

TEA LANE FARM

GROUND LEASE

THIS LEASE (this "Lease") made and entered into this _____ day of _____, 20__, by and between The Town of Chilmark, operating through the Board of Selectmen ("Town" or "Lessor"), having an address of P.O. Box 119, 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/ Lessee's Farm Plan
- 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: General Provisions

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

- Exhibit A - Town Deed
- Exhibit B - Land Bank Deed
- Exhibit C - Intermunicipal Agreement
- Exhibit D - Intermunicipal Agreement -Farm Plan
- Exhibit E - Letter(s) of Stipulation of Lessee
- Exhibit F - Letter of Acknowledgment of Lessee's Attorney
- Exhibit G - Leased Premises (Legal Description of Property)
- Exhibit H - Bill of Sale and Deed
- Exhibit I - Required Renovations
- Exhibit J - Permitted Mortgages
- Exhibit K - First Refusal

RECITALS

WHEREAS, the Town purchased the Tea Lane Farm ("Farm") pursuant to a deed dated June 14, 2001 and recorded in the Dukes County Registry of Deeds in Book 837, Page 682, which deed is attached hereto as Exhibit "A" (the "Town Deed") (the "Leased Premises"); and

WHEREAS, the Land Bank purchased land surrounding the Farm pursuant to a deed dated June 14, 2001 and recorded in the Dukes County Registry of Deeds in Book 837, Page 677, which deed is attached hereto as Exhibit “B” (the “Land Bank Deed”); and

WHEREAS, the Town and the Land Bank entered into an Intermunicipal Agreement, dated May 7, 2001, amended on _____, 2012 (the Agreement and Amendment are attached hereto as Exhibit “C” and are referred to as the “Intermunicipal Agreement”), regarding each party’s responsibilities and privileges regarding the land described in the above-referenced deeds, which land was purchased by the Town and the Land Bank for the dual purposes of restoring the Farm as a working farm, to be owned by the public and leased to a private farmer, and conservation;

WHEREAS, the Town has drafted a Farm Plan, approved by the Land Bank’s Chilmark Town Advisory Board (the “Advisory Board”) and the Land Bank, in the form of an Intermunicipal Agreement, dated _____, 20__, which is attached hereto as Exhibit “D” (“Intermunicipal Agreement - Farm Plan” or “Farm Plan”), as required by the Intermunicipal Agreement; and

WHEREAS, the Farm Plan provides, in part, a process for soliciting and selecting a farmer to lease the Leased Premises described in this Lease; and

WHEREAS, Lessee has presented a farm proposal and plan to the Town, which proposal and plan have been approved by the Town (“Lessee’s Farm Plan”), and Lessee has been selected by the Town as the candidate who is best suited to farming the Leased Premises in a productive and presentable manner and who will practice sound soil conservation and enhancement techniques, as required by the Farm Plan (an “Eligible Purchaser”);

WHEREAS, Lessee shares the purposes and goals of the Lessor 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 Lessor; 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 Lessor 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 “E,” Letter of Stipulation of Lessee, and Exhibit “F,” 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 Lessor, 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 Lessor, the property (referred to in this Lease as the “Leased Premises”) described in the attached Exhibit “G,” Leased Premises.

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

ARTICLE 3: Duration of Lease

3.1 TERM: The term of this Lease shall be seventy-five (75) years, commencing on the ___ day of _____, 20___, and terminating on the _____ day of _____, 20____, unless terminated sooner as provided below.

3.2 OPTION TO EXTEND: Lessee, having at all times faithfully performed all of the terms and conditions of this Lease by it to be performed, shall have the right to extend this lease for an additional term of _____ years each (the “Option Period”) by giving notice to Lessor not later than January 1st of the year the Lease is to expire, of Lessee's intention to so extend the Lease. Lessee and Lessor may negotiate further extensions if mutually desired by the parties.

ARTICLE 4: Use of Leased Premises/ Lessee’s Farm Plan

4.1 AGRICULTURAL USE ONLY: Lessee shall use, and shall cause all occupants to use, the Leased Premises and the Improvements thereon for farming purposes, and for any incidental activities related thereto, that are permitted by applicable law, by-laws, guidelines and regulations, including but not limited to those referenced in Article 4.2, and that are in accordance with Lessee’s Farm Plan. Lessee’s use of the Leased Premises shall not deviate from Lessee’s Farm Plan without the prior written approval of the Town. Lessee shall be entitled to amend Lessee’s Farm Plan from time to time for the duration of this Lease, with the prior written approval of the Town. The Town shall be entitled to review Lessee’s use of the Leased Premises on a quarterly basis to ensure compliance with Lessee’s Farm Plan.

The agricultural use requirements as provided in this Article 4 are material terms and conditions of this Lease. Failure to abide by the same shall be an event of default as defined in Article 12, Section 12.2 below.

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 contained in (a) the Town Deed, attached hereto as Exhibit "A;" (b) the Land Bank Deed, attached hereto as Exhibit "B;" (c) the Intermunicipal Agreement, attached hereto as Exhibit "C;" (d) the Farm Plan, attached hereto as Exhibit "D;" (e) the Historic Preservation Restriction, recorded in the Dukes County Registry of Deeds herewith; ((a) – (e) above are collectively referred to as the "Farm Governing Documents"); and (f) all applicable land use, environmental, wetlands, health or other federal, state or local laws, by-laws, rules or regulations laws; 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, except for Permitted Mortgagees who are temporarily holding title to the Leased Premises pursuant to the terms of this Lease.

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 QUIET ENJOYMENT: Lessee, upon observing and keeping all covenants, warranties, agreements and conditions of this Lease on his or her part to be kept, shall have 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 the Ground Lease fee of TWENTY THOUSAND and 00/100 (\$ 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 located on the Leased Premises and described in the Bill of Sale and Deed, for consideration of \$ 1.00 (the "Improvements Purchase Price"), the form of which is annexed to this Lease as Exhibit "H."

7.3 ALTERATION AND ADDITIONS: Any construction in connection with any 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 workerlike manner and shall comply with the Farm Governing Documents and all applicable laws and regulations; (c) all construction shall be consistent with the permitted uses set forth in Article 4; (d) all alterations and additions intended to qualify for Added Value (as such term is defined in Section 10.10 below), shall not be constructed without prior written approval of the Town, in accordance with the following paragraph:

If Lessee wishes to undertake construction of an alteration or addition (the "Alteration/Addition") with the intention of qualifying for "Added Value" as such term is defined in Section 10.10 below, Lessee shall, prior to undertaking the Alteration/Addition, submit to the Town a written request for a confirmation that the Alteration/Addition will qualify for Added Value. Such request shall include a description of the proposed Alteration/Addition and reasonably detailed drawings thereof. The Town may request additional information if it finds such information will be

necessary for a reasonable determination. The Town may, at its sole discretion, give or refuse to give a conditional confirmation that the Alteration/Addition will qualify for Added Value. Any conditional confirmation shall become a final confirmation only upon Lessee's delivery to the Town of all occupancy permits or other evidence of construction completion. Upon delivery thereof, the Town shall issue a "Certificate of Added Value" and shall give Lessee one copy of such Certificate, which Lessee shall record with the Dukes County Registry of Deeds and the Town shall file another copy of such Certificate in its permanent records.

7.4 INITIAL RENOVATIONS BY LESSEE: Lessee agrees to cause those renovations described on Exhibit "I," attached hereto ("Renovations"), to be commenced promptly upon Lessee's purchase of the Improvements and to be diligently completed. The Renovations shall be performed in a good and workerlike manner, in compliance with all applicable laws, rules and regulations, and in compliance with the Farm Governing Documents. Failure to comply with the provisions above may, at the discretion of the Town, cause this Lease to immediately terminate, and, in that event, said Leased Premises shall be awarded to a new Eligible Purchaser selected pursuant to the Farm Plan. Such new Eligible Purchaser shall pay the appraised value of the structurally acceptable improvements to the Leased Premises, or the Alternative Maximum (defined in Section 10.10.1) to the lapsed Eligible Purchaser.

The cost of the Renovations shall be approved by the Town and shall be added to the Improvements Purchase Price (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. After determining the amount of the Total Development Value in accordance with this Section, the Town shall deliver a "Certificate of Total Development Value" to Lessee for use as necessary in calculating the aforesaid Formula Price, which Lessee shall record at the Dukes County Registry of Deeds, and the Town shall file another copy of such Certificate in its permanent records.

7.5 FARM HOUSE/ HISTORIC PRESERVATION RESTRICTION: Lessee acknowledges that the farmhouse is subject to a Historic Preservation Restriction, recorded in the Dukes County Registry of Deeds herewith. In accordance therewith, unless prior written approval by the Historic Commission and the Town is obtained, no alteration, physical or structural change, or changes in the color, materials or surfacing to the exterior of the Farmhouse shall be made. The Historic Commission shall be provided with plans showing to scale architectural drawings of all affected elevations for any proposed exterior renovations.

In no case shall the farmhouse be expanded beyond the current footprint, except for a one time increase, if desired, of 120 square feet to the east side of the house toward the rear. The house shall not be demolished.

7.6 NO BUILD ZONE: No structures of improvements of any kind shall be constructed or permitted to stand within the two hundred (200') foot DCPC Roadside District along Middle Road in order to preserve existing public views. Notwithstanding the foregoing,

however, Lessee shall be permitted to construct a farm stand within said 200 foot area, which farm stand cannot exceed 200 square feet and cannot exceed 12 feet above mean, natural grade in height.

7.7 PROHIBITION OF LIENS: Except for Permitted Mortgages, as defined herein, no lien of any type shall attach to the Lessor's title to the Land or to the Lessor's interest in the Leased Premises or to any other property owned by the Lessor. Lessee shall not permit any statutory or similar lien to be filed against the Leased Premises, the Improvements, or any interest of the Lessor 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 Lessor 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 Lessor to discharge such liens shall be deemed to be an additional Ground Lease Fee payable by Lessee upon demand.

7.8 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 Lessor 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.

7.9 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 Lessor. Ownership of the Improvements shall thereupon revert to the Town, subject to the rights of a Permitted Mortgagee and its Permitted Mortgage as provided herein, provided, however, that the Town shall promptly pay to Lessee (subject as aforesaid to the rights of a Permitted Mortgagee and its Permitted Mortgage) 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 Renovations or Alteration/Addition thereof, only (1) with the prior written consent of the Town with the approval of the Selectmen; (2) pursuant to a mortgage or other security instrument satisfying all of the requirements for a "Permitted Mortgage," as hereinafter defined in the attached Exhibit "J;" (3) and

only in an amount not greater than the least of (a) the value of the Improvements as determined by an Appraisal conducted by a duly licensed appraiser in connection with said financing, or (b) the price calculated in connection with the formula described in Section 10.10 below (the "Formula Price"), or (c) the "Alternative Maximum," as defined in Paragraph 10.10.1 below; and (4) 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 "J." Not less than thirty (30) days (or such shorter period as may be approved by the Town) prior to the date on which Lessee requests the Town's consent to a mortgage or other security instrument to be effective, 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 for the execution of such documents, no default under this Lease is then outstanding; (b) the mortgage and/or security interest so submitted is a Permitted Mortgage as defined in the attached Exhibit J; and (c) the mortgage and/or security interest complies with this Article 8. 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 "J."

8.3 REMOVAL OF CERTAIN PROVISIONS PURSUANT TO FORECLOSURE: 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 in accordance with the provisions of this Lease, at the election of the Permitted Mortgagee, and provided that the Permitted Mortgagee has complied with the terms of Exhibit "J," attached hereto and incorporated herein by reference, the provisions of Article 10, Sections 10.1 through 10.12, inclusive, shall be deleted and thereupon be of no further force or effect as to only so much of the Security (as such term is defined in the attached Exhibit "J"), so foreclosed upon or transferred.

8.4 TOWN'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 LESSOR: Lessee shall defend, indemnify, and hold the Lessor 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 Lessor for such injury or damage.

9.3 PAYMENT BY LESSOR: In the event the Lessor 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 procure and maintain in force throughout the term hereof, at Lessee's sole cost and expense, the following insurance:

(1) Comprehensive public liability insurance indemnifying Lessor and Lessee against claims and demands for injury to or death of persons or damage to property which may be claimed to have occurred on the Leased Premises in amounts which shall be not less than One Million (\$1,000,000.00) Dollars combined single limit for bodily injury and property damage liability.

(2) Comprehensive special form of insurance for the full replacement value of the 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 Lessor'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.

(3) Workman's Compensation insurance, in the event that Lessee employs workers at the Farm, with limits no less than those imposed by law.

(4) During any construction or alteration of the Premises by Lessee, the cost of which construction or alteration is greater than \$15,000.00, Lessee shall also keep in full force and effect Builder's Risk Insurance adequately insuring the work, the materials, and equipment on the Leased Premises and in such amounts as Lessor may reasonably require insuring Lessor and Lessee as their respective interests may appear.

The insurance required herein shall be placed with insurers reasonably satisfactory to Lessor and authorized to do business in Massachusetts. All policies shall include Lessor as Additional Insured or Certificate Holder. Such insurance shall provide that it shall not be amended or canceled with respect to the additional insureds or certificate holders without ten (10) days' prior written notice to each of them. Lessee shall furnish to Lessor certificates of insurance for all insurance required to be maintained by Lessee under this Lease, together with evidence satisfactory to Lessor of the payment of all premiums for such policies, on an annual basis or as reasonably requested by Lessor. 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 Lessor. The Lessor 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 Lessor 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 Lessor. During this ninety (90)-day period, the Lessor 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 Lessor may render Lessee's termination notice null and void by written notice to Lessee within such forty-five (45)-day period. If the Lessor 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 Lessor.

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 and agricultural 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.

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 Improvements for farmers and expand access to homeownership opportunities for such households.

10.2 TRANSFERS TO ELIGIBLE PURCHASERS: Lessee may sell, transfer or otherwise dispose of its interest in the Leased Premises or the Improvements only to the Lessor, an Eligible Purchaser (as defined on Page 2 above - being someone who has submitted a farm proposal for approval by the Town, and has been selected by the Town as the candidate who is best suited to farming the Leased Premises in a productive and presentable manner and who will practice sound soil conservation and enhancement techniques, as required by the Farm Plan) 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 (except in the case of a sale, transfer or other disposition to a Permitted Mortgagee in lieu of foreclosure or through purchase at a foreclosure auction, subject to the terms of this Lease) 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 Lessor 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 or through purchase at a foreclosure auction, 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 Eligible Purchasers 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 sixty (60) days of the receipt of the Intent-To-Sell Notice or sixty (60) 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, or a non-profit corporation, charitable trust, municipality, government agency or other similar entity sharing the goals described in the Recitals of the Ground Lease. 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 Town.

10.6 IF PURCHASE OPTION EXPIRES: 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, Lessee may Transfer the Improvements and this Lease to any Eligible Purchaser, for not more than the then applicable Purchase Option Price. If, six (6) months after (a) the expiration of the Purchase Option or the expiration of the sixty (60)-day period provided in Section 10.5 above, the Improvements still have not been Transferred, Lessee may Transfer the Improvements and this Lease, at a price determined by the market, to any party regardless of whether that party is an Eligible Purchaser, provided, however, that said party executes a lease to the Town in the form hereof limiting resale to an Eligible Purchaser. Any portion of the purchase price in excess of applicable purchase option price shall be remitted to the Town.

10.7 THE TOWN'S POWER OF ATTORNEY TO CONDUCT SALE: In the event the Town (or its assignee) does not exercise its 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 in Section 10.10 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 (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 Total Development Value plus the Added Value, if applicable.
- Total Development Value: The parties agree that the Total Development Value is Lessee's Purchase Price for the Improvements existing on the Leased Premises as of the commencement of the term of this Lease plus the cost of the Renovations, as described in Section 7.4 hereof.
- Added Value: The parties agree that Added Value shall be recognized if Lessee has increased the number of bedrooms in the Improvements, or otherwise altered or added to the Improvements in a manner which improves the market value thereof, as determined in the sole discretion of the Town, with the aid of a real estate appraiser, the result of which being that a Certificate of Added Value has been issued by in accordance with Section 7.3 hereof.
- Inflation Adjustment: The parties agree that the Inflation Adjustment is defined as the sum of two parts: (1) The Total Development Value multiplied by 3% per year from the date of the Certificate of Total Development Value, and (2) the Added Value multiplied by 3% per year from the date of the Certificate of Added Value.

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 Lessor, which new Lease shall be substantially the same as this Lease in the rights, benefits and obligations assigned to Lessee and the Lessor.

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 7.6 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 workerlike 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 J) 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.

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 or Lessor 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, including but not limited to Lessee's failure to abide by the terms of Article 4 above and Lessee's Farm Plan, 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 or Lessor 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 CROSS-DEFAULT PROVISION/DEFAULT OF MARTHA'S VINEYARD LAND BANK COMMISSION LEASE: Lessee has entered into or is entering a lease with the Martha's Vineyard Land Bank Commission (the "Land Bank") concerning the land owned by the Land Bank, which land is adjacent to the Leased Premises and is further described in a deed to the Land Bank dated June 14, 2001 and recorded in the Dukes County Registry of Deeds in Book 837, Page 677. A default by Lessee of the provisions of such lease shall constitute an Event of Default hereunder, if such default is not cured by Lessee or a Permitted Mortgagee within sixty (60) days after notice of such failure is given by the Land Bank 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 Lessor may terminate this Lease and initiate summary proceedings against Lessee. Pursuant to such proceedings, without demand or notice, the Lessor 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 Lessor, or if the Town or Lessor 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 and/or Lessor in pursuit of its remedies under this Lease.

ARTICLE 13: General Provisions

13.1 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.

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.

13.2 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.

13.3 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 (other than termination following the exercise of rights of a Permitted Mortgagee under its mortgage pursuant to Section 8.3 above) 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 K. Any sale or transfer contrary to this Section, when applicable, shall be null and void.

13.4 WAIVER: A waiver by the Lessor at any given time of any term or condition of this Lease, or the failure of the Lessor 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 Lessor may grant waivers in the terms of this Lease, but such waivers must be in writing and signed by the Lessor 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.

13.5 THE LESSOR'S RIGHT TO PROSECUTE OR DEFEND: The Lessor 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 Lessor, Lessee shall give the Lessor all reasonable aid in any such action or proceeding.

13.6 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.

13.7 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.

13.8 PARTIES BOUND: This Lease sets forth the entire agreement between the parties hereto with respect to the leasing of the Leased Premises; 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.

13.9 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.

13.10 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.

13.11 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, other than to a Permitted Mortgagee in exercise of its rights permitted in this Lease, in violation of the foregoing prohibition shall be deemed null and void.

13.12 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 Lessor relative to dealing with any brokers, Lessee shall defend the claim against the Lessor and save harmless and indemnify the Lessor on account of loss, cost or damage which may arise by reason of any such claim.

13.13 COMMITTEE DESIGNATION: In the event that any committee of the Town of Chilmark named in this lease 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.

Lessor:

The Town of Chilmark

By its Board of Selectmen,

Frank M. Fenner, Jr., Chairman

Warren M. Doty

Jonathan E. Mayhew

Lessee:

COMMONWEALTH OF MASSACHUSETTS

County of Dukes County: is

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared Frank M. Fenner, Jr., Chairman of the Board of Selectmen of the Town of Chilmark, proved to me through satisfactory evidence of identification, which was (circle one) personal knowledge of identity of the principal/passport or drivers license bearing photographic image of principal/ other _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Notary Public

My commission expires:

COMMONWEALTH OF MASSACHUSETTS

County of Dukes County: is

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was (circle one) personal knowledge of identity of the principal/passport or drivers license bearing photographic image of principal/ other _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he)(she) signed it voluntarily for its stated purpose.

Notary Public

My commission expires:

Exhibit “A”

TOWN DEED

Exhibit “B”

LAND BANK DEED

Exhibit “C”

INTERMUNICIPAL AGREEMENT, AS AMENDED BY FIRST AMENDMENT

Exhibit “D”

INTERMUNICIPAL AGREEMENT – FARM PLAN

Exhibit “E”

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 farmland available for farmers. I support this goal.
- The terms and conditions of my Lease will keep my farm and home thereon available 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 and Land Bank 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 also a goal of the Town and Land Bank to preserve the Leased Premises as a working farm. For this reason, my Lease requires that if I do not continually farm the land, I must sell it.
- 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 “F”

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 off Middle Road, Chilmark, Massachusetts, as further described in Exhibit C of this Ground Lease. 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 "G"

LEASED PREMISES (LEGAL DESCRIPTION OF THE PROPERTY)

The land with the improvements thereon located in Chilmark, County of Dukes County, Commonwealth of Massachusetts, and more particularly described as Lot 2 on a plan entitled "Plan of Land in Chilmark, Mass. Surveyed for The Heirs of Virginia Silva May 18, 2001 Scale 1" = 60'... Vineyard Land Surveying, Inc. P.O. Box 421 West Tisbury, MA 02575" which plan is recorded with the Dukes County Registry of Deeds as Chilmark Case File No. 341 (the "Plan"), a copy of which Plan is attached hereto as Exhibit "G-1."

Subject to, and together with the benefit of, those easements, restrictions and reservations of record.

Exhibit "H"

BILL OF SALE AND DEED

The TOWN OF CHILMARK, a municipal corporation with a principal office located at Chilmark Town Hall, Beetlebung Corner, Chilmark, Massachusetts 02535 (the "Grantor"), for ONE DOLLAR and 00/100 (\$1.00) DOLLAR paid by _____ (the "Grantee"), of Chilmark, Massachusetts, and having a mailing address of P.O. Box _____, _____, _____, the receipt whereof is hereby acknowledged, does hereby grant, sell, transfer and deliver unto the said Grantee, the following goods and chattels:

All of Grantor's right, title and interest in and to the buildings, structures and other improvements (including, without limitation, furniture, fixtures, equipment, machines, apparatus, supplies and personal property, of every nature and description) belonging to Grantor, and affixed to, attached to or placed upon or within that certain parcel of real estate commonly known as Tea Lane Farm ("Farm").

Pursuant to that certain Ground Lease (the "Ground Lease") of even date herewith, from Grantor, as the lessor, to Grantee, as lessee, Grantor has ground leased the Farm to Grantee. This Bill of Sale and Deed is intended to convey only the right, title and interest of Grantor in and to the buildings, structures and other improvements located on the aforesaid Farm and is subject and subordinate in all respects to the terms and provisions of the Ground Lease. In no event shall this grant be construed to be a grant of the Farm, which Farm is the subject of the Ground Lease.

Grantor and Grantee agree that this Bill of Sale and Deed, and the goods and chattels granted, sold, transferred and delivered pursuant hereto, are subject to and are encumbered by a deed to Grantor, dated June 14, 2001, and recorded with the Dukes County Registry of Deeds in Book 837, Page 682, the Ground Lease described in the preceding paragraph, and any and all other restrictions of record, to the extent in force and applicable.

Grantor hereby covenants with the Grantee that said Grantor is the lawful owner of the said goods and chattels; that they are free from all encumbrances (other than as stated above), and that said Grantor has good right to sell the same as aforesaid; and that Grantor will warrant and defend the same against the lawful claims and demands of all persons.

EXECUTED this __ day of _____, 20__.

The Town of Chilmark

By its Board of Selectmen,

Frank M. Fenner, Jr., Chairman

Warren M. Doty

Jonathan E. Mayhew

Exhibit "I"

REQUIRED RENOVATIONS

Exhibit "I"

Minimum house repair requirements

General

1. Exterior plans (plan) created by the T-Lane Farm Building committee and reviewed by the Chilmark Historical Committee, the Chilmark Board of Selectmen and used for presentation to the Special Town meeting dated 9/26/11 shall be used for exterior repairs. Any deviation from these exterior plans must be reviewed and approved by the Chilmark Historical Committee and the Chilmark Board of Selectmen. If the Selectmen determine that the change substantially alters the appearance for the general public they will also seek Town Meeting approval.
2. The above referenced plans also include interior layout for a three bedroom house which may be used. Changes in interior layout require Chilmark Board of Selectmen approval.
3. Three bedrooms are required.
4. No occupancy of the house may occur until all repairs are completed and a Certificate of Occupancy from the Chilmark Building Inspector is obtained.

Foundation

1. A French drain needs to be installed across the rear of the building and vented to daylight to remove water from the rear of the house.
2. The exterior of the foundation needs to be re-pointed.
3. The interior of the foundation needs to be re-pointed or stuc'coed.
4. The ground under the house that does not receive foot traffic needs to be covered by at least 2" of cement to keep out moisture and/or rodents.
5. Any ground under the house that receives foot traffic shall have at least 3" on cement as a floor.
6. Any new foundations shall match existing in exterior appearance as close as possible.

Exterior

1. Side wall shingles shall be white cedar extras. Any change needs approval as in General #1 above.
2. Roof shingles shall be Red Cedar or Architectural type of Asphalt type shingles with at least a 40 year life. Color and type require approval as in General # 1 above.
3. Windows shall be as indicated on the existing plan and shall be clad thermo pane windows (Andersen 400 series or equivalent in quality) for low maintenance and good energy control. All windows shall have a finished exterior casing width of at least 3 ½" with a suitable sill and be as low maintenance as possible.
4. All exterior trim shall be low maintenance as and shall match existing appearance in final appearance from a distance as possible.

5. Exterior doors style shall be as listed on the plan and low maintenance and energy efficient.

Interior

1. Walls and ceilings shall at a minimum have ½" sheetrock or equivalent in strength and durability.
2. Kitchen and bathroom cabinets shall be of wood construction and not of particle board construction.
3. Insulation shall be energy efficient and meet code.
4. Plumbing and wiring shall be up to code.
5. Heating system shall be energy efficient and up to code.
6. Flooring to be durable and long lasting.

Or, as an alternative Exhibit I

The original structure of the farmhouse is over 250 years old and an important Town historic resource. There are specific guidelines for exterior renovations.

The renovation guidelines stated below were approved by a vote of the Chilmark Historical Commission. Any proposed renovation plans must be approved by the Chilmark Historical Commission and the Chilmark Board of Selectmen before any work begins.

The following are broad renovation guidelines:

- Sills and foundation repairs should be undertaken before any other exterior or interior renovations commence.
- Shingled exterior only.
- A second story dormer is allowed on the north side as shown on the "Elliston Design" dated 12/15/10.
- The porch appearance will remain as is.
- The foundation footprint may be slightly expanded on the east side of the house in accordance with the "Elliston Design" dated 12/15/10.
- All windows replaced must be with a 6 over 1 and consistent throughout the Farm House.
- Landscaping proposals, specifically the removal of the bushes in the front of the Farm House require review and approval.

Exhibit “J”

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 sixty (60) 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, within ten (10) days of acquisition of title to the Security by the Permitted Mortgagee, its assignee or third party ("Title Holder"), the Title Holder shall give the Town written notice of such acquisition ("Acquisition Notice") and the Town shall have an option to purchase the Security for the purchase price at the foreclosure sale, plus the Permitted Mortgagee's reasonable costs related to said sale, or, in the event of transfer in lieu of foreclosure, for the full amount owing to the Permitted Mortgagee under the Permitted Mortgage immediately prior to said transfer; provided, however, that the Town gives written notice to the Title Holder of the Town's intent to purchase the Security ("Town's Purchase Notice") within sixty (60) days following the Town's receipt of the Acquisition Notice (the "Notice Period"); further provided that the Town shall complete the purchase of the Security within sixty (60) days of having given the Town's Purchase Notice. The Town shall also have the right to assign the aforesaid option to purchase to an Eligible Purchaser, non-profit corporation, charitable trust, other government agency or other similar entity sharing the goals described in the Recitals of the Ground Lease to which this exhibit is attached, provided said person or entity is selected pursuant to the Farm Plan, by written notice to the Title Holder given within the aforesaid sixty (60) day Notice Period ("Town's Assignment Notice"), provided that the Town's assignee shall complete the purchase of the Security within sixty (60) days of the Town having given the Town's Assignment Notice to the Title Holder.

If the Town does not give such notices or the Town, or its assignee, fails to complete the purchase within such period, the Title Holder shall be free to sell the Improvements and transfer the Lessee's interest in the Leased Premises to another person.

Notices given to the Town pursuant to this paragraph shall be given in the manner set forth in Section 13.1 of the Lease. Notices given to the Permitted Mortgagee, its assignee or third party shall be given to the address that has been given by the Permitted Mortgagee, its assignee or third party to the Town by a written notice to the Town sent in the manner set forth in said Section 13.1 of the Lease.

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 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 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. 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.

5. 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 13.1 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 13.1 of the Lease.

Exhibit "K"

FIRST REFUSAL

Whenever any party under the Ground Lease shall have a right of first refusal as to certain property, the following procedures shall apply. If the owner of the property offering it for sale ("Offering Party") shall within the term of the Ground Lease receive a bona fide, third-party offer to purchase the property that such Offering Party is willing to accept, the holder of the right of first refusal (the "Holder") shall have the following rights:

- a. Offering Party shall give written notice of such offer ("the Notice of Offer") to Holder setting forth (a) the name and address of the prospective purchaser of the property, (b) the purchase price offered by the prospective purchaser and (c) all other terms and conditions of the sale. Holder shall have a period of forty-five (45) days after the receipt of the Notice of Offer ("the Election Period") within which to exercise the right of first refusal by giving notice of intent to purchase the property ("the Notice of Intent to Purchase") for the same price and on the same terms and conditions set forth in the Notice of Offer. Such Notice of Intent to Purchase shall be given in writing to the Offering Party within the Election Period.
- b. If Holder exercises the right to purchase the property, such purchase shall be completed within sixty (60) days after the Notice of Intent to Purchase is given by Holder (or if the Notice of Offer shall specify a later date for closing, such date) by performance of the terms and conditions of the Notice of Offer, including payment of the purchase price provided therein.
- c. Should Holder fail to exercise the right of first refusal within the Election Period, then the Offering Party shall have the right (subject to any other applicable restrictions in the Ground Lease) to go forward with the sale which the Offering Party desires to accept, and to sell the property within one (1) year following the expiration of the Election Period on terms and conditions which are not materially more favorable to the purchaser than those set forth in the Notice. If the sale is not consummated within such one-year period, the Offering Party's right so to sell shall end, and all the foregoing provisions of this Section shall be applied again to any future offer, all as aforesaid.