

# GROUND LEASE

THIS LEASE ("this Lease" or "the Lease") made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between Valley Community Land Trust, Inc. ("VCLT"), as VCLT, and \_\_\_\_\_, as Homeowner ("Homeowner").

WHEREAS, the VCLT is organized exclusively for charitable purposes, including: the development and preservation of decent, affordable housing and the creation of homeownership opportunities for low and moderate income people who otherwise would be denied such opportunities because of limited financial resources; and

WHEREAS, a goal of the VCLT is to stimulate the conveyance of decent, affordable housing among low and moderate income people by providing access to housing for such persons at affordable prices through the long-term leasing of land under said housing; and

WHEREAS, the Leased Premises described in this Lease have been acquired and are being leased by the VCLT in furtherance of these charitable purposes; and

WHEREAS, the Homeowner shares the purposes and goals of the VCLT and has agreed to enter into this Lease not only to obtain those benefits to which the Homeowner is entitled under this Lease, but also to further the charitable purposes of the VCLT; and

WHEREAS, VCLT and Homeowner recognize the special nature of the terms and conditions of this Lease, and each of them, with the independent and informed advice of legal counsel, freely accepts these terms and conditions, including those terms and conditions that may affect the marketing and resale price of any Improvements on the Leased Premises; and

WHEREAS, it is mutually understood and accepted by VCLT and Homeowner that the terms and conditions of this Lease further their shared goals over an extended period of time and through a succession of owners;

NOW THEREFORE, in consideration of the foregoing recitals, of mutual promises of VCLT and Homeowner, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, VCLT and Homeowner agree as follows:

## **ARTICLE 1: Letters of Stipulation and Acknowledgement**

Attached as Exhibit LETTERS OF STIPULATION AND ACKNOWLEDGEMENT and made part of this Lease by reference are (a) a Letter of Stipulation of Homeowner, and (b) a Letter of Acknowledgement of legal counsel of Homeowner, setting forth their review and understanding of this Lease (in particular, but without limitation, Article 10) and related documents for this transaction.

## **ARTICLE 2: Demise of Leased Premises**

2.1 PREMISES: The VCLT, in consideration of the rents reserved and the terms and conditions of this Lease, does hereby demise and leave unto Homeowner, and Homeowner does hereby take and hire from VCLT, the land (the "Land") described in the attached Exhibit PREMISES and any appurtenant rights described in said Exhibit PREMISES (said Land and appurtenant rights referred to in this Lease as the "Leased Premises"). VCLT has furnished to Homeowner a copy of the most current, if any, title report previously obtained by VCLT for the Leased Premises, and Homeowner accepts title to the Leased Premises in their condition "as is" as of the execution of this Lease.

2.2 RESERVATION OF MINERAL AND TIMBER RIGHTS: VCLT reserves to itself all the minerals and other extractive resources, including all timber, with the following exceptions and conditions:

- a) Homeowners may extract minerals and natural resources for their own reasonable personal use within the Leased Premises only. However Homeowners must give the VCLT a 60 day notice of their intention to extract and such extraction shall be performed only in accordance with the agreed-to Land Management Plan described in Section 4.2(a) hereof.

- b) Homeowners may cut and use timber for their own firewood, construction or other reasonable personal use within the Leased Premises only. Such cutting and use of timber must be performed only in accordance with the agreed-to Land Management Plan described in Section 4.2(a) hereof.
- c) This reservation shall not diminish the right of the Homeowner under this Lease to occupy and freely use the Leased Premises. Any eventual extraction by the VCLT of minerals or other extractive resources shall be carried out with as little disruption to the Homeowner as is reasonably possible and in accordance with the agreed-to Land Management Plan described in Section 4.2(a) hereof.

**ARTICLE 3: Duration of Lease**

3.1 PRINCIPAL TERM: The term of this Lease shall be 99 years, commencing on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ and terminating on the \_\_\_\_\_ day of \_\_\_\_\_, 21\_\_, unless terminated sooner or extended as provided below.

3.2 HOMEOWNER'S OPTION TO EXTEND: Homeowner may extend the principal term of this Lease for one (1) additional period of 99 years, subject to all of the provisions of this Lease; provided that VCLT may make changes to the terms of the Lease for the renewal period prior to the beginning of such renewal period but only if these changes do not materially harm Homeowner's rights under the Lease. Not more than 365 nor less than 180 days before the last day of the current term, VCLT shall give Homeowner written notice, stating the date of expiration, describing any changes that VCLT intends to make to the terms of the Lease as permitted above, and reiterating the conditions for renewal as set forth immediately below.

Homeowner's right to exercise the option to extend is subject to the following conditions: (a) within 60 days of receipt of VCLT's notice of impending expiration, Homeowner shall give VCLT written notice, irrevocably exercising the option to extend; (b) this Lease shall be in effect at the time notice of intent to extend is given and on the last day of the term, and (c) there shall not then be an Event of Default by Homeowner under this Lease or under any loan documents between Homeowner and any Permitted Mortgagee.

When Homeowner has rightfully exercised the option to extend, each party shall execute a memorandum, in mutually agreeable recordable form, acknowledging the fact that the option had been exercised and otherwise complying with the requirements of law for an effective memorandum or notice of lease.

3.3 CHANGE OF LESSOR; HOMEOWNER'S RIGHT TO PURCHASE: In the event that ownership of the Land is conveyed or transferred (whether voluntarily or involuntarily) by VCLT to any other person or entity, this Lease shall not cease, but shall remain binding and unaffected. However, in the event VCLT desires or attempts to convey the Land to any person or entity other than a non-profit corporation, charitable trust, governmental agency or other similar entity sharing the goals described in the Recitals above (or as security for a mortgage loan), the Homeowner shall have a right of first refusal to purchase the Land. This right shall be as specified in the attached Exhibit FIRST REFUSAL. Any sale or other transfer contrary to this Section shall be null and void.

**ARTICLE 4: Use of Leased Premises**

4.1 RESIDENTIAL USE ONLY: Homeowner shall use, and shall cause all occupants to use, the Leased Premises and Improvements, as defined in Article 7 hereof, only for residential purposes and any incidental activities related to residential use that are permitted by applicable zoning.

4.2 RESPONSIBLE USE AND COMPLIANCE WITH LAW: Homeowner shall use the Leased Premises in a manner so as not to cause actual harm to others or create any nuisances, public or private; and shall dispose of any and all waste in a safe and sanitary manner. Homeowner shall maintain the Leased Premises and Improvements in good, safe, and habitable condition in all respects except for normal wear and tear, in full compliance with all applicable laws and regulations, and in such condition as is required to maintain the insurance coverage required by Section 9.4 of this Lease.

Homeowners agree to the following conditions and restrictions upon their use of the leasehold premises and interests:

a) Creation and conformance to a Land Management Plan

Homeowner and VCLT together shall develop, in cooperation with land use consultants when necessary, a Land Management Plan ("LMP"), setting forth the natural characteristics of the land and detailing ecologically sound principles and practices for its use. This plan shall include a drawn-to-scale map of the leasehold identifying general land use for unimproved areas and showing current land features (including topology, vegetation, wetlands and other fragile or important natural features), current and planned building locations, vehicle accesses, well or water system and pipelines, septic installations, drainage systems, major plantings. The plan shall divide the leasehold into Land Use Areas including: a house lot as required for town zoning purposes, cleared land for agricultural uses, wetlands, wood-lots, and any other major uses.

The initial LMP and each review of it shall be considered complete only when dated, signed by VCLT and Homeowner, and attached to this lease in Exhibit LMP.

Prior to the completion of the initial LMP or while an LMP remains uncompleted beyond the time allotted in section 4.2.b below, the Homeowner must obtain VCLT's approval before making any changes to the land or vegetation including excavations, roadwork, filling, leveling, well drilling, planting, plowing, tree trimming, tree felling, brush clearing, or mowing. VCLT may withhold such approval without cause until completion of the LMP or any review of it.

In both the creation of the original LMP and the review and update process, the VCLT shall determine the need for consultant involvement and the VCLT shall select the consultants (volunteer or paid person with land use skills). Consultation costs shall be evenly divided between the Homeowner and the VCLT.

VCLT shall notify Homeowner promptly upon selecting one or more consultants for developing the LMP, and if Homeowner does not state objections to the consultants within fifteen (15) days after receipt of this notice, the consultants shall be as stated by VCLT in the notice. If Homeowner does state objections to the consultants selected by VCLT, and VCLT and Homeowner are then unable to agree on consultants within fifteen (15) days of VCLT's receipt of Homeowner's objection, the dispute shall be resolved according to the dispute resolution process set forth in Article 13 below.

Adherence to the LMP is mandatory. Homeowners who wish to engage in land use practices not covered by the plan must first obtain VCLT's approval and work with VCLT to modify the LMP through the established review and update process described herein.

Failure of the Homeowner to participate in creating or maintaining an LMP as called for above, or violation of the land use limits or land management practices in the leasehold's LMP shall be a violation of lease terms, and may be cause for termination under Section 12.2.

b) The LMP shall be reviewed and updated by VCLT and Homeowner together:

- a) regularly at intervals of 5-years commencing on the anniversary of the lease signing and completed within two months, weather permitting,
- b) irregularly commencing whenever VCLT receives a request for approval for improvements by Homeowner under Section 7.3, (d) and (f), or
- c) Irregularly commencing whenever VCLT receives a request for review and update from Homeowner.

c) Revision of leasehold definition

If it comes to VCLT's attention that Homeowner is unable or unwilling to follow the plan for any Land Use Area defined in the LMP (other than the house lot) and VCLT and

Homeowner cannot agree on an alternative use, VCLT shall offer Homeowner the option of signing that section of the leasehold over to VCLT (with a concomitant reduction in the lease fee) in lieu of defaulting on the lease,

4.3 RESPONSIBLE FOR OTHERS: Homeowner shall be responsible for the use of the Leased Premises and Improvements by all residents and their families, friends and visitors and anyone else using the Leased Premises and Improvements with their consent, and shall make all such people aware of the spirit, intent and appropriate terms of this Lease.

4.4 OCCUPANCY: Homeowner shall occupy the Leased Premises for at least six (6) months of each year of this Lease, unless first otherwise agreed to by VCLT in writing. Occupancy by children or other immediate family members or dependents of Homeowner shall be considered occupancy by Homeowner.

4.5 INSPECTION: VCLT may inspect any portion of the Leased Premises and Improvements, except the interior(s) of Homeowner's Improvements, at any reasonable time, but, except in case of emergency, not more than four (4) times in a single calendar year, and in any reasonable manner, upon at least twenty four (24) hours oral notice to Homeowner. In the event of emergency, VCLT may inspect any portion of the Leased Premises and Improvements, except the interior(s) of Homeowner's Improvements, without notice, provided the VCLT shall have made reasonable efforts to give advance notice to Homeowner, and if VCLT shall fail to do so, VCLT shall give Homeowner notice of such entry as soon as possible after it has occurred.

4.6 HOMEOWNER'S RIGHT TO QUIET ENJOYMENT: Homeowner has the right to undisturbed enjoyment of the Leased Premises, and VCLT has no desire or intention to interfere with the personal lives, associations, expressions, or actions of Homeowner, subject to the provisions of this Lease and any legal matters prior in time or right to this Lease.

#### **ARTICLE 5: Ground Lease Fee**

5.1 GROUND LEASE FEE: In consideration of the possession, continued use and occupancy of the Leased Premises, Homeowner shall pay to VCLT a monthly ground lease fee (the "Ground Lease Fee"). The Ground Lease Fee is currently set as \_\_\_\_\_ (\$\_\_\_\_\_) per month and will be adjusted as described in Sec 5.5.

5.2 PAYMENT OF GROUND LEASE FEE: The Ground Lease Fee shall be payable to VCLT, at the address specified in this Lease as VCLT's address, on the first day of each month for as long as this Lease remains in effect, unless, with VCLT's consent, the Ground Lease Fee is to be escrowed by a Permitted Mortgagee, in which case payment shall be made as specified by that Mortgagee. If the Lease commences on a day other than the first of the month, the Homeowner shall pay VCLT a pro-rata portion of the Ground Lease Fee for the balance of the month at the time the Lease is executed. If the Lease terminates on a day other than the first of the month, the VCLT shall pay Homeowner a pro-rata portion of the Ground Lease Fee shall be paid for the balance of the month at the time the Lease is terminated.

In the event that any amount of payable Ground Lease Fee remains unpaid when the Improvements are sold and the Leasehold Estate is transferred to another party, the amount of payable Ground Lease Fee shall be paid to VCLT out of any proceeds of sale otherwise due to Homeowner at the time of sale.

5.3 CALCULATION OF GROUND LEASE FEE: The Ground Lease Fee specified in Section 5.1 above has been calculated as the greater of 1) the fair rental value of the Homeowner's leased land, recognizing that the fair rental value is reduced by certain restrictions imposed by the Lease, and 2) the Homeowner's share of the VCLT's total administration costs, including but not limited to general liability insurance, directors and officers insurance, administrative consulting fees, legal fees, mediation fees, and leasehold transfer costs including but not limited to recording fees, property taxes and maintenance costs for vacant leaseholds. The Homeowner's share of the administrative costs is based on the assessed value of their leased land as a percentage of the total assessed value of all leaseholds..

5.4 REDUCTION, DELAY OR WAIVER OF GROUND LEASE FEE: VCLT may reduce, delay or waive entirely the Ground Lease Fee at any time and from time to time to improve the affordability of

Homeowner's monthly housing costs. Any such reduction, delay or waiver must be in writing and signed by VCLT before being effective.

**5.5 ADJUSTMENT OF GROUND LEASE FEE:** The Ground Lease Fee stated in Section 5.1 above shall be applicable during the term of this Lease, as adjusted in the way provided below or as otherwise stipulated in this lease. However, in the event that, for any reason, the provisions of Article 10 or Article 11 regarding transfers of the Improvements and the Leasehold Estate or Section 4.4 regarding occupancy are suspended or invalidated for any period of time, then during that time, the Ground Lease Fee shall be increased to an amount calculated by VCLT to equal the fair rental value of the Land and any appurtenant rights for use not restricted by the provisions of the suspended portions of the Lease. In such event, VCLT shall notify Homeowner of the amount calculated in this way, and the amount specified in Section 5.1 shall then be this amount until it is recalculated as described below.

In order to keep the Ground Lease Fee reasonably current, the amount specified in Section 5.1 shall be recalculated as VCLT shall from time to time determine reasonable, though no more than once in any 12 month period, through such reasonable process as the VCLT shall choose, based upon the standards set forth in Sections 5.3 and 5.4 above.

Factors considered in recalculating the Ground Lease Fee include but are not limited to any of the VCLT's administration costs, including but not limited to general liability insurance, directors and officers insurance, administrative consulting fees, legal fees, mediation fees, and leasehold transfer costs including but not limited to recording fees, property taxes and maintenance costs for vacant leaseholds.

VCLT shall notify Homeowner promptly upon recalculation of the new Ground Lease Fee amount, and if Homeowner does not state objections to the recalculated amount within thirty (30) days after receipt of this notice, the Ground Lease Fee shall then be as stated by VCLT in the notice. If Homeowner does state objections to the recalculated Ground Lease Fee, and VCLT and Homeowner are then unable to agree on a recalculated Ground Lease Fee within fifteen (15) days of VCLT's receipt of Homeowner's objection, the dispute shall be resolved according to the dispute resolution process set forth in Article 13 below. Upon the final determination of the recalculated Ground Lease Fee in accordance with the terms of this section, VCLT shall maintain in its file a notarized certification of the amount of such recalculated Ground Lease Fee and the process by which it was determined.

**5.6 LATE PAYMENT CHARGES:** If Homeowner is in Monetary Default as set forth in section 12.1, Homeowner agrees to pay a late payment charge of \$20 as an Additional Lease Fee with their next month's lease fee payment.

The amount of the Late Payment Charge shall be recalculated as VCLT shall from time to time determine reasonable, through such reasonable process as the VCLT shall choose.

VCLT may reduce, delay or waive entirely the Late Payment Charge at any time and from time to time to improve the affordability of Homeowner's monthly housing costs. Any such reduction, delay or waiver must be in writing and signed by VCLT before being effective.

**5.7 ADDITIONAL LEASE FEES:** Late Payment Charges, taxes and government assessments on the leased premises, and any reasonable expenses related to the enforcement of this lease shall be classified as Additional Lease Fees. Additional Lease Fees are due with the next monthly lease fees after VCLT gives notice of such additional fees. VCLT may elect to apply monies received towards past due Additional Lease Fees, paying the oldest charges first.

## **ARTICLE 6: Taxes and Assessments**

**6.1 TAXES AND ASSESSMENTS:** Homeowner shall be responsible for payment of all taxes and governmental assessments that relate to the Improvements, Land and the Leased Premises. Homeowner shall also pay directly, when due, all other service bills, utilities charges, or other governmental assessments charged against the Leased Premises.

**6.2 TAXES ON LEASED PREMISES:** In the event that the local taxing authority bills VCLT for the taxes on the Land and/or Leased Premises, VCLT shall pay the bill and add the amount of the bill as an Additional Lease Fee to Homeowner's lease fees for the month after the bill is received by VCLT

**6.3 HOMEOWNER'S RIGHT TO CONTEST:** Homeowner shall have the right to contest the amount or validity of any taxes relating to the Improvements and Leased Premises. VCLT shall, upon written

request by Homeowner, join in any such proceedings if Homeowner reasonably determines that it is necessary or convenient for VCLT to do so. All costs and expenses of such proceedings shall be paid by Homeowner.

6.4 PROOF OF COMPLIANCE: Concurrently with the payment of any taxes, assessments, and charges required or permitted by the provisions of this Lease, each party shall furnish evidence satisfactory to the other documenting the payment. A photocopy of a paid receipt for such charges showing payment prior to the due date shall be the usual method of furnishing such evidence.

#### **ARTICLE 7: Improvements**

7.1 OWNERSHIP: It is agreed that all buildings, structures, fixtures, and other Improvements purchased by the Homeowner or constructed or placed by the Homeowner on any part of the Leased Premises at any time during the term of this Lease (the "Improvements") shall be property of the Homeowner. Title to such Improvements shall be and remain vested in the Homeowner. However, Homeowner's exercise of the rights of ownership is subject to the provisions of this Lease, including but not limited to provisions regarding the disposition of Improvements by the Homeowner and the VCLT's option to purchase the Improvements. In addition, Homeowner shall not sever or move the Improvements from the Land without written approval by VCLT.

7.2 PURCHASE OF IMPROVEMENTS BY HOMEOWNER: Homeowner is simultaneously purchasing any

Improvements now located on the Leased Premises and described in the Deed, the form of which is annexed to this Lease as Exhibit DEED.

7.3 CONSTRUCTION AND ALTERATION: Any construction in connection with an existing or new Improvement is subject to the following conditions:

- a) all costs shall be borne and paid for by the Homeowner;
- b) all construction shall be performed in a workerlike manner and shall comply with all applicable laws and regulations;
- c) all construction shall be consistent with the permitted uses set forth in Article 4;
- d) all construction shall comply with the Land Management Plan for the Leased Premises;
- e) all improvements shall incorporate the principles of simplicity, economy, and durability in design, materials and construction;
- f) the exterior (including height) of such Improvements shall not be increased or expanded and new Improvements shall not be constructed without the prior written consent of VCLT, who, however, shall not unreasonably withhold such consent;
- g) at the time of any request by Homeowner for the consent required by subsection 7.3(f) and as a precondition to such consent Homeowner shall furnish to VCLT a copy of all plans and all building permits for such construction.

7.4 PROHIBITION OF LIENS: No lien for services, labor or materials resulting from Homeowner's construction shall attach to the VCLT's title to the Land or to VCLT's interest in the Leased Premises or to any other property owned by the VCLT. Homeowner shall not permit any statutory or similar lien to be filed against the Leased Premises, the Improvements, or any interest of VCLT or Homeowner which remains more than thirty (30) days after it has been filed. Homeowner shall cause any such lien to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or as otherwise permitted by law. If Homeowner fails to cause such lien to be discharged within the thirty-day period, then, in addition to any other right or remedy, VCLT may, but shall not be obligated 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 in an amount sufficient to release the Leased Premises from such lien. Any amounts paid by VCLT to discharge such liens shall be deemed to be an additional Ground Lease Fee payable by Homeowner upon demand.

7.5 MAINTENANCE AND SERVICES: Homeowner shall, at Homeowner's sole expense, maintain the Leased Premises and all Improvements as required by Section 4.2 above. VCLT shall not be required

to furnish any services or facilities, including but not limited to heat, electricity, air conditioning or water, or to make any repairs to the Leased Premises or Improvements, and Homeowner hereby assumes the sole responsibility for furnishing all services or facilities.

**7.6 DISPOSITION OF IMPROVEMENTS UPON EXPIRATION OR TERMINATION OF LEASE:** Upon the expiration or earlier termination of the term of this Lease as such term may be extended or sooner terminated in accordance with this Lease; Homeowner shall surrender the Improvements together with the Leased Premises to the VCLT. Ownership of the Improvements shall thereupon revert to VCLT, provided, however, that VCLT shall promptly pay to Homeowner as consideration for the Improvements an amount equal to VCLT's 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 Ground Lease Fee and any charges that are at the time of such expiration or earlier termination due and owing to VCLT in accordance with this Lease.

#### **ARTICLE 8: Financing**

**8.1 PERMITTED MORTGAGE:** Homeowner may mortgage the Leased Premises only with the written consent of VCLT. Not less than thirty (30) days prior to the date on which Homeowner (or a prospective Homeowner who has contracted to purchase the Improvements) requests VCLT's consent to a mortgage, Homeowner (or prospective Homeowner) shall furnish to VCLT copies of every document to be executed in connection with the transaction represented by such mortgage. VCLT may choose to consent to any mortgage, and in so doing shall designate such mortgage as a "Permitted Mortgage." Homeowner shall pay to VCLT at VCLT's option, as additional Ground Lease Fee, all fees, costs and expenses, including, without limitation, reasonable attorneys' fees, incurred by VCLT in connection with any Permitted Mortgage.

**8.2 VCLT'S RIGHT TO PROCEEDS IN EXCESS OF PURCHASE OPTION PRICE:** The parties recognize that it would be contrary to the fundamental concept of this agreement and an incentive to abuse Homeowner's authorization to encumber its leasehold interest with a Permitted Mortgage if Homeowner could realize more than the Purchase Option Price as the result of any foreclosure of any mortgage. Accordingly Homeowner hereby irrevocably assigns to VCLT any and all net proceeds of sale of the Improvements remaining after payment of costs of foreclosure and satisfaction of the lien of any Permitted Mortgagee which would otherwise have been payable to Homeowner, to the extent such net proceeds exceed the net proceeds that Homeowner would have received had the property been sold for the Purchase Option Price established in Article 10 of this Lease, and authorizes and instructs the Permitted Mortgagee or any party conducting any sale to pay the amount of said excess proceeds directly to VCLT. In the event that, for any reason, such excess proceeds are paid to Homeowner, Homeowner hereby agrees to promptly pay the amount of such excess proceeds to VCLT.

**8.3 AMENDMENTS SUBJECT TO APPROVAL BY PERMITTED MORTGAGEE:** Any amendments to this Lease shall be subject to the written approval of Permitted Mortgagee, which approval shall not be unreasonably withheld or delayed. The passage of thirty (30) days after submittal to Permitted Mortgagee of a proposed amendment without approval or disapproval by Permitted Mortgagee shall be deemed approval thereof.

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

**9.1 HOMEOWNER'S LIABILITY:** Homeowner assumes sole responsibility and liability to all persons and authorities related to possession, occupancy and use of the Leased Premises.

**9.2 INDEMNIFICATION OF VCLT:** Homeowner shall defend, indemnify and hold VCLT harmless against all liability and claims of liability for injury or damage to person or property from any cause on or about the Leased Premises. Homeowner waives all claims against VCLT for such injury or damage. However, VCLT shall remain liable (and Homeowner shall not indemnify and defend VCLT against such liability or waive such claims of liability) for injury or damage due to the grossly negligent or intentional acts or omissions of VCLT or VCLT's agents or employees.

**9.3 PAYMENT BY VCLT:** In the event the VCLT shall be required to pay any sum that is the Homeowner's responsibility or liability, the Homeowner shall reimburse the VCLT for such payment and for reasonable expenses caused thereby. Homeowner shall reimburse VCLT within 30 days. If

Homeowner fails to reimburse VCLT within 30 days, VCLT may temporarily increase the Ground Lease Fee to cover the amount due plus up to 2% per month late fees.

9.4 INSURANCE: Homeowner shall, at Homeowner's sole expense, keep all Improvements continuously insured against loss or damage by fire and the extended coverage hazards for the full replacement value of such Improvements.

Homeowner shall, at Homeowner's sole expense, maintain continuously in effect liability insurance covering the Leased Premises and Improvements in the amounts of not less than one million dollars (\$1,000,000) limit for bodily injury, death or property damage as the result of a single occurrence or in such other amounts for any such bodily injury liability insurance, and/or property damage insurance as VCLT shall from time to time determine reasonable.

Such insurance shall specifically insure Homeowner against all liability assumed under this Lease, as well as all liability imposed by law, and shall also insure VCLT as an additional insured so as to create the same liability on the part of insurer as though separate policies had been written for VCLT and Homeowner.

Homeowner shall provide VCLT with copies of all policies and renewals of policies. All policies shall also contain endorsements providing that they shall not be cancelled, reduced in amount or coverage or otherwise modified by the insurance carrier involved without at least thirty (30) days prior written notice to VCLT. VCLT shall be entitled to participate in the settlement or adjustment of any losses covered by such policies of insurance.

9.5 DAMAGE OR DESTRUCTION: Except as provided below, in the event of fire or other damage to the Improvements, Homeowner shall take all steps necessary to assure the repair of such damage and the restoration of the Improvements to their condition immediately prior to the damage. All such repairs and restoration shall be completed as promptly as possible. Homeowner shall also promptly take all steps necessary to assure that the Leased Premises are safe and that the damaged Improvements do not constitute a danger to persons or property.

If Homeowner, using reasonable judgment and relying on professional estimates, determines either (a) that full repair and restoration is physically impossible, or (b) that the available insurance proceeds will pay for less than eighty percent (80%) of the cost of repair and restoration, (provided Homeowner has fulfilled all of the hazard insurance requirements set forth in Section 9.4 above), then Homeowner may terminate this Lease by written notice to VCLT given not later than sixty (60) days after the event that caused the damage. However, such termination shall not be effective until forty-five (45) days after the date upon which the notice is received by VCLT. During this forty-five-day period VCLT may seek an adjustment from the insurer so as to increase the available insurance proceeds to an amount covering at least eighty percent of the cost of repair and restoration. If successful in securing such adjustment, VCLT may render Homeowner's termination notice null and void by written notice to Homeowner within such forty-five-day day period. If VCLT fails to nullify the termination notice in this way, then this Lease shall terminate at the expiration of the forty-five-day period, and any insurance proceeds payable to Homeowner on account of such damage shall be paid as provided below.

The insurance proceeds shall be paid first to cover any expenses of collecting the proceeds. Remaining proceeds shall be paid to the Homeowner (or its Permitted Mortgagee to the extent required by the Permitted Mortgage) up to the applicable VCLT's Purchase Option Price (as of immediately prior to the damage) calculated according to the provisions of Article 10 below. The balance of such proceeds, if any, shall be paid to VCLT.

9.6 EMINENT DOMAIN AND PUBLIC DEDICATION: In the event of a taking of the Leased Premises, either in its entirety or to such extent that the Improvements are lost or damaged beyond repair, by reason of eminent domain or other action of public authority prior to the expiration of this Lease, the Lease shall terminate as of the date Homeowner is required to give up possession of the Leased Premises or Improvements, and the entire amount of any award(s) paid shall be allocated in the way described in Section 9.5 above for insurance proceeds.

In the event of a taking of a portion of the Leased Premises that does not result in damage to the Improvements or substantial reduction in the usefulness or desirability of the Improvements for

residential purposes, then any monetary compensation for such taking shall be allocated entirely to VCLT.

In the event of a taking of a portion of the Leased Premises that results in damage to the Improvements only to such an extent that the Improvements can reasonably be restored to a residential use consistent with this Lease, the VCLT may in its discretion allocate some or all of the monetary compensation to enable Homeowner to accomplish such a restoration. Any balance remaining after or in the absence of such allocation shall be allocated as provided above for a taking of the entire Leased Premises.

Any and all proceedings brought by a party in connection with any damages as a result of any taking referred to in this Section shall be conducted at the sole expense of such party. If any provision of law requires that such proceedings be brought by or in the name of any owner or lessee of the premises, such party shall join in such proceedings or permit the same to be brought in its name. Each party agrees to do all acts and to execute all documents that may be required to enable the other to maintain such proceedings. If the party required to join in the proceedings incurs any cost or expense in doing so, such party shall be entitled to reasonable reimbursement and this entitlement shall constitute a first charge against any award.

**9.7 REASSESSMENT OF RENTAL VALUE:** In the event of any taking that reduces the size of the Leased Premises but does not result in the termination of the Lease, VCLT shall reassess the fair rental value of the remaining Leased Premises and shall adjust the Ground Lease Fee if necessary to assure that the monthly fee does not exceed the monthly fair rental value of the premises for use as restricted by the Lease.

**9.8 RELOCATION OF HOMEOWNER:** In the event of a termination of this Lease as a result of damage, destruction or taking, VCLT shall take reasonable steps to grant Homeowner a leasehold interest, similar to the interest created by this Lease, in another tract that it owns, if such other tract can reasonably be made available. In accepting such a leasehold interest, Homeowner agrees to contribute any proceeds or award received by Homeowner to purchase or develop Improvements on such tract. VCLT's failure to supply such a leasehold interest shall not give rise to any cause of action by Homeowner against VCLT.

## **ARTICLE 10: Transfer, Sale or Disposition of Improvements**

**10.1 INTENT:** It is the understanding of the parties that the terms of this Lease, and in particular of this Article 10, are intended to preserve the affordability of the Improvements.

**10.2 TRANSFERS:** Homeowner may transfer its interest in the Leased Premises or the Improvements only to VCLT or otherwise only as explicitly permitted by the provisions of this Article 10. All such transfers shall be subject to VCLT's review and purchase option rights set forth in this Article 10. Any purported transfer done without following 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.

**10.3 TRANSFER TO HOMEOWNER'S HEIRS:** Upon receipt of notice from the executor of the decedent's estate given within ninety (90) days of the death of Homeowner (or the last surviving co-owner of the Improvements) VCLT shall, unless for good cause shown, consent to a transfer of the Improvements and an assumption of this Lease to and by one or more of the possible heirs of Homeowner listed below as "a," "b," or "c," provided that a Letter of Stipulation and a Letter of Acknowledgement of legal counsel (similar to those described in Article 1 of this Lease), setting forth the heirs' review, understanding and acceptance of the terms of the Lease, are submitted to VCLT 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 upon the Leased Premises for at least five years immediately prior to Homeowner's death.

Any other heirs, legatees or devisees of Homeowner shall not be entitled to possession of the Leased Premises but must transfer the Leased Premises in accordance with the provisions of this Article 10.

10.4 HOMEOWNER'S NOTICE OF INTENT TO SELL: In the event that Homeowner wishes or is obligated to assign its interest in the Leased Premises and sell the Improvements, Homeowner shall notify VCLT, in writing, of such wish (the Intent-to-Sell Notice). Such Notice may include the Homeowner's proposed purchase price for the improvements (The Asking Price).

10.5 APPRAISALS: If the Homeowner does **not** include an Asking Price in the Notice of Intent to Sell, the

VCLT will employ appraisals in determining the Purchase Option Price. If the Homeowner includes an Asking Price in the Notice of Intent to Sell, the VCLT, at the VCLT's discretion, may or may not employ appraisals in addition to the Asking Price in determining the Purchase Option Price. If the VCLT is obliged to or elects to employ appraisals then no later than ten (10) days after VCLT's receipt of Homeowner's Intent-to-Sell Notice, the VCLT shall notify the Homeowner of the decision and shall commission a Market Appraisal (The First Market Appraisal), defined below, and an Adjusted Replacement Cost Appraisal (The First Adjustor's Appraisal), defined below, to be respectively performed by an Eligible Appraiser, defined below, and Eligible Adjustor, defined below, selected by VCLT. VCLT shall pay the cost of these Appraisals. Copies of both Appraisals shall be provided to both VCLT and Homeowner.

10.6 MARKET APPRAISALS: Market Appraisals shall be conducted by analysis and comparison of comparable properties as though the title to Land, any appurtenant rights and Improvements were held in fee simple absolute, disregarding the restrictions of this Lease on the use of the Land and the transfer of the Improvements. A Market Appraisal shall state the values contributed by the Land and by the Improvements as separate amounts and shall include a signed copy of the Appraiser's Statement (see Appendix, Appraiser's Statement).

10.7 ADJUSTED LOCAL REPLACEMENT COST APPRAISALS: Adjusted Local Replacement Cost is the estimated replacement cost less deterioration, obsolescence and damage of buildings and improvements, based on the most localized cost data available to the appraiser and the nature and condition solely of the Improvements, independent of the site and location. Adjusted Local Replacement Cost Appraisals shall include a signed copy of the Adjustor's Statement (see Appendix, Adjustor's Statement).

10.8 ELIGIBLE APPRAISER: An Eligible Appraiser is defined as any real estate appraiser licensed to practice by the Commonwealth of Massachusetts. If the Commonwealth discontinues the licensing of real estate appraisers, then an Eligible Appraiser is defined as any real estate appraiser with at least five years of experience in conducting market value mortgage industry appraisals of residential property.

10.9 ELIGIBLE ADJUSTOR: An Eligible Adjustor is defined as an insurance property claims adjuster with at least five years of experience in both commercial and residential property. Should the Commonwealth of Massachusetts institute licensing for insurance property claims adjusters, then an Eligible Adjustor shall be defined as any insurance property claims adjuster licensed to practice by the Commonwealth of Massachusetts.

10.10 OPTIONAL SECOND APPRAISALS: At Homeowner's discretion, Homeowner may elect to obtain another Market Appraisal. If Homeowner elects to obtain another Market Appraisal, then no later than 10 days after receipt of the First Market Appraisal, Homeowner shall notify VCLT of the decision and commission a second Market Appraisal (the Second Market Appraisal) to be performed at the Homeowner's expense by an Eligible Appraiser, selected by the Homeowner. Copies of the Second Market Appraisal are to be provided to both VCLT and Homeowner.

At Homeowner's discretion, Homeowner may elect to obtain another Adjustor's Appraisal. If Homeowner elects to obtain another Adjustor's Appraisal, then no later than 10 days after receipt of the First Adjustor's Appraisal, Homeowner shall notify VCLT of the decision and commission a second Adjustor's Appraisal (The Second Adjustor's Appraisal) to be performed at the Homeowner's expense

by an Eligible Adjustor, selected by the Homeowner. Copies of the Second Adjustor's Appraisal are to be provided to both VCLT and Homeowner.

**10.11 VCLT'S PURCHASE OPTION.** Upon receipt of Intent to Sell Notice from Homeowner, VCLT shall have the option to purchase the Improvements (the Purchase Option) at the Purchase Option Price calculated as set forth below. The Purchase Option is designed to further the purpose of preserving the affordability of the Improvements while taking fair account of the investment by the Homeowner.

If VCLT elects to purchase the improvements, VCLT 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 Notice of Intent to Sell and all duly notified and commissioned Appraisals, whichever is last received, or the Option shall expire. Having given such notice, VCLT may either proceed to exercise the Purchase Option directly by purchasing the Improvements, or may assign the Purchase Option to a person of VCLT's choosing.

The purchase (by VCLT or VCLT's assignee) must be completed within sixty (60) days of VCLT's Notice of Exercise of Option, or Homeowner may sell the Improvements as provided in Section 10.12 below. The time permitted for the completion of the purchase may be extended by mutual agreement of VCLT and Homeowner.

Homeowner may recommend to VCLT a prospective buyer who is prepared to submit Letters of Stipulation and Acknowledgement indicating informed acceptance of the terms of this Lease. VCLT shall make reasonable efforts to arrange for the assignment of the Purchase Option to such person, unless VCLT determines that its mission is better served by retention of the Improvements for another purpose or transfer of the Improvements to another party.

**10.12 IF PURCHASE OPTION EXPIRES:** If the Purchase Option has expired or if VCLT has failed to complete the purchase within the sixty-day period allowed by Section 10.11 above, Homeowner may sell the Improvements and assign the Lease to any person, for not more than the then applicable Purchase Option Price, provided that a Letter of Stipulation and a Letter of Acknowledgement of legal counsel setting forth the buyer's review, understanding and acceptance of the terms of the Lease, are submitted to VCLT to be attached to the Lease when it is assigned to the buyer.

**10.13 VCLT'S POWER OF ATTORNEY TO CONDUCT SALE:** In the event VCLT does not exercise its option and complete the purchase of the Improvements as set forth above, and Homeowner (a) is not then residing in the Improvements and (b) continues to hold the Improvements out for sale but is unable to locate a buyer and execute a binding purchase and sale agreement within one (1) year of the giving of the Intent to Sell Notice, Homeowner does hereby appoint VCLT its attorney in fact to seek a buyer, negotiate a reasonable price that furthers the goals set forth in this Lease, sell the property, and distribute proceeds of sale, minus VCLT's costs of sale and reletting and any other sums owed VCLT by Homeowner.

**10.14 PURCHASE OPTION PRICE:** In no event may the Improvements be sold for a price that exceeds the Purchase Option Price. At the VCLT's discretion, the Purchase Option price shall be the lesser of a) the Asking Price, b) the Market Value as determined according to 10.15 below or (c) the Adjusted Replacement Value as determined according to 10.16 below.

**10.15 MARKET VALUE:** Should the Homeowner elect not to commission a Second Market Appraisal, the Market Value is defined as the value of the Improvements as determined by the First Market Appraisal. If the Homeowner elects to commission a Second Market Appraisal, the Market Value is defined as the average of the value of the Improvements as determined by the First and Second Market Appraisals.

The Market Value of the Improvements does not include the value of the land.

**10.16 ADJUSTED REPLACEMENT VALUE:** Should the Homeowner elect not to commission a Second Adjustor's Appraisal, the Adjusted Replacement Value is defined as the value as determined by First Adjustor's Appraisal. If the Homeowner elects to commission a Second Adjustor's Appraisal, the Adjusted Replacement Value is defined as the average of the First and Second Adjustor's Appraisals.

**10.17 PURCHASER'S CHOICE OF NEW LEASE OR ASSIGNMENT OF EXISTING LEASE:** A person

who purchases the Improvements in accordance with the provisions of this Article 10 shall have the option of receiving either an assignment of this Lease from the seller, with the approval of VCLT, or a new Lease from VCLT, which new Lease shall be substantially the same as this Lease in the rights, benefits and obligations assigned to Homeowner and VCLT.

#### **ARTICLE 11: Assignment and Sublease**

11.1 Except as otherwise provided in Article 8 (including Exhibit PERMITTED MORTGAGES) and Article 10, Homeowner shall not assign, sublease, sell or otherwise convey any of Homeowner's rights under this Lease without the prior written consent of the VCLT. Homeowner agrees that VCLT shall have broad and full discretion to withhold such consent in order to further the mutual purposes and goals set forth in this Lease. If permission is granted, any assignment or sublease shall be subject to the following conditions:

- a) Any such assignment or sublease shall be subject to all of the terms of this Lease.
- b) In the case of a sublease, the rental or occupancy fee charged the sub-lessee shall not be more than that amount charged the Homeowner by the VCLT, plus an amount approved by VCLT to cover costs to Homeowner for the Improvements.
- c) In the case of an assignment, the total consideration for such assignment and the related sale or transfer of the Improvements shall not exceed the Purchase Option Price as calculated in accordance with Article 10 above with the exception that the costs of even the First Market Appraisal and First Adjuster's Appraisal may, at VCLT's discretion, be borne by Homeowner.

#### **ARTICLE 12: Default**

12.1 MONETARY DEFAULT BY HOMEOWNER: It shall be an event of default if Homeowner fails to pay the Ground Lease Fee, Additional Lease Fees or other charges, including, without limitation, real estate taxes and premiums for all required insurance 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 VCLT to Homeowner and Permitted Mortgagee. However, if Homeowner shall make a good faith partial payment of at least two-thirds (2/3) of the amount owed during such initial 30 day period, then such period shall be extended one additional 30 day period.

12.2 NON-MONETARY DEFAULT BY HOMEOWNER: It shall be an event of default if Homeowner fails to abide by any other material term or condition 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 VCLT to Homeowner and Permitted Mortgagee. However, in the case where the Homeowner or Permitted Mortgagee has commenced to cure such default within such sixty (60) day period and is continuing such cure with all due diligence but cannot by the exercise of due diligence cure such default within such period, such period shall be extended for such additional period as may be reasonably required under the circumstances to complete such cure.

12.3 DEFAULT BY HOMEOWNER RESULTING FROM JUDICIAL PROCESS: It shall be an event of default if the estate hereby created is taken on execution or by other process of law, or if 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 Homeowner's property 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 TERMINATION: In the case of any of the events of default described above, VCLT may terminate this Lease and initiate summary proceedings against Homeowner. Pursuant to such proceedings, without demand or notice, VCLT may enter any part of the Leased Premises and repossess the entire Leased Premises, and expel Homeowner and those claiming rights through Homeowner and remove their effects without being guilty of any manner of trespass, and without prejudice to any remedies

which might otherwise be used for arrears of rent or preceding breach of covenant. If this Lease is terminated by VCLT, or if VCLT re-enters the Leased Premises pursuant to an Event of Default, the Homeowner agrees to pay and be liable for any unpaid Ground Lease Fee, damages which may be due or sustained prior to or in connection with such termination or re-entry, and all reasonable costs, fees and expenses (including, without limitation, reasonable attorneys' fees) incurred by VCLT in pursuit of its remedies under this Lease.

If VCLT elects to terminate the Lease, then the Permitted Mortgagee shall have the right (subject to Article 8 above) 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 Lease by foreclosure of its mortgage or otherwise.

12.5 DEFAULT BY VCLT: VCLT shall in no event be in default in the performance of any of its obligations under the Lease unless and until VCLT 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 VCLT properly specifying VCLT's failure to perform any such obligation.

### **ARTICLE 13: Dispute Resolution**

13.1 DISPUTE RESOLUTION PROCESS: Should any grievance or dispute arise between VCLT and Homeowner concerning the terms of this Lease which cannot be resolved by normal interaction or mediation, the following dispute resolution process shall be used.

VCLT or Homeowner (hereafter "claimant") shall initiate the arbitration process by notifying the other party (hereafter "respondent") in writing of its desire for arbitration, which notice shall contain a statement setting forth the nature of the dispute, the amount involved, if any, the remedy sought, and identifying its selection of a disinterested arbitrator. Within fifteen (15) days of the receipt of this written notice, the respondent may give written notice to both the claimant and the selected arbitrator either accepting the formation of the arbitration panel with the selected arbitrator as the sole arbitrator or appointing a second disinterested arbitrator. If the respondent selects a second arbitrator, the two arbitrators shall form a three person panel by selecting a third arbitrator and notifying the claimant and respondent within fifteen (15) days of the first selected arbitrator's receipt of the respondent's notice appointing the second arbitrator. If the respondent accepts the single arbitrator selected by the claimant or fails to name a second arbitrator within fifteen (15) days of receiving the notice from the initiating party, the arbitration panel shall be formed with the selected arbitrator as the sole arbitrator.

The arbitrators shall convene a hearing within fifteen (15) days after notice that the panel is formed is sent. Such hearing shall be held within Franklin County, Massachusetts at a location to be determined by the arbitration panel. The arbitration panel shall notify the claimant and respondent of the location, date and time of the hearing at least ten (10) days prior to the hearing. At the hearing claimant and respondent shall have an opportunity to present evidence and question witnesses in the presence of each other. The hearing proceedings shall be conducted according to the Arbitration Rules for the Real Estate Industry of the American Arbitration Association (hereafter "the AAA"), with the arbitration panel fulfilling any role specified for the AAA, unless otherwise specified herein or agreed to by both parties. As soon as reasonably possible, and in no event later than fifteen (15) days after the hearing, the arbitration panel shall make a written report to both parties of its findings and decisions, including a personal statement by each arbitrator of his/her decision and the reasons for it. The arbitrators shall decide the dispute or claim in accordance with the substantive law of the jurisdiction and what is just and equitable under the circumstances. The decisions and awards of the majority of the arbitration panel shall be binding and final.

If the arbitration panel fails to meet any of the deadlines or conditions for 1) arbitration panel formation, 2) hearing notice, 3) convening and conducting the hearing, or 4) reporting the decision, and claimant or respondent objects to such failure in writing within seven (7) days of such failure, then any rulings or judgments made through the process for arbitration are void and either party may submit the case for settlement by arbitration administered by the AAA under its Arbitration Rules for the Real Estate Industry and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

Failure of the Homeowner to comply with any ruling or judgment made through the process for arbitration shall be cause for termination under Section 12.2.

**ARTICLE 14: General Provisions**

14.1 HOMEOWNER’S MEMBERSHIP IN VCLT: The Homeowner under this Lease shall automatically be an eligible voting member of the VCLT.

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 VCLT:

Valley Community Land Trust, Inc., Box 1552, Greenfield, MA 01302  
with a copy to  
John R. Mason, 486 Main Street #3, Greenfield, MA 01301

If to 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 broker in connection with the consummation of this Lease, and in the event any claim is made against VCLT relative to dealings with brokers, Homeowner shall defend the claim against VCLT with counsel of VCLT’s selection and save harmless and indemnify VCLT on account of loss, cost or damage which may arise by reason of any such claim.

14.4 SEVERABILITY AND DURATION OF: If any part of this Lease is unenforceable or invalid, such material shall be read out of this Lease and shall not affect the validity of any other part of this Lease or give rise to any cause of action of Homeowner or VCLT 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 their respective options to purchase and all other rights under this Lease shall continue in effect for the full term of this Lease and any renewal thereof, and such options and other rights shall be considered to be coupled with an interest. 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 children living as of the date of this Lease of any employees or members of the board of the Valley Community Land Trust, Inc..

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, VCLT shall nevertheless have a right of first refusal to purchase the Improvements 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 VCLT at any given time of any term or condition of this Lease, or the failure of VCLT to take action with respect to any breach of any such term or condition, shall not be deemed to be a waiver of such term or condition with regard to any subsequent breach of such term or condition, or of any other term or condition of the Lease. VCLT may grant waivers in the terms of this Lease, but such waivers must be in writing and signed by VCLT before being effective.

The subsequent acceptance of Ground Lease Fee payments by VCLT shall not be deemed to be a waiver of any preceding breach by Homeowner of any term or condition of this Lease, other than the

failure of the Homeowner to pay the particular Ground Lease Fee so accepted, regardless of VCLT's knowledge of such preceding breach at the time of acceptance of such Ground Lease Fee payment.

14.7 VCLT'S RIGHT TO PROSECUTE OR DEFEND: VCLT shall have the right, but shall be under no obligation, to prosecute or defend, in its own or the Homeowner's name, any actions or proceedings appropriate to the protection of its title to, and Homeowner's interest in the Leased Premises. Whenever requested by VCLT, Homeowner shall give VCLT 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 CAPTIONS AND TABLE OF CONTENTS: The captions and table of contents appearing in this Lease are for convenience only, and are not a part of this Lease and do not in any way limit or amplify the terms or conditions of this Lease.

14.10 PARTIES BOUND: This Lease sets forth the entire agreement between VCLT and Homeowner with respect to the leasing of the Leased Premises; it is binding upon and inures to the benefit of these parties and, in accordance with the provisions of this Lease, their respective successors in interest. This Lease may be altered or amended only by written notice executed by VCLT 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 the Commonwealth of Massachusetts. The language in all parts of this Lease shall be, in all cases, construed according to its fair meaning and not strictly for or against VCLT or Homeowner.

14.12 RECORDING: The parties agree, as an alternative to the recordation 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 VCLT's attorneys. In no event shall such document set forth 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 under seal at \_\_\_\_\_ on the day and year first above written.

\_\_\_\_\_ (VCLT)

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Its duly authorized agent

\_\_\_\_\_  
Witness

Homeowner: \_\_\_\_\_

## Exhibit LETTERS OF STIPULATION AND ACKNOWLEDGMENT

### LETTER OF STIPULATION

To Valley Community Land Trust, Inc. ("the VCLT")

Date: \_\_\_\_\_

This letter is given to the VCLT to become an exhibit to a Lease between the VCLT and me. I will be leasing a parcel of land from the VCLT and will be buying the home that sits on that parcel of land. I will therefore become what is described here as a "VCLT 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 VCLT homeowner, now and in the future.

In particular I understand and agree with the following points.

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

The terms and conditions of the lease limit the price for which I can sell the home, in order to keep it affordable.

It is also a goal of the VCLT to promote resident ownership of VCLT 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 VCLT homeowner and a member of the VCLT, 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

## LETTER OF ACKNOWLEDGMENT

I, \_\_\_\_\_, have been independently employed by \_\_\_\_\_ (hereinafter "the Client") who intends to purchase a house and other improvements on land to be leased from Valley Community Land Trust, Inc. (the "VCLT"). The house and land are located at \_\_\_\_\_.

In connection with the contemplated purchase of the house and other improvements and leasing of the land, I reviewed with the Client the following documents relating to the transaction:

- a) this Letter of Acknowledgement and a letter of stipulation from the Client;
- b) a proposed Deed conveying the house and other improvements to the Client;
- c) a proposed Ground Lease conveying the "Leased Premises" to the Client;
- d) other written materials provided by the VCLT.

The Client has received full and complete information and advice regarding this conveyance and the foregoing documents. My advice and review has been given 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 or his own judgment and upon her or his investigation of the facts. The full and complete advice and information provided by me was an integral element of such investigation.

Name Date

Title

Firm/Address

## **Exhibit FIRST REFUSAL**

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

- d) Offering Party shall give written notice of such offer ("the Notice of Offer") to Holder setting forth (1) the name and address of the prospective purchaser of the property, (2) the purchase price offered by the prospective purchaser and (3) 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 for the same price and on the same terms and conditions set forth in the Notice. Such notice of intent to purchase shall be given in writing to the Offering Party within the Election Period.
- e) If Holder exercises the right to purchase the property, such purchase shall be completed within sixty (60) days after 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.
- f) Should Holder fail to exercise the right of first refusal within the Election Period, then the Offering Party shall have the right (subject to any other applicable restrictions in the Ground Lease) to go forward with the sale which the Offering Party desires to accept, and to sell the property within one (1) year following the expiration of the Election Period on terms and conditions which are not materially more favorable to the purchaser than those set forth in the Notice. If the sale is not consummated within such one-year period, the Offering Party's right so to sell shall end, and all 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 a renewed right of first refusal in said property.

**Exhibit ADJUSTER'S STATEMENT**

I, \_\_\_\_\_, am an insurance property claims adjuster either licensed by the Commonwealth of Massachusetts or, if the commonwealth does not issue such licenses, with at least five years of experience in insurance property claims adjustment with both commercial and residential property. This is an appraisal of the replacement costs, using the most localized cost data available to me, less depreciation, obsolescence and damage, of buildings and improvements located at \_\_\_\_\_  
\_\_\_\_\_. It is based solely on the nature and condition of the buildings and improvements, independent of the site and location.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

**Exhibit APPRAISER'S STATEMENT**

I, \_\_\_\_\_, am a real estate appraiser either licensed by the Commonwealth of Massachusetts or, if the commonwealth does not issue such licenses, with at least five years of experience in both commercial and residential real estate appraisals for the mortgage industry. This is an appraisal of the market value of buildings and improvements located at \_\_\_\_\_. This appraisal has been conducted by analysis and comparison of comparable properties as though the title to Land, any appurtenant rights and Improvements were held in fee simple absolute, disregarding the Lease restrictions on the use of the Land and the transfer of the Improvements.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

**Other Exhibits to be Attached as Appropriate**

**Exhibit LMP**

[Initial and updated Land Management Plans]

**Exhibit DEED**

[Copy of Homeowner’s deed for improvements]

**Exhibit PREMISES**

[Correct legal description of area of Land comprising the Leased Premises and appurtenant title rights and obligations.]

**Exhibit RESTRICTIONS**

[To be attached when necessary to stipulate use restrictions not covered by zoning]

**Exhibit STANDARD PERMITTED MORTGAGE AGREEMENT**

[To be attached when necessary to stipulate conditions for a permitted mortgage]

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