

## GROUND LEASE – REFINANCE POLICY & PROCEDURE April 4, 2023

Island Housing Trust's (IHT'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 IHT and that the mortgage lender must agree to comply with the terms of the attached Permitted Mortgage Agreement entered into among IHT, the mortgage lender, and you as the homeowner when you close on your loan.
- 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 IHT 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, copies of the mortgage documents and a copy of the appraisal of your house conducted for the bank.
- Cash-out Refinance – For purposes of Article 8.3 of the ground lease, IHT may consent to a refinancing of your mortgage under the following circumstances:
  - the amount being mortgaged may not exceed 80% of the maximum resale value of your house 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) the ratio of the dollar amount of the loan to the value of the home is no greater than the homeowner's original loan to value ratio, 2) funds in excess of 80% may only be used for closing and escrow costs, and points. All other loans and liens on the house must first be paid off.
  - 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 an approved addition ("Addition") as specified in Article 7.3 of the ground lease that must qualify for "Added Value" as defined in Article 10.10, 2) Homeowner shall, prior to refinancing and undertaking the Addition, submit to IHT 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. All other loans and liens on the house must first be paid off.
- Permitted Mortgage Agreement - a copy of the attached Permitted Mortgage Agreement must be provided to and agreed on by your mortgage lender and must be executed by IHT, the mortgage lender, and you the homeowner at your 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.

The actual ground lease signed by IHT and the homeowner takes precedence if the summary does not address or is inconsistent with the terms of the ground lease.

The IHT ground lease requires that any mortgage for purchase or refinance on IHT property be approved by IHT. Furthermore the mortgage or security instrument must satisfy the requirements of the attached Exhibit--Permitted Mortgage. Any prequalification letter or mortgage commitment letter must include this completed and signed form. Should you have any questions please contact [info@ihtmv.org](mailto:info@ihtmv.org) or 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 is 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 80-% of the maximum resale price (Article 10.8 - Option Purchase Price) unless one of the two exceptions described in the Ground Lease—Refinance Policy & Procedure is applicable.

**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)

## EXHIBIT--PERMITTED MORTGAGES

The provisions set forth in this Exhibit shall be understood to be provisions of Article 8 of the Lease 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 a rider to this Lease signed by the Homeowner and the IHT to modify the terms of the Lease during the term of the Permitted Mortgage. All terminology used in this Exhibit shall have the meaning assigned to it in the Lease. A complete copy of IHT'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 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 all or any of the Improvements and the Homeowner'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 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 Lease, 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 Improvements and the Homeowner's interest in the Leased Premises by the Permitted Mortgagee by foreclosure sale or the delivery of bill of sale and assignment of the Lease 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 Improvements and acquire the Homeowner's interest in the Leased Premises 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 Improvements and the Leasehold Premises to IHT ; provided, however, that the IHT gives written notice to the Permitted Mortgagee of the IHT's intent to purchase the Improvements and acquire the Homeowner's interest in the Leased Premises within thirty (30) days following the IHT's receipt of the Permitted Mortgagee's notice of such acquisition of the Improvements and Homeowner's interest; further provided that IHT shall complete the purchase of the Improvements and acquisition of Homeowner'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 IHT does not complete the purchase within such period, the Permitted Mortgagee shall be free to sell the Improvements and transfer the Homeowner's interest in the Leased Premises 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 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 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 IHT or IHT's interest in the Leased Premises, but will look solely to Homeowner, Homeowner'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 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 9 of the Lease.
10. Such Mortgage and related documentation shall contain nothing that obligates IHT to execute an assignment of the Ground Lease Fee or other rent payable by Homeowner 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 IHT 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 Homeowner;
  - b. acquire and convey, assign, transfer, and exercise any right, remedy or privilege granted to Homeowner 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 Homeowner 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 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 Lease as condition to the forbearance by IHT in the exercise of IHT's remedies as provided in the Lease.
4. In the event the Homeowner's interest in the Lease has been terminated, forfeited, or surrendered as provided in the Lease, and the Permitted Mortgage remains outstanding, a new Lease shall automatically be created between the IHT and the Permitted Mortgagee, which Lease shall be for the remainder of the term of the Lease, with the same priority thereto, and shall be subject to the same terms of the Lease 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 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 IHT sends a notice of default under the Lease 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 Section 14.2 of the Lease 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 Section 14.2 of the Lease.

7. Before becoming effective, any amendments to the Lease 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.