

**Toronto Islands Residential Community
Trust Corporation**

Homeowner's Land Lease

Between

Toronto Islands Residential Community Trust Corporation

and

the owner of

Municipal Address:

-
- Island
Toronto Islands
Toronto, Ontario

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HOMEOWNER'S LAND LEASE

Homeowner's Land Lease

Between: **Toronto Islands Residential Community Trust Corporation**

(the Trust)

and

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(the Owner)

Municipal Address:

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• Island
Toronto Islands
Toronto, Ontario

Background recitals

- (a) Title to the house on the land described in this Lease has been vested in the Owner under Order-in-Council 2333/94 made on August 31, 1994, pursuant to section 8 of the *Toronto Islands Residential Community Stewardship Act, 1993* Statutes of Ontario 1993, chapter 15. A certified copy of the Order-in-Council was deposited at the Land Registry Office for the Registry Division of Metropolitan Toronto (No. 64) as No. CA322067.
- (b) The Trust offered this Lease to the Owner under section 17 of the *Act*, and the Owner has accepted the offer and paid the purchase price as determined under the *Act*.

1. INTERPRETATION

Article 1: Interpretation 1.1 Definitions

See Appendix A

- (a) Certain words and phrases used in this Lease are defined in Appendix A. Those words and phrases have the meanings stated in Appendix A when used in this Lease unless the context requires a different meaning.
- (b) Certain words and phrases are defined in the *Act*. Those words and phrases have the same meaning when used in the Lease unless they are redefined in Appendix A or unless the context requires a different meaning.

1.2 Reasonableness

Trust's obligation to consent, agree or approve

The Trust may not unreasonably or arbitrarily withhold or delay any consent, agreement or approval required under the terms of this Lease. Factors to be considered by the Trust will include the principles embodied in this Lease, the *Act*, *Regulation* and Trust by-laws. If any Owner feels the Trust has not complied with this paragraph, they can appeal to the community under 11.7.

1.3 Limitations of this Lease

Trust's role as landlord limited

The parties acknowledge that the role of the Trust under this Lease is more limited than the role of landlords in other situations. The reasons for this include:

Reasons for limitation

(a) Under the *Act* the house belongs to the Owner independent of the grant of this Lease by the Trust.

House belongs to Owner

(b) Although the land has been leased to the Trust by the *Act*, that is solely for the purpose of enabling the Trust to lease the land to the Owner. The Owner has a statutory right to the Lease. This right has been determined through either the vesting process or the waiting list process described in the *Act*.

Owner has right to Lease

Trust not in possession of house or land

(c) In the case of houses vested in an owner under section 8 of the *Act*, the owner or a protected occupant was in possession of the house and land. The Trust has never been in possession of the house or land.

A number of points in this Lease arise out of this. These include the following:

Owner pays no rent

(d) Amounts payable by the Owner are not rent. The Trust does not have the remedies that a landlord has for collecting rent. See Article 11.

Owner responsible for house and land

(e) The Trust has no responsibility to the Owner for the house. See 6.1.

(f) The Trust has no responsibility to the Owner for the land. See 6.1.

(g) The Owner releases the Trust from claims respecting the house and land. The Owner will be responsible for claims made by anyone else respecting the house and

1. INTERPRETATION

land. This includes claims against the Trust respecting the house and land. The only exception is where the Trust enters the land and its negligence causes damage. See 8.6 and 8.7.

- Limits on Trust
- (h) The Trust will exercise its jurisdiction regarding problems with repair and its right to enter the house and land only in cases that are serious enough to require it. The Trust will do this only through the procedure stated in 11.6. See 11.13.

Article 2: Lease and Term

2.1 Lease and Term

Term of Lease

The Trust hereby demises and leases the land to the Owner to have and to hold for and during the term commencing on August 31, 1994 (the date that ownership in the house was vested in the Owner under Order-in-Council 2333/94) and ending on December 13, 2092.

2.2 Consideration

Cost of Lease

The consideration for the Lease is the price paid by the Owner and the obligations undertaken by the Owner in the Lease. The Trust acknowledges receipt of the price prescribed by the *Act* and *Regulation*.

2.3 Commencement of Responsibilities

December 15, 1993

Although the term of this Lease started on the date stated in 2.1 and the Lease was signed on the date stated on the signature page, the responsibilities and obligations of both the Trust and the Owner under Article 5 (Financial Obligations) and Article 6 (Physical Condition of House and Land) will be considered to have started on the day the *Act* came into force—December 15, 1993.

Article 3: Boundaries and Related Things

3.1 Description of Property

Land leased to Owner

The land leased to the Owner is legally described in Appendix B.

3.2 Boundaries of Land

Algonquin Island

(a) If the land is on Algonquin Island, the land is a full lot on Registered Plan 718E.

Ward's Island

(b) If the land is on Ward's Island, the precise boundaries of the land have been determined as stated in Appendix C. Any dispute about these boundaries has been dealt with under Appendix C. At the time of signing this Lease, there is no dispute outstanding related to the land unless the dispute is mentioned in the Background Recitals on the front page of this Lease. The parties agree that the procedure under Appendix C is final and binding on them.

3.

BOUNDARIES AND RELATED THINGS

- (c) Despite (a) and (b), if the land is one of the vacant land leases referred to in section 19 of the *Act*, the boundaries of the land are as stated in Appendix B.
- (d) The Owner accepts the boundaries of the land as referred to in subparagraphs (a), (b) or (c).

3.3 Encroachments Structures that encroach (a) At the time of signing this Lease parts of the Owner's structures may encroach onto adjacent property or the structures on adjacent properties may encroach onto the land. Examples are such things as decks, sheds, fences or hedges. Some encroachments on Ward's Island are shown on the reference plans.

Existing encroachments can remain

- (b) Any encroachments may remain in their present position until the earlier of
- (i) the encroachments are substantially damaged, demolished or rebuilt.
- This could be the result of a fire or other unintended event or the result of reconstruction by the Owner. When this occurs, the encroachments must be removed and the structures rebuilt within the boundaries of the Owner's land. However, the structures can continue to encroach with the written agreement of the owner of the adjacent property on which they encroach.
- (ii) the sale of the house and land lease that have the benefit of the encroachments.
- The new owner will have the responsibility of removing the encroachments. However, the new owner won't have to do this if the adjacent owner permits the encroachments to stay in place. Any such permission may be revoked on reasonable notice.

Encroachments onto Trust lands

- (c) If at the time of signing this Lease parts of the Owner's structures encroach onto Trust lands that are not leased to another owner, the Trust can require removal of the encroachment on six months written notice. Paragraph 11.6 applies. This covers both park lands and other Trust lands. The Trust can enter into agreements with people who are owners at the time of signing this Lease to have 3.3 (b) apply to them instead of 3.3 (c).

No new encroachments

- (d) No-one has authority to create new encroachments. Any agreement between neighbours relating to encroachments will not be binding on subsequent owners of the houses and land leases involved. No one has authority to place anything on Trust lands without the written permission of the board.

3. BOUNDARIES AND RELATED THINGS

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| Disputes to be arbitrated | (e) Any disagreement about encroachments will be dealt with by arbitration under Appendix C. All necessary changes will be made in Appendix C to deal with this type of arbitration. The Trust or a committee appointed by it will set these procedures. |
| Owners responsible | (f) If anything wrongfully encroaches on the land leased to the Owner, the Owner may exercise the procedures referred to in this paragraph 3.3, take the offending Owner to court, or take any other legal measures the Owner thinks are necessary. Owners have this responsibility. The Trust has no responsibility to remove encroachments from adjacent property onto the land (unless the adjacent property is held by the Trust and not leased to anyone or occupied by a protected occupant). |

3.4 Avenues and Walkways

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| Encroachments on avenues and walkways to be arranged with City | 3.3 refers to encroachments among parts of the Trust lands. It doesn't refer to encroachments from or on the avenues and walkways that are leased to the City under the <i>Act</i> . Arrangements regarding any such encroachments are the responsibility of the Owner and the City. The Trust is not involved. |
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3.5 Easements

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| Rights to use other people's land | (a) Some land includes the right for the owner to use property belonging to another owner. An example would be a right of way to permit access to a street. These rights are called easements. Some of them may be in favour of the City or other public bodies. Any easement affecting the land is stated in Appendix B. |
| New easements | (b) Where an area for an easement is part of the legal description of the land as stated in Appendix B, the Trust is authorized to grant easements over that area to other public bodies or public utilities, such as Ontario Hydro or Consumer's Gas Company. The Trust can also grant easements over a reasonable area where pipes, wires or other facilities are actually situate on, in or under the land at the date of signing this Lease, even though the area is not stated as an easement in Appendix B. The Owner must observe the terms and conditions contained in the easement documents. |
| Authorization for new easements | (c) The Trust will not authorize a new easement over the land as stated in (b) unless: <ul style="list-style-type: none"> (i) The Owner consents in writing, or (ii) The Trust is authorized to give the easement by a community decision. This decision must be passed by the board and approved by the community in the same way as amendments to the standard Homeowner's Lease are approved by the community under 4.2. |

3. BOUNDARIES AND RELATED THINGS

(d) When an easement has been approved as stated in (c), the Trust can sign all documents necessary to grant the easement. The signature of the Owner will not be required.

Other Easements

(e) New easements that are not referred to in (b) will require the written consent of the Owner.

3.6 Interim zoning

Zoning rules to apply until new City by-law is passed

Where someone wants to construct a new house or perform a major reconstruction of an existing house and the land is not part of the “new lands” referred to in section 19 of the *Act*, the land use controls stated in Appendix D will apply. Appendix D will cease to apply when a by-law is passed by City council that repeals or replaces zoning by-law 615-82 of the City or when by-law 615-82 is otherwise not in force. The Owner will comply with Appendix D until it ceases to apply.

3.7 Work orders

Rules for work orders

(a) At the time of signing the Lease certain houses on the Trust lands have work orders, orders to comply, deficiency notices or open files with the City. If that is true of the house or the land, the Owner agrees to do whatever is necessary to bring the house and land into compliance with the City’s requirements and to have any such orders or notices vacated and any open files closed. Despite anything else in this Lease, the Owner will not be considered in default if the Owner complies with the previous sentence within a reasonable time after signing this Lease.

Legal action against Trust

(b) If legal action has been commenced against the Trust for an injunction, fine or anything else, the Owner will either arrange to have the Trust removed from the proceedings or will make a proposal satisfactory to the Trust. This could involve a performance agreement. See 11.5. Failing the above, then despite (a), the Owner will be considered in default under this paragraph and Article 6 and the Trust can proceed under Article 11.

3.8 Section 19 of Act

Zoning for vacant land leases

If the land is referred to in section 19 of the *Act*, then Appendix E has been attached to this Lease. If there is any conflict between Appendix E and the rest of this Lease or the Homeowner’s Lease By-law, then Appendix E will govern.

Article 4: Trust By-laws

4.1 Corporate Rights and Obligations of the Owner and the Trust

Owner’s voting right

(a) The Owner will be entitled as a member of the community to vote in the election of nominees to the Board of Directors of the Trust and to have all other

4. TRUST BY-LAWS

rights of a community member under the Trust by-laws.

- Trust agrees to obey by-laws (b) The Trust agrees to obey the Trust’s Homeowner’s Lease By-law and Governance By-law, including any changes to the by-laws. This contractual obligation is in addition to any other obligation the Trust may have to obey its by-laws. The consideration for this obligation is the price paid by the Owner for this Lease and the obligations undertaken by the Owner in this Lease.
- Owner and Trust agree to obey changes to lease – no need to sign new Lease (c) The Owner and the Trust agree to obey any changes to the standard Homeowner’s Lease as required under 4.2, even though the Owner and any future owner probably won’t be asked to sign an amendment to this Lease to give effect to those changes.
- When decisions are *not* binding (d) Decisions contrary to the Trust by-laws will not be effective as against the Owner. Changes to the standard Homeowner’s Lease and the by-laws, and new by-laws, will not be effective as against the Owner unless they are adopted by the procedures that are contained in 4.2 and the by-laws (including any amendments to those procedures).
- Lease validity (e) The standard Homeowner’s Lease and the Trust by-laws contain provisions for community participation in passing or changing them. If a court determines that all or any significant part of these provisions is invalid or unenforceable, then the obligations undertaken by the Owner under (c) will cease.

4.2 Amending the Standard Homeowner’s Lease

- Homeowner’s Lease By-law (a) This Lease is in the form of the Trust’s standard Homeowner’s Lease. It was adopted by the Trust’s Homeowner’s Lease By-law.
- Procedures to amend Homeowner’s Lease (b) The procedure in this paragraph is the only way the standard Homeowner’s Lease can be changed. The board will not have the right to impose a change in the standard Homeowner’s Lease under 4.4 of the Governance By-law, although it could prevent a change from being made at the initiative of owners or other community members.
- Majority of community and 2/3’s of owners (c) Changes to the standard Homeowner’s Lease need approval of the board, a majority vote of the community and a two-thirds vote of owners. Only people who vote are counted. An abstention is not counted as a vote. Voting is by secret ballot at a polling station.
- Governance By-law (d) Finalizing the wording of the question and all other matters relating to voting on a change to the standard Homeowner’s Lease will be as stated in the Governance By-law except where the Governance By-law is inconsistent with the standard Homeowner’s Lease.

4. TRUST BY-LAWS

- Community vote (e) Eligibility and procedures for a community vote to change the standard Homeowner’s Lease will be as stated in the Governance By-law.
- Owners’ vote (f) On a vote of owners to change the standard Homeowner’s Lease, each owner will have one vote. If a house and land lease has more than one owner, each of them will have one vote.
- Changes bind everyone unless decided otherwise (g) Changes in the standard Homeowner’s Lease that are adopted as stated in this paragraph 4.2 are automatically binding on the Trust and the Owner, unless the motion that adopted the change states something different. It won’t be necessary to sign an amendment to this Lease to give effect to the changes.

Article 5: Financial Obligations

5.1 Taxes

Who pays taxes The Owner will pay all taxes, rates and other charges with respect to the house and land. See Appendix A for the definition of taxes.

5.2 Fees and Levies

Who pays levies (a) The Owner will pay all administrative fees or charges charged or levied by the Trust under subsection 13 (2) of the *Act*.

How levies are approved (b) The Trust agrees not to charge any such fees or levy any such charges unless they are approved according to procedures stated in the by-laws. The only exception would be if 4.4 of the Governance By-law applied.

Equal responsibility for levies (c) Owners, protected occupants and the co-op will pay an equal amount of levies in any year in respect of each unit. Levies means annual charges payable under section 13 (2) (b) of the *Act*. Unit means a house and the land leased with it, a vacant land lease or a co-op unit.

5.3 Net Rental

Owner pays all costs associated with house and land The Owner will make all payments and perform all acts required in and about the land and the house, except as specifically provided in this Lease. The Owner will indemnify and save the Trust harmless from any of these expenses. This doesn’t apply to income, capital or similar taxes of the Trust.

6. PHYSICAL CONDITION OF HOUSE AND LAND

Article 6: Physical Condition of House and Land

6.1 As-is condition

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| Land and house accepted “as is” | (a) The Owner accepts the land as is. If there is a house on the land, the Owner accepts the house as is. The Trust has no responsibility to the Owner for the land or house. |
| No warranty by Trust | (b) The Owner acknowledges that the Trust makes no representation or warranty and is under no obligation as to the condition of the land or house, the suitability of the land for the house existing on it or for construction of a house, compliance of the land or house with environmental or other laws, by-laws, regulations, codes, standards, agreements or requirements of any authority, or anything else. |
| Owner accepts all risks | (c) The above is true even though a price was paid for the Lease. It is agreed that the price did not include any obligation of the Trust with respect to the foregoing but that the Owner assumes all of the risks of the matters dealt with in this paragraph 6.1. |

6.2 Repair

Owner must maintain house and land	The Owner will keep the house and land in a state of repair that complies with all applicable laws, regulations and by-laws enacted by any federal, provincial or municipal authority with jurisdiction. The Trust may not impose any standard of maintenance and repair beyond the above.
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6.3 Alterations

No limits on repairs or alterations to house and land	The Owner may make any repairs or alterations to the house and land that the Owner wishes. The Owner must comply with 6.2 and 6.4. The Owner may demolish or remove buildings or structures, trees, fences and landscaping and may perform grading or excavation on the land. None of the above will be considered an act of waste. The Owner may construct a new house on the land. The Owner doesn't have to notify the Trust of any of the above. However, if a building permit is needed, 6.5 applies.
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6.4 Performance of Work

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| Owner obeys codes, standards, by-laws | (a) The Owner will ensure that the performance of any work on the house and land, including as stated in 6.3, complies with all laws, by-laws, regulations, codes, standards, agreements and requirements of all applicable authorities. |
| Owner obtains building permits | (b) The Owner will obtain all necessary planning approvals and agreements with any authorities and utilities and will obtain any required building or other permit. |

6. PHYSICAL CONDITION OF HOUSE AND LAND

- Owner obtains insurance (c) The Owner will arrange for the insurance referred to in Article 8 to be valid during construction or will arrange for special insurance providing similar coverage and complying with Appendix F.

6.5 Building Permit Applications

- Trust will sign if necessary If the Trust's signature is necessary for a building or other permit application, the Trust will sign, subject to Appendices D and E, if they apply. The Owner will sign an agreement confirming the Owner's obligations under the Lease to release and protect the Trust from any liability. Although the Trust will sign the application, the Trust won't have any right or responsibility for the content of the application.

6.6 If Owner Doesn't Repair

- Trust's right on non-repair If the Owner breaks paragraphs 6.2, 6.3 or 6.4 or an agreement under 6.5, the Trust may take steps to investigate the situation. If there has been a continuing or repeated serious breach involving the Trust being named on an order to comply or legal action being taken against the Trust, the Trust may enter the house and land. The Owner's and the Trust's rights relating to this are stated in Article 11. See 11.13.

6.7 Construction Liens

- Owner responsible for liens (a) The Owner will indemnify and save the Trust and the Province harmless from any liability, claim, damages or expenses (including legal expenses) from any claim for a construction lien made against the house or land.
- Owner to remove liens that affect Trust (b) The Owner will arrange for all registrations of any claims for a lien or certificates of action that affect the Trust's or the Province's interest in the land to be discharged or vacated before any interest of the Trust becomes liable for sale.
- If Owner doesn't remove liens, Trust can at Owner's expense (c) If the Owner doesn't do so, the Trust may cause such claims or certificates to be discharged or vacated by payment into court, or otherwise. The Trust doesn't have to do this. The Trust has this right in addition to any other rights or remedies it may have. The expenses of doing this will be paid by the Owner to the Trust.
- Trust's interest in land not to be subject to lien (d) Nothing in this Lease, the *Act, Regulation* or the Trust's by-laws authorizes the Owner, or implies any consent or agreement or request on the part of the Trust, to subject the Trust's estate or interest in the land or the house (if any) to any construction lien or other lien of any kind.
- (e) Notice is hereby given to all parties that the Trust expressly refuses and denies any consent or agreement or request to permit its estate or interest in

6. PHYSICAL CONDITION OF HOUSE AND LAND

the land or the house (if any) to be subject to any lien without the express written agreement of the Trust.

- Trust isn't an "owner" as defined in the *Construction Lien Act*
- (f) The Owner acknowledges that neither the Trust nor the Province is an "owner" as that term is defined in the *Construction Lien Act*, RSO 1990, c. C.30 with respect to any construction on the land.

Article 7: Use of House and Land

7.1 Principal Residence

- Use as principal residence (a) The Owner will use the house as the Owner's principal residence.
- Designation on income tax return (b) The Owner will designate the house as the Owner's principal residence for federal income tax purposes.
- More than one Owner (c) If more than one person is Owner under this Lease, (a), (b) and (e) apply to each of them separately.
- Won't abandon (d) The Owner will not abandon the house.
- Statutory declaration (e) Each Owner must sign a statutory declaration stating that he or she will occupy the house as his or her principal residence and that he or she has read the provisions of the lease requiring the use of the house as a principal residence. Where the Owner is a minor, the statutory declaration may be signed by a parent or guardian. When the minor turns 18, he or she must sign a statutory declaration.
- When declaration signed (f) The statutory declaration must be signed prior to closing the purchase of this Lease. It must be signed by the original purchaser from the Trust and the purchaser on any resale. It must be signed prior to or within a reasonable time after a transfer or devise under Section 21 of the *Act* and prior to registration of the transfer or devise by the Trust under Section 26 of the *Act*. It doesn't have to be signed on a transfer by one joint tenant to another where the transferee has already signed a statutory declaration.

7.2 Terms and Conditions for Leasing

- Two years in five (a) Despite 7.2(i) a house may be subleased for no more than two years in any five year period without permission of the Trust. The two-year period doesn't have to be continuous. It can be made up of a number of shorter periods. The house and land must remain the Owner's principal residence during any lease.
- Inform the board (b) The Owner has to inform the board in writing of the name of the tenant and the length of the lease within thirty days after the lease has commenced.

7. USE OF HOUSE AND LAND

- How five-year period is calculated (c) The five-year periods will be calculated from the date the Owner acquired the house and land lease. Depending on when the five-year periods expire, a single lease for more than two years may come within (a).
- Extension of lease (d) The two-year period may be extended by the Trust through the board for up to one additional year to a total maximum of three years. This extension must be in writing. This can be by consenting to a single lease for longer than two years or a series of leases. This can be before or after the lease or leases have started. As stated in 1.2 the board will not unreasonably or arbitrarily withhold its approval to a request for an extension of the two-year period.
- Application procedures (e) The Owner must apply to the board in writing for an extension of the two-year period. The board must respond in writing within one month of receipt of the application. The application should be made in advance of the expiry of the permitted period of leasing, but the board must consider a later application. The application must state the reasons for the extension.
- Additional information (f) The board may require the Owner to provide additional information that is needed to make a determination on the application. Information collected for this purpose will be considered confidential information under the Organizational By-law. It may not be used for any other purpose.
- (g) The board may refuse a request for an extension of the two-year period for up to one additional year to a total maximum of three years only if it has reasonable grounds to believe
- Grounds for refusal
- that the lease or extension is part of a *de facto* sale;
 - that the lease or extension is part of an attempt to evade the resale provisions of the *Act*;
 - the Owner is holding the house and land lease primarily for rental, business, investment or any purpose other than the Owner's principal residence; or
 - the house and land are not the Owner's principal residence.
- Right of appeal (h) If an Owner disagrees with the board's decision, the Owner may appeal under 11.7.
- Comply with *Act* (i) The Owner will not lease or otherwise part with possession of all or any part of the house and land except as otherwise provided in the *Act*. Any transaction that would violate the above is void.
- Responsibility of Owner (j) The Owner is solely responsible for a tenant while the

7. USE OF HOUSE AND LAND

when leasing house and land are leased. That person is the tenant of the Owner, not the tenant of the Trust. The Owner must ensure that all obligations to the Trust under this Lease are performed.

- (k) If there is any dispute between the Owner and the tenant about regaining possession or anything else related to the tenancy, the Trust will have no responsibility or involvement. If it is drawn in, the Owner will be responsible for its legal and other costs.

Period of leasing for new owner (l) A new owner who buys this Lease and the house on the land will not be bound by the periods of leasing of the former owner. The five-year period will start over. This doesn't apply if the new owner is a spouse to whom the house and land lease have been transferred under Section 21 of the *Act*.

7.3 Rent Control

Follow rent control rules The Owner must observe applicable provincial rent control legislation in dealing with any rent or other amounts charged to someone who is renting the house. If at any time rent control rules are imposed by other outside authorities, such as the municipality, the Owner must observe those rules.

7.4 Minimum occupancy

- (a) Except as provided in 7.2, an owner shall occupy the house for a minimum of 220 days in each calendar year after the year of purchase.
- (b) At times when the house is vacant, the Owner will have to keep the house and grounds in a reasonable state of repair and in compliance with 6.2 of this Lease. See Appendix F, 1.6(a) for insurance requirements when a house is vacant or unoccupied.

7.5 Construction and Repair

Vacancy when house under repair The Owner will not be considered to be breaking any part of this Lease (including the principal residence requirement) because the house is vacant or unoccupied during a period when it is uninhabitable because it is being constructed, repaired or reconstructed. However, the Owner must proceed with all reasonable diligence to complete the construction, repairs or reconstruction.

7.6 Guests, Roomers, Live-in Employees

No Trust control The Lease does not impose any controls on whether owners have guests, roomers, employees, tenants and the like living in the house. The Trust will not impose any such controls. If

Owner must also live in house the Owner does not live in the house, then the rules on leasing in 7.2 apply.

7. USE OF HOUSE AND LAND

7.7 Residential Use

Use of house as private residence The Owner will use the house and land as a private residence. The Owner may also use the house and land for any incidental or ancillary purposes that are permitted by applicable laws, regulations and by-laws.

7.8 Illegal Acts

No illegal acts The Owner will not commit or permit any illegal act on the land or in the house where the Trust could be liable in a civil or criminal proceeding in connection with the illegal act.

Article 8: Insurance and Liability

8.1 Property Insurance for Fire and other Damage

Fire insurance The Trust recommends that owners carry property insurance for damage to the house by fire and other perils. This is in order to protect the Trust, as well as the owners. If any owner makes a claim that the Trust made some error or had some liability in relation to another house or their own house, the claim would be covered by that owner's property insurance.

8.2 Provisions in Insurance to Protect Trust

Required provisions If the Owner carries property insurance, the Owner will arrange for it to contain provisions protecting the Trust. These are stated in Appendix F.

8.3 Waiver by Owner

Waiver if no insurance If the Owner doesn't carry the property insurance described in Appendix F, then the Owner won't make any claim against the Trust that would have been covered by the insurance described in Appendix F.

8.4 Liability Insurance

Liability insurance The Owner will carry liability insurance with a limit of not less than \$1,000,000 in respect of any one occurrence for injury or death to a single person or for property damage. The limit may be adjusted for inflation or changed market conditions by resolution of the board of the Trust whenever it thinks fit.

8.5 Insurance Details

Details in Appendix F Details of the insurance requirements and recommendations are in Appendix F. A copy of this Appendix can be given to the Owner's insurance agent to make sure that the insurance meets the requirements of this Lease.

Give to insurance agent

8. INSURANCE AND LIABILITY

- 8.6 Liability and Indemnity** Owner assumes complete liability (a) It is acknowledged that the Owner assumes all liability in respect of costs, damages, claims or demands in relation to the house and land regardless of whether or not the costs, damages, claims or demands arise out of any negligence, fault, act or omission of the Owner, members or the Owner's household, their employees, agents, tenants, licensees and invitees, or of the Trust, its directors, employees and agents, or anyone else. The only exception is where 8.7 applies. This assumption of liability is partial consideration to the Trust for entering into this Lease. This assumption of liability applies whether or not the Owner takes out the insurance required or recommended in this Lease.
- Owner releases Trust from liability (b) The Owner hereby releases the Trust, its directors, employees and agents from all liability, costs, damages, claims or demands which the Owner, members of the Owner's household, their employees, agents, tenants, licensees and invitees now have or might in the future have arising from death, injury, property damage or any other claim of any kind in relation to the house or land.
- Owner agrees to be responsible (c) The Owner agrees to indemnify and save harmless the Trust, its directors, employees and agents from all costs, damages, claims or demands of any kind by anyone relating to any act, omission, negligence or liability or occurrence of any kind in and about the house and land.

8.7 Trust Liability for Work

- Trust liable (a) Despite 8.6, if the Trust exercises a right of entry or does any work in or about the house and land, it will be liable for its negligent or other wrongful acts, including those of its employees, agents and contractors, to the extent they are not covered by the Owner's insurance. If any third party claim is made against the Owner or the Trust, the Owner will have no obligation to indemnify the Trust beyond the amount the Owner is entitled to recover from the insurance and the Trust will indemnify and save the Owner harmless from the part of any claim that isn't covered by the insurance.
- (b) This paragraph 8.7 assumes that the Owner has taken out the property insurance recommended by the Trust under this Lease. If the Owner doesn't do so, the Owner is electing to self-insure and the Trust's liability will be limited to what wouldn't have been covered by the recommended insurance.
- (c) The Trust will ensure that appropriate bonding and insurance is in place for anyone who might enter the house on behalf of the Trust or do any work in the house on behalf of the Trust.

9. DEALING WITH HOUSE AND LAND LEASE

Article 9: Dealing with House and Land Lease

9.1 Transferring Ownership

Valid reasons to transfer Lease	The Owner will not transfer or otherwise part with the Owner's interest in the house or this Lease, except to the Owner's spouse, child, joint tenant or to the Trust in accordance with the <i>Act</i> . Any transaction that would violate the above is void. This does not include a mortgage or charge as referred to in 9.2.
Leaving the house in your will	The Owner will not devise (leave by will) the Owner's interest in the house or this Lease, except to the Owner's spouse or child in accordance with the <i>Act</i> .

9.2 Mortgage Provisions

Notify Trust	The owner may not mortgage or charge the house and land lease without first notifying the Trust.
Rules to protect a lender	If the Owner gives a mortgage of the house and this Lease and the mortgage is registered at the Land Registry Office, then the provisions of Appendix G apply.

9.3 Acknowledgment

Trust acknowledgment Lease is in force	(a) On request by an Owner, the Trust will deliver an acknowledgment to any mortgagee or prospective mortgagee acknowledging that this Lease is in full force and effect and that as far as the Trust is aware there are no defaults by the Owner or any claims by the Trust against the Owner and other statements of fact that may be reasonably requested. This won't cover any defaults relating to things referred to in 3.7(a). It will include any case where legal action has been commenced against the Trust as referred to in 3.7(b).
Trust agrees to Appendix G	(b) On request by an Owner or mortgagee, the Trust will sign an agreement with any mortgagee or prospective mortgagee agreeing to the provisions of Appendix G.
Owner pays costs	(c) The out-of-pocket costs and any administrative fees of the Trust relating to any such certificate or agreement will be paid by the Owner or the mortgagee prior to signing the document.

9.4 Registration

Conflicts	The Owner should apply to the Trust to register anything related to the house and this Lease in the Trust register under section 26 of the <i>Act</i> . However, the records of the Land Registry Office for the Registry Division of Metropolitan Toronto will govern in the event of conflict, except in matters relating to governance, such as the right to vote at community meetings.
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10. CLEAR TITLE

Article 10: Clear Title

10.1 Clear Title

Clear right to title	The Trust covenants with the Owner that the Owner may quietly and peaceably possess and enjoy the land for the term granted in this Lease without any interruption or disturbance from the Trust or any other person lawfully claiming by, from or under it.
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10.2 Buildings and Fixtures

Building and fixtures belong to Owner	The parties agree that as between the Trust and the Owner, despite any rule of law to the contrary, any buildings, fixtures, permanent installations or other improvements constructed or installed on or in the land will be and remain the property of the Owner.
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Article 11: Rights of Trust and Owner on Breach

11.1 Breaches of the Lease

This Article deals with what the Trust can do if the Owner breaks this Lease, how it decides what to do, and what the Owner can do to fix the situation or influence or appeal the board’s decision. It also deals with what the Owner can do if the Owner isn’t satisfied with a Trust decision under this Lease.

Required Steps for Trust Action in case of Breach

11.2 When the Trust Can Take Action

Reasons for Trust to take action	The Trust can exercise the remedies in this Article if the Owner owes money to the Trust or has broken the Lease in a serious way.
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11.3 Procedures to be used by the Trust

Trust’s obligation to follow	The procedures stated in 11.6 must be observed before the Trust can take action against the Owner for breach, except if paragraph 4.4 of the Governance By-law applies.
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Informal Steps to Resolve Disputes

11.4 Informal Dispute Resolution Methods

Voluntary options to resolve disputes	<p>Whenever there is a problem, the Trust and the Owner should first try to resolve it through any of the following that are appropriate:</p> <ul style="list-style-type: none"> • informal contacts by board members, staff and/or volunteers with the Owner, • mediation by community members or others, if the Trust and Owner so decide, or
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11. RIGHTS OF TRUST AND OWNER ON BREACH

- binding arbitration by a panel of community members or others, if the Trust and Owner so decide.

Board participation and effect of binding arbitration	If the board and the Owner submit final determination of a dispute to binding arbitration, 11.6 and 11.7 of this Lease won't apply, unless the arbitrator so decides.
Trust/Owner not bound to use processes stated earlier	The above processes are voluntary. Neither the Trust nor the Owner is required to participate in them. The fact that these processes did not take place is not a valid defence to any action taken by the Trust or Owner.

11.5 Performance Agreements

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| What performance agreement may state | (a) The Trust can sign a performance agreement with an Owner. |
| Board must authorize performance agreement | (b) The performance agreement may state how the Owner will carry out obligations in the future, correct any past problem, and/or compensate the Trust for any losses. |
| Trust response if Owner breaks performance agreement | (c) The board must authorize every performance agreement. It can authorize an employee, director or committee, formal or informal, to decide on the details of the agreement and sign it. |
| Breaking agreement is not in itself a breach of the Lease | (d) If the Owner breaks the performance agreement, then the board must repeat the procedures in 11.6 against the Owner. If the performance agreement permits the Trust to take action without repeating these procedures or waives any rights of the Owner, then that will take priority over any requirements in the Lease or by-laws to use these procedures. |
| | (e) Breaking the performance agreement does not itself give the Trust the right to take action against the Owner. However, any statements in the agreement, and the fact that the Owner broke the agreement, may be taken into consideration by the board, the community or the courts. |

Formal Steps the Trust must take to enforce the Lease

11.6 How the Trust Decides Action and Notifies Owner

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| Majority vote | (a) The board must pass a resolution by majority vote to authorize the proposed action. |
| Advance written notice to Owner | (b) Before passing a resolution to exercise its remedies, the board must give written notice to the Owner of a meeting held to consider the matter. This notice must be given to the Owner at least ten days before the meeting. |
| Who signs notice | (c) The notice must be signed by a director. |
| Notice must state | (d) The notice must state: |

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RIGHTS OF TRUST AND OWNER ON BREACH

- (i) the time and place of the board meeting. It may also state a time when the board will discuss the matter during that meeting.
 - (ii) the Owner’s address,
 - (iii) the actions that are proposed and the proposed time frames,
 - (iv) the reasons for the proposed action,
 - (v) that the Owner has rights under this Article, and
 - (vi) that if the breach of the Lease is one that can be cured and the Owner corrects the situation, no further action will be taken against the Owner.
- (e) A copy of this Article 11 will be included with the notice.
- Owners rights at meeting with board (f) The notice must state that the Owner has the right to attend and speak or present written material at the meeting, or have a representative speak. The representative can be a lawyer or any other person. It must also state that the Owner has the right to appeal the board’s decision to the community.
- Notice of time frame for action (g) The notice must state the proposed time frames for action. This would normally be at least ten days after the board meeting. The board can decide that the action will be later than the date given in the notice.
- If more than one meeting is needed (h) The board can choose a later date to continue the discussion about the matter. If the meeting is continued at another time, the board does not have to give notice of the continued meeting as long as the time and place is announced at the original meeting.
- Written notice of intention to take action within 5 days (i) If the board decides to take action against the Owner, it must give the Owner a written notice. The notice must be given within five days of the meeting. The notice must be signed by a director.

Rights of Owner related to Trust Action

11.7 Right of Appeal

- Owner can appeal (a) The Owner can appeal any decision of the board to exercise its remedies for default under 11.6. If 11.6 is used for any other reason referred to in this Lease, or if the Owner feels the board has not complied with 1.2, then the Owner has the same right of appeal and all other rights related to it.
- Effect delayed if appeal (b) If the Owner is appealing a Board decision to exercise its remedies for default, the decision is not effective until the appeal is decided or dropped.

11. RIGHTS OF TRUST AND OWNER ON BREACH

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| Owner must give written notice of appeal | (c) To appeal a Board decision to exercise its remedies for default, the Owner must give a written notice of appeal to the Trust office within five days of the date on which the notice of the decision was given. To appeal any other kind of decision, the Owner must give a written notice of appeal to the Trust office within five days of the date on which the Owner became aware of the decision. To appeal a failure by the board to make a decision, the Owner must give a written notice of appeal to the Trust office within five days of the date on which the board should have given the decision or sixty days after the request for a decision, whichever is first. |
| Trust response to Owner's notice of appeal—community meeting | (d) When the Trust receives the Owner's notice of appeal the Trust must: <ul style="list-style-type: none"> (i) call a meeting of the community, giving proper notice, or (ii) put the matter on the agenda for another community meeting that is already scheduled or is being called. |
| Timing of community meeting | (e) There must be at least fourteen days between the time the notice of appeal is given and the community meeting to discuss the appeal. The community meeting must be called for a day not more than two months after the notice of appeal is received |
| Trust must give copy of Owner's written statement of appeal to community | (f) The Trust should give everyone who receives notice of the community meeting a copy of any written statement that the Owner included with the notice of appeal. This right can be limited if the statement is longer than 5,000 words or contains libelous, illegal or indecent material. |
| Owners' rights at community meeting | (g) The Owner has the right to attend and speak at the meeting, or have a representative speak. The representative can be a lawyer or any other person. |
| How appeals are vote on | (h) Only owners may vote on the Owner's appeal. Each owner will have one vote. If a house and land lease has more than one owner, each of them will have one vote. |
| Powers of community decision | (i) The meeting can confirm the board's decision, or replace it with any other decision which the board could have made. |
| How board's decision is confirmed by community | (j) The board's decision is confirmed if: <ul style="list-style-type: none"> (i) the meeting does not pass a resolution to change the decision, or |

11. RIGHTS OF TRUST AND OWNER ON BREACH

- (ii) a quorum is not present at the meeting or at the time of the vote.

Voting will be by secret ballot at the meeting.

- (k) If an appeal on a decision relating to default is unsuccessful, the board can take the proposed action against the Owner no earlier than the latest of
 - two days after the community meeting, or
 - the date stated in the notice of the board meeting, or
 - the date stated in the notice of the board’s decision given under 11.6(i).

However, the community meeting can set a later date.

11.8 Curing Default

- (a) The Owner can, at any time (except as limited under 11.12), cure a default by payment to the Trust of any monies owed or performance of any non-monetary obligation under this Lease. To cure the default, the Owner must also pay to the Trust any costs it has incurred in connection with enforcing this Lease.
- (b) Paragraph (a) does not apply to a default which, by its nature, cannot be cured, such as granting a lease contrary to Article 7 or making a transfer contrary to Article 9. In those cases, the board may, if it sees fit, determine not to proceed with enforcing the Trust’s remedies if it feels adequate measures have been taken to correct the situation to the extent possible and to see that it won’t recur.

11.9 Personal Information of an Owner

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| Information kept confidential | (a) Information collected in connection with enforcing the Lease will be considered confidential information under the Organizational By-law. It may not be used for any other purpose. |
| Disclosure if Owner raises issue | (b) If the Owner appeals a board decision, or brings up a discussion at a community meeting involving personal information about themselves, the board can disclose other personal information about the Owner if it is relevant to the issue being discussed. |
| Appeal by someone other than Owner’s permission required | (c) If someone brings up a discussion at a community meeting involving personal information about an Owner, they must get the Owner’s written approval first. Then the community can discuss that personal information and the board can disclose other personal information about the Owner concerned if it is relevant to the issue being discussed. If that person does not give approval, the discussion is out of order. |

11. RIGHTS OF TRUST AND OWNER ON BREACH

What the Trust can do as a result of Breach

11.10 Trust Remedies

How Trust enforces Lease

When a dispute has not been resolved through informal dispute resolution methods and the board has not entered into a performance agreement relating to it, then the board may determine to exercise its legal remedies. Where 11.6 has been followed, the Trust may

- (a) sue for any amount owing by the Owner,
- (b) enforce any judgment for money by all legal means,
- (c) apply for an injunction, specific performance, a mandatory order or similar relief from a court of competent jurisdiction,
- (d) inspect a house and/or perform any necessary work under 11.13 if applicable,
- (e) apply for a court order for possession, and sell this Lease under 11.12, if applicable, and/or
- (f) exercise any other right legally available to it.

11.11 Interest and Costs

Owner must pay Trust for costs

- (a) If the Trust incurs any expense as a result of any breach by the Owner, the Owner will pay the expenses of the Trust within a reasonable time. This will include any of the following that are applicable:

Costs of repairs

- (i) the reasonable cost of making any repairs or performing any obligation, together with any administrative costs directly and reasonably incurred by the Trust in carrying out any repairs that the Owner should have performed or performing any obligation of the Owner,

Fines

- (ii) the full amount of any fine or penalty levied, assessed or charged against the Trust under any statute by reason of any breach by the Owner of the Owner's obligations under this Lease,

Court/legal/collection costs

- (iii) reasonable court costs, collection costs, and the actual amount of legal fees incurred by the Trust (as settled by the Trust, as between a solicitor and the solicitor's own client), and

Interest on payments or money spent by Trust

- (iv) interest on money owing under this Lease and on any money spent by the Trust as a result of any breach by the Owner at a rate which equals the interest rate and/or penalty charged from time to time by the City on overdue municipal taxes.

Legal proceedings

- (b) Where legal proceedings are started against the Trust by any third party with respect to the house or land or

11.

RIGHTS OF TRUST AND OWNER ON BREACH

as a result of any claim against the Owner, whether or not the claim is valid or successful, the Trust will be entitled to be paid by the Owner all reasonable court costs and the actual amount of legal fees incurred by the Trust (as settled by the Trust, as between a solicitor and the solicitor's own client).

11.12 Forced Sale

Limited use of forced sale

(a) The procedures in this paragraph 11.12 may be used by the Trust only where the Owner owes the Trust at least \$5,000 adjusted for inflation or the Owner has in a serious way participated in a *de facto* sale, attempted to evade the resale provisions of the *Act*, held the house and land for purposes other than the Owner's principal residence or failed to use the house and land as the Owner's principal residence.

45 days' notice

(b) After following 11.6, the Trust may give the Owner 45 days notice that it intends to terminate this Lease and sell a new lease of the land.

Court order

(c) Where this paragraph applies, the Trust is entitled to possession of the land in order to sell a new land lease. The Owner agrees that this right may be exercised by application to a court for an order for possession. On an application for such an order the judge will have full rights to grant the order or, if appropriate, grant the Owner relief from forfeiture on such terms as may be determined by the judge and as would be available to a mortgagor. The order for possession will normally be effective and the Trust will be entitled to possession on or about the estimated time for completion of the sale. The Trust will not actually sign an agreement of purchase and sale with a buyer until the court order has been obtained.

Similar to mortgage sale

(d) The new lease will be identical to this Lease except that rights of an initial owner under Article 3 on signing this lease won't apply. The notice will be in the form required by a mortgagee under the *Mortgages Act*, RSO 1990 c M.40, as amended, with all necessary changes. The Trust will have all the rights of a mortgagee under the *Mortgages Act*.

Trust may sell house and land

(e) If the Owner does not make payment in full or perform

if no performance

all outstanding obligations that are capable of performance by the end of the 45 day period, the Trust may proceed to terminate this Lease and sell a new lease of the land. The sale will take place under the procedure in the *Mortgages Act* with all necessary changes, as if the Trust were a mortgagee selling under a mortgage. It may confer a good title on a purchaser by delivering the materials referred to in section 35 of the *Mortgages Act* with all necessary changes.

11. RIGHTS OF TRUST AND OWNER ON BREACH

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| Owner can put Lease in good standing | (f) The Owner will be entitled to the same rights to put the Lease in good standing as a mortgagor would have in similar circumstances if the default related to non-payment of money. |
| Owner to remove house | (g) On or before completion of a sale of a new lease of the land the Owner will remove the house (excluding any fences, trees, shrubbery or hedges) from the land. If the Owner doesn't, the Trust or buyer can remove the house. Their costs will be payable by the Owner. |
| Who gets sale price | (h) The sale proceeds will be applied first to the costs of the sale, second to the cost of removal of the house and third to any amounts payable by the Owner to the Trust. Any balance will be paid to mortgagees, others and the Owner in accordance with their priorities, as stated in the <i>Mortgages Act</i> . |
| Owner can sell house | (i) On the request of the Owner the Trust will at any time before committing to sell the land lease convert the termination and sale into a sale of the house and land lease by the Owner under section 22 of the <i>Act</i> . If this happens, the Owner will not have the right to reject an offer at the maximum price payable for the house and land lease under the <i>Act</i> and <i>Regulation</i> , if the offer is for all cash or for cash and assumption of any existing mortgage, as applicable. |

11.13 Trust Performs Repairs

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| Entry and repairs authorized | (a) If there has been a continuing or repeated serious breach of Article 6 involving the Trust being named on an order to comply or legal action being taken against the Trust, then, after 11.6 has been followed, the Trust can authorize one or more persons to enter and inspect the house to determine what the situation is, and if necessary, to perform any repairs. This will not constitute a termination of the Lease. The Owner will co-operate with people authorized by the Trust for these purposes. |
| 48 hours' notice | (b) The Owner will be given 48 hours' written notice prior to the entry. This notice can give a time range and not necessarily a specific time. The time range can be longer than one day and the notice can allow more than one entry. |
| Owner pays costs | (c) The Owner must pay the Trust for its out of pocket expenses and for the reasonable value of any employee time involved. |

Waiver of Rights by Trust and Owner

11.14 Non-termination

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| Trust has no right to | The Trust will have no right to terminate this Lease, re-enter |
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11. RIGHTS OF TRUST AND OWNER ON BREACH

terminate Lease or take possession of any part of the house or land prior to the end of the term. Any right which it would otherwise have under the *Landlord and Tenant Act*, at common law or otherwise, is hereby waived.

Exceptions Despite the above, the Trust is entitled to possession in connection with a sale in accordance with the *Act*, the Transactions By-law or 11.12 of this Lease and to terminate this Lease in connection with a sale under 11.12.

11.15 Waiver of Rights under *Landlord and Tenant Act*

Landlord & Tenant Act does not apply to Owner or Trust The parties agree that the *Landlord and Tenant Act*, RSO 1990 c L.7, as amended, does not apply to this Lease or the relationship between the parties and all the rights of the Trust or the Owner under that *Act* or any other statute or law that are inconsistent with this Lease are hereby waived by that party.

11.16 Money Owed to Trust

- Collection of money
- (a) Amounts payable by the Owner as fees or levies are not rent. Any other amounts payable under this Lease are not rent. The Trust will not have the remedies available to it that a landlord has for collecting rent from a tenant, nor will rules relating to rent apply. The Trust may not distrain (seize) the goods and chattels of the Owner for money owing under this Lease. The rights of the Trust will be limited to those arising under the *Act* or at law for collection of amounts owing, together with the additional rights given to the Trust under this Lease.
 - (b) The Owner may not sell the house and land lease unless all fees, levies and other amounts owing to the Trust are paid in full on or before completion of the sale. Payments to the Trust have priority over any other payments to be made out of the proceeds of sale, including payments to a mortgagee. The Trust will not complete a sale under section 22 of the *Act* unless it is paid in full for all such amounts under subsection 22(11) of the *Act*.

11.17 Court orders

Order to perform The parties agree that an injunction, specific performance, a mandatory order or similar relief are intended and contemplated as being the principal and central remedy for the Trust and will in general be an appropriate remedy for the Trust since it is a not-for-profit organization and in general damages would not be a sufficient compensation. This won't apply in cases where the Trust is owed money. A judgment for money or the provisions of 11.12 will be the normal remedy in such cases.

Owner agrees that court order is a permissible remedy The Owner agrees that injunctions and court orders for specific performance are an appropriate form of relief for the Trust, after following 11.6, regardless of other available remedies or lack of actual peril to property. The parties agree that in the event of a default under this agreement

11. **RIGHTS OF TRUST AND OWNER ON BREACH**

that is not fully and completely remediable by mere payment of money and promptly so remedied, the harm sustained by the Trust, the Islands community and the public will be irreparable and not susceptible of adequate monetary compensation.

Article 12: Miscellaneous

12.1 Unavoidable Delay

Accepted reasons for delay or non-performance

Despite anything in this Lease, no one will be in default when they fail to perform because of force majeure, strike, lock-out, labour dispute, civil commotion, war or similar event, invasion, the exercise of military power, act of God, government regulations or controls, inability to obtain any material or service, or any cause beyond the reasonable control of that party (except lack of financial resources). Otherwise, time will be of the essence of this Lease and all the obligations contained in it.

12.2 Successors

Rights and liabilities binding on successors

The rights and liabilities of the parties will enure to the benefit of and be binding upon the parties and their respective heirs, executors, administrators, successors and assigns. Whenever the Trust, Owner or mortgagee is referred to in this Lease, it will be interpreted as including their respective heirs, executors, administrators, successors and assigns. This paragraph does not authorize any assignment that is not otherwise permitted by the *Act*, the Lease and the by-laws.

12.3 Entire Agreement No other agreements This Lease and the documents and materials referred to in this Lease contain the entire agreement between the parties. There is no other oral or written covenant, promise, agreement, collateral agreement, condition precedent or subsequent, warranty, representation, understanding or obligation between them that affects this Lease or its subject matter. If either the Trust or the Owner acquires the other's interest in the house or land, there will be no merger by operation of law or otherwise unless there is a specific written agreement or statement to this effect.

12.4 Partial Invalidity

If one section invalidated, others still in force

If any term, article, paragraph, subparagraph, clause or subclause or any of the words in this Lease are held entirely or partially invalid or unenforceable by any court, the remainder of this Lease will not be affected, but will remain in full force and effect. The provisions of this Lease will have effect, despite any law to the contrary. This paragraph is subject to 4.1 (e). Signing this lease will not be considered a waiver of the right of the Owner to claim that any part of this Lease is outside the powers of the Trust.

12. MISCELLANEOUS

12.5 Interpreting this Lease

Rules of interpretation The annotations, side notes, captions, article and paragraph names and numbers and table of contents appearing in this Lease are for convenience only. They have no effect on its interpretation. All provisions of this Lease and the by-laws creating obligations on either party will be considered to be covenants. This Lease will be read with all changes of gender or number required by the context.

12.6 Waivers

Party must agree to be bound No supplement, amendment or waiver of or under this Lease
by waiver or the by-laws will be binding unless signed by the party to be bound and no waiver by a party of any provision of this Lease will constitute a waiver of any other provision or a continuing waiver unless otherwise expressly provided.

12.7 Governing Law

Ontario law governs This agreement will be construed in accordance with and governed by the laws of the Province of Ontario.

12.8 Notices under Lease

Governance By-law applies (a) Article 6 of the Governance By-law will apply to notices under this Lease, except where inconsistent with this Lease.

Article 11 notices (b) Despite (a), any notice under Article 11 will be given both by delivery under 6.2(c) of the Governance By-law and by registered mail under 6.2(d) of the Governance By-law.

Court papers (c) Court documents will be served according to the requirements of the court rules that apply to them.

12.9 Errors or Omissions in Procedures or Notices

Minor errors don't affect action A minor error or omission in any action taken or notice given will not affect any decision made by the board. An Owner can accept any defect in the Trust's procedures. The Owner can do this in writing, orally, or by not objecting at the appropriate time.

12.10 Spouse

Spouse to sign If the house is a matrimonial home, as defined in the *Family Law Act*, RSO 1990 c F.3, as amended, the Owner's spouse must sign this Lease either as an Owner or in the separate section shown for consent of a spouse.

The board may postpone or waive this requirement in exceptional circumstances if it sees fit.

For the purpose of this requirement a spouse is as defined in the *Family Law Act*, subsection 1 (1). Spouse means either of a man and woman who

(i) are married to each other,

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MISCELLANEOUS

- (ii) have together entered into a marriage that is voidable or void, in good faith on the part of the person asserting a right under the *Family Law Act*.

The definition stated above doesn't apply to other parts of this Lease. See Appendix A, item (p), for that definition.

A matrimonial home is a property that is ordinarily occupied by two spouses as their family residence. If the spouses have separated, a property is a matrimonial home if, at the time of separation, the house was ordinarily occupied by the spouses as their family residence.

Signatures on next page.

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Signatures of Trust and Owner

SIGNED:

**TORONTO ISLANDS RESIDENTIAL
COMMUNITY TRUST CORPORATION**

	}	
	}	Per: _____
	}	
Date: _____	}	
	}	c/s
	}	_____
	}	
	}	

• *Separate signature block for each Owner*

Date: _____)	
)	_____ 1/s
)	•
Witness: _____)	

• *Signature of spouse of Owner, if spouse is not an Owner.*

I am the spouse of the Owner [•, one of the Owners]. I consent to this Lease including all the rights given to the Trust under this Lease.

Date: _____)	
)	_____ 1/s
)	•
Witness: _____)	

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MISCELLANEOUS

STATEMENT BY OWNER ABOUT MATRIMONIAL HOME

Note: A Statement must be submitted for each Owner.

A matrimonial home is a property that is ordinarily occupied by two spouses as their family residence. If the spouses have separated, a property is a matrimonial home if, at the time of separation, the house was ordinarily occupied by the spouses as their family residence. Both spouses have an equal right to possession of the matrimonial home. Therefore, both spouses must sign legal documents related to the matrimonial home.

For the purpose of this Statement and the signing requirement a spouse is as defined in the Family Law Act, subsection 1 (1). Spouse means either of a man and woman who

- (i) are married to each other,
- (ii) have together entered into a marriage that is voidable or void, in good faith on the part of the person asserting a right under the Family Law Act.

The definition stated above doesn't apply to other parts of the Lease. See Appendix A, item (p), for that definition.

Check any of the following, as applicable. If the first item is checked, both spouses must sign the Lease unless an exception is made under 12.10 of the Lease.

Both spouses sign:

- _____ I am a spouse and my spouse has signed the consent to the Lease.
- _____ We are spouses of one another and we have both signed the Lease as Owners.

Only one person needs to sign:

- _____ I am not a spouse.
- _____ I am a spouse. I am not separated from my spouse. The house is not ordinarily occupied by my spouse and myself as our family residence.
- _____ I am a spouse. I am separated from my spouse and at the time of separation, the house was not ordinarily occupied by my spouse and myself as our family residence.
- _____ I am a spouse. The house is not designated by me and my spouse as a matrimonial home. Another property has been designated by me and my spouse as a matrimonial home. That designation is registered and not canceled.
- _____ I am a spouse. My spouse has released all rights to the house under Part 2 of the Family Law Act by a separation agreement.

_____ Date

_____ Owner

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MISCELLANEOUS

Date

Owner

A. DEFINITIONS

Appendix A: Definitions

1.1 Definitions

Certain words and phrases are defined in the *Act*. Those words and phrases have the same meaning when used in the Lease unless they are redefined in this appendix or unless the context requires a different meaning.

Certain words and phrases are defined in this appendix. The words and phrases set out below have the following meanings when used in the Lease unless the context requires a different meaning:

- (a) **ACT:** *Act* means the *Toronto Islands Residential Community Stewardship Act, 1993* Statutes of Ontario 1993, chapter 15 (the *Act*).
- (b) **BOARD:** Board means the board of directors of the Trust.
- (c) **BY-LAWS:** By-laws means the by-laws of the Trust, unless otherwise stated.
- (d) **COMMUNITY:** The community or community members means people defined as members of the community in Article 2 of the Governance By-law.
- (e) **CO-OP:** Co-op means the co-operative housing corporation referred to in the definitions in the *Act*.
- (f) **HOUSE:** House means a building vested in an owner under the *Act*, or subsequently constructed, including any accessory structure and any fences, trees, shrubbery, hedges and all fixtures and anything else erected on, in or under the land, but not encroachments from adjacent property.
- (g) **INFLATION:** Inflation means changes in the value of money as measured by changes in the All Items Consumer Price Index (not seasonally adjusted) for the Toronto area published by Statistics Canada. If that is no longer published, the board can choose another index, acting reasonably. “Adjusted for inflation” and similar language means that the figure to which it refers will be raised or lowered in proportion to inflation from December 15, 1993. In the case of insurance limits this may be done by resolution of the board and in doing this the board may round the inflated figure to meet market conditions.
- (h) **LAND:** The land leased under this Lease is the land that is legally described in Appendix B. References to the land in this Lease mean that land.
- (i) **LEASE:** Lease mean this Lease including all of the appendices to this Lease and any subsequent

A. DEFINITIONS

amendments to this Lease or the standard Homeowner's Lease.

- (j) **LEASING:** Leasing a house and land refers to the Owner granting a leasehold interest in the house and land. This could be described as a lease of the house and a sublease of the land. To keep it simple, it is just called leasing. Lease is sometimes used with a corresponding meaning.
- (k) **MORTGAGEE:** Mortgagee means anyone to whom the Owner has given a mortgage, charge or other financing or security instrument affecting the house and this Lease. "Mortgage" has a corresponding meaning.
- (l) **OWNER:** Owner means the person named as owner in this Lease.
- (m) **OWNERS:** Owners means all people who are owners of a house or vacant land lease under the *Act*, but does not include the co-op.
- (n) **REFERENCE PLANS:** The reference plans mean reference plans 64R-14621 and 64R-14622 deposited at the Land Registry Office for the Registry Division of Metropolitan Toronto according to which land on Ward's Island is described.
- (o) **REGULATION:** *Regulation* means Ontario Regulation 817/93 made under the *Act*.
- (p) **SPOUSE:** Spouse means either of two people (whether or not of the same sex) who
 - (i) are married to each other,
 - (ii) have together entered into a marriage that is voidable or void, in good faith on the part of the person asserting a right, or
 - (iii) are not married to each other and have cohabited,
 - A. continuously for a period of not less than three years, or
 - B. in a relationship of some permanence, if they are the natural or adoptive parents of a child.

The definition stated above doesn't apply in deciding who must sign this Lease as spouse. See 12.10 for that definition.

- (q) **TAXES:** Taxes includes all taxes, rates, local improvement rates, impost charges, duties, assessments or levies which may be levied, rated, charged or assessed against property, whether real or personal. Taxes includes Goods and Services Tax, all

A.**DEFINITIONS**

sales taxes, excise taxes, business transfer taxes, value added taxes, or other taxes, duties, rates, levies or fees levied, rated, charged, assessed or payable with respect to, or calculated or measured in whole or in part in relation to, the price paid for the Lease or the house or land, or the area of the house or land or any part of them, or the occupancy or leasing of the house or land or any part of them. Taxes includes any other taxes, rates, duties, assessments, fees or levies which may be imposed on the Trust or the Owner or anyone else on account or in lieu of existing taxes. Taxes may or may not form a charge on property, may or may not recur annually, or at other intervals, or on a special or single instance basis only, and may be imposed by federal, provincial, municipal, school board, utility commission or other authority. Taxes will exclude income, capital or similar taxes that might be charged to the Trust.

- (r) **TRUST LANDS:** The Trust lands means the lands leased to the Trust under section 16 of the *Act*.

B. DESCRIPTION OF LAND

Appendix B: Description of Land

•• State legal description.

•• State easements.

C. **BOUNDARY DISPUTES**

Appendix C: Boundary Disputes on Ward's Island

This Appendix deals with resolving disputes about boundaries on Ward's Island. These rules may also be used on a voluntary basis to resolve other disputes between an owner and the Trust or between owners. All appropriate changes will be made in these rules to deal with disputes other than boundary disputes.

1.1 Survey of Ward's Island

- (a) A surveyor has prepared a survey of part of Ward's Island to determine the proper boundaries of each parcel of land to be leased by the Trust. In doing the survey, many issues relating to boundaries have been resolved.
- (b) If the Owner was not satisfied with the way the boundaries of the land have been set, the Owner could register an objection as stated later in this Appendix. It is recognized that the deadline stated in this Appendix has expired prior to signing this Lease and the process stated in this Appendix may have been completed.
- (c) The Trust will grant leases based on the survey and any disputes that have been resolved as of the date of deposit of the survey as reference plans at the Land Registry Office. If any disputes are resolved after depositing the reference plans, the corrected boundaries may be reflected in the original lease or a later amending agreement.

1.2 Binding Community Arbitration

- (a) The process stated in this Appendix will be followed to deal with any objection to boundaries on Ward's Island as set on the survey. The Owner agrees to be bound by the process stated in this Appendix in the case of any objection by the Owner. The Owner agrees to be bound by the process stated in this Appendix in the case of any objection by someone else where it affects the Owner's boundary. This process will also bind the Trust.
- (b) The Owner and the Trust agree that any boundary issue will be submitted to arbitration under this Appendix and that the decision of the arbitrators is final and binding on the Owner and the Trust and not subject to appeal.
- (c) The Owner acknowledges that if the Owner does not register an objection as stated in this Appendix by 7:00 p.m. on June 8, 1994, then the Owner will lose the right to make any objection and agrees to the boundaries as shown on the reference plans.
- (d) The Owner acknowledges that that process for deciding boundaries gives the Owner adequate rights. The Owner waives and releases the Trust from any claim that the boundaries of the land are not correct.

C. BOUNDARY DISPUTES

- (e) If the result of the process stated in this Appendix is a change in the boundaries of the land after this Lease is signed, then the Trust and the Owner will sign and register an agreement correcting the description of the land.

1.3 Informal Contacts

Copies of relevant parts of the survey will be made available to all owners showing the proposed boundaries of their parcel of land. Alternatively, owners will have access to a copy of the survey at the Trust office or another convenient location. Owners are encouraged to informally discuss issues relating to the survey with each other and the Trust's survey committee to informally resolve disputes.

1.4 Registering an Objection

- (a) If any owner is dissatisfied with the proposed boundaries of the parcel of land that they occupy, as shown on the survey, they can register a written objection with the survey committee. All objections must be registered by 7:00 p.m. on June 8, 1994. Anyone who doesn't register an objection by that time will be considered to have accepted the boundaries as shown on the survey. This acceptance will bind them and all future owners of their house and assignees of their land lease. The Trust can file an objection later, but not later than July 8, 1994.
- (b) To register an objection people must deliver a letter to the survey committee c/o the Trust office stating their name, identifying the land concerned and stating what the problem is. They must obtain a dated receipt as proof of delivery of the objection.
- (c) The survey committee may attempt to resolve the objection through informal discussion among neighbours. If the discussions are successful, the people involved will sign a short agreement or letter confirming their agreement with the boundary as changed.

1.5 Choosing the Arbitrators

- (a) All disputes that aren't resolved as stated earlier in this Appendix will be decided by arbitration. The arbitration will be by a panel of five people. The Trust will designate not less than eight community members to serve as volunteers from whom these panels will be chosen. If more volunteers are needed, the Trust can designate them.
- (b) The panel to decide any dispute will be chosen as follows:
 - (i) If only two owners are involved in a dispute, each will choose two arbitrators from the volunteers referred to in (a).

C. BOUNDARY DISPUTES

- (ii) If more than two owners are involved in a dispute, each will choose one arbitrator from the volunteers referred to in (a).
- (iii) The arbitrators chosen under (i) or (ii) will choose the balance of the arbitrators.
- (c) If anyone doesn't choose the arbitrators required by (b), then the Trust will choose arbitrators for them.
- (d) Even though arbitrators are chosen by individuals, they must act independently. They have to decide fairly and not be biased towards whoever chose them. No-one should be chosen if there is a reasonable apprehension of bias on their part.

1.6 Arbitration Procedures

- (a) An arbitration panel can set its own procedures. It will proceed informally. Evidence need not be taken under oath. No transcript of evidence is required. People involved in a dispute will have the opportunity to appear and to present their evidence and arguments and to challenge the evidence and arguments of others. Members of the panel may make use of their own knowledge and may visit the site individually or in an organized fashion with or without the owners involved.
- (b) The panel must listen to arguments and evidence from all sides. If a dispute affects more than two properties, then the owners of all the affected properties will be able to participate fully. If someone doesn't respond to notice of a dispute that affects them, or doesn't participate in the process, their interests must still be considered by the panel. The Trust may appoint someone to represent them.
- (c) If an owner wants someone to represent them at an arbitration, they can appoint another community member in writing. That person can't be paid. Someone who isn't a community member can't represent an owner. A lawyer can't represent an owner, even if the lawyer is a community member.
- (d) The Trust may be represented at any arbitration. The Trust can start or respond to an arbitration and participate in choosing the panel in the same way as an owner.
- (e) Each person involved in a boundary dispute will bear all the costs they incur in connection with it. The Trust will pay any costs of the panel, such as for surveyors or the Trust or panel's counsel, if any. The Trust will defend and pay any claim against panel members, if they have acted in good faith.
- (f) The panel is to be considered a panel of arbitrators under the *Ontario Arbitration Act, 1991*, SO, 1991, c. 17, as amended. The rules in that *Act* will apply,

C. BOUNDARY DISPUTES

unless they are inconsistent with the spirit or intent of what is stated above.

1.7 Arbitration Decision

- (a) The panel will meet in private to discuss the dispute. It will make its decision by secret ballot. The majority will govern. The vote will be confidential and revealed only to the members of the panel.
- (b) The final ruling of the panel will be in writing. Only the decision needs to be stated. Reasons don't have to be given.
- (c) If the panel's decision results in a change in any boundaries, these will be stated in a revised survey or other form. If a lease has not yet been granted, then it would be granted in accordance with the decision of the panel. Otherwise, existing leases will be amended. A copy of the decision signed by the chair of the panel will be conclusive evidence of the decision.
- (d) The decision of the panel will be final and binding on the parties and the Trust. No appeal will be permitted to a court whether on matters of fact or law. The decision will bind all future owners of the houses and assignees of leases of the land involved.

D. INTERIM ZONING

Appendix D: Interim Zoning

1.1 Duration of this Schedule

This Schedule will remain in force for the time stated in 3.6 of the Lease.

1.2 Interim Zoning

- (a) Where any proposed building or construction is not subject to By-law 615-82 of the City, the provisions of By-law 615-82 will be used as though the building or construction were subject to it. This would be where someone wants to construct a new house or perform a major reconstruction of an existing house.
- (b) The Owner will not construct a new house or perform a major reconstruction of an existing house, unless the house or structures on the land conform to
 - the foundation or “footprint” of the building or structure on the land as it existed on October 7, 1982, plus
 - any additions that are permitted under By-law 20623 as amended by By-law 615-82, plus
 - any changes that were permitted by authorization of a minor variance under section 45 of the *Planning Act* or a predecessor of that section, plus
 - any minor variance from By-law 615-82 that is authorized by the Trust. In considering what to authorize, the Trust will have regard for setbacks and other factors stated in By-law 615-82. Paragraph 11.6 of the Lease applies to any request by the Owner for a variance. The Trust will notify the owners of houses within the same radius that is used by the committee of adjustment for the City and give those owners an opportunity to participate in the board meeting before deciding on any request. The owner and the neighbours who were entitled to notice can appeal to the community under 11.7.

1.3 Building Permit Application

If the Owner asks the Trust to sign a building permit application for construction of a new house or major reconstruction of an existing house during the period when the interim zoning is in force, then the following applies:

- (a) The agreement referred to in 6.5 of the Lease will contain a statement by the Owner that the plans submitted to the City comply with this Appendix.
- (b) When asking the Trust to sign the application, the Owner will provide a certificate directed to the Trust and the City under the professional seal of an

D. INTERIM ZONING

architect or engineer confirming (a). This requirement can be waived by the Trust if it determines that the certificate is unnecessary.

E. RULES UNDER SECTION 19 OF ACT

Appendix E: Rules under Section 19 of Act

Not applicable.

Appendix F: Insurance Requirements

1.1 Property Insurance

- Fire insurance
- (a) The Trust recommends that owners carry property insurance for the full replacement cost of the house with similar materials against damage by fire and other perils.
 - (b) This should include usual personal property and equipment but not necessarily any allowance for by-law changes.

1.2 Liability Insurance

Liability insurance

The Owner will carry liability insurance with a limit of not less than \$1,000,000 in respect of any one occurrence for injury or death to a single person or for property damage. The limit may be adjusted for inflation or changed market conditions by resolution of the board of the Trust whenever it thinks fit.

The Trust may offer liability insurance to owners on a voluntary subscription basis. The Trust may also offer other insurance to owners on a voluntary subscription basis.

1.3 Liability Insurance Details

- Liability policy
- (a) The liability insurance referred to above will be in a form and with an insurance company acceptable to the Trust acting reasonably.
 - (b) The Owner, the Trust and any mortgagee will be shown as named insureds on the insurance policy. All proceeds will be payable to them jointly as their interests may appear.
 - (c) The insurance policy will contain provisions for severability of interests and cross liability among insureds.
 - (d) The insurance policy will contain undertakings from the insurer that the policy will not be cancelled or allowed to lapse or materially changed until at least thirty days' written notice has been given to the Owner, the Trust and any mortgagee.
 - (e) The Owner will provide the Trust with a certified copy of the policy in a timely fashion.
 - (f) If the Trust becomes aware of any lapse or possible lapse of the insurance or the Owner fails to take out liability insurance in accordance with its obligations

F. INSURANCE REQUIREMENTS

under this Lease, then the Trust may place the insurance and the cost will be immediately payable to it by the Owner. This will not create any obligation on the part of the Trust to take out any insurance.

1.4 Property Insurance Details

- (a) Any property insurance policy taken out by the Owner will contain a waiver of any right of subrogation or recourse by the insurers against the Owner, the Trust and any mortgagee.
- (b) The Trust doesn't have to be shown as a named insured on the insurance policy. However, the insurance company may find this the easiest way to comply with (a), as well as to provide the liability insurance.

1.5 Insurance Proceeds

The Trust and the Owner will take all reasonable steps and actions and sign all reasonable documentation to permit the other to obtain any insurance proceeds to which it is entitled.

1.6 Compliance with Insurance

- (a) If the house is vacant or unoccupied, the Owner will obtain any necessary rider and pay any necessary increased premium to ensure that the coverage remains in effect.
- (b) The Owner agrees that no article or substance which may be prohibited by the insurance policies mentioned above will be kept in the house or on the land and nothing will be done, permitted or omitted which will cause the cancellation of any insurance policy.

G. MORTGAGEE PROVISIONS

Appendix G: Mortgagee Provisions

1.1 Application of this Appendix

Rules to protect a lender If the Owner gives a mortgage of the house and this Lease and the mortgage is registered at the Land Registry Office, then this Appendix applies.

1.2 Mortgagee's Rights relating to Lease

- (a) No termination of this Lease will be effective as against the mortgagee without its prior written consent except under 11.12, and then only if the mortgagee has been given the notice referred to in subparagraph (c). No amendment of this Lease or the by-laws that would prejudice the mortgagee will be effective as against the mortgagee without its prior written consent.
- (b) If either the Trust or the Owner acquires the other's interest in the house or land, there will be no merger by operation of law or otherwise to the prejudice of the mortgagee, the Trust or the Owner.
- (c) The Trust will notify the mortgagee of any default in payment of money owing to the Trust by the Owner within thirty days after the default reaches \$1000 adjusted for inflation. The Trust will notify the mortgagee of any other serious breach or alleged breach of the Lease by the Owner no later than the time when a written notice is given to the Owner under 11.6(b). The Trust will send the mortgagee a copy of any such notice.
- (d) The Trust will send the mortgagee notice of any proceeding by the Trust to sell the house and this Lease under 11.12. This notice will be sent no later than it is required to be given to the Owner. The notice may be given by registered mail at the address stated in the mortgage or at any other address that has been agreed on between the Trust and the mortgagee.
- (e) If the breach is payment of money, the Trust will accept payment from the mortgagee in order to put the Lease into good standing. If the breach is something else that could be corrected by the mortgagee, the Trust will permit correction by the mortgagee.

1.3 Mortgagee's Rights on Default under Mortgage

- (a) On default in payment under the mortgage, section 18 of the *Act* will apply if the mortgage was given to secure a guaranteed loan referred to in section 18.
- (b) Whether or not section 18 of the *Act* applies, where default has occurred under a mortgage, the mortgagee

G.**MORTGAGEE PROVISIONS**

may exercise a power of sale in accordance with the provisions of the *Mortgages Act*, RSO 1990 c M.40 or the power of sale contained in the mortgage, as applicable, subject to the following:

- (i) The mortgagee will give a true copy of the notice of sale to the Trust at the same time in the same way as notice of sale is given to the Owner.
- (ii) After the period for redemption of the mortgage referred to in section 26 of the *Mortgages Act*, or any other alternative period for redemption as described in section 32 of the *Mortgages Act*, has elapsed, the mortgagee may give notice in writing to the Trust requiring the Trust to sell the house and land lease under section 22 of the Act. Any such notice must be accompanied by a written agreement by the mortgagee to comply with 1.4 of this Schedule.
- (iii) The Owner hereby appoints the mortgagee as the Owner's attorney with full right, power and authority to request the Trust to sell under section 22 of the Act and to sign all documents on the Owner's behalf to complete a sale under section 22 of the Act and under the Trust's Transactions By-law.
- (iv) The Owner and the Trust agree that the mortgagee may exercise any rights of the Owner with respect to conducting an appraisal of the house or appealing any appraisal of the house.
- (c) The mortgagee will have no right to possession of the house or land. The mortgagee will have no right to lease the house or land.
- (d) The Owner will give up possession of the Property to the Trust immediately before the completion of the sale in order to permit the Trust to give possession to the purchaser.
- (e) The mortgagee may apply in the name of the Trust for a writ of possession but at the mortgagee's own expense.
- (f) The Owner may stop the sale proceedings by putting the mortgage in good standing, obtaining a court order or using any other means available to mortgagors.
- (g) The Trust will act on any lawful direction of the mortgagee in relation to a sale by the mortgagee, and regardless of whether the Trust may be taking action in respect of the same facts that constituted a default under the mortgage.

G. MORTGAGEE PROVISIONS

- (h) The Trust will proceed expeditiously with any sale on the directions of the mortgagee.

1.4 Trust's Costs relating to a Default under a Mortgage

- (a) When the mortgagee makes a request of the Trust under 1.3 (b) (ii), the mortgagee is thereby agreeing to bear all costs, expenses and liabilities of the Trust in connection with the proceeding (including those referred to in subparagraph (b)). This will be the case, whether or not a sale is actually completed and whether or not the mortgagee is able to collect these amounts from the Owner. Any request under 1.3 (b) (ii) must agree to this specifically or it will not be acted on by the Trust.
- (b) All administrative fees normally payable in connection with a sale will be paid by the mortgagee. All legal costs and any additional administrative costs incurred because the sale is under a mortgage will be paid by the mortgagee.
- (c) The Trust may, if it sees fit, require a reasonable deposit to cover its costs before, or at any time during the course of, taking or permitting any of the actions or proceedings contemplated under this Schedule.