

## OUTLINE OF STANDARD COMMUNITY LAND TRUST GROUND LEASE

*This is an outline of key provisions of a standard community land trust ground lease. It is intended to make the ground lease more understandable to people who are not attorneys. This is not a substitute for the ground lease.*

### I. Letter of Acknowledgement/Attorney's Declaration

- When a CLT homeowner (the "Lessee" in the Ground Lease) intends to purchase a CLT home, the CLT will require that the CLT homeowner meet with an attorney. The attorney should thoroughly explain the Ground Lease and go over all aspects of purchasing a CLT home so that the CLT homeowner will understand the differences between a CLT purchase/lease and a standard home purchase. The CLT homeowner will sign Exhibit B in order to acknowledge that this discussion with the attorney took place. The CLT homeowner's attorney will sign Exhibit C to confirm that s/he participated in this discussion with the CLT homeowner.

### II. Lease of Land

- The CLT continues to be the legal owner of the land, which it leases to the CLT homeowner; while the CLT homeowner buys and becomes the owner of the house itself (i.e., the "Improvements").
- This Article describes the Land that the CLT homeowner leases from the CLT via the Ground Lease.

### III. Duration of Lease

- The Ground Lease is initially for 89 years. (This was selected for legal reasons to provide added assurance that terms in the Ground Lease are enforceable.) However, the Ground Lease provides for an "Option to Extend" that allows the CLT homeowner to extend the term of the lease for another 89 years; and typically a successor (such as someone who purchases the CLT home from the CLT homeowner) will sign a new Ground Lease that will start a new term of 89 years.
- This Section also provides that if the CLT decides to sell the Land to someone who is not furthering the CLT's affordable housing goals, then the CLT homeowner has an opportunity to buy the Land instead.

### IV. Use of Land

- The CLT home and the Land are for the CLT homeowner's residential use only.
- The CLT homeowner (including children, immediate family or other dependents) is required by the Ground Lease to occupy the home for a certain number of months each year.
- The CLT is allowed to inspect the Land (not the CLT home) if the CLT provides the CLT homeowner with 24 hours notice. In an emergency, no notice is required.
- Like a standard homeowner, the CLT homeowner has a right to the uninterrupted use of the Land. Also like a standard homeowner, the CLT homeowner has an obligation to maintain the Land and the CLT home in good, safe and habitable condition.

- V. Rent
- The CLT will charge the CLT homeowner a Monthly Rent. This Monthly Rent will include a specified Base Rent. The CLT can, at its discretion, increase (or decrease) the Monthly Rent each year based on the Consumer Price Index or other identified index. The Ground Lease should clearly specify the method of calculation and adjustment of Base Rent.
- VI. Taxes and Assessments
- The CLT homeowner will be responsible for paying all property taxes and assessments on both the Land and the CLT home.
  - The CLT may collect the property taxes from the CLT homeowner and be responsible for the actual payment of the property taxes with these collected funds.
- VII. Improvements
- “Improvements” is defined as the house together with any and all other buildings, structures, fixtures and other improvements purchased or built on the Land by the CLT homeowner (in other words, the “CLT home”). Improvements are owned by the CLT homeowner.
  - Any construction or alteration of the CLT home is subject to the following conditions:
    - All costs shall be paid for by the CLT homeowner;
    - All construction shall be performed in a workmanlike manner and shall comply with all applicable laws, ordinances and regulations, including the requirements of local and state public health authorities;
    - The exterior dimensions (including height) of the improvements cannot be increased or expanded, and no additional improvements can be constructed without the prior written consent of the CLT;
    - The CLT homeowner must give the CLT a copy of any plans and building permits prior to beginning construction.
  - The CLT homeowner must maintain the land and the CLT home, in full compliance with all applicable laws at the CLT homeowner’s sole expense.
  - The CLT will not reimburse the CLT homeowner for any improvements made to the property, other than to the extent the improvements value may be reflected in the Purchase Option Price (see Article X). The Purchase Option Price may be changed by a written agreement between the CLT and the CLT homeowner if the CLT agrees that a major alteration warrants it.
- VIII. Leasehold Mortgage Financing
- These provisions address the needs of the CLT homeowner’s mortgage lender. They also contain language protecting the CLT’s interests.
  - A “permitted mortgagee” is defined and the rights of the permitted mortgagee are spelled out.
  - To protect the CLT, the CLT homeowner’s lender must notify the CLT of a default, and the CLT will have the right – but not the obligation – to cure the default; and if the lender wants to foreclose its mortgage, the CLT will have the right – but not the obligation – to buy the mortgage from the lender (so that the CLT will essentially become the CLT homeowner’s lender, with the right to foreclose if the mortgage remains in default).
- IX. Liability, Insurance, Damage and Destruction, Eminent Domain
- The CLT homeowner is responsible for anything that happens in the CLT home or on the Land. The CLT homeowner is required to carry certain minimum amounts of insurance and provide evidence of that insurance to the CLT.

- Establishes the rights of the CLT and the CLT homeowner to money from any condemnation of the Land or CLT home. Note that the CLT is entitled to receive a part of any award for the CLT home based on the extent to which the original purchase by the CLT homeowner was subsidized.

X. Transfer, Sale or Disposition of Improvements

- The CLT home must be sold (and resold) to an income-qualified family. This applies only at the time of purchase – so if a CLT homeowner won the lottery two weeks after s/he buys a CLT home, s/he can still stay as long as s/he likes.
- When the CLT homeowner purchases the CLT home and executes the Ground Lease, a current appraisal will be attached to the Ground Lease in order to be able to calculate the increase in appraised value at the time of resale in connection with calculating the maximum sale price (see below).
- The CLT homeowner may sell the CLT home only to people who meet the income restriction, and the purchase price may not exceed a maximum sale price (see below). Also, the CLT has an option to purchase the CLT home itself for this price.
- When the CLT homeowner dies, s/he can leave her/his CLT home to a spouse, child or another family member who lived in the CLT home for at least a year or to any other people who meet the income restriction.
- **VERY IMPORTANT – WHEN THE CLT HOMEOWNER WANTS TO SELL THE CLT HOME**
  - The CLT homeowner provides a written letter of notice to the CLT, with a current appraisal attached;
  - The CLT has a certain number of days to let the CLT homeowner know if the CLT wants to buy the CLT home or not. The CLT has an option to repurchase any CLT home – which means the CLT has the right to repurchase the CLT home, but is not required to.
  - If the CLT decides to repurchase the CLT home, the CLT has a certain number of days to exercise its option (i.e., actually buy the CLT home).
  - Whether the CLT repurchases the CLT home or the CLT homeowner sells it on his/her own, the goal is to replace the CLT homeowner with another income-qualified family at an affordable price.
  - THE MAXIMUM PRICE THAT THE CLT HOMEOWNER CAN SELL HIS/HER HOUSE FOR IS SET. THIS IS CALLED THE “PURCHASE OPTION PRICE”. IT IS CALCULATED AS FOLLOWS:
    - The CLT home can be sold for the lesser of:
      - The current appraised value, or
      - The Purchase Option Price (as described below).
  - PURCHASE OPTION PRICE:
    - (a) what the CLT homeowner paid for the CLT home when s/he first bought it; plus
    - (b) a percentage (specified in the ground lease) of the appreciation in value of the CLT home, as determined by subtracting the appraised value when the CLT homeowner originally purchased the CLT home from the current appraised value.
    - EXAMPLE (Assuming CLT homeowner retains 25% of the appreciation in value of the CLT home). CLT homeowner paid \$90,000 for the CLT home – and it was appraised at \$105,000 when the CLT homeowner bought it. When CLT homeowner wants to sell it, the appraised value is now \$125,000 – an increase in appraised value of \$20,000. Twenty-five percent (25%) of \$20,000 is \$5,000. The resale price is therefore \$90,000 plus \$5,000 for a total price of \$95,000.

- XI. Assignment and Sublease
- The CLT homeowner cannot assign the Ground Lease or sublease the Land.
- XII. Default
- This section describes what happens if the CLT homeowner defaults (i.e., fails to pay the Monthly Rent or otherwise fails to meet an obligation or condition provided for in the Ground Lease) on the Ground Lease. It also describes what happens if the CLT defaults on the terms of the Ground Lease.
- XIII. General Provisions
- “Lessee Membership” provision: Usually provides the CLT homeowner with free membership in the CLT.
  - “Notice” provision: Provides the addresses for the CLT and the CLT homeowner.
  - “Severability and Duration” provision: Provides that if any sections of the Ground Lease are not enforceable under the law, they are considered removed from the Ground Lease. Such an event does not invalidate the rest of the Ground Lease. Rights or options are deemed to expire in 90 years to the extent that is necessary to preserve their validity.
  - “Recording” provision: Provides that the CLT homeowner and the CLT are going to record a “short form” version with the local Registrar of Deeds rather than recording the entire Ground Lease to put other people on notice of the CLT homeowner’s right to occupy the Land. However, the CLT and the CLT homeowner will rely on the full Ground Lease, not the recorded “short form,” to determine the terms of the agreement.

*This document is a product of the Community Legal Resources Community Land Trust Project. Please check the CLR CLT Project website for updates to this document:*  
***[www.clronline.org/ctl](http://www.clronline.org/ctl)***

*This publication is intended to provide general information, and is not a substitute for legal advice. If you have additional questions about this issue, contact Community Legal Resources at 313/964-4130.*

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