

draft 04/05/10

**MIDDLE LINE ROAD COMMUNITY HOUSING
GROUND LEASE FOR HOMESITE HOUSING
TOWN OF CHILMARK**

THIS LEASE (this "Lease") made and entered into this _____ day of _____, 20____, by and between The Town of Chilmark, unless otherwise operating through the Board of Selectmen, ("Town" or "Lessor"), having an address of _____Chilmark, MA 02535 and _____ ("Lessee")having an address of _____.

- Article 1: Letters of Stipulation and Acknowledgment
- Article 2: Demise of Leased Premises
- Article 3: Duration of Lease
- Article 4: Use of Leased Premises
- Article 5: Ground Lease Fee
- Article 6: Taxes and Assessments
- Article 7: Improvements
- Article 8: Financing
- Article 9: Liability, Insurance, Damage and Destruction, Eminent Domain
- Article 10: Transfer, Sale, or Disposition of Improvements
- Article 11: Assignment and Sublease
- Article 12: Default
- Article 13: Arbitration
- Article 14: General Provisions

The following Exhibits are attached hereto and made a part of this Lease:

- Exhibit A - Letter(s) of Stipulation of Lessee
- Exhibit B - Letter of Acknowledgment of Lessee's Attorney
- Exhibit C - Leased Premises (Legal Description of Property)
- Exhibit D - First Refusal
- Exhibit E - Bill of Sale and Deed
- Exhibit F - Permitted Mortgages
- Exhibit G - Uniform Community Land Trust Ground Lease Rider
- Exhibit H - Martha's Vineyard Commission Requirements

RECITALS

WHEREAS, the Town values being a diverse community that accommodates residents of differing income levels and, further, the Town desires to sustain affordable housing for future generations of Chilmark residents; and

WHEREAS, the Town has determined to provide affordable housing by providing access to such housing through the long-term leasing of land belonging to the Town; and

WHEREAS, the Leased Premises described in this Lease are being leased by the Town in furtherance of these purposes; and

WHEREAS, Lessee shares the purposes and goals of the Town and has agreed to enter into this Lease not only to obtain those benefits to which Lessee is entitled under this Lease, but also to further the purposes of the Town; and

WHEREAS, Lessee recognizes the special nature of the terms and conditions of this Lease, and, with the independent and informed advice of legal counsel, freely accepts these terms and conditions, including those terms and conditions that may affect the marketing and resale price of any Improvements (as such term is hereinafter defined in Section 7.1), on the Leased Premises; and

WHEREAS, it is mutually understood and accepted by the parties hereto that the terms and conditions of this Lease will further their shared goals over an extended period of time and through a succession of owners.

NOW, THEREFORE, in consideration of the foregoing recitals, of mutual promises of the Town and Lessee, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1: Letters of Stipulation and Acknowledgment

Attached and made part of this Lease by reference are Exhibit A, Letter of Stipulation of Lessee, and Exhibit B, Letter of Acknowledgment of Lessee's Attorney, setting forth their respective review and understanding of this Lease (in particular, Article 10, regarding the transfer, sale, or disposition of the Improvements) and related documents for this transaction.

ARTICLE 2: Demise of Leased Premises

2.1 PREMISES: The Town, in consideration of the rents reserved and the terms and conditions of this Lease, does hereby demise and leave unto Lessee, and Lessee does hereby take and hire from the Town, the property (referred to in this Lease as the "Leased Premises") described in the attached Exhibit C, Leased Premises.

Lessee accepts the Leased Premises in their condition "as is" as of the execution of this Lease.

2.2 RESERVATION OF MINERAL RIGHTS: The Town reserves to itself all the minerals and other extractive resources of the Leased Premises. This reservation shall not diminish the right of Lessee under this Lease to occupy and freely use the Leased Premises. No extraction by the Town of minerals or other extractive resources shall be carried out with without Lessee's prior written consent.

ARTICLE 3: Duration of Lease

3.1 TERM: The term of this Lease shall be ninety-nine (99) years, commencing on the 19 day of January, 2010, and terminating on the _____ day of _____, 20____, unless terminated sooner as provided below.

ARTICLE 4: Use of Leased Premises

4.1 RESIDENTIAL USE ONLY: Lessee shall use, and shall cause all occupants to use, the Leased Premises and Improvements only as a single residence and for any incidental activities related to residential use that are permitted by applicable law, by-laws, guidelines and regulations.

4.2 RESPONSIBLE USE AND COMPLIANCE WITH LAW: Lessee shall use the Leased Premises in a manner so as not to cause harm to others or create any nuisances, public or private; and shall dispose of any and all waste in a safe and sanitary manner. Lessee shall maintain the Leased Premises and Improvements in good, safe, and habitable condition in all respects, in full compliance with all applicable laws and regulations, and in such condition as is required to maintain the insurance coverage required by Section 9.4 of this Lease. In furtherance and not in limitation of the foregoing, Lessee shall comply with any and all applicable requirements of (a) the Martha's Vineyard Commission, as may be set forth in Exhibit H, MARTHA'S VINEYARD COMMISSION REQUIREMENTS, attached to this Lease; (b) the Town of Chilmark Zoning By-Law; (c) those certain Implementation Guidelines to the Affordable Housing Zoning By-Law of the Town of Chilmark (hereinafter, the "Implementation Guidelines"); and (d) any homeowner's or similar association governing the Land, Improvements, the Leased Premises and/or the roads or ways adjacent thereto, all as in effect as of the date of the commencement of this Lease and as may be amended during the term hereof.

4.3 RESPONSIBLE FOR OTHERS: Lessee shall be responsible for the use of the Leased Premises by anyone using the Leased Premises with Lessee's consent.

4.4 OCCUPANCY: Lessee shall occupy the Leased Premises as his or her primary residence for at least eleven (11) months of each year of this Lease, unless otherwise agreed to by the Town, acting through the Chilmark Housing Committee.

4.5 INSPECTION: The Town may inspect any portion of the Leased Premises except the interior(s) of Lessee's Improvements, at any reasonable time, upon at least forty-eight (48) hours' oral notice to Lessee. In the event of emergency, Lessor may inspect any portion of the Leased Premises except the interior(s) of Lessee's Improvements without notice provided Lessor shall have made reasonable efforts to give advance notice to Lessee.

4.6 LESSEE'S RIGHT TO PEACEFUL ENJOYMENT: Lessee has the right to undisturbed enjoyment of the Leased Premises.

ARTICLE 5: Ground Lease Fee

5.1 GROUND LEASE FEE: In consideration of the possession, continued use, and occupancy of the Leased Premises, Lessee shall pay to the Town of Chilmark the Ground Lease fee of \$20,000.00 dollars.

5.2 PAYMENT OF GROUND LEASE FEE: The Ground Lease Fee shall be payable to the Town, at the address specified in this Lease, on the day of the execution of this Lease.

ARTICLE 6: Taxes and Assessments

6.1 TAXES AND ASSESSMENTS: Lessee shall be responsible for payment of all taxes and governmental assessments that relate to the Improvements on the Leased Premises. Lessee shall also pay directly, when due, all other service bills, utility charges, or other governmental assessments charged against the Leased Premises.

6.2 LESSEE'S RIGHT TO CONTEST: Lessee shall have the right to contest the amount or validity of any taxes relating to the Improvements on the Leased Premises. All costs and expenses of such proceedings shall be paid by Lessee.

ARTICLE 7: Improvements

7.1 OWNERSHIP: It is agreed that all buildings, structures, fixtures, and other Improvements purchased by Lessee or constructed or placed by Lessee on any part of the Leased Premises at any time during the term of this Lease (the "Improvements") shall be property of Lessee. Title to such Improvements shall be and remain vested in Lessee. However, Lessee's exercise of the rights of ownership is subject to the provisions of this Lease, including but not limited to provisions regarding the disposition of Improvements by Lessee and the Town's option to purchase the Improvements, as provided in Section 10.5 below. In addition, Lessee shall not sever or move the Improvements from the Land.

7.2 PURCHASE OF IMPROVEMENTS BY LESSEE: Lessee is simultaneously purchasing the Improvements, if any, located on the Leased Premises and described in the Bill of Sale and Deed, the form of which is annexed to this Lease as Exhibit E, Bill of Sale and Deed.

7.3 ALTERATION AND ADDITIONS: Any construction in connection with an existing or new Improvement is subject to the following conditions: (a) all costs shall be borne and paid for by Lessee; (b) all construction shall be performed in a workman manner and shall comply with all applicable laws and regulations; (c) all construction shall be consistent with the permitted uses set forth in Article 4; and (d) the addition of bedroom(s) and bathroom(s) intended to qualify for Added Value (as such term is defined in Section 10.10 below), in accordance with Article 10.10 shall not be constructed without prior review by The Town, acting through the Chilmark Housing Committee with approval of the Board of Selectmen. If Lessee wishes to undertake construction of an addition (the "Addition") with the intention of providing for a larger household size and thereby qualifying for "Added Value" as such term is defined in Section

10.10 below, Lessee shall, prior to undertaking the Addition, submit to the Town a written request for a confirmation that the Addition will qualify for Added Value. Such request shall include a description of the proposed Addition and reasonably detailed drawings indicating the intended expansion and reconfiguration of the Improvements. The Town may request additional information if it finds such information will be necessary for a reasonable determination. The Town, acting through the Chilmark Housing Committee with approval of the Board of Selectmen, shall deliver a conditional confirmation that the Addition will result in Added Value if all of the following conditions will be met: (a) the total number of rooms to be designated as bedrooms upon the completion of Addition will be increased, (b) the total living area within the Improvements will increase by at least 100 square feet, and (c) all rooms to be designated as bedrooms upon the completion of the Addition shall be approved as bedrooms under applicable building codes. If all such conditions will not be met, the Town, acting through the Chilmark Housing Committee, may, at its sole discretion, give or refuse to give a conditional confirmation that the Addition will nonetheless qualify for Added Value. Any conditional confirmation shall become a final confirmation only upon Lessee's delivery to the Town of all building permits necessary for the Addition. Upon delivery of the permits necessary for final confirmation, Lessor shall issue a "Certificate of Added Value" and shall give Lessee one copy of such Certificate and shall record such Certificate with the Dukes County Registry of Deeds and file another copy of such Certificate in its permanent records.

7.4 INITIAL CONSTRUCTION BY LESSEE: If Lessee has agreed to undertake the initial construction of the Improvement(s) (the "Initial Construction"), Lessor shall limit the total development value of such Initial Construction (the "Total Development Value") for purposes of calculating the Formula Price (as defined in Section 10.8), pursuant to the terms of Section 10.10 below, as follows: the Total Development Value shall not exceed ninety percent (90%) of an amount established so that an Income-qualified Person, as defined in Article 10.2, would pay no more than thirty percent (30%) of the median income for Dukes County, as calculated and adjusted for household size by the U. S. Department of Housing and Urban Development or any successor agency thereto ("HUD") as of the commencement of the term of this Lease, for the sum of annual debt service for a mortgage of ninety (90%) of the Total Development Value (including principal and interest), property taxes, insurance, ground lease fee, community road association fee, and any homeowner association fee. After determining the amount of the Total Development Value in accordance with this Section, the Town, acting through the Chilmark Housing Committee, shall deliver a "Certificate of Total Development Value" to Lessee for use as necessary in calculating the aforesaid Formula Price and shall record the Certificate at the Dukes County Registry of Deeds and file another copy of such Certificate in its permanent records. Any construction in connection with Initial Construction is subject to the following conditions: Lessee shall (a) prior to commencing construction, submit to the Town a written request for approval of the proposed Improvements, which request shall include a description of the proposed Improvements and reasonably detailed scale drawings showing the proposed Improvements and their location on the Land;(b) promptly deliver to the Town such additional information as the Town may request in order to confirm compliance by Lessee with the provisions of this Lease and the requirements set forth or referenced in Article 4; (c) obtain approval of the Chilmark Site Review Committee including a designated member from the Chilmark Housing Committee, which shall ensure the design is consistent with the rental

duplexes in the Middle Line Road Community Housing; (d) obtain a building permit for the proposed Improvements, as approved by the Town, no later than one (1) year from the date of the lottery conducted on January 19, 2010; and (d) promptly thereafter begin and diligently pursue the Initial Construction to completion and upon such completion obtain a certificate of occupancy for the Improvements. Failure to comply with this provision may, at the discretion of the Chilmark Housing Committee cause the designation of Eligible Purchaser to lapse, and, in that event, said Homesite Housing Lot shall be awarded to a new Eligible Purchaser by a lottery conducted by the Board of Selectmen at a public meeting. Such new Eligible Purchaser shall pay the appraised value of the structurally acceptable improvements to the Homesite Lot, if any, to the lapsed Eligible Purchaser. In addition to the foregoing, the Initial Construction, if undertaken by Lessee, shall be subject to the following requirements: all costs of the Initial Construction shall be borne and paid for by Lessee; (b) all construction shall be performed in a workman manner and shall comply with all applicable laws and regulations; (c) all construction shall be consistent with the permitted uses and other requirements set forth or referenced in Article 4; and (d) after the occupancy permit has been issued, the construction of any Addition shall be undertaken only after prior review by the Town, acting through the Chilmark Housing Committee, and in accordance with the provisions set forth in Section 7.3 above.

7.5 PROHIBITION OF LIENS: Except for Permitted Mortgages, as defined herein, no lien of any type shall attach to the Town's title to the Land or to the Town's interest in the Leased Premises or to any other property owned by the Town. Lessee shall not permit any statutory or similar lien to be filed against the Leased Premises, the Improvements, or any interest of the Town or Lessee that remains more than sixty (60) days after it has been filed. Lessee shall cause any such lien to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction, or as otherwise permitted by law. If Lessee fails to cause such lien to be discharged within the 60-day period, then, in addition to any other right or remedy, the Town may, but shall not be obligated to, discharge the lien by paying the amount in question. Lessee may, at Lessee's expense, contest the validity of any such asserted lien, provided Lessee has furnished a bond in an amount sufficient to release the Leased Premises from such lien. Any amounts paid by the Town to discharge such liens shall be deemed to be an additional Ground Lease Fee payable by Lessee upon demand.

7.5 MAINTENANCE AND SERVICES: Lessee shall, at Lessee's sole expense, maintain the Leased Premises and all Improvements as required by Section 4.2 above. The Town shall not be required to furnish any services or facilities, including but not limited to heat, electricity, air conditioning, septic or water, or to make any repairs to the Leased Premises or Improvements, and Lessee hereby assumes the sole responsibility for furnishing all services or facilities.

7.6 DISPOSITION OF IMPROVEMENTS UPON EXPIRATION OF LEASE TERM: Upon the expiration of the term of this Lease or if it be sooner terminated in accordance with this Lease, Lessee shall surrender the Improvements together with the Leased Premises to the Town. Ownership of the Improvements shall thereupon revert to the Town, provided, however, that the Town shall promptly pay to Lessee as consideration for the Improvements an amount equal to the Town's Purchase Option Price calculated in accordance with Article 10 below, as of the time of reversion of ownership, less the total amount of any unpaid Ground Lease Fee including any charges that may have been added to the Ground Lease Fee in accordance with this Lease.

ARTICLE 8: Financing

8.1 PERMITTED MORTGAGE: Lessee may mortgage the Leased Premises or grant a security interest in the Improvements, either for the purchase or refinance of Improvements located thereon, or for the Initial Construction thereof, if Lessee has agreed to undertake such Initial Construction, in all cases, only with the prior written consent of the Town, acting through the Board of Selectmen, on the recommendation of the Chilmark Housing Committee, and only pursuant to a mortgage or other security instrument satisfying all of the requirements for a “Permitted Mortgage,” as hereinafter defined in the attached Exhibit F, Permitted Mortgages, and only if the lender and Lessee execute a Permitted Mortgage Agreement at the time of the loan closing, which agreement incorporates the terms and provisions of Exhibit F, Permitted Mortgages. Not less than thirty (30) days (or such shorter period as may be approved by the Town) prior to the date on which Lessee (or a prospective Lessee who has contracted to purchase the Improvements or undertake the Initial Construction thereof) requests the Town’s consent to a mortgage or other security instrument to be effective, Lessee (or prospective Lessee) shall furnish to the Town copies of every document to be executed in connection with the transaction represented by such mortgage and/or security instrument. The Town may choose to consent to any mortgage and/or security interest, and in so doing shall designate such mortgage and/or security interest as a “Permitted Mortgage.” However, the Town shall consent to a mortgage and/or security interest only if (a) at the time such copies of documents are submitted and at the time proposed by Lessee (or prospective Lessee) for the execution of such documents, no default under this Lease is then outstanding; and (b) the mortgage and/or security interest so submitted is a Permitted Mortgage as defined in the attached Exhibit F, Permitted Mortgages. Lessee shall pay to the Town at the Town’s option, as additional Ground Lease Fee, all fees, costs, and expenses, including, without limitation, reasonable attorneys’ fees, incurred by the Town in connection with any Permitted Mortgage.

8.2 RIGHTS OF PERMITTED MORTGAGEE: Any holder of a Permitted Mortgage (“Permitted Mortgagee”) shall without requirement of consent by the Town have the rights identified and defined in Section B of the attached Exhibit F, Permitted Mortgages.

8.3 [Deleted]

8.4 LESSOR’S RIGHT TO PROCEEDS IN EXCESS OF PURCHASE OPTION PRICE: The parties recognize that it would be contrary to the fundamental concept of this Lease and an incentive to abuse Lessee’s authorization to encumber its leasehold interest with a Permitted Mortgage if Lessee could realize more than the Purchase Option Price as the result of any foreclosure of any mortgage. Accordingly, Lessee hereby irrevocably assigns to the Town any and all net proceeds of sale of the Improvements remaining after payment of costs of foreclosure and satisfaction of the lien of any Permitted Mortgagee which would otherwise have been payable to Lessee, to the extent such net proceeds exceed the net proceeds that Lessee would have received had the property been sold for the Purchase Option Price established in Article 10 of this Lease, and authorizes and instructs the Permitted Mortgagee or any party conducting any sale to pay the amount of said excess proceeds directly to the Town. In the event that, for any reason, such excess proceeds are paid to Lessee, Lessee hereby agrees to promptly pay the

amount of such excess proceeds to the Town.

8.5 AMENDMENTS SUBJECT TO APPROVAL BY PERMITTED MORTGAGEE:

Any amendments to this Lease shall be subject to the written approval of the Permitted Mortgagee, which approval shall not be unreasonably withheld or delayed. The passage of thirty (30) days after submittal to Permitted Mortgagee of a proposed amendment without approval or disapproval by Permitted Mortgagee shall be deemed approval thereof.

ARTICLE 9: Liability, Insurance, Damage and Destruction, Eminent Domain

9.1 LESSEE'S LIABILITY: Lessee assumes sole responsibility and liability to all persons and authorities related to its possession, occupancy, and use of the Leased Premises and/or the Improvements.

9.2 INDEMNIFICATION OF THE TOWN: Lessee shall defend, indemnify, and hold the Town harmless against all liability and claims of liability for injury or damage to person or property from any cause on or about the Leased Premises. To the maximum extent permissible under law, Lessee waives all claims against the Town for such injury or damage.

9.3 PAYMENT BY LESSOR: In the event the Town shall be required to pay any sum that is Lessee's responsibility or liability, Lessee shall reimburse Lessor for such payment and for reasonable expenses caused thereby.

9.4 INSURANCE: Lessee shall, at Lessee's sole expense, keep all Improvements continuously insured against loss or damage under the comprehensive special form of insurance for the full replacement value of such Improvements. The dollar amounts of this coverage shall be adjusted at two (2)-year intervals, beginning on the date this Lease is signed, or upon the Town's demand given not more often than annually, upon thirty (30) days' notice to Lessee. This adjustment to the coverage shall be equal to the adjusted building replacement cost, excluding design or permit fees, excavation, site prep, and other underground work). Lessee shall, at Lessee's sole expense, maintain continuously in effect personal liability insurance covering the Leased Premises and Improvements in the amounts of not less than five hundred thousand dollars (\$500,000) for injury or death to persons or property damage to property of others. Lessee shall be responsible for promptly paying the Town the cost of liability insurance for the Leased Premises carried by and for the benefit of the Town. Lessee shall provide the Town with copies of all policies and renewals of policies. All policies shall also contain endorsements providing that they shall not be canceled, reduced in amount or coverage or otherwise modified by the insurance carrier involved without at least thirty (30) days' prior written notice to Lessee and to the Town. The Town shall be entitled to participate in the settlement or adjustment of any losses covered by such policies of insurance.

9.5 DAMAGE OR DESTRUCTION: Except as provided below, in the event of fire or other damage to the Improvements, Lessee shall take all steps necessary to ensure the repair of such damage and the restoration of the Improvements to their condition immediately prior to the damage. All such repairs and restoration shall be completed as promptly as possible. Lessee shall also promptly take all steps necessary to ensure that the Leased Premises are safe and that the

damaged Improvements do not constitute a danger to persons or property. If Lessee, using reasonable judgment and relying on professional estimates, determines either (a) that full repair and restoration is physically impossible, or (b) that the available insurance proceeds will pay for less than eighty percent (80%) of the cost of repair and restoration (provided Lessee has fulfilled all the hazard insurance requirements set forth in Section 9.4 above), then Lessee may terminate this Lease by written notice to the Town given not later than sixty (60) days after the event that caused the damage. However, such termination shall not be effective until ninety (90) days after the date upon which the notice is received by the Town. During this ninety (90)-day period, the Town may seek an adjustment from the insurer so as to increase the available insurance proceeds to an amount covering at least eighty percent (80%) of the cost of repair and restoration. If successful in securing such adjustment, the Town may render Lessee's termination notice null and void by written notice to Lessee within such forty-five (45)-day period. If the Town fails to nullify the termination notice in this way, then this Lease shall terminate at the expiration of the ninety (90) day period, and any insurance proceeds payable to Lessee on account of such damage shall be paid as provided below. The insurance proceeds shall be paid first to cover any expenses of collecting the proceeds. Remaining proceeds shall be paid first to a Permitted Mortgagee to the extent required by the Permitted Mortgage, with the balance then paid to the Lessee, provided that the total amount paid to the Lessee and the Permitted Mortgagee does not exceed the then applicable Town's Purchase Option Price (as of immediately prior to the damage) calculated according to the provisions of Article 10 below. The balance of such proceeds, if any, shall be paid to the Town.

9.6 EMINENT DOMAIN AND PUBLIC DEDICATION: In the event of a taking of the Leased Premises, either in its entirety or to such extent that the Improvements are lost or damaged beyond repair, by reason of eminent domain or other action of public authority prior to the expiration of this Lease, this Lease shall terminate as of the date Lessee is required to give up possession of the Leased Premises or Improvements, and the entire amount of any award(s) paid shall be allocated in the way described in Section 9.5 above for insurance proceeds. In the event of a taking of a portion of the Leased Premises that does not result in damage to the Improvements or substantial reduction in the usefulness or desirability of the Improvements for residential purposes, then any monetary compensation for such taking shall be allocated entirely to the Town.

In the event of a taking of a portion of the Leased Premises that results in damage to the Improvements only to such an extent that the Improvements can reasonably be restored to a residential use consistent with this Lease, the Town may in its discretion allocate some or all the monetary compensation to enable Lessee to accomplish such a restoration. Any balance remaining after or in the absence of such allocation shall be allocated as provided above for a taking of the entire Leased Premises. Any and all proceedings brought by a party in connection with any damages as a result of any taking referred to in this Section shall be conducted at the sole expense of such party. If any provision of law requires that such proceedings be brought by or in the name of any owner or lessee of the premises, such party shall join in such proceedings or permit the same to be brought in its name. Each party agrees to do all acts and to execute all documents that may be required to enable the other to maintain such proceedings. If the party required to join in the proceedings incurs any cost or expense in doing so, such party shall be entitled to reasonable reimbursement and this entitlement shall constitute a first charge against

any award.

9.7 RELOCATION OF LESSEE: In the event of a termination of this Lease as a result of damage, destruction or taking, the Town may, but shall not be obligated to grant Lessee a leasehold interest, similar to the interest created by this Lease, in another tract that it owns, if such other tract can reasonably be made available. In accepting such a leasehold interest, Lessee agrees to contribute any proceeds or award received by Lessee to purchase or develop Improvements on such tract. The Town's failure to supply such a leasehold interest shall not give rise to any cause of action by Lessee against the Town.

ARTICLE 10: Transfer, Sale, or Disposition of Improvements

10.1 INTENT: It is the understanding of the parties that the terms of this Lease, and in particular of this Article 10, are intended to preserve the affordability of the Improvements for lower-income households and expand access to homeownership opportunities for such households.

10.2 TRANSFERS TO INCOME-QUALIFIED PERSONS: Lessee may sell, transfer or otherwise dispose of its interest in the Leased Premises or the Improvements only to the Town or an Eligible Purchaser as defined in the Implementation Guidelines or otherwise only as explicitly permitted by the provisions of this Article 10. All such sales, transfers and other dispositions shall be subject to the price limitations set forth herein. Any purported sale, transfer or other disposition done without following the procedures set forth below or in violation of such price limitations shall be null and void.

10.3 TRANSFER TO LESSEE'S HEIRS: Upon receipt of notice from the executor of the decedent's estate given within ninety (90) days of the death of Lessee (or the last surviving co-owner of the Improvements) the Town shall, unless for good cause shown, consent to a transfer of the Improvements and an assumption of this Lease to and by one or more of the possible heirs of Lessee listed below as "a," "b," or "c" (each such party hereinafter a "Permitted Heir" and, collectively, "Permitted Heirs"), provided that such heir is an Eligible Purchaser, and provided that a Letter of Stipulation and a Letter of Acknowledgment of legal counsel (similar to those described in Article 1 of this Lease), setting forth such Permitted Heirs' review, understanding and acceptance of the terms of this Lease, are submitted to Lessor to be attached to this Lease when it is transferred to such Permitted Heirs. a. the spouse of Lessee; or b. the child or children of Lessee; or c. Lessee's domestic partner who was one of two people, the other being Lessee, who maintained the same permanent residence and had a close and committed personal relationship involving shared responsibilities for each other's welfare as evidenced by financial interdependence, and having expressed the intention for their relationship to be permanent. Any heirs, legatees or devisees of Lessee must, in addition to submitting Letters of Stipulation and Acknowledgment as provided above, demonstrate to the Town's reasonable satisfaction that they are Eligible Purchasers, or, if unable to do so, shall not be entitled to possession of the Improvements and Leased Premises and must transfer the Improvements and Leased Premises in accordance with the provisions of this Article 10.

10.4 LESSEE'S NOTICE OF INTENT TO SELL: Except in the case of a sale, transfer or other

disposition to a Permitted Mortgagee in lieu of foreclosure, in the event that Lessee contemplates an assignment of its interest herein or a sale, transfer or other disposition of the Improvements to a third party (any of the foregoing being a "Transfer"), Lessee shall notify the Town, in writing, of such wish (the "Intent-To-Sell Notice"). Such Intent-To-Sell Notice shall include a statement as to whether Lessee wishes to recommend a prospective buyer as of the date of the Notice.

10.5 THE TOWN'S PURCHASE OPTION: Upon receipt of an Intent to Sell Notice from Lessee, the Town shall have the option to purchase the Improvements (the "Purchase Option") at the Purchase Option Price calculated as set forth below. The Purchase Option is designed to further the purpose of preserving the affordability of the Improvements for succeeding income-qualified Persons while taking fair account of the investment by Lessee. If the Town elects to purchase the Improvements, it shall exercise the Purchase Option by notifying Lessee, in writing, of such election (the "Notice of Exercise of Option") within forty-five (45) days of the receipt of the Intent-To-Sell Notice or forty-five (45) days following the Town's receipt of an appraisal carried out in accordance with Section 10.9, whichever shall be the later to occur, or the Purchase Option shall expire. Having given such notice, the Town may either proceed to exercise the Purchase Option directly by purchasing the Improvements, or may assign the Purchase Option to an Eligible Purchaser. The purchase (by the Town or the Town's assignee) must be completed within sixty (60) days of the Town's Notice of Exercise of Option, or Lessee may sell the Improvements as provided in Section 10.6 below. The time permitted for the completion of the purchase may be extended by mutual agreement of the parties hereto. Lessee may recommend to the Town a prospective buyer who is an Eligible Purchaser and is prepared to submit Letters of Stipulation and Acknowledgment indicating informed acceptance of the terms of this Lease. The Town may, but shall not be obligated to, accept, such recommendation from Lessee, as the Town may elect, in its sole discretion, acting through the Chilmark Housing Committee.

10.5A PURCHASE OPTION OF THE DUKES COUNTY REGIONAL HOUSING AUTHORITY: If the Purchase Option granted to the Town has expired or if the Town has failed to complete the purchase within the sixty (60)-day period provided under Section 10.5 above, Lessee shall so notify the Dukes County Regional Housing Authority ("DCRHA") in writing (such notice, hereinafter a "DCRHA Notice") and DCRHA shall then have the option to purchase the Improvements (the "DCRHA Purchase Option") at the Purchase Option Price calculated as set forth in Section 10.5. If DCRHA elects to purchase the Improvements, it shall exercise the DCRHA Purchase Option by notifying Lessee, in writing, of such election (the "DCRHA Notice of Exercise of Option") within thirty (30) days of the date of the DCRHA Notice, or, if the Town did not commission an appraisal as permitted under Section 10.9 below, the receipt by DCRHA of an appraisal carried out in accordance with said Section 10.9, whichever shall be the later to occur, or the DCRHA Purchase Option shall expire. Having given such DCRHA Notice of Exercise of Option, DCRHA may either proceed to exercise the DCRHA Purchase Option directly by purchasing the Improvements, or may assign the DCRHA Purchase Option to an Eligible Purchaser. The purchase (by DCRHA or DCRHA's assignee) must be completed within sixty (60) days of DCRHA's Notice of Exercise of Option, or Lessee may sell the Improvements as provided in Section 10.6 below.

10.6 IF PURCHASE OPTION AND DCRHA PURCHASE OPTION EXPIRE: If the Purchase

Option has expired or if the Town has failed to complete the purchase within the sixty(60)-day period allowed by Section 10.5 above and/or if the DCRHA Option has expired or if DCRHA has failed to complete the purchase within the sixty (60)-day period allowed by Section 10.5A above, Lessee may Transfer the Improvements and this Lease to any Eligible Purchaser, for not more than the then applicable Purchase Option Price.

10.7 THE TOWN'S POWER OF ATTORNEY TO CONDUCT SALE: In the event the Town does not exercise its Purchase Option and complete the purchase of the Improvements as set forth above and/or DCRHA does not exercise its DCRHA Purchase Option and complete the purchase of the Improvements as set forth above, and Lessee (a) is not then residing in the Improvements and (b) continues to hold the Improvements out for sale but is unable to locate a buyer and execute a binding purchase and sale agreement within one (1) year of the giving of the Intent to Sell Notice, Lessee does hereby appoint the Town its attorney in fact to seek a buyer, negotiate a reasonable price that furthers the goals set forth in this Lease; Transfer the Improvements and distribute proceeds of sale, minus the Town's costs of sale and reletting and any other sums owed the Town by Lessee.

10.8 PURCHASE OPTION PRICE: Except as provided in Section 10.6, in no event may the Improvements be Transferred for a price that exceeds the 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 commissioned and conducted at the discretion of the Town as provided in 10.9 below or (b) the price calculated in accordance with the formula described below (the "Formula Price").

10.9 APPRAISAL: No later than ten (10) days after the Town's receipt of Lessee's Intent-To-Sell Notice, a market valuation of the Leased Premises and the Improvements (the "Appraisal") may be commissioned at the discretion of the Town to be performed by a mutually acceptable and duly licensed appraiser. If the parties hereto cannot agree to a mutually acceptable appraiser, the Town may invoke arbitration pursuant to Article 13 and the third arbitrator (as that term is used in Article 13) shall be an experienced real estate appraiser who shall conduct the Appraisal. The Town shall commission and pay the cost of such Appraisal. The Appraisal shall be conducted by analysis and comparison of comparable properties as though title to Land and Improvements were held in fee simple absolute, disregarding the restrictions of this Lease on the use of the Land and the Transfer of the Improvements. The Appraisal shall state the values contributed by the Land and by the Improvements as separate amounts. Copies of the Appraisal are to be provided to both parties.

10.10 CALCULATION OF THE FORMULA PRICE: The Formula Price shall be equal to the Base Price (Lessee's Purchase Price plus the Added Value, or, if Lessee has undertaken the Initial Improvements pursuant to Section 7.4 above, the Total Development Value, plus the Added Value) 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 or the Total Development Value plus the Added Value, as may be applicable.
- **Lessee's Purchase Price or Total Development Value:** The parties agree that Lessee's Purchase

Price for the Improvements existing on the Leased Premises as of the commencement of the term of this Lease or the Initial Construction undertaken by Lessee in accordance with Section 7.4 hereof.

- **Added Value:** shall be recognized if Lessee has increased the number of bedrooms in the Improvements by the addition of an Addition with the result that a Certificate of Added Value has been issued by Lessor in accordance with Section 7.3 hereof. For purposes of determining the Added Value, a household of two shall be deemed an appropriate size household for a one bedroom dwelling, a household of three shall be deemed an appropriate size household for a two bedroom dwelling, a household of four shall be deemed an appropriate size household for a three bedroom dwelling, and a household of five shall be deemed an appropriate sized household for a four bedroom dwelling. The parties agree that, at the time of Lessee's purchase or after completion of the Initial Construction, the Improvements contained _____ bedrooms and provided an appropriate size dwelling for a household of _____. If, at the time of resale, the number of bedrooms has been increased, the amount of the Added Value shall be determined as follows:

1. The dollar amount most recently reported by HUD at the time of resale as being _____% of AMI for Dukes County for a household of 4 (as such household size is stated above) shall be subtracted from the dollar amount most recently reported by HUD at the time of resale as being _____% of AMI for the household size appropriate for the increased number of bedrooms, thus determining the difference between the two dollar amounts. This difference shall then be divided by the aforementioned dollar amount reported by HUD for the smaller household size. The quotient of this operation shall be rounded to three (3) decimal places.

2. The resulting quotient shall be multiplied by the amount of Lessee's Purchase Price or the Total Development Value, as may be applicable. The product of this operation shall be the Added Value.

- **Inflation Adjustment:** The parties agree that the Inflation Adjustment is defined as the sum of two parts: (1) Lessee's Purchase Price or the Total Development Value, as may be applicable, times the percent change in the AMI for Dukes County since the time of purchase or Initial Construction, 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 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 four percent (4%) per year. If the CPI is greater than an average of four percent (4%) per year during the period of ownership, the index shall be figured as four percent (4%) per year. In the event that HUD no longer continues to determine and promulgate an AMI or comparable figure for the region, Lessor shall reasonably select another measure of the change in consumer costs in Dukes County over the relevant time period, such other measure shall in that case be used as the index. The term "Purchase Option Price" as used herein refers to the maximum price for which Lessee is permitted to sell the Improvements and is not intended and shall not be construed to be a guarantee of the expected sale price.

10.10.1 ALTERNATIVE MAXIMUM: Notwithstanding the forgoing, the maximum for which the Lessee is permitted to sell the improvement shall be that which would be affordable by an Eligible Purchaser with a family size appropriate to the number of bedrooms in said Homesite Housing dwelling as determined by the DCRHA at the time of resale.

10.11 NEW LEASE: An Eligible Purchaser who purchases the Improvements in accordance with the provisions of this Article 10 shall enter into a new Lease from the Town, which new Lease shall be substantially the same as this Lease in the rights, benefits and obligations assigned to Lessee and the Town.

10.12 DEFERRED MAINTENANCE AND CONDITION OF IMPROVEMENTS AT TIME OF SALE: Lessee acknowledges and agrees that it is obligated to maintain the Improvements in good, safe and habitable condition as outlined in Section 4.2 and 7.5 throughout the term of this Lease. At the time of any Transfer permitted hereunder, Lessee agrees to Transfer the Improvements in good, safe and habitable condition. The Town may elect to use a prospective 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 Improvements. Lessee shall complete, or cause to be completed, all required repairs identified by the Town or the mortgage lender's requirements, as may be applicable. All such work must be completed in a good and workman like manner in accordance with all applicable laws and regulations prior to the closing. Lessee shall bear the full cost of said repairs. All costs that cannot be paid in advance by Lessee shall be paid from Lessee's proceeds at closing.

10.13 MONITORING FEE: The Town shall be entitled to a fee of one-half of one percent of the established sale price of the Improvements for the services performed monitoring the resale and transfer of this Lease. This fee shall be paid by the buyer of Lessee's interest as a closing cost at the time of closing.

ARTICLE 11: Assignment and Sublease

Except as otherwise provided in Article 8 (including Exhibit F, Permitted Mortgages) and Article 10, Lessee shall not assign, sublease, sell, or otherwise transfer or convey any of Lessee's rights under this Lease without the prior written consent of the Town. Lessee agrees that the Town shall have broad and full discretion to withhold such consent in order to further the mutual purposes and goals set forth in this Lease. If permission is granted, any assignment or sublease or other transfer shall be subject to the following conditions.

- a) Any such assignment or sublease shall be subject to all the terms of this Lease, including, without limitation, all prohibitions, restrictions and other provisions applicable to the sale, assignment, sublease or other transfer of the Improvements and/or this Lease as provided herein.
- b) In the case of a sublease, the Leased Premises and Improvements shall not be leased or subleased to any third party who is not qualified for affordable housing, as determined by the Town, acting through the Chilmark Housing Committee. The rental or occupancy fee to be charged the sublessee shall be at an affordable rate to an applicant qualified by the Dukes County Regional Housing Authority. This approval shall be based upon a predetermine time frame and an affordable rental rate.

ARTICLE 12: Default

12.1 MONETARY DEFAULT BY LESSEE: It shall be an event of default if Lessee fail to pay any charges required by the terms of this Lease and such failure is not cured by Lessee or a Permitted Mortgagee within thirty (30) days after notice of such failure is given by the Town to Lessee and Permitted Mortgagee. However, if Lessee shall make a good faith partial payment of at least two thirds (2/3) of the amount owed during such initial thirty (30)-day period, then such period shall be extended one additional thirty (30)-day period. The full amount of the delinquent Ground Lease Fee or other charges must be paid at the end of this additional period. This paragraph may be used to extend payment deadlines no more than once in every twelve (12)-month period.

12.2 NON MONETARY DEFAULT BY LESSEE: It shall be an event of default if Lessee fails to abide by any other material term or condition in this Lease, and such failure is not cured by Lessee or a Permitted Mortgagee within sixty (60) days after notice of such failure is given by the Town to Lessee and Permitted Mortgagee. However, in the case where Lessee or Permitted Mortgagee has commenced to cure such default within such sixty (60)-day period and is continuing such cure with all due diligence but cannot by the exercise of due diligence cure such default within such period, such period shall be extended for such additional period as may be reasonably required under the circumstances to complete such cure.

12.3 DEFAULT BY LESSEE RESULTING FROM JUDICIAL PROCESS: It shall be an event of default if the estate hereby created is taken on execution or by other process of law, or if Lessee is judicially declared bankrupt or insolvent according to law, or if any assignment is made of the property of Lessee for the benefit of creditors, or if a receiver, trustee in involuntary bankruptcy or other similar officer is appointed to take charge of any substantial part of Lessee's property by a court of competent jurisdiction, or if a petition is filed for the reorganization of Lessee under any provisions of the Bankruptcy Act now or hereafter enacted, or if Lessee files a petition for such reorganization, or for arrangements under any provision of the Bankruptcy Act now or hereafter enacted and providing a plan for a debtor to settle, satisfy or extend the time for payment of debts.

12.4 TERMINATION: In the case of any of the events of default described above (each, hereinafter, an "Event of Default"), the Town may terminate this Lease and initiate summary proceedings against Lessee. Pursuant to such proceedings, without demand or notice, the Town may enter any part of the Leased Premises and repossess the entire Leased Premises, and expel Lessee and those claiming rights through Lessee and remove their effects without being guilty of any manner of trespass, and without prejudice to any remedies which might otherwise be used for arrears of rent or preceding breach of covenant. If this Lease is terminated by the Town, or if the Town reenters the Leased Premises pursuant to an Event of Default, Lessee agrees to pay and be liable for any damages which may be due or sustained prior to or in connection with such termination or reentry, and all reasonable costs, fees and expenses (including, without limitation, reasonable attorneys' fees) incurred by the Town in pursuit of its remedies under this Lease. If the Town elects to terminate this Lease, then the Permitted Mortgagee shall have the right (subject to Article 8 above) to postpone and extend the specified date for the termination of this

Lease or to reinstate this Lease, to the extent necessary to enable the Permitted Mortgagee to exercise any or all of its rights under its mortgage.

ARTICLE 13: Arbitration

13.1 ARBITRATION PROCESS: Should any grievance or dispute arise between the parties hereto concerning the terms of this Lease that cannot be resolved by normal interaction, the following arbitration procedure shall be used. The Town or Lessee shall give written notice to the other of its selection of a disinterested arbitrator. Within fifteen (15) days of the receipt of this written notice, the other party may give written notice to the first party appointing a disinterested arbitrator of its own choice. These two arbitrators shall select a third arbitrator. If the other party fails to name an arbitrator within fifteen (15) days of receiving the notice from the first party, the arbitrator selected by the first party shall be the sole arbitrator. The arbitrator or arbitrators shall hold a hearing within thirty (30) days after the initial written notice by the initiator of the arbitration process. At the hearing the parties shall have an opportunity to present evidence and question witnesses in the presence of each other. As soon as reasonably possible, and in no event later than fifteen (15) days after the hearing, the arbitration panel shall make a written report to the parties of its findings and decisions, including a personal statement by each arbitrator of his/her decision and the reasons for it. The arbitrators shall decide the dispute or claim in accordance with the substantive law of the jurisdiction and what is just and equitable under the circumstances. The decisions and awards of the majority of the arbitration panel shall be binding and final.

ARTICLE 14: General Provisions

14.1 NOTICES: Whenever this Lease requires either party to give notice to the other, the notice shall be given in writing and delivered in person or mailed, by certified or registered mail, return receipt requested, to the party at the address set forth below, or such other address designated by like written notice: If to the Town: Town of Chilmark, at its address set forth above, with a copy to: Reynolds, Rappaport, Kaplan & Hackney, LLC, P.O. Box 2540, Edgartown, MA 02539 (the Town's attorney); if to Lessee, at its address set forth above; if to the Chilmark Housing Committee, Town of Chilmark, P.O. Box 119, Chilmark, MA 02535; and if to Dukes County Regional Housing Authority, P.O. Box 4538, Vineyard Haven, MA 02568.

All notices, demands and requests shall be effective upon being deposited in the United States Mail or, in the case of personal delivery, upon actual receipt.

14.2 SEVERABILITY AND DURATION OF: If any part of this Lease is unenforceable or invalid, such material shall be read out of this Lease and shall not affect the validity of any other part of this Lease or give rise to any cause of action of Lessee or Lessor against the other, and the remainder of this Lease shall be valid and enforced to the fullest extent permitted by law. Without limiting the generality of the foregoing, it is the intention of the parties that their respective options to purchase and all other rights under this Lease shall continue in effect for the full term of this Lease and any renewal thereof, and such options and other rights shall be considered to be coupled with an interest. Further, the parties intend such options and other rights to be ones arising out of a non-donative transfer within the meaning of M.G.L. c. 184A, Section 4, as the same is now in effect and therefore not subject to any limitations otherwise

imposed by said M.G.L. c. 184A. In the event any such option or right shall be construed to be subject to any rule of law limiting the duration of such option or right, the time period for the exercise of such option or right shall be construed to expire twenty (20) years after the death of the first survivor of the following persons: the children living as of the date hereof of any employees of the Town.

14.3 RIGHT OF FIRST REFUSAL IN LIEU OF OPTION: If the provisions of the purchase option set forth in Article 10 of this Lease shall become unenforceable for any reason the Town shall nevertheless have a right of first refusal to purchase the Improvements at the purchase price made by a bona fide purchaser to Lessee. This right shall be as specified in the attached Exhibit D, First Refusal. Any sale or transfer contrary to this Section, when applicable, shall be null and void.

14.4 WAIVER: A waiver by the Town at any given time of any term or condition of this Lease, or the failure of the Town to take action with respect to any breach of any such term or condition, shall not be deemed to be a waiver of such term or condition with regard to any subsequent breach of such term or condition, or of any other term or condition of this Lease. The Town may grant waivers in the terms of this Lease, but such waivers must be in writing and signed by the Town before being effective. The subsequent acceptance of Ground Lease Fee payments by the Town shall not be deemed to be a waiver of any preceding breach by Lessee of any term or condition of this Lease, other than the failure of Lessee to pay the particular Ground Lease Fee so accepted, regardless of the Town's knowledge of such preceding breach at the time of acceptance of such Ground Lease Fee payment.

14.5 THE TOWN'S RIGHT TO PROSECUTE OR DEFEND: The Town shall have the right, but shall be under no obligation, to prosecute or defend, in its own or Lessee's name, any actions or proceedings appropriate to the protection of its title to, and Lessee's interest in, the Leased Premises. Whenever requested by the Town, Lessee shall give the Town all reasonable aid in any such action or proceeding.

14.6 CONSTRUCTION: Whenever in this Lease a pronoun is used it shall be construed to represent either the singular or the plural, masculine or feminine, as the case shall demand.

14.7 CAPTIONS AND TABLE OF CONTENTS: The captions and table of contents appearing in this Lease are for convenience only, and are not a part of this Lease and do not in any way limit or amplify the terms or conditions of this Lease.

14.8 PARTIES BOUND: This Lease sets forth the entire agreement between the parties hereto with respect to the leasing of the Land; it is binding upon and inures to the benefit of these parties and, in accordance with the provisions of this Lease, their respective successors in interest. This Lease may be altered or amended only by written notice executed by the parties or their legal representatives or, in accordance with the provisions of this Lease, successors in interest.

14.9 GOVERNING LAW: This Lease shall be interpreted in accordance with and governed by the laws of Massachusetts. The language in all parts of this Lease shall be, in all cases, construed

according to its fair meaning and not strictly for or against either party.

14.10 RECORDING: The parties agree that a true and complete copy of this Lease including exhibits and any subsequent amendments hereto, shall be recorded at the Registry of Deeds in the County where the Improvements are located.

14.11 LESSEES: Notwithstanding anything herein to the contrary, Lessee under this Lease shall at all times be one or more natural persons and any transfer by Lessee of its interest hereunder to a corporation, trust, partnership or any other entity in violation of the foregoing prohibition shall be deemed null and void.

14.12 NO BROKERAGE: Lessee warrants that it has not dealt with any broker in connection with the consummation of this Lease, and in the event any claim is made against the Town relative to dealing with any brokers, Lessee shall defend the claim against the Town and save harmless and indemnify the Town on account of loss, cost or damage which may arise by reason of any such claim.

14.13 COMMITTEE DESIGNATION: In the event that any committee of the Town of Chilmark named in this lease (including, but not limited to, the Chilmark Housing Committee and the Chilmark Site Review Committee) ceases to exist, the Board of Selectmen shall designate another committee to replace such defunct committee; and such replacement committee shall hold all of the powers and functions of the defunct committee as stated herein.

IN WITNESS WHEREOF, the parties have executed this Lease at _____ on the day and year first above written.

Witness Its duly authorized agent By: _____

Witness Lessee: _____
[Notarize signatures.]

Exhibit A

LETTER OF STIPULATION OF LESSEE

To: The Town of Chilmark

Date: _____

This letter is given to the Town to become an exhibit to a Lease between the Town and me. I will be leasing a parcel of land from the Town. My legal counsel, _____, has explained to me the terms and conditions of the Lease and other legal documents that are part of this transaction. I understand the way these terms and conditions will affect my right, now and in the future. In particular I understand and agree with the following points.

- One of the goals of the Town is to keep homes affordable for Eligible Purchasers. I support this goal.
- The terms and conditions of my Lease will keep my home affordable for future Eligible Purchasers. If and when I want to sell my home, the lease requires that I sell it either to the Town or to another Eligible Purchaser. The terms and conditions of the lease also limit the price for which I can sell the home, in order to keep it affordable for such Eligible Purchasers.
- It is also a goal of the Town to promote resident ownership. For this reason, my Lease requires that if I and my family move out of our home permanently, we must sell it. We cannot continue to own it as absentee owners.
- It is my desire to see the terms of the Lease and related documents honored. I consider these terms fair to me and others.

Sincerely,

Exhibit B

LETTER OF ACKNOWLEDGMENT OF LESSEE'S ATTORNEY

I, _____, have been independently employed by _____ (hereinafter the "Client") who intends to lease certain premises from the Town of Chilmark. The land is located _____, Massachusetts. In connection with the leasing of the land, I reviewed with the Client the following documents relating to the transaction:

- a. this Letter of Acknowledgment and a Letter of Stipulation from the Client
- b. a proposed Ground Lease conveying the "Leased Premises" to the Client
- c. other written materials provided by the Town.

The Client has received full and complete information and advice regarding this lease and the foregoing documents. My advice and review has been given reasonably to inform the Client of the present and foreseeable risks and legal consequences of the contemplated transaction. The Client is entering the aforesaid transaction in reliance on his own judgment and upon his investigation of the facts. The full and complete advice and information provided by me was an integral element of such investigation.

Name _____

Date _____

Title _____

Firm/Address _____

Exhibit C

LEASED PREMISES (LEGAL DESCRIPTION OF THE PROPERTY)

Exhibit D

FIRST REFUSAL

Exhibit E

BILL OF SALE AND DEED

Intentionally left blank in the Master Ground Lease Agreement

(Each lease shall insert the deed and bill of sale for the Improvements on the Leased Premises).

Exhibit F

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. All terminology used in this Exhibit shall have the meaning assigned to it in the Lease.

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 the Town of such fact and the Town 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 the Town of its intention to do so and the Town 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 Town written notice of such acquisition and the Town 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 Town gives written notice to the Permitted Mortgagee of the Town's intent to purchase the Improvements and acquire the Lessee's interest in the Leased Premises within thirty (30) days following the Town's receipt of the Permitted Mortgagee's notice of such acquisition of the Improvements and Lessee's interest; further provided that the Town 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 Town 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, provided such person is an Eligible Purchaser.

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 the Town 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 the Town or the Town'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 the Town's consent to such Mortgage shall be without any liability on its part 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 the Town 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 Town 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, the Town 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 the Town's approval), not more than thirty (30) days after the request of the Permitted Mortgagee, provided that the Permitted Mortgagee, within sixty (60) days after the execution of such new lease, assigns the new lease to an Eligible Purchaser. Such new 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 the Town 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 Eligible Purchaser 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 the Town, Lessee, and the Permitted Mortgagee.

5. The Town 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 the Town sends a notice of default under the Lease to Lessee, the Town 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 the Town by a written notice to the Town sent in the manner set forth in said Section 14.2 of the Lease.

Exhibit G

UNIFORM COMMUNITY LAND TRUST GROUND LEASE RIDER

(The Fannie Mae approved document know as the Uniform Community Land Trust Ground Lease Rider shall be signed, dated, notarized, inserted here as Exhibit D and made a part of the Lease. Lessee shall have reviewed Uniform Community Land Trust Ground Lease Rider prior to closing along with other documents, as noted in Exhibit A above).

**Uniform Community Land Trust
Ground Lease Rider**

THIS COMMUNITY LAND TRUST GROUND LEASE RIDER (the "Rider") is made this _____ day of _____, _____, and is incorporated into, and shall be deemed to amend and supplement the community land trust ground lease dated _____ by and between _____ as lessor (the "Lessor") and _____, as lessee (the "Lessee") ("the CLT Ground Lease"). The CLT Ground Lease covers the leased premises located at _____ (the "Leased Premises"), as further described therein. The CLT Ground Lease, as amended by this Rider, shall hereafter be referred to as the "Lease," unless otherwise indicated.

This Rider amends the CLT Ground Lease for the purpose of enabling the Lessee to secure Fannie Mae financing in the form of a mortgage or deed of trust given this day of _____, _____, by Lessee to _____ (the "Specified Mortgage"). The Specified Mortgage is recognized by Lessor as a "Permitted Mortgage" (or as such concept is otherwise defined) under the CLT Ground Lease, and the holder of the Specified Mortgage (the "Specified Mortgagee") is recognized as a "Permitted Mortgagee" (or as such concept is otherwise defined) under the CLT Ground Lease.

ADDITIONAL COVENANTS. Notwithstanding anything to the contrary contained in the CLT Ground Lease, and in addition to the covenants and agreements made in the CLT Ground Lease, the Lessor and the Lessee further covenant and agree, so long (but only so long) as the Specified Mortgagee, its successors and assigns shall have an interest in the Leased Premises, as a holder of the Specified Mortgage or as an owner of the Lessee's interest pursuant to any sale after or in lieu of foreclosure, the following provisions shall apply to the CLT Ground Lease as modifications thereof:

A. No Assignment or Transfer. The making of the Specified Mortgage shall not be deemed to constitute an assignment or transfer of the Lease or leasehold estate so as to require the Specified Mortgagee to assume the performance of any of the Lessee's obligations under the Lease.

B. Status of the Fee Estate. The Lessor represents and warrants that there is no existing mortgage on the fee estate, and so long as the Specified Mortgage shall remain on the Leased Premises, the Lessor and the Lessee shall not subordinate the Lease to any mortgage or lien that may hereafter be placed on the fee estate. Notwithstanding the foregoing, a state- or local-government entity ("Government Entity") may hold a prior recorded interest (represented by recorded covenants, a mortgage or deed of trust, other lien) on the fee estate if the Government Entity has entered into an agreement (which agreement has been approved in writing by the Specified Mortgagee) that provides, among other conditions, in the event the Government Entity (including its successors and assigns) succeeds to the interest of the Lessor under the Lease by any remedy available to the Government Entity by law or pursuant to its lien, the Government Entity and the Lessee agree to recognize one another under all the terms of the Lease and this Rider. Such recognition must include, but is not limited to, the provisions of this Rider whereby all provisions of the Lease regarding (a) occupancy of the Leased Premises as a primary residence by the Lessee, (b) limitation on assignment of, or sublease under, the Lease, (c) the price at which the leasehold estate may be transferred, and (d) the income of successive transferees, assignees or successors, shall, in the event of foreclosure or assignment in lieu of foreclosure of the Specified Mortgage, be of no further force or effect with respect to such Specified Mortgagee or its successive transferees, assignees or successors. The Specified Mortgage shall constitute a first leasehold lien on the Leased Premises, and shall have priority over the Lessor's reversionary interest. If the Lessor conveys title to the fee estate while the Specified Mortgage remains on the Leased Premises, the Lease shall remain in effect with the same priority thereto.

C. Termination, Forfeiture and Modification of Lease. There shall be no termination, forfeiture, or modification of the Lease, except as provided in this Rider, without the prior written consent of the Specified Mortgagee. The Lessor and Lessee shall amend the Lease from time to time as reasonably requested by the Specified Mortgagee, as long as the requested changes do not change the periodic fee, charge or payment due the Lessor for the rights accorded the Lessee under the Lease (the "Ground Lease Fee"), and do not materially or adversely affect the rights of Lessor or Lessee or their respective interests in the Leased Premises. An adjustment of the Ground Lease Fee may be made by the Lessor as provided in the Lease, without prior approval of the Specified Mortgagee, so long as written notice has been delivered to the Specified Mortgagee at least 60 days prior to the effective date of such adjustment with respect to adjustments other than those (i) that were scheduled at the time the Specified Mortgage was given, and (ii) reflecting routine, periodic updates to variable expenses such as property taxes and liability insurance premiums; provided, however, that the Specified Mortgagee shall have the right to arbitrate (as provided herein) any dispute as to an adjustment of the Ground Lease Fee.

D. New Lease. In the event the Lessee's interest in the Lease has been terminated, forfeited, or surrendered as provided in the Lease, and the Specified Mortgage remains outstanding, a new lease shall automatically be created between the Lessor and the Specified Mortgagee, provided that the Permitted Mortgagee, within sixty (60) days after the execution of such new lease, assigns the new lease to an Eligible Purchaser. Such new 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 pursuant to Section E.1. below where the Specified Mortgagee had

accelerated its note, foreclosed on the Specified Mortgage, taken an assignment in lieu of foreclosure, or exercised its other remedies for default.

E. Mortgage Default or Foreclosure. Subject to the following, upon the occurrence of an event of default under the Specified Mortgage (as determined by the Specified Mortgagee—an “Event of Default”), and without the consent of the Lessor, the Specified Mortgagee shall be permitted to accelerate its note, foreclose on the Specified Mortgage, take an assignment in lieu of foreclosure, or exercise its other remedies for default. Further:

1. Upon the occurrence of an Event of Default under the Specified Mortgage, the Lessee shall immediately notify the Lessor of such Event of Default and shall submit to Lessor copies of all notices the Lessee received from the Specified Mortgagee relating thereto. The Specified Mortgagee and the Lessor shall endeavor to communicate and cooperate in efforts to deal with the circumstances of the Event of Default and the actions the parties may take relating thereto; provided, however, the Specified Mortgagee shall have no obligation to give formal legal notice of the Event of Default to the Lessee.
2. The Lessee and the Specified Mortgagee agree that the Lessor shall have the right, but not the obligation, to cure an Event of Default in the Lessee’s name and on the Lessee’s behalf. If such cure is not effective and continuing, nothing herein shall be construed to prevent or delay the Specified Mortgagee from its pursuit of foreclosure and any other available remedies. The Lessee shall be responsible to the Lessor for all payments made, and expenses incurred, by the Lessor in curing such default.
3. Should the Lessor not choose to cure an Event of Default as specified above, the Lessor shall nevertheless have the option to purchase the leasehold estate from the Specified Mortgagee for the full amount owing to the Specified Mortgagee under the Specified Mortgage as of the date of closing of the purchase, upon written notice given by the Specified Mortgagee (the "Mortgagee Option Notice") not later than 60 days following acquisition of title to the leasehold estate by the Specified Mortgagee by foreclosure or by an assignment in lieu of foreclosure; provided, however, the Specified Mortgagee may give such written notice following the occurrence of an Event of Default under the Specified Mortgage and prior to the completion of foreclosure proceedings. If the Lessor elects to exercise such option to purchase, the Lessor shall give written notice to the Specified Mortgagee of the Lessor's intent to purchase the leasehold estate (the "Lessor Option Notice") within 45 days following the Specified Mortgagee's giving of the Mortgagee Option Notice; provided, however, at the option of the Lessor, in the event the Mortgagee Option Notice is given prior to the completion of foreclosure proceedings by the Specified Mortgagee, the Lessor shall, within such 45-day period, be able to give a written notice to the Specified Mortgagee that it will delay giving the Lessor Option Notice until a date that is not later than 30 days following written notice from the Specified Mortgagee of its acquisition of title to the leasehold estate.

The Lessor shall complete the purchase of the leasehold estate within 60 days of giving the Lessor Option Notice. If the Lessor does not complete the purchase within the allotted 60 days, the Specified Mortgagee shall be free to sell the leasehold estate to another person, provided such person is an Eligible Purchaser. Further, if the Lessor does not complete the purchase within the allotted 60 days, the Lessor agrees to pay to the Specified Mortgagee its

costs of holding the property from the date of the Lessor Option Notice until the expiration of such 60-day period.

4. In the event of foreclosure or assignment in lieu of foreclosure, which results in the conveyance of the leasehold estate from the Lessee, any adjustment of the Ground Lease Fee to reflect then current fair market rental value as provided in the Lease, shall be subject to the approval of the Specified Mortgagee. The Specified Mortgagee and the Lessor shall attempt to resolve any dispute concerning such adjustment of the Ground Lease Fee, through the normal interaction of the parties, or through formal mediation as the case may warrant. If the dispute remains unresolved, the Specified Mortgagee and the Lessor shall submit the dispute as to the fair market rental value to binding arbitration.

5. [Deleted]

F. Lease Default. There shall be no forfeiture or termination of the Lease except for (i) the nonpayment of amounts due under the Lease, and (ii) violation of one or more provisions of the Lease addressing the following: (a) prohibition or restrictions on the sale or transfer of the Lessee's interest, and (b) requirement that the Lessee occupy the Leased Premises as primary residence. Provided, however, such forfeiture or termination shall be subject to the Specified Mortgagee's right to cure a monetary default, or otherwise foreclose or take an assignment of the Leasehold estate in lieu of foreclosure with respect to the Lessee's monetary or non-monetary default. Notwithstanding the foregoing, nothing herein shall be construed to require the Specified Mortgagee to cure any non-monetary default. Further, the Specified Mortgagee shall become subrogated to any and all rights of the Lessee with respect to such curing of a default. If the Lessee's default shall be cured as provided in the Lease, and the Specified Mortgagee shall discontinue its foreclosure or assignment in lieu of foreclosure proceedings, the Lease shall continue in full force and effect as if the Lessee had not defaulted. A default by the Lessee under the Lease shall constitute a default under the Specified Mortgage.

G. Lease Default Notice. Notwithstanding the notice requirements provided in the Lease, no default notice by the Lessor shall be deemed to have been given unless and until a copy thereof shall have been so given to the Specified Mortgagee.

H. Insurance. All insurance policies covering the Improvements shall by endorsement name the Specified Mortgagee as an additional insured and loss payee, and provide the Specified Mortgagee with 30 days' cancellation notice.

I. Casualty and Condemnation. If the Leased Premises are destroyed or taken to such an extent that the Lease is to be terminated, the insurance proceeds or condemnation award, as the case may be, shall be applied first in an amount sufficient to satisfy the Specified Mortgage. Upon the termination of the Lease as a result of a partial destruction or a condemnation of less than the entire Leased Premises, the total insurance proceeds or condemnation award, as the case may be, shall be paid to an appointed trustee, who shall first apply such insurance proceeds or condemnation award in accordance with the Specified Mortgage for restoration of the Improvements (if such trustee determines that the Improvements may reasonably be restored to a residential use consistent with the Lease), with the balance of such insurance proceeds or condemnation award to be allocated between the Lessor and Lessee as otherwise provided in the

Lease. The Specified Mortgagee shall be entitled to participate in (i) the adjustment of all casualty losses and (ii) all condemnation proceedings and settlement discussions. Any insurance proceeds or condemnation award shall be applied in accordance with the Specified Mortgage. The Specified Mortgagee shall also be entitled to participate in the adjustment of the Ground Lease Fee as a result of a partial destruction or taking.

J. Force Majeure. The Lessee shall not be in default where performance is delayed or prevented by "Acts of God," war, civil commotion, strikes, labor disputes or the like.

K. Easements and Alterations. Additions to and alternations in the Improvements may be made as provided in the Lease, as long as the value of the Leased Premises and the Improvements is not diminished. The Lessor, as owner of the Leased Premises only, shall join in all easements, permits and applications necessary for such development of the Leased Premises and the Improvements as is permitted under the Lease, provided that the Lessor shall have no liability or obligation under such easement, permit or application.

L. Arbitration. The Specified Mortgagee shall have the right to participate in any arbitration or legal proceedings between the Lessor and the Lessee. Any arbitration proceedings shall be conducted in accordance with arbitration statutes applicable in the state where the Leased Premises are located.

M. Merger. If the estates of the Lessor and Lessee are at any time owned by the same person, so long as the Specified Mortgagee has any interest in the security or in the Specified Mortgage, such person shall take all necessary steps to ensure that the Specified Mortgage constitutes a first lien on the combined estate.

N. Sublease. There shall be no modification, cancellation, or surrender of any subleases, or prepayment of rent there under without the consent of the Specified Mortgagee. If the Specified Mortgagee forecloses on the Leased Premises, or takes an assignment in lieu of foreclosure, all subtenants shall attorn to such Specified Mortgagee or its assignee.

O. Estoppel Certificate. The Lessor shall, from time to time, with 10 days written notice from the Specified Mortgagee, certify by written instrument, duly executed and acknowledged, to such Specified Mortgagee that the Lease has not been amended, the Lease is in full force and effect, that neither party is in default there under, and shall certify as to the existence of any offsets, counterclaims or defenses on the part of the Lessee.

P. Conflict. In the event of a conflict between the terms and provisions of this Rider and the terms and provisions of the Lease, the terms and provisions of this Rider shall control.

BY SIGNING BELOW, the Lessor and the Lessee accept and agree to the terms and conditions of this Rider.

IN WITNESS WHEREOF, the parties have executed this Rider at _____, on the day and year first written above.

LESSOR:

By: _____

Title: _____

LESSEE: _____

(Add notaries)

Exhibit H

MARTHA'S VINEYARD COMMISSION REQUIREMENTS