

Third Party Ground Leases

Often the acquisition of a Replacement Property takes the form of a ground lease interest. In such circumstances, before we will agree to have our special purpose entity (SPE) become the tenant under the ground lease the following language must be included in the lease or the assignment of the lease (depending on whether the lease is newly created or existing):

Notwithstanding any provisions this Lease to the contrary, National Safe Harbor Exchanges, Inc., a California corporation (“NSHE”) is acting as an exchange accommodation titleholder in connection with a like-kind exchange under IRC Section 1031 and Revenue Procedure 2000-37 for the benefit of _____ (“Exchanger”). As an accommodation party Landlord agrees not to look to NSHE or NSHE’s directors, officers, and employees with respect to the Lease or any covenant, stipulation, promise, indemnity, agreement or obligation contained herein. In enforcing its rights and remedies under the Lease, the Landlord will look solely to Tenant and/or the Exchanger for the performance of the provisions herein. Landlord will not seek a money judgment against NSHE or NSHE’s directors, officers, and employees and will not institute any separate action against NSHE by reason of any default that may occur in the performance of any of the terms and conditions of the Lease between Landlord and Tenant. This agreement on the part of Landlord shall not be construed in any way so as to effect or impair the lien of the Lease or Landlord’s rights hereunder as provided by law or construed in any way so as to limit or restrict any of the rights or remedies of the Landlord in any proceedings or other enforcement of this Lease.