

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
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- Article 5: Ground Lease Fee
- Article 6: Taxes and Assessments
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- 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 Martha's Vineyard Land Bank Commission (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, attached hereto as Exhibit "C" (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 appointed a Farm Committee, in accordance with the Intermunicipal Agreement; and

WHEREAS, the Farm Committee has drafted a farm plan, approved by the Town and the Land Bank's Chilmark Town Advisory Board (the "Advisory Board") and the Land Bank, in the form of an Intermunicipal Agreement, dated March 12, 2012, 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 and the Advisory Board ("Lessee's Farm Plan"), and Lessee has been jointly selected by the Town and the Advisory Board 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 five (5) years (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 and the Advisory Board shall be entitled to meet with the Lessee to review the use of the Leased

Premises on an annual basis (scheduled during the months of January-March) to ensure compliance with Lessee's Farm Plan. The Lessee shall provide the results of the prior year's farm operations and outline the plans and projections for the coming year.

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 Interunicipal 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 (the "Ground Lease Fee") (\$266.67 per year of the Lease).

5.2 PAYMENT OF GROUND LEASE FEE: The Ground Lease Fee shall be payable in full 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 worklike 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.

Routine maintenance repairs will not be considered "Added Value" improvements. The Town shall determine which improvements costing over \$5,000 are "routine maintenance repairs." The Town may also include value for personal labor or "sweat equity" in determining the market value of the "Added Value."

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 Purchase Option Price defined in Section 10.8 below to the lapsed Eligible Purchaser.

Lessee's out-of-pocket 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, and in accordance with the Town Deed, unless prior written approval by the Historic Commission, the Town and the Land Bank 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.

7.7 PROHIBITION OF LIENS: Except for Permitted Mortgages, as defined herein, and Land Bank liens filed pursuant to the Land Bank's "M" Exemption, 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 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 Mortgage 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 Mortgage 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.

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; (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"); 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 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 retelling 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, plus the pro-rated value of the Ground Lease Fee for the years remaining in the Lease; 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 and the pro-rated value of the Ground Lease Fee for the years remaining in the Lease) 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, and the pro-rated value of the Ground Lease Fee for the years remaining in the Lease.

- 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 Lessee's out-of-pocket 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. Routine maintenance repairs will not be considered "Added Value" improvements. The Town shall determine which improvements costing over \$5,000 are "routine maintenance repairs." The Town may also include value for personal labor or "sweat equity" in determining the market value of the "Added Value."

• 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 worklike 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, of 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 of Chilmark.

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 CONSTRICTION: 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

(See Pages 21-A – 21-F, attached hereto)

Exhibit "A"

TOWN DEED

83770682

MARTHA'S VINEYARD LAND BANK FEE

PAID

\$

EXEMPT \$ 9

33852

4/11/10

DATE

CERTIFICATION

QUITCLAIM DEED

WE, **EMER H. SILVA, CLARA SILVA RABBIT, ROBERT J. SILVA and WALTER R. SILVA**, of Chilmark, Massachusetts

for consideration of **TWO HUNDRED FIFTY THOUSAND AND NO/100 (\$250,000.00)** dollars

grant to the **TOWN OF CHILMARK** with a principal place of business at Chilmark Town Hall, Beetlebung Corner, Chilmark, Massachusetts 02535.

with quitclaim covenants

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 Helms of Virginia Silva May 18, 2001 Scale 1" = 50'... Vineyard Land Surveying, Inc. P.O. Box 421 West Tibbury, MA 02575" which plan is recorded with the Dukes County Registry of Deeds as Chilmark Case File No. 341 (the "Premises" and the "Plan").

Grantors hereby reserve to Robert J. Silva (the "Life Tenant"), a life estate in the Premises, said life estate to be upon the terms and provisions of a certain Life Estate Agreement, dated June 14, 2001, between the Town of Chilmark and Robert J. Silva to be recorded herewith in the Dukes County Registry of Deeds.

Such Premises are also conveyed subject to, and with the benefit of, those easements set forth in a Deed from the above named grantors to the Martha's Vineyard Land Bank Commission (the "Land Bank"), dated June 14, 2001, to be recorded herewith in the Dukes County Registry of Deeds.

Such premises are further conveyed with the benefit of, and subject to, the following terms, conditions and restrictions for the benefit of, and enforceable by, the owner of Lot 1 shown on the plan:

Property Address: Middle Road and Tea Lane, Chilmark, MA 02535

8371683

1. Except as provided herein, or as otherwise agreed in writing by the owner of Lot 1 shown on the Plan, there shall be no construction or placing of any buildings, tennis court, landing strip, mobile home, swimming pool, asphalt or concrete pavement, sign, billboard or other advertising display, antenna, utility pole, tower, conduit, line or other temporary or permanent structure or facility on or above the Premises, except that (a) the Life Tenant and the grantee, and its successors, assigns, tenants and lessees, shall be permitted to renovate, maintain, replace and improve the existing single-family dwelling (the "Dwelling"), barn (the "Barn"), sheds and other existing outbuildings (the "Outbuildings") on the Premises, provided that any work on the exterior of the Dwelling, the Barn or the Outbuildings shall be in conformity with traditional Martha's Vineyard farmhouse and barn architecture as evidenced by the structures now located on the Premises and further provided that all exterior improvements (exclusive of exterior improvements involving renovation or maintenance, the result of which does not cause any material aesthetic or architectural change) shall first be approved in writing by the Land Bank, as the owner of Lot 1 on the Plan; (b) the Life Tenant and the grantee, and its successors, assigns, tenants and lessees, shall be permitted to use the Dwelling or future dwellings, if permitted, for residential purposes including but not limited to a barn apartment or garage apartment, and the Barn and the Outbuildings for farming or agricultural purposes.
2. There shall be no placing, filling, storing or dumping on the Premises of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, waste or other substance or material whatsoever, or the installation of underground storage tanks, except in connection with the agricultural use of the Premises.
3. There shall be no subdivision or division of the Premises, or any portion thereof.

Page 21-B

8370684

4. The life tenant and grantee, and its successors, assigns, tenants and leasees, shall not permit the overgrowth of the pastures and fields of the Premises which would result in the conversion of the Premises to shrubland or woodland.
5. There shall be no mining, excavating, dredging or removing from the Premises of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit, except in connection with the agricultural use of the Premises, or in connection with the construction and maintenance of any buildings and structures permitted under Section 1 above and any utilities, well, or sanitary disposal facility servicing such buildings and structures.
6. No activity, including but not limited to, drainage or flood control activities, shall be carried out which is detrimental to the actual or potential agricultural use or scenic beauty of the Premises, or detrimental to water conservation, soil conservation or to good agricultural and/or woodland management practices or which is otherwise wasteful of the natural resources of the Commonwealth of Massachusetts.
7. There shall be no other use of the Premises or any activity permitted which would materially impair significant agricultural and scenic interests.

The owner of Lot 1 as shown on the Plan hereby reserves the right to enter the Premises at reasonable times, upon reasonable advance notice, except in the case of an emergency or other exigent circumstance, and in a reasonable manner, for the purpose of: (i) inspecting the same in order to determine compliance herewith; (ii) taking any and all actions with respect to the Premises as are set forth herein and as may be necessary or appropriate with or without order of court, to remedy or abate any violation hereof; (iii) accessing adjoining property in order to carry out any of the activities permitted hereunder; and (iv) mowing, brush cutting, cutting or limbing of trees, bushes or other vegetation, all for the purpose of preserving and maintaining, or enhancing the view from and over the Premises, or cutting and maintaining trails for

Page 21-C

8371685

use by the general public for passive recreational purposes.

The restrictions set forth herein shall continue and remain in full force and effect for thirty (30) years from the date of recording of this deed, and may be extended and continued in full force and effect in the manner provided in M.G.L. Chapter 184, Section 28, as it may be amended from time to time, or as provided in similar successor provisions, for further periods of twenty (20) years each, or for such other maximum further periods as may be allowed by an amendment of said law or by any successor provisions. These restrictions shall be enforceable by the owner from time to time of Lot 1 as shown on the plan, and shall be enforceable against grantee, its successors, tenants, lessees and assigns, and any other person holding an interest in the premises. These restrictions are for the benefit of Lot 1 as shown on the plan.

The grantee, by acceptance and recording of this deed, acknowledges that it is acquiring the Premises for conservation purposes in accordance with Article 97 of the Massachusetts Constitution.

For grantors' title see Deed dated April 29, 1921 from Joseph R. Howes to Joseph Silva recorded in the Duker County Registry of Deeds in Book 155, Page 140. See also, Estate of Joseph Silva (Dukes County Probate No. D6/2305) and Estate of Virginia Silva (Dukes County Probate Docket No. 93P0020).

Page 21-D

W337M686

EXECUTED as a sealed instrument this 14th day of June, 2001.

Elmer H. Silva
Elmer H. Silva

Clara Silva Rabbitt
Clara Silva Rabbitt

Robert J. Silva
Robert J. Silva

Walter R. Silva
Walter R. Silva

COMMONWEALTH OF MASSACHUSETTS

Dukes County, ss.

June 14, 2001

Then personally appeared the above named Elmer H. Silva and acknowledged the foregoing instrument to be his free act and deed, before me,

Robert M. Walker
Notary Public
My commission expires: 11/1/17

COMMONWEALTH OF MASSACHUSETTS

Dukes County, ss.

June 14, 2001

Then personally appeared the above named Clara Silva Rabbitt and acknowledged the foregoing instrument to be her free act and deed, before me,

Ken B. Paul
Notary Public
My commission expires: 3/3/2006

837P687

COMMONWEALTH OF MASSACHUSETTS

Dukes County, ss.

June 14, 2001

Then personally appeared the above named Robert J. Silva and acknowledged the foregoing instrument to be his free act and deed, before me,

Robert Miller
Notary Public
My commission expires: 1/1/07

COMMONWEALTH OF MASSACHUSETTS

Dukes County, ss.

June 14, 2001

Then personally appeared the above named Walter R. Silva and acknowledged the foregoing instrument to be his free act and deed, before me,

S. Gavin Henry
Notary Public
My commission expires: MM. 10, 2013

W:\2001\15\w\WVW\WVW silva to town deed.rpd

Edgartown, Mass. *June 14 2001*
at 1 o'clock and *2:47* minutes *PM*
received and entered with Dukes County Deeds
book *830* page *1682*

Attest: *Dennis B. Burns* Registrar

Exhibit "B"

LAND BANK DEED

(See Pages 22-A – 22-E, attached hereto)

Exhibit "B"

LAND BANK DEED

M837P677

MARTHAS VINEYARD LAND BANK FEE

PAID \$

EXEMPT \$

33253

1/14/07

ADDITIONAL CERTIFICATION

QUITCLAIM DEED

ME, EMER H. SILVA, CLARA SILVA RABBIT, ROBERT J. SILVA and
WALTER R. SILVA, of Chilmark, Massachusetts

For consideration of THREE MILLION FIFTY THOUSAND AND
NO/100 (\$3,050,000.00) dollars

grant to the MARTHAS VINEYARD LAND BANK COMMISSION, a
corporate body politic with a principal place of business
at 167 Main Street, Edgartown, Massachusetts 02539
with quitclaim covenants

Those three (3) certain parcels of land with the
buildings and improvements thereon located in Chilmark,
County of Dukes County, Massachusetts and bounded as
follows:

First Parcel. Beginning at the westerly side of "Tea
Lane" Road so called, and the Northerly side of the Middle
County Road; thence running westerly by said Middle County
Road to the "Shed Lots" so called, thence Northerly and
westerly by said "Shed Lots" to the "Church Lot" so called;
thence Northwesterly by said "Church Lot" to land of the
heirs of William C. West; thence by said land of the heirs
of William O. West to land of the heirs of Franklin
Hammett; thence easterly by said land of the heirs of
Franklin Hammett to said "Tea Lane Road; thence southerly by
said "Tea Lane" Road to the point of beginning. Said first
parcel is shown as lot 1 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 Tibbury, MA 02575" which
plan is recorded with the Dukes County Registry of Deeds as
Chilmark Case File No. 341 (the "Plan").

Second Parcel. Beginning at the easterly side of "Tea
Lane" Road and the Northerly side of the Middle County
Road, thence running Northerly by said "Tea Lane" Road to
land now or formerly of Horace A. Tilton; thence
Southeasterly by said last-mentioned land to the Middle
County Road; thence by said Middle County Road to the point
or place of beginning.

Property Address: Middle Road and Tea Lane, Chilmark, MA 02535

MS370678

Trild Parcel. Beginning at the Middle County Road and land now or formerly of Horace A. Tilton; thence Southwesterly by said last-mentioned land to land of the heirs of William C. West; thence by said land of the heirs of William C. West Westerly and Northerly to said Middle County Road; thence Easterly by said Middle County Road to the point or place of beginning.

Excepting and excluding therefrom the following property:

1. The property described in a Deed from Virginia Silva, Clara Rabbitt, Elmer H. Silva and Robert Silva to Walter R. Silva and Lucette E. Silva, dated December 10, 1955 and recorded in the Dukes County Registry of Deeds in Book 229, Page 514.
2. The property described in a Deed from Virginia Silva, Walter R. Silva, Robert J. Silva and Elmer F. Silva to Clara Silva Rabbitt, dated June 4, 1968, and recorded in the Dukes County Registry of Deeds in Book 272, Page 288.
3. The property described in a Deed from Virginia Silva, Walter R. Silva, Robert J. Silva, and Clara Silva Rabbitt to Elmer H. Silva dated June 4, 1968, and recorded in the Dukes County Registry of Deeds in Book 272, Page 289.
4. The property described in a Deed from Virginia Silva, Walter R. Silva, Robert J. Silva, Elmer H. Silva and Clara Silva Rabbitt to Aralado A. Coscutta and Thelma B. Coscutta dated November 26, 1968, and recorded in the Dukes County Registry of Deeds in Book 275, page 214.
5. The property described in a Deed from Virginia Silva, Robert J. Silva, Clara Silva Rabbitt and Elmer H. Silva to Walter R. Silva and Lucette E. Silva, dated October 27, 1992, and recorded in the Dukes County Registry of Deeds in Book 591, Page 461.

W837M679

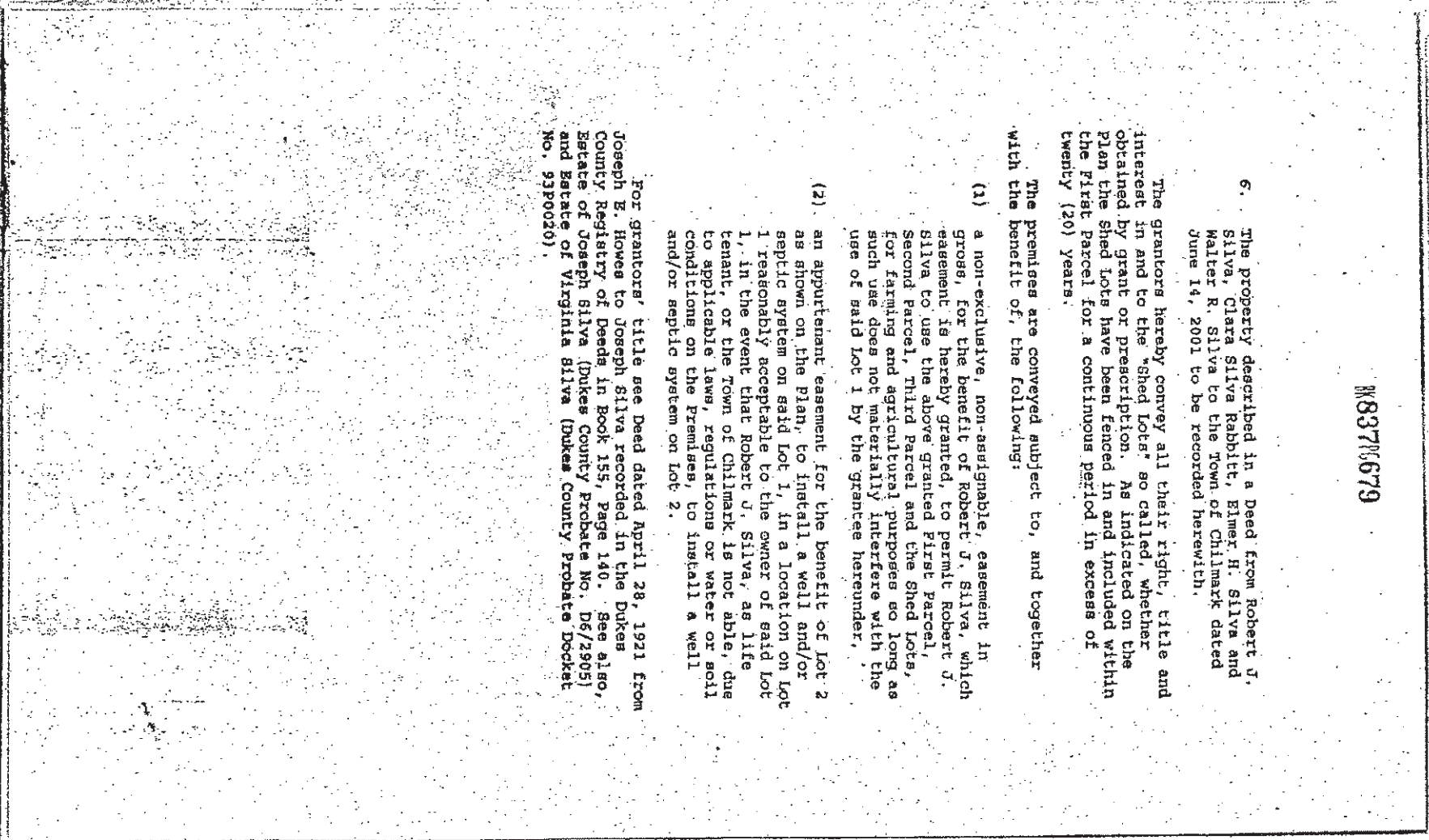
6. The property described in a Deed from Robert J. Silva, Clara Silva Rabbit, Rimer H. Silva and Walter R. Silva to the Town of Chilmark dated June 14, 2001 to be recorded herewith.

The grantors hereby convey all their right, title and interest in and to the "Shed Lots" so called, whether obtained by grant or prescription. As indicated on the Plan the Shed Lots have been fenced in and included within the first Parcel for a continuous period in excess of twenty (20) years.

The premises are conveyed subject to, and together with the benefit of, the following:

- (1) a non-exclusive, non-assignable, easement in gross, for the benefit of Robert J. Silva, which easement is hereby granted, to permit Robert J. Silva to use the above granted first parcel, second parcel, third parcel and the Shed Lots, for farming and agricultural purposes so long as such use does not materially interfere with the use of said lot 1 by the grantee hereunder.
- (2) an appurtenant easement for the benefit of Lot 2 as shown on the Plan, to install a well and/or septic system on said Lot 1, in a location on Lot 1 reasonably acceptable to the owner of said Lot 1, in the event that Robert J. Silva, as life tenant, or the Town of Chilmark is not able, due to applicable laws, regulations or water or soil conditions on the Premises, to install a well and/or septic system on Lot 2.

For grantors' title see Deed dated April 28, 1921 from Joseph R. Howes to Joseph Silva recorded in the Dukes County Registry of Deeds, in Book 155, page 140. See also, Estate of Joseph Silva (Dukes County Probate No. D6/2805) and Estate of Virginia Silva (Dukes County Probate Docket No. 93P0020).



Page 22-C

K8370680

EXECUTED as a sealed instrument this 14th day of June, 2001.

Elmer H. Silva
Elmer H. Silva

Clara Silva Rabbitt
CLARA SILVA RABBITT

Robert J. Silva
Robert J. Silva

Walter R. Silva
WALTER R. SILVA

COMMONWEALTH OF MASSACHUSETTS

Dukes County, ss.

June 14, 2001

Then personally appeared the above named Elmer H. Silva and acknowledged the foregoing instrument to be his free act and deed, before me,

Robert M. Miller
Notary Public
My commission expires: 1/1/07

Exhibit "C"

INTERMUNICIPAL AGREEMENT

(See Pages 23-A – 23-P, attached hereto)

I N T E R M U N I C I P A L A G R E E M E N T

AGREEMENT made this 7th day of May 2001 by and between the CHILMARK BOARD OF SELECTMEN ("Selectmen") and the MARTHA'S VINEYARD LAND BANK COMMISSION ("Land Bank");

WHEREAS the Land Bank and its Chilmark Town Advisory Board (the "Advisory Board") seek to conserve the property shown on the attached Exhibit "A" (the "Premises"); and

WHEREAS the Chilmark Town Meeting has voted to purchase the farmstead (the "Farmstead") on the property in order to work with the Land Bank to restore the Premises as a working farm, to be owned by the public and leased to a private farmer; and

WHEREAS the Town Meeting has authorized the Selectmen to enter into an intermunicipal agreement with the Land Bank to define each party's responsibilities and privileges with respect to the Premises; and

WHEREAS the parties wish to memorialize their understanding and mutual good will with respect to the project, recognizing that practical considerations in the future may give rise to the need to consider future amendments;

IT IS HEREBY AGREED that:

- (1.) The Land Bank will enter into a purchase-and-sale agreement with the owner of the Premises, with a clause in the contract allowing the Land Bank to assign the Farmstead to the Town.
- (2.) At the closing, the Land Bank will assign the Farmstead to the Town and the Town will pay \$250,000 for it. The

Farmstead shall be of a size and configuration necessary to enclose all of the existing buildings in a single lot, with the expectation that approximately three acres would be sufficient to do so. The septic system will be upgraded at seller's expense, subject to a cap of \$15,000; expenses exceeding this amount will be the responsibility of the Town.

(3.) The deed to the Town will state that the Farmstead has been acquired for conservation purposes, so that the Farmstead will remain in public ownership in perpetuity. The deed shall also grant to the Land Bank an architectural restriction so that all buildings on the Farmstead shall conform to traditional Martha's Vineyard farmhouse and barn architecture. The Land Bank agrees not to exercise its rights under the architectural restriction without first having sought the input of both the Chilmark Historical Commission (or a like entity) and the Advisory Board.

(4.) Use of the Land Bank's portion of the Premises shall be governed by the attached management plan, appearing as Exhibit "B", as it may be amended from time to time and subject to the approval of the Massachusetts executive office of environmental affairs. No residential structures shall be constructed in the Land Bank's portion of the Premises; agricultural structures may be constructed in the Land Bank's portion of the Premises, in conformity with the Farm Plan described below. The Land Bank's portion of the Premises shall be encumbered with an easement running in favor of the Town to allow the Town [a] to site a well and/or a septic system on the Land Bank

property if needed for the Farmstead and [b] to pass and repass for the purpose of access to the Farmstead and to connect utilities to it, provided that any land disturbed as a result of the exercise of such easement shall be thereafter returned to natural grade and a natural state.

(5.) A life-estate in the Farmstead shall be retained by Robert Silva. It is attached as Exhibit "C". For the purposes of the life-estate agreement, "Fee-Holder" shall mean "Selectmen".

(6.) Mr. Silva shall retain a personal easement over the balance of the Premises, so that he may use them for agricultural purposes. The Land Bank will allow public use of this area during the term of Mr. Silva's life-estate in such a manner as not to disturb Mr. Silva. The Land Bank may mow this area, as needed.

(7.) At the time of the expiration of Mr. Silva's life-estate, the Selectmen shall appoint a farm committee ("Farm Committee"), at least two of whose members shall simultaneously be members of the Advisory Board.

(8.) The Farm Committee shall draft a farm plan ("Farm Plan"). The Farm Plan shall divide the Premises into two separate areas: [a] active agricultural area (which shall include the farmstead) and [b] general conservation area. The Farm Plan shall recommend specific types of agriculture to be conducted in the active agricultural area. The Farm Plan shall also recommend a process for soliciting and selecting a farmer to lease the active agricultural area. The Farm Plan shall be approved by the Selectmen,

Advisory Board and Land Bank, in the form of an intermunicipal agreement. The portion of the Farm Plan affecting the Land Bank's portion of the Premises is subject to the approval of the Massachusetts executive office of environmental affairs and thus may be amended from time to time.

(9.) The Selectmen and Advisory Board shall seek proposals from candidate farmers to implement the Farm Plan. The Selectmen and Advisory Board shall jointly select the candidate who, in their opinion, is best suited to farming the Premises in a productive and presentable manner and who will practice sound soil conservation and enhancement techniques. The Selectmen and the Land Bank shall each enter into a lease with this candidate for their respective portions of the Premises under the intermunicipal agreement. The Selectmen and Advisory Board shall not discriminate on the basis of residency in making their decisions.

(10.) Residential use of the Farmstead will be limited to a single-family dwelling and a garage or barn apartment, except that the Selectmen may, after no fewer than ten years have elapsed since the expiration of Mr. Silva's life-estate and after all efforts on the Town's and Land Bank's part to restore the Premises to a working farm have failed, seek to revise this Agreement with the Land Bank so as to allow the use of the Farmstead buildings as Town-owned housing for visiting agricultural or conservation students or for municipal employees or otherwise for affordable housing.

IN WITNESS WHEREOF the parties hereto have set their hands and seals this 1th day of May 2001.

by: Alexander Preston Chairman CLAIM RDS MAY 01 2001
Alexander Preston, Chairman duly authorized
CHITMARK BOARD OF SELECTMEN

by: Edith W. Potter
~~Edith W. Potter, Secretary~~
MARTHA'S VINEYARD LAND BANK COMMISSION
Edith W. Potter, Secretary-Treasurer, duly authorized



Martha's Vineyard Land Bank Commission

Tea Lane Farm
preliminary management plan

acreage 50.0 acres

tax parcel nos. 12-4, 12-38.2, 12-60 and 12-61

nature conservation goals

- (1) conduct biological survey of property to serve as base for formulation of management objectives
- (2) identify rare and endangered species, if any, and create plan to protect and encourage their populations

natural products goals

- (1) create farm plan which maps two areas - one to be used by Robert Silva as part of his life-estate and the second to be leased to a farmer after a public request-for-proposals - both which areas will, after the life-estate has expired, consolidate and be leased to a farmer

- (2) study land in order to determine whether to allow hunting here, with a predisposition to allowing it

scenic goals

- (1) maintain as fields all uplands which are visible from public roads
- (2) maintain architectural restrictions over existing farmhouse in order to preserve its character and scale but allow modest expansion in the rear

recreational goals

- (1) open property for hiking, non-motorized biking and horseback-riding and other passive uses; maintain existing trails and install new trails, as needed and appropriate
 - (2) work to connect property with other conservation areas and neighborhoods by means of trails and nearby roads
 - (3) direct visitors to park along the shoulders of the Meeting-house Road, in lieu of creating on-premises trailhead
- administrative goals
- (1) oversee and police land on regular basis in order to maintain property as an attractive conservation area
 - (2) complete management plan before December of 2003

approved by vote of the Chilmark town advisory board: November 15, 2000

approved by vote of the land bank commission: February 12, 2001

AK837PC688

LIFE ESTATE AGREEMENT

This AGREEMENT is made as of this 14th day of June, 2001 between ROBERT J. SILVA, residing at Middle Road and Tea Lane, Chilmark MA (the "Estate Holder") and the TOWN OF CHILMARK (together with its successors and assigns, "Fee Holder").

W I T N E S S E T H:

WHEREAS, Fee Holder is the owner in fee simple of certain real property located in the Town of Chilmark, County of Dukes County, Commonwealth of Massachusetts, more fully described in Exhibit "A" attached hereto and hereby made a part hereof, together with the buildings and improvements located thereon (said parcel of real property and buildings and improvements, collectively, the "Premises").

WHEREAS, Fee Holder's interest is subject to a life estate in the Premises for the benefit of Robert J. Silva pursuant to the terms of this Agreement (the "Life Estate"); and

WHEREAS the parties wish to set forth their respective obligations, responsibilities and rights respecting the Premises and their interests therein;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereby agree as follows:

1. Rights and Obligations of Estate Holder. Estate Holder shall be entitled to, and Fee Holder hereby grants to Estate Holder, the possession, use and enjoyment of the Premises during Estate Holder's natural lifetime, subject to the following terms and conditions, which terms and conditions are agreed to by both Estate Holder and Fee Holder:

(a) The Premises shall be used only as and for a personal residence and or agricultural/farming purposes.

(b) No buildings, structures or improvements shall be constructed upon the Premises without Fee Holders' prior written consent.

(c) The Estate Holder shall have exclusive (subject to the terms and conditions hereof) use and occupancy of the Premises and all structures thereon, but the Fee Holder shall retain the right to enter the Premises and the structures thereon from time to time on reasonable advance notice to, and approval of, the Estate Holder (which approval shall not be unreasonably

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withheld or delayed) for the purpose of inspecting the structures, and shall further retain the right to create, use and maintain trails on the Premises and the right to mow, brush cut, and to cut trees and limbs on the Premises provided the same does not materially interfere with Estate Holder's use and occupancy of the Premises.

(d) The Premises shall not, in whole or in part, be leased, licensed, or made subject to any occupancy rights in favor of any third party and Estate Holder shall not convey, transfer, grant, assign, mortgage, encumber or pledge to any party the whole or any part of the Premises or the Life Estate, provided, however, that (x) Estate Holder may rent or lease a room or rooms on the Premises to a professional care giver providing care to Estate Holder, and (y) if after three (3) years from the date hereof Estate Holder becomes incapacitated in a manner which requires that he live in an assisted living situation (including with friends or relatives) not on the Premises, Estate Holder shall have the right to lease the Premises during the remaining term of the Life Estate under the following terms and conditions:

(1) Estate Holder shall give Fee Holder forty-five (45) days advance notice of his intent to lease the Premises, which notice shall set forth the manner of incapacity, the Lessee to whom Estate Holder intends to lease the Premises, and all of the material terms and conditions of the lease arrangement with the proposed lessee (the "Notice to Rent"). Fee Holder shall have the first refusal right during such forty-five (45) day period after such notice is given to lease the Premises, or to find another party to lease the Premises, on substantially the same terms and conditions. If the Fee Holder notifies Estate Holder within such forty-five (45) day period of Fee Holder's intention to exercise its first refusal right, then the parties shall enter into a mutually satisfactory lease arrangement and the tenancy shall commence not later than fifteen (15) days after the date on which Fee Holder gives such notice to exercise its first refusal right. If no such notice is given by Fee Holder within such forty-five (45) day period, Estate Holder shall be free to lease the Premises to such proposed lessee on terms not less favorable than those set forth in the

RM 837PM690

Notice to Rent.

- (ii) Any rental by Estate Holder (exclusive of a rental by Fee Holder or its designee) hereunder shall only be to a single family or to not more than three (3) unrelated persons.
- (iii) Such lessee shall not be permitted to sublease or assign its rights under the lease without Fee Holder's prior written consent.
- (iv) All risks related to such rental shall be borne by the Estate Holder, and the Estate Holder will indemnify and hold harmless the Fee Holder against all claims, losses, costs and expenses in any way related to such rental, except such claims, losses, costs and expenses which are directly the result of Fee Holder's actions.
- (v) Any and all repair and maintenance obligations owed to such Lessee, whether under the terms of the lease or otherwise, shall be borne by Estate Holder.

2. Insurance. Estate Holder shall maintain in effect at all times, at Estate Holder's cost, a policy of all-risk casualty insurance covering the Premises, which policy shall cover one hundred percent (100%) of the full replacement cost of the Premises and shall name Fee Holder as an additional insured. In addition, Estate Holder shall procure, keep in force, and pay for liability insurance indemnifying Fee Holder and Estate Holder against all claims and demands for injury to or death of persons or damage to the property which may be claimed to have occurred on the Premises in amounts consistent with such insurance as is normally carried by homeowners. Such insurance shall be effected with insurers qualified to do business in Massachusetts and in good standing therein insuring Fee Holder as well as Estate Holder, as their interests may appear, against injury to persons or damage to property as provided. Estate Holder shall provide evidence of such insurance to Fee Holder annually, and at other times upon Fee Holders' request.

3. Damage to or Destruction of the Property. If any of the Improvements are damaged or destroyed by casualty, Estate Holder shall, to the extent of the casualty insurance described in Paragraph 2 (inclusive of any applicable deductible), repair, replace or reconstruct the portion of the Improvements so damaged or destroyed, and the proceeds of the casualty insurance

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described in paragraph 2 shall be applied to such repair or reconstruction.

4. Maintenance - Structural and Utility Systems. Estate Holder may, at his expense, or Fee Holder may, at its expense, maintain, repair and renew all mechanical and utility systems servicing the Premises, including electrical, plumbing and heating and all structural and exterior repairs to the Building provided that neither party shall be obligated to do so.

5. Maintenance - Grounds and Interior. Estate Holder shall maintain the interior of the Premises (exclusive of structural matters and utility systems which are addressed in Section 4 above) in good repair, order and condition. Estate Holder shall keep the Premises free of all unsightly rubbish and debris.

6. Surrender of Life Estate. The Estate Holder shall have the right at any time to surrender to Fee Holder his Life Estate by giving written notice thereof to Fee Holder, and any such surrender shall become effective upon the giving of such notice. Upon the effective date, the Life Estate shall terminate, and neither Fee Holder nor the Estate Holder shall have any further rights or obligations hereunder, except for obligations incurred or rights accrued prior to the date of surrender. Any notice given to Fee Holder pursuant to this Section shall be in recordable form. Estate Holder shall direct the executor of his will to notify Fee Holder upon his death.

7. Payment of Taxes and Assessments. Estate Holder shall pay all municipal taxes, charges and assessments that may become due and payable during the term of this Life Estate.

8. Remedies for Breach. If any of the conditions set forth herein is violated and such violation continues for thirty (30) days after notice thereof is given by one party to the other identifying the condition violated (or, where such violation is capable of being cured but is not reasonably capable of being cured within such 30-day period, if such party fails to commence curing such violation within such 30-day period, or fails thereafter to diligently and continuously prosecute to completion all steps necessary to fully cure the same), then the party giving such notice, at its option, may bring an action at law or in equity in a court of competent jurisdiction to enjoin the violation by temporary or permanent injunction, to recover any damages to which such party may be entitled for violation of the terms hereof, and to require the restoration of the Premises to the condition which existed prior to such violation.

Page 23-L

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9. Notices. All notices and communications under this Agreement shall be in writing and shall be given by either (a) hand-delivery, (b) first class mail (postage prepaid), or (c) reliable overnight commercial courier (charges prepaid), to the addresses listed below:

IF to Fee Holder: Town of Chilmark
 P.O. Box 119
 Chilmark, MA 02535
 ATTN: Executive Secretary

IF to Estate Holder: Robert J. Silva
 c/o Elmer Silva
 P.O. Box 993
 Vineyard Haven, MA 02568

Notice shall be deemed to have been given and received: (i) if by hand delivery, upon delivery; (ii) if by mail, three (3) calendar days after the date first deposited in the United States mail; and (iii) if by overnight courier, on the date scheduled for delivery. A party may change its address by giving written notice to the other party as specified herein.

10. Successors and Assigns. This Agreement (a) is binding upon and shall inure to the benefit of Fee Holder and its successors and assigns and (b) shall inure to the benefit of Estate Holder and be binding upon Estate Holder and his assigns, executors and other personal representatives.

11. Miscellaneous Provisions.

(a) This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts.

(b) The failure of a party to insist upon the strict performance of any provision of this Agreement shall not be deemed a waiver of said provision or any other provision contained in this Agreement. No provision of this Agreement may be changed, waived, discharged or terminated orally but only by an instrument in writing signed by the party against whom enforcement of such change, waiver, discharge or termination is sought.

(c) In the event that any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable to any extent, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement (or the provision in question

Page 23-M

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to the extent not invalid, illegal or unenforceable), and this Agreement shall be enforceable to the fullest extent permitted by law.

(d) This Agreement embodies the entire agreement between the parties regarding the subject matter hereof. Either party, at its own expense, shall be entitled to cause a memorandum or notice of this Agreement to be recorded in the Dukes County Registry of Deeds and/or the Dukes County Registry District Office of the Land Court.

(e) This Agreement is not intended to grant to Fee Holder any possessory rights in the Premises other than those arising by virtue of their ownership of the Premises and as set forth herein.

IN WITNESS WHEREOF this Agreement has been duly executed under seal by the parties as of the day and year first above written.

Witnessed by:

ESTATE HOLDER

Robert J. Silva

Robert J. Silva

Robert J. Silva

FEE HOLDER

Alexander H. Preston

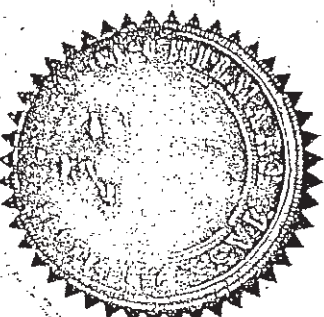
TOWN OF CHITMARK
By: *Alexander H. Preston*

Alexander H. Preston,
Selectman

Warren M. Doty

By: *Warren M. Doty*

Warren M. Doty, Selectman



Page 23-N

837PG694

COMMONWEALTH OF MASSACHUSETTS

DUKES COUNTY, SS.

June 14, 2001

Then personally appeared the above-named Robert J. Silva, to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed,

Robert J. Silva
Notary Public

My Commission Expires: 1/19/07

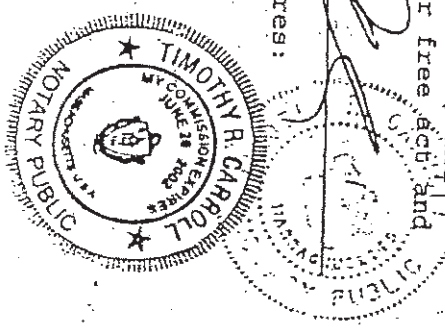
COMMONWEALTH OF MASSACHUSETTS

DUKES COUNTY, SS.

June 13, 2001

Then personally appeared the above-named Alexander H. Preston and Warren M. Doty, to me known to be the individuals described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed,

Timothy R. Carroll
Notary Public
My Commission Expires:



Page 23-0

837PG695

EXHIBIT A

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" recorded in the Dukes County Registry of Deeds as Chilmark Case File No. 341.

Edgartown, Mass. June 14 2001
at 1 o'clock and 48 minutes P.M.
received and entered with Dukes County Deeds
book 837 page 688

Attest
James B. Brewer Register

Exhibit "D"

INTERMUNICIPAL AGREEMENT – FARM PLAN

(See Pages 24-A – 23-C, attached hereto)

INTERMUNICIPAL AGREEMENT

AGREEMENT made this 12 th day of March 2012 by and among the CHILMARK BOARD OF SELECTMEN ("Selectmen"), the CHILMARK LAND BANK ADVISORY BOARD (the "Advisory Board") and the MARTHA'S VINEYARD LAND BANK COMMISSION ("Land Bank");

WHEREAS a May 7, 2001 intermunicipal agreement between the Selectmen and the Land Bank called for a farm plan (the "Farm Plan") to be prepared for Tea Lane Farm; and further for this plan to be approved by the parties in the form of a second intermunicipal agreement;

WHEREAS today's agreement represents that second intermunicipal agreement and is a companion to the ongoing May 7, 2001 agreement;


NOW THEREFORE IT IS HEREBY AGREED that:

- (1.) The Farm Plan shall consist of the following:
 - [a] Tea Lane Farm is hereby divided into the two areas — Active Farming Area and Conservation Area — as depicted on the attached Exhibit Q. Portions of the Conservation Area may, as prudent and in the future, be transferred into the Active Farming Area.
 - [b] The Active Farming Area may be used for a range of types of agriculture, viz., crops, flowers, livestock.

[c] The town shall solicit prospective farmers to lease the Active Farming Area through notice in local newspapers of an open house.

Those parties who are interested in leasing the farm will put their names on a list. They will be sent all pertinent information when the terms of the lease are finalized and will be invited to submit their own "farm plans" which will describe their proposed use of the land and the buildings. The town's Farm Committee will review the proposals and submit 3 - 8 candidates to the Selectmen and Advisory Board for interviews and final selection.

IN WITNESS WHEREOF the parties hereto have set their hands and seals this ~~24th~~ ^{12th} day of ~~February~~ ^{March} 2012 AD.

by: 
Frank Fenner, Chairman duly authorized
CHILMARK BOARD OF SELECTMEN

by: 
Clarissa Allen, Chairman duly authorized
CHILMARK LAND BANK ADVISORY BOARD

by: 
Carlos Montoya, Chairman duly authorized
MARTHA'S VINEYARD LAND BANK COMMISSION

Tea Lane Farm
EXHIBIT Q

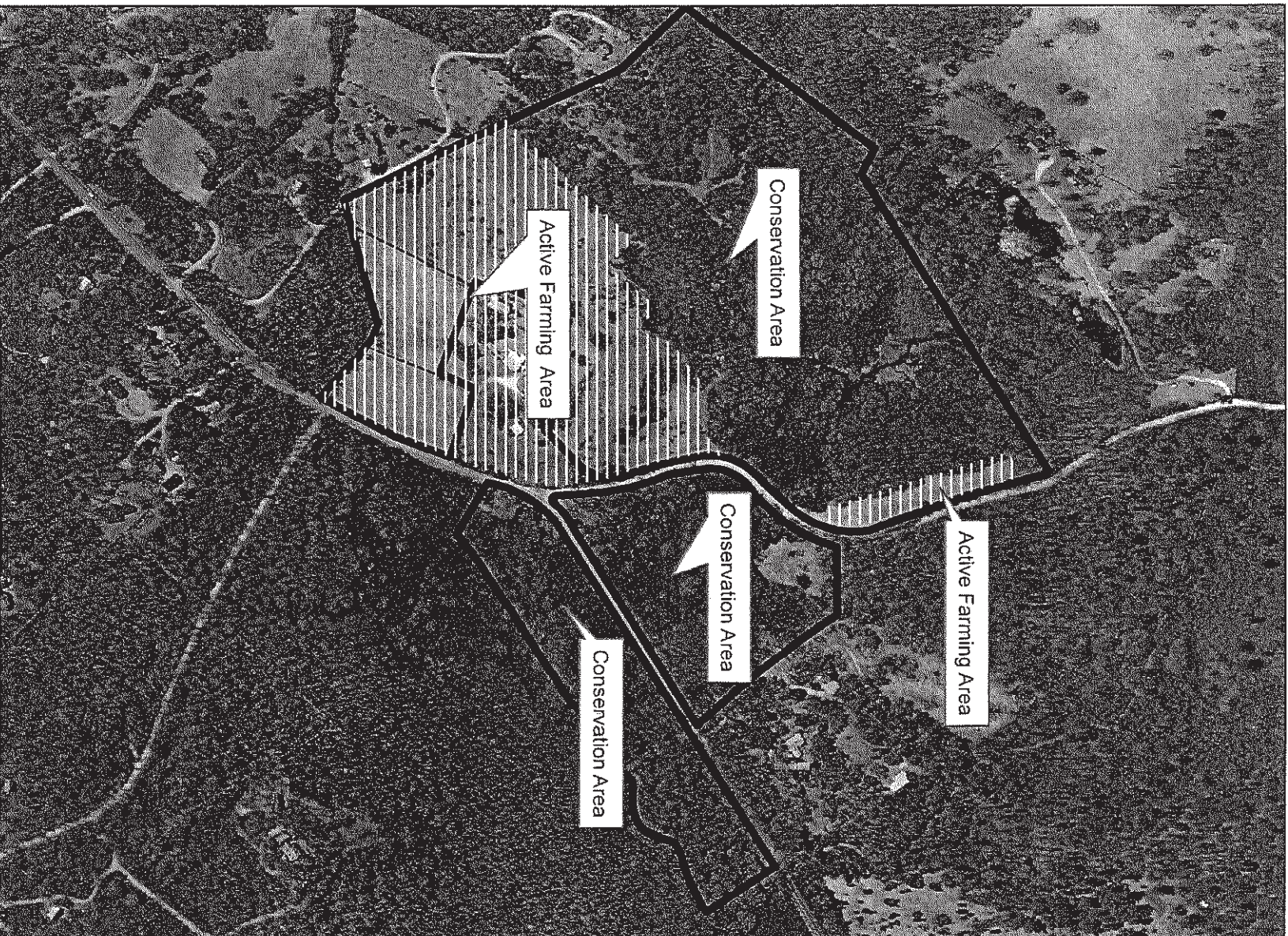


Exhibit "E"

LETTER OF STIPULATION OF LESSEE

To: The Town of Chilmark

Date: _____

This letter is given to the Town o 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 _____

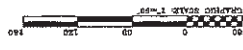
Exhibit "G"

LEASED PREMISES (LEGAL DESCRIPTION OF THE PROPERTY)

The land 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.

RECEIVED
 COUNTY OF DUKES COUNTY
 REGISTRAR OF DEEDS
 DIANNE E. POWERS
 4/9/00

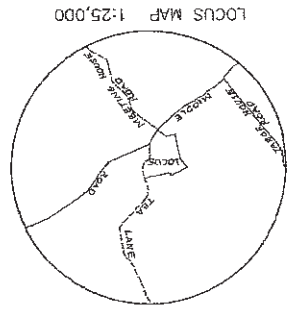


Magnetic North May 2001

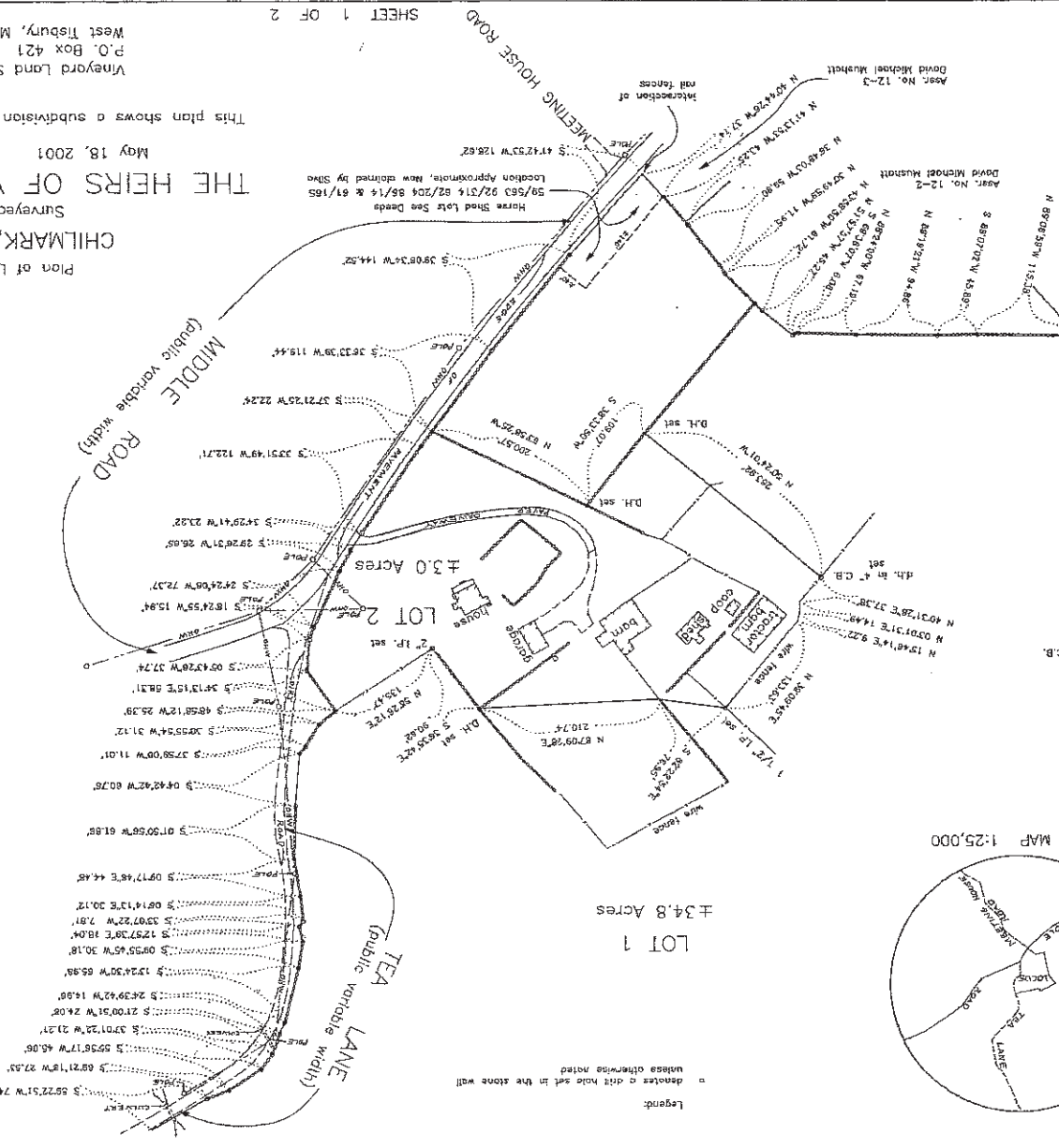
Exhibit G-1"

Assn. No. 13-23
 Louis M. Casarita

Assn. No. 13-21
 Thelma B. Casarita



Legend
 • denotes a dot hole set in the stone wall unless otherwise noted



Plan of Land in
 CHILMARK, MASS.
 Surveyed For
THE HEIRS OF VIRGINIA SILVA
 May 18, 2001 Scale 1" = 60'

This plan shows a subdivision of Assessor Parcel 12-4

Vineyard Land Surveying, Inc.
 P.O. Box 421
 West Tibbury, MA 02575

SHEET 1 OF 2

Job No. 1537

Date: 11/18/2001
 Witnessed by:

Town of Chilmark
 Planning Board
 ENDORSED
 "Approval under the Subdivision
 Control Law Not Required"

Date: 10-6-01
 Professional Land Surveyor
 [Signature]
 No. 1100

I certify that this plan has been prepared in
 conformity with the rules and regulations of
 the Registrar of Deeds of the Commonwealth
 of Massachusetts.

I certify that this survey and plan were
 prepared in accordance with the Practical
 Land Surveying in the Commonwealth of
 Massachusetts.

Exhibit G-1 Page 1 of 2

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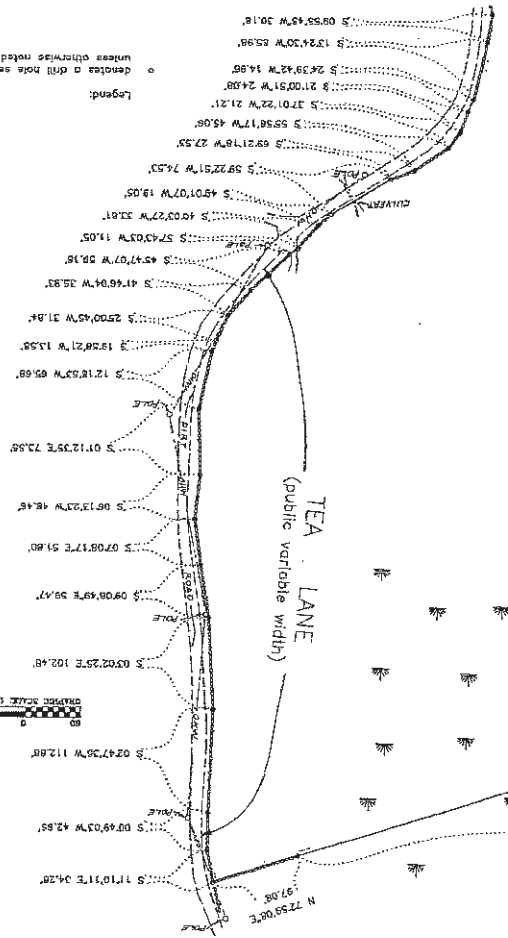
341

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Job No. 1537

SHEET 2 OF 2

Legend:
 o denotes a dot not set in the stone wall
 unless otherwise noted

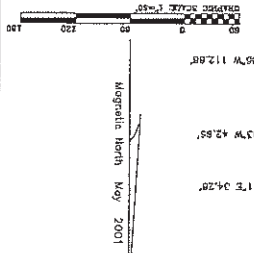


LOT 1
± 34.8 Acres

Asst. No. 13-18
 Dion M. & Pamela Coff, Trustees
 Tea Lane Realty, Nominee Trust
 N 51'13"E 204.7'
 N 50'41"E 248.6'
 S 24'12"E 112.5'
 S 28'55"E 74.5'
 N 27'50"E 601.95'

Asst. No. 13-25
 Louis M. Cassella
 N 28'10"E 74.18'
 HOUSE
 POOL
 N 27'12"E 164.5'
 Asst. No. 13-24
 Arida A. Cassella
 N 27'34"E 102.0'
 N 40'02"E 447.2'
 N 40'02"E 215.5'
 N 40'02"E 215.5'
 N 40'02"E 215.5'
 N 40'02"E 215.5'
 N 40'02"E 215.5'

Exhibit G-1 Page 2 of 2



Plan of Land in
 CHILMARK, MASS.
 Surveyed For
 THE HEIRS OF VIRGINIA SILVA
 May 18, 2001 Scale 1" = 60'
 This plan shows a subdivision of Assessor Parcel 12-4
 Vineyard Land Surveying, Inc.
 P.O. Box 421
 West Tisbury, MA 02575



I certify that this plan has been prepared in
 accordance with the Procedural
 and Technical Standards for the Practice of
 Land Surveying in the Commonwealth of
 Massachusetts.
 I certify that this plan has been prepared in
 conformity with the rules and regulations of
 the Registry of Deeds of the Commonwealth
 of Massachusetts.
 Professional Land Surveyor
 Date: 6-6-01

Date: 11 June 2001
 [Signatures]
 [Signatures]
 [Signatures]

Town of Chilmark
 Planning Board
 ENDORSED
 Approval under the Subdivision
 Control Law Not Required

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Exhibit "F"

BILL OF SALE AND DEED

The TOWN OF CHILMARK, a municipal corporation with a principal office located at Chilmark Town Hall, Beetebung 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 "1"

HISTORIC TEA LANE FARMHOUSE RENOVATION GUIDELINES

The original structure of the farmhouse is over 250 years old and is an important Town historic resource listed within the Town's Master Plan as #23. Any proposed renovation plans must be approved by the Chilmark Historical Commission, the Chilmark Board of Selectmen and the Land Bank -- as outlined in the property deed -- before any work begins.

The following are broad renovation guidelines:

- Sills and foundation repairs should be undertaken to ensure the structural integrity of the building and before any other exterior or interior renovations commence.
- Shingled exterior only.
- A second story dormer is allowed on the north side with the maximum size and style as shown on the "Elliston Design" dated 12/15/10 and previously approved by the Chilmark Historical Commission.
- The porch appearance will remain as is.
- The foundation footprint may be slightly expanded on the east side of the house no more than as shown on the footprint of 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 have (i) the prior written consent of the Town; and it 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 (ii) 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.