

FLORIDA COMMUNITY LAND TRUST BEST PRACTICES



A Manual for Establishing, Sustaining and Scaling Community Land Trust Operations in Florida



Presented by



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A teal-tinted photograph of a house with a porch and a white picket fence in the foreground. The house has a gabled roof and a covered porch with columns. A white picket fence runs across the bottom of the image, with a gate on the right side. The text "INTRODUCTION" is overlaid in the center in white, bold, uppercase letters.

INTRODUCTION

Introduction

With limited public funds and the enormous gap between the average income of Florida's workforce and the cost of housing, Florida's communities are looking to new tools to meet the housing needs of Florida's residents. A tool that an increasing number of Florida communities are looking to is the community land trust.¹

A community land trust (CLT) refers to the vehicle of separating land from building (house) for the purpose of transferring title to the house without selling the land. It also denotes the private non-profit corporation that acquires and holds title to the land and manages the ground leases on that property for the benefit of that community.

This approach involves permanent CLT ownership of land, which in some cases is used to develop affordable housing and in other cases is leased to lower-income households, who are assisted in buying the homes located on the CLT land. In the context of owner-occupied housing, the CLT will transfer title of the house to the buyer while it retains title to the underlying land. The purchase becomes more affordable because the transfer of title to the homeowner does not include purchasing the land (in some parts of Florida, the costs of land dwarfs the costs of the actual building). The CLT then leases the underlying land to the new homeowner at a subsidized rate (usually utilizing a 99-year ground lease). The CLT then manages the ground leases for the properties.

The CLT ground lease contains a resale provision which ensures the property will be affordable in perpetuity. The owner of a CLT home is not permitted to sell the home on the open market. The long-term goal of the CLT is to remove housing from the speculative market so that homes remain permanently affordable. The home must be sold to a new low-income buyer at an affordable price, which is determined by a resale formula found in the ground lease.

The resale provision in the ground lease should provide a reasonable return to the homeowner. Typically, the sales price will include whatever monies the homeowner paid in equity at closing (down payment) as well as all principal payments made on the mortgage, and an appreciation based on the resale formula. The appreciation of the home's value will typically be far less than standard market appreciation because the cap on appreciation keeps the homes affordable to new homebuyers.

In addition to a below market appreciated sales price, a CLT home is made more affordable to low-income homebuyers using financial subsidies either in the construction of the homes or as monies directly provided to the homebuyer (i.e., down payment or closing cost assistance or both). If the CLT home was allowed to be sold at the market appreciated sales price, the government or other subsidy provider would have to expend an even greater amount of subsidy to make such homeownership available to the next homebuyer, which is a drain on already depleting public resources.

This manual describes in detail key best practices to establish, sustain, and scale community land trust operations in Florida. These include the instructions for legal documents, recommendation for effective stewardship, and ways in which CLTs can serve as key partners with local governments to expand and permanently preserve a community's stock of affordable housing.

While every effort has been made to ensure the reliability of this manual's content, Freddie Mac and Fannie Mae's Selling and Servicing Guides and their updates, including Guide Announcements and Release Notes, are the official statements of Fannie Mae's policies and procedures. Freddie Mac and Fannie Mae's Selling and Servicing Guides supersede in the event of discrepancies between the information in this manual and the Guides.

¹ Community land trusts bear no relation to Florida Land Trusts (Ch. 689, Fla. Stat.) in which land may be held in trust for the benefit of another. Moreover, there is no statutory construct for community land trust in Florida.



UNIT 1. ESTABLISH AND SUSTAIN

Unit 1. Establish and Sustain

CHAPTER 1. LEGAL BEST PRACTICES

This chapter of the guidebook describes the main legal documents that are needed to establish and operate a CLT from the Articles of Incorporation and Bylaws to the ground lease and lease riders. This chapter, as well as all the remaining chapters, begins by outlining the best practices to achieve CLT Certification for each element.

CAPACITY ELEMENT	CLT CERTIFICATION BEST PRACTICES
Agency Documents	<ol style="list-style-type: none">1. The organization has 501(c)3 status, and its Articles of Incorporation states one purpose is to acquire land to be held in perpetuity primarily for providing affordable housing.
Ground Lease	<ol style="list-style-type: none">2. The ground lease follows model ground lease in 2011 CLT Technical Manual.3. Any major modifications or additions to the model ground lease are included in addenda and/or exhibits.4. The Formula/Purchase Option price is clearly defined (precise language).5. The CLT uses the model memorandum of ground lease, included in the Appendices of this manual.
Risk Management	<ol style="list-style-type: none">6. General liability and other insurance policies are current.7. Review is done annually at renewal to ensure adequate coverage.
Legal Counsel	<ol style="list-style-type: none">8. The CLT has legal counsel trained in the CLT model.

Articles of Incorporation

“For CLTs, one of the stated purposes needs to be to acquire land to be held in perpetuity primarily for affordable housing.”

The Articles of Incorporation are a set of formal documents filed with the Florida Division of Corporation for an entity, non-profit and for-profit, to incorporate as a legal entity. Filing of the Articles of Incorporation is conclusive proof of incorporation, or formation of the nonprofit's corporate existence. Through submittal of this document, an entity can sue and be sued, make contracts, sell, purchase, mortgage, and convey property, and carry out all other corporate activities. Chapter 617 of the Florida Statutes deals exclusively with nonprofit corporations.

Typically, the Articles of Incorporation (the Articles) set out pertinent information of the organization. Per Chapter 617, the articles of incorporation of a nonprofit must have few basic elements. There must be the corporate name which has its own unique requirements, such as not having a name that is similar to another or a name that sounds like the nonprofit is a government entity. You must have the street address of the initial principal office, and you must state the purpose or purposes for which the corporation is organized. These purposes must be charitable and align with the organization's 501(c)(3) status. The IRS has suggested language for what a nonprofit should include in its articles to demonstrate it is organized for one or more charitable purposes. The articles must also state the manner in which the directors are to be elected (or state that such method will be stated in the bylaws), among other requirements.

Articles of Incorporation may include other items that are not inconsistent with Florida law. Most articles of incorporation are as bare as possible and only contain the required elements. You don't want to limit the organizations activities too much through the Articles because they are more difficult to amend than if you were to merely amend the bylaws (which doesn't require transmittal to the state). For example, it is rare to see the Articles contain the procedures for a meeting of the board of directors – which is something that can be better handled by the bylaws of the organization. The articles should include, however, any statements needed to confirm the organization's 501(c)(3) status. The IRS has suggested language for nonprofits that you can find on its website, ideally, work with an attorney to confirm things like what happens upon the dissolution of the corporation. It is also required that you have a clause that states that no part of the net earnings of the corporation will inure to the benefit of private persons, that no substantial part of the activities shall be to influence legislation, and that the corporation shall not participate in any political campaign on behalf of or in opposition to any candidate for public office. There are other items as well that should be included which can be found on the IRS's website. It is best to simply copy and paste those required items as the IRS deems fit.

For an existing nonprofit that is forming a CLT program within its current nonprofit structure, Florida Statute 617.1002 gives the procedures for amending the articles of incorporation if the existing articles do not provide an alternative measure. Basically, if your nonprofit has members, the nonprofit must give notice of the vote with a summary of the changes, and the amendments must be approved by at least a majority of members present or any larger or smaller percentage specified in the existing documents. If there are no members, an amendment may simply be adopted by a majority vote of the directors currently in office. If you are to amend your articles of incorporation, you must send that amendment to the Florida Division of Corporations.

By-Laws

Bylaws, as defined by the Florida Statutes, are a code or codes of rules adopted for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated. Per F.S. 617.0206, the initial bylaws are adopted by its board and the board has the authority to amend, alter, or repeal the bylaws unless otherwise provided in the articles of incorporation or bylaws. Importantly, the bylaws cannot be inconsistent with law or with the articles of incorporation.

Every CLT, when designing their bylaws or starting operations at all, to start with the National Community Land Trust Network's Community Land Trust Technical Manual. This Manual contains Model CLT Bylaws with commentary to help you navigate through the process.

These model bylaws contain key elements that should be included in your CLT's bylaws. The bylaws are structured as follows. First, the bylaws will govern membership, if you decide that you CLT will be a membership organization. The bylaws will state the rights of the members including the voting process, notice requirements for meetings, and state the quorum requirements when voting on official business. The bylaws will then state the rights and obligations of the Board of Directors. The bylaws will govern the composition of the board, the process for nominating and elected directors, board terms and meeting procedures, and lay out the duties and powers of the Board in relation to the CLT's activities.

The bylaws will then cover Officers, the CLT's conflict of interest policy, and then two sections which are essential for CLTs: a section on the Stewardship of Land and a section on Ownership Policies & Resale Limitations. These sections lay out the standards of the Board to ensure that the activities of the CLT are in line with its mission regarding land disposition, ownership, the resale formula, and other items. Finally, the bylaws will contain language on the amendment process for articles and bylaws, discuss what happens upon dissolution, among other items.

The two unique sections of the CLT bylaws are Article VI and Article VII. Article VI governs the stewardship of land. The first section of Article VI establishes the basic principles of land use that are essential to the CLT model. This section states that the Board shall oversee the use of land owned by the CLT and shall convey the right to use such land to facilitate access to the land and affordable housing by low-income people. It goes on to provide further principles regarding long-term affordability.

The next section of this Article covers the encumbrance of land, and states that the decision to mortgage or otherwise encumber land requires the approval of the Board. This is an essential provision as the CLT should not mortgage their land except in extraordinary circumstances.

And finally, this Article provides standards for the sale of CLT land. Notably, the Model Bylaws provide that land shall only be sold in extraordinary circumstances, and then only in accordance with set-out guidelines. Sale of land requires 2/3 vote of the Board, can only be done on land not currently leased, and with a resolution stating that the purposes of the CLT will be best served by selling the land and applying the proceeds to other activities serving those very purposes. Sale and encumbrance of CLT land is a serious endeavor and the bylaws will provide standards by which to carry those actions out.

Article VII of the Model Bylaws, which is also unique to CLTs, governs ownership of housing and the process by which to set and govern the CLT's resale formula. The first section provides for principles of ownership providing certain duties for the Board of Directors to meet the CLT's mission.

The second section provides guidelines for assuring long-term affordability. This section states that the Board will ensure that homes can only be re-sold to income eligible households according to the resale formula. The Board is also given the power to lease parcels of land without affordability restrictions if doing so would be consistent with the charitable purposes of the CLT.

Finally, this Article importantly governs the resale formula. First, it gives the principles and procedures for establishing the resale formula. For establishing the resale formula, it provides that the basic principle that the formula should be a balance of allowing the seller to receive the price based on the value the seller invested in the property while limiting the price to an amount a subsequent income eligible homebuyer could afford. The bylaws also give the procedures for amending the resale formula by 2/3rds vote.

To achieve certification from the FL CLT Institute, there is no strict requirement of what the Bylaws must contain except that they be valid and current, easily accessible by appropriate staff, and efficient and designed in a way to further the purposes of the CLT. They should be able to account for the aforementioned items, especially the procedures for encumbering land and for adopting a resale formula. It is best to simply use the Model Bylaws as the starting point and edit them as necessary to reflect the unique nature of your CLT.

The Ground Lease

“Like the bylaws, your CLT should always start with the 2011 Model Ground Lease produced by the CLT Network. This is essential for CLT Certification, Freddie Mac and Fannie Mae eligibility requirements, and has other practical benefits.”

The ground lease is one of the most important documents for your CLT. The ground lease is a legally binding written agreement between the CLT and the homeowner which defines the rights and obligations of each party. From the CLT’s perspective, the ground lease defines the stewardship activities it must undertake.

Like the bylaws, your CLT should always start with the 2011 Model Ground Lease produced by the CLT Network. This is essential for CLT Certification, Freddie Mac and Fannie Mae eligibility requirements, and has other practical benefits. The CLT model of ownership is a unique form of ownership and utilizing the Model Ground Lease provides needed conformity for lenders, homeowners, and community land trusts to help the CLT industry scale and produce more units.

The CLT’s ground lease does not need to be identical to the model ground lease but it should be close to that and only be amended for various discretionary items. For example, at Section 4.1 of the ground lease, the CLT has the discretion to define further restrictions on the land. At Section 4.4, the CLT can specify the number of months per year that the homeowner must occupy the home – typically around 10 months of the year. At Section 4.5, the CLT has discretion in how it goes about its subleasing policy. At Section 4.6, the CLT can specify how many inspections can be done per year and at Section 5.1, the CLT can specify the ground lease fee amount that the CLT homeowner will pay per month for the CLT’s stewardship activities. These are a few examples of discretionary items that dictate the CLT’s stewardship role of the land. These items are generally blank spots in the model ground lease.

Any edits or amendments made to the model ground lease must be minor and should not affect the security of the loan. For example, if an edit changes the default procedures or the financing sections of the ground lease, that could potentially affect the security of the loan for CLT lenders. Generally, provisions that affect the security of the loan are provisions that affect the financing, default, insurance, right of first refusal, and other terms of use.

For the CLT mortgage to be eligible for sale on the secondary market, both Freddie Mac and Fannie Mae require that the ground lease conform to either the National CLT 2011 Model Ground Lease or the Institute for Community Economics Model Ground Lease. This guidebook focuses on the first model ground lease – the National CLT Network ground lease. For CLT Certification purposes, stick to the model ground lease as closely as possible because it is a requirement that your CLT’s ground lease conform to the model. Freddie Mac allows optional language as provided in the model ground lease to be used (described below) but no additional changes should be made without written approval from Freddie Mac. If the CLT utilizes the model ground lease, all the other requirements for CLT Certification will be met. That is, the CLT ground lease must have a term of at least 99 years, the resale formula must be clearly defined, any major modifications or additions must be included as addenda and/or exhibits, the ground lease must provide the CLT a right to a preemptive option to purchase the home from the homeowner at resale and finally, the ground lease must state that the CLT must review and approve any refinance or home equity lines of credit.

The following paragraphs provide a high-level overview of what is contained in the ground lease. This will help you understand the basic principles of the ground lease, which will help you to educate your homebuyers. The first element of the ground lease has to do with ensuring that the homeowner understands the lease. Article I references a Homeowner letter of agreement and Attorney acknowledgment which is an exhibit to the ground lease. CLT homeownership is a unique form of ownership, and Article I works to ensure that the Homeowner understands the transaction. The referenced exhibit in Article I provides evidence that:

1. The homeowner understands the transaction and enters it willingly; and
2. The homeowner conferred with legal counsel on the unique nature of the ground lease.

Through the CLT’s homebuyer education training, the CLT should be confident that the Homeowner is given the opportunity to read the lease, to ask questions about the lease, and to ultimately understand the lease and what is required of them.

The second premise of the ground lease addresses the term and the use of the property. The ground lease, at Sections 2.1 and 7.1, clearly define that in a CLT transaction, the homeowner receives a leasehold interest in the land and fee simple ownership in the home and improvements. At Sections 3.1 and 3.2, the ground lease is for a term of 99 years, which is the functional equivalent of ownership in Florida, with the option to renew through specified notice requirements. The home must be the primary residence of the homeowner for a specified number of months that the Homeowner must live there, and the home may be subleased with the CLT’s consent at Section 4.5. Section 3.3 states that if the Leased Land is transferred from the CLT to another allowable entity the lease will remain binding. If the CLT transfers the land to any entity other than a nonprofit, government agency, charitable institution, or similar entity sharing the same purposes as the CLT, the homebuyer has the right of first refusal to purchase the Leased Land. This ensures extra protection for the land pledged for CLT use. And finally, at Section 7.7, the ground lease makes clear that when the lease ends, ownership of the home shall revert to the CLT and the CLT shall pay the Homeowner and any Mortgagee in a defined manner.

Thirdly, the ground lease covers the ground lease fees. Section 5.1 provides the monthly amount a CLT homeowner must pay to the CLT. This is typically around \$25 to \$40 per month. The fees mainly serve to assist the CLT in stewardship functions and are made intentionally low to keep the home affordable. The CLT may charge late fees pursuant to Section 5.7 and the ground lease also states that the CLT may suspend or reduce the lease fee to keep the home affordable. Section 5.5 provides that the lease fee may be increased from time to time and Section 5.6 provides that the lease fee will be increased if certain restrictions in the ground lease are removed.

Fourth, there are provisions regarding home maintenance. The homeowner is responsible for maintaining the home and the land, furnishing utilities, and paying for said maintenance. If the home is not adequately maintained, this may be grounds for default under the ground lease. Some CLTs have a repair reserve fee which is in addition to the lease fee to assist homeowners with maintenance costs, but it is not required.

Next, the ground lease in Article 6 states that the Homeowner is responsible for property taxes and importantly, those property taxes should be based on the value of the property with the resale restrictions. This will be explained more in depth below in the section regarding the memorandum of ground lease. Also, related, under Section 7.4, the homeowner cannot allow statutory liens to remain against the leased land or the home – doing so is grounds for default.

Sixth, the ground lease provides standards for home improvements. Under Section 7.3, construction is permitted if certain requirements in the ground lease are met. Construction that does not meet the laid-out requirements must be approved with the prior written consent of the CLT based on a request from the homeowner. An example of an improvement that would likely be approved is an upgrade to cabinets or countertops or new flooring. The addition of a second story to a one-story home may fall outside the scope of what a CLT should approve.

Next, the ground lease addresses mortgages and refinancing. Through Article 8, the homeowner cannot mortgage the home without written permission of the CLT and by signing the lease, the CLT gives permission for the original mortgage. Under Section 8.3, the CLT must approve any refinancing or other subsequent mortgages.

Article 9 discusses liability and insurance. These provisions are similar in nature to other long-term ground leases – laying out that the homeowner is responsible for the leased land and must meet various insurance requirements.

Article 10 is extremely important as it defines the resale formula and process by which to transfer the CLT home. Section 10.10 contains the resale formula of which there are several options. Article 10 is imperative to the relationship between the CLT and the homeowner and the model ground lease provides four alternatives to choose from based on how the CLT decides to carry out the resale procedures.

Article 12 lays out defaults and default procedures under the ground lease. A default event gives the CLT the right to terminate the lease (in accordance with the lease rider discussed below) and allow the CLT to repossess both the land and the home at the resale formula price defined in the ground lease.

Finally, the ground lease governs inheritance provisions answering the question who the CLT home can be passed down to if the homeowner passes away. Section 10.3 governs this and generally, the CLT home can be transferred to the spouse of the homeowner, children of the homeowner, and a member

of the homeowner's household who has lived in the home for a year prior to the homeowner's death. For this last provision, the CLT will need a procedure to document whether a person had lived in the home for at least a year. These listed persons, if they inherit the CLT home through a will or without, may not need to income-qualify to remain the home. However, if a person or persons that are not listed in the ground lease inherit the home, they will need to be income eligible, or the home must be sold to an income eligible household. For example, if the brother or sister of the homeowner receives title to the home upon the homeowner's death, that sibling will need to be income qualified or they will be forced to sell the home to an income eligible household.

The Lease Rider

A lease rider supplements a lease to indicate any specific conditions of that lease that varies from the lease itself. Both Freddie Mac and Fannie Mac provide community land trust lease riders that must be completed, executed, and recorded in the county's land records along with the CLT's ground lease. Freddie Mac's Ground Lease Rider is referred to as Form 490 and Fannie Mae's rider is referred to as Form 2100.

One of the main stewardship obligations of a CLT is to ensure that a CLT home is not taken out of the CLT's portfolio through sale or foreclosure. The purpose of the ground lease rider is to ensure that the ground lease conforms to Freddie Mac and Fannie Mae requirements in addition to providing procedures in the event a homeowner defaults on their mortgage. Both lease riders are designed to protect the CLT's rights to cure defaults and repurchase the home in an event of default and in foreclosure by requiring the homeowner to notify the CLT in cases of default. However, both allow for a removal of resale restrictions in the event the Mortgagee (lender) obtains title to home as a result of foreclosure or deed-in-lieu of foreclosure. Both ground lease riders are included in the Appendix. We highly recommend reading both documents to become familiar with the notice requirements and other key provisions.

CLTs should do whatever they can cure a default before it ever reaches the possibility of foreclosure. Once foreclosure is imminent, the CLT will have to purchase and pay the full amount owed to the Mortgagee. It is far less expensive to exercise the right to cure the default than it is to repurchase.

Memorandum of Ground Lease

A memorandum of ground lease is used for a variety of reasons, but most notably, it puts third parties on notice of the ground lease interest encumbering the property. In other words, in the CLT context, the memorandum of ground lease should put third parties on notice about the resale restrictions contained in the ground lease. CLTs must record the memorandum of ground lease in the local public land records and it must contain the resale formula. Not only does this put third parties on notice if they are interested in purchasing the home, but it also ensures that the local Property Appraiser adequately assesses the value of the property for property tax purposes. Section 193.018 of the Florida Statutes directs property appraisers to consider the resale restrictions of the ground lease when arriving at a just valuation of the property. A memorandum of ground lease that contains the resale formula is necessary to ensure that the property appraiser views the resale restrictions as a valid land use regulation during the term of the lease as the property appraiser will see the memorandum when looking through the public records. Without the resale restriction in the ground lease, there is a greater possibility that the land will be valued incorrectly which may cause the homeowner to pay higher property taxes than they should. As a best practice, follow the template for the memorandum of ground which expressly states the resale restrictions to ensure the CLT home is valued correctly.


Deeds

A deed is a signed legal document that transfers the title of an asset. CLTs should utilize the sample warranty deed included in this guidebook. The most important element of a CLT deed has to do with what exactly is being transferred. The deed must be very clear to ensure that the Grantor, the CLT, transfers ONLY a fee simple interest in the improvements existing on the land and a leasehold interest in the land. The CLT must be sure to never deed away fee simple ownership to both the home and the land. This would destroy the nature of the CLT.

Mortgage Documents

Finally, for mortgage documents, the best practice is to be sure that the mortgage documents do not encumber the CLT's fee simple interest in the land. There have been instances where CLT home mortgages have accidentally encumbered the CLT's fee simple interest in the land and unfortunately, upon foreclosure, the CLT lost their land completely. The mortgage should only encumber the homeowner's fee simple interest in the home and leasehold interest in the land. To encumber the land, the CLT would need to give consent and should only do so in extraordinary circumstances. By making absolutely sure the mortgage only encumbers what the homeowner must give away, the CLT will keep title to the leased land.

Key Self-Evaluation Questions

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- ✓ Are all legal documents valid and current?
 - ✓ Are the documents easily accessible by appropriate staff?
 - ✓ Does our ground lease conform to either the National Community Land Trust Network (NCLTN) 2011 Community Land Trust Network Model Ground Lease or the Institute for Community Economics (ICE) Model Ground Lease?
 - ✓ Do insurance policies provide adequate coverage?
 - ✓ Does our legal counsel have a clear understanding of the CLT model?

CHAPTER 2. BOARD

CAPACITY ELEMENT	CLT CERTIFICATION BEST PRACTICES
Board Commitment	Board meetings consistently meet quorum. Board vacancies are infrequent and quickly filled.
Board Committees	The Board has good, meaningful, and well-functioning committees in place with most members actively engaged.
Board Composition	The Board's composition is in line with By-laws. Most board members can bring real expertise to the agency and act as a resource for the staff.
Board's Relationship with the Executive Director	The Board and Executive Director set mutually agreed upon goals, and the Board evaluates the Executive Director's performance at least annually. Board is empowered to hire or fire Executive Director if necessary.
Orientation	New Board members receive a formal orientation conducted by the Executive Director and/or the Board Chair. The orientation includes a detailed description of expectations and responsibilities, and written material regarding ethics, fiduciary responsibility, potential conflicts, etc.
Governance	Roles of all groups, including any advisory boards, committees, and executive board (if applicable), are defined and function well.

Board Structure

A CLT is a private, nonprofit organization that is typically governed by a tripartite board made up primarily of community members. The Board of Directors is usually comprised of residents of the land trust, community stakeholders such as local officials and nonprofit leaders, and general representatives who may or may not reside within the organization's service area. Bylaws allow for a range in the number of members, but each membership category makes up 1/3 of the board.

Having a tripartite board affirms the CLT's connection to the community it serves and leads to community-focused decision making which benefits the community while building long-term sustainability of the organization.

Not all CLTs have a tripartite board and while the board composition of a CLT can vary, it is the community representation and resident engagement that is key to building the support that this unique community ownership model needs to be successful.

Fiduciary Responsibilities

Board members are fiduciaries with three primary legal duties known as the duty of care, duty of obedience, and duty of loyalty.

Duty of care means taking care of the nonprofit by ensuring prudent use of all assets and providing oversight of all activities to steer the organization towards a sustainable future. A board member must actively participate in organizational planning and decision making, be educated on the industry, attend most board meetings, oversee management by hiring and supervising the executive director, make sure the organization remains financially solvent by evaluating financial policies, approving budgets, and reviewing financial reports, among other key responsibilities.

Duty of obedience refers to ensuring that the nonprofit obeys all applicable laws and regulations, understanding internal guiding document and follows its own bylaws and policies, and that the nonprofit adheres to its stated corporate purposes and mission and doesn't act outside the scope of the nonprofit's legal documents.

Duty of loyalty ensures that decisions are made in the best interest of the nonprofit and not in the best interest of the individual board member or any other individuals or entity and that the board members must avoid conflicts of interest or the appearance of conflicts and disclose any conflicts.

Chapter 617.0830 of the Florida Statutes provides the general standards for directors. A director shall discharge his or her duties as a director, including his or her duties as a member of a committee, in good faith; with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and in a manner he or she reasonably believes to be in the best interests of the corporation.

Liability

Regarding liability, it states that a director is not liable for any action taken as a director, or any failure to take any action if he or she performed the duties of his or her office in compliance with this section.

Even so, directors and officers should be added to the organization's liability policy to protect the nonprofit and its leaders.

Board members do not only fulfill legal and fiduciary duties. Being a board member is an active role with many responsibilities that contribute to the effectiveness and sustainability of the organization.

Representing and Supporting the Organization

Because CLTs are typically small nonprofit organizations, therefore, there is a need for strong board members that can serve as ambassadors of the CLT. This means engaging the community, educating residents and stakeholders about the CLT model, and easing concerns of funders that may challenge the organization's longevity and its ability to manage properties and keep them affordable even during times of leadership transition.

Founding board members write the mission, vision, and purpose of the CLT and as stewards of the organization, board members must also adopt organization policies that are sound, ethical, and in the best interest of the organization. Board members must also participate in strategic planning to set the direction for the organization.

Another key board responsibility is hiring competent senior management to run the day-to-day activities of the organization. While the board is not responsible for managing day-to-day operations, board members must provide general oversight and advise the Executive Director and staff on significant decisions. This includes conducting regular evaluation of the Executive Director's effectiveness.

Since the CLT's success is dependent on support and finances from the community, board members must promote the vision and mission of the organization and establish and maintain good relationships with influential individuals in the CLT's network. This includes community organizing to build up support for the CLT model and to make the CLT a priority for local governments. Building these key relationships also helps with fundraising initiatives and ensures that the organization will have the financial resources to achieve its mission. In addition to fundraising, board members also have the responsibility for the financial oversight of the organization's resources including donations, grants, and other support.

Finally, board members must evaluate the organization's impact routinely to ensure that the programs and services provided by the CLT are in keeping with the organization's vision, mission, and the strategic plan.

Selecting and Training Board Members

When selecting board members, a nominating committee, responsible for recruitment of board members, may write descriptions for board members and can assist with board orientations. In general, board members must have expertise in specific areas that are beneficial to the CLT. Board members should also have leadership and management experience, be committed to the organization, have time to devote to board duties, have the ability to raise money for the CLT, and should not have a conflict of interest.

Potential board members should be provided with a board member agreement that provides information on the organization, the responsibilities of the board members, organization policies, and outlines expectations. Board members may be asked to sign the document to affirm their commitment to the organization.

A CLT Board Orientation Packet should include information on the organization's history, mission, current projects, goals, and anticipated outcomes. It should also include the organization's bylaws and articles of incorporation, strategic plan, and a contact list for board members and staff. There should be a job description for board members, a statement regarding fiduciary duties, a conflict-of-interest policy and disclosure, and the board member agreement. Financial statements for the organization should also be provided. The packet should also include basic information on how community land trusts work and talking points about the organization. Board members should understand the mission of the organization, have at least a basic understanding of how CLTs work, the benefits of CLT homeownership, and be able to explain the CLT concept clearly.

The ideal board should have the right mix of expertise and experience. More and more CLTs are acting as developers and builders of affordable housing. As professional affordable housing organizations the CLT board should include financial professionals with knowledge of financial reporting, accounting principles, and internal controls; an attorney with general legal and real estate expertise including an understanding of ground leases; community leaders with access to philanthropic resources and/or public officials that can influence the political support needed to bring a land trust to scale; industry professionals and persons willing to contribute their professional expertise such as housing developers, property managers, and individuals with construction experience, and marketing and communication professionals. Other board members may include social service providers and lenders. When filling board seats, identify areas where you need expertise in the organization and use board members to fill those organizational gaps. Also pay attention to diversity of the board in terms of race and ethnicity, gender, age, and economic status as the board should be reflective of the community the CLT serves.

Key Self-Evaluation Questions



- ✓ Do we employ a traditional tri-partite Board makeup or other structure?
- ✓ Do board members understand and are committed to the organization's mission, by-laws, policies, programs, and their roles and responsibilities as board members?
- ✓ Are board members committed to the long-term stewardship responsibilities of the organization?
- ✓ Do board members have the right mix of skills, knowledge, and background needed to fulfill their responsibilities including functional and program-related expertise?
- ✓ Does the composition of the board reflect the diversity of the community we serve?
- ✓ Are new board members given an orientation to the organization within their first month on the Board?
- ✓ Does the Board meet regularly, operate with a quorum, and record minutes of all meetings?

CHAPTER 3. SENIOR MANAGEMENT AND STAFF

CAPACITY ELEMENT	CLT CERTIFICATION BEST PRACTICES
Senior Management Experience	1. Executive Director and/or Senior Management are well qualified with relevant experience and education specifically related to the organization and mission.
Internal Leadership	2. Executive Director and/or senior management initiate team building and other activities with the goal of improving the effectiveness of staff and increasing commitment to the organization.
Dependence on Senior Management	3. The team in place can easily assume duties of others so that there can be a seamless transition to new leadership.
Community Leadership	4. The Executive Director and/or Senior Management meet regularly with the community to showcase the organization's accomplishments and share the organization's goals and objectives.
Staff Roles and Responsibilities	5. Each staff person performs an unduplicated and clearly defined role.
Staff Experience	6. Most staff members are experienced and well qualified for most tasks associated with their current position.
Motivation and Self-Direction	7. All staff are committed to mission, self-directed, motivated, and able to perform well with minimal supervision.

Excellent senior management and staff are necessary for a strong mission-driven community land trust. With strategic and qualified management, a CLT will grow and thrive. This chapter focuses on three primary topic areas. First, an overview of good HR policies. Solid personnel policies and procedures go a long way toward creating a healthy work environment for a strong CLT, ensuring that the best staff are recruited and retained. In addition, good HR policies ensure compliance with employment laws and regulations. Second, the characteristics of excellent senior management along with a summary of senior management responsibilities in a CLT. Finally, topics related to other CLT staff, including the roles and responsibilities of staff, to ensure that your CLT has the human resources necessary to achieve its mission.

Human Resources Policies

Every CLT should have written and comprehensive HR policies, sometimes called personnel policies, or policies and procedures. Ultimately, HR policies should make your job easier, not harder. With comprehensive guidelines, there should be clear pathways for human resources decisions, which avoid liability for the CLT. Policies also help build a healthy work environment. Your HR policies should be approved by the Board of Directors and reviewed regularly to make necessary updates.

It is important that HR policies reflect not only best practices but also lay the groundwork for compliance with laws and regulations. Some common employment-related lawsuits are those alleging discrimination against a protected class, wrongful termination, sexual harassment, or violation of wage and hour laws.

You may want to engage an HR consultant or employment attorney to help craft your HR policies, or you may have that resource already on your Board of Directors. Finally, HR policies should be informed by staff input. Staff may let you know, for instance, that policies that provide for remote work or flextime are very important, or that carryforward of paid time off (PTO) is important to them.

Below are a few examples of HR policies that you should have in place. While this is just a subset of policies, it demonstrates how wide-ranging these policies should be.

They will include policies such as:

- Holidays and Paid Time Off (PTO) or Sick/Vacation
- Social media, internet, and email guidelines
- Corrective action and termination
- Travel reimbursement
- Pay and overtime
- Health care and other benefits
- Complaint procedures related to harassment or other grievances

Here are a few questions for your consideration as you are building your HR policies and resources. You may want to add to this list as you think about the ethics of your organizational staffing decisions.

- Does your CLT pay a living wage?
- Do you provide affordable health insurance for all employees?
- Does your CLT offer a compensation package comparable to other nonprofits and governments in the area?
- Do you offer educational opportunities for all employees?
- Does your CLT have a diverse staff, including at the senior management level?

Taking care of employees and building a healthy work environment will go a long way toward ensuring that you can hire and retain great staff at every level of the organization. CLTs like any other organization should pay a living wage and provide affordable health insurance for all employees, as

well as offering a competitive compensation package. Staff at all levels can benefit from educational opportunities such as professional development, including soft skills and racial equity training. And ensuring that your organization has a diverse staff at every level is a must.

Senior Management Roles

In a larger CLT, it is typical to have several members of senior management. There may be a Chief Executive Officer (CEO) or Executive Director, Chief Financial Officer (CFO), and Chief Operating Officer (COO). An even larger CLT may also have a Resident Engagement Director, a Lending Director, and a Housing Development Director. In smaller organizations, responsibilities are often consolidated in just one senior management person, or possibly two. Whatever the organizational structure, the role of senior management is key to the success of the CLT and the CLT's residents.

The CEO (or Executive Director) has a multitude of responsibilities. These responsibilities can be quite challenging to balance without a strong Board and strong staff. The CEO reports to the Board of Directors, which is responsible for evaluating the CEO and setting their compensation. The CEO's primary responsibility is to promote the mission of the CLT, which includes helping the Board develop the strategic plan and ensuring that plan's implementation. They also have the ultimate responsibility for staffing, finances, and CLT operations, as well as resource development. The CEO is the "face of the organization" – whether the venue is a local county commission meeting, a Rotary Club or fundraising event, or with CLT residents. The CLT should have credibility and a positive reputation in the communities in which it operates, and the CEO has the ultimate responsibility for building this reputation. Finally, the CEO is responsible for ensuring that the CLT has a strong staff. By offering professional development, cross-training, and team building, the CLT will be in the best position to achieve its mission over the long-term.

A good CEO will have many of the following qualifications:

- Leadership or management of an organization, preferably nonprofit
- Bachelor's degree, master's preferred
- Expertise in finance, lending, and/or legal arenas
- Experience in affordable housing
- Experience building collaborative teams
- Experience engaging community stakeholders

Succession Planning for Senior Management

Loss of the CEO is inevitable – it's just a matter of time. The responsibilities of the CEO are myriad. So having a plan in place for succession will prevent the CLT from panic and scrambling when that day comes. Succession planning has many benefits. The CLT will be more stable during a time of transition. Further, even if the CEO is not retiring, you will still be prepared if they are out for an extended length of time due to accident or illness. Succession planning also demonstrates that management values staff. This allows for internal promotions and ultimately improves morale. Finally, by grooming an internal candidate for a position, there is plenty of time to build the credibility of the successor in the eyes of Board, staff, and external stakeholders. In addition, developing staff for promotion and succession build the organization's internal culture and external reputation.

Staff

The combination of staff across CLTs varies significantly based on the size of the CLT, its geography, and nature of its portfolio. At a minimum, in addition to the CEO or Executive Director (ED), a CLT should have at least one Housing and/or Lending Coordinator or Counselor responsible for being the first point of contact clients, to manage the process from initial inquiry and application through closing, and performing stewardship functions such as resale calculations, all under the supervision of the CEO or Executive Director. Larger CLTs may have multiple positions covering these duties. Additionally, CLTs that own and/or manage rental properties will also have property management on staff, including a Leasing Manager, Resident Engagement/Services Coordinator and Maintenance Coordinator. Further, CLTs may also have support staff such as a Bookkeeper or Administrative Assistant.

It is ideal if staff have experience in affordable housing programs and understand how they work. Similarly, they should understand the CLT model, and their specific role in advancing the mission of the CLT. All staff should be on board with the CLT's mission and be able to communicate that to stakeholders. Finally, staff should be self-directed, and able to perform their duties with minimal supervision.

Some best practices related to staffing in the CLT include, having clear and current position descriptions, so staff have absolute understanding of their responsibilities. Second, it is helpful for staff to be cross-trained so that if someone is out for any reason, another staffer can fill in for urgent matters. Third, the CLT should ensure that all staff – regardless of their level in the organization – have opportunities for professional development or training, and a path forward.



Key Self-Evaluation Questions



- ✓ What are the qualifications of the ED?
- ✓ Does our ED have specific experience with homeownership programs?
- ✓ Does our ED initiate team-building exercises such as an annual retreat?
- ✓ Do we have leadership and management succession plans in place with a process to deal with an unplanned absence of the ED?
- ✓ Do we have a strategic leadership development plan to expand the organization's pool of capable leadership?
- ✓ Does our ED participate in community events and meetings to showcase the organization's accomplishments and communicate goals and objectives?
- ✓ Does each staff person have an up-to-date job description indicating appropriate training and experience?
- ✓ Do staff members understand their responsibilities?
- ✓ How long have the staff members worked with the CLT?
- ✓ Prior to working for the CLT, did the staff have experience working with affordable housing programs?
- ✓ Does our staff have the skills, experience, and knowledge to carry out the programs of the CLT, including a basic understanding of the CLT model and ability to communicate it to others?
- ✓ Are staff familiar with other local affordable housing programs or resources and how they relate to the CLT operations?
- ✓ Are staff encouraged to participate in training or opportunities to upgrade their skills?

CHAPTER 4. FINANCE

CAPACITY ELEMENT	CLT CERTIFICATION BEST PRACTICES
Policies and Procedures	Written fiscal policies are in place and regularly followed.
Financial Management and Reporting	<p>The Executive Director/CFO regularly reviews audits and financial reports with the Board.</p> <p>Audits, tax returns and all other financial reports are completed in a timely manner, and strictly adhere generally accepted accounting practices.</p> <p>There are no indications of financial distress (evidence includes audits and financial reports that indicate current assets exceed current liabilities, income exceeds expenses, an operating reserve is maintained, no other major concerns in audit)</p>
Budgeting	<p>Budget is formulated annually with input by the Executive Director and Board (senior staff and applicable governing board(s) for local governments).</p> <p>Variations are routinely examined, and corrective action is taken as needed to ensure compliance.</p>
Revenue Sources	<p>The organization has diverse revenue sources indicating resiliency and sustainability, including at least 3 of the following sources:</p> <ol style="list-style-type: none"> a. Development fees b. Ground lease fees c. Rental revenue d. Membership dues e. Grants and donations f. Income from related programs

Financial management is the process of planning, organizing, controlling, safeguarding, and monitoring financial resources for the purpose of achieving organizational goals and objectives. In this chapter, we will touch on four elements of financial management. We will begin with a focus on effective financial policies and internal controls. Strong financial policies and internal controls establish the framework for safeguarding and managing the financial aspects of your organization. The second element is budgeting, an effective planning tool as well as a tool for ongoing monitoring. The third element is the importance of diversification of revenue sources, which increases the resiliency and sustainability of any CLT. The fourth element we will review are the essential aspects of financial reporting, audits, and IRS Form 990's. Strengthening all four elements will build a strong support system for any mission-based organization.

Financial Policies and Procedures

Every CLT should have written and comprehensive financial policies that outline how the financial management and accounting system is designed to work. These policies should be approved by the Board of Directors and reviewed regularly to determine if revisions are needed. For instance, many nonprofit organizations that have not updated their policies may not have sufficient safeguards around electronic funds transfers, online purchasing, and the many electronic processes that are essential to their work. The policies and any associated procedures will establish processes including timely oversight, monitoring, and variance analyses. Active oversight not only ensures the safeguarding of assets, but also supports planning and resiliency in a changing environment. Finally, a critically important aspect of financial policies is ensuring internal controls. Internal controls include approval processes, separation of duties, and limited access to systems.

Some examples of financial policies that you should have in place include:

- Handling of cash receipts and direct deposits
- Handling of purchases and expenditures
- Approving payroll, bank reconciliations, purchases, receivables, etc.
- Expense and travel reimbursement
- Capitalizing or expensing expenditures
- Operating, maintenance, and capital reserves
- Authority to enter into debt on behalf of the organization
- Requirement for Board annual review of CEO and CEO compensation

While this is just a subset of financial policies, it shows how wide-ranging financial policies should be. They should include policies around receiving money, making purchases, paying bills and reimbursements, establishing reserves, entering into debt, and setting the CEO's compensation. Financial policies should be tailored to the individual organization. The policies will look different in a CLT with two employees and a \$500,000 budget compared to a 25-person CLT with a much larger budget.

It is essential that every organization establish strong internal controls to properly safeguard assets and ensure appropriate use of financial resources. Internal controls should establish responsibility for each step in any financial process – cash receipts and disbursements, procurement and purchasing, compensation and benefits, and more. It should be easy to answer a question like “who endorses checks received?” or “who approves travel reimbursements?” with the name of one position or person. At the same time, it is important to ensure that no one person has too much responsibility in any given process, so sufficient thought should be put into separation of duties. Most instances of embezzlement at nonprofit organizations are due to inadequate separation of duties. By spreading out the responsibility for the steps in a process, checks and balances are built into the system. In a small organization with few staff, separation of duties may be challenging. In that case, it is important to engage Board members to play a role in the process. They may be responsible for reviewing and approving the payment of invoices, for instance. In addition, Board members sometimes play an active role in reviewing bank reconciliations or providing a second signature on checks or approving electronic funds transfers. Finally, it is essential to restrict access to accounting systems and other

assets. Whether you use QuickBooks, MIP, Blackbaud, or some other system – there should be a limited number of authorized users with no sharing of usernames and passwords. Similarly, locked file cabinets should be used for hard copies, checks, and so on.

Here are some examples of ways to separate duties:

- The person who opens the mail (receives checks from donors, CLT homeowners, etc.) and endorses those checks should not be the person who makes the bank deposit.
- A different person should record the deposits in the accounting system.
- A different person should review and follow up on overdue receivables.
- The person who generates a check from the accounting system should not be the person who signs the check.
- Similarly, all EFTs initiated by the bookkeeper should be approved by a manager.

In terms of cash receipts, the person who receives and endorses checks should not also be responsible for depositing the checks, recording the deposit, and/or following up on overdue receivables. Having different people be assigned each task ensures accountability and checks and balances. If you have concerns or questions about your CLT's internal controls, you might want to consult with your auditor to guide you in ways to strengthen your system.

Budgeting

It is typical that the management team drafts an annual budget, or in some cases, the Board's Finance Committee or Executive Committee might assist with drafting the budget. The full Board of Directors should review and approve the annual operating budget, as well as any capital budget or reserves budget.

The budget is a tool and should be designed based on your strategic goals for the year. For instance, if during your strategic planning process you identified low staff capacity as a weakness, you may build into the new budget an additional hire, more staff training, or other approaches to building staff capacity. Or if you find that your revenue sources are not diversified, your budget can reflect projections for revenue line items that may be new or expanded. At the same time, the budget is not sacred. Senior leadership should have the ability to go slightly under or over budget without having to go to the Board for approval. The level of discretion can be outlined in the financial policies. CLTs should also build into their process the ability to revise projections as new information becomes available.

Below is an example of a budget analysis presented to the Board, or appropriate Board committee, six months into this CLT's fiscal year. The first set of columns provides the actual year to date versus budget, along with the variances. The three columns to the far right show where management is revising their projections for the year. This organization's expectations about corporate contributions have not been met – they are below budget by 80%. Because of that shortfall, the annual budget of \$50,000 for corporate contributions is not expected to be achieved, so now the projection is scaled back to \$10,000. If, however, management and the Board decided to redouble their efforts on securing corporate contributions, then they might want to keep the annual budget at \$50,000 and work harder to build relationships with corporations and/or submit quality grant applications. The line

item “proceeds on sale of homes,” similarly shows a 100% shortfall. In this case however, the annual budget is still projected to be met – perhaps because a home is expected to sell in the second half of the current fiscal year. This approach, then, offers an opportunity to consider in a nuanced way how the current situation is expected to play out later in the year. It offers a relatively easy approach to communicating with the Board to decide whether to pivot efforts, redouble efforts, or stay the course. A similar budget analysis should be prepared for expenses. Taking those analyses together, the annual revised projection of net income will be revealed.

REVENUE	Budget YTD (6 Months)	Actual YTD	Variance YTD	Variance %	Annual Budget	Annual Revised Projection	Variance: Budget vs. Revised Projection
Corporate Contributions	\$ 25,000.00	\$ 5,000.00	\$ (20,000.00)	-80.0%	\$ 50,000.00	\$ 10,000.00	\$ (40,000.00)
Government Grants	\$ 100,000.00	\$ 125,000.00	\$ 25,000.00	25.0%	\$ 200,000.00	\$ 225,000.00	\$ 25,000.00
Rental Income	\$ 65,000.00	\$ 60,000.00	\$ (5,000.00)	-7.7%	\$ 130,000.00	\$ 130,000.00	\$ _____
Management Fee Income	\$ 25,000.00	\$ 25,000.00	\$ _____	0.0%	\$ 50,000.00	\$ 50,000.00	\$ _____
Application Fees	\$ 2,500.00	\$ 500.00	\$ (2,000.00)	-80.0%	\$ 5,000.00	\$ 1,500.00	\$ (3,500.00)
Ground Lease Fees	\$ 15,000.00	\$ 14,000.00	\$ (1,000.00)	-6.7%	\$ 30,000.00	\$ 30,000.00	\$ _____
Developer Fees	\$ 25,000.00	\$ 20,000.00	\$ (5,000.00)	-20.0%	\$ 50,000.00	\$ 40,000.00	\$ (10,000.00)
Proceeds on Sale of Homes	\$ 12,500.00	\$ _____	\$ (12,500.00)	-100.0%	\$ 25,000.00	\$ 25,000.00	\$ _____
Investment Income	\$ 1,250.00	\$ 500.00	\$ (750.00)	-60.0%	\$ 2,500.00	\$ 1,000.00	\$ (1,500.00)
Other Income	\$ _____	\$ 250.00	\$ 250.00		\$ _____	\$ 250.00	\$ 250.00
TOTAL REVENUE	\$ 271,250.00	\$ 250,250.00	\$ (21,000.00)	-7.7%	\$ 542,500.00	\$ 512,750.00	\$ (29,750.00)

Diversifying Revenue Sources

“Diversification of revenue sources should be a priority for every organization.”

Revenue diversification is important for organization resiliency and sustainability, which in turn ensures that the mission will be achieved over the long term. Below are some examples of different revenue sources typical for a CLT.

- CLT fees/dues (e.g., ground lease fees, developer fees, application fees, management fees, membership dues)

- Proceeds from sale of homes
- Rental income
- Corporate-related contributions or grants (e.g., financial institutions, health care industry foundations)
- Non-corporate private philanthropy or grants (e.g., community foundations, individual donors)
- Governmental support (e.g., grants, donations of land, fee waivers)

CLTs should consider your current revenue sources and percentages of revenue derived from each source. In addition, compare this list to your revenue sources to determine what might be missing entirely. With this perspective you can determine what current revenue sources you might need to increase for diversification, or what sources you should begin to pursue. These decisions will inform – and be informed by – your strategic planning efforts. For instance, if your CLT has never owned rental units, you may want to research that possibility before determining whether and how to move forward with that potential revenue source. Each CLT is different, as are the communities in which they work, so your decisions will vary. However, diversification of revenue sources should be a priority for every organization.

Financial Reporting

A CLT's financial reporting, including audits and IRS Form 990's, provide evidence of accountability, effective oversight, long-term organizational sustainability, and adherence to GAAP. Every CLT should file an IRS Form 990 in a timely manner, as well as have an independent audit. The audited financial statements and the 990 are often the first documents reviewed by a funder, grantmaking organization, consultant, monitor, or regulator. Together, they tell the story of your nonprofit – and that story can either build up or break down their confidence in your organization.

The Certified Public Accountant (CPA) firm for your audit should be selected by the Board of Directors – not by management – and that audit firm should be rotated periodically. Many nonprofits change auditors every 3-7 years and do so under the direction of the Board. These practices help ensure both the practice and the perception of the independence of the auditor. Management and the Board work with the auditors to complete the audit, and the audited financial statements should be presented to and approved by the Board. At the same time, the auditors should provide a report outlining any identified weaknesses in internal control and any compliance issues that came to light. Using that report, you can take action to improve financial policies and practices.

In addition to the annual audit, you file an IRS Form 990. In many cases the 990 is prepared by the Tax Department of the CPA firm that completed the audit. Timely and accurate filing of the 990 is important and special attention should be paid to the narrative portions of the 990 – Parts I and III – the sections where the mission and activities are identified. This will help position your mortgages to be traded in the secondary mortgage market. In addition, in Parts IV and V of the 990, you'll find questions regarding the role of the Board, management, and other organizational aspects of the CLT. While often overlooked, this section provides additional information about the organizational strength beyond the numbers.

Key Self-Evaluation Questions



- ✓ Who is responsible for managing finances?
- ✓ How often is cash flow monitored and evaluated?
- ✓ Does our Executive Director review audits and financial reports with the Board?
- ✓ Are audits and tax returns completed in a timely manner?
- ✓ How is our budget formed?
- ✓ What are our sources of revenue?

CHAPTER 5. STEWARDSHIP

Capacity Element	CLT Certification Best Practices
<p>Homebuyer Education</p>	<p>The CLT requires homebuyer education. It may conduct itself and/or rely upon relationships with other organizations for its homebuyers to complete this requirement.</p> <p>The education course includes a module specifically on CLT homeownership either within the course or taught separately.</p> <p>In addition to the homebuyer education course, the CLT meets with homebuyers at least once prior to closing to discuss CLT homeownership.</p> <p>The CLT evaluates the effectiveness of its homebuyer education through a written test provided to prospective homebuyers and requires a signed attestation that the homebuyer understands CLT homeownership.</p> <p>The CLT offers counseling to prospective homebuyers either formally or informally, and/or refers prospective homebuyers to other counseling agencies.</p>
<p>Ongoing Communication with Homeowners</p>	<p>The CLT schedules post-closing meeting with homeowners. Such meetings may be formal or informal.</p> <p>The CLT has a process for checking real estate tax bills to ensure properties receive the proper tax treatment per Sections 196.1978 and 193.018, Florida Statutes.</p> <p>The CLT communicates at least twice a year with owners or members through newsletter, gatherings, or other means.</p> <p>The CLT also maintains an open-door policy for meeting with homeowners post-closing outside of scheduled activities.</p>

<p>Resale Procedures</p>	<p>The CLT has written resale procedures provided to homeowners and understood by staff.</p> <p>The CLT maintains list of prospective homebuyers from attendees of homebuyer education classes, website forms, counseling, and other means.</p> <p>The CLT further maintains enough reserves and/or has line of credit to repurchase homes or place homes under contract while it identifies a subsequent homebuyer, relieving the seller of this responsibility.</p> <p>The CLT markets homes for sale utilizing its own real estate license, licensees on staff or relationships with local firms that understand CLT homeownership.</p>
<p>Default Procedures</p>	<p>Through homebuyer education, counseling and or regular communication post-closing, homeowners understand to contact CLT in case of financial difficulty.</p> <p>The CLT has adequate resources of its own to utilize to cure default on a homeowner’s behalf as first resort (if homeowner cannot) and to exercise its repurchase option in case of default.</p>

Stewardship refers to the CLT’s responsibility to manage and permanently preserve a community asset entrusted to it, that asset being housing that is affordable. This chapter of the guidebook covers all the key elements of effective stewardship. The first element covered is finances and recordkeeping. The second element is ground lease fees, which cover some costs of stewardship and serve as a means of maintaining connection with homeowners after the purchase. The third element is real estate taxes since community land trust homeownership is afforded key savings to further preserve affordability. This topic is also covered in Chapter 1, as a community land trust’s organizational documents must contain certain language for homeowners to benefit from reduced real estate taxes. The next three elements, detailed in the ground lease and lease riders are resale procedures, refinance procedures, and default procedures. This chapter ends with a description of best practices for Homebuyer Education and Counseling.

Finances and Recordkeeping

“Performing stewardship duties has real costs”

Community land trusts must be prepared to fulfil their stewardship duties. Two important aspects of this are recordkeeping and finances. As most agencies and businesses prefer digital recordkeeping, important decisions must be made on which software to use for recordkeeping. Software decisions will then inform hardware choices. Procedures for tracking, reporting and file retention should be well-thought-out and written as part of overall organizational policies and procedures, and should comply with requirements of funding sources.

Performing stewardship duties has real costs. Purchasing and maintaining hardware and software for recordkeeping is one cost. The CLT must maintain liability insurance coverage as landowners. Additionally, there is the staff time, materials and other costs associated with maintaining communication with homeowners, the Board, lenders, and reporting to funders. A critical financial aspect of stewardship is preparing to exercise the repurchase option. CLTs should obtain and maintain a line of credit with a bank or community development financing institution, or otherwise build up internal financial resources to be in position to repurchase properties, if necessary, to preserve affordability.

Ground Lease Fees

As the landowner, a CLT charges a small ground lease fee. This fee contributes to paying the costs of stewardship, such as recordkeeping software and insurance premiums. The fee can also be a means of monitoring homeowners in a helpful way. For example, if a homeowner fails to pay their ground lease fee, that may be an indication the homeowner needs financial assistance in paying their mortgage or other monthly expenses. When setting the ground lease fee, consider both the costs of stewardship as well as affordability to homeowners. Keep in mind that the ground lease fee may be included in affordability calculations by mortgage lenders.

Maintenance Reserves

Stewardship of the community's affordable housing asset includes ensuring properties are in good condition at resale. One way to do this is through managing maintenance reserves to cover repairs needed over time. If this is desirable, it is important to decide and clearly communicate the following to the homeowner: whether reserves are unit-specific, or whether all funds collected go into a single reserve that all homeowners can access; and the types of repairs reserves will cover – for example, the reserves may cover major expenses needed for habitability or to maintain insurance such as roofs or mechanical systems, but not cosmetic items or more minor expenses such as interior doors or interior paint. It should also be decided and communicated how the fee is collected. Is it a one-time fee upfront to pre-fund the reserve, or will it be collected over time? In both cases, affordability must be considered, specifically the amount of subsidy needed to make either option affordable to target homebuyers. Further, consider the costs and anticipated timing of repairs the reserve will cover. An HVAC unit may need to be replaced within 10 to 15 years. If this is a cost covered by the reserve, it should be projected how much it will cost to replace at that time, and enough money collected by that time to cover the cost. Home maintenance is ultimately the homeowner's responsibility. The maintenance reserve should be seen only as a tool to assist the homeowner with this responsibility. Therefore, it may be good to consider incentives for home maintenance to compliment the maintenance reserve, such as credit for certain repairs or upgrades as part the resale formula or allowing the owner to receive a portion of unused amounts paid into the reserve at resale.

Real Estate Taxes

The homeowner is responsible for paying real estate taxes. In Florida, CLT homeowners have the benefit of reduced property taxes. Per Section 193.018 of the Florida Statutes, CLT homes are taxed based on the leasehold interest in the land and the resale restricted value of the improvements. Essentially, the home should be taxed according to the resale formula in the ground lease. While this is a statutory requirement, it should not be assumed that all property appraisers are aware or understand

this, or that issues might not ever arise. Therefore, new CLTs should provide the language of the statute to property appraisers serving the locations they plan to serve, and existing CLTs should have this language available should their homeowners receive an incorrect tax bill. CLTs should include information on the real estate tax process as part of homebuyer education, instructing prospective and new homeowners on when they should expect their Truth in Millage (or TRIM) notice, which is the required notice of proposed property taxes. Homeowners should also understand how to file a petition with their local value adjustment board if their taxes are calculated incorrectly. CLTs should be prepared to assist homeowners in navigating this process and communicating with the property appraiser's office and value adjustment board as the landowner. Additionally, CLTs should have as a guideline that mortgage lenders escrow property taxes with monthly mortgage payments to ensure that the taxes are paid, and properties are not lost due to failure to pay property taxes.

Resale Procedures

“As a best practice, we recommend that CLTs handle all aspects of the resale process”

The resale process is a major stewardship function, necessary to ensure that homes are sold to income eligible purchasers at the resale restricted price. While resale procedures are described in the ground lease, CLTs should provide a separate document to homebuyers outlining the process in simpler terms. Resale procedures should also be described in detail in the CLTs operating or program management manual. Resale procedures should include scenarios under which the CLT will or will not repurchase a home. For example, how long does a home need to be on the market before the CLT will repurchase the home, or if the CLT will immediately repurchase a home if the seller is experiencing an emergency. CLT staff should be able to clearly articulate the resale process, with a firm understanding of the general process, and be able to calculate the formula price for any home in the portfolio using the applicable resale formula. Staff should also understand if any program or funding specific to a home purchase will impact resale, for example if any purchase assistance must be repaid upon resale and how that factors into the resale formula.

As a best practice, we recommend that CLTs handle all aspects of the resale process. The resale process should flow like this: 1) When a homeowner wishes to sell, they should first notify the CLT of this intent. 2) Upon receiving this notification, the CLT calculates the resale price and executes a purchase and sale agreement with the homeowner. 3) During the period of this agreement, the CLT would identify a purchaser for the home, and when comfortable that the purchaser is qualified and ready, assign the purchase and sale agreement to the purchaser and facilitate the closing. There should be a fee for the CLT to handle this process. However, this fee should be comparable or less than a typical realtor fees to further the goal of affordability.

Refinance Procedures

After homeowners have been in their homes for a number of years, they may consider refinancing their mortgage to lower monthly costs or a home equity line of credit to make upgrades to their home or for other reasons. The ground lease requires that homeowners get permission from the CLT for refinancing and other loans. Knowing this, it is important to establish procedures, guidelines and requirements for acceptable refinances and other loans in a written document that provides clarity to the process beyond the language of the ground lease. While market conditions change, it is always

applicable to make sure that homeowners do not borrow more than the resale restricted value of their home and do not enter a loan with predatory terms that can put them at risk of foreclosure. Examples of this include high interest rates, fees, or payments that cause the balance to increase over time rather than decrease.

Default Procedures

Addressing default is one of the key elements of a CLT’s stewardship duties. The term default usually connotes failure to make monthly mortgage payments. However, a CLT homeowner can also default on their ground lease through such things as failure to make ground lease payments or violating other terms such as no longer occupying the home as their primary residence. It is important to make this distinction and establish detailed written procedures for addressing different types of default as part of a CLT’s program management or operating manual. In the case of mortgage default, these procedures include how the CLT will make the decision to cure a mortgage default and exercise its option to repurchase. These procedures should follow the requirements and order of actions detailed in the ground lease rider. A CLT’s default procedures should also include situations in which a CLT will suspend or defer ground lease payments, for example, to help a homeowner maintain homeownership during a difficult time. Staff should be able to clearly articulate general default procedures and understand any distinctions in the process related to sources of subsidy.

Homebuyer Education

As a best practice, a CLT should evaluate a prospective homebuyer’s understanding of CLT homeownership following homebuyer education and counseling in a one-on-one meeting prior to closing.

While stewardship is often thought of as the work of the CLT after someone purchases a home, it starts with homebuyer education and counseling. Most sources of subsidy and affordable housing mortgage products require homebuyer education. This should be a requirement of the CLT as well. Homebuyer education should include a module about community land trust homeownership which describes the differences between CLT homeownership and fee simple homeownership, the homeowner’s responsibilities, and key provisions of the ground lease, and how to calculate their resale price using the resale formula. The CLT may provide the full homebuyer education curriculum itself, or partner with another organization to provide. One approach may be that other organizations provide general homebuyer education, and the CLT requires attendance of at a separate special session specifically on CLT homeownership that it teaches. In addition to education, which generally takes place in a group, classroom setting, CLTs should also offer one-on-one counseling. This can be a formal program or informally as requested. As a best practice, a CLT should evaluate a prospective homebuyer’s understanding of CLT homeownership following homebuyer education and counseling in a one-on-one meeting prior to closing. Evaluation can be done by written test or other means. The CLT should also require that homebuyers sign a document attesting to their understanding. A homebuyer should not enter CLT homeownership without understanding it.

Homebuyer education courses and the provision of counseling can build the list of prospective buyers for CLT homes. If provided regularly, education and counseling can help facilitate a smooth resale process since there will always be a prospective homebuyer in the queue to purchase a CLT home.

Ongoing Communication

Another stewardship function of CLTs is to maintain ongoing communication with homeowners after the purchase of a home. As the relationship continues for the duration of a homeowner's stay, it is important for homeowners to know how and when to contact the CLT. **With that, CLTs should have a post-closing meeting with their homeowners to review important ground lease provisions, such as the resale formula, and confirm their understanding of the CLTs role in their success as a homeowner.** This post-closing meeting will help solidify the relationship for the homeowner.

It is also a best practice for CLTs to communicate with homeowners at least twice a year through newsletters, community events or other means to provide information on resources, reminding homeowners to check their TRIM notices, a review of resale procedures and fun items that build community and create a comfort level with homeowners reaching out to the CLT at any time they need to.



Key Self-Evaluation Questions



- ✓ Does the CLT conduct its own homebuyer education course?
- ✓ If not, does the CLT have formal relationship with another agency or agencies to do this?
- ✓ Does the CLT provide materials specific to CLT homeownership as part of homebuyer education?
- ✓ Does the CLT offer homebuyer counseling? Is it offered formally (by appointment, required for participation in the program, etc.) or informally?
- ✓ Does the CLT require that homebuyers demonstrate understanding of CLT homeownership?
- ✓ Does the CLT require signed attestation by homebuyers prior to purchase to confirm understanding of CLT homeownership?
- ✓ Does the CLT require or offer a post-closing meeting with homeowners?
- ✓ How does the CLT otherwise maintain contact with homeowners after purchase (through what means and how often)?
- ✓ Does the CLT detail its resale procedures in a written document other than what's provided in the Ground Lease?
- ✓ Has the CLT ever bought back a property, or will it buy properties back if necessary? What are the determining factors for that decision?
- ✓ Has the CLT ever had any foreclosures or other defaults? If so, what caused the default? Was the CLT able to save the unit? If so, how? If not, why not?

CHAPTER 6. SYSTEMS AND FILE MANAGEMENT

Capacity Element	CLT Certification Best Practices
Technology Infrastructure	<ol style="list-style-type: none"> 1. Up to date equipment and programs in place and operational. 2. All software is licensed. 3. Improvements in systems occur as budget and time permit.
Technological Expertise	<ol style="list-style-type: none"> 4. All staff are computer literate and able to operate systems and equipment relevant to their position. 5. Additional or advanced training is encouraged.
Database Management	<ol style="list-style-type: none"> 6. Tracking and reporting (database) systems operate well, and can compile, report, and analyze basic data.
Records and Filing	<ol style="list-style-type: none"> 7. As appropriate, files are put into electronic format and are easily accessible through the database system. 8. Paper files are well-organized and complete. 9. Files are reviewed regularly by staff to ensure compliance.
Physical Infrastructure	<ol style="list-style-type: none"> 10. Physical infrastructure is good, well maintained, meets all accessibility guidelines, and is used efficiently.

In this chapter, we will discuss questions and issues on technology infrastructure, expertise, and comfort level of staff in the use of technology, database management, records and filing policies and physical infrastructure for operating and interfacing with the community.

Systems and Technology

Technology infrastructure has become increasingly important to the operation of nonprofits. For example, local governments, a key partner for community land trusts, are increasingly implementing paperless systems for applications, compliance reporting and invoicing. The same applies for private sector partners. Further, technology is crucial to a nonprofit’s ability to maintain operations during natural disasters and health emergencies. For this reason, equipment and operating systems should be routinely evaluated and updated to ensure they are adequate for the work. Any software being used should be fully licensed to prevent loss of functionality and information. Software licenses, equipment purchases, and maintenance should be a part of the annual budget. To help with this, new accounting rules allow nonprofits to capitalize technology-related expenses, including long-term software licenses. While this does not change the cost of the investment, it does lower overhead

expenses, which can be very positive for fundraising efforts as donors routinely look at the ratio of administrative costs to program costs when making funding decisions.

As technology is becoming more intrinsic to operations, it is important that all staff are reasonably comfortable with using equipment and operating systems pertinent to their roles in the organization. Ideally, technical support is on staff or retained so that other staff can ask questions and easily resolve issues with technology. Further, as operating systems are updated constantly, staff should receive regular training to stay up to date and maximize use of technology.

Records and File Management

We recommend that the CLT have a written records and filing policy as part of its overall operations manual. This policy should include clear instructions on the overall filing system, handling of paper and electronic files, who has access to what part of the records and who is responsible for reporting, the retention schedule for various types of documents, as well as how the files will be kept secure.

Records retention is one of the key elements of a records policy. A good policy will identify those general items for permanent retention, such as articles of incorporation, bylaws, leases, deeds, and financial statements. Other items can be retained for a shorter period of, such as receipts and paid invoices, payroll, and email records. The retention schedule must also meet the requirements of the funding source, such as SHIP, HOME and CDBG.

Database Tools

As permanent stewards of affordable housing, community land trusts are unique housing nonprofits with unique needs. Understanding this, Grounded Solutions Network, the national community land trust coalition, worked with Salesforce to develop HomeKeeper – a client and database management system specifically for permanently affordable housing programs. One aspect of HomeKeeper is its intent to help community land trusts measure impact versus outputs. Use of HomeKeeper also ties community land trusts into a national data hub that measures the nationwide impact of community land trusts. Other tools a community land trust may consider are Neighborly and ZoomGrants. These two are popular amongst local governments, which may make them attractive to use for efficient compliance reporting and invoicing. Finally, for expertise in exploring systems and infrastructure, we recommend TechSoup as a source for products, services (such as helpdesk services), training and technical assistance related to nonprofit use of technology. This is not an exhaustive list of resources by any means. We encourage seeking out others.

Physical Space

Last, we will briefly touch on physical infrastructure. The location and quality of physical space is very important to community land trust operations, including client interface, security of technology and records, and community image. There are three main factors to consider with a physical space:

- Is it affordable? Is the rent, or if owned, is the mortgage affordable for the budget?
- Is it accessible? Is the space well-located where clients and stakeholders can find the space with ease?

- Is it adequate? Does it have enough space for staff to have their own space, where appropriate?
Is there any major deferred maintenance? Does it have the necessary space for file storage?

Answering yes to these questions should mean the physical infrastructure works well for the organization.

Key Self-Evaluation Questions



- ✓ What operating system is the CLT currently using?
- ✓ When was the last time technology was upgraded?
- ✓ Does all staff feel comfortable operating the technology and working within operating systems?
- ✓ Is technology training required or encouraged (i.e., paid for by the CLT)?
- ✓ Does the CLT use HomeKeeper? If not, what database system(s) is being utilized?
- ✓ Are there both paper and electronic files?
- ✓ What is the filing system in place (labeling, location, etc.)?
- ✓ How are records and files secured?
- ✓ Is there a written Records and Filing policy?

A family of four is moving into a new home. The father and mother are carrying large cardboard boxes labeled 'BEDROOM' and 'KITCHEN'. Two young girls are in the foreground; one is holding a large stuffed rabbit, and the other is holding a potted plant. The scene is set in a bright, modern interior with a tiled floor and a white wall. The entire image has a light blue overlay.

UNIT 2. BUILDING SCALE

Unit 2. Building Scale

CHAPTER 7. WORKING WITH LOCAL GOVERNMENTS

“The subsidy retention approach causes the value of the one-time subsidy to grow”

The community land trust model employs a subsidy retention approach to homebuyer assistance. This is different from the subsidy recapture approach most local governments use to provide homebuyer assistance. While the traditional *subsidy recapture* approach aims to recapture the funds provided to the new home buyer through a loan, the *subsidy retention* approach aims to keep housing permanently affordable. The next few paragraphs will explain how each approach works, and why subsidy retention is more effective.

Let’s begin by describing the *subsidy recapture* approach. At the local government level, most administrators are using SHIP funds to provide down payment assistance to low- and moderate-income first-time homebuyers. Down payment assistance is widely provided in the form of deferred payment loans. A *deferred payment loan* is a type of home loan where the homebuyer makes no payments while living in the home. Instead, the security documents call for the homebuyer to repay some or all the funds upon sale of the home. Those funds return to the local government as “recaptured” funds. The household originally assisted by SHIP down payment assistance can sell their home to any willing buyer with no limits on price or income-eligibility.

Most local governments operate the subsidy recapture model to increase revenue, as annual SHIP allocations are not enough to meet growing need. The funds recaptured from home sales can then be used to assist another eligible household. While this approach may increase revenue available to the local government, it fails on two levels:

- 1. Addressing the growing affordability gap.** Home prices are constantly going up. To respond to this issue, local governments are simply increasing the maximum subsidy amount available to qualified homebuyers through SHIP down payment assistance programs and/or layering SHIP with other similar programs. However, housing prices go up more quickly than new or recaptured funding becomes available, so even with the additional revenue from recapture the growing gap between funding and housing costs results in fewer and fewer homebuyers assisted from year to year.
- 2. Addressing the limited supply of affordable housing.** A previously SHIP-assisted homeowner will sell their home for the highest amount the open market will bear, just like any other seller. In most cases, this results in a home permanently lost from the inventory of affordable housing. A greater number of resources will be needed to add a new affordable housing unit to make up for the unit lost.

Subsidy retention is an alternative approach. Subsidy retention takes the same subsidy that local governments would normally provide to an individual homebuyer and invests it in a unit. Through this one-time investment, administrators can impose restrictions on the resale price and who the house can be sold to, thus retaining the subsidy in the unit. This keeps the house perpetually affordable to homebuyers at the same income level. This provides a direct benefit to several home buyers for many years. Also, the house is not lost to the open market after it is sold and remains forever in the affordable

housing inventory. The most powerful form of subsidy retention is the community land trust, which involves a mission-based, nonprofit organization that maintains ownership of the land, conveying interest to the homeowner through a 99-year ground lease that contains resale restrictions on the sales price of the improvements (the home) and the income eligibility of subsequent purchasers.

The subsidy retention approach causes the value of the one-time subsidy to grow, as the same house is continuously purchased by homebuyers of the same income level, even as the cost of owning a home rapidly increases. Therefore, subsidy retention through the community land trust model is more effective in addressing both the growing affordability gap and increasing the limited supply of affordable housing, all while achieving a fiscally responsible use of funds.

Subsidy retention works in both rapidly appreciating markets as well as increasingly affordable market situations as it allows those with lower incomes to obtain homeownership without additional subsidy. To illustrate the effectiveness of subsidy retention, take Alachua County as an example. Firstly, here is an example of the traditional subsidy recapture approach. In 2008, a household at 80% of the area median income was eligible to receive up to \$15,000 in down payment assistance in the form of a deferred payment loan. A household of four at 80% of the area median income in 2008 made \$45,300.² Based on interest rates at the time, this household could afford a mortgage around \$121,000.³ Combined with \$15,000 in down payment assistance, this household could afford around \$136,000. (By comparison, this is much less than the median price of \$170,000 at the time.)⁴

In 2018, a household of four in Alachua County at 80% of median income brings in \$50,070 annually. Compared to 2008, this is an increase of 1% annually. The median sales price currently stands at \$171,000. Just as in 2008, a household at this income level still cannot afford a median priced house without assistance, as this household can afford a mortgage of around \$155,000 based on current interest rates.⁵ Under the traditional recapture approach, the \$15,000 from the buyer in 2008 would be enough to assist this new buyer household to purchase a median-priced house in 2018, which suggests a higher level of affordability than in 2008. However, even in counties like Alachua that have not yet seen growing affordability gaps, recapture still does not address the limited supply of affordable housing. The home bought in 2008 is sold in 2018 at the highest price the open market will bear, resulting in no gain to the affordable housing inventory.

Let us look at this example using the subsidy retention approach instead to see why this is more effective. Remember, a household earning \$50,070, which is 80% of the area median income in 2018, can afford a mortgage around \$155,000. If the subsidy retention approach was employed in 2008, the affordable housing nonprofit that maintains ownership of the land can limit appreciation to a 1% increase in sales price per year, the same rate as increase in income. Then house originally purchased for \$136,000 can be sold for around \$150,000 in 2018, within the limit of affordability for a household at the 80% of area median income in 2018.

² 2008 income limits per FHFC: https://www.floridahousing.org/docs/default-source/developers-and-property-managers/compliance/limits/income-limits/010-2008-income-limits--multifamily-rental-programs-and-ship.pdf?sfvrsn=1875207b_2

³ Takes into account principal, interest of 6.5%, taxes, property insurance and mortgage insurance with a 28% housing ratio

⁴ NAHB: <https://www.nahb.org/en/research/housing-economics/housing-indexes/housing-opportunity-index.aspx>

⁵ Current interest rates around 5% per Bankrate: <https://www.bankrate.com/finance/mortgages/current-interest-rates.aspx>

So, whereas a household at 80% of the area median income in 2008 needed subsidy to purchase in 2008, a household at the same income level in 2018 would need no additional subsidy to purchase this home in 2018. By retaining the subsidy in the home, the home remains perpetually affordable to a household with similar income and adds to the affordable housing inventory. It is not lost to the market.

So how would the original homebuyer fair at resale if assistance in 2008 was provided using the subsidy retention approach? Assuming a fixed rate mortgage based on 2008 interest rates, the homeowner will have gained equity of around \$33,000. This includes the increase in sales price and principal reduction. Assuming this household remained at 80% of area median income, earning \$50,070 annually, that household could comfortably afford to purchase a median-priced home with the equity earned, even with the resale restrictions. Meanwhile, future homebuyers will continue to benefit from the subsidy provided in 2008 should affordability diminish or during times of decreased funding.

Structuring Subsidy Programs for Subsidy Retention

To effectively support the expansion of permanently affordable housing using the community land trust model, local governments may need to make changes to their existing programs, particularly those used for homeownership. A few key elements can make existing programs work well with community land trusts:

Treat all assistance, including purchase assistance, as a development cost paydown to reduce the sales price on the original purchase. Providing assistance directly to a developer is generally more effective in making housing affordable. For example, assistance provided in the form of equity or a grant reduces the amount that a developer must borrow to produce housing, such as with low-income housing tax credits (the equity raised from the sale of tax credits reduces the amount of money a developer must repay, which in turn allows the development to charge lower rents yet remain profitable.) This applies also in homeownership. Subsidies provided in the form of grants or even deferred payment loans (where no payments are required for a period of time), ultimately reduce the sales price needed to cover a developer's costs (including developer fees), therefore creating affordability. For CLT home purchases, this initial investment is captured forever in the initial sales price, or Base Price, from which all future sales of the property will start from. The lower this price can be, the more the CLT can be at preserving affordability.

Although sometimes less effective, purchase assistance can still accomplish the same goal. To do so, local governments should treat purchase assistance as if it is being used to pay down the development cost. Local governments should work with CLTs to ensure that for purposes of CLT purchases, any purchase assistance will be used to reduce the Base Price from which to calculate its Purchase Option Price going forward. This allows purchase assistance to function like developer assistance. The resale restrictions in the ground lease then protect this subsidy going forward.

Make the assistance assumable upon resale to an income-eligible purchaser. Local governments often structure subsidies in the form of deferred payment, due-on-sale loans. To work with CLT, it is important to make the subsidies assumable to an income-eligible purchaser. This allows for the home to still be sold at a lower price while also not reducing the amount the seller must pay out from sales proceeds. In practice, for example, purchase and development assistance strategies in SHIP Local Housing Assistance Plans should explicitly allow mortgages to be assumable by an income-eligible purchaser upon resale, and local governments that participate in the HOME program should elect the Resale option so that assistance provided remains with the property upon resale instead of needing to be recaptured.

Appendix G is our Model SHIP Purchase Assistance Strategy with CLT Add-On Language. The highlighted language, which can be added to any existing purchase assistance strategy through technical revision, models how local governments can incorporate provisions within assistance programs for subsidy retention.

Surplus Land Policies

In 2006, the Florida Legislature passed requirements for counties and municipalities to identify surplus lands they owned that were suitable for affordable housing. The requirements are found in two statutes: §125.379 for counties, and §166.0451 for municipalities. These properties are a valuable resource for community land trusts; they specifically favor the use of the land for affordable housing in perpetuity.

Overview of the Statutes

Beginning in 2007, counties and municipalities were required to prepare an “inventory list” of properties to which it holds fee simple title, and which are “appropriate for use” as affordable housing. After reviewing and possibly revising the list, the governing body adopts it in a resolution. The lists must be updated every three years. The statutes authorize three disposition methods:

1. A property “may be offered for sale [without use restrictions] and the proceeds used to purchase land for the development of affordable housing or to increase the local government fund earmarked for affordable housing,”
2. “. . .Sold [to a developer, low-income homeowner, etc.] with a restriction that requires the development of the property as permanent affordable housing,”
3. “. . . Donated to a nonprofit housing organization for the construction of permanent affordable housing.”

How do Local Governments Acquire Surplus Lands?

Many surplus properties are acquired through escheatment of tax-delinquent properties, a process that takes five years in Florida. Escheatment essentially clears the title to a property; F.S. §197.502(8) states that “all tax certificates, accrued taxes, and liens of any nature against the property shall be deemed canceled.” If an escheated property is located within the boundaries of a municipality, the county must either use it for purposes specified in F.S. §197.592(3) or convey it to the municipality. County-held liens of record on the property are eliminated by conveyance to a municipality.

In addition to escheatment, local governments acquire surplus properties by foreclosing on code enforcement liens. In other cases, the city or county may no longer have a use for a property that it purchased many years ago.

Tips for Community Land Trusts

- Work with county and city departments to ensure that appropriate criteria is used to identify suitable lands for affordable housing.
- Get involved and stay involved in the process for identifying and disposing of surplus properties.

- Provide input for use of proceeds when surplus land is sold for other than affordable housing.

Inclusionary Policies

Housing choice is increased, and community schools become more diverse as affordable housing is included in new development, redevelopment, and growth areas. Every local government receiving federal dollars, such as Community Development Block Grant funds, has a legal obligation to affirmatively further fair housing within its jurisdiction⁶. Inclusionary housing policies:

1. Affirmatively further fair housing and avoid disparate impact liability from exclusionary housing practices;
2. Assist local government in meeting its legal responsibilities under the local government comprehensive plan housing element law⁷; and
3. Mitigate the effects of traditional zoning, which allows exclusionary land use practices such as large minimum lot sizes in suburban areas.

The term “Inclusionary zoning”, while commonly used, is a misnomer; it is not zoning in the traditional sense of dividing allowable land uses into different districts. It is a land use ordinance or land development policy that requires developers of market rate units to include some percentage of affordable, lower-cost units, within their development. They may be homeownership units, rental units, or some combination of the two. Concurrent objectives for an inclusionary land use ordinance are: (1) to increase the supply of affordable housing in general; and (2) to create housing in areas of opportunity.

The Basics about an Inclusionary Land Use Ordinance

Inclusionary land use ordinances vary a great deal from one jurisdiction to another, but tend to have several elements in common:

- A threshold number of market-rate units that activates the inclusionary requirement for a corresponding percentage of affordable units;
- A requirement that the affordable units are comparable in quality and aesthetics to the market-rate units, so that even if they are smaller or of a different type, they will blend into the community;
- Incentives to assist the private sector in providing the affordable units, such as an increase in allowable density or financial subsidy to the housing developer or the affordable homebuyer; and
- Requirement for long term affordability.

⁶ In addition to the affirmative duty to provide for adequate housing for their present and future residents under the Housing Element requirements of Chapter 163 Part II, Florida Statutes, all entitlement communities have an affirmative duty to further fair housing under the Federal and state Fair Housing Act. See 42 U.S.C. Sections 3601-3631, and F.S. 760.20-760.37.

⁷ The Housing Element requirements of the 1985 Growth Management Act include that every local government have adequate sites for affordable housing and provide for housing all its current and future anticipated populations, including special needs populations. See Chapter 163.3177 (6)(f), Florida Statutes.

In 2019, the Florida Legislature passed House Bill 7103. This bill amended the state's inclusionary zoning statutes. Under new state law, local governments must now “fully offset all costs” to a developer when those costs result from an inclusionary housing ordinance. For example, if there is a 100-unit market development and a 10% inclusionary requirement, the local government would need to “fully offset all costs” associated with the 10 required affordable units. Local governments can do so by providing incentives such as density or intensity bonuses, reducing or waiving fees, or by granting other incentives.

Local governments can also offset costs by granting an up-zoning that raises the value of the developer's property. For example, if a local government rezones a parcel from an agricultural use to a residential use, the local government will have increased the value of the land. A rezoning from a zoning category that only allows 5 units/acre to a zoning category that allows 30 units/acre, for example, will also increase the value of land. This increase in land value can be used in the calculation to fully offset costs.

How Does a Community Land Trust Help?

- 1. *Ensuring Long Term or Perpetual Affordability.*** First, and foremost, there is no point in adopting an inclusionary land use ordinance unless there is a requirement for long term affordability. If the term of affordability is short, for instance five or ten years, the consequence will be a windfall to the lucky family who happens to own the unit at the time the price restriction expires. In this case, an affordable property that would not have existed within a market-rate development, but for the inclusionary requirement, could be sold at a price that is not affordable to a family having the same income characteristics of the family that currently owns the home. The public benefit created by the inclusionary land use ordinance and any public subsidy which may have been put into the unit will be lost.

If the affordable units required under the inclusionary land use policy are deeded or leased to the Community Land Trust, the public benefit which was the foundation of the policy or ordinance will be retained, since the Community Land Trust will ensure continued affordability under the terms of the 99-year ground lease.

- 2. *Administration of the Program.*** Whether the affordable units are “for-sale” or “for lease”, someone will have to income qualify the potential homebuyers or renters. Income qualification, homebuyer pre and post counseling, and maintaining a pipeline of income qualified homebuyers is the business of a Community Land Trust. Even if the property is not going to be placed under a 99-year ground lease, the Community Land Trust has the skills to provide the income qualification services needed for the developer and the local government, ensuring that residents living in the units produced pursuant to the inclusionary land use ordinance are income eligible. Relieving the market rate developer from the obligation to ensure that the units remain in compliance with resale restrictions and income eligibility requirements is a substantial benefit to the market rate developer and greatly assists the local government.

Operating and Development Support

“The shared value of providing access to affordable housing in perpetuity is inextricably tied to the role of local government and thus should tie to the annual budget of the local government as a stated value in perpetuity. It would be the same as any other public service like public health, police, or fire and benefits all residents.”

The CLT stewardship role is an exceptional benefit for local governments when making difficult funding investment decisions for multiple nonprofit housing providers and with limited funding for distribution. As funding from the federal and state governments continues to shrink, the affordable housing crisis continues unabated. Investment of scarce resources is of paramount concern and requires a long-term analysis as local governments consider their stewardship over public funds in affordable housing developments.

“CLT homeownership not only lessens foreclosures and increases the chances of success among the population most at risk of losing their homes, but it also indirectly prevents costs of foreclosure for neighbors, municipalities, and lenders. Such exemplary performance implies that greater investment in this model, including its stewardship activities, is both warranted and overdue.”⁸

The shared value of providing access to affordable housing in perpetuity is inextricably tied to the role of local government and thus should tie to the annual budget of the local government as a stated value in perpetuity. It would be the same as any other public service like public health, police, or fire and benefits all residents.

To ensure the continued provision of affordable housing held in perpetuity, local governments must prioritize the investment of local funds to support operations and development of CLT housing units.

The extensive benefits provided by CLTs to households, communities, and local governments are invaluable to each of their ongoing stabilization efforts. The individual services provided as part of the CLT stewardship are eligible activities as part of the public services categories of the Community Development Block Grant (CDBG) program allocations. CLTs in various jurisdictions across the nation have historically received municipal support for operations and project development through CDBG.

Besides CDBG funds, local governments should also closely consider other funding sources for operations and development funding to CLTs. Sources include HOME funds, local affordable housing trust fund accounts, funds from payments-in-lieu submitted under inclusionary housing programs, SHIP fund allocations, proceeds from surplus inventory sales, philanthropic grants, and any other incentives.

⁸ “Outperforming the Market: Delinquency and Foreclosure Rates in Community Land Trusts.” <https://www.lincolninst.edu/publications/articles/outperforming-market>. Lincoln Institute of Land Policy. Modified (n.d.), Accessed on 12/22/2020

Board Structure for CHDO and CBDO.

One of the challenges of operating a CLT is limited financial resources. Like most nonprofit organizations, CLTs must have access to variety of revenue sources to operate and grow. A common source of funding for CLTs comes from local governments that administer HUD programs such as the Community Development Block Grant and the HOME Investment Partnerships Program.

Both the CDBG and HOME programs encourage public-private partnerships with nonprofit and for-profit housing developers including key partners known as Community Based Development Organizations or CBDOs and Community Housing Development Organizations or CHDOs. These organizations help grantees and participating jurisdictions implement eligible activities.

Under the CDBG program, a Community-Based Development Organization can undertake CDBG-funded activities as part of a neighborhood revitalization, energy conservation, or community economic development project. CBDOs can be nonprofit or for-profit organizations but cannot be government entities. New housing construction is generally an ineligible CDBG activity unless it is carried out by a CBDO. Qualifying as a CBDO may provide another financing source for CLTs that engage in housing development.

As it relates to CLT stewardship, the following services are eligible activities under the CDBG public services category: homebuyer counseling, down payment assistance, and education programs funded by resources other than the local government, thus qualifying as new public services. This funding strategy should include qualification of the CLT as a CBDO operating in a designated Neighborhood Revitalization Strategy Area. All public services offered within the NRSA and carried out as part of qualified projects under the NRSA by a CBDO are exempt from the public services cap.⁹

Under the HOME program, a Community Housing Development Organization must meet a series of qualifications prescribed in the HOME regulations. Each participating jurisdiction (PJ) must use a minimum of 15 percent of its annual allocation for housing that is owned, developed, or sponsored by CHDOs. The PJ may also choose to use up to 5 percent of its annual HOME funds to provide special assistance to CHDOs including operating assistance.

When a CLT is being established or when board members are being recruited, consideration should be given to the structure of the board so that it can meet the requirements to qualify for funding set-aside by local governments for this special subset of housing and community developers.

The makeup of a traditional CLT Board makes it particularly suitable for qualification as a CHDO, CBDO, or both. Both CHDOs and CBDOs can be nonprofit organizations. Both have a mission and purpose of improving communities through the provision of affordable housing for low-income persons although the CBDO mission may be broader and can also include improving economic opportunities for low- and moderate-income residents. Both require low-income community representation on their board. For a CHDO, at least 1/3 of the board must be representatives of the low-income community which can be achieved by having low-income residents on the board and/or residents or low-income neighborhoods who do not have to be low-income themselves, and/or elected representatives of low-income neighborhood organizations that are composed primarily of residents of a low-income neighborhood.

⁹ Basically CDBG-May 2014 page 10-3, HUD Office of Block Grant Assistance

For CBDOs at least 51% of the board must be low- and moderate-income residents, or owners or officers of private establishments or institutions, or representatives of low- and moderate-income neighborhood organizations located in the organization's service area.

Note that the definition of low- and moderate-income under the CDBG program and low-income under the HOME program refer to persons with incomes at or below 80% of the AMI.

For both organizations, no more than 1/3 of the board may be representatives of the public sector.



CHAPTER 8. LENDING FOR COMMUNITY LAND TRUSTS AND THE TRAINING AND CERTIFICATION PROGRAM

There are many reasons lenders should originate loans for CLT. These include the low foreclosure rate and additional protection against defaults due to the CLTs ability to cure defaults under provisions of the ground lease. However, despite this, lenders in the past have been hesitant to provide loans for CLT purchases for reasons such as lack of understanding of the CLT model, uncertainty in the ability to work programs such as FHA and VA, in unawareness of the ability to sell loans for CLT home purchases on the secondary market.

As the number of CLTs increases in both Florida and nationwide, interest is growing in lending community. Indeed, both Freddie Mac and Fannie Mae have taken steps to facilitate the sale of loans made to CLT buyers on the secondary market as part of their Duty to Serve requirements by their regulator, the Federal Housing Finance Agency. As transactions increase, the industry has worked to streamline processes and create greater uniformity in CLT operations. Two key efforts include the simplification of requirements for CLT mortgages by both Freddie Mac and Fannie Mae, and the Florida Community Land Trust Training and Certification Program, developed by the Florida Housing Coalition in collaboration with Freddie Mac.

Freddie Mac and Fannie Mae requirements

Both Freddie Mac and Fannie Mae explicitly allow for the utilization of their mortgage products for CLT purchases. Recently, both Freddie Mac and Fannie Mae have streamlined their requirements to lower the barrier for CLT homebuyers in accessing their many products designed to help low- to moderate-income households obtain homeownership. The most significant change for both is the removal of requirements for lenders to underwrite the CLT as a party to the transaction, for things such as experience administering housing programs, financial stability, and the ability of a CLT to carry out its stewardship functions. These are items for which lenders may not have the time or expertise to accurately evaluate. Removing this requirement removes most of the additional time and cost associated with CLT mortgages, which should encourage more lenders to make loans to CLT homebuyers. Below is a list of both Freddie Mac and Fannie Mae requirements.

Freddie Mac Requirements (Reference: Freddie Mac Selling Guide Chapter 4502.10)¹⁰

- ✓ Ground lease based on either the National Community Land Trust Network (NCLTN) 2011 CLT Network Model Ground Lease or the Institute for Community Economics (ICE) Model Ground Lease
- ✓ Ground lease has a term for at least 30 years
- ✓ Resale formula in the ground lease limits the homeowner's proceeds at resale
- ✓ Resale restrictions in ground lease are binding on current and subsequent owners until formally removed, modified, or terminated automatically in accordance with their terms
- ✓ Ground lease provides CLT or its assignee with preemptive right to repurchase at resale

¹⁰ Link: <https://guide.freddiemac.com/app/guide/section/4502.10>

- ✓ Ground lease requires CLT to review and approve refinances.
- ✓ The CLT completes, executes, and records in the public records the Freddie Mac Form 490 Community Land Trust Lease Rider
- ✓ The CLT documents that the mortgage files for each homeowner contains an original, certified copy of the Freddie Mac Form 490

Fannie Mae Requirements (Reference: Fannie Mae Selling Guide Section B5-5.1-04 Community Land Trusts)¹¹

- ✓ Ground lease based on either the National Community Land Trust Network (NCLTN) 2011 CLT Network Model Ground Lease or the Institute for Community Economics (ICE) Model Ground Lease
- ✓ The community land trust must be a nonprofit organization or public entity, such as state or local governments, counties, school districts, universities, or colleges; and
- ✓ Ground lease has a term for at least 5 years beyond the maturity date of the first mortgage loan
- ✓ The CLT completes, executes, and records in the public records Fannie Mae Community Land Trust Ground Lease Rider Form 2100 that ensures that the ground lease conforms with requirements for CLT mortgages including the provision that resale restrictions automatically terminate upon foreclosure or acceptance of a deed-in-lieu of foreclosure

Duty to Serve

In 2018, the Federal Housing Finance Agency (FHFA), regulating agency for Freddie Mac and Fannie Mae, instituted Duty to Serve, which requires Freddie Mac and Fannie Mae to provide leadership in facilitating a secondary market for mortgages to very-low, low- and moderate-income families. The requirement focuses on 3 underserved markets: 1) manufactured housing; 2) affordable housing preservation; and 3) rural housing. Community land trusts and other shared equity programs are included in Duty to Serve. Both Freddie Mac and Fannie Mae are committed to meeting this requirement. For purposes of Duty to Serve, community land trusts and shared-equity programs should:

- Use a ground lease, deed restriction, subordinate loan or similar legal mechanism that includes a provision that the program will keep the home affordable for subsequent very low-, low- or moderate-income families with an affordability term of at least 30 years after recordation;

¹¹ Link: <https://selling-guide.fanniemae.com/Selling-Guide/Origination-thru-Closing/Subpart-B5-Unique-Eligibility-Underwriting-Considerations/Chapter-B5-5-Community-Second-Land-Trusts/Section-B5-5-1-Community-Second-and-Community-Land-Trusts/1032996701/B5-5-1-04-Community-Land-Trusts-06-05-2018.htm#:~:text=Fannie%20Mae%20will%20purchase%20loans%20secured%20by%20community,agency%2C%20upon%20the%20borrower%E2%80%99s%20default%20or%20property%20foreclosure.>

- Use a resale formula that limits the homeowner’s proceeds upon resale;
- Have a preemptive option for the program administrator or its assignee to purchase the home from the homeowner at resale; and
- Have a policy that its administrators must review and pre-approve refinances or home equity lines of credit.

On Duty to Serve, please visit FHFA’s website:

<https://www.fhfa.gov/PolicyProgramsResearch/Programs/Pages/Duty-To-Serve.aspx>

About the Florida Community Land Trust Training and Certification Program

The Florida Community Land Trust Training and Certification Program was developed by the Florida Community Land Trust Institute (Institute), a program of the Florida Housing Coalition (FHC) in collaboration with Freddie Mac. The Florida CLT Training and Certification Program provides training and technical assistance to community land trusts with a goal of improving the performance of the CLT organization by:

- Promoting best practices for the industry and for general nonprofit operations; and
- Encouraging the standardization of key documents and procedures.

The Florida CLT Training and Certification Program certifies that CLT organizations or CLT programs operated by nonprofits that complete the program meet or exceed industry standards.

The value of training and certification benefits the CLT organization itself and its public and private sector partners, such as local governments donating land and financial institutions making loans to CLT homebuyers. The benefits of CLT Certification include:

- A. *For the CLT:* New CLTs completing the program will begin operations with a firm understanding of best practices and knowledge of the tools necessary to operate successfully including, but not limited to, CLT specific homebuyer education, resale formula design, and setting up a process for exercising the option to repurchase the home at resale or in the event of default. Experienced CLTs will strengthen existing operations through the training and technical assistance provided in areas such as amending resale formulas, establishing repair reserves and refinancing procedures. All community land trusts that complete the program can attest that they can be trusted affordable housing partners, as their operations have been thoroughly reviewed by a third party, with specific emphasis on stewardship of permanently affordable

Local Governments Operating Ground Lease Programs

Local governments operating ground lease programs will not be required to provide these agency documents. For independent nonprofits, the CLT’s bylaws are preferably written according to model by-laws in 2011 CLT Technical Manual. However, this is not a requirement, and may not be applicable for nonprofits operating ground lease programs as part of their operations (not a separate entity).

housing. Further, CLTs that complete the program will benefit from increased access to lending options offered by institutions that rely upon the Certification as part of their underwriting procedures.

- B. *For Local Governments:* Certified CLTs can serve as trusted affordable housing partners, particularly in the management and disposition of surplus land, housing produced as a result of inclusionary housing ordinances and density bonuses, and down payment assistance programs. For recipients of federal HOME funding, CLTs can also serve as a development partner and help jurisdictions comply with the CHDO set-aside requirement. Partnering with certified CLTs contribute to the permanent preservation of affordable housing within a community.
- C. *For Lenders:* The Florida CLT Training and Certification provides an expert review of CLT operations and provides CLTs with detailed information about the requirements for loans made to their buyers that may be sold on the secondary market. Loans made to buyers from certified CLTs are among the safest investments due to the ongoing relationship of the CLT with the homeowner, and the best practices for homebuyer education and ability to exercise the option to repurchase.

Certification Levels:

To be Certified, a community land trust must demonstrate implementation of all required Core Certification Best Practices, as applicable. For Gold Standard Certification, a CLT must demonstrate all required Core Certification Best Practices and achieve a score of at least 80% on all remaining applicable Core Certification Best Practices (those with point values) in each category.

Certification – Nonprofit. This level of certification is offered to nonprofits operating exclusively as community land trusts as well as those that utilize the ground lease model as part of their housing programs. Full Certification status indicates that requisite staff has completed the training and the nonprofit is implementing best practices.

Certification – Government Agency. This level of certification is offered to government or quasi-governmental agencies that operate community land trust (ground lease) programs. Full Certification indicates that requisite staff has completed the training and the agency's program is implementing pertinent best practices. This review excludes certain elements of nonprofit management such as Board composition and strategic planning.

Certification – Gold Standard. Community Land Trusts with Gold Standard Certification demonstrate implementation of best practices at an extremely high level. To achieve Gold Standard Certification, a CLT must meet the requirements of standard certification and obtain the requisite high score described in the most current Program Description published on the Florida Housing Coalition website. The factors for review (training topics) and point system for Gold Standard Certification are described in more detail in Chapters 2 and 3 of the Program Description.

Program Components:

Training and Self-Evaluation. CLTs must first complete the CLT Best Practices course offered through Florida Housing Coalition's Elevate on-line training platform. This self-paced course covers all the best practices outlined in this manual. For nonprofits, completion by the Executive Director or Chief Executive Officer and senior staff is required. Other CLT staff and Board members are also encouraged to complete the training. For local governments, completion by the applicable department head and staff responsible for program implementation is required. All individuals that complete the training will receive a certificate of completion. Only one person is required to submit the self-evaluations on behalf of the CLT to move to the next step in the process.

Evaluation and Notification. After successful completion of the training course by applicable staff, an eligible CLT will submit a Request for Certification Evaluation. This request serves as the CLT's application for Certification. Eligible applicants include, new or existing CLT organizations, an existing nonprofit organization that is expanding its services to include a CLT program, and government or quasi-governmental agencies operating a CLT program or ground lease program. The application form will include basic information about the CLT, including contact information, confirmation of 501(c)(3) status (if applicable), and questions about affordable housing experience. Attachments to the application will include certificate(s) of completion for the CLT Best Practices course; completed self-evaluations from the training course; and documents corresponding with the self-evaluations such as board rosters, organizational charts, and financial statements.

CLTs that identify areas for improvement through completion of the CLT Best Practices course and self-evaluations are still encouraged to submit a Request for Certification Evaluation to receive the Institute's evaluation and technical assistance.

Technical Assistance. If additional technical assistance or follow up is needed for Certification, a letter will be sent following the first technical assistance meeting that summarizes the areas the CLT will need to address to obtain Certified status, along with a written copy of the technical assistance plan agreed upon during the first technical assistance meeting, and contract for technical assistance services. Further, all CLTs will receive a written summary of the results of the evaluation.

The Institute will work with CLTs to complete the agreed-upon technical assistance plan toward Certification upon execution of the technical assistance contract. Once it is determined that the requirements for Certification are met, the Institute will issue an updated Certification Letter and certificate. Alternatively, a CLT may address the capacity elements without additional technical assistance from the Institute. In such cases, the CLT must request a follow-up evaluation by the Institute focused only on those capacity elements when it believes the requirements are met.

CLTs meeting Certification requirements at the time of the initial technical assistance meeting may also choose to develop a technical assistance plan and execute a technical assistance contract based on Institute recommendations. In this case, completion of the technical assistance plan will not affect the CLT's Certified status. Please see Appendix ___ for a sample Certification letter with Score Sheet and Technical Assistance Plan.

Certification. CLTs that meet the minimum requirements for Certification will receive a Certification Letter and certificate from the Florida Community Land Trust Institute at the

conclusion of the first technical assistance meeting, or upon completion of a technical assistance plan. The Certification Letter will also indicate that the CLT adheres to guidelines set forth by both GSEs and will include any recommendations to further improve operations and increase capacity.

Capacity Building. In addition to this training, the Florida CLT Institute will work to identify other entities to bring additional resources to CLTs in the program to help build their organizational capacity. Such entities include local governments, banks, philanthropic organizations, and Ground Solutions Network (GSN), the national community land trust organization.

Maintaining Certification

Affidavit of No Change

The Institute will provide a template Affidavit of No Substantial Changes for each community land trust to sign and submit to local governments for applications for funding and to lenders, if requested, for each funding application or loan transaction involving a Certified CLT. The affidavit states that the community land trust continues to meet Certification requirements as determined from completing the program with explicit references to specific elements, such as no substantial changes in financial position or to the ground lease. The signed affidavit combined with a review of current financial statements, tax return, and ground lease(s) serves to verify that a Certified community land trust maintains capacity to carry out its stewardship responsibilities.

Certification Renewal Process

Annual Renewal Certification

Certified community land trusts shall maintain their Certified status with a streamlined annual review completed no later than 60 days after the annual anniversary of its original Certification date. The Annual Renewal includes submission and review of the following documents:

- ✓ Most recent audited financial statement
- ✓ Most current operating statement and balance sheet
- ✓ Most recent IRS Form 990
- ✓ Current ground lease(s) in use
- ✓ Current organizational chart or staff list with names and titles
- ✓ Affidavit of No Substantial Changes

The review of current financial statements, tax return, and ground lease(s) serves as additional verification with the Affidavit of No Substantial Changes that a Certified community land trust maintains capacity to carry out its stewardship responsibilities.

Full Renewal

Certified community land trusts must reapply and complete the Certification process every 5 years to maintain Certified status. This will include the training course and evaluation on all Certification elements at the time of renewal, including items required under law or in accordance with the secondary mortgage market. A community land trust will not be required to meet any initial requirements no longer applicable at the time of Full Renewal.

Transition to Gold Standard Certification

A Certified community land trust that wishes to obtain Gold Standard Certification may request an evaluation at any time or wait until Full Renewal. If seeking Gold Standard Certification prior to Full Renewal, the CLT must submit a written request for an evaluation to the Institute. No training or technical assistance is offered or required with this interim evaluation. The CLT will also maintain its Certified status if unable to achieve the required score for Gold Standard Certification. At Full Renewal a Certified CLT may achieve Gold Standard Certification by completing the required training and evaluation with requisite score.

Loss of Certified Status

A community land trust may lose its Certified status due to substantial changes discovered through the annual renewal process. Such changes may include loss of 501(c)(3) status, significant reduction in financial capacity or staff turnover creating a temporary inability to perform counseling or other stewardship responsibilities. The Institute will notify the CLT immediately upon determining loss of Certified status. The Institute will work with a CLT to create a plan to address these changes. The plan may include additional training and technical assistance by the Institute. Once the changes are addressed, the CLT can be re-evaluated to regain Certified status. If the CLT loses its Certified status before full renewal is required, this re-evaluation will be limited to those changes which caused the loss of Certified status. Otherwise, the CLT will regain Certified status through the Full Renewal process.

Program Cost and Fees

Fees for the Training and Certification Program are outlined in the table below:

Program Component	Amount
CLT Best Practices Course	\$1,000 due at registration (includes manual, and unlimited access to staff and board members; discounts for paid members of the Florida Housing Coalition may apply though not guaranteed)
Certification Evaluation and Initial Technical Assistance Meeting	\$1,000 due with submission of Request for Certification evaluation

Technical Assistance	Varies dependent on nature of technical assistance required
Request for Gold Standard Review (after Initial Certification and prior to Full Renewal)	\$500 due with submission of request
Annual Renewal	\$150 due with submission or required documents (fee waived for CLTs that are also paid members of the Florida Housing Coalition)

Recommendation for paying program costs and fees

The Institute recognizes that program costs may be a barrier for some CLTs. We encourage CLTs to seek financial assistance to cover all or a portion of the total fees for initial Certification from local government partners, philanthropy, and lending partners, as each will benefit from the CLT obtaining and maintaining Certification.

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Appendices

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Chapter 11-A
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[Four possible versions of Article 10 are presented in the Appendix at the end of this chapter. These versions differ with regard to three important variables: (1) whether the homeowner is given an absolute right to select an income-qualified

buyer, (2) the type of resale formula that is used, and (3) whether the original Base Price is (or may be) greater than the original appraised value of the Home. No one of these versions is offered as THE model. Every CLT must make important decisions before adopting one of these versions (or its own variation of one of these versions).

Version 1

For situations in which:

- a) the Homeowner has no absolute right to identify buyer and can only recommend buyer;*
- b) an “improvements-only appraisal-based formula” is used; and*
- c) the original base price is not greater than the original appraised value of the Home.*

- 10.1 INTENT OF THIS ARTICLE IS TO PRESERVE AFFORDABILITY
- 10.2 HOMEOWNER MAY TRANSFER HOME ONLY TO CLT OR QUALIFIED PERSONS
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Version 2

For situations in which:

- a) the Homeowner has a right to identify a buyer;*
- b) an “improvements-only appraisal-based formula” is used; and*
- c) the original base price is not greater than the original appraised value of the Home.*

- 10.1 INTENT OF THIS ARTICLE IS TO PRESERVE AFFORDABILITY
- 10.2 HOMEOWNER MAY TRANSFER HOME ONLY TO CLT OR QUALIFIED PERSONS
- 10.3 THE HOME MAY BE TRANSFERRED TO CERTAIN HEIRS OF HOMEOWNER
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Version 3

For situations in which:

- a) *the Homeowner has no absolute right to identify buyer and can only recommend buyer;*
- b) *a “compound appraisal-based formula” is used; and*
- c) *the original base price is greater than the original appraised value of the Home.*

- 10.1 INTENT OF THIS ARTICLE IS TO PRESERVE AFFORDABILITY
- 10.2 HOMEOWNER MAY TRANSFER HOME ONLY TO CLT OR QUALIFIED PERSONS
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Version 4

For situations in which:

- a) *the Homeowner has no absolute right to identify buyer and can only recommend buyer;*
 - b) *a “fixed-rate” or “indexed” formula is used; and*
 - c) *the original base price is greater than the original appraised value of the Home.*
- Three versions of section 10.10 are presented for three different “indexed formulas.”*

- 10.1 INTENT OF THIS ARTICLE IS TO PRESERVE AFFORDABILITY
- 10.2 HOMEOWNER MAY TRANSFER HOME ONLY TO CLT OR QUALIFIED PERSONS
- 10.3 THE HOME MAY BE TRANSFERRED TO CERTAIN HEIRS OF HOMEOWNER
- 10.4 HOMEOWNER’S NOTICE OF INTENT TO SELL
- 10.5 CLT HAS AN OPTION TO PURCHASE THE HOME
- 10.6 IF PURCHASE OPTION EXPIRES, HOMEOWNER MAY SELL ON CERTAIN TERMS
- 10.7 AFTER ONE YEAR CLT SHALL HAVE POWER OF ATTORNEY TO CONDUCT SALE
- 10.8 PURCHASE OPTION PRICE EQUALS LESSER OF APPRAISED VALUE OF HOMEOWNER’S OWNERSHIP INTEREST OR FORMULA PRICE
- 10.9 HOW THE VALUE OF HOMEOWNER’S OWNERSHIP INTEREST IS DETERMINED
- 10.10 HOW THE FORMULA PRICE IS CALCULATED
- 10.11 QUALIFIED PURCHASER SHALL RECEIVE NEW LEASE
- 10.12 PURCHASER MAY BE CHARGED A TRANSFER FEE
- 10.13 HOMEOWNER REQUIRED TO MAKE NECESSARY REPAIRS AT TRANSFER

ARTICLE 11: Reserved

ARTICLE 12: Default

- 12.1 WHAT HAPPENS IF HOMEOWNER FAILS TO MAKE REQUIRED PAYMENTS TO THE CLT
- 12.2 WHAT HAPPENS IF HOMEOWNER VIOLATES OTHER (NONMONETARY) TERMS OF THE LEASE
- 12.3 WHAT HAPPENS IF HOMEOWNER DEFAULTS AS A RESULT OF JUDICIAL PROCESS
- 12.4 A DEFAULT (UNCURED VIOLATION) GIVES CLT THE RIGHT TO TERMINATE THE LEASE OR EXERCISE ITS PURCHASE OPTION

ARTICLE 13: Mediation and Arbitration

- 13.1 MEDIATION AND ARBITRATION ARE PERMITTED
- 13.2 HOMEOWNER AND CLT SHALL SHARE COST OF ANY MEDIATION OR ARBITRATION

ARTICLE 14: General Provisions

- 14.1 HOMEOWNER’S MEMBERSHIP IN CLT

- 14.2 NOTICES
- 14.3 NO BROKERAGE
- 14.4 SEVERABILITY AND DURATION OF LEASE
- 14.5 RIGHT OF FIRST REFUSAL IN LIEU OF OPTION
- 14.6 WAIVER
- 14.7 CLT’S RIGHT TO PROSECUTE OR DEFEND
- 14.8 CONSTRUCTION
- 14.9 HEADINGS AND TABLE OF CONTENTS
- 14.10 PARTIES BOUND
- 14.11 GOVERNING LAW
- 14.12 RECORDING

Exhibits That Must Be Attached

- Exhibit LETTERS OF AGREEMENT AND ATTORNEY’S ACKNOWLEDGMENT
- Exhibit LEASED LAND
- Exhibit DEED
- Exhibit PERMITTED MORTGAGES
- Exhibit FIRST REFUSAL

Other Exhibits to be Attached as Appropriate

- Exhibit ZONING
- Exhibit RESTRICTIONS
- Exhibit INITIAL APPRAISAL

APPENDIX: Alternative versions of Article 10

MODEL CLT LEASE

THIS LEASE (“this Lease” or “the Lease”) entered into this _____ day of _____, 20____, between _____ COMMUNITY LAND TRUST (“CLT”) and _____ (“Homeowner”).

RECITALS

- A.** The CLT is organized exclusively for charitable purposes, including the purpose of providing homeownership opportunities for low and moderate income people who would otherwise be unable to afford homeownership.
- B.** A goal of the CLT is to preserve affordable homeownership opportunities through the long-term leasing of land under owner-occupied homes.
- C.** The Leased Land described in this Lease has been acquired and is being leased by the CLT in furtherance of this goal.

D. The Homeowner shares the purposes of the CLT and has agreed to enter into this Lease not only to obtain the benefits of homeownership, but also to further the charitable purposes of the CLT.

E. Homeowner and CLT recognize the special nature of the terms of this Lease, and each of them accepts these terms, including those terms that affect the marketing and resale price of the property now being purchased by the Homeowner.

F. Homeowner and CLT agree that the terms of this Lease further their shared goals over an extended period of time and through a succession of owners.

NOW THEREFORE, Homeowner and CLT agree on all of the terms and conditions of this Lease as set forth below.

DEFINITIONS: Homeowner and CLT agree on the following definitions of key terms used in this Lease.

Leased Land: the parcel of land, described in Exhibit: LEASED LAND, that is leased to the Homeowner.

Home: the residential structure and other permanent improvements located on the Leased Land and owned by the Homeowner, including both the original Home described in Exhibit: DEED, and all permanent improvements added thereafter by Homeowner at Homeowner's expense.

Base Price: the total price that is paid for the Home by the Homeowner (including the amount provided by a first mortgage loan but not including subsidy in the form of deferred loans to the Homeowner).

Purchase Option Price: the maximum price the Homeowner is allowed to receive for the sale of the Home and the Homeowner's right to possess, occupy and use the Leased Land, as defined in Article 10 of this Lease.

Lease Fee: The monthly fee that the Homeowner pays to the CLT for the continuing use of the Leased Land and any additional amounts that the CLT charges to the Homeowner for reasons permitted by this Lease.

Permitted Mortgage: A mortgage or deed of trust on the Home and the Homeowner's right to possess, occupy and use the Leased Land granted to a lender by the Homeowner with the CLT's Permission. The Homeowner may not mortgage the CLT's interest in the Leased Land, and may not grant any mortgage or deed of trust without CLT's Permission.

Event of Default: Any violation of the terms of the Lease unless it has been corrected ("cured") by Homeowner or the holder of a Permitted Mortgage in the specified period of time after a written Notice of Default has been given by CLT.

ARTICLE 1: Homeowner's Letter of Agreement and Attorney's Letter of Acknowledgment are Attached as Exhibits.

Attached as Exhibit HOMEOWNER'S LETTER OF AGREEMENT AND ATTORNEY'S LETTER OF ACKNOWLEDGMENT and made part of this Lease by reference are a Letter of Agreement from the Homeowner, describing the Homeowner's understanding and acceptance of this Lease (including the parts of the Lease that affect the

resale of the Home), and a Letter of Acknowledgment from the Homeowner's attorney, describing the attorney's review of the Lease with the Homeowner.

ARTICLE 2: Leasing of Rights to the Land

2.1 CLT LEASES THE LAND TO HOMEOWNER: The CLT hereby leases to the Homeowner, and Homeowner hereby accepts, the right to possess, occupy and use the Leased Land (described in the attached Exhibit LEASED LAND) in accordance with the terms of this Lease. CLT has furnished to Homeowner a copy of the most current title report, if any, obtained by CLT for the Leased Land, and Homeowner accepts title to the Leased Land in its condition "as is" as of the signing of this Lease.

2.2 MINERAL RIGHTS NOT LEASED TO HOMEOWNER: CLT does not lease to Homeowner the right to remove from the Leased Land any minerals lying beneath the Leased Land's surface. Ownership of such minerals remains with the CLT, but the CLT shall not remove any such minerals from the Leased Land without the Homeowner's written permission.

ARTICLE 3: Term of Lease, Change of Land Owner

3.1 TERM OF LEASE IS 99 YEARS: This Lease shall remain in effect for 99 years, beginning on the ___ day of _____, 20___, and ending on the _____ day of _____, 20___, unless ended sooner or renewed as provided below.

3.2 HOMEOWNER CAN RENEW LEASE FOR ANOTHER 99 YEARS: Homeowner may renew this Lease for one additional period of 99 years. The CLT may change the terms of the Lease for the renewal period prior to the beginning of the renewal period but only if these changes do not materially and adversely interfere with the rights possessed by Homeowner under the Lease. Not more than 365 nor less than 180 days before the last day of the first 99-year period, CLT shall give Homeowner a written notice that states the date of the expiration of the first 99-year period and the conditions for renewal as set forth in the following paragraph ("the Expiration Notice"). The Expiration Notice shall also describe any changes that CLT intends to make in the Lease for the renewal period as permitted above.

The Homeowner shall then have the right to renew the Lease only if the following conditions are met: (a) within 60 days of receipt of the Expiration Notice, the Homeowner shall give CLT written notice stating the Homeowner's desire to renew ("the Renewal Notice"); (b) this Lease shall be in effect on the last day of the original 99-year term, and (c) the Homeowner shall not be in default under this Lease or under any Permitted Mortgage on the last day of the original 99-year term.

When Homeowner has exercised the option to renew, Homeowner and CLT shall sign a memorandum stating that the option has been exercised. The memorandum shall comply with the requirements for a notice of lease as stated in Section 14.12 below. The CLT shall record this memorandum in accordance with the requirements of law promptly after the beginning of the renewal period.

3.3 WHAT HAPPENS IF CLT DECIDES TO SELL THE LEASED LAND: If ownership of the Leased Land is ever transferred by CLT (whether voluntarily or involuntarily) to any other person or institution, this Lease shall not cease, but shall remain binding on the new landowner as well as the Homeowner. If CLT agrees to transfer the Leased Land to any person or

institution other than a non-profit corporation, charitable trust, government agency or other similar institution sharing the goals described in the Recitals above, the Homeowner shall have a right of first refusal to purchase the Leased Land. The details of this right shall be as stated in the attached Exhibit FIRST REFUSAL. Any sale or other transfer contrary to this Section 3.3 shall be null and void.

ARTICLE 4: Use of Leased Land

4.1 HOMEOWNER MAY USE THE HOME ONLY FOR RESIDENTIAL AND RELATED PURPOSES: Homeowner shall use, and allow others to use, the Home and Leased Land only for residential purposes and any activities related to residential use that were permitted by local zoning law when the Lease was signed, as indicated in the attached Exhibit ZONING.

[*To be added when needed:* Use of the Leased Land shall be further limited by the restrictions described in the attached Exhibit RESTRICTIONS.]

4.2 HOMEOWNER MUST USE THE HOME AND LEASED LAND RESPONSIBLY AND IN COMPLIANCE WITH THE LAW: Homeowner shall use the Home and Leased Land in a way that will not cause harm to others or create any public nuisance. Homeowner shall dispose of all waste in a safe and sanitary manner. Homeowner shall maintain all parts of the Home and Leased Land in safe, sound and habitable condition, in full compliance with all laws and regulations, and in the condition that is required to maintain the insurance coverage required by Section 9.4 of this Lease.

4.3 HOMEOWNER IS RESPONSIBLE FOR USE BY OTHERS: Homeowner shall be responsible for the use of the Home and Leased Land by all residents and visitors and anyone else using the Leased Land with Homeowner's permission and shall make all such people aware of the restrictions on use set forth in this Lease.

4.4 HOMEOWNER MUST OCCUPY THE HOME FOR AT LEAST _____ MONTHS EACH YEAR: Homeowner shall occupy the Home for at least _____ months of each year of this Lease, unless otherwise agreed by CLT. Occupancy by Homeowner's child, spouse *[or domestic partner, in states with such legislation]* or other persons approved by CLT shall be considered occupancy by Homeowner. Neither compliance with the occupancy requirement nor CLT's permission for an extended period of non-occupancy constitutes permission to sublease the Leased Land and Home, which is addressed in Section 4.5 below.

4.5 LEASED LAND MAY NOT BE SUBLEASED WITHOUT CLT'S PERMISSION. Except as otherwise provided in Article 8 and Article 10, Homeowner shall not sublease, sell or otherwise convey any of Homeowner's rights under this Lease, for any period of time, without the written permission of CLT. Homeowner agrees that CLT shall have the right to withhold such consent in order to further the purposes of this Lease.

If permission for subleasing is granted, the sublease shall be subject to the following conditions.

- a) Any sublease shall be subject to all of the terms of this Lease.
- b) The rental or occupancy fee charged the sub-lessee shall not be more than the amount of the Lease Fee charged the Homeowner by the CLT, plus an amount approved by CLT to cover Homeowner's costs in owning the Home, including but not limited to the cost of taxes, insurance and mortgage interest.

4.6 CLT HAS A RIGHT TO INSPECT THE LEASED LAND: The CLT may inspect any part of the Leased Land except the interiors of fully enclosed buildings, at any reasonable time, after notifying the Homeowner at least 24 hours before the planned inspection. No more than ___ regular inspections may be carried out in a single year, except in the case of an emergency. In an emergency, the CLT may inspect any part of the Leased Land except the interiors of fully enclosed buildings, after making reasonable efforts to inform the Homeowner before the inspection.

If the CLT has received an Intent-To-Sell Notice (as described in Section 10.4 below), then the CLT has the right to inspect the interiors of all fully enclosed buildings to determine their condition prior to the sale. The CLT must notify the Homeowner at least 24 hours before carrying out such inspection.

4.7 HOMEOWNER HAS A RIGHT TO QUIET ENJOYMENT: Homeowner has the right to quiet enjoyment of the Leased Land. The CLT has no desire or intention to interfere with the personal lives, associations, expressions, or actions of the Homeowner in any way not permitted by this Lease.

ARTICLE 5: Lease Fee

5.1 AMOUNT OF LEASE FEE: The Homeowner shall pay a monthly Lease Fee in an amount equal to the sum of (a) a Land Use Fee of \$ ___ to be paid in return for the continuing right to possess, occupy and use the Leased Land, plus (b) a Repair Reserve Fee of \$ ___ to be held by the CLT and used for the purpose of preserving the physical quality of the Home for the long term in accordance with Section 7.6 below.

5.2 WHEN THE LEASE FEE IS TO BE PAID: The Lease Fee shall be payable to CLT on the first day of each month for as long as this Lease remains in effect, unless the Lease Fee is to be escrowed and paid by a Permitted Mortgagee, in which case payment shall be made as directed by that Mortgagee.

5.3 HOW THE AMOUNT OF THE LAND USE FEE HAS BEEN DETERMINED: The amount of the Land Use Fee stated in Section 5.1 above has been determined as follows. First, the approximate monthly fair rental value of the Leased Land has been established, as of the beginning of the Lease term, recognizing that the fair rental value is reduced by certain restrictions imposed by the Lease on the use of the Land. Then the affordability of this monthly amount, plus the amount of the Repair Reserve Fee, for the Homeowner has been analyzed and, if necessary, the Land Use has been reduced to an amount considered to be affordable for Homeowner.

5.4 CLT MAY REDUCE OR SUSPEND THE LEASE FEE TO IMPROVE AFFORDABILITY: CLT may reduce or suspend the total amount of the Lease Fee for a period of time for the purpose of improving the affordability of the Homeowner's monthly housing costs. Any such reduction or suspension must be in writing and signed by CLT.

5.5 FEES MAY BE INCREASED FROM TIME TO TIME: The CLT may increase the amount of the Land Use Fee and/or the Repair Reserve Fee from time to time, but not more often than once every ___ years. Each time such amounts are increased, the total percentage of increase since the date this Lease was signed shall not be greater than the percentage of increase, over the same period of time, in the Consumer Price Index for urban wage earners

and clerical workers for the urban area in which the Leased Land is located, or, if none, for urban areas the size of _____,

5.6 LAND USE FEE WILL BE INCREASED IF RESTRICTIONS ARE REMOVED: If, for any reason, the provisions of Article 10 regarding transfers of the Home or Sections 4.4 and 4.5 regarding occupancy and subleasing are suspended or invalidated for any period of time, then during that time the Land Use Fee shall be increased to an amount calculated by CLT to equal the fair rental value of the Leased Land for use not restricted by the suspended provisions, but initially an amount not exceeding _____dollars. Such increase shall become effective upon CLT's written notice to Homeowner. Thereafter, for so long as these restrictions are not reinstated in the Lease, the CLT may, from time to time, further increase the amount of such Land Use Fee, provided that the amount of the Land Use Fee does not exceed the fair rental value of the property, and provided that such increases do not occur more often than once in every _____years.

5.7 IF PAYMENT IS LATE, INTEREST CAN BE CHARGED: If the CLT has not received any monthly installment of the Lease Fee on or before the date on which the such installment first becomes payable under this Lease (the "Due Date"), the CLT may require Homeowner to pay interest on the unpaid amount from the Due Date through and including the date such payment or installment is received by CLT, at a rate not to exceed _____. *[Specify either a fixed %, an index such as prime rate of a particular institution, or a legally established limit].* Such interest shall be deemed additional Lease Fee and shall be paid by Homeowner to CLT upon demand; provided, however, that CLT shall waive any such interest that would otherwise be payable to CLT if such payment of the Lease Fee is received by CLT on or before the thirtieth (30th) day after the Due Date.

5.8 CLT CAN COLLECT UNPAID FEES WHEN HOME IS SOLD: In the event that any amount of payable Lease Fee remains unpaid when the Home is sold, the outstanding amount of payable Lease Fee, including any interest as provided above, shall be paid to CLT out of any proceeds from the sale that would otherwise be due to Homeowner. The CLT shall have, and the Homeowner hereby consents to, a lien upon the Home for any unpaid Lease Fee. Such lien shall be prior to all other liens and encumbrances on the Home except (a) liens and encumbrances recorded before the recording of this Lease, (b) Permitted Mortgages as defined in section 8.1 below; and (c) liens for real property taxes and other governmental assessments or charges against the Home.

ARTICLE 6: Taxes and Assessments

6.1 HOMEOWNER IS RESPONSIBLE FOR PAYING ALL TAXES AND ASSESSMENTS: Homeowner shall pay directly, when due, all taxes and governmental assessments that relate to the Home and the Leased Land (including any taxes relating to the CLT's interest in the Leased Land).

6.2 CLT WILL PASS ON ANY TAX BILLS IT RECEIVES TO HOMEOWNER: In the event that the local taxing authority bills CLT for any portion of the taxes on the Home or Leased Land, CLT shall pass the bill to Homeowner and Homeowner shall promptly pay this bill.

6.3 HOMEOWNER HAS A RIGHT TO CONTEST TAXES: Homeowner shall have the right to contest the amount or validity of any taxes relating to the Home and Leased Land. Upon receiving a reasonable request from Homeowner for assistance in this matter, CLT shall join in contesting such taxes. All costs of such proceedings shall be paid by Homeowner.

6.4 IF HOMEOWNER FAILS TO PAY TAXES, CLT MAY INCREASE LEASE FEE: In the event that Homeowner fails to pay the taxes or other charges described in Section 6.1 above, CLT may increase Homeowner's Lease Fee to offset the amount of taxes and other charges owed by Homeowner. Upon collecting any such amount, CLT shall pay the amount collected to the taxing authority in a timely manner.

6.5 PARTY THAT PAYS TAXES MUST SHOW PROOF: When either party pays taxes relating to the Home or Leased Land, that party shall furnish satisfactory evidence of the payment to the other party. A photocopy of a receipt shall be the usual method of furnishing such evidence.

ARTICLE 7: The Home

7.1 HOMEOWNER OWNS THE HOUSE AND ALL OTHER IMPROVEMENTS ON THE LEASED LAND: All structures, including the house, fixtures, and other improvements purchased, constructed, or installed by the Homeowner on any part of the Leased Land at any time during the term of this Lease (collectively, the "Home") shall be property of the Homeowner. Title to the Home shall be and remain vested in the Homeowner. However, Homeowner's rights of ownership are limited by certain provisions of this Lease, including provisions regarding the sale or leasing of the Home by the Homeowner and the CLT's option to purchase the Home. In addition, Homeowner shall not remove any part of the Home from the Leased Land without CLT's prior written consent.

7.2 HOMEOWNER PURCHASES HOME WHEN SIGNING LEASE: Upon the signing of this Lease, Homeowner is simultaneously purchasing the Home located at that time on the Leased Land, as described in the Deed, a copy of which is attached to this Lease as Exhibit: DEED.

7.3 CONSTRUCTION CARRIED OUT BY HOMEOWNER MUST COMPLY WITH CERTAIN REQUIREMENTS: Any construction in connection with the Home is permitted only if the following requirements are met: (a) all costs shall be paid for by the Homeowner; (b) all construction shall be performed in a professional manner and shall comply with all applicable laws and regulations; (c) all changes in the Home shall be consistent with the permitted uses described in Article 4; (d) the footprint, square-footage, or height of the house shall not be increased and new structures shall not be built or installed on the Leased Land without the prior written consent of CLT.

For any construction requiring CLT's prior written consent, Homeowner shall submit a written request to the CLT. Such request shall include:

- a) a written statement of the reasons for undertaking the construction;
- b) a set of drawings (floor plan and elevations) showing the dimensions of the proposed construction;
- c) a list of the necessary materials, with quantities needed;

d) a statement of who will do the work;

If the CLT finds it needs additional information it shall request such information from Homeowner within two weeks of receipt of Homeowner's request. The CLT then, within two weeks of receiving all necessary information (including any additional information it may have requested) shall give Homeowner either its written consent or a written statement of its reasons for not consenting. Before construction can begin, Homeowner shall provide CLT with copies of all necessary building permits, if not previously provided.

7.4 HOMEOWNER MAY NOT ALLOW STATUTORY LIENS TO REMAIN AGAINST LEASED LAND OR HOME: No lien of any type shall attach to the CLT's title to the Leased Land. Homeowner shall not permit any statutory or similar lien to be filed against the Leased Land or the Home which remains more than 60 days after it has been filed. Homeowner shall take action to discharge such lien, whether by means of payment, deposit, bond, court order, or other means permitted by law. If Homeowner fails to discharge such lien within the 60-day period, then Homeowner shall immediately notify CLT of such failure. CLT shall have the right to discharge the lien by paying the amount in question. Homeowner may, at Homeowner's expense, contest the validity of any such asserted lien, provided Homeowner has furnished a bond or other acceptable surety in an amount sufficient to release the Leased Land from such lien. Any amounts paid by CLT to discharge such liens shall be treated as an additional Lease Fee payable by Homeowner upon demand.

7.5 HOMEOWNER IS RESPONSIBLE FOR SERVICES, MAINTENANCE AND REPAIRS: Homeowner hereby assumes responsibility for furnishing all services or facilities on the Leased Land, including but not limited to heat, electricity, air conditioning and water. CLT shall not be required to furnish any services or facilities or to make any repairs to the Home. Homeowner shall maintain the Home and Leased Land as required by Section 4.2 above and shall see that all necessary repairs and replacements are accomplished when needed.

7.6 A REPAIR RESERVE FUND IS ESTABLISHED TO SUPPORT FUTURE REPAIRS:
[This section must either be completed in accordance with the CLT's repair reserve policy, or omitted entirely. See Commentary on this Section 7.6.]

7.7 WHEN LEASE ENDS, OWNERSHIP REVERTS TO CLT, WHICH SHALL REIMBURSE HOMEOWNER: Upon the expiration or termination of this Lease, ownership of the Home shall revert to CLT. Upon thus assuming title to the Home, CLT shall promptly pay Homeowner and Permitted Mortgagee(s), as follows:
FIRST, CLT shall pay any Permitted Mortgagee(s) the full amount owed to such mortgagee(s) by Homeowner;
SECOND, CLT shall pay the Homeowner the balance of the Purchase Option Price calculated in accordance with Article 10 below, as of the time of reversion of ownership, less the total amount of any unpaid Lease Fee and any other amounts owed to the CLT under the terms of this Lease. The Homeowner shall be responsible for any costs necessary to clear any additional liens or other charges related to the Home which may be assessed against the Home. If the Homeowner fails to clear such liens or charges, the balance due the Homeowner shall also be reduced by the amount necessary to release such liens or charges, including reasonable attorneys fees incurred by the CLT.

ARTICLE 8: Financing

8.1 HOMEOWNER CANNOT MORTGAGE THE HOME WITHOUT CLT'S PERMISSION: The Homeowner may mortgage the Home only with the written permission of CLT. Any mortgage or deed of trust permitted in writing by the CLT is defined as a Permitted Mortgage, and the holder of such a mortgage or deed of trust is defined as a Permitted Mortgagee.

8.2 BY SIGNING LEASE, CLT GIVES PERMISSION FOR ORIGINAL MORTGAGE. By signing this Lease, CLT gives written permission for any mortgage or deed of trust signed by the Homeowner effective on the day this Lease is signed for the purpose of financing Homeowner's purchase of the Home.

8.3 HOMEOWNER MUST GET SPECIFIC PERMISSION FOR REFINANCING OR OTHER SUBSEQUENT MORTGAGES. If, at any time subsequent to the purchase of the Home and signing of the Lease, the Homeowner seeks a loan that is to be secured by a mortgage on the Home (to refinance an existing Permitted Mortgage or to finance home repairs or for any other purpose), Homeowner must inform CLT, in writing, of the proposed terms and conditions of such mortgage loan at least 15 business days prior to the expected closing of the loan. The information to be provided to the CLT must include:

- a. the name of the proposed lender;
- b. Homeowner's reason for requesting the loan;
- c. the principal amount of the proposed loan and the total mortgage debt that will result from the combination of the loan and existing mortgage debt, if any;
- d. expected closing costs;
- e. the rate of interest;
- f. the repayment schedule;
- g. a copy of the appraisal commissioned in connection with the loan request.

CLT may also require Homeowner to submit additional information. CLT will not permit such a mortgage loan if the loan increases Homeowner's total mortgage debt to an amount greater than % of the then current Purchase Option Price, calculated in accordance with Article 10 below, or if the terms of the transaction otherwise threaten the interests of either the Homeowner or the CLT.

8.4 CLT IS REQUIRED TO PERMIT A "STANDARD PERMITTED MORTGAGE." The CLT shall be required to permit any mortgage for which the mortgagee has signed a "Standard Permitted Mortgage Agreement" as set forth in "Exhibit: Permitted Mortgages, Part C," and for which the loan secured thereby does not increase Homeowner's total mortgage debt to an amount greater than % of the then current Purchase Option Price, calculated in accordance with Article 10 below.

8.5 A PERMITTED MORTGAGEE HAS CERTAIN OBLIGATIONS UNDER THE LEASE. Any Permitted Mortgagee shall be bound by each of the requirements stated in "Exhibit: Permitted Mortgages, Part A, Obligations of Permitted Mortgagee," which is made a part of this Lease by reference, unless the particular requirement is removed, contradicted or modified by a Rider to this Lease signed by the Homeowner and the CLT to modify the terms of the Lease during the term of the Permitted Mortgage.

8.6 A PERMITTED MORTGAGEE HAS CERTAIN RIGHTS UNDER THE LEASE. Any Permitted Mortgagee shall have all of the rights and protections stated in “Exhibit: Permitted Mortgages, Part B, Rights of Permitted Mortgagee,” which is made a part of this Lease by reference.

8.7 IN THE EVENT OF FORECLOSURE, ANY PROCEEDS IN EXCESS OF THE PURCHASE OPTION PRICE WILL GO TO CLT. Homeowner and CLT recognize that it would be contrary to the purposes of this agreement if Homeowner could receive more than the Purchase Option Price as the result of the foreclosure of a mortgage. Therefore, Homeowner hereby irrevocably assigns to CLT all net proceeds of sale of the Home that would otherwise have been payable to Homeowner and that exceed the amount of net proceeds that Homeowner would have received if the property had been sold for the Purchase Option Price, calculated as described in Section 10.10 below. Homeowner authorizes and instructs the Permitted Mortgagee, or any party conducting any sale, to pay such excess amount directly to CLT. If, for any reason, such excess amount is paid to Homeowner, Homeowner hereby agrees to promptly pay such amount to CLT.

ARTICLE 9: Liability, Insurance, Damage and Destruction, Eminent Domain

9.1 HOMEOWNER ASSUMES ALL LIABILITY. Homeowner assumes all responsibility and liability related to Homeowner’s possession, occupancy and use of the Leased Land.

9.2 HOMEOWNER MUST DEFEND CLT AGAINST ALL CLAIMS OF LIABILITY. Homeowner shall defend, indemnify and hold CLT harmless against all liability and claims of liability for injury or damage to person or property from any cause on or about the Leased Land. Homeowner waives all claims against CLT for injury or damage on or about the Leased Land. However, CLT shall remain liable for injury or damage due to the grossly negligent or intentional acts or omissions of CLT or CLT’s agents or employees.

9.3 HOMEOWNER MUST REIMBURSE CLT. In the event the CLT shall be required to pay any sum that is the Homeowner’s responsibility or liability, the Homeowner shall reimburse the CLT for such payment and for reasonable expenses caused thereby.

9.4 HOMEOWNER MUST INSURE THE HOME AGAINST LOSS AND MUST MAINTAIN LIABILITY INSURANCE ON HOME AND LEASED LAND. Homeowner shall, at Homeowner’s expense, keep the Home continuously insured against “all risks” of physical loss, using Insurance Services Office (ISO) Form HO 00 03, or its equivalent, for the full replacement value of the Home, and in any event in an amount that will not incur a coinsurance penalty. The amount of such insured replacement value must be approved by the CLT prior to the commencement of the Lease. Thereafter, if the CLT determines that the replacement value to be insured should be increased, the CLT shall inform the Homeowner of such required increase at least 30 days prior to the next date on which the insurance policy is to be renewed, and the Homeowner shall assure that the renewal includes such change. If Homeowner wishes to decrease the amount of replacement value to be insured, Homeowner shall inform the CLT of the proposed change at least 30 days prior to the time such change would take effect. The change shall not take effect without CLT’s approval.

Should the Home lie in a flood hazard zone as defined by the National Flood Insurance Plan, the Homeowner shall keep in full force and effect flood insurance in the maximum amount available.

The Homeowner shall also, at its sole expense, maintain in full force and effect public liability insurance using ISO Form HO 00 03 or its equivalent in the amount of \$_____ per occurrence and in the aggregate. The CLT shall be named as an additional insured using ISO Form HO 04 41 or its equivalent, and certificates of insurance shall be delivered to the CLT prior to the commencement of the Lease and at each anniversary date thereof.

The dollar amounts of such coverage may be increased from time to time at the CLT's request but not more often than once in any one-year period. CLT shall inform the Homeowner of such required increase in coverage at least 30 days prior to the next date on which the insurance policy is to be renewed, and the Homeowner shall assure that the renewal includes such change. The amount of such increase in coverage shall be based on current trends in homeowner's liability insurance coverage in the area in which the Home is located.

9.5 WHAT HAPPENS IF HOME IS DAMAGED OR DESTROYED. Except as provided below, in the event of fire or other damage to the Home, Homeowner shall take all steps necessary to assure the repair of such damage and the restoration of the Home to its condition immediately prior to the damage. All such repairs and restoration shall be completed as promptly as possible. Homeowner shall also promptly take all steps necessary to assure that the Leased Land is safe and that the damaged Home does not constitute a danger to persons or property.

If Homeowner, based on professional estimates, determines either (a) that full repair and restoration is physically impossible, or (b) that the available insurance proceeds will pay for less than the full cost of necessary repairs and that Homeowner cannot otherwise afford to cover the balance of the cost of repairs, then Homeowner shall notify CLT of this problem, and CLT may then help to resolve the problem. Methods used to resolve the problem may include efforts to increase the available insurance proceeds, efforts to reduce the cost of necessary repairs, efforts to arrange affordable financing covering the costs of repair not covered by insurance proceeds, and any other methods agreed upon by both Homeowner and CLT.

If Homeowner and CLT cannot agree on a way of restoring the Home in the absence of adequate insurance proceeds, then Homeowner may give CLT written notice of intent to terminate the Lease. The date of actual termination shall be no less than 60 days after the date of Homeowner's notice of intent to terminate. Upon termination, any insurance proceeds payable to Homeowner for damage to the Home shall be paid as follows.

FIRST, to the expenses of their collection;

SECOND, to any Permitted Mortgagee(s), to the extent required by the Permitted Mortgagee(s);

THIRD, to the expenses of enclosing or razing the remains of the Home and clearing debris;

FOURTH, to the CLT for any amounts owed under this Lease;

FIFTH, to the Homeowner, up to an amount equal to the Purchase Option Price, as of the day prior to the loss, less any amounts paid with respect to the second, third, and fourth clauses above;

SIXTH, the balance, if any, to the CLT.

9.6 WHAT HAPPENS IF SOME OR ALL OF THE LAND IS TAKEN FOR PUBLIC USE. If all of the Leased Land is taken by eminent domain or otherwise for public purposes, or if so much of the Leased Land is taken that the Home is lost or damaged beyond repair, the Lease shall terminate as of the date when Homeowner is required to give up possession of the Leased Land. Upon such termination, the entire amount of any award(s) paid shall be allocated in the way described in Section 9.5 above for insurance proceeds.

In the event of a taking of a portion of the Leased Land that does not result in damage to the Home or significant reduction in the usefulness or desirability of the Leased Land for residential purposes, then any monetary compensation for such taking shall be allocated entirely to CLT.

In the event of a taking of a portion of the Leased Land that results in damage to the Home only to such an extent that the Home can reasonably be restored to a residential use consistent with this Lease, then the damage shall be treated as damage is treated in Section 9.5 above, and monetary compensation shall be allocated as insurance proceeds are to be allocated under Section 9.5.

9.7 IF PART OF THE LAND IS TAKEN, THE LEASE FEE MAY BE REDUCED. In the event of any taking that reduces the size of the Leased Land but does not result in the termination of the Lease, CLT shall reassess the fair rental value of the remaining Land and shall adjust the Lease Fee if necessary to assure that the monthly fee does not exceed the monthly fair rental value of the Land for use as restricted by the Lease.

9.8 IF LEASE IS TERMINATED BY DAMAGE, DESTRUCTION OR TAKING, CLT WILL TRY TO HELP HOMEOWNER BUY ANOTHER CLT HOME. If this Lease is terminated as a result of damage, destruction or taking, CLT shall take reasonable steps to allow Homeowner to purchase another home on another parcel of leased land owned by CLT if such home can reasonably be made available. If Homeowner purchases such a home, Homeowner agrees to apply any proceeds or award received by Homeowner to the purchase of the home. Homeowner understands that there are numerous reasons why it may not be possible to make such a home available, and shall have no claim against CLT if such a home is not made available.

ARTICLE 10: Transfer of the Home

[Four possible versions of Article 10 are presented in the Appendix at the end of this chapter. A CLT may adopt one or another version (or a variation of a version) depending on: (a) the specific resale formula used, (b) whether the Homeowner is to have an absolute right to select an income-qualified buyer, and (c) the relationship of the base price to the market value of the Home.]

ARTICLE 11: RESERVED

ARTICLE 12: DEFAULT

12.1 WHAT HAPPENS IF HOMEOWNER FAILS TO MAKE PAYMENTS TO THE CLT THAT ARE REQUIRED BY THE LEASE: It shall be an event of default if Homeowner fails to pay the Lease Fee or other charges required by the terms of this Lease and such failure is not cured by Homeowner or a Permitted Mortgagee within thirty (30) days after notice of

such failure is given by CLT to Homeowner and Permitted Mortgagee. However, if Homeowner makes a good faith partial payment of at least two-thirds (2/3) of the amount owed during the 30-day cure period, then the cure period shall be extended by an additional 30 days.

12.2 WHAT HAPPENS IF HOMEOWNER VIOLATES OTHER (NONMONETARY) TERMS OF THE LEASE: It shall be an event of default if Homeowner fails to abide by any other requirement or restriction stated in this Lease, and such failure is not cured by Homeowner or a Permitted Mortgagee within sixty (60) days after notice of such failure is given by CLT to Homeowner and Permitted Mortgagee. However, if Homeowner or Permitted Mortgagee has begun to cure such default within the 60-day cure period and is continuing such cure with due diligence but cannot complete the cure within the 60-day cure period, the cure period shall be extended for as much additional time as may be reasonably required to complete the cure.

12.3 WHAT HAPPENS IF HOMEOWNER DEFAULTS AS A RESULT OF JUDICIAL PROCESS: It shall be an event of default if the estate hereby created is taken on execution or by other process of law, or if Homeowner is judicially declared bankrupt or insolvent according to law, or if any assignment is made of the property of Homeowner for the benefit of creditors, or if a receiver, trustee in involuntary bankruptcy or other similar officer is appointed to take charge of any substantial part of the Home or Homeowner's interest in the Leased Land by a court of competent jurisdiction, or if a petition is filed for the reorganization of Homeowner under any provisions of the Bankruptcy Act now or hereafter enacted, or if Homeowner files a petition for such reorganization, or for arrangements under any provision of the Bankruptcy Act now or hereafter enacted and providing a plan for a debtor to settle, satisfy or extend the time for payment of debts.

12.4 A DEFAULT (UNCURED VIOLATION) GIVES CLT THE RIGHT TO TERMINATE THE LEASE OR EXERCISE ITS PURCHASE OPTION:

a) **TERMINATION:** In the case of any of the events of default described above, CLT may terminate this lease and initiate summary proceedings under applicable law against Homeowner, and CLT shall have all the rights and remedies consistent with such laws and resulting court orders to enter the Leased Land and Home and repossess the entire Leased Land and Home, and expel Homeowner and those claiming rights through Homeowner. In addition, CLT shall have such additional rights and remedies to recover from Homeowner arrears of rent and damages from any preceding breach of any covenant of this Lease. If this Lease is terminated by CLT pursuant to an Event of Default, then, as provided in Section 7.7 above, upon thus assuming title to the Home, CLT shall pay to Homeowner and any Permitted Mortgagee an amount equal to the Purchase Option Price calculated in accordance with Section 10.9 above, as of the time of reversion of ownership, less the total amount of any unpaid Lease Fee and any other amounts owed to the CLT under the terms of this Lease and all reasonable costs (including reasonable attorneys' fees) incurred by CLT in pursuit of its remedies under this Lease.

If CLT elects to terminate the Lease, then the Permitted Mortgagee shall have the right (subject to Article 8 above and the attached Exhibit: Permitted Mortgages) to postpone and extend the specified date for the termination of the Lease for a period sufficient to enable the

Permitted Mortgagee or its designee to acquire Homeowner’s interest in the Home and the Leased Land by foreclosure of its mortgage or otherwise.

b) EXERCISE OF OPTION: In the case of any of the events of default described above, Homeowner hereby grants to the CLT (or its assignee) the option to purchase the Home for the Purchase Option Price as such price is defined in Article 10 above. Within thirty (30) days after the expiration of any applicable cure period as established in Sections 12.1 or 12.2 above or within 30 days after any of the events constituting an Event of Default under Section 12.3 above, CLT shall notify the Homeowner and the Permitted Mortgagee(s) of its decision to exercise its option to purchase under this Section 12.4(b). Not later than ninety (90) days after the CLT gives notice to the Homeowner of the CLT’s intent to exercise its option under this Section 12.4(a), the CLT or its assignee shall purchase the Home for the Purchase Option Price.

12.5 WHAT HAPPENS IF CLT DEFAULTS: CLT shall in no event be in default in the performance of any of its obligations under the Lease unless and until CLT has failed to perform such obligations within sixty (60) days, or such additional time as is reasonably required to correct any default, after notice by Homeowner to CLT properly specifying CLT’s failure to perform any such obligation.

ARTICLE 13: Mediation and Arbitration

13.1 Nothing in this Lease shall be construed as preventing the parties from utilizing any process of mediation or arbitration in which the parties agree to engage for the purpose of resolving a dispute.

13.2 Homeowner and CLT shall each pay one half (50%) of any costs incurred in carrying out mediation or arbitration in which the parties have agreed to engage.

ARTICLE 14: GENERAL PROVISIONS

14.1 HOMEOWNER’S MEMBERSHIP IN CLT: The Homeowner under this Lease shall automatically be a regular voting member of the CLT.

14.2 NOTICES: Whenever this Lease requires either party to give notice to the other, the notice shall be given in writing and delivered in person or mailed, by certified or registered mail, return receipt requested, to the party at the address set forth below, or such other address designated by like written notice:

If to CLT: _____ (name of CLT)
with a copy to: _____ (CLT’s attorney)

If to Homeowner: _____ (name of Homeowner)

All notices, demands and requests shall be effective upon being deposited in the United States Mail or, in the case of personal delivery, upon actual receipt.

14.3 NO BROKERAGE: Homeowner warrants that it has not dealt with any real estate broker other than _____ in connection with the purchase of the Home. If any claim is made against CLT regarding dealings with brokers other than _____, Homeowner shall defend CLT against such claim with counsel of CLT’s selection and shall reimburse CLT for any loss, cost or damage which may result from such claim.

14.4 SEVERABILITY AND DURATION OF LEASE: If any part of this Lease is unenforceable or invalid, such material shall be read out of this Lease and shall not affect the validity of any other part of this Lease or give rise to any cause of action of Homeowner or CLT against the other, and the remainder of this Lease shall be valid and enforced to the fullest extent permitted by law. It is the intention of the parties that CLT's option to purchase and all other rights of both parties under this Lease shall continue in effect for the full term of this Lease and any renewal thereof, and shall be considered to be coupled with an interest. In the event any such option or right shall be construed to be subject to any rule of law limiting the duration of such option or right, the time period for the exercising of such option or right shall be construed to expire twenty (20) years after the death of the last survivor of the following persons:

NOTE: List an identifiable group of small children, e.g., the children living as of the date of this Lease of any of the directors or employees of a specified corporation.

14.5 RIGHT OF FIRST REFUSAL IN LIEU OF OPTION: If the provisions of the purchase option set forth in Article 10 of this Lease shall, for any reason, become unenforceable, CLT shall nevertheless have a right of first refusal to purchase the Home at the highest documented bona fide purchase price offer made to Homeowner. Such right shall be as specified in Exhibit FIRST REFUSAL. Any sale or transfer contrary to this Section, when applicable, shall be null and void.

14.6 WAIVER: The waiver by CLT at any time of any requirement or restriction in this Lease, or the failure of CLT to take action with respect to any breach of any such requirement or restriction, shall not be deemed to be a waiver of such requirement or restriction with regard to any subsequent breach of such requirement or restriction, or of any other requirement or restriction in the Lease. CLT may grant waivers in the terms of this Lease, but such waivers must be in writing and signed by CLT before being effective.

The subsequent acceptance of Lease Fee payments by CLT shall not be deemed to be a waiver of any preceding breach by Homeowner of any requirement or restriction in this Lease, other than the failure of the Homeowner to pay the particular Lease Fee so accepted, regardless of CLT's knowledge of such preceding breach at the time of acceptance of such Lease Fee payment.

14.7 CLT'S RIGHT TO PROSECUTE OR DEFEND: CLT shall have the right, but shall have no obligation, to prosecute or defend, in its own or the Homeowner's name, any actions or proceedings appropriate to the protection of its own or Homeowner's interest in the Leased Land. Whenever requested by CLT, Homeowner shall give CLT all reasonable aid in any such action or proceeding.

14.8 CONSTRUCTION: Whenever in this Lease a pronoun is used it shall be construed to represent either the singular or the plural, masculine or feminine, as the case shall demand.

14.9 HEADINGS AND TABLE OF CONTENTS: The headings, subheadings and table of contents appearing in this Lease are for convenience only, and are not a part of this Lease and do not in any way limit or amplify the terms or conditions of this Lease.

14.10 PARTIES BOUND: This Lease sets forth the entire agreement between CLT and Homeowner with respect to the leasing of the Land; it is binding upon and inures to the

benefit of these parties and, in accordance with the provisions of this Lease, their respective successors in interest. This Lease may be altered or amended only by written notice executed by CLT and Homeowner or their legal representatives or, in accordance with the provisions of this Lease, their successors in interest.

14.11 GOVERNING LAW: This Lease shall be interpreted in accordance with and governed by the laws of _____[name of state]. The language in all parts of this Lease shall be, in all cases, construed according to its fair meaning and not strictly for or against CLT or Homeowner.

14.12 RECORDING: The parties agree, as an alternative to the recording of this Lease, to execute a so-called Notice of Lease or Short Form Lease in form recordable and complying with applicable law and reasonably satisfactory to CLT’s attorneys. In no event shall such document state the rent or other charges payable by Homeowner under this Lease; and any such document shall expressly state that it is executed pursuant to the provisions contained in this Lease, and is not intended to vary the terms and conditions of this Lease.

IN WITNESS WHEREOF, the parties have executed this lease at _____ on the day and year first above written.

_____ (CLT)

Witness

By: _____
Its duly authorized agent

_____ (Homeowner):

Witness

[notarize signatures]

**Exhibit LETTERS OF AGREEMENT AND ATTORNEY’S
ACKNOWLEDGMENT**

Sample
Letter of Agreement

To _____ Community Land Trust (“the CLT”)

Date: _____

This letter is given to the CLT to become an exhibit to a Lease between the CLT and me. I will be leasing a parcel of land from the CLT and will be buying the home that sits on that parcel of land. I will therefore become what is described in the Lease as a “the Homeowner.”

My legal counsel, _____, has explained to me the terms and conditions of the Lease and other legal documents that are part of this transaction. I understand the way these terms and conditions will affect my rights as a CLT homeowner, now and in the future.

In particular I understand and agree with the following points.

One of the goals of the CLT is to keep CLT homes affordable for lower income households from one CLT homeowner to the next. I support this goal as a CLT homeowner and as a member of the CLT.

The terms and conditions of my Lease will keep my home affordable for future “income-qualified persons” (as defined in the Lease). If and when I want to sell my home, the lease requires that I sell it either to the CLT or to another income-qualified person. The terms and conditions of the lease also limit the price for which I can sell the home, in order to keep it affordable for such income-qualified persons.

It is also a goal of the CLT to promote resident ownership of CLT homes. For this reason, my Lease requires that, if I and my family move out of our home permanently, we must sell it. We cannot continue to own it as absentee owners.

I understand that I can leave my home to my child or children or other members of my household and that, after my death, they can own the home for as long as they want to live in it and abide by the terms of the Lease, or they can sell it on the terms permitted by the Lease.

As a CLT homeowner and a member of the CLT, it is my desire to see the terms of the Lease and related documents honored. I consider these terms fair to me and others.

Sincerely

**Sample
Letter of Attorney’s Acknowledgment**

I, _____, have been independently employed by _____ (hereinafter “the Client”) who intends to purchase a house and other improvements (the “Home”) on land to be leased from Community Land Trust. The house and land are located at _____.

In connection with the contemplated purchase of the Home and the leasing of the land, I reviewed with the Client the following documents:

- a) this Letter of Attorney’s Acknowledgment and a Letter of Agreement from the Client;
- b) a proposed Deed conveying the Home to the Client;
- c) a proposed Ground Lease conveying the “Leased Land” to the Client;
- d) other written materials provided by the CLT.

The Client has received full and complete information and advice regarding this conveyance and the foregoing documents. In my review of these documents my purpose has been to reasonably inform the Client of the present and foreseeable risks and legal consequences of the contemplated transaction.

The Client is entering the aforesaid transaction in reliance on her own judgment and upon her investigation of the facts. The advice and information provided by me was an integral element of such investigation.

Name Date

Title

Firm/Address

Exhibit DEED

Sample
Deed

Between

LOCAL LAND TRUST (Grantor), a not-for-profit corporation having its principal offices at _____, _____, _____, and

JOHN AND MARY DOE (Grantees), residing at _____, _____, _____.

Witnesseth

That Grantor, in consideration of one dollar and other good and valuable consideration paid by Grantees, does hereby grant and release unto Grantees, their heirs, or successors and assigns forever,

THE BUILDINGS AND OTHER IMPROVEMENTS ONLY, as presently erected on the Land described in Schedule "A" attached hereto and made a part hereof.

It is the intention of the parties that the real property underlying the buildings and other improvements conveyed herein remain vested in Grantor and that this warranty deed convey only such buildings and other improvements as are presently erected upon the subject Land.

In witness whereof, as authorized agent of Grantor, I hereunto set my hand this _____ day of _____, A.D. 20 .

signature

[notarize signature]

Exhibit: PERMITTED MORTGAGES

The rights and provisions set forth in this Exhibit shall be understood to be provisions of Section 8.2 of the of the Lease. All terminology used in this Exhibit shall have the meaning assigned to it in the Lease.

A. OBLIGATIONS OF PERMITTED MORTGAGEE. Any Permitted Mortgagee shall be bound by each of the following requirements unless the particular requirement is removed, contradicted or modified by a rider to this Lease signed by the Homeowner and the CLT to modify the terms of the Lease during the term of the Permitted Mortgage.

1. If Permitted Mortgagee sends a notice of default to the Homeowner because the Homeowner has failed to comply with the terms of the Permitted Mortgage, the Permitted Mortgagee shall, at the same time, send a copy of that notice to the CLT. Upon receiving a copy of the notice of default and within that period of time in which the Homeowner has a right to cure such default (the "cure period"), the CLT shall have the right to cure the default on the Homeowner's behalf, provided that all current payments due the Permitted Mortgagee since the notice of default was given are made to the Permitted Mortgagee.
2. If, after the cure period has expired, the Permitted Mortgagee intends to accelerate the note secured by the Permitted Mortgage or begin foreclosure proceedings under the Permitted Mortgage, the Permitted Mortgagee shall first notify CLT of its intention to do so, and CLT shall then have the right, upon notifying the Permitted Mortgagee within thirty (30) days of receipt of such notice, to acquire the Permitted Mortgage by paying off the debt secured by the Permitted Mortgage.
3. If the Permitted Mortgagee acquires title to the Home through foreclosure or acceptance of a deed in lieu of foreclosure, the Permitted Mortgagee shall give CLT written notice of such acquisition and CLT shall then have an option to purchase the Home from the Permitted Mortgagee for the full amount owing to the Permitted Mortgagee under the Permitted Mortgage. To exercise this option to purchase, CLT must give written notice to the Permitted Mortgagee of CLT's intent to purchase the Home within thirty (30) days following CLT's receipt of the Permitted Mortgagee's notice. CLT must then complete the purchase of the Home within sixty (60) days of having given written notice of its intent to purchase. If CLT does not complete the purchase within this 60-day period, the Permitted Mortgagee shall be free to sell the Home to another person.
4. Nothing in the Permitted Mortgage or related documents shall be construed as giving Permitted Mortgagee a claim on CLT's interest in the Leased Land, or as assigning any form of liability to the CLT with regard to the Leased Land, the Home, or the Permitted Mortgage.
5. Nothing in the Permitted Mortgage or related documents shall be construed as rendering CLT or any subsequent Mortgagee of CLT's interest in this Lease, or their respective heirs, executors, successors or assigns, personally liable for the payment of the debt secured by the Permitted Mortgage or any part thereof.
6. The Permitted Mortgagee shall not look to CLT or CLT's interest in the Leased Land, but will look solely to Homeowner, Homeowner's interest in the Leased Land, and the Home for the payment of the debt secured thereby or any part thereof. (It is the intention of the parties

hereto that CLT's consent to such the Permitted Mortgage shall be without any liability on the part of CLT for any deficiency judgment.)

7. In the event any part of the Security is taken in condemnation or by right of eminent domain, the proceeds of the award shall be paid over to the Permitted Mortgagee in accordance with the provisions of ARTICLE 9 hereof.

8. CLT shall not be obligated to execute an assignment of the Lease Fee or other rent payable by Homeowner under the terms of this Lease.

B. RIGHTS OF PERMITTED MORTGAGEE. The rights of a Permitted Mortgagee as referenced under Section 8.6 of the Lease to which this Exhibit is attached shall be as set forth below.

1. Any Permitted Mortgagee shall, without further consent by CLT, have the right to (a) cure any default under this Lease, and perform any obligation required under this Lease, such cure or performance being effective as if it had been performed by Homeowner; (b) acquire and convey, assign, transfer and exercise any right, remedy or privilege granted to Homeowner by this Lease or otherwise by law, subject to the provisions, if any, in the Permitted Mortgage, which may limit any exercise of any such right, remedy or privilege; and (c) rely upon and enforce any provisions of the Lease to the extent that such provisions are for the benefit of a Permitted Mortgagee.

2. A Permitted Mortgagee shall not be required, as a condition to the exercise of its rights under the Lease, to assume personal liability for the payment and performance of the obligations of the Homeowner under the Lease. Any such payment or performance or other act by Permitted Mortgagee under the Lease shall not be construed as an agreement by Permitted Mortgagee to assume such personal liability except to the extent Permitted Mortgagee actually takes possession of the Home and Leased Land. In the event Permitted Mortgagee does take possession of the Home and Leased Land and thereupon transfers such property, any such transferee shall be required to enter into a written agreement assuming such personal liability and upon any such assumption the Permitted Mortgagee shall automatically be released from personal liability under the Lease.

3. In the event that title to the estates of both CLT and Homeowner are acquired at any time by the same person or persons, no merger of these estates shall occur without the prior written declaration of merger by Permitted Mortgagee, so long as Permitted Mortgagee owns any interest in the Security or in a Permitted Mortgage.

4. If the Lease is terminated for any reason, or in the event of the rejection or disaffirmance of the Lease pursuant to bankruptcy law or other law affecting creditors' rights, CLT shall enter into a new lease for the Leased Land with the Permitted Mortgagee (or with any party designated by the Permitted Mortgagee, subject to CLT's approval, which approval shall not be unreasonably withheld), not more than thirty (30) days after the request of the Permitted Mortgagee. Such lease shall be for the remainder of the term of the Lease, effective as of the date of such termination, rejection or disaffirmance, and upon all the terms and provisions contained in the Lease. However, the Permitted Mortgagee shall make a written request to CLT for such new lease within sixty (60) days after the effective date of such termination,

rejection or disaffirmance, as the case may be. Such written request shall be accompanied by a copy of such new lease, duly executed and acknowledged by the Permitted Mortgagee or the party designated by the Permitted Mortgagee to be the Homeowner thereunder. Any new lease made pursuant to this Section shall have the same priority with respect to other interests in the Land as the Lease. The provisions of this Section shall survive the termination, rejection or disaffirmance of the Lease and shall continue in full effect thereafter to the same extent as if this Section were independent and an independent contract made by CLT, Homeowner and the Permitted Mortgagee.

5. The CLT shall have no right to terminate the Lease during such time as the Permitted Mortgagee has commenced foreclosure in accordance with the provisions of the Lease and is diligently pursuing the same.

6. In the event that CLT sends a notice of default under the Lease to Homeowner, CLT shall also send a notice of Homeowner’s default to Permitted Mortgagee. Such notice shall be given in the manner set forth in Section 14.2 of the Lease to the Permitted Mortgagee at the address which has been given by the Permitted Mortgagee to CLT by a written notice to CLT sent in the manner set forth in said Section 14.2 of the Lease.

7. In the event of foreclosure sale by a Permitted Mortgagee or the delivery of a deed to a Permitted Mortgagee in lieu of foreclosure in accordance with the provisions of the Lease, at the election of the Permitted Mortgagee the provisions of Article 10, Sections 10.1 through 10.11 shall be deleted and thereupon shall be of no further force or effect as to only so much of the Security so foreclosed upon or transferred.

8. Before becoming effective, any amendments to this Lease must be approved in writing by Permitted Mortgagee, which approval shall not be unreasonably withheld. If Permitted Mortgagee has neither approved nor rejected a proposed amendment within 60 days of its submission to Permitted Mortgagee, then the proposed amendment shall be deemed to be approved.

C. STANDARD PERMITTED MORTGAGE AGREEMENT. A Standard Permitted Mortgage Agreement, as identified in Section 8.4 of this Lease, shall be written as follows, and shall be signed by Mortgagee and Homeowner.

This Agreement is made by and among:

_____ (Mortgagee) and
_____ (“Homeowner”),

Whereas:

- a) _____ CLT (the “CLT”) and Homeowner have entered, or are entering, into a ground lease (“the Lease”), conveying to Homeowner a leasehold interest in the Land located at _____ (“the Leased Land”); and Homeowner has purchased, or is purchasing, the Home located on the Leased Land (“the Home”).
- b) The Mortgagee has been asked to provide certain financing to the Homeowner, and is being granted concurrently herewith a mortgage and security interest (the “Mortgage”) in the Leased Land and Home, all as more particularly set forth in the Mortgage, attached

hereto as Schedule A.

- c) *The Ground Lease states that the Homeowner may mortgage the Leased Land only with the written consent of CLT. The Ground Lease further provides that CLT is required to give such consent only if the Mortgagee signs this Standard Permitted Mortgage Agreement and thereby agrees to certain conditions that are stipulated herein (“the Stipulated Conditions”).*

Now, therefore, the Homeowner/Mortgagor and the Mortgagee hereby agree that the terms and conditions of the Mortgage shall include the Stipulated Conditions stated below.

Stipulated Conditions:

1) If Mortgagee sends a notice of default to the Homeowner because the Homeowner has failed to comply with the terms of the Mortgage, the Mortgagee shall, at the same time, send a copy of that notice to the CLT. Upon receiving a copy of the notice of default and within that period of time in which the Homeowner has a right to cure such default (the “cure period”), the CLT shall have the right to cure the default on the Homeowner’s behalf, provided that all current payments due the Permitted Mortgagee since the notice of default was given are made to the Mortgagee.

2) If, after such cure period, the Mortgagee intends to accelerate the note secured by the Mortgage or initiate foreclosure proceedings under the Mortgage, in accordance with the provisions of the Lease, the Mortgagee shall first notify CLT of its intention to do so and CLT shall have the right, but not the obligation, upon notifying the Mortgagee within thirty (30) days of receipt of said notice, to purchase the Mortgagee loans and to take assignment of the Mortgage.

3) If the Mortgagee acquires title to the Home and Homeowner’s interest in the Leased Land through foreclosure or acceptance of a deed in lieu of foreclosure, the Mortgagee shall give the CLT written notice of such acquisition and the CLT shall have an option to purchase the Home and Homeowner’s interest in the Leased Land from the Mortgagee for the full amount owing to the Mortgagee; provided, however, that the CLT notifies the Mortgagee in writing of the CLT’s intent to make such purchase within thirty (30) days following the CLT’s receipt of the Mortgagee’s notice of such acquisition of the Home and Homeowner’s interest in the Leased Land; further provided that CLT shall complete such purchase within sixty (60) days of having given written notice of its intent to purchase; and provided that, if the CLT does not complete the purchase within such period, the Mortgagee shall be free to sell the Home and Homeowner’s interest in the Leased Land to another person;

4) Nothing in the Mortgage or related documents shall be construed as giving the Mortgagee a claim on CLT’s interest in the Leased Land, or as assigning any form of liability to the CLT with regard to the Leased Land, the Home, or the Mortgage.

5) Nothing in the Mortgage shall be construed as rendering CLT or any subsequent holder of the CLT’s interest in and to the Lease, or their respective heirs, executors, successors or assigns, personally liable for the payment of the debt evidenced by such note and such Mortgage or any part thereof.

6) *The Mortgagee shall not look to CLT or CLT's interest in the Leased Land, but will look solely to Homeowner and Homeowner's interest in the Leased Land and the Home for the payment of the debt secured by the Mortgage. (It is the intention of the parties hereto that CLT's consent to the Mortgage shall be without any liability on the part of CLT for any deficiency judgment.)*

7) *In the event that any part of the Leased Land is taken in condemnation or by right of eminent domain, the proceeds of the award shall be paid over to the Mortgagee in accordance with the provisions of Article 9 of the Lease.*

8) *Nothing in the Mortgage shall obligate CLT to execute an assignment of the Lease Fee or other rent payable by Homeowner under the terms of this Lease.*

By:

_____ for Mortgagee Date: _____
_____ for Homeowner/Mortgagor Date: _____

Exhibit FIRST REFUSAL

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

a) Offering Party shall give written notice of such offer ("the Notice of Offer") to Holder setting forth (a) the name and address of the prospective purchaser of the property, (b) the purchase price offered by the prospective purchaser and (c) all other terms and conditions of the sale. Holder shall have a period of forty-five (45) days after the receipt of the Notice of Offer ("the Election Period") within which to exercise the right of first refusal by giving notice of intent to purchase the property ("the Notice of Intent to Purchase") for the same price and on the same terms and conditions set forth in the Notice of Offer. Such Notice of Intent to Purchase shall be given in writing to the Offering Party within the Election Period.

b) If Holder exercises the right to purchase the property, such purchase shall be completed within sixty (60) days after the Notice of Intent to Purchase is given by Holder (or if the Notice of Offer shall specify a later date for closing, such date) by performance of the terms and conditions of the Notice of Offer, including payment of the purchase price provided therein.

c) Should Holder fail to exercise the right of first refusal within the Election Period, then the Offering Party shall have the right (subject to any other applicable restrictions in the Lease) to go forward with the sale which the Offering Party desires to accept, and to sell the property within one (1) year following the expiration of the Election Period on terms and conditions which are not materially more favorable to the purchaser than those set forth in the Notice. If the sale is not consummated within such one-year period, the Offering Party's right so to sell shall end, and all of the foregoing provisions of this section shall be applied again to any

future offer, all as aforesaid. If a sale is consummated within such one-year period, the purchaser shall purchase subject to the Holder having a renewed right of first refusal in said property.

Other Exhibits to be Attached as Appropriate

Exhibit LAND [*Correct legal description of area of Leased Land and appurtenant title rights and obligations.*]

Exhibit ZONING [*Setting forth applicable zoning restrictions as of the commencement of the Lease*]

Exhibit RESTRICTIONS [*To be attached when necessary to stipulate use restrictions not included under Zoning*]

Exhibit INITIAL APPRAISAL [*To be attached if Lease contains an “appraisal-based” resale formula*]

APPENDIX: Four Versions of Article 10

ARTICLE 10: Transfer of the Home

Article 10: Version 1

For situations in which:

- a) the Homeowner has no absolute right to identify a buyer and can only recommend a buyer;*
- b) an “improvements-only appraisal-based formula” is used; and*
- c) the original base price is not greater than the original appraised value of the Home.*

10.1 INTENT OF THIS ARTICLE IS TO PRESERVE AFFORDABILITY: Homeowner and CLT agree that the provisions of this Article 10 are intended to preserve the affordability of the Home for lower income households and expand access to homeownership opportunities for such households.

10.2 HOMEOWNER MAY TRANSFER HOME ONLY TO CLT OR QUALIFIED PERSONS: Homeowner may transfer the Home only to the CLT or an Income-Qualified Person as defined below or otherwise only as explicitly permitted by the provisions of this Article 10. All such transfers are to be completed only in strict compliance with this Article 10. Any purported transfer that does not follow the procedures set forth below, except in the case of a transfer to a Permitted Mortgagee in lieu of foreclosure, shall be null and void.

“Income-Qualified Person” shall mean a person or group of persons whose household income does not exceed _____ percent (___%) of the median household income for the applicable Standard Metropolitan Statistical Area or County as calculated and adjusted for

household size from time to time by the U.S. Department of Housing and Urban Development (HUD) or any successor.

10.3 THE HOME MAY BE TRANSFERRED TO CERTAIN HEIRS OF HOMEOWNER: If Homeowner dies (or if the last surviving co-owner of the Home dies), the executor or personal representative of Homeowner's estate shall notify CLT within ninety (90) days of the date of the death. Upon receiving such notice CLT shall consent to a transfer of the Home and Homeowner's rights to the Leased Land to one or more of the possible heirs of Homeowner listed below as "a," "b," or "c," provided that a Letter of Agreement and a Letter of Attorney's Acknowledgment (as described in Article 1 above) are submitted to CLT to be attached to the Lease when it is transferred to the heirs.

- a) the spouse of the Homeowner; or
- b) the child or children of the Homeowner; or
- c) member(s) of the Homeowner's household who have resided in the Home for at least one year immediately prior to Homeowner's death.

Any other heirs, legatees or devisees of Homeowner, in addition to submitting Letters of Agreement and Attorney's Acknowledgment as provided above, must demonstrate to CLT's satisfaction that they are Income-Qualified Persons as defined above. If they cannot demonstrate that they are Income-Qualified Persons, they shall not be entitled to possession of the Home but must transfer the Home in accordance with the provisions of this Article 10.

10.4 HOMEOWNER'S NOTICE OF INTENT TO SELL: In the event that Homeowner wishes to sell Homeowner's Property, Homeowner shall notify CLT in writing of such wish (the Intent-to-Sell Notice). This Notice shall include a statement as to whether Homeowner wishes to recommend a prospective buyer as of the date of the Notice.

10.5 AFTER RECEIVING NOTICE, CLT SHALL COMMISSION AN APPRAISAL: No later than ten (10) days after CLT's receipt of Homeowner's Intent-to-Sell Notice, CLT shall commission a market valuation of the Leased Land and the Home (The Appraisal) to be performed by a duly licensed appraiser who is acceptable to CLT and Homeowner. CLT shall pay the cost of such Appraisal. The Appraisal shall be conducted by analysis and comparison of comparable properties as though title to Leased Land and Home were held in fee simple absolute by a single party, disregarding all of the restrictions of this Lease on the use, occupancy and transfer of the property. The Appraisal shall state the values contributed by the Leased Land and by the Home (consisting of improvements only) as separate amounts. Copies of the Appraisal are to be provided to both CLT and Homeowner.

10.6 CLT HAS AN OPTION TO PURCHASE THE HOME. Upon receipt of an Intent-to-Sell Notice from Homeowner, CLT shall have the option to purchase the Home at the Purchase Option Price calculated as set forth below. The Purchase Option is designed to further the purpose of preserving the affordability of the Home for succeeding Income-Qualified Persons while taking fair account of the investment by the Homeowner.

If CLT elects to purchase the Home, CLT shall exercise the Purchase Option by notifying Homeowner, in writing, of such election (the Notice of Exercise of Option) within forty-five

(45) days of the receipt of the Appraisal, or the Option shall expire. Having given such notice, CLT may either proceed to purchase the Home directly or may assign the Purchase Option to an Income-Qualified Person.

The purchase (by CLT or CLT's assignee) must be completed within sixty (60) days of CLT's Notice of Exercise of Option, or Homeowner may sell the Home and Homeowner's rights to the Leased Land as provided in Section 10.7 below. The time permitted for the completion of the purchase may be extended by mutual agreement of CLT and Homeowner.

Homeowner may recommend to CLT a prospective buyer who is an Income-Qualified Person and is prepared to submit Letters of Agreement and Attorney's Acknowledgement indicating informed acceptance of the terms of this Lease. CLT shall make reasonable efforts to arrange for the assignment of the Purchase Option to such person, unless CLT determines that its charitable mission is better served by retaining the Home for another purpose or transferring the Home to another party.

10.7 IF PURCHASE OPTION EXPIRES, HOMEOWNER MAY SELL ON CERTAIN TERMS: If the Purchase Option has expired or if CLT has failed to complete the purchase within the sixty-day period allowed by Section 10.6 above, Homeowner may sell the Home to any Income-Qualified Person for not more than the then applicable Purchase Option Price. If Homeowner has made diligent efforts to sell the Home for at least six months after the expiration of the Purchase Option (or six months after the expiration of such sixty-day period) and the Home still has not been sold, Homeowner may then sell the Home, for a price no greater than the then applicable Purchase Option Price, to any party regardless of whether that party is an Income-Qualified Person.

10.8 AFTER ONE YEAR CLT SHALL HAVE POWER OF ATTORNEY TO CONDUCT SALE: If CLT does not exercise its option and complete the purchase of Homeowner's Property as described above, and if Homeowner (a) is not then residing in the Home and (b) continues to hold Homeowner's Property out for sale but is unable to locate a buyer and execute a binding purchase and sale agreement within one year of the date of the Intent to Sell Notice, Homeowner does hereby appoint CLT its attorney in fact to seek a buyer, negotiate a reasonable price that furthers the purposes of this Lease, sell the property, and pay to the Homeowner the proceeds of sale, minus CLT's costs of sale and any other sums owed CLT by Homeowner.

10.9 PURCHASE OPTION PRICE EQUALS LESSER OF APPRAISED VALUE OR FORMULA PRICE: In no event may the Home be sold for a price that exceeds the Purchase Option Price. The Purchase Option Price shall be the lesser of (a) the value of the Home (consisting of improvements only) as determined by the Appraisal commissioned and conducted as provided in 10.5 above or (b) the price calculated in accordance with the formula described below (the Formula Price).

10.10 HOW THE FORMULA PRICE IS CALCULATED: The Formula Price shall be equal to Homeowner's Base Price, as stated below, plus 25% of the increase in market value of the Home, if any, calculated in the way described below.

Homeowner's Base Price: The parties agree that the Homeowner's Base Price for Homeowner's Property as of the signing of this Lease is \$_____.

Initial Appraised Value: The parties agree that the appraised value of the Home at the time of Homeowner's purchase (the Initial Appraised Value) is \$_____, as documented by the appraiser's report attached to this Lease as Exhibit INITIAL APPRAISAL.

Increase in Market Value: The increase in market value of the Home equals the appraised value of the Home at time of sale, calculated according to Section 10.5 above, minus the Initial Appraised Value.

Homeowner's share of Increase in Market Value: Homeowner's share of the increase in the market value of the Home equals twenty-five percent (25%) of the increase in market value as calculated above.

Summary of Formula Price: The Formula Price equals Homeowner's Base Price plus Homeowner's Share of Increase in Market Value.

10.11 QUALIFIED PURCHASER SHALL RECEIVE NEW LEASE: The CLT shall issue a new lease to any person who purchases the Home in accordance with the terms of this Article 10. The terms of such lease shall be the same as those of new leases issued to homebuyers at that time for land not previously leased by the CLT.

10.12 PURCHASER MAY BE CHARGED A TRANSFER FEE. In the event that Homeowner sells the home to a party other than the CLT (whether directly to such party or as a result of CLT's assignment of its Purchase Option to such party), the price to be paid by such purchaser shall include in addition to the Purchase Option Price, at the discretion of the CLT, a transfer fee to compensate the CLT for carrying out its responsibilities with regard to the transaction. The amount of the transfer fee shall be no more than % of the Purchase Option Price.

10.13 HOMEOWNER REQUIRED TO MAKE NECESSARY REPAIRS AT TRANSFER: The Homeowner is required to make necessary repairs when she voluntarily transfers the Home as follows:

- a) The person purchasing the Home ("Buyer") shall, prior to purchasing the Home, hire at her sole expense a building inspector with a current Home Inspector license from the _____ [licensing agency] to assess the condition of the Home and prepare a written report of the condition ("Inspection Report"). The Homeowner shall cooperate fully with the inspection.
- b) The Buyer shall provide a copy of the Inspection Report to Buyer's lender (if any), the Homeowner, and the CLT within 10 days after receiving the Inspection Report.
- c) Homeowner shall repair specific reported defects or conditions necessary to bring the Home into full compliance with Sections 4.2 and 7.5 above prior to transferring the Home.
- d) Homeowner shall bear the full cost of the necessary repairs and replacements. However, upon Homeowner's written request, the CLT may allow the Homeowner to pay all or a portion of the repair costs after transfer, from Homeowner's proceeds of sale, if Homeowner cannot afford to pay such costs prior to the transfer. In such event, either (i) 150% of the unpaid estimated cost of repairs or (ii) 100% of the unpaid cost of completed repairs shall be withheld from Homeowner's proceeds of

sale in a CLT-approved escrow account. ***[Add the following sentence only if provision is made for a repair reserve:*** Also, upon Homeowner's written request, CLT may, at its discretion, agree to release funds from the Repair Reserve Fund to cover some or all of the cost of such repairs, provided that such use of the Reserve is in full compliance with Section 7.6 above.]

- e) Homeowner shall allow CLT, Buyer, and Buyer's building inspector and lender's representative to inspect the repairs prior to closing to determine that the repairs have been satisfactorily completed.
- f) Upon sale or other transfer, Homeowner shall either (i) transfer the Home with all originally purchased appliances or replacements in the Home in good working order or (ii) reduce the Purchase Option Price by the market value of any such appliances that are not left with the Home in good working order.

Article 10: Version 2

For situations in which:

- a) *the Homeowner has a right to identify a qualified buyer;*
- b) *an "improvements-only appraisal-based formula" is used; and*
- c) *the original base price is not greater than the original appraised value of the Home.*

10.1 INTENT OF THIS ARTICLE IS TO PRESERVE AFFORDABILITY: Homeowner and CLT agree that the provisions of this Article 10 are intended to preserve the affordability of the Home for lower income households and expand access to homeownership opportunities for such households.

10.2 HOMEOWNER MAY TRANSFER HOME ONLY TO CLT OR QUALIFIED PERSONS: Homeowner may transfer the Home only to the CLT or an Income-Qualified Person as defined below or otherwise only as explicitly permitted by the provisions of this Article 10. All such transfers are to be completed only in strict compliance with this Article 10. Any purported transfer that does not follow the procedures set forth below, except in the case of a transfer to a Permitted Mortgagee in lieu of foreclosure, shall be null and void.

"Income-Qualified Person" shall mean a person or group of persons whose household income does not exceed _____ percent (____%) of the median household income for the applicable Standard Metropolitan Statistical Area or County as calculated and adjusted for household size from time to time by the U.S. Department of Housing and Urban Development (HUD) or any successor.

10.3 THE HOME MAY BE TRANSFERRED TO CERTAIN HEIRS OF HOMEOWNER: If Homeowner dies (or if the last surviving co-owner of the Home dies), the executor or personal representative of Homeowner's estate shall notify CLT within ninety (90) days of the date of the death. Upon receiving such notice CLT shall consent to a transfer of the Home and Homeowner's rights to the Leased Land to one or more of the possible heirs of Homeowner listed below as "a," "b," or "c," provided that a Letter of Agreement and a Letter of Attorney's Acknowledgment (as described in Article 1 above) are submitted to CLT to be attached to the Lease when it is transferred to the heirs.

- a) the spouse of the Homeowner; or
- b) the child or children of the Homeowner; or
- c) member(s) of the Homeowner's household who have resided in the Home for at least one year immediately prior to Homeowner's death.

Any other heirs, legatees or devisees of Homeowner, in addition to submitting Letters of Agreement and Attorney's Acknowledgment as provided above, must demonstrate to CLT's satisfaction that they are Income-Qualified Persons as defined above. If they cannot demonstrate that they are Income-Qualified Persons, they shall not be entitled to possession of the Home but must transfer the Home in accordance with the provisions of this Article 10.

10.4 HOMEOWNER MUST GIVE NOTICE OF INTENT TO SELL: In the event that Homeowner wishes to sell the Home, Homeowner shall notify CLT, in writing, of such wish (the Intent-to-Sell Notice). *[Statement re. recommending prospective buyer omitted]*.

10.5 AFTER RECEIVING NOTICE, CLT SHALL COMMISSION AN APPRAISAL: No later than ten (10) days after CLT's receipt of Homeowner's Intent-to-Sell Notice, CLT shall commission a market valuation of the Leased Land and the Home (The Appraisal) to be performed by a duly licensed appraiser who is acceptable to CLT and Homeowner. CLT shall pay the cost of such Appraisal. The Appraisal shall be conducted by analysis and comparison of comparable properties as though title to Leased Land and Home were held in fee simple absolute by a single party, disregarding all of the restrictions of this Lease on the use, occupancy and transfer of the property. The Appraisal shall state the values contributed by the Leased Land and by the Home (consisting of improvements only) as separate amounts. Copies of the Appraisal are to be provided to both CLT and Homeowner.

10.6 HOMEOWNER HAS A RIGHT TO DESIGNATE A QUALIFIED BUYER:

Homeowner may, no later than ten days following receipt of the Appraisal, notify CLT in writing that Homeowner has identified a prospective buyer. If Homeowner has thus identified a prospective buyer, then, within thirty (30) days of receipt of the Appraisal, Homeowner shall furnish to CLT, or cause to be furnished to CLT, the following information and documents: (1) the number of people in the prospective buyer's household, (2) such documentation of household income as CLT's policies then require for confirmation of a buyer's income-eligibility, (3) Letters of Agreement and Attorney's Acknowledgement indicating informed acceptance of the terms of this Lease, in form and substance similar to the letters in Exhibit LETTERS OF AGREEMENT AND ATTORNEY'S ACKNOWLEDGEMENT attached hereto; and (4) a statement of the price and other proposed terms of sale.

No sale or other disposition shall be effective unless and until CLT, within thirty (30) days of receipt of all of the documents listed in the paragraph above, confirms in writing that the prospective buyer is an income-qualified person who understands and accepts the terms of the Lease and that the price and other terms of sale are consistent with the terms of the Lease. If CLT determines that the proposed buyer or proposed sale are not permitted under the terms of the Lease, then CLT shall respond with written notice to Homeowner of this determination. If

CLT fails to respond in writing within thirty (30) days of its receipt of the required documents, such failure shall be deemed to constitute approval of the sale.

Upon receipt of CLT's approval as described above, Homeowner may proceed to sell the Home to the prospective buyer. Simultaneously with the closing of such sale, CLT shall issue a new Lease as provided in Section 10.11 below). Homeowner shall complete such sale within sixty (60) days of receipt of approval of the proposed sale.

10.7 CLT MAY EXERCISE PURCHASE OPTION IF HOMEOWNER DOES NOT SELL TO A QUALIFIED BUYER: Upon receipt of an Intent to Sell Notice from Homeowner, CLT shall have the option to purchase said Home (the Purchase Option) at the Purchase Option Price calculated as set forth below, unless Homeowner has identified a prospective buyer and is proceeding to seek approval of such buyer and to sell to such buyer in accordance with the provisions of Section 10.6 above. The Purchase Option is designed to further the purpose of preserving the affordability of the Home for succeeding Income-Qualified Persons while taking fair account of the investment of labor and capital by the Homeowner. Homeowner and CLT agree to cooperate in furthering such purposes by facilitating the sale of the Home to an Income-Qualified Person. Such purposes are understood to be accomplished, without CLT having otherwise exercised the Purchase Option, if the Home is sold, in accordance with Section 10.6 above, to a buyer identified by Homeowner. CLT shall not exercise the purchase option directly during such time as Homeowner is proceeding to sell to a prospective buyer in accordance with Section 10.6.

The CLT may exercise the Purchase Option within a forty-five (45) day period beginning ten days after Homeowner's receipt of the Appraisal unless Homeowner has, during such ten-day period, given notice identifying a prospective buyer. If Homeowner has identified a prospective buyer but for any reason the sale to such prospective buyer cannot be completed, then CLT may exercise the Purchase Option within a forty-five (45) day period beginning at such time as it is established that sale to such prospective buyer cannot be completed. In either case, to exercise the Purchase Option, CLT shall, within the applicable forty-five-day period, notify Homeowner in writing of its election to purchase the Home ("Notice of Exercise of Purchase Option").

If CLT gives Notice of Exercise of Purchase Option to Homeowner, CLT shall then complete the purchase of the Home within sixty (60) days of the date on which it gives such notice. If CLT either fails to give such notice within the time permitted or fails to complete the purchase within the time permitted, Homeowner may sell the Home as provided in Section 10.8 below.

Purchase of the Home pursuant to the Purchase Option may be accomplished by CLT's giving Notice of Exercise of Purchase Option and thereupon assigning the Option to an Income-Qualified Person who then completes the purchase of the Home within sixty days of the date of the exercise of the purchase option. The time permitted for the completion of the purchase of the Home may be extended by mutual agreement of CLT and Homeowner.

10.8 IF PURCHASE OPTION EXPIRES, HOMEOWNER MAY SELL ON CERTAIN TERMS: If the Purchase Option has expired or if CLT has failed to complete the purchase

within the sixty-day period allowed by Section 10.7 above, Homeowner may sell the Home to any Income-Qualified Person for not more than the then applicable Purchase Option Price. If Homeowner has made diligent efforts to sell the Home for at least six months after the expiration of the Purchase Option (or six months after the expiration of such sixty-day period) and the Home still has not been sold, Homeowner may then sell the Home, for a price no greater than the then applicable Purchase Option Price, to any party regardless of whether that party is an Income-Qualified Person.

10.9 AFTER ONE YEAR, CLT SHALL HAVE POWER OF ATTORNEY TO CONDUCT SALE: If CLT does not exercise its option and complete the purchase of Homeowner's Property as described above, and if Homeowner (a) is not then residing in the Home and (b) continues to hold Homeowner's Property out for sale but is unable to locate a buyer and execute a binding purchase and sale agreement within one year of the date of the Intent to Sell Notice, Homeowner does hereby appoint CLT its attorney in fact to seek a buyer, negotiate a reasonable price that furthers the purposes of this Lease, sell the property, and pay to the Homeowner the proceeds of sale, minus CLT's costs of sale and any other sums owed CLT by Homeowner.

10.10 PURCHASE OPTION PRICE EQUALS LESSER OF APPRAISED VALUE OR FORMULA PRICE: In no event may the Home be sold for a price that exceeds the Purchase Option Price. The Purchase Option Price shall be the lesser of (a) the value of the Home (consisting of improvements only) as determined by the Appraisal commissioned and conducted as provided in 10.5 above or (b) the price calculated in accordance with the formula described below (the Formula Price).

10.11 HOW THE FORMULA PRICE IS CALCULATED: The Formula Price shall be equal to Homeowner's Base Price, as stated below, plus 25% of the increase in market value of the Home, if any, calculated in the way described below.

Homeowner's Base Price: The parties agree that the Homeowner's Base Price for Homeowner's Property as of the signing of this Lease is \$_____.

Initial Appraised Value: The parties agree that the appraised value of the Home at the time of Homeowner's purchase (the Initial Appraised Value) is \$_____, as documented by the appraiser's report attached to this Lease as Exhibit INITIAL APPRAISAL.

Increase in Market Value: The increase in market value of the Home equals the appraised value of the Home at time of sale, calculated according to Section 10.5 above, minus the Initial Appraised Value.

Homeowner's share of Increase in Market Value: Homeowner's share of the increase in the market value of the Home equals twenty-five percent (25%) of the increase in market value as calculated above.

Summary of Formula Price: The Formula Price equals Homeowner's Base Price plus Homeowner's Share of Increase in Market Value.

10.12 QUALIFIED PURCHASER SHALL RECEIVE NEW LEASE: The CLT shall issue a new lease to any person who purchases the Home in accordance with the terms of this Article

10. Such new Lease shall be substantially the same as this Lease in the rights, benefits and obligations assigned to Homeowner and CLT.

10.13 PURCHASER MAY BE CHARGED A TRANSFER FEE. In the event that Homeowner sells the home to a party other than the CLT (whether directly to such party or as a result of CLT's assignment of its Purchase Option to such party), the price to be paid by such purchaser shall include in addition to the Purchase Option Price, at the discretion of the CLT, a transfer fee to compensate the CLT for carrying out its responsibilities with regard to the transaction. The amount of the transfer fee shall be no more than % of the Purchase Option Price.

10.14 HOMEOWNER REQUIRED TO MAKE NECESSARY REPAIRS AT TRANSFER: The Homeowner is required to make necessary repairs when she voluntarily transfers the Home as follows:

- a) The person purchasing the Home ("Buyer") shall, prior to purchasing the Home, hire at her sole expense a building inspector with a current Home Inspector license from the _____ [licensing agency] to assess the condition of the Home and prepare a written report of the condition ("Inspection Report"). The Homeowner shall cooperate fully with the inspection.
- b) The Buyer shall provide a copy of the Inspection Report to Buyer's lender (if any), the Homeowner, and the CLT within 10 days after receiving the Inspection Report.
- c) Homeowner shall repair specific reported defects or conditions necessary to bring the Home into full compliance with Sections 4.2 and 7.5 above prior to transferring the Home.
- d) Homeowner shall bear the full cost of the necessary repairs and replacements. However, upon Homeowner's written request, the CLT may allow the Homeowner to pay all or a portion of the repair costs after transfer, from Homeowner's proceeds of sale, if Homeowner cannot afford to pay such costs prior to the transfer. In such event, either (i) 150% of the unpaid estimated cost of repairs or (ii) 100% of the unpaid cost of completed repairs shall be withheld from Homeowner's proceeds of sale in a CLT-approved escrow account. ***[Add the following sentence only if provision is made for a repair reserve:*** Also, upon Homeowner's written request, CLT may, at its discretion, agree to release funds from the Repair Reserve Fund to cover some or all of the cost of such repairs, provided that such use of the Reserve is in full compliance with Section 7.6 above.]
- e) Homeowner shall allow CLT, Buyer, and Buyer's building inspector and lender's representative to inspect the repairs prior to closing to determine that the repairs have been satisfactorily completed.
- f) Upon sale or other transfer, Homeowner shall either (i) transfer the Home with all originally purchased appliances or replacements in the Home in good working order or (ii) reduce the Purchase Option Price by the market value of any such appliances that are not left with the Home in good working order.

Article 10: Version 3

For situations in which:

- a) the Homeowner has no absolute right to identify buyer and can only recommend buyer;*
- b) a “compound appraisal-based formula” is used; and*
- c) the original base price is greater than the original appraised value of the Home.*

10.1 INTENT OF THIS ARTICLE IS TO PRESERVE AFFORDABILITY: Homeowner and CLT agree that the provisions of this Article 10 are intended to preserve the affordability of the Home for lower income households and expand access to homeownership opportunities for such households.

10.2 HOMEOWNER MAY TRANSFER HOME ONLY TO CLT OR QUALIFIED PERSONS: Homeowner may transfer the Home only to the CLT or an Income-Qualified Person as defined below or otherwise only as explicitly permitted by the provisions of this Article 10. All such transfers are to be completed only in strict compliance with this Article 10. Any purported transfer that does not follow the procedures set forth below, except in the case of a transfer to a Permitted Mortgagee in lieu of foreclosure, shall be null and void.

“Income-Qualified Person” shall mean a person or group of persons whose household income does not exceed _____ percent (___%) of the median household income for the applicable Standard Metropolitan Statistical Area or County as calculated and adjusted for household size from time to time by the U.S. Department of Housing and Urban Development (HUD) or any successor.

10.3 THE HOME MAY BE TRANSFERRED TO CERTAIN HEIRS OF HOMEOWNER: If Homeowner dies (or if the last surviving co-owner of the Home dies), the executor or personal representative of Homeowner’s estate shall notify CLT within ninety (90) days of the date of the death. Upon receiving such notice CLT shall consent to a transfer of the Home and Homeowner’s rights to the Leased Land to one or more of the possible heirs of Homeowner listed below as “a,” “b,” or “c,” provided that a Letter of Agreement and a Letter of Attorney’s Acknowledgment (as described in Article 1 above) are submitted to CLT to be attached to the Lease when it is transferred to the heirs.

- a) the spouse of the Homeowner; or
- b) the child or children of the Homeowner; or
- c) member(s) of the Homeowner’s household who have resided in the Home for at least one year immediately prior to Homeowner’s death.

Any other heirs, legatees or devisees of Homeowner, in addition to submitting Letters of Agreement and Attorney’s Acknowledgment as provided above, must demonstrate to CLT’s satisfaction that they are Income-Qualified Persons as defined above. If they cannot demonstrate that they are Income-Qualified Persons, they shall not be entitled to possession of the Home but must transfer the Home in accordance with the provisions of this Article.

10.4 HOMEOWNER MUST GIVE NOTICE OF INTENT TO SELL: In the event that Homeowner wishes to sell Homeowner’s Property, Homeowner shall notify CLT, in writing,

of such wish (the Intent-to-Sell Notice). This Notice shall include a statement as to whether Homeowner wishes to recommend a prospective buyer as of the date of the Notice.

10.5 AFTER RECEIVING NOTICE, CLT SHALL COMMISSION AN APPRAISAL: No later than ten (10) days after CLT's receipt of Homeowner's Intent-to-Sell Notice, CLT shall commission a market valuation of the Leased Land and the Home (The Appraisal) to be performed by a duly licensed appraiser who is acceptable to the Homeowner. CLT shall pay the cost of such Appraisal. The Appraisal shall be conducted by analysis and comparison of comparable properties as though title to Land and Home were held in fee simple absolute by a single party, disregarding all of the restrictions of this Lease on the use, occupancy and transfer of the property. Copies of the Appraisal are to be provided to both CLT and Homeowner. *[Statement re. separate appraised values for land and improvements omitted.]*

10.6 CLT HAS AN OPTION TO PURCHASE THE HOME. Upon receipt of an Intent-to-Sell Notice from Homeowner, CLT shall have the option to purchase the Home at the Purchase Option Price calculated as set forth below. The Purchase Option is designed to further the purpose of preserving the affordability of the Home for succeeding Income-Qualified Persons while taking fair account of the investment by the Homeowner.

If CLT elects to purchase the Home, CLT shall exercise the Purchase Option by notifying Homeowner, in writing, of such election (the Notice of Exercise of Option) within forty-five (45) days of the receipt of the Appraisal, or the Option shall expire. Having given such notice, CLT may either proceed to purchase the Home directly or may assign the Purchase Option to an Income-Qualified Person.

The purchase (by CLT or CLT's assignee) must be completed within sixty (60) days of CLT's Notice of Exercise of Option, or Homeowner may sell the Home and Homeowner's rights to the Leased Land as provided in Section 10.7 below. The time permitted for the completion of the purchase may be extended by mutual agreement of CLT and Homeowner.

Homeowner may recommend to CLT a prospective buyer who is an Income-Qualified Person and is prepared to submit Letters of Agreement and Attorney's Acknowledgement indicating informed acceptance of the terms of this Lease. CLT shall make reasonable efforts to arrange for the assignment of the Purchase Option to such person, unless CLT determines that its charitable mission is better served by retaining the Home for another purpose or transferring the Home to another party.

10.7 IF PURCHASE OPTION EXPIRES, HOMEOWNER MAY SELL ON CERTAIN TERMS: If the Purchase Option has expired or if CLT has failed to complete the purchase within the sixty-day period allowed by Section 10.6 above, Homeowner may sell the Home to any Income-Qualified Person for not more than the then applicable Purchase Option Price. If Homeowner has made diligent efforts to sell the Home for at least six months after the expiration of the Purchase Option (or six months after the expiration of such sixty-day period) and the Home still has not been sold, Homeowner may then sell the Home, for a price no greater than the then applicable Purchase Option Price, to any party regardless of whether that party is an Income-Qualified Person.

10.8 AFTER ONE YEAR CLT SHALL HAVE POWER OF ATTORNEY TO CONDUCT SALE: If CLT does not exercise its option and complete the purchase of Homeowner's Property as described above, and if Homeowner (a) is not then residing in the Home and (b) continues to hold Homeowner's Property out for sale but is unable to locate a buyer and execute a binding purchase and sale agreement within one year of the date of the Intent to Sell Notice, Homeowner does hereby appoint CLT its attorney in fact to seek a buyer, negotiate a reasonable price that furthers the purposes of this Lease, sell the property, and pay to the Homeowner the proceeds of sale, minus CLT's costs of sale and any other sums owed CLT by Homeowner.

10.9 PURCHASE OPTION PRICE EQUALS LESSER OF APPRAISED VALUE OF HOMEOWNER'S OWNERSHIP INTEREST OR FORMULA PRICE: In no event may the Home be sold for a price that exceeds the Purchase Option Price. The Purchase Option Price shall be the lesser of (a) the Appraised Value of Homeowner's Ownership Interest at Resale as calculated in line "d" of Section 10.10 below or (b) the Formula Price calculated in accordance with Section 10.10 below.

10.10 HOW THE FORMULA PRICE IS CALCULATED: The Formula Price shall be equal to (a) the amount of Homeowner's Base Price (as stated below), plus (b) 25% of any increase in the appraised value of Homeowner's Ownership Interest (as calculated below).

Homeowner's Base Price: The Parties agree that the price paid by Homeowner upon the execution of this lease (Homeowner's Base Price) is \$_____. (Homeowner's Base Price equals Homeowner's Ownership Interest at time of purchase.)

Initial Appraised Value of Home and Leased Land: The parties agree that the total appraised value of Home and Leased Land at the time of Homeowner's purchase (the Initial Appraised Value) is \$_____, as documented by the appraiser's report attached to this Lease as Exhibit INITIAL APPRAISAL,

Ratio of Homeowner's Base Price to Initial Appraised Value. The parties agree that the Ratio of Homeowner's Base Price to Initial Appraised Value, expressed as a percentage, is ___%.

Appraised Value of Homeowner's Ownership Interest at Resale. The appraised value of Homeowner's Ownership Interest at time of resale equals the appraised value of Home and Leased Land at resale, determined in accordance with Section 10.5, multiplied by the Ratio of Homeowner's Base Price to Initial Appraised Value (___ %) as calculated in line "c" above.

Increase in Appraised Value of Homeowner's Ownership Interest: The increase in appraised value of Homeowner's Ownership Interest equals the appraised value of Homeowner's Ownership Interest at resale determined in accordance with paragraph "d" above minus the Homeowner's Base Price stated in line "a" above.

Homeowner's share of Increase in Appraised Value of Homeowner's Ownership Interest: Homeowner's share of the increase in the appraised value of the Homeowner's Ownership Interest equals twenty-five percent (25%) of the increase in the appraised value of Homeowner's Ownership Interest as calculated in line "e" above.

Formula Price: The Formula Price equals Homeowner's Base Price (line "a") plus Homeowner's share of Increase in the appraised value of the Homeowner's Ownership Interest (line "f")

10.11 QUALIFIED PURCHASER SHALL RECEIVE NEW LEASE: The CLT shall issue a new lease to any person who purchases the Home in accordance with the terms of this Article 10. The terms of such lease shall be the same as those of new leases issued to homebuyers at that time for land not previously leased by the CLT.

10.12 PURCHASER MAY BE CHARGED A TRANSFER FEE. In the event that Homeowner sells the home to a party other than the CLT (whether directly to such party or as a result of CLT's assignment of its Purchase Option to such party), the price to be paid by such purchaser shall include in addition to the Purchase Option Price, at the discretion of the CLT, a transfer fee to compensate the CLT for carrying out its responsibilities with regard to the transaction. The amount of the transfer fee shall be no more than % of the Purchase Option Price.

10.13 HOMEOWNER REQUIRED TO MAKE NECESSARY REPAIRS AT TRANSFER: The Homeowner is required to make necessary repairs when she voluntarily transfers the Home as follows:

- a) The person purchasing the Home ("Buyer") shall, prior to purchasing the Home, hire at her sole expense a building inspector with a current Home Inspector license from the _____ [licensing agency] to assess the condition of the Home and prepare a written report of the condition ("Inspection Report"). The Homeowner shall cooperate fully with the inspection.
- b) The Buyer shall provide a copy of the Inspection Report to Buyer's lender (if any), the Homeowner, and the CLT within 10 days after receiving the Inspection Report.
- c) Homeowner shall repair specific reported defects or conditions necessary to bring the Home into full compliance with Sections 4.2 and 7.5 above prior to transferring the Home.
- d) Homeowner shall bear the full cost of the necessary repairs and replacements. However, upon Homeowner's written request, the CLT may allow the Homeowner to pay all or a portion of the repair costs after transfer, from Homeowner's proceeds of sale, if Homeowner cannot afford to pay such costs prior to the transfer. In such event, either (i) 150% of the unpaid estimated cost of repairs or (ii) 100% of the unpaid cost of completed repairs shall be withheld from Homeowner's proceeds of sale in a CLT-approved escrow account. ***[Add the following sentence only if provision is made for a repair reserve:*** Also, upon Homeowner's written request, CLT may, at its discretion, agree to release funds from the Repair Reserve Fund to cover some or all of the cost of such repairs, provided that such use of the Reserve is in full compliance with Section 7.6 above.]
- e) Homeowner shall allow CLT, Buyer, and Buyer's building inspector and lender's representative to inspect the repairs prior to closing to determine that the repairs have been satisfactorily completed.
- f) Upon sale or other transfer, Homeowner shall either (i) transfer the Home with all originally purchased appliances or replacements in the Home in good working order or

(ii) reduce the Purchase Option Price by the market value of any such appliances that are not left with the Home in good working order.

Article 10: Version 4

For situations in which:

- a) *the Homeowner has no absolute right to identify buyer and can only recommend buyer;*
- b) *a “fixed-rate” or “indexed” formula is used; and*
- c) *the original base price is greater than the original appraised value of the Home.*

Three versions of section 10.10 are presented for three different “indexed formulas.”

10.1 INTENT OF THIS ARTICLE IS TO PRESERVE AFFORDABILITY: Homeowner and CLT agree that the provisions of this Article 10 are intended to preserve the affordability of the Home for lower income households and expand access to homeownership opportunities for such households.

10.2 HOMEOWNER MAY TRANSFER HOME ONLY TO CLT OR QUALIFIED PERSONS: Homeowner may transfer the Home only to the CLT or an Income-Qualified Person as defined below or otherwise only as explicitly permitted by the provisions of this Article 10. All such transfers are to be completed only in strict compliance with this Article 10. Any purported transfer that does not follow the procedures set forth below, except in the case of a transfer to a Permitted Mortgagee in lieu of foreclosure, shall be null and void.

“Income-Qualified Person” shall mean a person or group of persons whose household income does not exceed _____ percent (___%) of the median household income for the applicable Standard Metropolitan Statistical Area or County as calculated and adjusted for household size from time to time by the U.S. Department of Housing and Urban Development (HUD) or any successor.

10.3 THE HOME MAY BE TRANSFERRED TO CERTAIN HEIRS OF HOMEOWNER: If Homeowner dies (or if the last surviving co-owner of the Home dies), the executor or personal representative of Homeowner’s estate shall notify CLT within ninety (90) days of the date of the death. Upon receiving such notice CLT shall consent to a transfer of the Home and Homeowner’s rights to the Leased Land to one or more of the possible heirs of Homeowner listed below as “a,” “b,” or “c,” provided that a Letter of Agreement and a Letter of Attorney’s Acknowledgment (as described in Article 1 above) are submitted to CLT to be attached to the Lease when it is transferred to the heirs.

- a) the spouse of the Homeowner; or
- b) the child or children of the Homeowner; or
- c) member(s) of the Homeowner’s household who have resided in the Home for at least one year immediately prior to Homeowner’s death.

Any other heirs, legatees or devisees of Homeowner, in addition to submitting Letters of Agreement and Attorney’s Acknowledgment as provided above, must demonstrate to CLT’s satisfaction that they are Income-Qualified Persons as defined above. If they cannot

demonstrate that they are Income-Qualified Persons, they shall not be entitled to possession of the Home but must transfer the Home in accordance with the provisions of this Article.

10.4 HOMEOWNER MUST GIVE NOTICE OF INTENT TO SELL: In the event that Homeowner wishes to sell Homeowner's Property, Homeowner shall notify CLT, in writing, of such wish (the Intent-to-Sell Notice). This Notice shall include a statement as to whether Homeowner wishes to recommend a prospective buyer as of the date of the Notice.

[Provision for required appraisal omitted.]

10.5 UPON RECEIVING NOTICE, CLT HAS AN OPTION TO PURCHASE THE HOME. Upon receipt of an Intent-to-Sell Notice from Homeowner, CLT shall have the option to purchase the Home at the Purchase Option Price calculated as set forth below. The Purchase Option is designed to further the purpose of preserving the affordability of the Home for succeeding Income-Qualified Persons while taking fair account of the investment by the Homeowner.

If CLT elects to purchase the Home, CLT shall exercise the Purchase Option by notifying Homeowner, in writing, of such election (the Notice of Exercise of Option) within forty-five (45) days of the receipt of the Intent-to-Sell Notice, or the Option shall expire. Having given such notice, CLT may either proceed to purchase the Home directly or may assign the Purchase Option to an Income-Qualified Person.

The purchase (by CLT or CLT's assignee) must be completed within sixty (60) days of CLT's Notice of Exercise of Option, or Homeowner may sell the Home and Homeowner's rights to the Leased Land as provided in Section 10.7 below. The time permitted for the completion of the purchase may be extended by mutual agreement of CLT and Homeowner.

Homeowner may recommend to CLT a prospective buyer who is an Income-Qualified Person and is prepared to submit Letters of Agreement and Attorney's Acknowledgement indicating informed acceptance of the terms of this Lease. CLT shall make reasonable efforts to arrange for the assignment of the Purchase Option to such person, unless CLT determines that its charitable mission is better served by retaining the Home for another purpose or transferring the Home to another party.

10.6 IF PURCHASE OPTION EXPIRES, HOMEOWNER MAY SELL ON CERTAIN TERMS: If the Purchase Option has expired or if CLT has failed to complete the purchase within the sixty-day period allowed by Section 10.5 above, Homeowner may sell the Home to any Income-Qualified Person for not more than the then applicable Purchase Option Price. If Homeowner has made diligent efforts to sell the Home for at least six months after the expiration of the Purchase Option (or six months after the expiration of such sixty-day period) and the Home still has not been sold, Homeowner may then sell the Home, for a price no greater than the then applicable Purchase Option Price, to any party regardless of whether that party is an Income-Qualified Person.

10.7 AFTER ONE YEAR CLT SHALL HAVE POWER OF ATTORNEY TO CONDUCT SALE: If CLT does not exercise its option and complete the purchase of Homeowner's Property as described above, and if Homeowner (a) is not then residing in the Home and (b)

continues to hold Homeowner's Property out for sale but is unable to locate a buyer and execute a binding purchase and sale agreement within one year of the date of the Intent to Sell Notice, Homeowner does hereby appoint CLT its attorney in fact to seek a buyer, negotiate a reasonable price that furthers the purposes of this Lease, sell the property, and pay to the Homeowner the proceeds of sale, minus CLT's costs of sale and any other sums owed CLT by Homeowner.

10.8 PURCHASE OPTION PRICE EQUALS LESSER OF APPRAISED VALUE OF HOMEOWNER'S OWNERSHIP INTEREST OR FORMULA PRICE: In no event may the Home be sold for a price that exceeds the Purchase Option Price. The Purchase Option Price shall be the lesser of (a) the Appraised Value of Homeowner's Ownership Interest at Resale calculated in accordance with Section 10.9 below or (b) the Formula Price calculated in accordance with Section 10.10 below. If CLT does not choose to commission an appraisal to determine the appraised value of Homeowner's Ownership Interest, then the Purchase Option Price shall be the Formula Price.

10.9 HOW THE VALUE OF HOMEOWNER'S OWNERSHIP INTEREST IS DETERMINED: If CLT believes that the value of Homeowner's Ownership Interest at Resale may be less than the Formula Price, CLT may, within _____ days of receiving Homeowner's Notice of Intent to Sell, commission a market valuation of the Leased Land and the Home to be performed by a duly licensed appraiser acceptable to CLT and Homeowner. CLT shall pay the cost of such Appraisal. The Appraisal shall be conducted by analysis and comparison of comparable properties as though title to Land and Home were held in fee simple absolute by a single party, disregarding all of the restrictions of this Lease on the use, occupancy and transfer of the property. Copies of the Appraisal are to be provided to both CLT and Homeowner.

CLT and Homeowner agree that, at the time when Homeowner purchased the Home and executed the Lease with the CLT, the appraised market value of the Home and Leased Land was \$_____ (the "Initial Value), as documented by the appraiser's report attached to this Lease as Exhibit INITIAL APPRAISAL. CLT and Homeowner further agree that Homeowner's Base Price was \$_____, and that this amount equals ____% of the Initial Value (the Ratio of Base Price to Initial Value)

The Value of Homeowner's Ownership Interest at Resale then equals the appraised value of the Home and Leased Land at resale multiplied by the Ratio of Base Price to Initial Value.

[Three versions of 10.10 are presented below – one for a CPI-based formula, one for an AMI-based formula and one for a fixed-rate formula.]

10.10 [CPI Formula] HOW THE FORMULA PRICE IS CALCULATED: The Formula Price shall be equal to (a) the amount of Homeowner's Base Price (which CLT and Homeowner agree is \$_____) plus (b) an amount equal to the Homeowner's Base Price multiplied by the total percentage of increase, since the date this Lease was signed, in the Consumer Price Index, as determined and published by the US Department of Labor or such successor agency as may publish such index, for urban wage earners and clerical workers for the urban area in which the Home is located, or, if none, for urban areas the size of

_____. The parties agree that when the Lease was signed the Consumer Price Index number (the Original Number) was _____. To determine the percentage of increase in the Index, the Original Number shall be subtracted from the most recently published Index number, and the remainder shall then be divided by the Original Number.

OR

10.10 **[AMI Formula]** HOW THE FORMULA PRICE IS CALCULATED: The Formula Price shall be equal to (a) the amount of Homeowner’s Base Price (which CLT and Homeowner agree is \$ _____) plus (b) an amount equal to the Homeowner’s Base Price multiplied by the total percentage of increase, since the date this Lease was signed, in the area median household income (AMI) for a family of four for the _____ Standard Metropolitan Statistical Area [or _____ county], as calculated and published by the US Department of Housing and Urban Development or such successor agency as may publish such information. The parties agree that when the Lease was signed the MHI for a family of four in such area [or county] (the Original MHI) was _____. To determine the percentage of increase in the MHI, the Original MHI shall be subtracted from the then most recently published MHI, and the remainder shall then be divided by the Original MHI.

OR

10.10 **[Fixed-Rate Formula]** HOW THE FORMULA PRICE IS CALCULATED: The Formula Price shall be equal to the amount of Homeowner’s Base Price (which CLT and Homeowner agree is \$ _____) plus interest at a rate of _% compounded annually.

10.11 **QUALIFIED PURCHASER SHALL RECEIVE NEW LEASE:** The CLT shall issue a new lease to any person who purchases the Home in accordance with the terms of this Article 10. The terms of such lease shall be the same as those of new leases issued to homebuyers at that time for land not previously leased by the CLT.

10.12 **PURCHASER MAY BE CHARGED A TRANSFER FEE.** In the event that Homeowner sells the home to a party other than the CLT (whether directly to such party or as a result of CLT’s assignment of its Purchase Option to such party), the price to be paid by such purchaser shall include in addition to the Purchase Option Price, at the discretion of the CLT, a transfer fee to compensate the CLT for carrying out its responsibilities with regard to the transaction. The amount of the transfer fee shall be no more than % of the Purchase Option Price.

10.13 HOMEOWNER REQUIRED TO MAKE NECESSARY REPAIRS AT

TRANSFER: The Homeowner is required to make necessary repairs when she voluntarily transfers the Home as follows:

- a) The person purchasing the Home (“Buyer”) shall, prior to purchasing the Home, hire at her sole expense a building inspector with a current Home Inspector license from the _____ [licensing agency] to assess the condition of the Home and prepare a written report of the condition (“Inspection Report”). The Homeowner shall cooperate fully with the inspection.
- b) The Buyer shall provide a copy of the Inspection Report to Buyer’s lender (if any), the Homeowner, and the CLT within 10 days after receiving the Inspection Report.

- c) Homeowner shall repair specific reported defects or conditions necessary to bring the Home into full compliance with Sections 4.2 and 7.5 above prior to transferring the Home.
- d) Homeowner shall bear the full cost of the necessary repairs and replacements. However, upon Homeowner's written request, the CLT may allow the Homeowner to pay all or a portion of the repair costs after transfer, from Homeowner's proceeds of sale, if Homeowner cannot afford to pay such costs prior to the transfer. In such event, either (i) 150% of the unpaid estimated cost of repairs or (ii) 100% of the unpaid cost of completed repairs shall be withheld from Homeowner's proceeds of sale in a CLT-approved escrow account. ***[Add the following sentence only if provision is made for a repair reserve:*** Also, upon Homeowner's written request, CLT may, at its discretion, agree to release funds from the Repair Reserve Fund to cover some or all of the cost of such repairs, provided that such use of the Reserve is in full compliance with Section 7.6 above.]
- e) Homeowner shall allow CLT, Buyer, and Buyer's building inspector and lender's representative to inspect the repairs prior to closing to determine that the repairs have been satisfactorily completed.
- f) Upon sale or other transfer, Homeowner shall either (i) transfer the Home with all originally purchased appliances or replacements in the Home in good working order or (ii) reduce the Purchase Option Price by the market value of any such appliances that are not left with the Home in good working order.

B. Memorandum of Ground Lease

Note: This sample "Memorandum of Lease" (which may also be called "Notice of Lease" or "Short Form Lease") is designed to be recorded as required by Section 14.12 of the Model CLT Ground Lease.

MEMORANDUM OF GROUND LEASE

Between Mary Doe and Hometown CLT

This Memorandum Of Ground Lease (the "Memorandum") is made and entered into this ____ day of _____, by and between Mary Doe, whose address is _____ (the "Homeowner") and Hometown CLT, with offices at _____ (the "CLT").

WITNESSETH:

Hometown CLT is the owner of certain real property located in _____ County, in the state of _____, known as _____, (the "Leased Land"), more particularly described as follows:

(legal description)

Mary Doe is the owner of the house and other improvements (the "Home") located on the Leased Land and purchased the Home subject to the terms of an unrecorded Ground Lease (the "Lease") between Hometown CLT as the lessor and Mary Doe as the lessee, which Ground Lease is dated _____.

The provisions of the Lease include the following.

- The Lease commences on _____ and terminates on _____. The Lease is subject to a renewal for an additional period of 99 years.
- The Lease prohibits Homeowner from mortgaging the Home and Homeowner's interest in the Leased Land without the consent of the CLT.
- The Lease requires that, in the event the Homeowner intends to sell the Home, Homeowner shall notify the CLT of such intent; and that, thereupon, the CLT shall have the option to purchase the Home on the terms and conditions contained in the Lease. The Home may not be conveyed to a third party without compliance with the terms of the Lease.
- The Lease stipulates that the Homeowner's interest in the Leased Land shall not be assigned or subleased without the prior written consent of the CLT.

- The Lease requires that the Leased Land be used only for residential purposes. Any additions or alterations to the Home must comply with the terms of the Lease.
- No liens for services, labor, or materials shall attach to the CLT's title to the Leased Land.
- The Lease requires the Homeowner to make certain monthly payments.
- The Lease requires that this Memorandum of Ground Lease be recorded in the records of _____ County, _____.

This Memorandum is executed pursuant to the provisions contained in the Lease and is not intended to vary the terms and conditions of the Lease, but is intended only to give notice of such Lease and the provisions thereof.

IN WITNESS WHEREOF, the undersigned have executed this Memorandum of Ground Lease.

HOMEOWNER:

CLT:

(notarize signatures)

C. Freddie Mac Lease Rider Form 490

Community Land Trust Ground Lease Rider

THIS COMMUNITY LAND TRUST GROUND LEASE RIDER (the “Rider”) is made this _____ day of _____, _____, and amends and supplements a certain ground lease (the “CLT Ground Lease”) dated _____, _____, that is by and between _____ as lessor (herein referred to as the “Lessor” but may otherwise be referred to in the CLT Ground Lease as the “CLT”) and _____ as lessee (herein referred to as the “Lessee” but may otherwise be referred to in the CLT Ground Lease as “Homeowner”). This Rider shall be deemed incorporated into the CLT Ground Lease, and the CLT Ground Lease as amended by this Rider, shall hereafter be referred to as the “Lease,” unless otherwise indicated.

The CLT Ground Lease is a long-term lease of the Lessor’s fee interest in the land located at _____, referred to herein as the “Leased Land,” as improved by a residential structure or unit, referred to herein as the “Improvements.” The Leased Land and the Improvements are collectively referred to herein as the “Leased Premises.”

This Rider amends the CLT Ground Lease for the purpose of enabling the Lessee to obtain financing eligible for sale to Freddie Mac in the form of a mortgage or deed of trust (the “Specified Mortgage”) given this _____ day of _____, _____, by Lessee to _____ (including its successors and assigns, and any indorsee of the promissory note secured by such Specified Mortgage, the “Specified Mortgagee”), and the interest of the holder of the Specified Mortgage in the Leased Premises as secured by such Specified Mortgage may be referred to herein as the “Leasehold Estate.” The Specified Mortgage is recognized by Lessor as a “Permitted Mortgage” (or as such concept is otherwise defined) under the CLT Ground Lease, and the Specified Mortgagee is recognized as a “Permitted Mortgagee” (or as such concept is otherwise defined) under the CLT Ground Lease.

ADDITIONAL COVENANTS. Notwithstanding anything to the contrary contained in the CLT Ground Lease, and in addition to the covenants and agreements made in the CLT Ground Lease, the Lessor and the Lessee further covenant and agree, so long (but only so long) as the Specified Mortgagee shall have an interest in the Leased Premises as a holder of the Specified Mortgage or as an owner of the Lessee’s interest pursuant to any foreclosure sale or assignment in lieu of foreclosure, the following provisions shall apply to the CLT Ground Lease as modifications thereof:

- A. No Assignment or Transfer.** The making of the Specified Mortgage shall not be deemed to constitute an assignment or transfer of the Lease or Leasehold Estate so as to require the Specified Mortgagee to assume the performance of any of the Lessee’s obligations under the Lease.
- B. Status of the Fee Estate.** The Lessor represents and warrants that there is no existing mortgage on the fee estate, and so long as the Specified Mortgage shall remain on the Leased Premises, the Lessor and the Lessee shall not subordinate the Lease to any mortgage or lien that may hereafter be placed on the fee estate. Notwithstanding the foregoing, a state- or local-government entity (“Government Entity”) may hold a prior recorded interest (represented by recorded covenants, a mortgage or deed of trust, other lien) on the fee estate **if** the Government Entity has agreed that in the event it (including its successors and assigns) succeeds to the interest of the Lessor under the Lease by any remedy available to the Government Entity by law or pursuant to its lien, the Government Entity shall recognize all the terms of the Lease and this Rider as though the

Government Entity were acting as the Lessor. Such recognition must include, but is not limited to, the provisions of this Rider whereby all provisions of the Lease regarding (a) occupancy of the Leased Premises as a primary residence by the Lessee, (b) limitation on assignment of, or sublease under, the Lease, (c) the price at which the Leasehold Estate may be transferred, and (d) the income of successive transferees, assignees or successors, shall, in the event of foreclosure or recordation of assignment in lieu of foreclosure of the Specified Mortgage, be of no further force or effect with respect to such Specified Mortgagee. Further, in such event of the Government Entity succeeding to the interests of the Lessor, the Lessee hereby agrees to recognize the Government Entity as exercising all rights and privileges of the Government Entity as lessor under the Lease and this Rider.

Such agreement by the Government Entity may be evidenced by the agreement between the Government Entity and the Lessor under which the Government Entity's prior recorded interest is derived, or by use of a recognition agreement derived from a sample the Specified Mortgagee may obtain from Freddie Mac. Irrespective of any interest by a Government Entity, the Specified Mortgage shall constitute a first leasehold lien on the Leased Premises, and shall have priority over the Lessor's reversionary interest. If the Lessor conveys title to the Leased Land while the Specified Mortgage remains on the Leased Premises, the Lease shall remain in effect with the same priority thereto.

- C. Termination, Forfeiture and Modification of Lease.** There shall be no termination, forfeiture, or modification of the Lease, except as provided in this Rider, without the prior written consent of the Specified Mortgagee. The Lessor and Lessee shall amend the Lease from time to time as reasonably requested by the Specified Mortgagee, as long as the requested changes do not change the periodic fee, charge or payment due the Lessor for the rights accorded the Lessee under the Lease (the "Ground Lease Fee"), and do not materially or adversely affect the rights of Lessor or Lessee or their respective interests in the Leased Premises. An adjustment of the Ground Lease Fee may be made by the Lessor as provided in the Lease, without prior approval of the Specified Mortgagee, so long as written notice has been delivered to the Specified Mortgagee at least 60 days prior to the effective date of such adjustment with respect to adjustments other than those (i) that were scheduled at the time the Specified Mortgage was given, and (ii) reflecting routine, periodic updates to variable expenses such as property taxes and liability insurance premiums; provided, however, that the Specified Mortgagee shall have the right to arbitrate (as provided herein) any dispute as to an adjustment of the Ground Lease Fee.
- D. New Lease.** In the event the Lessee's interest in the Lease has been terminated, forfeited, or surrendered as provided in the Lease, and the Specified Mortgage remains outstanding, a new Lease shall automatically be created between the Lessor and the Specified Mortgagee, which Lease shall be for the remainder of the term of the Lease, with the same priority thereto, and shall be subject to the same terms of the Lease as would be applicable pursuant to Section E.1. below where the Specified Mortgagee had accelerated its note, foreclosed on the Specified Mortgage, taken an assignment in lieu of foreclosure, or exercised its other remedies for default.
- E. Mortgage Default or Foreclosure.** Subject to the following, upon the occurrence of an event of default under the Specified Mortgage or a determination that the Lessee is in imminent default (as determined by the Specified Mortgagee or its mortgage servicer—an "Event of Default"), and without the consent of the Lessor, the Specified Mortgagee or its mortgage servicer may enter into any loss mitigation option, such as a repayment plan, forbearance plan, or loan modification agreement, accelerate its note, foreclose on the Specified Mortgage, take an assignment in lieu of foreclosure, or exercise its other remedies for default. In addition, in the event the Specified Mortgagee or its mortgage servicer enters into a loan modification agreement to extend the term of the Specified Mortgage, Lessor agrees to amend the Lease to extend its expiration date to at least five years beyond the modified term of the Specified Mortgage.

Further:

1. Upon the occurrence of an Event of Default under the Specified Mortgage, the Lessee shall immediately notify the Lessor of such Event of Default and shall submit to Lessor copies of all notices the Lessee received from the Specified Mortgagee relating thereto. The Specified Mortgagee and the Lessor shall endeavor to communicate and cooperate in efforts to deal with the circumstances of the Event of Default and the actions the parties may take relating thereto.
2. The Lessee and the Specified Mortgagee agree that the Lessor shall have the right, but not the obligation, to cure an Event of Default in the Lessee's name and on the Lessee's behalf. If such cure is not effective and continuing, nothing herein shall be construed to prevent or delay the Specified Mortgagee from its pursuit of foreclosure and any other available remedies. The Lessee shall be responsible to the Lessor for all payments made, and expenses incurred, by the Lessor in curing such default.
3. Should the Lessor not choose to cure an Event of Default as specified above, the Lessor shall nevertheless have the option to purchase from the Specified Mortgagee its interest in the Leasehold Estate on the Leased Premises for the full amount owing to the Specified Mortgagee under the Specified Mortgage as of the date of closing of the purchase, upon written notice given by the Specified Mortgagee (the "Mortgagee Option Notice") not later than 60 days following, and no earlier than, acquisition of title to the Leasehold Estate by the Specified Mortgagee by foreclosure or by an assignment in lieu of foreclosure; provided, however, the Specified Mortgagee may give such Mortgagee Option Notice following the occurrence of an Event of Default under the Specified Mortgage and prior to the completion of foreclosure proceedings. If the Lessor elects to exercise such option to purchase, the Lessor shall give written notice to the Specified Mortgagee, or, as applicable, its successors or assigns, of the Lessor's intent to purchase the Leasehold Estate (the "Lessor Option Notice") within 45 days following the Specified Mortgagee's giving of the Mortgagee Option Notice; provided, however, at the option of the Lessor, in the event the Mortgagee Option Notice is given prior to the completion of foreclosure by the Specified Mortgagee, the Lessor shall, within such 45-day period, be able to give a written notice to the Specified Mortgagee that it will delay giving the Lessor Option Notice until a date that is not later than 30 days following written notice from the Specified Mortgagee of its acquisition of title to its interest in the Leasehold Estate on the Leased Premises.

The Lessor shall complete the purchase of the Specified Mortgagee's interest in the Leasehold Estate within 60 days of giving the Lessor Option Notice. If the Lessor does not complete the purchase within the allotted 60 days, the Specified Mortgagee shall be free to sell its interest to another person or entity. If the Lessor does not purchase the Specified Mortgagee's interest in the Leasehold Estate as described herein, the Leasehold Estate may be transferred, mortgaged and sublet an unlimited number of times, and the Lessor shall not require a credit review or impose other qualifying criteria on any such transferee, mortgagee or sublessee.

4. In the event of foreclosure or assignment in lieu of foreclosure, which results in the conveyance of the Leasehold Estate on the Leased Premises from the Lessee, any adjustment of the Ground Lease Fee to reflect the current fair market rental value as provided in the Lease, shall be subject to the approval of the Specified Mortgagee. The Specified Mortgagee and the Lessor shall attempt to resolve any dispute concerning such adjustment of the Ground Lease Fee, through the normal interaction of the parties, or through formal mediation as the case may warrant. If the dispute remains unresolved, the Specified Mortgagee and the Lessor shall submit the dispute as to the fair market rental value to binding arbitration.
5. In the event the Specified Mortgagee acquires title to the Leasehold Estate on the Leased

Premises through foreclosure or assignment in lieu of foreclosure of the Specified Mortgage upon foreclosure (or the expiration of any application redemption period) or upon recordation of assignment in lieu of foreclosure, if applicable, all provisions of the Lease regarding (a) occupancy of the Leased Premises as a primary residence by the Lessee, (b) any limitation on the assignment of, or sublease under, the Lease, (c) any obligation to target certain populations in marketing the Leasehold Estate to potential transferees, (d) the price at which the Leasehold Estate on the Leased Premises may be transferred, and (e) the income of successive transferees, and their successors and assigns, shall be of no further force or effect with respect to such Specified Mortgagee. The foregoing sentence shall not be construed to invalidate other Lease provisions regarding permitted use of the Leased Premises. Any transfer or assignment of the Leasehold Estate encumbered by the Specified Mortgage as provided for in this paragraph shall be deemed a permitted sale, transfer or assignment of the Lease and the Leasehold Estate. Further, in such event, the Leasehold Estate may be transferred, mortgaged and sublet an unlimited number of times, and the Lessor shall not require a credit review or impose other qualifying criteria on any such transferee, mortgagee or sublessee.

- F. Lease Default.** There shall be no forfeiture or termination of the Lease except for (i) the nonpayment of amounts due under the Lease, and (ii) violation of one or more provisions of the Lease addressing the following: (a) prohibition or restrictions on the sale or transfer of the Lessee's interest (however, non-sale transfers protected under the Garn St. Germain Act or otherwise permitted under Freddie Mac's *Single-Family Seller/Service Guide* ("Guide") (see e.g., Guide Sections 8406.3 and 8406.4), as amended from time to time, may not constitute a basis for default under the Lease, though the Lessor may require such transferee to agree to assume the transferor's obligations under the Lease when an assumption of the Specified Mortgage would be required under Freddie Mac's Guide (see e.g., Guide Chapter 8406), and (b) requirement that the Lessee occupy the Leased Premises as primary residence. Provided, however, such forfeiture or termination shall be subject to the Specified Mortgagee's right to cure a monetary default, or otherwise foreclose or take an assignment of the Leasehold Estate in lieu of foreclosure with respect to the Lessee's monetary or non-monetary default. Notwithstanding the foregoing, nothing herein shall be construed to require the Specified Mortgagee to cure any non-monetary default. Further, the Specified Mortgagee shall become subrogated to any and all rights of the Lessee with respect to such curing of a default. If the Lessee's default shall be cured as provided in the Lease, and the Specified Mortgagee shall discontinue its foreclosure or assignment in lieu of foreclosure proceedings, the Lease shall continue in full force and effect as if the Lessee had not defaulted. A default by the Lessee under the Lease shall constitute a default under the Specified Mortgage.
- G. Lease Default Notice.** Notwithstanding the notice requirements provided in the Lease, no default notice by the Lessor shall be deemed to have been given unless and until a copy thereof shall have been so given to the Specified Mortgagee or its mortgage servicer.
- H. Insurance.** All insurance policies covering the Improvements shall by endorsement name the Specified Mortgagee as an additional insured and loss payee, and provide the Specified Mortgagee with 30 days' cancellation notice.
- I. Casualty and Condemnation.** If the Leased Premises are destroyed or taken to such an extent that the Lease is to be terminated, the insurance proceeds or condemnation award, as the case may be, shall be applied first in an amount sufficient to satisfy the Specified Mortgage. Upon the termination of the Lease as a result of a partial destruction or a condemnation of less than the entire Leased Premises, the total insurance proceeds or condemnation award, as the case may be, shall be paid to an appointed trustee, who shall first apply such insurance proceeds or condemnation award in accordance with the Specified Mortgage for restoration of the Improvements (if such trustee determines that the Improvements may reasonably be restored to a residential use consistent with the Lease), with the balance of such insurance proceeds or

condemnation award to be allocated between the Lessor and Lessee as otherwise provided in the Lease. The Specified Mortgagee or its mortgage servicer shall be entitled to participate in (i) the adjustment of all casualty losses and (ii) all condemnation proceedings and settlement discussions. Any insurance proceeds or condemnation award shall be applied in accordance with the Specified Mortgage. The Specified Mortgagee or its mortgage servicer shall also be entitled to participate in the adjustment of the Ground Lease Fee as a result of a partial destruction or taking.

- J. Force Majeure.** The Lessee shall not be in default where performance is delayed or prevented by “Acts of God,” war, civil commotion, strikes, labor disputes or the like.
- K. Easements and Alterations.** Additions to and alternations in the Improvements may be made as provided in the Lease, as long as the value of the Leased Premises is not diminished. The Lessor, as owner of the fee interest in the Leased Land, shall join in all easements, permits and applications necessary for such development of the Leased Premises as is permitted under the Lease, provided that the Lessor shall have no liability or obligation under such easement, permit or application.
- L. Arbitration.** The Specified Mortgagee shall have the right to participate in any arbitration or legal proceedings between the Lessor and the Lessee. Any arbitration proceedings shall be conducted in accordance with arbitration statutes applicable in the state where the Leased Premises are located.
- M. Merger.** If the estates of the Lessor and Lessee are at any time owned by the same person, so long as the Specified Mortgagee has any interest in the security or in the Specified Mortgage, such person shall take all necessary steps to ensure that the Specified Mortgage constitutes a first lien on the combined estate.
- N. Sublease.** There shall be no modification, cancellation, or surrender of any subleases, or prepayment of rent thereunder without the consent of the Specified Mortgagee. If the Specified Mortgagee forecloses on the Leased Premises, or takes and records an assignment in lieu of foreclosure, all subtenants shall attorn to such Specified Mortgagee or its assignee.
- O. Estoppel Certificate.** The Lessor shall, from time to time, with 10 days written notice from the Specified Mortgagee, certify by written instrument, duly executed and acknowledged, to such Specified Mortgagee that the Lease has not been amended, the Lease is in full force and effect, that neither party is in default thereunder, and shall certify as to the existence of any offsets, counterclaims or defenses on the part of the Lessee.
- P. Conflict.** In the event of a conflict between the terms and provisions of this Rider and the terms and provisions of the Lease, the terms and provisions of this Rider shall control.

BY SIGNING BELOW, the Lessor and the Lessee accept and agree to the terms and conditions of this Rider.

IN WITNESS WHEREOF, the parties have executed this Rider at _____, on the day and year first written above.

LESSOR:

By:

Title:

LESSEE:

(Add notaries)

D. Fannie Mae Lease Rider Form 2100

Community Land Trust Ground Lease Rider

[For use with CLT ground leases substantially based on either the Institute for Community Economics or the National Community Land Trust Network model ground lease as identified in Fannie Mae's *Selling Guide*]

THIS COMMUNITY LAND TRUST GROUND LEASE RIDER (the "Rider") is made this _____ day of _____, _____, and amends and supplements a certain ground lease (referred to herein as "the CLT Ground Lease") dated _____ that is by and between _____ as lessor (herein referred to as "the "Lessor" but may otherwise be referred to in the CLT Ground Lease as the "CLT") and _____, as lessee (herein referred to as "the "Lessee" but may otherwise be referred to in the CLT Ground Lease as "Homeowner"). This Rider shall be deemed incorporated into the CLT Ground Lease, and the CLT Ground Lease as amended by this Rider, shall hereafter be referred to as the "Lease," unless otherwise indicated.

The CLT Ground Lease is a long-term lease of the Lessor's fee interest in the land located at _____, referred to herein as the "Leased Land," as improved by a residential structure or unit, referred to herein as the "Improvements." The Leased Land and the Improvements are collectively referred to herein as the "Leased Premises."

This Rider amends the CLT Ground Lease for the purpose of enabling the Lessee to obtain Fannie Mae financing in the form of a mortgage or deed of trust given this ___ day of _____, _____, by Lessee to _____ (the "Specified Mortgage"), and the interest of the Specified Mortgagee in the Leased Premises as secured by such mortgage or deed of trust may be referred to herein as the "Leasehold Estate." The Specified Mortgage is recognized by Lessor as a "Permitted Mortgage" (or as such concept is otherwise defined) under the CLT Ground Lease, and the holder of the Specified Mortgage (the "Specified Mortgagee") is recognized as a "Permitted Mortgagee" (or as such concept is otherwise defined) under the CLT Ground Lease.

ADDITIONAL COVENANTS. Notwithstanding anything to the contrary contained in the CLT Ground Lease, and in addition to the covenants and agreements made in the CLT Ground Lease, the Lessor and the Lessee further covenant and agree, so long (but only so long) as the Specified Mortgagee, its successors and assigns shall have an interest in the Leased Premises, as a holder of the Specified Mortgage or as an owner of the Lessee's interest pursuant to any sale after or in lieu of foreclosure, the following provisions shall apply to the CLT Ground Lease as modifications thereof:

A. No Assignment or Transfer. The making of the Specified Mortgage shall not be deemed to constitute an assignment or transfer of the Lease or Leasehold Estate so as to require the Specified Mortgagee to assume the performance of any of the Lessee's obligations under the Lease.

B. Status of the Fee Estate. The Lessor represents and warrants that there is no existing mortgage on the fee estate, and so long as the Specified Mortgage shall remain on the Leased Premises, the Lessor and the Lessee shall not subordinate the Lease to any mortgage or lien that may hereafter be placed on the fee estate. Notwithstanding the foregoing, a state- or local-government entity ("Government Entity") may hold a prior recorded interest (represented by recorded covenants, a mortgage or deed of trust, other lien) on the fee estate **if** the Government Entity has agreed that in the event it (including its successors and assigns) succeeds to the interest of the Lessor under the Lease by any remedy available to the Government Entity by law or pursuant to its lien, the Government Entity shall recognize all the terms of the Lease and this Rider as though the Government Entity were acting as the Lessor. Such recognition must include, but is not limited to, the provisions of this Rider whereby all provisions of the Lease regarding (a) occupancy of the Leased Premises as a primary residence by the Lessee, (b) limitation on assignment of, or sublease under, the Lease,

(c) the price at which the Leasehold Estate may be transferred, and (d) the income of successive transferees, assignees or successors, shall, in the event of foreclosure or assignment in lieu of foreclosure of the Specified Mortgage, be of no further force or effect with respect to such Specified Mortgagee or its successive transferees, assignees or successors. Further, in such event of the Government Entity succeeding to the interests of the Lessor, the Lessee hereby agrees to recognize the Government Entity as exercising all rights and privileges of the Government Entity as lessor under the Lease and this Rider.

Such agreement by the Government Entity may be evidenced by the agreement between the Government Entity and the Lessor under which the Government Entity's prior recorded interest is derived, or by use of a recognition agreement derived from a sample the Specified Mortgagee may obtain from Fannie Mae. Irrespective of any interest by a Government Entity, the Specified Mortgage shall constitute a first leasehold lien on the Leased Premises, and shall have priority over the Lessor's reversionary interest. If the Lessor conveys title to the Leased Land while the Specified Mortgage remains on the Leased Premises, the Lease shall remain in effect with the same priority thereto.

C. Termination, Forfeiture and Modification of Lease. There shall be no termination, forfeiture, or modification of the Lease, except as provided in this Rider, without the prior written consent of the Specified Mortgagee. The Lessor and Lessee shall amend the Lease from time to time as reasonably requested by the Specified Mortgagee, as long as the requested changes do not change the periodic fee, charge or payment due the Lessor for the rights accorded the Lessee under the Lease (the "Ground Lease Fee"), and do not materially or adversely affect the rights of Lessor or Lessee or their respective interests in the Leased Premises. An adjustment of the Ground Lease Fee may be made by the Lessor as provided in the Lease, without prior approval of the Specified Mortgagee, so long as written notice has been delivered to the Specified Mortgagee at least 60 days prior to the effective date of such adjustment with respect to adjustments other than those (i) that were scheduled at the time the Specified Mortgage was given, and (ii) reflecting routine, periodic updates to variable expenses such as property taxes and liability insurance premiums; provided, however, that the Specified Mortgagee shall have the right to arbitrate (as provided herein) any dispute as to an adjustment of the Ground Lease Fee.

D. New Lease. In the event the Lessee's interest in the Lease has been terminated, forfeited, or surrendered as provided in the Lease, and the Specified Mortgage remains outstanding, a new Lease shall automatically be created between the Lessor and the Specified Mortgagee, which Lease shall be for the remainder of the term of the Lease, with the same priority thereto, and shall be subject to the same terms of the Lease as would be applicable pursuant to Section E.1. below where the Specified Mortgagee had accelerated its note, foreclosed on the Specified Mortgage, taken an assignment in lieu of foreclosure, or exercised its other remedies for default.

E. Mortgage Default or Foreclosure. Subject to the following, upon the occurrence of an event of default under the Specified Mortgage (as determined by the Specified Mortgagee—an "Event of Default"), and without the consent of the Lessor, the Specified Mortgagee shall be permitted to accelerate its note, foreclose on the Specified Mortgage, take an assignment in lieu of foreclosure, or exercise its other remedies for default.

Further:

1. Upon the occurrence of an Event of Default under the Specified Mortgage, the Lessee shall immediately notify the Lessor of such Event of Default and shall submit to Lessor copies of all notices the Lessee received from the Specified Mortgagee relating thereto. The Specified Mortgagee and the Lessor shall endeavor to communicate and cooperate in efforts to deal with the circumstances of the Event of Default and the actions the parties may take relating thereto; provided, however, the Specified Mortgagee shall have no obligation to give formal legal notice of the Event of Default to the Lessor.

2. The Lessee and the Specified Mortgagee agree that the Lessor shall have the right, but not the obligation, to cure an Event of Default in the Lessee's name and on the Lessee's behalf. If such cure is not effective and continuing, nothing herein shall be construed to prevent or delay the Specified Mortgagee from its pursuit of foreclosure and any other available remedies. The Lessee shall be responsible to the Lessor for all payments made, and expenses incurred, by the Lessor in curing such default.

3. Should the Lessor not choose to cure an Event of Default as specified above, the Lessor shall nevertheless have the option to purchase from the Specified Mortgagee its interest in the -Leasehold Estate on the Leased Premises for the full amount owing to the Specified Mortgagee under the Specified Mortgage as of the date of closing of the purchase, upon written notice given by the Specified Mortgagee (the "Mortgagee Option Notice") not later than 60 days following acquisition of title to the Leasehold Estate by the Specified Mortgagee by foreclosure or by an assignment in lieu of foreclosure; provided, however, the Specified Mortgagee may give such written notice following the occurrence of an Event of Default under the Specified Mortgage and prior to the completion of foreclosure proceedings. If the Lessor elects to exercise such option to purchase, the Lessor shall give written notice to the Specified Mortgagee of the Lessor's intent to purchase the Leasehold Estate (the "Lessor Option Notice") within 45 days following the Specified Mortgagee's giving of the Mortgagee Option Notice; provided, however, at the option of the Lessor, in the event the Mortgagee Option Notice is given prior to the completion of foreclosure proceedings by the Specified Mortgagee, the Lessor shall, within such 45-day period, be able to give a written notice to the Specified Mortgagee that it will delay giving the Lessor Option Notice until a date that is not later than 30 days following written notice from the Specified Mortgagee of its acquisition of title to its interest in the Leasehold Estate on the Leased Premises.

The Lessor shall complete the purchase of the Specified Mortgagee's interest in the Leasehold Estate within 60 days of giving the Lessor Option Notice. If the Lessor does not complete the purchase within the allotted 60 days, the Specified Mortgagee shall be free to sell its interest to another person or entity. Further, if the Lessor does not complete the purchase within the allotted 60 days, the Lessor agrees to pay to the Specified Mortgagee its costs of holding its interest in the Leasehold Estate from the date of the Lessor Option Notice until the expiration of such 60-day period. If the Lessor does not purchase the Specified Mortgagee's interest in the Leasehold Estate as described herein, the Leasehold Estate may be transferred, mortgaged and sublet an unlimited number of times, and the Lessor shall not require a credit review or impose other qualifying criteria on any such transferee, mortgagee or sublessee.

4. In the event of foreclosure or assignment in lieu of foreclosure, which results in the conveyance of the Leasehold Estate on the Leased Premises from the Lessee, any adjustment of the Ground Lease Fee to reflect then current fair market rental value as provided in the Lease, shall be subject to the approval of the Specified Mortgagee. The Specified Mortgagee and the Lessor shall attempt to resolve any dispute concerning such adjustment of the Ground Lease Fee, through the normal interaction of the parties, or through formal mediation as the case may warrant. If the dispute remains unresolved, the Specified Mortgagee and the Lessor shall submit the dispute as to the fair market rental value to binding arbitration.

5. In the event the Specified Mortgagee acquires title to the Leasehold Estate on the Leased Premises through foreclosure or assignment in lieu of foreclosure of the Specified Mortgagee, all provisions of the Lease regarding (a) occupancy of the Leased Premises as a primary residence by the Lessee, (b) any limitation on the assignment of, or sublease under, the Lease, (c) any obligation to target certain populations in marketing the Leasehold Estate to potential transferees, (d) the price at which the Leasehold Estate on the Leased Premises may be transferred, and (e) the income of successive transferees, and their successors and assigns, shall be of no further force or effect with respect to such Specified Mortgagee or its successive transferees, assignees or successors. The foregoing sentence shall not be construed to invalidate other Lease provisions regarding permitted use of the Leased Premises. Any transfer or assignment of the Leasehold

Estate encumbered by the Specified Mortgage as provided for in this paragraph shall be deemed a permitted sale, transfer or assignment of the Lease and the Leasehold Estate. Further, in such event, the Leasehold Estate may be transferred, mortgaged and sublet an unlimited number of times, and the Lessor shall not require a credit review or impose other qualifying criteria on any such transferee, mortgagee or sublessee.

F. Lease Default. There shall be no forfeiture or termination of the Lease except for (i) the nonpayment of amounts due under the Lease, and (ii) violation of one or more provisions of the Lease addressing the following: (a) prohibition or restrictions on the sale or transfer of the Lessee's interest (however, non-sale transfers resulting from marriage, divorce, death of a spouse, or a transfer otherwise permitted by applicable federal law, may not constitute a basis for default under the Lease, though the Lessor may require such transferee to agree to assume the transferor's obligations under the Lease), and (b) requirement that the Lessee occupy the Leased Premises as primary residence. Provided, however, such forfeiture or termination shall be subject to the Specified Mortgagee's right to cure a monetary default, or otherwise foreclose or take an assignment of the Leasehold Estate in lieu of foreclosure with respect to the Lessee's monetary or non-monetary default. Notwithstanding the foregoing, nothing herein shall be construed to require the Specified Mortgagee to cure any non-monetary default. Further, the Specified Mortgagee shall become subrogated to any and all rights of the Lessee with respect to such curing of a default. If the Lessee's default shall be cured as provided in the Lease, and the Specified Mortgagee shall discontinue its foreclosure or assignment in lieu of foreclosure proceedings, the Lease shall continue in full force and effect as if the Lessee had not defaulted. A default by the Lessee under the Lease shall constitute a default under the Specified Mortgage.

G. Lease Default Notice. Notwithstanding the notice requirements provided in the Lease, no default notice by the Lessor shall be deemed to have been given unless and until a copy thereof shall have been so given to the Specified Mortgagee.

H. Insurance. All insurance policies covering the Improvements shall by endorsement name the Specified Mortgagee as an additional insured and loss payee, and provide the Specified Mortgagee with 30 days' cancellation notice.

I. Casualty and Condemnation. If the Leased Premises are destroyed or taken to such an extent that the Lease is to be terminated, the insurance proceeds or condemnation award, as the case may be, shall be applied first in an amount sufficient to satisfy the Specified Mortgage. Upon the termination of the Lease as a result of a partial destruction or a condemnation of less than the entire Leased Premises, the total insurance proceeds or condemnation award, as the case may be, shall be paid to an appointed trustee, who shall first apply such insurance proceeds or condemnation award in accordance with the Specified Mortgage for restoration of the Improvements (if such trustee determines that the Improvements may reasonably be restored to a residential use consistent with the Lease), with the balance of such insurance proceeds or condemnation award to be allocated between the Lessor and Lessee as otherwise provided in the Lease. The Specified Mortgagee shall be entitled to participate in (i) the adjustment of all casualty losses and (ii) all condemnation proceedings and settlement discussions. Any insurance proceeds or condemnation award shall be applied in accordance with the Specified Mortgage. The Specified Mortgagee shall also be entitled to participate in the adjustment of the Ground Lease Fee as a result of a partial destruction or taking.

J. Force Majeure. The Lessee shall not be in default where performance is delayed or prevented by "Acts of God," war, civil commotion, strikes, labor disputes or the like.

K. Easements and Alterations. Additions to and alternations in the Improvements may be made as provided in the Lease, as long as the value of the Leased Premises is not diminished. The Lessor, as owner of the fee interest in the Leased Land, shall join in all easements, permits and applications necessary for such development of the Leased Premises as is permitted under the Lease, provided that the Lessor shall have no liability or obligation under such easement, permit or application.

L. Arbitration. The Specified Mortgagee shall have the right to participate in any arbitration or legal proceedings between the Lessor and the Lessee. Any arbitration proceedings shall be conducted in accordance with arbitration statutes applicable in the state where the Leased Premises are located.

M. Merger. If the estates of the Lessor and Lessee are at any time owned by the same person, so long as the Specified Mortgagee has any interest in the security or in the Specified Mortgage, such person shall take all necessary steps to ensure that the Specified Mortgage constitutes a first lien on the combined estate.

N. Sublease. There shall be no modification, cancellation, or surrender of any subleases, or prepayment of rent thereunder without the consent of the Specified Mortgagee. If the Specified Mortgagee forecloses on the Leased Premises, or takes an assignment in lieu of foreclosure, all subtenants shall attorn to such Specified Mortgagee or its assignee.

O. Estoppel Certificate. The Lessor shall, from time to time, with 10 days written notice from the Specified Mortgagee, certify by written instrument, duly executed and acknowledged, to such Specified Mortgagee that the Lease has not been amended, the Lease is in full force and effect, that neither party is in default thereunder, and shall certify as to the existence of any offsets, counterclaims or defenses on the part of the Lessee.

P. Conflict. In the event of a conflict between the terms and provisions of this Rider and the terms and provisions of the Lease, the terms and provisions of this Rider shall control. BY SIGNING BELOW, the Lessor and the Lessee accept and agree to the terms and conditions of this Rider. IN WITNESS WHEREOF, the parties have executed this Rider at _____, on the day and year first written above.

LESSOR:

By: _____

Title: _____

LESSEE:

(Add notaries)

Instructions

Community Land Trust Ground Lease Rider

The Community Land Trust (CLT) Ground Lease Rider ensures the ground lease conforms to Fannie Mae's guidelines for mortgages secured by properties held under a community land trust ground lease.

Lenders should ensure their CLT partners approve the use of the revised version of Form 2100 (3/06 rev. 12/10). Loans are not eligible for purchase if delivered with prior versions of this form.

Copies

Original.

Printing Instructions

The PDF version of the form must be printed on letter size paper, using portrait format.

Instructions

The Community Land Trust Ground Lease Rider must be executed by both the lessor and lessee and must be recorded along with the ground lease.

E. Model Deed

This Instrument Was Prepared By:

Record and Return To:

WARRANTY DEED

THIS WARRANTY DEED made this ____ day of _____, 20__ between **Community Land Trust, a Florida Nonprofit Corporation**, (the "Grantor"), whose mailing address is _____, and **BETTY BUYER**, (the "Grantee"), whose mailing address is _____.

WITNESSETH:

That Grantor, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, to it in hand paid by Grantee, the receipt whereof is hereby acknowledged, does hereby grant, bargain, sell, alien, remise, release, convey and confirm unto Grantee the real property (the "Property") located in _____ County, Florida, and more particularly described as follows:

LOT 1, BLOCK 20 OF XYZ SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK ABC AT PAGE 1234 OF THE PUBLIC RECORDS OF _____ COUNTY, FLORIDA.
Folio No: XX-XXXX-XXX-XXXX

This warranty deed is being delivered in connection with the grant of a lessee's ground leasehold interest in the land on which is situated the real property being conveyed hereby pursuant to that Lease Agreement between Grantor, as Lessor, and Grantee, as Lessee, a memorandum of which is being recorded concurrently herewith. Following the delivery of this warranty deed and the execution of the Lease Agreement, grantee shall be an owner of a leasehold interest in the land and a fee interest in the residential structure and any and all improvements and fixtures situated on such land.

The conveyance made under this warranty deed shall be subject to the matters listed on EXHIBIT B attached hereto and made a part hereof.

SUBJECT TO:

1. All easements, conditions, covenants, restrictions, reservations, limitations and agreements of record, provided this instrument shall not re-impose same.
2. Real estate taxes for the year 20__ and all subsequent years.
3. Existing applicable governmental building and zoning ordinances and other governmental regulations.

TOGETHER with all the tenements, hereditaments and appurtenances belonging or in any way appertaining to the Property.

TO HAVE AND TO HOLD the same in fee simple forever.

AND GRANTOR hereby covenants with Grantee that Grantor is lawfully seized of the Property in fee simple; that Grantor has good right and lawful authority to sell and convey the Property; and that Grantor does hereby fully warrant the title to the Property and will defend the same against the lawful claims of all persons whomsoever.

F. Ad Valorem Tax Paper

Community Land Trusts and Ad Valorem Taxes

This paper is provided by the Florida Community Land Trust Institute (Florida CLT Institute), a program of the Florida Housing Coalition. The Florida CLT Institute was established in January 2000 and provides training and technical assistance to local governments, nonprofits, and lenders throughout Florida to assist with establishing CLTs and providing guidance for implementing best practices for the operation of community land trusts.

- Community land trust (CLT) homeowners are entitled to receive homestead exemption from ad valorem taxation under Florida law.
- The assessed value of the CLT home for property taxes is the resale restricted value.
- The land beneath a CLT home is not exempt from property taxes. It should be assessed at zero dollars or for the value of the nominal ground lease fee.

Part I – Assessing the Home

A. CLT Homeowners are entitled to homestead exemptions from ad valorem taxation.

1. The standard governing document for a CLT home is a 99-year ground lease.

A community land trust under Florida law is defined as “a nonprofit entity that is qualified as charitable under s. 501(c)(3) of the Internal Revenue Code and has one of its purposes the acquisition of land to be held in perpetuity for the primary purpose of providing affordable homeownership.”¹ A CLT’s main purpose is to steward land for permanent affordable housing. A CLT meets this purpose by acquiring land, selling the home and improvements on top of the land to income-eligible homebuyers, and leasing the underlying land pursuant to a 99-year ground lease.² The 99-year ground lease establishes the relationship between the CLT homebuyer with the CLT as the steward of the land. The 99-year ground lease ensures the home on top of the leased land is permanently affordable through resale restrictions, stewardship obligations of the CLT, and other provisions that preserve the land and home.

2. Under Florida law, a lessee owning a leasehold interest in a 99-year lease on a residential parcel is entitled to a homestead exemption from ad valorem taxation.

Article VII, section 6(a) of the Florida Constitution provides that:

“Every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner . . . [shall be granted a homestead exemption]. The real estate may be held be legal or equitable title, by the entireties, jointly, in common, as a

¹ Fla. Stat. § 193.018(1) (2020).

² See the Florida Housing Coalition’s CLT Primer, <https://www.flhousing.org/wp-content/uploads/2015/10/CLT-Primer-FINAL-2015-08-LINKED.pdf>.



condominium, or indirectly by stock ownership or membership representing the owner’s or member’s proprietary interest in a corporation owning a fee *or a leasehold initially in excess of ninety-eight years*.³

Section 196.031(1)(a) of the Florida Statutes provides a homestead exemption to:

“[a] person who, on January 1, has the *legal title or beneficial title in equity to real property in this state* and who in good faith makes the property his or her permanent residence . . .”⁴

Section 196.041(1) of the Florida Statutes states, in relevant part:

“. . . lessees owning the leasehold interest in a bona fide lease having an original term of 98 years or more in a residential parcel . . . for the purpose of homestead exemptions from ad valorem taxes and no other purpose, *shall be deemed to have legal or beneficial and equitable title to said property*.”⁵

Reading the Florida Constitution and these two statutes together, a CLT homeowner with a 99-year ground lease shall be deemed to have “beneficial and equitable title”⁶ to the property solely for the purposes of a homestead exemption from ad valorem taxation. Further confirming this point, because a CLT homeowner with a 99-year ground lease is granted beneficial and equitable title under Fla. Stat. § 196.041(1), Fla. Stat. § 196.031(1)(a) explicitly grants the CLT homeowner with a 99-year ground lease the right to receive a homestead exemption from ad valorem taxation.

This interpretation of these two statutes is confirmed by *Higgs v. Warrick*.⁷ There, the Third District Court of Appeals found that “[t]he plain and ordinary meaning of sections 196.031 and 194.041 clearly provides that a 98-year-plus lessee of a residential parcel permanently occupied as a residence qualifies for a homestead exemption.”⁸ As such, a CLT homeowner subject to a 99-year ground lease is entitled to a homestead exemption from ad valorem taxation.⁹

B. The assessed value of the CLT home is limited by the resale restrictions on the property.

Section 193.018(3) of the Florida Statutes establishes the method to arrive at a just valuation for purposes of ad valorem taxation of an affordable home on land owned by a community land trust.¹⁰ The statute requires property appraisers to assess CLT homes using the following criteria:

³ Art. VII, § 6(a), Fla. Const.

⁴ Fla. Stat. § 196.031(1)(a) (2020) (italics mine).

⁵ Fla. Stat. § 196.041(1) (2020) (italics mine).

⁶ *Id.*

⁷ 994 So. 2d 492 (Fla. 3rd DCA 2008)

⁸ *Id.* at 493.

⁹ Similar reasoning is found at section 222.05 of the Florida Statutes relating to setting apart a leasehold from a fee simple interest in a dwelling house for protection from forced sale of a homestead.

¹⁰ Fla. Stat. § 193.018(3) (2020).



- (a) The amount a willing purchaser would pay a willing seller for the land is limited to an amount commensurate with the terms of the ground lease that restricts the use of the land to the provision of affordable housing in perpetuity.
- (b) The amount a willing purchaser would pay a willing seller for resale-restricted improvements, condominium parcels, or cooperative parcels is limited to the amount determined by the formula in the ground lease.
- (c) If the ground lease and all amendments and supplements thereto, or a memorandum documenting how such lease and amendments or supplements restrict the price at which the improvements, condominium parcels, or cooperative parcels may be sold, is recorded in the official public records of the county in which the leased land is located, the recorded lease and any amendments and supplements, or the recorded memorandum, shall be deemed a land use regulation during the term of the lease as amended or supplemented.

These criteria limit the just valuation of a CLT home to the resale-restricted value as established in the 99-year ground lease. Importantly, as shown above, subsection (3)(c) of the statute states that if the ground lease or a memorandum of ground lease is recorded in the official public records of the county in which the leased land is located and documents the resale restrictions, the recorded document(s) “shall be deemed a land use regulation during the term of the lease as amended or supplemented.”¹¹ Therefore, if the Community Land Trust records a memorandum of ground lease that states the resale-restrictions on the home (or the entire ground lease as the statute allows), the property appraiser must assess the property based on resale restrictions for purposes of ad valorem taxation.

Part II – Assessing the Land

A. The CLT homeowner is the equitable owner of the land for tax purposes.

Based on Article VII, § 6(a) of the Florida Constitution, Fla. Stat. § 196.041(1), and related case law, the CLT homeowner is the equitable owner of the land for property tax purposes. Article VII, section 6(a) of the Florida Constitution and Fla. Stat. § 196.041(1), as discussed above, confer equitable title to “lessees owning the leasehold interest in a bona fide lease having an original term of 98 years or more in a residential parcel . . . for the purpose of homestead exemptions from ad valorem taxes and no other purpose . . .”¹² Our reasoning is that if a lessee of a 99 year ground lease is granted equitable title for “*the purpose of homestead exemptions* from ad valorem taxes,” they are granted equitable title for the purpose of ad valorem taxation.

This logic is supported by the Second District Court of Appeals in *Mikos v. King’s Gate Club*¹³. There, in interpreting a similar legal provision, the court found that “[i]f King’s Gate members are qualified to obtain homestead status [in their] sites, it follows that their interest in their respective sites is one of ownership.”¹⁴ This position is further supported by the First District Court of Appeals in *Ward v. Brown*, which found that the “Florida Constitution expressly contemplates equitable ownership for

¹¹ Fla. Stat. § 193.018(3)(c) (2020).

¹² Fla. Stat. § 196.041(1) (2020)

¹³ 426 So. 2d 74 (Fla. 2d DCA 1983).

¹⁴ *Id.* at 76. “King’s Gate members” in this case were owners of mobile home units who leased mobile home sites from a mobile home park owner – a similar ownership arrangement to that of a Community Land Trust.



leases with initial terms of 99 years by providing homestead exemptions for leaseholds in excess of 98 years.”¹⁵ We find that a CLT homeowner who is allowed homestead status by the Florida Constitution and Fla. Stat. § 196.041(1) is granted equitable ownership of the leased land for purposes of ad valorem taxation.

Please note, however, that there is recent case law that has found a lessee of a 99-year lease to *not* be the equitable owner of the property subject to the lease for tax purposes.¹⁶ These cases did not speak to the CLT homeownership context. The *Accardo*¹⁷ and *1108 Ariola*¹⁸ lineage of cases, which came after the *Ward v. Brown* decision cited above, do not deal squarely with homeowners seeking homestead status or address how Fla. Stat. § 196.041 establishes equitable ownership for tax purposes in the lessees of the 99-year lease. Given the unique nature of CLT homeownership, no case law directly addresses the equitable ownership of the CLT land so the interpretation will be left to the local property appraiser.

B. The land should be assessed at zero dollars or a nominal amount.

As noted above, section 193.018(3)(b) of the Florida Statutes requires the land to be assessed by looking at “the amount a willing purchase would pay a willing seller . . . commensurate with the terms of the ground lease that restricts the use of the land to the provision of affordable housing in perpetuity.”¹⁹ The terms of the ground lease dictate that the only value generated by the land is the nominal monthly ground lease fee paid by the CLT homeowner to the CLT. This ground lease fee, which is set by the CLT, is only typically around \$15-40 a month. Because the ground lease requires the home to be affordable in perpetuity and the only monetary value generated is a nominal ground lease fee, the land essentially has no value beyond the important public benefit of removing land from the speculative market so that affordable housing will be preserved in perpetuity. The assessment for the land should therefore be zero dollars or a nominal amount based on the nominal lease fee.

C. The land will be exempt from ad valorem taxes if the CLT is leasing the improvements.

1. Fla. Stat. § 196.1978(1) - Affordable housing property exemption.

The Florida Statutes provide an affordable housing property exemption from ad valorem taxation for certain property used to provide affordable housing. Section 196.1978(1) of the Florida Statutes provides that:

“Property used to provide affordable housing to eligible persons as defined by s. 159.603 and natural persons or families meeting the extremely-low-income, very-low-income, low-income,

¹⁵ 919 So. 2d 462, 464 (Fla. 1st DCA 2005).

¹⁶ See *Beach Club Towers Homeowners Ass’n v. Jones*, 231 So. 3d 566 (Fla. 1st DCA 2017); *Island Resorts Invs., Inc. v. Jones*, 189 So. 3d 917 (Fla. 1st DCA 2016). Judge Boyer, in dissent in *Beach Club*, argued the majority should have applied a finding in *Ward v. Brown* which is that a 99-year lease term that is eligible for a homestead exemption confers equitable ownership.

¹⁷ *Accardo v. Brown*, 139 So. 3d 848, 856 (Fla. 2014).

¹⁸ *1108 Ariola, LLC v. Jones*, 139 So. 3d 857 (Fla. 2014).

¹⁹ Fla. Stat. § 193.018(3)(b) (2020).



or moderate-income limits specified in s. 420.0004, which is *owned entirely* by a nonprofit entity that is a corporation not for profit, qualified as charitable under s. 501(c)(3) of the Internal Revenue Code and in compliance with Rev. Proc. 96-32, 1996-1 C.B. 717, is considered property owned by an exempt entity and used for a charitable purpose, and those portions of the affordable housing property that provide housing to natural persons or families classified as extremely low income, very low income, low income, or moderate income under s. 420.0004 are exempt from ad valorem taxation to the extent authorized under s. 196.196.”²⁰

Pursuant to this language, property is eligible for an affordable housing tax exemption if it 1) is used to provide affordable housing to eligible persons; and 2) is “owned entirely” by a nonprofit entity qualified as charitable under s. 501(c)(3) of the Internal Revenue Code. If the land is used for homeownership, the CLT no longer owns the land *entirely* and is therefore not entitled to ad valorem exemption. However, it is possible for a property appraiser to take the position that the CLT does own the property entirely even if the improvement is sold rather than rented. Therefore, the remainder of this Part provided guidance for determining whether the CLT owns the land “*entirely*” to qualify for the statutory affordable housing property tax exemption.

2. Doctrine of Equitable Ownership for Ad Valorem Tax Purposes

It is a long-standing principle of Florida law that the “one who holds the equitable interest [in a piece of property] is the owner for taxing purposes.”²¹ A person or party may be deemed the owner of property for taxation purposes even if they do not hold legal title.²² This doctrine applies when determining whether the CLT or the CLT homeowner is liable for property taxes on the land. Regardless of which party is deemed liable for property taxes by the property appraiser, the model 99-year ground lease between the CLT and homeowner passes all tax bills on the Home and Leased Land to the CLT homeowner.

The Florida Supreme Court in *Accardo v. Brown* remarked that Florida’s case law “regarding the application of the equitable ownership doctrine makes clear that the person or entity holding equitable title to real property will be deemed to the owner of the property for ad valorem tax purposes.”²³ Thus, even though the CLT owns legal title to the land, the CLT homeowner is likely still liable for the taxes on the land for reasons to be discussed.

3. Whether the affordable housing property exemption applies depends on 1) whether the local property appraiser deems the CLT homeowner to be the equitable owner of the leased land and 2) whether the property appraiser finds legal title alone sufficient to find that the CLT owns the land “entirely.”

²⁰ Fla. Stat. § 196.1978(1) (2020) (emphasis mine).

²¹ *Bancroft Investment Corp. v. City of Jacksonville*, 27 So. 2d 162, 171 (Fla. 1946) (citing *Porter v. Carroll*, 92 So. 809 (Fla. 1922)). In *Porter*, the Florida Supreme Court held that the owner of property for ad valorem tax purposes was not the person who “held the legal title only” but was instead the contract vendee who held “the equitable interest which is the substantial interest.”

²² See *Beach Club Towers Homeowners Ass’n v. Jones*, 231 So. 3d 566 (Fla. 1st DCA 2017).

²³ *Accardo v. Brown*, 139 So. 3d 848, 856 (Fla. 2014).



If the local property appraiser determines that the CLT homeowner is the equitable owner of the leased land, the statutory affordable housing property exemption will likely not apply. The logic flows that if the CLT homeowner is the equitable owner of the land for tax purposes, it likely cannot be said that the CLT owns the land “entirely” as required by Fla. Stat. § 196.1978(1). Under this interpretation, the CLT will still have legal title to the land but since the homeowner holds equitable title, it cannot be said that the CLT owns the land “entirely” for tax purposes. If the CLT homeowner is deemed *not* to hold equitable title in the land, only then would the CLT own the land “entirely.” This reading is consistent with the doctrine of equitable ownership for ad valorem tax purposes as described above; the party who holds equitable title is deemed the owner for tax purposes. However, the phrase “owned entirely” in the context of Fla. Stat. § 196.1978(1) has not been interpreted by the courts so it is left to the judgment of the local property appraiser.²⁴

Conclusion

CLT homeowners are entitled to a homestead exemption from ad valorem taxation as provided in the Florida Constitution and sections 196.031(1)(a) and 196.041(1) of the Florida Statutes. Property appraisers are required by section 193.018 of the Florida Statutes to assess the improvements and the land commensurate with what a willing buyer would pay a willing seller the resale restrictions governing a CLT home, if stated in a recorded ground lease or memorandum of ground lease, when arriving at a just valuation for purposes of ad valorem taxation.

The CLT homeowner is the equitable owner of the leased land for tax purposes and therefore is responsible for taxation on the leased land. However, because section 193.018(3)(b) requires the property appraiser to assess in accordance with the “amount a willing purchaser would pay . . . limited to an amount commensurate with the terms of the ground lease,” the value of the land should be assessed at zero dollars or a nominal value. The only value generated by the land commensurate with the terms of the ground lease is a nominal ground lease fee; the taxable value, therefore, if more than zero, should be nominal.

²⁴ The statute does not specify whether a nonprofit has to possess both legal *and* equitable ownership to be deemed to own the land “entirely” or whether legal title alone is sufficient.

G. Model Purchase Assistance Strategy

Model Community Land Trust Add-On Language for Down Payment Assistance Strategies¹

Purchase Assistance

Code 1, 2

- a. Summary: Funds will be awarded for down payment and closing costs for new and existing homes, including homes purchased from a community land trust (CLT). Home rehabilitation is also an eligible use, as needed when purchasing existing homes. To be eligible, existing homes must be in need of and receive at least \$2,500 in rehabilitation paid within 12 months by SHIP, CDBG, HOME, the seller, the buyer or another source.
- b. Fiscal Years Covered: 2019-2020, 2020-2021, 2021-2022
- c. Income Categories to be served: Very low, low and moderate
- d. Maximum award \$ 55,000
- e. Terms (see “Additional Information” for special terms for CLT home purchases)
 1. Repayment loan/deferred loan/grant: Funds will be awarded as a deferred subordinate loan secured by a recorded subordinate mortgage and note
 2. Interest Rate: 0%
 3. Years in loan term: 10 years (very-low and low), 30 years (moderate)
 4. Forgiveness: For very-low and low-income categories, the funds will be forgiven on a prorated bases so that 10% of the principal is forgiven annually. Funds for moderate-income recipients will be forgiven on a prorated basis so that 1/30th is forgiven annually.
 5. Repayment: For those who comply with SHIP rules, assistance will be forgiven by the end of the loan term and no repayment will be required.
 6. Default: The loan will be determined to be in default if any of the following occurs: sale, transfer, or conveyance of property; conversion to a rental property; loss of homestead exemption status; or failure to occupy the home as primary residence. If any of these occur, the outstanding balance will be due and payable.

In cases where the qualifying homeowner(s) die(s) during the loan term, the loan may be assumed by a SHIP eligible heir who will occupy the home as a primary residence. If the legal heir is not SHIP eligible or chooses not to occupy the home, the outstanding balance of the loan will be due and payable.

¹ This document is an example of a SHIP Purchase Assistance Strategy and is provided as a guide. Review the model strategy and revise, as necessary, to ensure that it is consistent with local program guidelines before incorporating into the Local Housing Assistance Plan.

- f. Recipient Selection Criteria: Applicants will be ranked for assistance based on a first-qualified, first-served basis. Homebuyers must complete an approved homebuyer education class from a HUD certified agency and obtain a certificate of completion. CLT homebuyers must attend a homebuyer education class that contains a community land trust component and/or session with the CLT in addition to a homebuyer education class that requires CLT buyers to demonstrate and attest to a clear understanding of the terms of community land trust homeownership.
- g. Sponsor Selection Criteria: N/A
- h. Additional Information: Loan will be awarded in the amount required for the homebuyer to purchase the property up to the maximum award permitted.

Terms for CLT home purchases: This SHIP assistance is assumable to an income-eligible purchaser. The terms of the Note and Mortgage shall allow subsequent purchasers to assume the loan with approval by the CLT. Otherwise, no repayment required during the term of the loan, provided the loan remains in good standing. Please see Exhibit ___ for additional instructions and information for CLT purchases.

EXHIBIT ____: Additional Instructions and Information for Down Payment Assistance for Community Land Trust Purchases

To qualify, homes must be purchased from a city/county-approved community land trust (CLT). The CLT will execute a 99-year ground lease with the homebuyer. A memorandum of that ground lease is recorded in the public records immediately following the deed. The terms of the ground lease restrict the resale of the property to an income eligible household and provide a right of repurchase to the CLT in the event of default. The CLT must approve the subsequent homebuyer. In the event of a default, the CLT must notify the City/County whether it intends to exercise its right of repurchase. In the event the CLT is not willing or able to exercise its right of repurchase, it shall transfer its right of repurchase to City/County, giving City/County the right, but not the obligation to purchase the property.

The assistance shall be treated as a development cost pay-down to further reduce the sales price to the homebuyer. The assistance amount shall be excluded from the Base Price and Formula Price as defined in the ground lease. The balance of the assistance must be included in the Purchase Option Price as defined in the ground lease to repay the funds to the City/County in the event of default. If the maximum subsidy was not provided to the first homebuyer, the City/County may provide additional assistance to the subsequent buyer to ensure that the property remains affordable, up to the amount of the maximum subsidy allowable at the time of subsequent purchase minus the original subsidy amount provided to the first homebuyer. Any additional SHIP investment will extend the original loan term. At the end of the loan term, the loan will be forgiven, and the lien released. However, the CLT ground lease will remain in effect and the requirements for residency, resale price, and subsequent buyer's income eligibility will continue. The CLT may request satisfaction of a loan and release of the lien during the term of the loan on behalf of a homeowner or seller, and under certain defined circumstances, with approval granted by the City/County on a case-by-case basis.

When selling a CLT home, the seller must notify the CLT. The CLT will then enter into a purchase and sale agreement with the seller, that will get assigned to the subsequent homebuyer. The Purchase Option Price for the CLT will be calculated as follows:

$$\text{Purchase Option Price} = \text{Formula Price} + \text{Payoff Amount of Deferred Payment Loans}$$

The Formula Price is calculated using a Base Price calculated by subtracting the amount of down payment assistance from the purchase price. For example:

Purchase Price:	\$185,000
MINUS Assistance Provided (maximum):	<u>- \$55,000</u>
EQUALS Base Price (sales price) for first buyer:	\$130,000

Base price is the amount the buyer would need to finance (plus transaction costs) and is used to calculate the Formula Price in the ground lease.

Suppose the Formula (re-sale) Price in the ground lease is calculated by a 1% annual increase to the Base Price, compounded. Suppose the home is sold after 5 years. To calculate the Purchase Option Price (price that will go in the purchase and sale agreement between the CLT and the seller), first calculate the Formula Price:

$$\text{Formula Price} = \text{Base Price} \times \text{Compound Rate}$$

Calculated as follows:

Year 1 = \$130,100 x 1.01 =
\$131,300 Year 2 = \$131,300 x 1.01
= \$132,613 Year 3 = \$131,613 x
1.01 = \$133,939 Year 4 = \$133,939
x 1.01 = \$135,379 Year 5 =
\$135,379 x 1.01 = \$136,631
Formula Price = \$136,631

Purchase Option Price = \$136,631 + \$55,000 = \$191,631

The price to the subsequent buyer equals the Purchase Option price minus the assumed down payment assistance:

Purchase Option Price:	\$191,631
DPA assumed:	- <u>\$55,000</u>
Sales price for subsequent buyer:	\$136,631 (New Base Price for Formula Price)

The new price should be affordable to the subsequent buyer without additional subsidy.

At the end of the loan term, the value of the Purchase Option Price will be equal to the Formula Price.

H. Commentary on SHIP Mortgages and Promissory Notes for Purchase Assistance Strategies

MORTGAGE & NOTE CHECKLIST
HOMEBUYER PROGRAM
SHIP COMMUNITY LAND TRUST

This document is intended to provide a checklist of essential language that should be incorporated in your SHIP program's Community Land Trust (CLT) legal documents. The checklist below is focused on language that is specific to the unique nature of CLTs and of the Model Down Payment Assistance Strategy for CLTs. Coupled with this checklist is a set of model legal documents with key points that are highlighted in yellow.

This document will address the following documents: Mortgage; Note; CLT Approval Form. This document will also address several other forms a SHIP Jurisdiction should have ready at its disposal in achieving a successful CLT Down Payment Assistance Strategy.

Mortgage

- 1. Be clear that the security interest created by the mortgage agreement is of a fee simple interest the improvements with only a leasehold interest in the underlying land.**

First, it is essential that the mortgage document is clear that the security interest the SHIP entity holds is of the "buildings and improvements existing on the Leased Land and the Borrower's leasehold interest in the Leased Land." The SHIP entity should not obtain a fee simple security interest in the Leased Land itself. This is due to the unique nature of the CLT whereby CLT Homeowners merely hold a leasehold in the underlying land with a fee simple interest in improvements and buildings on top of the land. Since the CLT Homeowner cannot mortgage or otherwise alienate a fee simple interest in the Leased Land, it is best practice to be clear that the SHIP entity cannot obtain fee simple in the event of default by the CLT Homeowner.

Being clear with this language is essential in determining ownership in the event of default. There have been unfortunate occurrences where CLTs have lost their fee simple interest in the underlying land due to the mortgage documents being unclear about the security interest at issue.

- 2. To successfully retain the subsidy in the home, be sure the mortgage is assumable by subsequent income-eligible homebuyers and allow the prior homebuyer to be released from the mortgage.**

A key aspect of ensuring the government subsidy is retained in the CLT home is to have specific language stating that the mortgage is assumable by subsequent income-eligible homebuyers. There should also be language, as reflected in the Model DPA Strategy, that the CLT must approve the subsequent homebuyer and then promptly notify the local government prior to the execution of the assumption

agreement. It is best practice to have a signed mortgage assumption agreement for the CLT, buyer, and seller to be a party to in the event of a subsequent purchase.

Also, it is key to have a Release Agreement that releases a seller from personal liability under the mortgage upon a subsequent purchaser assuming the mortgage.

3. Follow the Down Payment Assistance Strategy's Event of Default(s).

Each local government may have different definitions of what constitutes a default under the SHIP CLT Down Payment Assistance Strategy. Under the Model CLT Add-On Language, a loan is in default if any of the following occurs: sale, transfer, or conveyance of property; conversion to a rental property; loss of homestead exemption status; or failure to occupy the home as primary residence. In the Model, if any of these occur, the outstanding balance is due and payable.

4. Allow SHIP-eligible heirs to occupy the home.

Per the Model DPA Strategy, the mortgage should state that in the event the CLT Homeowner dies during the loan term, the obligations under the Note and Mortgage may be assumed by a SHIP-eligible heir as long as the heir occupies the home as a primary residence. If the legal heir is not SHIP-eligible or chooses not to occupy the home, the unforgiven balance is to be immediately due and payable.

5. Include language referencing the CLT's Right to Cure an event of default.

Pursuant to the Model Ground Lease, the mortgage agreement must incorporate a clause that states that the Lender and Borrower agree that the CLT has the option to cure an event of default as the steward of the Leased Land. The agreement should also recognize the CLT's right to purchase the improvements and leasehold interest in the event the Lender acquires title to the Homebuyer's interests through foreclosure proceedings. The agreement may state that the SHIP jurisdiction shall coordinate with the approved CLT regarding the default pursuant to the CLT's power granted under the ground lease.

Note

1. Follow your jurisdiction's Down Payment Assistance Strategy.

The key regarding the promissory note is to follow the terms of your SHIP jurisdiction's Down Payment Assistance Strategy regarding default occurrences, loan term, and loan amount. Pursuant to the Model Strategy, the loan should be treated as a deferred subordinate loan secured by a record subordinate mortgage and note. For very-low and low income homebuyers, the term of the loan is to be 10 years and the loan term for moderate homebuyers should be 30 years. Funds are to be forgiven on a prorated basis so that an equal amount is forgiven annually. The note must be clear that for those who comply with SHIP rules, assistance will be forgiven by the end of the

loan term and no repayment will be required.

Finally, be sure to state the occurrences of default in the Note as defined in the DPA Strategy.

2. Allow SHIP-eligible heirs to assume to loan.

As with the Mortgage, the Note should state that in the event the CLT Homeowner dies during the loan term, the obligations under the Note and Mortgage may be assumed by a SHIP-eligible heir as long as the heir occupies the home as a primary residence. If the legal heir is not SHIP-eligible or chooses not to occupy the home, the unforgiven balance is to be immediately due and payable.

3. Be clear that the Note is assumable by a subsequent income-eligible purchaser.

The Note should state that it is to be assumable by income-eligible subsequent purchasers with prior written approval by the Community Land Trust. Upon this approval, the CLT and the initial Borrower shall promptly notify the Lender.

CLT Approval Form

1. Basic Language

The CLT Approval Form is to document that the CLT at issue has been approved by the SHIP Jurisdiction to be involved in the DPA Strategy. Upon approval, prospective homebuyers can obtain Down Payment Assistance to purchase homes from the approved CLT.

2. State the duties of the Community Land Trust.

This form is a good opportunity to document the duties the Community Land Trust agrees to undertake in the SHIP Down Payment Assistance Program. Duties can include certain specified notice requirements, successful stewardship goals, and other duties as the SHIP Jurisdiction sees fit.

Other Documents

1. Mortgage Assumption Form/Release Agreement

A key element in retaining the subsidy in CLT homes is making sure subsequent homebuyers assume the obligations of the original Note and Mortgage. SHIP jurisdictions should have assumption agreements ready to facilitate smooth transition of CLT homes to subsequent homebuyers. Upon execution of a documented assumption agreement, a subsequent income-eligible purchaser will become personally liable under the terms of the Note and Mortgage.

SHIP jurisdictions should also draft release agreements to release CLT homeowners from personal liability upon a subsequent purchase of a CLT home. Coupled with an assumption agreement, a release agreement will ensure that prior homeowners are not still personally liable in the event of subsequent purchaser defaults on their obligations.

2. Form Attesting to the CLT Homebuyer's Qualifications

The Model DPA Strategy states that to be qualified as an applicant for purchase assistance, homebuyers must complete an approved homebuyer education class from a HUD certified agency and obtain a certificate of completion. Additionally, homebuyers must attend a homebuyer education class that contains a community land trust component and/or session with the CLT in addition to a homebuyer education class that requires CLT buyers to demonstrate and attest to a clear understanding of the terms of community land trust homeownership.

To ensure proper record-keeping on which applicants are qualified, a SHIP jurisdiction may decide to create a form that documents that a specific homebuyer has met all the requirements necessary for the homebuyer education.

I. Mortgage for SHIP Purchase Assistance Strategies

**SECOND MORTGAGE
HOMEBUYER PROGRAM – PURCHASE ASSISTANCE
SHIP COMMUNITY LAND TRUST**

THIS SECOND MORTGAGE is made this _____ day of _____
20____, between the Mortgagor, _____
(herein the "Borrower") and the Mortgagee, _____, whose street address is
_____ (herein the "Lender").

WHEREAS, the Borrower is indebted to Lender in the principal sum of
_____ (\$_____), without interest, which indebtedness
is evidenced by the Borrower' s Promissory Note dated _____,
and extensions and renewals dated thereof (herein "Note"), providing for payment of principal
indebtedness on the terms stated therein;

TO SECURE to the Lender the repayment of the indebtedness evidenced by the Note; the
payment of all other sums, advanced in accordance herewith to protect the security of this
Mortgage; and the performance of the covenants and agreements of the Borrower herein contained,
the Borrower does hereby mortgage, grant, and convey to Lender the buildings and improvements
existing on the Leased Land and the Borrower's leasehold interest in the Leased Land, located in
the County of _____, State of Florida, more particularly described as follows:

LEGAL DESCRIPTION OF PROPERTY: _____

which has the address of (Street Address) _____,
(City) _____, Florida (Zip Code) _____, (herein the "Leased
Land");

TOGETHER with all the buildings and improvements now or hereafter erected on the
Leased Land, and all easements, rights, appurtenances and rents, all of which shall be deemed to
be and remain a part of the property covered by this Mortgage; and all of the foregoing, are
hereinafter referred to as the "Property." Lender acknowledges that Borrower is mortgaging 1) the
building and improvements owned by the Borrower; and 2) the Borrower's leasehold interest in
the Leased Land. Nothing in this Mortgage shall be construed as giving Lender a claim on the
Community Land Trust's fee simple interest in the Leased Land.

BORROWER COVENANTS represents and warrants to the Lender and its successors and
assigns that Borrower is lawfully seized of the estate hereby conveyed and has the right to
mortgage, grant and convey the Property, and that the Property is unencumbered, except for the
mortgage lien of the First Mortgage in favor of Mortgage Lender, and for other encumbrances of
record. Borrower covenants, represents and warrants to the Lender and its successors and assigns
that Borrower will defend generally the title to the Property against all claims and demands, subject
to the mortgage lien of the First Mortgage and other encumbrances of record.

BORROWER FURTHER COVENANTS and agrees with the Lender as follows:

1. **Payment.** The Borrower shall pay any indebtedness due under the Note.
2. **Prior Mortgages and Deeds of Trust; Charges; Liens.** The Borrower shall perform all of the Borrower's obligations under the First Mortgage and any other mortgage, or other security agreement with a lien which has priority over this Mortgage, including the Borrower's covenants to make payments when due. The Borrower shall pay or cause to be paid all taxes, assessments and other charges, fines and impositions attributable to the Property, which may attain a priority over this Mortgage, and leasehold payments or ground rents, if any.
3. **Hazard Insurance.** The Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage", and such other hazards as the Lender may require and in such amounts and for such periods as the Lender may require.

The insurance carrier providing the insurance shall be chosen by the Borrower subject to approval by the Lender; provided, that such approval shall not be unreasonably withheld. All insurance policies and renewals thereof shall be in a form acceptable to the Lender and shall include a standard mortgage clause in favor of, and in a form acceptable to the Lender. The Lender shall have the right to hold the policies and renewals thereof, subject to the terms of the First Mortgage and any other mortgage, or other security agreement with a lien which has priority over this Mortgage.

In the event of loss, the Borrower shall give prompt notice to the insurance carrier and to the Lender. The Lender may make proof of loss if not made promptly by the Borrower.

If the Property is abandoned by the Borrower, or if the Borrower fails to respond to the Lender within thirty (30) days from the date notice is mailed by the Lender to the Borrower that the insurance carrier offers to settle a claim for insurance benefits, the Lender is authorized to collect and apply the insurance proceeds at the Lender's option either to restoration or repair of the Property or to the sums secured by this Mortgage.

4. **Preservation and Maintenance of Property; Leaseholds; Condominiums, Planned Unit Developments.** The Borrower shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property and shall comply with the provisions of any lease if this Mortgage is on a leasehold. If this Mortgage is on a unit in a condominium or a planned unit development, the Borrower shall perform all of the Borrowers obligations under the declaration or covenants creating or governing such condominium or planned unit development, and constituent documents.

5. **Protection of Lenders Security.** If the Borrower fails to perform the covenants and agreements contained in this Mortgage, or if any action or proceeding is commenced which materially affects the Lender's interest in the Property, then the Lender, at the Lender's option, upon notice to the Borrower, may make such appearances, disburse such sums, including reasonable attorneys' fees, and take such action as is necessary to protect the Lender's interest in the Property. If the Lender required mortgage insurance as a condition of making the Second

Mortgage Loan secured by this Mortgage, the Borrower shall pay the premiums required to maintain such insurance in effect until such time as the requirement for such insurance terminates in accordance with the Borrowers and the Lenders written agreement or applicable law.

Any amounts disbursed by the Lender pursuant to this Paragraph 5, with interest thereon, at the rate of seven percent (7%) per annum, or the then statutory rate of interest as established from year to year under section 55.03, Florida Statutes, shall become additional indebtedness of the Borrower secured by this Mortgage. Unless the Borrower and the Lender agree to other terms of payment, such amounts shall be payable upon notice from the Lender to the Borrower requesting payment thereof. Nothing contained in this Paragraph 5 shall require the Lender to incur any expense or take any action hereunder.

6. **Inspection.** The Lender may make or cause to be made reasonable entries upon and inspections of the Property; provided that the Lender shall give the Borrower notice prior to any such inspection specifying reasonable cause therefor related to the Lender's interest in the Property.

7. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to the Lender, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage.

8. **Successors and Assigns Bound; Joint and Several Liability; Co-Signers.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to the respective successors and assigns of the Lender and the Borrower, subject to the provisions of Paragraph 13 hereof. If more than one Borrower executes this Mortgage, all covenants, representations, warranties and agreements of Borrower shall be joint and several. Any Borrower who co-signs this Mortgage, but does not execute the Note; (a) is cosigning this Mortgage only to mortgage, grant and convey that Borrower's interest in the property to the Lender under the terms of this Mortgage, (b) is not personally liable on the Note or under this Mortgage, and (c) agrees that Lender and any other Borrower hereunder may agree to extend, modify, forbear, or make any other accommodations with regard to the terms of this Mortgage or the Note without that Borrower's consent and without releasing that Borrower or modifying this Mortgage as to that Borrower's interest in the Property.

9. **Notice.** Except for any notice required under applicable law to be given in another manner: (a) any notice to the Borrower provided for in this Mortgage shall be given by delivering it or by mailing such notice by certified or registered mail, postage prepaid, addressed to the Borrower at the Property Address or at such other address as the Borrower may designate by notice to the Lender as provided herein, and (b) any notice to the Lender shall be given by certified mail, postage prepaid, to the Lender's address stated on page 1 hereof, or to such other address as the Lender may designate by notice to the Borrower as provided herein. Any notice provided for in this Mortgage shall be deemed to have been given to the Borrower or the Lender when given in the manner designated herein.

10. **Governing Law; Severability; Costs.** This Mortgage shall be governed by the laws of the State of Florida, and, to the extent applicable hereto, the laws and regulations of the United States of America. In the event that any provision or clause of this Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note, which can be given effect without the conflicting, provision, and to this end the provisions of this Mortgage and the Note are declared to be severable. As used herein, "costs," "expenses," and "attorneys' fees" include all sums to the extent not prohibited by applicable law or limited herein.

11. **Borrowers Copy.** Borrower shall be furnished a conformed copy of the Note and of this Mortgage at the time of execution or after recordation thereof.

12. **Transfer of the Property; Assumption; Release by Lender.** If all or any part of the Property or any interest in it is sold, transferred, gifted, or conveyed without prior written approval by _____, the approved Community Land Trust (CLT), whether by voluntary act, involuntarily, by operation of law or otherwise, or if the Borrower is divested of title by judicial sale, levy or other proceeding, or if foreclosure action is instituted against the Property, or if the Borrower loses homestead exception status on the Property, or if the Property fails to be the Borrower's primary residence, or if the Property is rented, all sums secured by this Mortgage shall immediately become due and payable as provided herein, from date of such transfer, gift or other conveyance, until paid in full. **THIS MORTGAGE IS ASSUMABLE.**

Lender agrees that this Mortgage and Note under this Mortgage are assumable to income-eligible subsequent purchasers with prior written approval by _____, the approved Community Land Trust (CLT), without constituting a default under this Mortgage. The Borrower and CLT jointly shall promptly notify Lender prior to the assumption of this Mortgage by a subsequent purchaser. Lender agrees to release the Borrower from all personal and other liabilities under this Mortgage upon the assumption of this Mortgage by a subsequent purchaser.

If the Borrower assisted under this program dies during the loan term, the obligations under this Note may be assumed by a SHIP eligible heir and the deferred loan shall continue in force as long as the heir occupies the home as a primary residence. If the legal heir is not SHIP eligible or chooses not to occupy the home, the unforgiven balance shall become immediately due and payable.

Lender or Servicer on behalf of the Lender shall give Borrower notice of any acceleration. The acceleration notice shall provide a period of not less than thirty (30) days from the date the notice is given in accordance with Paragraph 10 hereof within which the Borrower must pay all sums secured by this Mortgage. If Borrower fails to pay these sums prior to the expiration of this period, the Lender may invoke any remedies permitted by this mortgage without further notice or demand on the Borrower.

13. **Acceleration; Remedies.** Except as provided in Paragraph 12 hereof, upon the Borrower's breach of any covenant or agreement of the Borrower in this Mortgage, or in the event that the Borrower shall have made material misrepresentations or materials omissions in

his/her/their application for a Second Mortgage Loan, the Lender, at the Lender's option, may declare all of the sums secured by this Mortgage to be immediately due and payable without further demand and may foreclose this Mortgage by judicial proceeding. Prior to acceleration of this Mortgage, the Lender shall give notice to the Borrower as provided in Paragraph 9 hereof specifying (1) the breach (if the breach is curable); (2) the action required to cure such breach;(3) a date, not less than ten (10) days from the date the notice is mailed to Borrower, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Mortgage, foreclosure by judicial proceeding, and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and, the right to assert in the foreclosure proceeding the nonexistence of a default or any other defense of Borrower to collect in such proceeding all expenses of foreclosure, including, but not limited to, reasonable attorneys' fees, court costs, and costs of documentary evidence, abstracts and title reports.

14. Community Land Trust Right to Cure; Option to Purchase; Liabilities. If Lender sends a notice of default to the Borrower, Lender shall, at the same time, send a copy of that notice to the Community Land Trust (CLT). In the event of default, Borrower and Lender agree that the CLT has the option, but not the obligation, to cure the default on the Borrower's behalf (the "cure period"), provided that all current payments due the Lender since the notice of default was given are made to the Lender.

If the Lender acquires title to the Home and Borrower's interest in the Leased Land through foreclosure or acceptance of deed in lieu of foreclosure, the Lender shall give the CLT written notice of such acquisition and the CLT shall have an option to purchase the Home and Borrower's interest in the Leased Land from the Lender for the full amount owing to the Lender; provided, however, that the CLT notifies the Lender in writing of the CLT's intent to make such purchase within thirty (30) days following the CLT's receipt of the Lender's notice of such acquisition of the Home and Borrower's interest in the Leased Land; further provided that the CLT shall complete such purchase within sixty (60) days of having given written notice of its intent to purchase; and provided that, if the CLT does not complete the purchase within such period, the Lender shall be free to sell the Home and Borrower's interest in the Leased Land.

Nothing in this Mortgage shall be construed as rendering the CLT or any subsequent holder of the CLT's interest in and to the Lease, or their respective heirs, executors, successors or assigns, personally liable for the payment of the debt evidenced by this Mortgage and respective Note. It is the intention of the parties hereto that the CLT's consent to the Mortgage shall be without any liability on the part of the CLT for any deficiency judgment.

15. Borrowers Right to Reinstate. Notwithstanding the Lenders acceleration of the sums secured by this Mortgage due to the Borrower's breach, the Borrower shall have the right to have any proceedings begun by the Lender to enforce this Mortgage discontinued at any time prior to entry of a judgment enforcing this Mortgage if: (a) the Borrower pays the Lender all sums which would be then due under this Mortgage and the Note had no acceleration occurred; (b) the Borrower cures all breaches of any other covenants or agreements of the Borrower contained in this Mortgage; (c) the Borrower pays all reasonable expenses incurred by the Lender in enforcing

the covenants and agreements of the Borrower contained in this Mortgage, and in enforcing the Lender's remedies as provided in Paragraph 13 hereof, including, but not limited to, reasonable attorneys' fees and court costs; and (d) the Borrower takes such action as the Lender may reasonably require to assure that the lien of this Mortgage, the Lender's interest in the Property and the Borrower's obligation to pay the sums secured by this Mortgage shall continue unimpaired. Upon such payment and cure by the Borrower, this Mortgage and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

16. **Annual Report.** Program regulations require that the Owner report to Lender annually information regarding evidence of hazard and flood insurance, if applicable, on the Property during the term of the Mortgage. Failure on the part of the Owner to meet these conditions will constitute a breach of this Mortgage. The Owner shall be notified of this breach and must thereafter comply with the requirements set forth in paragraph 13.

17. **Occupancy.** The Owner of the loan evidenced by the Promissory Note executed of even date herewith understands, acknowledges, and agrees that said loan is for _____. The Owner must reside in said dwelling. Failure of the Owner to maintain continuous residency in said dwelling shall constitute a default under this Mortgage.

18. **Restrictions on Use.** The Owner understands that the assistance provided by this program is limited to single-family owner-occupied housing. Failure of the owner to reside in the Property is a violation of this agreement. Renting or subletting a portion of or all of the Property is a violation of this agreement. By executing this agreement, the owner is bound to restrictions of use as required by the City of _____ Code. The property shall be used as a single-family residence and no addition or improvement will change the use of the property and no additions, construction, or improvements will be made to the property without proper permitting and inspections as required by the _____ Building Code. If there has been an order of the Code Enforcement Board or the Hearing Examiner finds that the Owner has violated the foregoing provisions, the Owner agrees his Mortgage Lien shall not be released and the Owner will be required to repay the balance of the mortgage lien at the time of sale, refinance or title transfer of the property. The balance due will be determined based on the date the violation is adjudicated.

19. **Subordination.** Lender and Borrower acknowledge and agree that this Security Instrument is subject and subordinate in all respects to the liens, terms, covenants and conditions of the First Mortgage. Owner covenants and agrees to comply with all of the terms and provisions of the First Mortgage. Further, any default on the part of the Owner herein under the terms of the Prior Mortgage or the Note secured hereby shall constitute a default under the terms of this Mortgage and the Note secured thereby and shall entitle the Lender herein to exercise any and all rights and remedies given hereunder. The terms and provisions of the First Mortgage are paramount and controlling, and they supersede any other terms and provisions hereof in conflict therewith.

In the event of a foreclosure or deed in lieu of foreclosure of the First Mortgage, any provisions herein or any provisions in any other collateral agreement restricting the use of the Property to low or moderate income households or otherwise restricting the Borrower's ability to sell the Property may have no further force or effect on subsequent owners or purchasers of the Property. Any person, including his successors or assigns (other than the Borrower or a related entity of the Borrower), receiving title to the Property through a foreclosure or deed in lieu of foreclosure of the First Mortgage shall receive title to the Property free and clear from such restrictions.

Further, if the Senior Lien Holder acquires title to the Property pursuant to a deed in lieu of foreclosure, the lien of this Security Instrument shall terminate at the discretion of the Lender upon the Senior Lien Holder's acquisition of title, such termination will not be unreasonably withheld provided that (i) the Lender has been given written notice of a default under the First Mortgage, (ii) the Lender shall not have cured the default under the First Mortgage within the thirty (30)-day period provided in such notice sent to the Lender, and (iii) there is not sufficient equity in the Property to satisfy the senior lien (assuming reasonable costs) and the lien of this Mortgage Loan.

20. **Release.** Upon payment of all sums secured by this Mortgage, Lender shall release this Mortgage. Borrower shall pay all costs of preparation or recordation of the satisfaction, if any. Lender shall also release a Borrower from personal and other liability upon a subsequent purchaser assuming this Mortgage. Borrower shall not be personally or otherwise liable for this Mortgage once it is assumed by a subsequent purchaser.

21. **Attorneys' Fees.** As used in this Mortgage and in the Note, "attorneys' fees" shall include attorneys' fees, if any, incurred in connection with the collection or enforcement of this Mortgage or of the Note, whether or not suit is brought and whether incurred at trial, on appeal, in bankruptcy proceedings or otherwise.

IN WITNESS WHEREOF, the Borrower has executed this Mortgage.

NOTICE TO BORROWER
DO NOT SIGN THIS MORTGAGE IF IT CONTAINS BLANK SPACES.
ALL SPACES SHOULD BE COMPLETED BEFORE YOU SIGN.

Signed, sealed and delivered
in the presence of:

Print Name: _____

Borrower Name Printed: _____

Address: _____

Print Name: _____

Borrower Name Printed: _____

Address: _____

STATE OF FLORIDA)

COUNTY OF)

The foregoing instrument was acknowledged before me on the _____ day of _____, 20____, by _____ (Borrower), and _____ (Borrower), who is/are personally known to me or who has/have produced _____ (type of identification) as identification.

NOTARY SEAL:

NOTARY PUBLIC, STATE OF FLORIDA

Print Name

(Commission Number)

J. Promissory Note for SHIP Purchase Assistance Strategies

PROMISSORY NOTE
HOME BUYER PROGRAM – PURCHASE ASSISTANCE
VERY-LOW OR LOW-INCOME HOME BUYER
SHIP COMMUNITY LAND TRUST

_____ (Date)

1. Principal. FOR VALUE RECEIVED, the undersigned, _____, and, if more than one party, jointly and severally (“Borrower”), whose address is _____, promises to pay to _____, a municipal corporation, (“Lender”), whose address is _____, the principal sum of _____ (\$ _____), (“Principal”). All sums owing under this Note are payable in lawful money of the United States of America. Said principal sum shall bear no interest and the balance due on the deferred loan, if not previously paid, shall be reduced by ten (10%) percent per year at the beginning of the second year of the ten (10)-year loan term until the balance is reduced to zero as defined in paragraph 7 of this Note.

2. Interest. No interest is accrued on this Note.

Any amount required to be paid under Lender’s Note shall be payable at Lender’s office located at _____, or at another place as Lender, from time to time, may designate in writing.

3. Monthly Installments. No monthly installments are required.

4. Maturity Date. This Note is a deferred payment loan made at zero (0) percent interest, which amount shall be forgiven by Lender ten (10) years after date of this Note unless it becomes due and payable in whole or part upon Borrower’s default, or upon the sale, lease or transfer of any interest in the Property except as set forth in this Note.

5. Security

(a) This Note is secured by a Second Mortgage (“Mortgage”) bearing the date of this Note, executed and delivered by Borrower, as Mortgagor, to Lender, as Mortgagee, encumbering property in _____, as more fully described in the Mortgage.

(b) All of the agreements, conditions, covenants, provisions, and stipulations contained in the Mortgage that are to be kept and performed by Borrower are made hereby a part of this Note to the same extent and with the same force and effect as if they were set forth fully herein, and Borrower covenants and agrees to keep and perform them or cause them to be kept and performed strictly in accordance with their terms.

6. Prepayment

Borrower may prepay the whole or any portion of this Note on any date without a penalty.

7. Default and Remedies

If Borrower fails to pay principal on the date on which it falls due or to perform any of the agreements,

conditions, covenants, provisions, or stipulations contained in this Note, and Mortgage, or any First Mortgage as defined in paragraph 2 of the Mortgage, then Lender, at its option and without notice to Borrower, may declare immediately sums due and payable as set forth in the table below. If all or any part of the Property or any interest in it is sold, transferred, or conveyed (or if a beneficial interest in the Property is sold, transferred, or conveyed and Borrower is not a natural person) without the prior written consent of _____, the approved Community Land Trust (CLT), if the Borrower converts the Property to a rental property, if the Borrower loses homestead exception status, or if the Property is no longer the primary residence of the Borrower, Lender may, at its option, require immediate payment in full of all sums secured by this Mortgage. However, this option shall not be exercised by Lender if such exercise is prohibited by state or federal law as of the date of the Mortgage securing this Note.

YEAR OF DEFAULT	PRINCIPAL AMT. DUE	YEAR OF DEFAULT	PRINCIPAL AMT. DUE
1	100%	6	50%
2	90%	7	40%
3	80%	8	30%
4	70%	9	20%
5	60%	10	10%

Payment of this sum may be enforced and recovered in whole or in part at any time by one or more of the remedies provided to Lender in this Note and the Mortgage. The remedies of Lender and the warrants provided in this Note and the Mortgage shall be cumulative and concurrent, and they may be pursued singly, successively, or together at the sole discretion of Lender. They may be exercised as often as occasion shall occur, and failing to exercise one shall in no event be construed as a waiver or release of it.

8. Attorneys' Fees and Costs. If Lender engages any attorney to enforce or construe any provision of this Note or the Mortgage, or as a consequence of any default whether or not any legal action is filed, Borrower shall immediately pay on demand all reasonable attorneys' fees and other Lender's costs, together with interest from the date of demand until paid at the highest rate of interest then applicable to the unpaid principal, as if the unpaid attorneys' fees and costs had been added to the principal.

9. Death of Borrower. If the Borrower/Owner of the housing unit assisted under this program dies during the loan term, the obligations under this Note may be assumed by a SHIP eligible heir and the deferred loan shall continue in force as long as the heir occupies the home as a primary residence. If the legal heir is not SHIP eligible or chooses not to occupy the home, the unforgiven balance shall become immediately due and payable.

10. Assumption. This Note is assumable by income-eligible subsequent purchasers with the prior written approval by _____, the approved Community Land Trust, without constituting a default under this Note. The Borrower and CLT jointly shall promptly notify Lender prior to the assumption of this Note by a subsequent purchaser.

11. Waivers.

(a) Borrower hereby waives and releases all benefit that might accrue to Borrower by virtue of any present or future laws of exemption with regard to real or personal property or any part of the proceeds arising from any sale of that property, from attachment, levy, or sale under execution, or providing for any stay of execution, exemption from civil process, or extension of time for payment. Borrower agrees that any real estate

that may be levied on under a judgment obtained by virtue hereof, on any writ of execution issued thereon, may be sold on any writ in whole or in part in any order desired by Lender.

(b) Borrower and all endorsers, sureties, and guarantors jointly and severally waive presentment for payment, demand, notice of demand, notice of nonpayment or dishonor, protest, notice of protest of this Note, and all other notices in connection with the delivery, acceptance, performance, default, or enforcement of the payment of this Note. They agree that each shall have unconditional liability without regard to the liability of any other party and that they shall not be affected in any manner by any indulgence, extension of time, renewal, waiver, or modification granted or consented to by Lender. Borrower and all endorsers, sureties, and guarantors consent to any and all extensions of time, renewals, waivers, or modifications that may be granted by Lender with respect to the payment or other provisions of this Note, and to the release of any collateral or any part thereof, with or without substitution, and they agree that additional borrowers, endorsers, guarantors, or sureties may become parties hereto without notice to them or affecting their liability hereunder

(c) Lender shall not be considered by any act of omission or commission to have waived any of its rights or remedies hereunder, unless the waiver is in writing and signed by Lender, and then only to the extent specifically set forth in writing. A waiver on one event shall not be construed as continuing or as a bar to or waiver of any right or remedy to a subsequent event

12. Notices. All notices required under or in connection with this Note shall be delivered or sent by certified or registered mail, return receipt requested, postage prepaid, to the addresses set forth in Paragraph 1 hereof, or to another address that any party may designate from time to time by notice to the others in the manner set forth herein. All notices shall be considered to have been given or made at either the time of delivery thereof to an officer or employee or on the third business day following the time of mailing in the aforesaid manner.

13. Costs and Expenses. Borrower shall pay the cost of any revenue tax or other stamps now or hereafter required by law at any time to be affixed to this Note.

14. No Partnership or Joint Venture. Nothing contained in this Note or elsewhere shall be construed as creating a partnership or joint venture between Lender and Borrower or between Lender and any other person or as causing the holder of the Note to be responsible in any way for the debts or obligations of Borrower or any other person.

15. Number and Gender. In this Note the singular shall include the plural and the masculine shall include the feminine and neuter gender, and vice versa, if the context so requires.

16. Headings. Headings at the beginning of each numbered paragraph of this Note are intended solely for convenience of reference and are not to be construed as being a part of the Note.

17. Governing Law. This Note shall be construed and enforced in accordance with the laws of the State of Florida, except to the extent that Federal law preempts the laws of the State of Florida.

IN WITNESS WHEREOF, Borrower has executed this Promissory Note on the date set forth above.

BORROWER

Signature

Print Name

K. Certification Reviewers Guide

Training and Certification Program Reviewer's Guide

Core CLT Best Practices

Legal

Capacity Element	CLT Best Practice	Documents Needed	Questions to Ask
Agency Documents	<ol style="list-style-type: none"> 1) Articles of incorporation that states one purpose is to acquire land to be held in perpetuity primarily for providing affordable housing 2) 501(c)3 Status 3) By-laws written according to model by-laws in 2011 CLT Technical Manual 	<ul style="list-style-type: none"> • Articles of Incorporation • By-Laws • 501(c)(3) Status Documentation 	<ul style="list-style-type: none"> • Are all documents valid and current? • Are the documents easily accessible by appropriate staff?
Ground Lease	<ol style="list-style-type: none"> 1) Ground lease follows model ground lease in 2011 CLT Technical Manual 2) Major modifications or additions to ground lease included is addenda and/or exhibits to the ground lease 3) Formula/Purchase Option price clearly defined (precise language) and simple to calculate 4) Memorandum of ground lease follows model in FHC CLT Primer 	<ul style="list-style-type: none"> • Ground Lease • Memorandum of Ground Lease • Any applicable Ground Lease Riders 	
Risk Management	N/A	<ul style="list-style-type: none"> • Liability insurance 	<ul style="list-style-type: none"> • Are the policies current? • Are policies reviewed regularly by the Board and Management to ensure cost effectiveness?
Legal Counsel	Legal Counsel with clear understanding of CLT model	N/A	

Training and Certification Program Reviewer's Guide

Board

Capacity Element	CLT Best Practice	Documents Needed	Questions to Ask
Board Commitment	Board vacancies are rare and when they occur are quickly filled. Most Board members are engaged, regularly attend meetings and often provide valuable guidance.	<ul style="list-style-type: none"> Board Member Evaluation 	<ul style="list-style-type: none"> Do board members understand and are committed to the organization's mission, by-laws, policies, programs, and their roles and responsibilities as board members? Are board members committed to the long-term stewardship responsibilities of the organization? Does the Board evaluate its performance annually?
Board Committees	Good, meaningful and well-functioning committees in place with most members actively engaged.	<ul style="list-style-type: none"> List of Committees Committee Descriptions List of Committee Memberships including Chairs 	<ul style="list-style-type: none"> Does each committee have a job description? Are there frequent meetings of focused committees? Are new board members involved in board committees?
Board Composition	Board roster is full and in line with By-laws. The majority of board members are able to bring real expertise to the agency and are able to act as a resource for ED and Staff.	<ul style="list-style-type: none"> Board Roster Resumes/Bios of Board Members 	<ul style="list-style-type: none"> Is the board roster full and does the ED cultivate potential board members to fill future gaps? Is the board's size appropriate for accomplishing its work? Do board members have the right mix of skills, knowledge, and background needed to fulfill their responsibilities including functional and program-related expertise? Does the composition of the board reflect the diversity of the community it serves?
Relationship with ED & staff	Board and ED are in total sync driven by a common and passionate goal for the agency's success. Challenging and mutually agreed upon goals are set and ED's performance is evaluated at least annually. Board is empowered to hire or fire ED if necessary.	N/A	<ul style="list-style-type: none"> Does the board adopt and regularly review an annual set of organizational strategic goals and measurable outcomes? Is there an effective working relationship between the board and the ED?

Training and Certification Program Reviewer's Guide

Capacity Element	CLT Best Practice	Documents Needed	Questions to Ask
			<ul style="list-style-type: none"> • Does the board set expectations and qualifications for the ED which are clear and written? • Does the board evaluate the ED in relationship to these expectations? At least annually?
Orientation	A formal orientation is conducted by the ED. New board members are fully informed of the expectation and responsibilities. Members are provided with written material regarding ethics, fiduciary responsibility, potential conflicts, etc.	Board Manual	<ul style="list-style-type: none"> • Are new board members given an orientation to the organization within their first month on the Board? • Are new board members given a packet on assuming their position that includes: <ul style="list-style-type: none"> ○ An organizational chart, summaries of all programs/services, a list of key staff and their positions, brief biographies of all Board Members, a copy of the by-laws, financial statements from the previous two years, board minutes from the previous two years, annual and auditor's reports for the previous two years? • Do board members have written and relevant job descriptions?
Governance	Roles of advisory board, committees and executive board are defined and function well. Board has expertise to review and interpret financial statements, budgets, audits, and program reports and can provide valuable advice. Board meetings are well organized and productive.		<ul style="list-style-type: none"> • Has the board adopted a set of by-laws that defines its essential responsibilities? • Does the board regularly update and adopt a set of policies to govern the organization in the areas of finance, human resources, fund development, communications? • Does the Board meet regularly, operate with a quorum, and record minutes of all meetings? • Are board meetings well organized and productive: <ul style="list-style-type: none"> ○ Are the rules of meeting conduct followed? Are written agendas sent out before meetings? Are minutes sent out shortly after board meetings? Are minutes approved by the board?

Training and Certification Program Reviewer's Guide

Stewardship

Capacity Element	CLT Best Practice	Documents Needed	Questions to Ask
Homebuyer Education	<ul style="list-style-type: none"> CLT requires homebuyer education, relying upon relationships with other organizations for its homebuyers to complete this requirement, who include a module for CLT homeownership within their course CLT meets with homebuyers at least once prior to closing to discuss CLT homeownership and requires homebuyers to pass a written test demonstrating their understanding along with a signed attestation CLT offers counseling to perspective homebuyers either through formal program or informally 	<ul style="list-style-type: none"> Homebuyer Education materials Homebuyer education schedule (if CLT does its own) Form of Attestation 	<ul style="list-style-type: none"> Does the CLT conduct its own homebuyer education course? If not, does the CLT have formal relationship with another agency or agencies to do this? Does the CLT provide materials specific to CLT homeownership as part of HB education? Does the CLT offer homebuyer counseling? Is it offered formally (by appointment, required for participation in the program, etc.) or informally? Does the CLT meet at least once with homebuyers on a one-on-one basis prior to purchase? Does the CLT require that homebuyers demonstrate understanding of CLT homeownership? Does the CLT utilize or is willing to utilize the model HB and Financial Education modules? Does the CLT require signed attestation by homebuyers prior to purchase to confirm understanding of CLT homeownership?
Ongoing Communication with Homeowners	<ul style="list-style-type: none"> CLT has scheduled post-closing meeting with homeowners. Meetings may be formal or informal. CLT communicates at least twice a year with members through newsletter, gatherings or other means CLT maintains open-door policy to meeting with homeowners post-closing outside of scheduled activities 	<ul style="list-style-type: none"> Newsletters, mailouts or other material shared with homeowners post purchase (hard copy and electronic) 	<ul style="list-style-type: none"> Does the CLT require or offer a post-closing meeting with homeowners? How does the CLT otherwise maintain contact with homeowners after purchase (through what means and how often)? Can homeowners meet with staff for any reason outside of scheduled activities?
Resale Procedures	<ul style="list-style-type: none"> CLT has written resale procedures provided to homeowners and understood by staff CLT maintains list of perspective homebuyers from attendees of homebuyer education classes, website forms, counseling and other means CLT maintains sufficient reserves and/or has line of credit to repurchase homes or place homes under contract while it 	<ul style="list-style-type: none"> Written resale procedures (from Operations Manual or document other than the Ground Lease) Waiting list or lead list of potential homebuyers 	<ul style="list-style-type: none"> Ask the CLT to describe its resale procedures Does the CLT detail these procedures in a written document other than what's provided in the Ground Lease? Does the CLT handle the entire resale process (place property under contract, market the property, identify the buyer, etc.)? Is there a fee charged for this service?

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	<p>identifies a subsequent homebuyer, relieving the seller of this responsibility</p> <ul style="list-style-type: none"> CLT markets homes for sale utilizing its own real estate license, licensees on staff or relationships with local firms that understand CLT homeownership 	<ul style="list-style-type: none"> Marketing materials for homes for sale (past or present) Evidence of line of credit or other financial means to repurchase properties if necessary 	<ul style="list-style-type: none"> Does the CLT or any staff members have a real estate license? If not, does the CLT have relationships with agents or agencies to market homes for sale? Has the CLT ever bought back a property or will it buy properties back if necessary? What are the determining factors for that decision?
Default Procedures	<ul style="list-style-type: none"> Through homebuyer education, counseling and or regular communication post-closing, homeowners understand to contact CLT in case of financial difficulty CLT will utilize its own resources to cure default on homeowner's behalf as first resort (if homeowner cannot) CLT maintains adequate resources to exercise repurchase option in case of default 	<ul style="list-style-type: none"> Evidence of line of credit or other financial means to repurchase properties if necessary Evidence of utilization of the Freddie Mac lease rider as appropriate 	<ul style="list-style-type: none"> Has the CLT ever had any foreclosures or other defaults? If so, what caused the default? Was the CLT able to save the unit? If so, how? If not, why not? Does the CLT have written default procedures (in an Operations Manual or document other than the Ground Lease)? Are homeowners aware that they should contact the CLT in case of financial difficulty or other hardship? How does the CLT help homeowners maintain ownership in case of financial difficulty or other hardship?

Senior Management

Capacity Element	CLT Best Practice	Documents Needed	Questions to Ask
Experience	Executive Director and/or Senior Management are well qualified with relevant experience and education specifically related to agency and mission.	<ul style="list-style-type: none"> Job Description Resume 	<ul style="list-style-type: none"> What are the qualifications of the ED? Does the ED have specific experience with homeownership programs? Does the ED have non-profit management experience?
Internal Leadership	Management Team is well respected by staff. Demonstrates dynamic leadership, devoted to both agency and staff development, effective team builder.	N/A	<ul style="list-style-type: none"> Is the ED evaluated on at least an annual basis?
Dependence on ED	Reliance, but not dependence on ED. Strong senior management in place to easily assume duties. Seamless transition to new leadership.	N/A	<ul style="list-style-type: none"> Are there leadership and management succession plans in place with a process to deal with an unplanned absence of the ED?

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Capacity Element	CLT Best Practice	Documents Needed	Questions to Ask
			<ul style="list-style-type: none"> Is there a strategic leadership development plan to expand the organization's pool of capable leadership?
Community Leadership	ED is energetic, popular, and respected in community. Able to effectively showcase organizational accomplishments and communicate goals and objectives.	List of community meetings and events attended by the Executive Director and/or Senior Leadership within the past 12 month, including role at such events (keynote speaker, panelist, exhibitor, etc.)	<ul style="list-style-type: none"> Does the ED participate in community events and meetings to showcase the organization's accomplishments and communicate goals and objectives? Do local governments, community residents, and other stakeholders have a favorable view of the organization?

Staff

Capacity Element	CLT Best Practice	Documents Needed	Questions to Ask
Staff Roles and Responsibilities	Each staff person performs an unduplicated and clearly defined role. All organization needs are met in an efficient manner.	<ul style="list-style-type: none"> Organizational Chart Job descriptions for each staff member 	<ul style="list-style-type: none"> Does each staff person have an up-to-date job description indicating appropriate training and experience? Do staff members understand their responsibilities?
Staff Experience	Most staff members are experienced and well qualified for the majority of tasks associated with their current position. When deficiencies are identified they are rapidly and constructively addressed.	<ul style="list-style-type: none"> Resumes for each staff member and/or independent contractor 	<ul style="list-style-type: none"> How long have the staff members worked with the CLT? Prior to working for the CLT, did the staff have experience working with affordable housing programs? Does the staff have sufficient skills, experience, and knowledge to carry out the programs of the CLT, including a basic understanding of the CLT model and ability to communicate it to others. Does the staff appear to have experience with affordable housing programs, specifically affordable homeownership programs, and familiarity with government programs through which affordable housing is subsidized?

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Capacity Element	CLT Best Practice	Documents Needed	Questions to Ask
			<ul style="list-style-type: none"> Are the staff familiar with other local affordable housing programs or resources and how they relate to the CLT operations? Are staff encouraged to participate in training or opportunities to upgrade their skills?
Motivation & self-direction	All staff are committed to mission, self-directed, motivated and able to perform well with minimal supervision. Demonstrate good problem-solving ability and frequently show initiative.	N/A	<ul style="list-style-type: none"> Can the staff clearly describe the vision and mission of the CLT?

Financial

Capacity Element	CLT Best Practice	Documents Needed	Questions to Ask
Policies and Procedures	Good fiscal policies in place and regularly followed. Appropriate checks and balances exist	<ul style="list-style-type: none"> Any written fiscal policies 	<ul style="list-style-type: none"> How does the CLT manage finances? Who is responsible for managing finances? How often is cash flow monitored and evaluated?
Financial Management and Reporting	<ol style="list-style-type: none"> Strict adherence to generally accepted accounting practices. Audits and financial reports reviewed by ED and board Audits and tax returns completed in a timely manner No indications of financial distress (Audits and financial reports indicate current assets exceed current liabilities, income exceeds expenses, operating reserves, no other major concerns in audit) 	<ul style="list-style-type: none"> IRS Form 990 Tax Returns Financial Reports 	<ul style="list-style-type: none"> What are the CLT's accounting practices? Does the Executive Director review audits and financial reports with the Board? Are audits and tax returns completed in a timely manner? Is fiscal information routinely scrutinized and used as a tool to evaluate organizational strength?
Budgeting	Budget is formulated annually with input by board and ED. Variances are routinely examined and corrective action taken as needed to ensure compliance.	<ul style="list-style-type: none"> Budget documents 	<ul style="list-style-type: none"> How is budgeting integrated into the operations of the organization? How is the budget formed and scrutinized?
Revenue Sources	<p>Organization has diverse revenue sources indicating resiliency and sustainability, including at least 3 of the following sources:</p> <ol style="list-style-type: none"> Development fees Ground lease fees Rental revenue Membership dues 	<ul style="list-style-type: none"> Any grant-writing, fund-securing, or related documents 	<ul style="list-style-type: none"> How does the CLT secure funding? Where does the CLT get their funds? What is the CLT's grant-writing process? Does the organization gain revenue from development fees? Ground lease fees? Rental revenue? Membership dues? Grants and donations? Income from related programs?

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	5) Grants and donations 6) Income from related programs		
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Systems and Infrastructure

Capacity Element	CLT Best Practice	Documents Needed	Questions to Ask
Technology Infrastructure	<ul style="list-style-type: none"> Up to date equipment and programs in place and operational. All software is licensed. Improvements in systems occur as budget and time permit. 	N/A	<ul style="list-style-type: none"> What operating system is the CLT currently using? When was the last time technology was upgraded? Are technology licenses and upgrades a line item in the budget?
Technological Expertise	<ul style="list-style-type: none"> All staff are computer literate and able to operate systems and equipment relevant to their position. Additional or advanced training is encouraged. 	N/A	<ul style="list-style-type: none"> Does all staff feel comfortable operating the technology and working within operating systems? Is technology training required or encouraged (i.e. paid for by the CLT)?
Database Management	<ul style="list-style-type: none"> Good electronic database management is in place. Tracking and reporting systems operate well, and can compile, report and analyze basic data. 	N/A	<ul style="list-style-type: none"> Does the CLT use HomeKeeper? If not, what database system(s) is being utilized? How are reports produced for Board and staff review?
Records and Filing	<ul style="list-style-type: none"> As appropriate, files are put into electronic format and are easily accessible through the database system. Paper files are well-organized and complete. File are reviewed regularly by staff to ensure compliance. 	<ul style="list-style-type: none"> Records and filing policy 	<ul style="list-style-type: none">
Physical Infrastructure	<ul style="list-style-type: none"> Physical infrastructure is good, well maintained, meets all accessibility guidelines and is used efficiently 	N/A	<ul style="list-style-type: none"> Does the CLT own or rent its current office location? Is the CLT sharing space with any other organization? Is the location large enough to accommodate all staff and operational needs? Does the location have any deferred maintenance? Are there any plans to move locations in the near future?

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General Best Practices

Mission and Vision

Capacity Element	CLT Best Practice	Documents Needed	Questions to Ask
Mission	Mission statement is clear, held throughout the organization and frequently referenced	<ul style="list-style-type: none"> Mission Statement 	<ul style="list-style-type: none"> How is the mission statement incorporated into daily operations? Is the mission statement frequently referenced?
Vision	Vision is written, distributed to staff, and frequently used to inform policy and priorities	<ul style="list-style-type: none"> Any documents related to vision 	<ul style="list-style-type: none"> What is the vision of the CLT? Are there written documents distributed to staff about the CLT's vision? Is the CLT's vision frequently referred to and used to inform policy and priorities?
Goals & Strategic Planning	Strategic plan is written, adopted and reviewed annually by the Board, and contains clear goals with measurable outcomes	<ul style="list-style-type: none"> Strategic Planning documents 	<ul style="list-style-type: none"> How often does the CLT review its strategic planning documents? How does the CLT gather input for developing these documents? How are goals set within the CLT? How does the CLT ensure these goals are met? How does the Strategic Plan guide decisions?

Program Management

Capacity Element	CLT Best Practice	Documents Needed	Questions to Ask
Policies and Procedures	<ul style="list-style-type: none"> Clear and concise written policies and procedures are in place for most programs and are frequently referred to by staff. Policies and procedures are periodically updated 	<ul style="list-style-type: none"> Operations Manual containing policies and procedures manual or other program operating documents 	<ul style="list-style-type: none"> Is there a comprehensive/consolidated policies and procedures within an operations manual that includes directions for most or all programs? How often are policies and procedures updated? How would staff describe or rate its own adherence to policies and procedures?
Job Design	<ul style="list-style-type: none"> Staff has demonstrated training and expertise to perform duties of job and execute programs/activities Staff is able to verify the credentials of consultants and partner organizations who carry out work for the CLT 	<ul style="list-style-type: none"> Job descriptions for each position 	<ul style="list-style-type: none"> Are staff performing tasks within their expertise or training? If not, what efforts are being made to train staff to execute programs/activities? Is there a need for additional staff?

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			<ul style="list-style-type: none"> Are any duties being carried out by consultants or other organizations? If so, what was the selection process?
Program/Activity Design	<ul style="list-style-type: none"> All programs and activities support the CLT's mission or affordable housing generally. 	<ul style="list-style-type: none"> Program/Activity descriptions 	<ul style="list-style-type: none"> What programs/activities does the CLT currently carry out (i.e. homeownership development, rental development, property management, etc.)? Do they all support the mission of the CLT? How active is the CLT with each program? How much time is spent on programs that do not necessarily support the CLT's mission? Are there plans for any new programs or innovations?
Program/Activity Reporting and Measurement	<ul style="list-style-type: none"> The CLT should be up-to-date on all of its reporting requirements, internal and external Reports are evaluated to ensure goals and objectives are being met 	<ul style="list-style-type: none"> Any recent program compliance monitoring reports to funders from the past 12 months Internal program reports for staff and Board from the past 12 months 	<ul style="list-style-type: none"> How is the CLT measuring the results and impact of each program or activity? How often are reports generated for the CLT's programs and activities? Is the CLT meeting its goals with each program and activity? Is the CLT on time with external reporting to funders?

Human Resources

Capacity Element	CLT Best Practice	Documents Needed	Questions to Ask
HR Staff	Good written HR policies and procedures in place. Administered and updated by knowledgeable staff.	<ul style="list-style-type: none"> HR policies 	<ul style="list-style-type: none"> Does the organization have written personnel policies, Board approved and available to the staff? Do the personnel policies include hiring procedures, performance reviews, employee benefits policies and procedures, grievance procedures, termination procedures, non-discrimination and ADA compliance policies, record keeping procedures, payroll related policies and procedures, and professional development and training policies and procedures?

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Capacity Element	CLT Best Practice	Documents Needed	Questions to Ask
			<ul style="list-style-type: none"> Are written personnel policies reviewed and updated as appropriate to maintain compliance with legal requirements?
Staff training & development	Staff frequently requests and attends formal training classes and workshops. New staff follow a standardized internal training regimen to ensure they have a good understanding of job requirements and responsibilities.	N/A	<ul style="list-style-type: none"> Are staff members provided with opportunities to upgrade their skills? Describe training that staff most recently completed including topics and training date.
Compensation & benefits	Staff and ED are fairly compensated according to industry standards and receive good benefits. Regular and comprehensive reviews are conducted, and compensation is tied to performance.	N/A	<ul style="list-style-type: none"> Does the organization have an adequate compensation system/guideline, including salary standards, retirement benefits, health care benefits, and systems for bonuses, awards, and recognition of high performance, that is on par with similar organizations? Does the board review the organization's overall salary structure and employee benefits? Are staff members evaluated at least on an annual basis and given constructive feedback from managers on a regular basis?

Community

Capacity Element	CLT Certification Requirements	Documents Needed	Questions to Ask
Relationships with Funders	<ul style="list-style-type: none"> The CLT successfully completes projects according to funding goals and objectives 	<ul style="list-style-type: none"> Funding agreements 	<ul style="list-style-type: none"> Who are the CLTs major funders both public and private? (CLT ideally works with more than one) How many years receiving funds from each funder? Amount of funds received? For what purpose(s)? How would the CLT describe the professional relationship with the funder's staff? Any issues/challenges with meeting goals and objectives of funding? Does the CLT have CHDO status?

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Relationships with Partners	<ul style="list-style-type: none"> As a practice, the CLT formalizes partnerships through written agreements Partnerships serve to increase organizational capacity, increase opportunities, or at least engender community goodwill 	<ul style="list-style-type: none"> Any MOUs, partnership agreements or service contracts 	<ul style="list-style-type: none"> Does the CLT partner with other organizations (other nonprofits, for profit businesses, etc.)? If so, for what purpose(s)? What drove or drives the decision to partner? How have those partnerships proven beneficial to the CLT and its mission (e.g. the ability to obtain and/or execute contracts not able to otherwise)
Community Needs Assessment	<ul style="list-style-type: none"> Staff have at least a working knowledge of planning documents affecting the CLT's service area CLT engages stakeholders (both members and the larger community) through some means at least once a year 	<ul style="list-style-type: none"> Minutes from community meetings, if applicable Applicable community/neighborhood plans completed by local government or others 	<ul style="list-style-type: none"> How often does the CLT meet with its homeowners and/or renters? Does the CLT host events open to the wider community? If so, does the CLT use this as an opportunity to solicit input on programs and activities? Does the CLT serve to address community needs as expressed in a neighborhood plan, city/county comprehensive plan or other planning document? How does the CLT understand its role in relation to the work of other organizations in addressing community needs?
Clients	<ul style="list-style-type: none"> The client process should be clear to potential clients, including requirements to move to each next step and estimated timelines 		<ul style="list-style-type: none"> What is the client process from intake to closing? (Staff should be able to clearly articulate) Does the CLT have a website? Can clients obtain detailed information and/or complete client intake through the website? Does the CLT take "walk-in" applicants or appointments? If so, how is that handled? In the opinion of staff, do clients clearly understand what the CLT does either before or after initial contact? Does staff refer clients (actual or potential) to other resources if the CLT does not or cannot address the client's need? Does the CLT conduct surveys on its client experience?
Policy making	<ul style="list-style-type: none"> CLT is engaged as practicable in local policy initiatives, working groups and program development, promoting permanent affordability 		<ul style="list-style-type: none"> Are there any local policy initiatives, working groups or studies in progress that affect the CLT or affordable housing in general? If so, how is the CLT involved in the discussion (e.g. policy champion, working group member, attending public meetings to keep up with updates, etc.)?

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Marketing

Capacity Element	CLT Best Practice	Documents Needed	Questions to Ask
Community Recognition & Reputation	Stakeholders understand the mission of the CLT, and the organization has an excellent reputation in the community	N/A	<ul style="list-style-type: none"> Does the CLT have an excellent reputation in all aspects of its operations? Do stakeholders understand the mission of the CLT?
Collateral	CLT has an effective system for informing the community about its program(s) and resources, including written and electronic marketing materials	<ul style="list-style-type: none"> Marketing materials Press kits E-Newsletters Annual Reports 	<ul style="list-style-type: none"> How does the CLT employ marketing material? How often? To whom does the CLT target its marketing material?
Publicity	Staff and Board of the CLT work together to actively promote the organization	N/A	<ul style="list-style-type: none"> Does CLT have a dedicated staff person or contracted firm to publicize and promote accomplishments? How does the CLT publicize its work? How does the CLT utilize its Board members for publicity efforts?

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Asset Management

Capacity Element	CLT Certification Requirements	Documents Needed	Questions to Ask
Capital Needs	<ul style="list-style-type: none"> CLT has a process for identifying capital needs and maintains a written capital expenditures plan CLT properly funds reserve accounts as required by funding agreements or other policies 	<ul style="list-style-type: none"> Capital expenditure plan, if written 	<ul style="list-style-type: none"> Does the CLT own and/or manage rental properties? If so, is there a capital reserve account(s) that is regularly funded? Does the CLT have a written capital expenditures plan for its rental properties?
Insurance	<ul style="list-style-type: none"> All required insurance is in place and active, evidenced by current insurance certificates and/or policy documents 	<ul style="list-style-type: none"> Current insurance certificates or policies for all properties Insurance requirements from funding agreements, if applicable 	<ul style="list-style-type: none"> Are all required insurance policies for properties owned and/or managed by the CLT in place, up-to-date, with the appropriate limits and coverages?
Property Performance	<ul style="list-style-type: none"> Multifamily properties owned or managed by the CLT are at least 93% leased Single-family units offered for rent do not report extended periods of vacancy Properties owned or managed have no compliance issues, or written plans of corrective action to address compliance Properties owned or managed report positive cash flow and the ability to cover hard debt, if applicable 	<ul style="list-style-type: none"> Rent Rolls Financial statements for rental properties Aged receivables report(s) 	<ul style="list-style-type: none"> Does the CLT manage properties directly or contract out? How well are properties leased up? Is there a waiting list for vacant units? Are there any program compliance issues at any properties? If any issues with lease-up (such as extended vacancies or occupancy lower than 93% at a multifamily property), what steps are being taken to bring occupancy up? Is there hard debt on any of the rental properties? If so, are properties able to cover debt service and meet required debt service coverage? Are rental properties reporting positive cash flow? How often are performance reports reviewed?
Property Maintenance	<ul style="list-style-type: none"> Properties owned or managed report no deferred maintenance 	N/A	<ul style="list-style-type: none"> Who handles property maintenance? Is there a formal work order system in place?



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			<ul style="list-style-type: none"> • Are work orders promptly addressed? • Any deferred maintenance at rental properties? If so, is there a plan to address?
Tenant Participation	<ul style="list-style-type: none"> • CLT should have regular contact with tenants through direct outreach or through the property manager 	N/A	<ul style="list-style-type: none"> • Do any of the rental properties have tenant associations (formal or informal)? • Is tenant input sought in certain property management decisions?

GSE Requirements (Including those for Duty to Serve)

Freddie Mac Requirements (Reference: Freddie Mac Selling Guide Chapter 4502¹)

- Ground lease based on either the National Community Land Trust Network (NCLTN) 2011 CLT Network Model Ground Lease or the Institute for Community Economics (ICE) Model Ground Lease
- Ground lease has a term for at least 30 years
- Resale formula in the ground lease limits the homeowner's proceeds at resale
- Resale restrictions in ground lease are binding on current and subsequent owners until formally removed, modified or terminated automatically in accordance with their terms
- Ground lease provides CLT or its assignee with preemptive right to repurchase at resale
- Ground lease requires CLT to review and approve refinances
- The CLT completes, executes and records in the public records the Freddie Mac Form 490 Community Land Trust Lease Rider
- The CLT documents that the mortgage files for each homeowner contains an original, certified copy of the Freddie Mac Form 490

Fannie Mae Requirements (Reference: Fannie Mae Selling Guide Section B5-5.1-04 Community Land Trustsⁱⁱ)

- Ground lease based on either the National Community Land Trust Network (NCLTN) 2011 CLT Network Model Ground Lease or the Institute for Community Economics (ICE) Model Ground Lease
- Ground lease has a term for at least 5 years beyond the maturity date of the first mortgage loan
- For Duty to Serve, the ground lease has a term of at least 30 years
- Resale formula in the ground lease limits the homeowner's proceeds at resale
- The ground lease includes a preemptive option for the CLT or its assignee to purchase the homeownership unit from the homeowner at resale
- The ground lease requires the CLT to pre-approve refinances or home equity lines of credit
- The CLT completes, executes and records in the public records Fannie Mae Community Land Trust Ground Lease Rider Form 2100 that ensures that the ground lease conforms with requirements for CLT mortgages including the provision that resale restrictions automatically terminate upon foreclosure or acceptance of a deed-in-lieu of foreclosure

¹ Link: <https://guide.freddie.com/app/guide/chapter/4502>



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¹¹ Link: <https://selling-guide.fanniemae.com/Selling-Guide/Origination-thru-Closing/Subpart-B5-Unique-Eligibility-Underwriting-Considerations/Chapter-B5-5-Community-Seconds-Land-Trusts/Section-B5-5-1-Community-Seconds-and-Community-Land-Trusts/1032996701/B5-5-1-04-Community-Land-Trusts-06-05-2018.htm#:~:text=Fannie%20Mae%20will%20purchase%20loans%20secured%20by%20community,agency%2C%20upon%20the%20borrower%E2%80%99s%20default%20or%20property%20foreclosure.>

L. Form Certification Letter with Score Sheet and Technical Assistance Plan

TO: [EXECUTIVE DIRECTOR, PRESIDENT/CEO OR PROGRAM DIRECTOR], [CLT NAME]

FROM: [REVIEWER NAME, TITLE; REVIEWING AGENCY, ORGANIZATION OR ENTITY NAME]

DATE: [DATE]

SUBJECT: Evaluation of [CLT NAME] for Certification through the CLT Training and Certification Program

[NAME OF REVIEWING AGENCY, ORGANIZATION OR ENTITY] has completed a review of materials submitted by [NAME OF CLT] as part of the process to achieve certification under the CLT Training and Certification Program.

[NAME OF CLT] applied to the CLT Training and Certification Program on [APPLICATION DATE] and committed to providing required documents to be evaluated by [REVIEWER'S] staff, completing training on best practices, and following through with implementation of a technical assistance plan, if necessary.

The information below is a summary of the organization's assessment.

Organization Description

[ADD BRIEF DESCRIPTION OF THE CLT, INCLUDING YEAR ESTABLISHED, CURRENT PORTFOLIO SIZE, GEOGRAPHIC FOCUS, AND ANY UNIQUE OR IMPORTANT OPERATIONAL FACTORS]

Certification Status

A summary of [CLT NAME'S] evaluation to date is provided as an attachment. Based on the evaluation of the organization, [CLT NAME] [HAS MET THE REQUIREMENTS FOR CERTIFICATION, or WILL NEED ADDITIONAL TRAINING OR TECHNICAL ASSISTANCE TOWARDS CERTIFICATION].

Next Steps

[DESCRIPTION OF NEXT STEPS TO INCLUDE ITEMS FOR TECHNICAL ASSISTANCE PLAN AND OTHER ADDITIONAL FOLLOW UP]

Scoring Summary

Core Best Practice Category	Implementation of Required Core Best Practices (Y/N)	Implementation of other Best Practices		%	Comments
		Maximum Score	Score Achieved		
Legal					
Board					
Senior Management					
Staff					
Financial					

Core Best Practice Category	Implementation of Required Core Best Practices (Y/N)	Implementation of other Best Practices		%	Comments
		Maximum Score	Score Achieved		
Stewardship					
Systems and Infrastructure					

General Best Practice Category	Implementation of other Best Practices		%	Comments
	Maximum Score	Score Achieved		
Mission, Vision and Strategic Planning				
Program Management				

General Best Practice Category	Implementation of other Best Practices		%	Comments
	Maximum Score	Score Achieved		
Community				
Marketing				
Human Resources				
Asset Management				

Total Scoring:

Did the CLT demonstrate implementation of all required Core best practices? (Y/N)	
Did the CLT demonstrate the requirements of Freddie Mac Single-Family Seller/Servicer Guide Chapter 4502? (Y/N)	
Did the CLT demonstrate requirements of Fannie Mae’s Selling Guide Section B5-5.1-04? (Y/N)	
Did the CLT score at least 80% on all Core Certification Best Practices not required for Certification category for items with point values, including General Best Practices? (Y/N)	
Did the CLT score at least 75% on all General Practices? (Y/N)	

For Certification:

- CLTs must demonstrate implementation of all required Core CLT Best Practices in each category, indicated by “(REQ)”
- CLTs must demonstrate all Freddie Mac and Fannie Mae requirements

For Gold Standard Certification:

- CLTs must demonstrate implementation of all required Core CLT Best Practices in each category, indicated by “(REQ)”
- CLTs must demonstrate all Freddie Mac and Fannie Mae requirements
- CLTs must score at least 80% in each Core Best Practice category
- CLTs must score at least 75% in each General Best Practice category

Based on the scoring, the [CLT NAME] [HAS ACHIEVED CERTIFICATION or WILL REQUIRE ADDITIONAL TRAINING AND TECHNICAL ASSISTANCE TO ACHIEVE CERTIFICATION].

Technical Assistance Plan

Best Practice Category	Goal	[Reviewing Agency] Responsibility	CLT Responsibility
		[OUTLINE WHAT TRAINING, TECHNICAL ASSISTANCE, OR OTHER SERVICES WILL BE PROVIDED TO HELP THE CLT ACCOMPLISH THE GOAL]	[OUTLINE WHAT THE CLT WILL DO TO ACCOMPLISH THE GOAL]