

**DECLARATION OF COVENANTS AND RESTRICTIONS**

THIS DECLARATION, made this \_\_\_\_\_ day of \_\_\_\_, \_\_\_\_, by and between **Cranberry Isles Realty Trust**, a Maine non-profit corporation with a mailing address of P.O. Box 4, Cranberry Isles, ME 04625 (hereinafter “CIRT”), and \_\_\_\_\_, whose mailing address is \_\_\_\_\_ (hereinafter referred to as “Owner”);

**WHEREAS**, Owner is the owner of certain real estate situated in Town of Cranberry Isles, County of Hancock, State of Maine, which property (hereinafter the “Premises”) is described in the deed from \_\_\_\_\_ to \_\_\_\_\_, dated \_\_\_\_\_, recorded in Book \_\_\_\_, Page \_\_\_\_, of the Hancock County Registry of Deeds, which is more fully described in **EXHIBIT A**, attached hereto; and

**WHEREAS**, Owner and CIRT (hereinafter collectively referred to as “the Parties”) desire to provide for the preservation of value and amenities of said Property and to this end desire to subject the Premises described herein to the covenants and restrictions hereinafter set forth, each and all of which is and are for the benefit of said Premises, and each owner thereof; and

**WHEREAS**, the Parties desire that the Premises be held, sold, and conveyed subject to, and with the benefit of, the following covenants and restrictions, which are for the foregoing purposes, and which shall run with the title to the Premises, and be binding in perpetuity on all parties having any right, title, or interest in the said Premises, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of Owner, its successors and assigns; and

**WHEREAS**, the Parties desire that the future resale price of the Premises be limited so as to assist future owners in finding affordable housing in the Cranberry Isles;

**NOW THEREFORE**, to further the general purposes herein expressed, the Parties, for themselves, their successors, and assigns, hereby declare that the Premises shall be held, transferred, sold, conveyed, and occupied, subject to the rights and restrictions hereinafter set forth.

**ARTICLE 1. RESTRICTIVE COVENANTS**

The Premises is subject to certain restrictive covenants, including this Article 1, Restrictive Covenants, and Article 2, Maximum Resale Price, to wit:

1. The Premises shall not be further divided, or subdivided, EXCEPT by prior written approval of CIRT and the appropriate governmental authority.

2. The Premises shall be used for single-family residential purposes. Owner shall maintain the residence as their year-round primary residence for a minimum of eleven (11) months per year. In default, as part of its remedies, CIRT shall have the right to purchase the Premises pursuant to the right of first refusal agreement which is referred to at Exhibit D - and the Owner shall vacate the Premises upon that closing.
3. Owner shall maintain the home in compliance with any governmental authority that has jurisdiction over matters concerning the construction, condition and use of the home. The owner may make improvements to the home in keeping with rules and regulations of the appropriate governmental authority.
4. As a condition of, and simultaneously with, the acquisition of the Premises, each buyer of the Premises shall duly execute and acknowledge and deliver to CIRT a right of first refusal in substantially the form as herein **EXHIBIT D**. Said right of first refusal shall trigger upon any transfer of the real estate by the Owner or upon the death of the remaining Owner, save for any exempt transfers (as described in the right of first refusal document
5. Except for the first mortgage to acquire the Property, the Owner may not lease or refinance the home without the permission of CIRT, its successors and assigns. Proceeds from any prohibited lease or encumbrance must be paid to and shall become the property of CIRT.

#### **ARTICLE 2. MAXIMUM RESALE PRICE FORMULA**

The Owner of the Premises shall not sell or otherwise transfer or convey the Premises, or any portion or interest, to any person or entity, except in accordance with the procedures and provisions described below:

1. Increase in the value of the Premises as a result of improvements made by the Owner of the Premises will be subject to the limitations imposed by the maximum resale price formula set forth in EXHIBIT B attached hereto and incorporated herein. Except for a first priority mortgage deed to secure a purchase money loan to acquire the Premises, and any replacement thereof, the owners may not lease or refinance the Premises, or any portion thereof, without the prior written permission of CIRT. Proceeds from any prohibited lease or encumbrance must be paid to and become the property of the CIRT.
2. Definitions of Maintenance and Improvements: Maintenance includes tasks such as lamp replacement, routine painting, carpet and tile repair, carpentry and roof repair, door and lock adjustments, cosmetic work, plumbing and electrical repair, servicing of HVAC control systems, grounds maintenance, and pest control. In general, these tasks are related to maintain the integrity of the components of the house.

Improvements qualified for consideration in the resale formula attached hereto as **EXHIBIT C** include adaptation of an existing space for a new purpose, construction of additional areas, and, as set forth in IRS regulations (see Reg. 1.263(a)- 3(j)), are reasonably expected to materially increase the productivity, efficiency, strength, quality,

or output of the property. If improvements do not meet one of these three criteria, they cannot be included as improvements in the resale formula.

An improvement theoretically increases the value of a property whereas a repair keeps it in working condition. A repair could also be said to return a property to a prior condition as it was before the item needing repair/replacement broke or wore out. Generally, we can think of "adding" (improvement) vs. "fixing" (repairs).

According to the IRS, maintenance or repairs that keep your property in good operating condition do not materially add to the value of your property or substantially prolong its life, whereas an improvement adds to the value of property, prolongs its useful life, or adapts it to new uses.

Procedure to Certify Improvements for Resale Calculation: Owner must submit a plan describing fully the proposed construction and its potential impact on surrounding lands for improvements Owner wishes to add to the resale formula.

All improvements and repairs for which reimbursement was, could be, or could have been obtained from insurance or other third party cannot be added to the resale formula.

Owner may make any improvements they desire knowing that they may not receive full value for them in the resale formula if they are luxury items or are considered maintenance items. CIRT'S mission is to provide housing affordable to people who otherwise cannot afford it on the Cranberry Isles. Adding luxury items to a home does not help keep the property affordable at time of re-sale.

The Owner is responsible for approaching CIRT for clarification if they have questions on improvements, or whether something is maintenance or an improvement.

All repairs and improvements are subject to the following conditions:

- a) All costs shall be borne and paid for by the Owner.
- b) All construction shall be performed in a good and worker-like manner and shall comply with all applicable laws, ordinances, and regulations, including the requirements of local and state public health authorities.
- c) All construction must be consistent with the permitted uses.
- d) Owner shall furnish to CIRT a copy of any plans for construction of any Improvements and copies of all building permits for such construction prior to commencing construction for review by CIRT. If Owner expects the proposed Improvements to be added to Owner's resale formula, CIRT staff and officers will review the plans.

- e) CIRT board President, Vice President, Secretary, and Treasurer (or a combination of three officers) will vote to determine whether approval is made for the entire amount, part, or none of the improvements. An example of a vote for allowing only part of the amount of "improvements" into the resale formula include "improvements" that may also be considered "maintenance" such as replacing broken windows with energy efficient replacements. Examples of improvements that would not be added into the resale formula include luxury improvements (e.g., granite slab countertops) that will increase the base price and not add to the utility of the home. If any item is of a luxury quality, CIRT may allow only for the usual costs of the non-luxury version of the item.
- f) Design and construction shall be done in a manner that will keep the building marketable.

Owner shall document the costs and expenses of work in constructing, remodeling, repairing, or adding to the Improvements by means of detailed receipts and invoices for materials and labor, including receipts for barter goods and services, or by other documentation reasonably acceptable to CIRT. If Owner performs work himself or herself, Owner shall keep detailed records of the hours spent. The costs of labor performed by the Owner may not exceed the rate charged by individuals of comparable skills and experience as determined by CIRT in its sole discretion. CIRT may inspect the Improvements to verify the quality and state of completion of work. CIRT reserves the right to use an independent appraisal of work where costs are in excess of the trade or other reasonable standards for similar work in the local area. The Owner shall present such documentation to CIRT by the close of the year in which the improvement becomes functional. CIRT shall determine by April 1 of the following year the amount to be allowed as a qualified improvement and shall communicate its decision to the Owner in writing. Only amounts so allowed shall be used in the formula set out in **EXHIBIT B**. In the event that CIRT believes the market value of the house and improvements, at the time of the proposed sale, is lower than the resale price, CIRT may order an appraisal to go into the resale formula (e.g. if the house greatly depreciated due to neglect).

- 3. As a condition of, and simultaneously with, the acquisition of the Property, each buyer of the Property shall duly execute and acknowledge and deliver to CIRT a right of first refusal as in **EXHIBIT D** and a second mortgage deed substantially in form and substance as set forth in the transaction in which Owner initially obtained the Property.

### **ARTICLE 3: General Provisions**

- 1. Except as hereinafter provided, the Premises is subjected to the aforementioned Covenants and Restrictions that shall run with the Premises for the benefit of the CIRT. In the event that there is any violation of the foregoing Covenants and Restrictions, the CIRT shall have standing to enforce said Covenants and Restrictions, including the right to seek injunctive

relief in any court of competent jurisdiction. The representatives of CIRT shall have the right to enter the Premises at a reasonable time and in a reasonable manner, after reasonable advance notice to Owner, their heirs, and assigns, to monitor said Covenants and Restrictions in accordance with Title 33 M.R.S.A. Sections 122(5) and 124(7).

2. Invalidation of any one of these Covenants and Restrictions by a court shall in no way affect any other provision hereof, and all other such provisions shall remain in full force and effect.
3. The Covenants and Restrictions shall be subordinate to, and subject to, any bona fide purchase money mortgage of the Premises to a financial institution, and any replacement thereof. Any deed given pursuant to a sale held pursuant to the foreclosure of such a mortgage and any deed given in lieu of foreclosure of such a mortgage shall free the interest so transferred from the Covenants and Restrictions set forth herein.
4. This Declaration shall be governed and construed according to the laws of the State of Maine.
5. All notices and other communications required, or permitted to be given under, or in connection with this Declaration shall be in writing, and shall be deemed given when delivered in person, or on the second business day after the day on which mail by Certified Mail, Return Receipt Requested, addressed, if to Owner, to Owner's above mailing address, and if to the CIRT, to CIRT at its above mailing address, or otherwise to such address as may be designated by written notice to the other party.
6. Amendment. Any provision contained in this Declaration may be amended or revoked only by the recording of a written instrument or instruments specifying the amendment or the revocation signed by the owner or owners of the Premises and CIRT and, if required by law, the Attorney General of the State of Maine.

*(Balance of this page intentionally left blank)*

**IN WITNESS WHEREOF**, we, **CRANBERRY ISLES REALTY TRUST**, in its corporate name and behalf by \_\_\_\_\_, its President, has caused these presents to be signed and sealed as of the date and year first above written.

Signed, sealed, and delivered  
in the presence of:

Cranberry Isles Realty Trust

\_\_\_\_\_  
Witness

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: President

STATE OF MAINE  
COUNTY OF HANCOCK

\_\_\_\_\_, \_\_\_\_\_

Personally appeared before me, the above-named \_\_\_\_\_, in his capacity as President of the Cranberry Isles Realty Trust, and acknowledged the foregoing instrument to be his free act and deed.

\_\_\_\_\_  
Notary Public/Attorney at Law

\_\_\_\_\_  
Type/print name of Notary Public  
Commission expires: \_\_\_\_\_

\_\_\_\_\_  
Witness

\_\_\_\_\_  
\_\_\_\_\_

STATE OF MAINE  
COUNTY OF HANCOCK

\_\_\_\_\_, \_\_\_\_\_

Then personally appeared the above-named \_\_\_\_\_ and acknowledged the foregoing instrument to be his free act and deed.

Before me,

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed name of notary  
My commission expires: \_\_\_\_\_

**EXHIBIT A**  
**LEGAL DESCRIPTION OF THE PROPERTY**

**EXHIBIT B  
MAXIMUM RESALE PRICE FORMULA**

**CIRT - MAXIMUM RESALE PRICE CALCULATION**

(Address of Residence)

date

1. Enter the Original Purchase Price (less portion thereof provided by CIRT) of the property as described in the deed on Line 1.	<b>Line 1</b>	\$XXX,XXX
<i>Base Purchase Price: \$_____ ; less CIRT assistance (if any): \$_____</i>		
2. Enter the Compound Annual Change (%) in the State of Maine median family income (MFI) for the period that the home was owned by the seller on Line 2 (based on HUD Income Limits).	<b>Line 2</b>	XX.X%
<i>NOTE: MFI year of purchase (the year): \$_____ ; MFI year of sale (the year): \$_____</i>		
3. Multiply Line 1 by Line 2 for appreciation (depreciation) value.		\$XX,XXX
APPRECIATED (DEPRECIATED) HOUSE VALUE	<b>Line 3</b>	<b>\$XXX,XXX</b>
4. Enter the out-of-pocket costs of allowed Capital Improvements on Line 4.	<b>Line 4</b>	\$XX,XXX
5. Enter the compound annual change (%) in State of Maine median family income (MFI) since completing the Capital Improvements. And/or use worksheet area below.	<b>Line 5</b>	Multi-year
6. Multiply Line 4 by Line 5 for appreciation/depreciation value of Capital Improvements.		\$XX,XXX
APPRECIATED (DEPRECIATED) IMPROVEMENTS VALUE	<b>Line 6</b>	<b>\$XXX,XXX</b>
7. Add Lines 3 and 6 and enter the sum on Line 7.		
MAXIMUM RESALE PRICE	<b>Line 7</b>	<b>\$XXX,XXX</b>
8. Enter the Appraised Value of the subject property on Line 8, if known. <i>Note: An appraisal is done at the option of either CIRT or the seller. It is not required of either party. If no appraisal is done, enter "No Appraisal" on Line 8.</i>	<b>Line 8</b>	\$XXX,XXX
9. Enter on Line 9 the Maximum Affordable Cost (MAC) of a house for the most recent calendar year. <i>The MAC is determined by multiplying 2.5 times 160% of the median family income for the State of Maine in the most recent calendar year as provided at <a href="http://www.huduser.gov/portal/datasets">www.huduser.gov/portal/datasets</a>. If Line 7 is greater than Line 9, the amount on Line 9 is the Maximum Resale Price.</i>		
<b>Maximum Affordable Cost (MAC) (Current Year)</b>	<b>Line 9</b>	<b>\$XXX,XXX</b>



10. If Line 7 is less than or equal to Line 9, enter the amount on Line 7 on Line 10. This amount entered on Line 10 is the Maximum Resale Price that can be asked of an eligible buyer.

**Line 10** \$0.00

11. If an appraisal is done and the amount on Line 8 is less than or equal to either Line 7 or Line 9, enter the amount on Line 8 on Line 11. The amount on Line 11 then is the Maximum Resale Price that can be asked of an eligible buyer. If Line 8 has a dollar amount entered that is more than either Line 7 or Line 9, enter "Not Applicable" on Line 11.

**EXHIBIT C**  
**IMPROVEMENTS QUALIFIED FOR CONSIDERATION**  
**IN THE RESALE FORMULA**

Calculate the Value of Improvements. The Adjusted Property Value can be adjusted upwards based on documented improvements made by Owner to the Premises. Documentation will include retaining receipts for the improvements. **Improvements** are defined as an addition to or partial replacement of property that is a betterment to the property, restores the property, or adapts it to a new or different use. Reference is made to IRS regulations at 26 CFR 1.263(a)-3 and IRS Publication 527, or successor regulations and publications. Examples of improvements are provided in Table 1 below. CIRT has final decision-making authority to determine what qualifies as an improvement, basing its decisions on IRS regulations and publications.

**Table 1. Examples of Improvements (from IRS Publication 527, Table 1-1.)**

<b>Additions</b>	<b>Miscellaneous</b>	<b>Plumbing</b>
Bedroom	Storm windows, doors	Septic system
Bathroom	New roof	Water heater
Deck	Central vacuum	Soft water system
Garage	Wiring upgrades	Filtration system
Porch	Satellite dish	
Patio	Security system	<b>Interior Improvements</b>
		Built-in appliances
<b>Lawn &amp; Grounds</b>	<b>Heating &amp; Air Conditioning</b>	Kitchen modernization
Landscaping	Heating system	Flooring
Driveway	Central air conditioning	Wall-to-wall carpeting
Walkway	Furnace	
Fence	Duct work	<b>Insulation</b>
Retaining wall	Central humidifier	Attic
Sprinkler system	Filtration system	Walls, floor
Swimming pool		Pipes, duct work

For any improvements that are not additions (i.e., do not add to the gross square footage of the building), the costs for those improvements will be depreciated over time based on the Modified Accelerated Cost Recovery System (MACRS) and using a 27.5-year lifespan.

For properties that are additions (i.e., add gross square footage to the building), there will be no depreciation of the value over time.

**EXHIBIT D**  
**RIGHT OF FIRST REFUSAL**

This Agreement is made this \_\_\_\_ day of \_\_\_\_, \_\_\_\_

**AMONG** Cranberry Isles Realty Trust, a Maine non-profit corporation, with a mailing address of P.O. Box 4, Cranberry Isles, Maine, 04625 (hereinafter sometimes referred to as “the Holder”).

**AND** \_\_\_\_\_ of \_\_\_\_\_ 0 (hereinafter sometimes referred to as “the Grantor”).

**RECITALS**

A. The Grantor has this day acquired title as fee simple owner of certain real estate at \_\_\_\_\_, \_\_\_\_, in Cranberry Isles, County of Hancock, State of Maine, more particularly described in the deed from Holder, to the Grantor, of near or even date herewith to be recorded and being the same as described in the deed from \_\_\_\_\_ to Holder, dated \_\_\_\_\_, and recorded at the Hancock County Registry of Deeds in Book \_\_\_\_, Page \_\_ (hereinafter referred to as “the Real Estate”).

B. The Grantor desires to grant to the Holder a right of first refusal to purchase the Real Estate in the event the Grantor elects to sell or otherwise dispose of his or her ownership interest in the Real Estate.

C. In the said deed from Holder to Grantor, there are certain covenants and restrictions (hereinafter referred to as “the Covenants and Restrictions”), which include certain restrictions upon the Grantor’s ownership of the Real Estate (to include trigger events for this right of first refusal as well as a maximum resale price formula).

**NOW, THEREFORE**, for valuable consideration, the receipt and adequacy of which the Holder and the Grantor hereby acknowledge, the Holder and the Grantor agree as follows:

## **AGREEMENT**

**Section 1: Recitals:** The recital clauses set forth above are incorporated herein by reference as though set forth verbatim herein.

**Section 2: Right of First Refusal:** In the event the Grantor desires to convey (or is obliged to convey) his or her interest in the Real Estate, the Grantor shall first offer his or her Ownership interest to the Holder under the terms and conditions stated in this agreement as well as the Covenants and Restrictions (to include a price determined by the said maximum resale price formula), by giving notice of same to Holder in the manner provided herein.

**Section 3: Exercise of Right of First Refusal:** In the event that Holder elects to exercise the right of first refusal to purchase the Grantor's ownership interest in the Real Estate, the Holder shall give notice in the manner prescribed herein to the Grantor of such acceptance within sixty (60) days of the date that the Grantor's notice is deemed served as provided herein. Closing on the transfer between the Holder and the Grantor shall take place within sixty (60) days of date upon which the Holder's said notice of acceptance is delivered to Grantor. The purchase price shall be calculated pursuant to the said maximum resale price formula. Upon closing, the net closing proceeds shall be paid by the Holder to the Grantor by wire transfer in cleared funds (U.S. Dollars).

**Section 4: Failure to Exercise Right of First Refusal:** If the Holder fails to accept the offer contained within the Grantor's said notice within sixty (60) days of service of that notice upon the Holder, the Holder shall no longer have any right to purchase the Grantor's ownership interest in the real estate under the terms and conditions provided in the notice (save for the provisions in the final sentence of this subsection 4). In that event, the Grantor may convey his or her ownership in the Real Estate interest free and clear of the Holder's' right of first refusal granted hereunder. However, the Grantor's subsequent sale to a third party is still subject to the Covenants and Restrictions (to include the maximum resale price formula). If the Grantor fails to transfer his or her ownership in the Real Estate within one year of the Holder's failure to exercise its right of first refusal (i.e. one year from the sixty days deadline in this subsection 4), the Grantor must follow the procedures in this right of first refusal agreement in the event that he or she subsequently intends to convey his or her ownership interest.

**Section 5: Affidavit to Clear Title:** Any person acquiring title from the Grantor, having no knowledge to the contrary, may rely on an affidavit from the Grantor, under oath, taken before a notary public and recorded in the said Hancock County Registry of Deeds setting forth evidence of the Grantor's compliance with the terms of this agreement; and thus acquire the Grantor's title in the Real Estate, free of the rights of the Holder in the Real Estate.

**Section 6: Notices:** All notices shall be given in one of the manners prescribed herein addressed as provided herein and shall be deemed to have been given as follows:

- (A) Notice may be delivered in hand and, if so, delivery shall be deemed given when so delivered.
- (B) Notice may be mailed U.S. mail, postage prepaid, certified and return receipt requested and, if so mailed, shall be deemed given on the same date as the return receipt indicates delivery. If the return receipt indicates the delivery was referred or was otherwise not delivered then the notice shall be deemed as invalid (and not served).
- (C) Notice may be delivered by any reputable overnight commercial carrier and, if so delivered, shall be deemed given on the date which the carrier's receipt indicates delivery was made.

Notices shall be addressed in the case of the Holder to: President, Cranberry Isles Realty Trust, P.O. Box 4, Cranberry Isles, Maine, 04625.

Notices shall be addressed in the case of the Grantor to:

**Section 7: Exempt transfers:** The following transfers by Grantor are exempt from the provisions of the right of first refusal agreement (in which event, this agreement shall still remain in full force and effect):

- (a). A transfer of ownership between Co-Owners of the Real Estate for no consideration (including a lifetime transfer or upon death).
- (b) A transfer of ownership between Co-Owners of the Real Estate pursuant to a divorce between those Co-Owners.
- (c) A bona fide first mortgage to a financial institution.

**Section 8: Void transfers:** Any purported conveyance in violation of this right of first refusal agreement (and its respective terms and covenants) shall be void.

**Section 9: Successors and Assigns:** The conditions, covenants and agreements contained in this right of first refusal agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns. The Holder shall have the right to assign its interest in the agreement to third parties. If there is more than one Grantor, each such grantor shall be liable jointly and severally for the obligations in this agreement. Further, upon the death of the last remaining Grantor, the ownership of the Real Estate must be offered to the Holder, pursuant to this agreement, within ninety days of the death of such Grantor.

**Section 10: Governing Law:** This Agreement shall be governed by the laws of the State of Maine.

**Section 11: Amendments:** This Agreement may not be amended, modified or revoked except by a writing which signed by both parties and recorded at the Hancock County Registry of Deeds.

**Section 12: Entire Agreement:** This is the entire agreement among the parties relating to the right of first refusal for the Real Estate. There is reference to this agreement in the said Covenants and Restrictions in the said deed from the Holder to the Grantor. Otherwise, there is no other agreement, oral or written, relating to this right of first refusal agreement.

The Cranberry Isles Realty Trust, the Holder

\_\_\_\_\_  
By: \_\_\_\_\_ its President, duly authorized

STATE OF MAINE  
COUNTY OF HANCOCK

\_\_\_\_\_, \_\_\_\_\_

Personally appeared \_\_\_\_\_, duly authorized President of the Cranberry Isles Realty Trust, and acknowledged the foregoing instrument to be his free act and deed in his said capacity as well as the free act and deed of the Cranberry Isles Realty Trust.

Before me,

\_\_\_\_\_  
Notary Public / Attorney at Law

Print name:

My commission expires:

\_\_\_\_\_  
\_\_\_\_\_, the Grantor

STATE OF MAINE  
HANCOCK COUNTY

\_\_\_\_\_, \_\_\_\_\_

Personally appeared the above-named \_\_\_\_\_, and acknowledged the foregoing instrument to be his free act and deed.

Before me,

\_\_\_\_\_  
Notary Public / Attorney at Law

Print Name:

My Commission Expires: