

GROUND LEASE SUMMARY



Post Office Box 779 • West Tisbury MA 02575 • 508-693-1117 • info@ihtmv.org • www.ihtmv.org

The Island Housing Trust's ground lease is the legally binding agreement that gives the Lessee/homeowner the right to use the land. It describes in full the rights and responsibilities of the lessee and the IHT, as well the restrictions that govern the relationship. The lease attempts to balance the interests of the lessee as a homeowner with the long-term interests of the IHT and the Island community.

There are a number of critical agreements that are defined by the IHT ground lease. These include:

- ☐ **3.1 DURATION OF LEASE:** renewable 99-year lease and shall not cease if the land is transferred whether voluntarily or involuntarily.
- ☐ **4.1 USE OF LEASED PREMISES:** only for residential purposes and any incidental activities related to residential use that are currently permitted by applicable law and regulations.
- ☐ **4.4 OCCUPANCY:** Lessee shall occupy the Leased Premises for at least eleven (11) months of each year of this Lease, unless otherwise agreed by IHT.
- ☐ **5.0 GROUND LEASE FEE:** A \$50.00 monthly fee will be charged based on an amount approximating the monthly fair rental value (Article 5.1), recognizing that use of the Leased Premises is restricted by some of the provisions of the Lease (Article 5.3). The ground lease fee (along with any other association fees) is included in the calculation that determine the initial Purchase Price in Article 10.10 and the Total Development Value in Article 7.4 so they remain affordable in perpetuity. See attached purchase price limit.
- ☐ **6.0 TAXES AND ASSESSMENTS:** Lessee shall be responsible for payment of all taxes, governmental assessments and other charges (i.e. road association fees) that relate to the Improvements and the Leased Premises (Article 6.1). In the event that Lessee fails to pay the taxes or other charges, IHT choose to increase, but shall not be obligated to increase, Lessee's Ground Lease Fee in an amount that will offset the cost of any delinquent and current taxes or other charges (Article 6.4).
- ☐ **7.3 ALTERATION AND ADDITIONS:** Any construction in connection with an existing or new Improvement is subject to the following conditions: (a) all costs are paid by

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Lessee; (b) all construction must comply with all applicable laws and regulations; (c) all construction must be consistent with the permitted uses in Ground Lease and; (d) the addition of bedroom(s) and bathroom(s) intended to qualify for Added Value in accordance with Article 10.10 shall not be constructed without prior review by the IHT.

□ **7.5 MAINTENANCE AND SERVICES:** Lessee shall maintain the Leased Premises and all Improvements and assumes the sole responsibility for furnishing all services or facilities as required in the Ground Lease, including but not limited to heat, electricity, air conditioning, or water, or to make any repairs.

□ **8.1 PERMITTED MORTGAGE:** Lessee may mortgage the Leased Premises only with the written consent of IHT.

□ **8.3. REMOVAL OF CERTAIN PROVISIONS PURSUANT TO FORECLOSURE:** In the event of foreclosure sale by the bank the provisions preserving affordability for lower-income households (Article 10, sections 10.1 through 10.11) shall be deleted.

- **EXHIBIT H – PERMITTED MORTGAGES:** The bank has to give the IHT prior written notice of its intention to foreclose and the IHT or its assigns will have 45 days to provide written notice to the bank of intent to purchase the Improvements and leasehold estate for the full amount owed to the bank. If the bank conducts a foreclosure the Lease authorizes and instructs the bank or any party conducting any sale to pay the amount in excess of what the Lessee would have received under the resale formula in Article 10 directly to IHT.

- **10.2 TRANSFERS TO INCOME-QUALIFIED PERSONS:** Lessee may sell their interest in the Leased Premises or the Improvements only to the IHT or an Income qualified Person as defined by the provisions of the Lease. Income qualified person shall mean a person or persons whose household income does not exceed 80% of the median household income for Dukes County.

- **10.3 TRANSFER TO LESSEE'S HEIRS:** IHT will consent to a transfer of the Improvements under the terms and conditions of the Lease to and by one or more of these "Permitted Heirs", including:

- a. the spouse of the Lessee; or
- b. the Lessee's domestic partner who is one of two people, the other being the Lessee, who maintain the same permanent residence and have a close and committed personal relationship involving shared responsibilities for each other's welfare as evidenced by financial interdependence, and expressing the intention for their relationship to be permanent.

- **10.5 LESSOR'S PURCHASE OPTION:** IHT may elect to exercise its Purchase Option within forty-five days after IHT's receipt of the Lessee's Notice of Intent to Sell. If the IHT gives notice to exercise the Purchase Option, the IHT must complete

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the purchase of the Improvements within sixty (60) days. The IHT may assign the Purchase Option to an Income-Qualified Person who then completes the purchase of the Improvements within the required period.

- **10.8 PURCHASE OPTION PRICE:** The Purchase Option Price shall be equal to the lesser of (a) the value of the Improvements as determined by the Appraisal (Article 10.9) commissioned and conducted at the discretion of the IHT or (b) the price calculated in accordance with the formula described below (“the Formula Price”).
- **10.10 CALCULATION OF THE FORMULA PRICE:** The Formula Price shall be equal to the Base Price (Lessee’s Purchase Price) plus the Inflation Adjustment, calculated as described below.
 - **Base Price:** The parties agree that the Base Price is the Purchase Price plus the Added Value, as may be applicable.
 - **Lessee’s Purchase Price:** The parties agree that Lessee’s Purchase Price for the Improvements existing on the Leased Premises as of the commencement of the term of the Lease is \$255,000 .
 - **Inflation Adjustment:** The parties agree that the Inflation Adjustment is defined as the sum of two parts: (1) the Lessee’s Purchase Price, times the percent change in the Area Median Income for Dukes County (“AMI”) since the time of purchase, as may be applicable, and (2) the Added Value times the percent change in the AMI since the time of the addition of the bedroom(s). The Base Price plus the Inflation Adjustment shall be the Formula Price. The AMI shall be for Dukes County as reported by the 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 4% per year.
- **10.12 DEFERRED MAINTENANCE AND CONDITION OF IMPROVEMENT AT TIME OF SALE:** It is expected and understood that the Lessee maintain the Improvement in good, safe and habitable condition. At the time of transfer, Lessee agrees to transfer the Improvement in good, safe and habitable condition. The Lessor shall use the Buyer’s mortgage lender’s requirements as the basis for identifying deferred maintenance problems, if any, that must be corrected prior to sale of the Improvement.
- **10.13 MONITORING FEE:** The IHT receives a fee of 1% of the maximum sale price of the unit to cover the cost of monitoring the resale and the lease transfer (application and income qualification, orientation and homebuyer training, resale calculation, marketing, and legal review). The Lessee purchaser as a closing cost shall pay this fee at the time of closing.
- **11.0 ASSIGNMENTS AND SUBLEASE RESTRICTION AGAINST LEASING:** The Property shall not be leased or subleased to anyone who is not qualified by the IHT or their agent for affordable housing, as defined by the IHT. The rent is limited to the carrying costs of the improvements. Any profits from rents that exceed the carrying costs will be paid to the IHT.

EXAMPLE OF MAXIMUM RESALE PRICE CALCULATION
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Example:

Assume you have a household of three, and you had closed on the purchase of a three-bedroom home from the Island Housing Trust in June 2006 for a purchase price of \$240,000

Assume further that you elected to sell your home in September 2012.

At the time you purchased the home, the most recently published area median income for a four-person household on Martha's Vineyard was \$68,300. At the time of resale, the most recently published area median income for a four-person household on Martha's Vineyard was \$82,900. The change in the area median income from 2006 to 2012 was 18%, which is used as the index to adjust the sale price.

The Ground Lease provides for a 1% resale fee from the Seller.

The Monitoring Agent would calculate the Maximum Resale Price as follows:

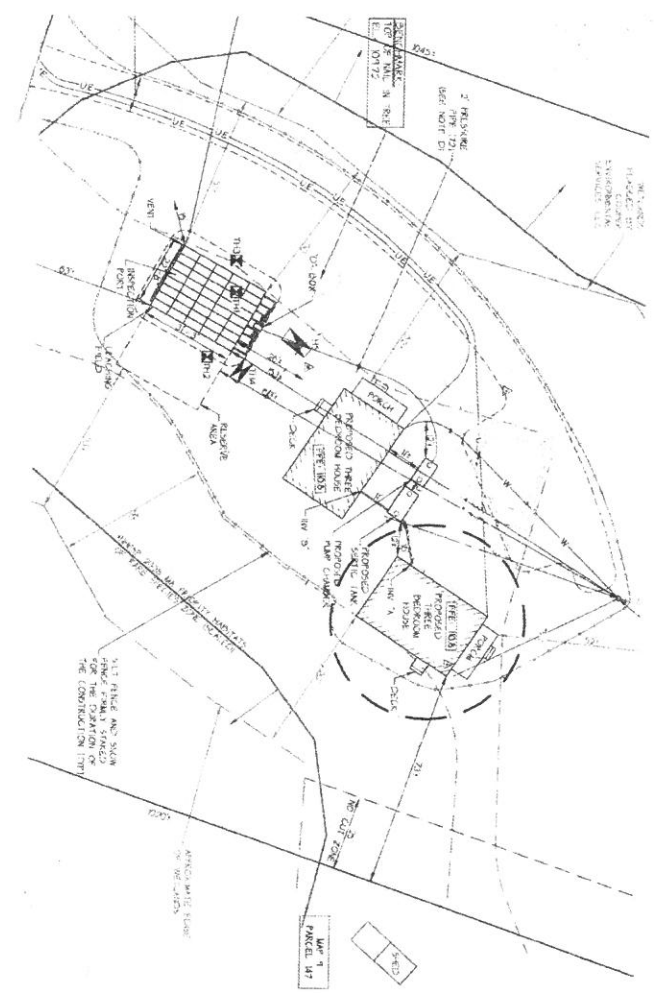
2006 Purchase Price = \$240,000

Inflation Adjustment: Purchase Price x AMI change ($\$240,000 \times 18\%$) = \$43,200

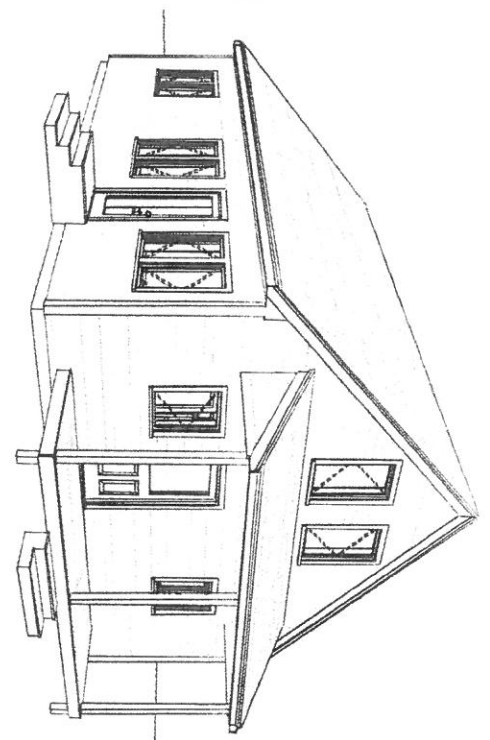
Resale Price: Purchase Price + Inflation Adjustment ($\$240,000 + \$43,200$) = \$283,200

Resale fee: Resale Fee x Base Price ($1\% \times \$283,200$) = \$2,832

2012 Maximum Resale Price: Base Price – Resale Fee ($\$283,200 - \$2,832$) = \$280,368



Site Plan
SCALE: 1" = 40'



801B

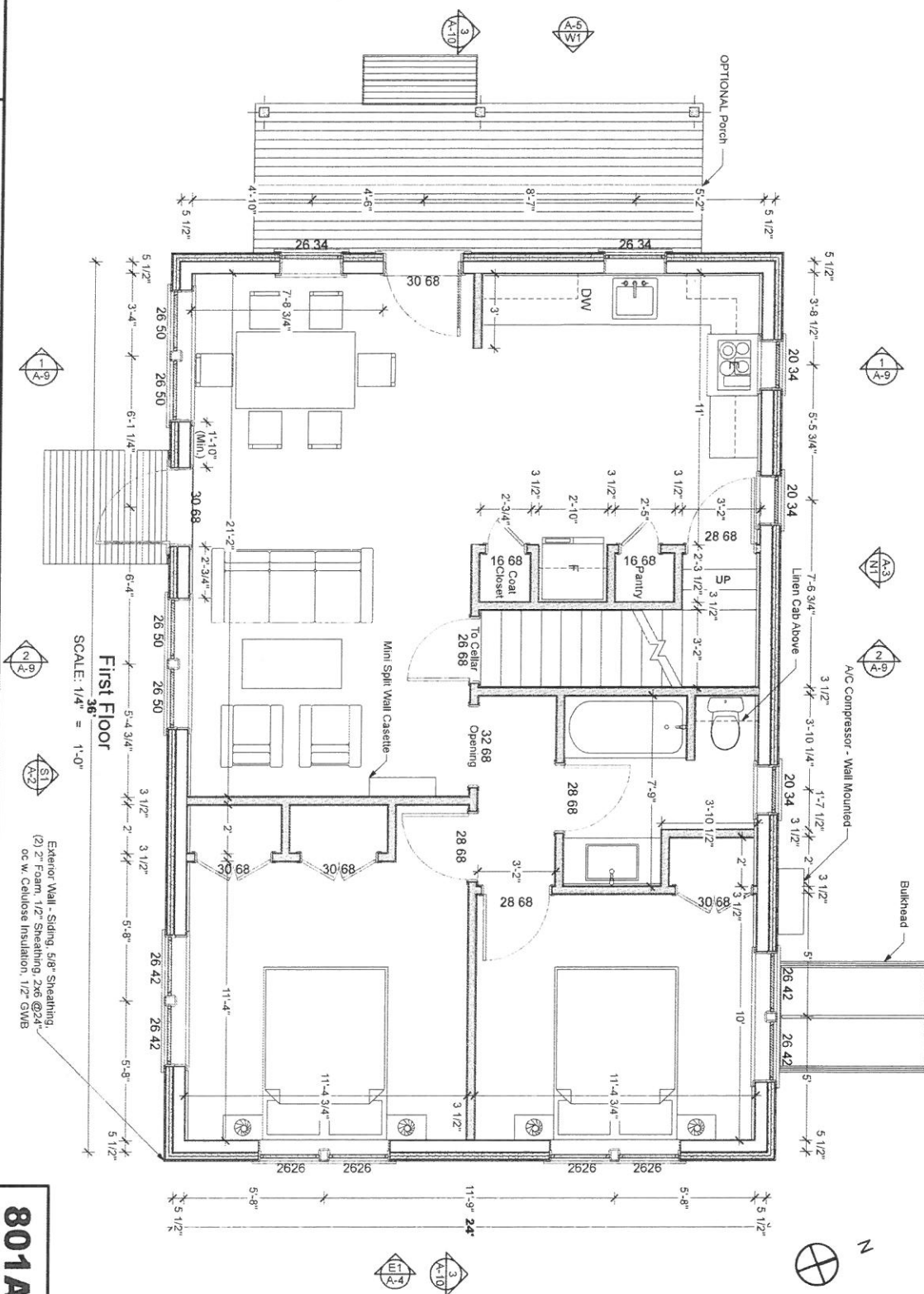
SHEET INDEX	
ID	Name
A-1	801A Cover Sheet
A-2	801A South
A-3	801A North
A-4	801A East
A-5	801A West
A-6	801A Foundation
A-7	801A First Floor
A-8	801A Second Floor
A-9	801A Sections 1 & 2
A-10	801A Section 3
A-11	801B Cover Sheet
A-12	801B North & South
A-13	801B East
A-14	801B West
A-15	801B Foundation
A-16	801B First Floor
A-17	801B Second Floor
A-18	801B Sections 4 & 5
A-19	801B Section 6

Issued: 2/16/18
SMALLEY'S KNOLL PROJECT - Uwachuwt Smalley
801 State Road, Aquinnah, MA 02535

ISLAND HOUSING TRUST
P.O. Box 779, West Tisbury, MA 02575
(508) 683-1117 - www.ihtrv.org

801B

A-11



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)

PERMITTED MORTGAGES

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.ihmv.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 Mortgagee") 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.