

## PURCHASE AND SALE AGREEMENT

This      day of                      , 2021

1. **PARTIES AND MAILING ADDRESSES:**  
**DUNN FAMILY LLC, of 455 State Road PMB 108, Vineyard Haven, MA 02568**, hereinafter called the SELLER, agrees to SELL and **PATRICK LYONS or ASSIGNS, C/O The Lyons group of Boylston Street, Boston, MA** hereinafter called BUYER or PURCHASER, agrees to BUY, upon the terms hereinafter set forth, the following described premises:

2. **DESCRIPTION:**  
Condominium Unit C-3 and associated Limited Common Area (LCA) of the Old Stone Bank Condominium, (the “Condominium”) to be created pursuant to Chapter 183A of the Massachusetts General Laws (the “Act”) by SELLER, prior to closing, in essential form to the Master Deed and Declaration of Trust for the Association of Unit Owners and Rules and Regulations for the Condominium attached hereto as Exhibit “A” (collectively, the “**Condominium Documents.**”) Unit Plans will be created prior to closing using an accurate survey of Unit C-3 and approximate dimensions of the other Units. Said Plans will be updated and revised, if necessary, when the remaining Units other than C-3 are sufficiently complete for the common areas and unit interiors to be surveyed and measured as required for compliance with MGL Chapter 183A. Notwithstanding the above the SELLER warrants to the BUYER that Unit C-3 and associated Common Areas will be accurately depicted on the Plan of C-3 conveyed at closing.

Unit 3 and the associated LCA is depicted on Exhibit “B” attached hereto.

An initial budget of condominium fees and expenses is attached hereto as Exhibit “C”. Ownership interests in the common areas and facilities of the Condominium shall be based on interior square footage of each Unit, without consideration of limited common areas applicable to any given Unit.

3. **PERMITTING CONTINGENCY:** This agreement is contingent until December 31, 2021 on Seller obtaining approval from the Town of Tisbury to obtain sewer flow in the net amount of 1400 gpd. The parties understand that the sewer flow must be obtained by SELLER, the current owner of the property. However SELLER hereby agrees to transfer the property and the rights to such sewer flow with the property.

The parties agree and understand that 1,400 GPD is sufficient to operate a 70 seat restaurant under the following conditions: The facility shall not offer table service or indoor seating, dishware or silverware. It will make picnic tables available on the LCA for customer use. It will offer alcoholic beverages only for consumption in the LCA with the purchase of a take-out meal.

BUYER and SELLER shall collaborate in the approval process. SELLER will provide at SELLER’S expense preliminary architectural drawings sufficient for review by the Town

of Tisbury. Working drawings necessary to obtain building permits for the improvements shall be the responsibility of the Buyer.

SELLER will assist BUYER in the approval process by scheduling meetings and managing the flow of information to and between the Town. BUYER will appear as necessary at meetings and hearings

**4. TITLE DEED:**

Said premises are to be conveyed by a good and sufficient quitclaim deed running to the BUYER, or to the nominee designated by the BUYER by written notice to the SELLER at least seven (7) calendar days before the deed is to be delivered as herein provided, and said deed shall convey a good and clear record and marketable title thereto, free from encumbrances, except

- (a) Provisions of existing building and zoning laws;
- (b) Such taxes for the then current year as are not due and payable on the date of the delivery of such deed;
- (c) Any liens for municipal betterments assessed after the date of this agreement;
- (d) The provisions of the Act and the Condominium Documents including without limitation all obligations of the unit owners to pay a proportionate share of the common expenses of the Condominium;
- (e) All restrictions, easements and encumbrances referred to in the Condominium Documents; and
- (f) Easements, restrictions and reservations of record, if any, so long as the same do not prohibit or materially interfere with the use of said premises as a retail store.

**5. CONDITION OF UNIT:**

The Unit is conveyed with a fully finished exterior, including windows and doors, and an unfinished interior commercial space ready for tenant improvements. At conveyance the Unit will have the following provided at Seller's expense: Separately metered municipal water and sewer, separately metered three-phase electric power and fire sprinklers, all sufficient to operate the premises as a restaurant kitchen.

The LCA shall be delivered at grade, compacted and ready to accept paving and/or landscaping and hardscaping.

All further improvements shall be the sole cost and responsibility of Buyer.

**6. REGISTERED TITLE:**

In addition to the foregoing, if the title to said premises is registered, said deed shall be in a form sufficient to entitle the BUYER to a Certificate of Title of said premises, and the SELLER shall deliver with said deed all instruments, if any, necessary to enable the BUYER to obtain such Certificate of Title.

**7. PURCHASE PRICE:**

The agreed purchase price for said premises is \$350/sf for 900 sf of interior and covered porch space and \$100/sf for 2100 sf of Limited Common Area consisting of outdoor covered and uncovered space. Total Purchase price is **\$525,000 (five hundred and twenty-five thousand dollars).**

- 8. TIME FOR PERFORMANCE: DELIVERY OF DEED:**  
Such deed is to be delivered within 20 days following the completion of the unit and removal of the contingency of Paragraph 3 above. It is agreed that time is of the essence of this agreement.
- 9. POSSESSION AND CONDITION OF PREMISES:**  
Full possession of said premises broom clean and free of all tenants and occupants is to be delivered at the time of the delivery of the deed, said premises to be then (a) not in violation of said building and zoning laws, and (b) in compliance with provisions of any instrument referred to in clause 4 hereof. The BUYER shall be entitled to an inspection of the Unit prior to the delivery of the deed in order to determine that the condition thereof complies with the terms of this clause.
- 10. EXTENSION TO PERFECT TITLE OR MAKE PREMISES CONFORM:**  
If the SELLER shall be unable to give title or to make conveyance, or to deliver possession of the premises, all as herein stipulated, or if at the time of the delivery of the deed the premises do not conform with the provisions hereof then the SELLER shall use reasonable efforts to remove any defects in title, or to delivery possession as provided herein, or to make the said premises conform to the provisions hereof, as the case may be, in which event the time for performance hereof shall be extended for a period of thirty (30) calendar days.
- 11. FAILURE TO PERFECT TITLE OR MAKE PREMISES CONFORM, ETC.:**  
If at the expiration of the extended time the SELLER shall have failed so to remove any defects in title, deliver possession or make the premises conform, as the case may be, all as herein agreed, or if at any time during the period of this agreement or any extension thereof, the holder of a mortgage on said premises shall refuse to permit the insurance proceeds, if any, to be used for such purposes, then any payments made under this agreement shall be forthwith refunded and all other obligations of the parties hereto shall cease and this agreement shall be void without recourse to the parties hereto.
- 12. BUYER'S ELECTION TO ACCEPT TITLE:**  
The BUYER shall have the election, at either the original or any extended time for performance, to accept such title as the SELLER can deliver to the said premises in their then condition and to pay therefore the purchase price without deduction, in which case the SELLER shall convey such title, except that in the event of such conveyance in accord with the provisions of this clause, if the said premises shall have been damaged by fire or casualty insured against by the organization of unit owners or by the SELLER, then the SELLER shall, on delivery of the deed, unless said premises have previously been restored to their former condition, pay over or assign to the BUYER all amounts recovered or recoverable by the SELLER on account of such insurance, and give the BUYER a credit against the purchase price equal to any amounts otherwise so recoverable which are retained by the holder of a mortgage on the UNIT, less any amounts reasonably expended by the SELLER for any partial restoration.
- 13. ACCEPTANCE OF DEED:**  
The acceptance of a deed by the BUYER or his nominee shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or

expressed, except such as are, by the terms hereof, to be performed after the delivery of said deed.

**14. USE OF MONEY TO CLEAR TITLE:**

To enable the SELLER to make conveyance as herein provided, the SELLER may, at the time of delivery of the deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests, provided that all instruments so procured are recorded either simultaneously with the deed or upon receipt within a reasonable time thereafter in accordance with the standard conveyancing practices within Dukes County.

**15. INSURANCE:**

The SELLER represents that at the time of execution of this Agreement, the organization of unit owners maintains insurance with respect to the Condominium.

**16. EVIDENCE OF INSURANCE:**

At the time of the delivery of the deed, the SELLER shall deliver to the BUYER a certificate of the Condominium insurance referred to in clause 15 as then in effect with the Buyers shown as additional insured. The procuring of any supplemental insurance shall be at the option and sole expense of the BUYER.

**17. ADJUSTMENTS:**

Taxes for the then current fiscal year and common expenses for the then current month shall be apportioned, as of the day of performance of this agreement and the net amount thereof shall be added to or deducted from, as the case may be, the purchase price payable by the BUYER at the time of delivery of the deed. The conveyance of said premises shall be deemed to include the SELLER's allocable share of any working capital or other reserve funds held by the organization of unit owners, without adjustment or payment of any additional consideration by the BUYER.

**18. ADJUSTMENT OF UNASSESSED AND ABATED TAXES:**

If the amount of said taxes is not known at the time of the delivery of the deed, they shall be apportioned on the basis of the taxes assessed for the preceding fiscal year and the applicable interest of the Unit in the common area and facilities, with a reapportionment as soon as the new tax rate and valuation can be ascertained; and, if the taxes which are to be apportioned shall thereafter be reduced by abatement, the amount of such abatement, less the reasonable cost of obtaining the same, shall be apportioned between the parties, provided that neither party shall be obligated to institute or prosecute proceedings for an abatement unless herein otherwise agreed.

**19. BROKER'S FEE: NONE**

**20. BROKER WARRANTY: NA**

**21. DEPOSIT:** With the execution of this Agreement, BUYER shall pay to Island Real Estate a deposit in the amount of **\$200,000 (Two Hundred Thousand Dollars)** (the "**Deposit**") to be held in escrow pending the removal of the contingency of Paragraph 3. Once the contingency has been satisfied the deposit shall be paid to the SELLER to be used only toward expenses incurred in the construction of Unit C-3 and the associated LCA.

- 22. BUYER'S DEFAULT; DAMAGES:**  
If the BUYER shall fail to fulfill the BUYER's agreements herein, all deposits made hereunder by the BUYER shall be retained by the SELLER as liquidated damages and this shall be the SELLER'S sole and exclusive remedy at law or equity for any breach by the BUYER hereunder.
- 23. RELEASE BY HUSBAND OR WIFE: NA**
- 24. BROKER AS PARTY: NA**
- 25. LIABILITY OF TRUSTEE, SHAREHOLDER, BENEFICIARY, ETC.:**  
If the SELLER or BUYER executes this agreement in a representative or fiduciary capacity, only the principal or the estate represented shall be bound, and neither the SELLER or BUYER so executing, nor any shareholder or beneficiary of any trust, shall be personally liable for any obligation, express or implied, hereunder.
- 26. WARRANTIES AND REPRESENTATIONS:**  
The BUYER acknowledges that the BUYER has not been influenced to enter into this transaction nor has he relied upon any warranties or representations not set forth or incorporated in this agreement or previously made in writing, except for the following additional warranties and representations, if any, made by either the SELLER or the Brokers:  

NONE, either orally or in writing
- 27. CONSTRUCTION OF AGREEMENT:**  
This instrument, executed in multiple counterparts, is to be construed as a Massachusetts contract, is to take effect as a sealed instrument, sets forth the entire contract between the parties, is binding upon and ensures to the benefit of the parties hereto and their respective heirs, devisees, executors, administrators, successors and assigns, and may be canceled, modified or amended only by a written instrument executed by both the SELLER and the BUYER. If two or more persons are named herein as BUYER, their obligations hereunder shall be joint and several. The captions and marginal notes are used only as a matter of convenience and are not to be considered a part of this agreement or to be used in determining the intent of the parties to it.
- 28. MARTHA'S VINEYARD LAND BANK COMMISSION:**  
BUYER hereby acknowledges that this purchase may be subject to a fee of two percent (2%) of the purchase price, payable by the BUYER to the Martha's Vineyard Land Bank Commission at the time of closing.
- 29. NOTICES:**  
All notices required or permitted to be given hereunder shall be in writing and delivered by hand, certified mail, or Federal Express, addressed in the case of the BUYER to the address noted in Paragraph 1 hereof, and in the case of the SELLER to the address noted in Paragraph 1 hereof, or in the case of either party to such other address as shall be designated by written notice to the other party. Any such notices shall be deemed given when so delivered by hand or deposited with the U.S. Postal Service or Federal Express.
- 30. SELLER COOPERATION:**

At the time of the delivery of the SELLER's deed, SELLER shall execute and deliver to the BUYER any documents reasonably requested by BUYER's counsel, by any title insurance company or lender granting mortgage financing, including, but not limited to, the following:

- a. Information regarding the reporting requirements under the provisions of Section 6045(e) of the Internal Revenue Code, including non-foreign status.
- b. Affidavits regarding mechanics' and materialmen's liens, parties in possession sufficient to eliminate any title insurance exceptions for these matters.
- c. Certificate from the Organization of Unit Owners (the "Condominium Association") in recordable form stating that in accordance with Section 6(d) of Chapter 183A there are no unpaid common expenses assessed against the Unit as of the closing date.

**31. QUALITY OF TITLE:**

It is understood and agreed by the parties that the condominium common areas and facilities shall not be in conformity with the title provisions of this Agreement unless:

- a. All buildings, structures and improvements and all means of access to the condominium common areas and facilities are located completely within the boundary lines of said condominium common areas and facilities and do not encroach upon or under the property of any other entity;
- b. No building, structure or improvement of any kind belonging to any other person or entity encroaches upon or under such condominium common areas and facilities;
- c. The condominium common areas and facilities abut either a public way or a private way leading to a public way providing unimpeded access; and
- d. Title to the Premises is insurable for the benefit of the BUYER by a title insurance company at normal premium rates in the American Land Title Association form currently in use, subject only to those printed exceptions to title normally included in the "jacket" to such form, the pre-printed exceptions noted on the standard form Schedule B and to the exceptions set forth in Paragraph 4 of this Agreement.

**32. SEPTIC SYSTEM: NA**

**33. SELLER REPAIRS/IMPROVEMENTS: NA**

**34. ENTRY BY BUYER:**

Upon reasonable notice to SELLER, BUYER and/or his representatives may enter upon the Premises for the purpose of surveys, tests, inspections and the like as the BUYER deems necessary. BUYER hereby indemnifies and holds SELLER harmless from and against any and all liability, cost or expense arising out of or in connection with such entry.

**35. FACSIMILE SIGNATURES:**

The Buyer and Seller agree that for purposes of this Agreement a facsimile of any party's signature shall be accepted as the original thereof and shall be binding.

**36. EXTENSION BY ATTORNEYS: NA**

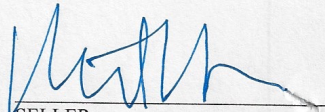
**37. BROOM CLEAN:**

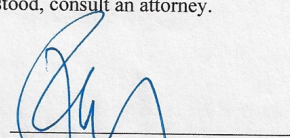
At the time of closing, Seller shall deliver the premises in a broom clean condition with all debris or other items of personal property not conveyed hereby removed from the premises. Also at the closing, Seller shall deliver to Buyer all keys for the premises.

**38. TITLE AND PRACTICE STANDARDS:**

Any matter or practice arising under or related to this Agreement which is the subject of a Title Standard or a Practice Standard of the Real Estate Bar Association of Massachusetts in effect on the date of this Agreement shall be governed by said Standards to the extent applicable.

NOTICE: This is a legal document that creates binding obligations. If not understood, consult an attorney.

  
SELLER:

  
BUYER:

