (*“Homeowner”*), and
Island Housing Trust Corporation (*“IHT”*).

Whereas:

- a) *IHT and Homeowner have entered, or are entering, into a Covenant (“the Covenant”), for the premises the Homeowner has purchased, or is purchasing, Unit #3 of The 619 Condominium located at 619 Edgartown West Tisbury Road, West Tisbury, Massachusetts, as further described in the Covenant (the “Unit”).*
- b) *The Mortgagee has been asked to provide certain financing to the Homeowner, and is being granted concurrently herewith a mortgage and security interest (the “Mortgage”) in the Unit and Homeowner’s interest in the common areas and facilities (the “Common Elements”), all as more particularly set forth in the Mortgage recorded with the Dukes County Registry of Deeds herewith.*
- c) *The Covenant states that the Homeowner may mortgage the Unit only with the written consent of IHT. The Covenant further provides that IHT is required to give such consent only if the Mortgagee signs this Standard Permitted Mortgage Agreement and thereby agrees to certain conditions that are stipulated herein (“the Stipulated Conditions”).*
- d) *IHT would be unwilling to consent to the Mortgage unless the Homeowner and the Mortgagee agree to the inclusion of the Stipulated Conditions among the terms and conditions of the Mortgage.*

Now, therefore, *the Homeowner/Mortgagor and the Mortgagee hereby agree that the terms and conditions of the Mortgage shall include the Stipulated Conditions stated below and IHT hereby consents to the Mortgage with the Stipulated Conditions and confirms that the Mortgage is a Permitted Mortgage and that the original and any subsequent holder of the Mortgage is a Permitted Mortgagee and shall have all of the rights and obligations of a Permitted Mortgagee under the Lease.*

Any capitalized term not defined in this Agreement shall have the meaning assigned to it in the Covenant.

Stipulated Conditions:

- 1). In the event of a default in any of the Homeowner/Mortgagor's under the Mortgage, the Mortgagee shall notify IHT of such fact and IHT shall have upon receiving a copy of the notice of default the right (but not the obligation) within 120 days after its receipt of such notice, to cure such default in the Homeowner's name and on Homeowner's behalf, provided that current payments due the Mortgagee during such 120-day period (or such lesser time period as may have been required to cure such default) are made to the Mortgagee, and shall further provide that said Mortgagee shall not have the right, unless such default shall not have been cured within such time, to accelerate the note secured by such Mortgage or to commence to foreclose under the Mortgage on account of such default.*
- 2) If, after such cure period, the Mortgagee intends to accelerate the note secured by the Mortgage or initiate foreclosure proceedings under the Mortgage, in accordance with the provisions of the Covenant, the Mortgagee shall first notify IHT of its intention to do so and IHT shall have the right, but not the obligation, upon notifying the Mortgagee within thirty (30) days of receipt of said notice, to purchase the indebtedness secured by such Mortgage and acquire such Mortgage.*
- 3) If the Mortgagee acquires title to the Unit and the Homeowner's interest in the Common Elements by foreclosure sale or the delivery of bill of sale and assignment of the deed to a Permitted Mortgagee in lieu of foreclosure, the Permitted Mortgagee shall give IHT written notice of such acquisition and IHT shall have an option to purchase the Unit and Homeowner's interest in the Common Elements from the Permitted Mortgagee for the full amount owing to the Permitted Mortgagee under the Permitted Mortgage, together with all other costs, fees, expenses or transfer charges (including, without limitation, attorney fees) incurred or to be incurred by the Permitted Mortgagee in conveying the Unit and Homeowner's interest in the Common Elements to IHT; provided, however, that IHT notifies the Mortgagee in writing of IHT's intent to make such purchase within thirty (30) days following IHT's receipt of the Mortgagee's notice of such acquisition of the*

Unit and Homeowner's interest in the Common Elements; further provided that IHT shall complete such purchase within sixty (60) days of having given written notice of its intent to purchase; and provided that, if IHT does not complete the purchase within such period, the Mortgagee shall be free to sell the Unit and Homeowner's interest in the Common Elements to another person;

- 4) Nothing in the Mortgage or related documents shall be construed as giving the Mortgagee a claim on IHT's interest in the Covenant, or as assigning any form of liability to IHT with regard to the Covenant, the Unit, the Common Elements, or the Mortgage.*
- 5) Nothing in the Mortgage shall be construed as rendering IHT or any subsequent holder of IHT's interest in and to the Covenant, or their respective successors or assigns, personally liable for the payment of the debt evidenced by such note and such Mortgage or any part thereof.*
- 6) The Mortgagee shall not look to IHT or IHT's interest in the Covenant, but will look solely to Homeowner, the Unit, and Homeowner's interest in the Common Elements for the payment of the debt secured by the Mortgage or any part thereof. (It is the intention of the parties hereto that IHT's consent to the Mortgage shall be without any liability on the part of IHT for any deficiency judgment.)*
- 7) In the event that any part of the Security is taken in condemnation or by right of eminent domain, the proceeds of the award shall be paid over to the Mortgagee in accordance with the provisions of Article V of the Covenant.*
- 8) Nothing in the Mortgage shall obligate IHT to execute an assignment of the Monitoring Fee or other fee payable by Homeowner under the terms of the Covenant.*
- 9) The parties agree that this Agreement, shall be recorded simultaneously with the recording of the Mortgage at the Registry of Deeds in Dukes County.*
- 10) This Agreement is binding on all successors in interest to the Mortgagee.*
- 11) This Agreement may only be amended with the written consent of IHT.*

By:

_____ *for Mortgagee* *Date:* _____

_____ *for Homeowner/Mortgagor* *Date:* _____

_____ *for IHT* *Date:* _____

**EXHIBIT F
TOWN RESTRICTIONS**

WHEREAS, the Town of West Tisbury (“Municipality”), a municipal corporation within the county of Dukes County (the “Town”) 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 established an Affordable Housing Committee (“AHC” which term shall include the Town unless the context otherwise requires), to administer an affordable housing program to broaden opportunities for home ownership for income-qualified households in the Town;

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, the Unit is currently subject to an Affordable Housing Covenant dated May 31, 2013, and recorded in the Dukes County Registry of Deeds in Book 1319, Page 123, and the Unit is subject to the Decision of the Planning Board of the Town of West Tisbury filed with the West Tisbury Town Clerk on July 29, 2008 and recorded at the Dukes County Registry of Deeds in Book 1245, Page 949 on May 19, 2011;

WHEREAS, the Island Housing Trust Corporation (“IHT”) is the monitor for two condominium units located on a certain parcel of real property located at 619 Edgartown West Tisbury Road, West Tisbury, Massachusetts (the “Units”), one of which Units is more particularly described in Exhibit C attached to the Covenant by and between IHT, as Monitor, and Allison Nicole Horowitz and Noah Carrington Maxner as Homeowner, (to which Covenant this Covenant Rider is also attached) (together with all exhibits, the “Covenant”);

WHEREAS, Allison Nicole Horowitz and Noah Carrington Maxner purchased the Unit at a consideration which is less than the fair market value of the property;

WHEREAS, Homeowner is an Income-qualified Person (as defined in the Covenant) with an income at or below Eighty percent (80%) of the regional median household income as established by HUD for Dukes County;

WHEREAS, the Covenant sets forth restrictions so that the Unit shall remain affordable for individuals or families in the aforesaid income bracket in perpetuity;

WHEREAS, the IHT wishes to work with the AHC, as the AHC has a vested interest in the development and preservation of decent, affordable housing and the creation of homeownership opportunities for low- and moderate-income people in the Town of West Tisbury;

WHEREAS, the AHC has requested that these restrictions be executed in order to further the above-stated goals of the AHC; and

WHEREAS, IHT and Homeowner share in those goals;

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

NOW THEREFORE, in consideration of the agreements and covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which the IHT and Homeowner hereby acknowledge to the other, the IHT and Homeowner hereby agree and covenant as follows:

1. Option to Purchase: In addition to IHT’s Purchase Option pursuant to Article 10 of the Ground Lease, the Town, acting by and through its AHC, or its public or non-profit assignees including, but not limited to, the Dukes County Regional Housing Authority (“DCRHA”), shall have the following purchase option:

In the event IHT does not exercise its Purchase Option, or fails to complete its purchase within the 60-day period as provided in in Article VI of the Covenant, then the AHC shall have an option to purchase the Improvements at the Purchase Option Price and IHT shall notify the AHC of the same in writing (“written notice”). If the AHC (or its assignee) wishes to exercise its option to purchase, the AHC shall notify IHT within sixty (60) days of receipt of the written notice. The AHC’s (or its assignee’s) purchase must be completed within sixty (60) days of having given written notice of it intent to purchase (“Purchase Period”). In the event the AHC completes said purchase the AHC shall have the option of accepting an assignment of the Ground Lease or purchasing the Land for One (\$1.00) Dollar.

2. Local Preferences: IHT’s Homeowner selection process shall require a first priority local preference to West Tisbury residents and/or employees, to the extent permitted by applicable law, and in accordance with the policies of the AHC.

3. AHC Right to Proceeds in Excess of Purchase Option Price: The parties recognize that it would be contrary to the fundamental concept of the Covenant and an incentive to abuse Homeowner’s authorization to encumber its leasehold interest with a Permitted Mortgage if Homeowner could realize more than the Purchase Option Price as the result of any foreclosure of any mortgage. Accordingly, Homeowner hereby irrevocably assigns to the AHC any and all net proceeds of sale of the Unit remaining after payment of costs of foreclosure and satisfaction of the lien of any Permitted Mortgagee which would otherwise have been payable to Homeowner,

to the extent such net proceeds exceed the net proceeds that Homeowner would have received had the property been sold for the Purchase Option Price established in Article IV of the Covenant, and authorizes and instructs the Permitted Mortgagee or any party conducting any sale to pay the amount of said excess proceeds directly to the AHC (to be deposited in the West Tisbury Affordable Housing Trust Fund for the purposes of encouraging, creating or subsidizing the construction or rehabilitation of affordable housing elsewhere in the Town) in consideration of the loss of the value and benefit of the rights and restrictions herein contained held by the AHC and released by the AHC pursuant to paragraph 6 below in connection with such proceeding. In the event that, for any reason, such excess proceeds are paid to Homeowner, Homeowner hereby agrees to promptly pay the amount of such excess proceeds to the AHC. Notwithstanding the foregoing, in the event the Unit is purchased by IHT upon foreclosure or are transferred to IHT by deed in lieu of foreclosure, both pursuant to IHT's option to purchase in Exhibit E (Permitted Mortgages), any such excess shall be paid to IHT and IHT agrees that said property shall remain restricted by the restrictions in this Rider and any other affordable housing restrictions now in force.

4. Transfers Upon Death: Upon the death of the Homeowner, or, if there is more than one Homeowner, the last surviving Homeowner, the Homeowner's executor(s) or administrator(s) shall, on or before the first business day occurring ninety (90) days after said Homeowner's death, cause the IHT to receive written notice of the date of the Homeowner's death, of whether or not said Homeowner 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 IHT. Upon receipt of such notice, IHT shall consent (which consent must be recorded in the Dukes County Registry of Deeds) to a transfer of the Unit to (a) the spouse of the Homeowner; or (b) to the child or children of the Homeowner, provided that the spouse of child/children demonstrate to the IHT that: (i) the Unit is the principal residence of such spouse or child/children, or shall be upon said Homeowner's death, and provided that the child/children also demonstrate to IHT that: (ii) the child/children is an Income-qualified Person, and (iii) the Unit is the only real property currently owned by the child/children. The resale and transfer procedures and restrictions of Article VI of the Covenant, and all other provisions of this Rider, shall apply to any sale, transfer or other disposition of the Unit to any individual other than the Homeowner's spouse or child/children, as permitted above, and shall apply to any sale, transfer or other disposition of the Unit from the Homeowner's spouse or child/children. Said spouse or child/children ("Second Generation Homeowner") must sign a new Rider at the time of transfer to said Second Generation Homeowner, which new Rider shall provide a similar Transfer Upon Death Clause so that the Unit may pass down to the spouse or child/children of the Second Generation Homeowner 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 Unit is the principal residence of such spouse or child/children.

5. Restrictions Against Leasing, Refinancing and Junior Encumbrances: **The Unit shall not be refinanced or encumbered (voluntarily or otherwise) or mortgaged without the prior written consent of the IHT which consent shall be evidenced by the IHT's signature on a Permitted Mortgage Agreement, which must be recorded in the Dukes County Registry of Deeds. The Unit shall not be refinanced, encumbered (voluntarily or otherwise)**

or mortgaged for an amount greater than the Purchase Option Price. Any 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 IHT shall, except as otherwise provided in paragraph 3 above, be paid to and shall be the property of the West Tisbury Affordable Housing Trust, to the fullest extent permitted by law. The Unit shall not be leased or subleased to any third party without the prior written consent of the AHC. In the event that the AHC, in the exercise of its absolute discretion, shall consent to any lease or sublease, it shall be a condition to such consent that all rents, profits or proceeds from such transaction which exceed the carrying costs of the Unit, as determined by the AHC, in its sole discretion, shall be paid to and be the property of the West Tisbury Affordable Housing Trust.

6. Rights and Obligations of Mortgagees: The Homeowner may only mortgage the Unit (1) with the prior written consent of the IHT, as stated in paragraph 5 above, and (2) only if the lender, Homeowner and IHT execute a Permitted Mortgage Agreement at the time of the loan closing, in a form approved by the IHT, which agreement incorporates the terms and provisions of this paragraph.

In the event of a default in any of the Homeowner's obligations under the Mortgage, the holder of record of any mortgage on the Unit (each, a "Mortgagee") shall notify the IHT of such fact and the IHT 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 Homeowner's name and on the Homeowner'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 Rider, the holder shall notify the IHT 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 Unit by the Mortgagee by foreclosure sale or the delivery of a deed in lieu of foreclosure, the holder shall give the IHT and AHC written notice of such acquisition, and the AHC or its designee shall have an option to purchase the Unit 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 Unit; 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 Unit to another person.

The Homeowner agrees to the delivery of all notifications from the Mortgagee to the IHT and AHC and any other communications and disclosures made by the Mortgagee to the IHT and AHC pursuant to the Covenant and this Rider.

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 Rider shall not apply to such Mortgagee upon such acquisition of the Unit, any purchaser of the Unit at a foreclosure sale conducted by such Mortgagee, or any purchaser of the Unit of such Mortgagee, and such Unit 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 Purchase Option Price as defined above. In the event such holder of a mortgage forecloses and the Unit is sold for a price that exceeds the mortgage expenses, but does not exceed the Purchase Option Price, the Homeowner shall receive the remainder of the sale proceeds, up to said Purchase Option Price, after the mortgage expenses are paid. In the event such holder of a mortgage forecloses and the Unit is sold for a price that exceeds both the mortgage expenses and the Purchase Option Price, such excess above the Purchase Option Price shall, except as otherwise provided in paragraph 3 above, 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 IHT prompt notice of any such claim and shall not object to the intervention by the AHC in any proceeding relating thereto).

7. Restrictions to Run with the Premises, Duration of Restrictions: The Homeowner agrees and acknowledges that the restrictions in this Rider 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 Unit which are intended to, and shall, run with the land and shall be binding upon and enforceable against the Homeowner, the Homeowner's successors and assigns and any party holding title to the Unit. 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 Homeowner 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 Homeowner hereby agrees that any requirements of the law of the Commonwealth of Massachusetts to be satisfied in order for the provisions of this Rider 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 Rider, including but not limited to the options to purchase created herein, shall be perpetual and run with the title to the Unit, except where terminated pursuant to paragraph 6 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.

8. Enforcement: (a) The rights hereby granted shall include the right of the AHC and the IHT to enforce this Rider and the 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 Unit 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 IHT.

(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 Unit in violation of the provisions of this Rider, the AHC shall be entitled to the following remedies, which shall be cumulative and not mutually exclusive:

- (i) specific performance of the provisions of the Covenant and this Rider;
- (ii) money damages for charges in excess of the Purchase Option Price, if applicable;
- (iii) if the violation is a sale of the Unit to anyone other than an Income-qualified Person (an “Ineligible Purchaser”), except as permitted herein, the AHC and/or IHT shall have the option to locate an Income-qualified Person on the terms and conditions provided in the Covenant and this Rider, and the purchase price shall be a price which complies with the provisions of the 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 Unit in violation of the provisions of the Covenant and this Rider, by an action in equity to enforce the Covenant and this Rider; and
- (v) money damages for the cost of creating or obtaining a comparable dwelling unit for an Income-qualified Person.

(c) In addition to the foregoing, the Homeowner hereby agrees and shall be obligated to pay all fees and expenses (including legal fees) of the AHC and the IHT in the event successful

enforcement action is taken against the Homeowner or the Homeowner's successors or assigns. The AHC shall be entitled to seek recovery of fees and expenses incurred in a successful enforcement action of the Covenant and this Rider against the Homeowner and to assert such a lien on the Unit to secure payment by the Homeowner of such fees and expenses.

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

(e) The rights hereby granted to the AHC shall be in addition to and not in limitation of any other rights and remedies available to the IHT or the AHC.

9. Notice: Any notices, demands, or requests that may be given under this Rider to the Covenant shall be sufficiently serviced if given in writing and delivered in accordance with Article X of the Covenant, and in addition by hand delivered or posted in the United States mail by registered or certified mail addressed to the AHC if addressed to the West Tisbury Affordable Housing Committee, to P.O. Box 278, West Tisbury, MA 02575, or such other address as the AHC may specify by such notice.

10. Further Assurances: The Homeowner agrees from time to time, as may reasonably be required by the AHC or the IHT, 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 Homeowner's eligibility for and conformance with the requirements of this Rider.

11. 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.

12. Town's Right to Assign: The AHC shall have the right to assign this Rider 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.

13. INDEPENDENT COUNSEL: THE Homeowner 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.

14. Waiver: The waiver by the AHC or the IHT 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.

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

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

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

18. 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.

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

TOWN OF WEST TISBURY,

HOMEOWNER:

By its Select Board

By: _____
J. Skipper Manter

Allison Nicole Horowitz

By: _____
Jessica Miller

Noah Carrington Maxner

By: _____
Cynthia E. Mitchell

AFFORDABLE HOUSING COMMITTEE,

By: _____
duly authorized signatory

ISLAND HOUSING TRUST CORPORATION,

By: _____
Philippe Jordi, Executive Director