

## GROUND LEASE – REFINANCE POLICY & PROCEDURE

The Island Housing Trust's ground lease provides policies and procedures for homeowners who want to refinance their home or secure a loan that is secured by the home in Article 8 – Financing.

- Article 8 – Permitted Mortgage – states that you can finance or refinance your house, only with prior written approval from the Island Housing Trust and the mortgage lender must agree to comply with the terms of the attached Permitted Mortgage Agreement entered into between the Island Housing Trust, the mortgage lender, and you as the homeowner when you close on your loan. Not less than 30-days before closing on the refinance of your home, you must request approval from the Island Housing Trust and provide a copy of the Lender Criteria Checklist, mortgage lender's commitment letter, term sheet, and copies of the mortgage documents.
- Lender Criteria Checklist – a copy of the attached Lender Criteria Checklist must be completed and signed by the mortgage lender and homeowner and provided to the Island Housing Trust 30-days prior to the closing on the refinance of your home, along with a copy of your mortgage lender's commitment letter including the term sheet for your mortgage, and a copy of the appraisal of your house conducted for the bank.
- Cash-out Refinance – the amount being mortgaged may not exceed 80% of the maximum resale value at the time of the refinance, and all other loans and liens on the house must first be paid off. A cash-out refinance may exceed 80% but not more than 85% of the maximum resale value at the time of the refinance under the following conditions: 1) loan to value is no greater than the homeowner's original loan to value, 2) funds may only be used for closing and escrow costs, and points. A cash-out refinance may be allowed up to 95% of the maximum resale value at the time of refinance under the following conditions: 1) funds may only be used towards approved addition ("Addition") as specified in Article 7.3 with the result in the addition of bedroom(s) and bathroom(s) that must qualify for "Added Value" as defined in Article 10.10, 2) Lessee shall, prior to refinancing and undertaking the Addition, submit to Lessor a written request for a confirmation that the Addition will qualify for Added Value as described in Article 7.3, and 3) no other loans either conventional or private be secured
- Permitted Mortgage Agreement - a copy of the attached Permitted Mortgage Agreement must be provided to and agreed by your mortgage lender and must be executed by the Island Housing Trust, the mortgage lender, and you the homeowner at you closing and recorded.

A copy of the term sheet for the mortgage and the property appraisal must also be provided to the Island Housing Trust.

LENDING CRITERIA FOR ISLAND HOUSING TRUST

(JUNE 2011)

The Island Housing Trust ground lease requires that any mortgage for purchase or refinance on Trust property be approved by the Trust. Furthermore the mortgage or security instrument must satisfy the requirements of the attached Permitted Mortgage. Any prequalification letter or mortgage commitment letter must include this completed and signed form. Should you have any questions please contact the Trust at 508-693-1117.

**Check Boxes:**

**1. Employment and income**

- Homebuyer has provided proof of steady employment or income for the past year.
- Prequalification or mortgage commitment is based on verified income from recent and previous years filed income tax returns.

**2. Credit score**

- Homebuyer's credit score are above 620, and
- Homebuyer has had no bankruptcies within past three years if for consumer credit reasons, or within the past two years if for medical reasons.

**3. Personal assets available**

- Homebuyer is able to make down-payment equal to 5% (minimum 3% personal and 2% gift) of the total sale price of the property.
- Homebuyer has funds in savings or other cash account after closing costs (we recommend that buyers have \$2,000 after closing).

**4. Debt ratios**

- Front-end debt ratio does not exceed 33% of gross monthly income on housing debt (exclusive of utilities).
- Back end debt ratio does not exceed 45% of gross monthly income on all housing and non-housing debt combined (exclusive of utilities).

**5. Asset value**

- Mortgage loan(s) value does not exceed 95% of the maximum resale price (Article 10.8 - Option Purchase Price).

**6. Lending certification**

- Lending institution is in compliance with the Commonwealth of Massachusetts' (or mortgage lender's applicable state) Predatory Lending Statutes.

**7. Types of loan products:**

- Mortgage is not an "80/20" loan.
- Mortgage does not have pre-payment penalties.
- Mortgage is not an option ARM loan.
- Mortgage is not a stated income & no income/ no asset verification loan.

I certify that the \$ \_\_\_\_\_ (amount) mortgage to \_\_\_\_\_ (name of homebuyer/ mortgagee) for the property at \_\_\_\_\_ (property address) satisfies the terms of the attached Permitted Mortgage and the information above is correct.

\_\_\_\_\_  
(Loan Officer)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Lending Institution)

I/We authorize representatives from the above lending institution to supply the above information, as well as a copy of the commitment letter, term sheet, and the property appraisal to the Dukes County Regional Housing Authority and the Island Housing Trust.

\_\_\_\_\_  
(Applicant)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Co-applicant)

\_\_\_\_\_  
(Signature)

The provisions set forth in this Exhibit shall be understood to be provisions of Article 8 of the Island Housing Trust's Ground Lease to which the Exhibit is attached and in which the Exhibit is referenced. All terminology used in this Exhibit shall have the meaning assigned to it in the Lease. A complete copy of the Island Housing Trust's ground lease can be downloaded at: <http://www.ihtmv.org/lenders.shtml>

A. PERMITTED MORTGAGE: A "Permitted Mortgage," as identified in Section 8.1 of the Lease to which this Exhibit is attached, shall be a mortgage ("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 all or any of the Improvements and the Lessee's interest in the Leased Premises (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 Lessor of such fact and Lessor 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 Lease, the holder shall first notify Lessor of its intention to do so and Lessor 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 foreclosure sale by a Permitted Mortgagee or the delivery of a bill of sale and deed to a Permitted Mortgagee in lieu of foreclosure, upon acquisition of title to the Improvements and the Lessee's interest in the Leased Premises by the Permitted Mortgagee, the Permitted Mortgagee shall give the Lessor written notice of such acquisition and the Lessor shall have an option to purchase the Improvements and acquire the Lessee's interest in the Leased Premises from the Permitted Mortgagee for the full amount owing to the Permitted Mortgagee under the Permitted Mortgage; provided, however, that the Lessor gives written notice to the Permitted Mortgagee of the Lessor's intent to purchase the Improvements and acquire the Lessee's interest in the Leased Premises within thirty (30) days following the Lessor's receipt of the Permitted Mortgagee's notice of such acquisition of the Improvements and Lessee's interest; further provided that Lessor shall complete the purchase of the Improvements and acquisition of Lessee's interest in the Leased Premises within sixty (60) days of having given written notice of its intent to purchase; and provided that, if the Lessor does not complete the purchase within such period, the Permitted Mortgagee shall be free to sell the Improvements and transfer the Lessee's interest in the Leased Premises to another person;
6. Such Mortgage and related documentation shall not contain any provisions other than provisions generally contained in mortgages used for similar transactions in the Dukes County area by institutional mortgagees.
7. Such Mortgage and related documentation shall not contain any provisions which could be construed as rendering Lessor or any subsequent holder of the Lessor's interest in and to this Lease, 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 Lessor or Lessor's interest in the Leased Premises, but will look solely to Lessee, Lessee's interest in the Leased Premises, the Improvements, or such other buildings and improvements which may from time to time exist on the Leased Premises, for the payment of the debt secured thereby or any part thereof (It is the intention of the parties

hereto that Lessor's consent to such Mortgage shall be without any liability on the part of Lessor 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 9 hereof.

10. Such Mortgage and related documentation shall contain nothing that obligates Lessor to execute an assignment of the Ground Lease Fee or other rent payable by Lessee under the terms of this Lease.

**B. RIGHTS OF PERMITTED MORTGAGEE:** The rights of a holder of a Permitted Mortgage ("Permitted Mortgage") as referenced under Section 8.2 of the Lease to which this Exhibit is attached shall be as set forth below.

1. Permitted Mortgagee shall without requirement of consent by the Lessor have the right, but not the obligation, to:

- a. cure any default under this Lease, and perform any obligation required under this Lease, such cure or performance by a Permitted Mortgagee being effective as if it had been undertaken and performed by Lessee;
- b. acquire and convey, assign, transfer, and exercise any right, remedy or privilege granted to Lessee by this Lease 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 Lease 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 Lease, be required to assume personal liability for the payment and performance of the obligations of the Lessee under the Lease. Any such payment or performance or other act by Permitted Mortgagee under the Lease 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 Security and the premises. In the event Permitted Mortgagee does take possession of the Security and thereupon transfers the Security, 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 Lease.

3. In the event that title to the estates of both Lessor and Lessee 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 Lessor is owned at any time by Lessee (regardless of a merger), or by any person in which Lessee has a direct or indirect interest, Permitted Mortgagee shall not be obligated to cure any default of Lessee under the Lease as condition to the forbearance by Lessor in the exercise of Lessor's remedies as provided in the Lease.

4. If the Lease is terminated for any reason, or in the event of the rejection or disaffirmance of the Lease pursuant to bankruptcy law or other law affecting creditors' rights, Lessor shall enter into a new lease of the Leased Premises with the Permitted Mortgagee (or with any party designated by the Permitted Mortgagee, subject to Lessor's approval, which approval shall not be unreasonably withheld), not more than thirty (30) days after the request of the Permitted Mortgagee. Such lease shall be for the remainder of the term of the Lease, effective as of the date of such termination, rejection, or disaffirmance, and upon all the terms and provisions contained in the Lease. However, the Permitted Mortgagee shall make a written request to Lessor for such new lease within sixty (60) days after the effective date of such termination, rejection, or disaffirmance, as the case may be. Such written request shall be accompanied by a copy of such new lease, duly executed and acknowledged by the Permitted Mortgagee or the party designated by the Permitted Mortgagee to be the Lessee there under, and the Permitted Mortgagee shall have cured all defaults under the Lease, which can be cured by the payment of money. Any new lease made pursuant to this Section shall have the same priority with respect to other interests in the Premises as the Lease. The provisions of this Section shall survive the termination, rejection, or disaffirmance of the Lease and shall continue in full effect thereafter to the same extent as if this Section were independent and an independent contract made by Lessor, Lessee, and the Permitted Mortgagee.

5. The Lessor shall have no right to terminate the Lease during such time as the Permitted Mortgagee has commenced foreclosure in accordance with the provisions of the Lease and is diligently pursuing the same.

6. In the event that Lessor sends a notice of default under the Lease to Lessee, Lessor shall also send a notice of Lessee's default to Permitted Mortgagee. Such notice shall be given in the manner set forth in Section 14.2 of the Lease to the Permitted Mortgagee at the address that has been given by the Permitted Mortgagee to Lessor by a written notice to Lessor sent in the manner set forth in said Section 14.2 of the Lease.