

## **Plain Language Summary of Piedmont Community Land Trust Ground Lease**

*THIS GROUND LEASE SUMMARY DOES NOT SERVE AND IS NOT INTENDED TO SERVE AS A REPLACEMENT FOR THE ACTUAL PCLT GROUND LEASE. WE ADVISE YOU TO REVIEW THE ENTIRE GROUND LEASE WITH YOUR ATTORNEY.*

### WHAT IS A GROUND LEASE?

The Ground Lease is a legally binding agreement that gives you the right to use the land. It describes in full what your rights and responsibilities are and what restrictions you accept in exchange for those rights. As a legal document, it tries to cover all possible events, no matter how unlikely, and is written in “legalese.” The Lease tries to balance your interests as a homeowner with the PCLT’s interests.

### WHAT IS THIS “PLAIN LANGUAGE SUMMARY”?

This summary is meant to help you, as a potential homebuyer with the PCLT, to understand the rights, responsibilities, and restrictions you will agree to when you sign the actual Ground Lease. This summary is **not** the lease and addresses only the most important elements of the lease. We hope that it explains the lease provisions in a clearer way than the legal language of the Ground Lease itself. You will get a copy of your lease for you to read and review before you sign it. If you’d like a copy now, please ask for one. (**NOTE:** The PCLT requires that you consult with an attorney **before** signing the actual lease. This is for your protection, so that you fully understand the unique features of PCLT homeownership before you buy your home.)

Each of the **bold** headings below is an ARTICLE or SUB-ARTICLE of the lease. The text under the heading is a plain language explanation of what that ARTICLE says.

### RECITALS

The Recitals (beginning with WHEREAS) state the goals and purposes of the lease. By signing, you and the Piedmont Community Land Trust (PCLT) agree to these goals and purposes. The primary goal of the lease is to provide you with an opportunity for homeownership and to preserve the availability and affordability of this opportunity for other households of modest means in the future.

### **ARTICLE 1. Letters of Stipulation and Acknowledgment.**

You will sign a Letter of Stipulation which says that you understand the lease agreement. When you consult with an attorney (as required by PCLT) to further your understanding of the lease, your attorney will sign a Letter of Acknowledgment stating that he or she has reviewed the lease and related documents with you. These letters are meant to encourage you to fully understand the lease. They also protect PCLT from future disputes.

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

#### 2.1 PREMISES

This says that the Piedmont CLT leases you the land to use. If necessary, a report will be ordered from a Title Company to show that the land belongs to PCLT and is theirs to lease.

## 2.2 PRESERVATION OF MINERAL RIGHTS

PCLT keeps the rights to any minerals in the land. You are protected because you have to agree before the PCLT can do anything with the mineral rights that would disrupt your use of the land.

## **ARTICLE 3. Duration of Lease**

### 3.1 PRINCIPAL TERM

The lease is for ninety years, starting on the day you sign the lease. The lease is this long because the PCLT wants you and your family to stay in your home as long as you want, just as if you owned the land.

### 3.2 CHANGE OF LESSOR; LESSEE'S RIGHT TO PURCHASE.

If someone, or some organization, besides the PCLT becomes owner of the land, you are protected in two ways. The new owner is bound by the terms of the lease and can't change them without your agreement. If the PCLT decides to sell to a new landowner who doesn't share the goal of permanently affordable housing, you will have the right to buy the land at the price the new owner would have paid. This price may be less than or equal to the full market value of the land.

## **ARTICLE 4. Use of Leased Premises.**

### 4.1 RESIDENTIAL USE ONLY

You may only use the land for residential purposes as permitted by current building and land use laws. For example, a home office is allowed by most zoning, but keeping livestock isn't. In addition, you must use the land and care for the land in compliance with the restrictions that are listed in the RESTRICTIONS exhibit attached to the lease. If you give the lease to someone else (covered in ARTICLE 10 and ARTICLE 11), they will also be bound by these same restrictions.

### 4.2 RESPONSIBLE USE AND COMPLIANCE WITH LAW

You must use the land without creating public or private nuisances, you will dispose of waste safely, and you will maintain the land and your home in good, safe, and habitable condition. You must make sure, in addition, that you do nothing to jeopardize the chances that the land and any buildings located upon it can be covered by insurance. (You are required to carry adequate hazard and liability insurance under ARTICLE 9.4).

### 4.3 RESPONSIBLE FOR OTHERS

You will be responsible for anybody who uses the land, including your family, friends, and visitors.

### 4.4 OCCUPANCY

You or your family must live in your home 10 months a year. This is meant to make sure the home is your primary residence. It also keeps people from renting out their homes. Of course, you might want to go on vacations, leave your home to care for a sick relative, or leave your home for medical or educational reasons.

#### 4.5 INSPECTION

The PCLT has the right to inspect the land it leases to you. However, the inspection is limited to an agreed upon number of times a year and you must be given advance notice that it is to take place. The PCLT also has the right to inspect the improvements on the land, or the structure. If there is an emergency PCLT may inspect the property without giving advance notice. The PCLT is not required to inspect the property, but reserves the right to do so.

#### 4.6 LESSEES RIGHT TO PEACEFUL ENJOYMENT

You have the right to undisturbed use of the land. The PCLT doesn't care about – and won't interfere with – your associations, visitors, or personal life, unless they violate the lease.

### **ARTICLE 5. Ground Lease Fee**

#### 5.1 GROUND LEASE FEE

You will pay a monthly Fee as specified in the lease to the PCLT for use of the land underlying your home. The amount of this Lease Fee is based upon household income.

#### 5.2 PAYMENT OF GROUND LEASE FEE

You will pay the Lease Fee monthly, either to the PCLT or to the private lender who holds your mortgage. If Lease Fees are owed to PCLT when you resell your home, they will be taken out of the equity you would otherwise have earned on the sale.

#### 5.3 CALCULATION OF GROUND LEASE FEE

The PCLT has calculated the “fair rental value” of the land underlying your home, but has set your Lease Fee at a lower amount in order to make it more affordable for you.

#### 5.4 REDUCTION, DELAY OR WAIVER OF GROUND LEASE FEE

The PCLT reserves the right to waive or reduce the Lease Fee – but they are not required to do so.

#### 5.5 ADJUSTMENT OF GROUND LEASE FEE

The PCLT may increase the Lease Fee in order to keep it “reasonably current,” but may only do so every fifth year during the term of the lease. If an increase to the Lease Fee is warranted, the PCLT must notify you. You then have 30 days to state your objections. Upon stating your objection, you and PCLT have 15 days to agree on a ground lease fee. If a consensus cannot be met, two neutral arbitrators with experience in making value judgments about real estate will decide on the ground lease amount.

### **ARTICLE 6. Taxes and Assessments**

#### 6.1 TAXES AND ASSESSMENTS

You must pay the property taxes on both your home and the underlying land. (Often, these tax payments will be included in your monthly mortgage payment.) If the government assesses the land for service improvements, like utility lines or new roads, you'll be responsible for paying them.

## 6.2 TAXES ON LEASED PREMISES

If the PCLT is sent a bill for real estate taxes or service improvements on the land, this bill will be passed along to you for payment.

## 6.3 LESSEES RIGHT TO CONTEST

If you want to appeal the tax assessment on your home, you may do so. You may also ask the PCLT to join your appeal, as long as you are willing to pay all costs.

## 6.4 PAYMENTS IN EVENT OF DELINQUENCY

If you don't pay your property taxes, the PCLT can increase your Lease Fee and use the extra money to pay these taxes for you. This is to make sure that your home won't be taken for unpaid taxes and lost to the PCLT's affordable housing program.

## 6.5 PROOF OF COMPLIANCE

You and PCLT must provide proof that the other is paying its portion of all taxes and assessments.

## 6.6 HOMEOWNER OF CONDOMINIUM ASSOCIATION ASSESSMENTS

You are responsible for any Homeowner or Condominium Association fees. If PCLT receives a bill for these fees they will forward it to you for payment.

# **ARTICLE 7. Improvements**

## 7.1 OWNERSHIP

You own all of the buildings, structures, fixtures (such as utility connections), and other improvements (such as landscaping) on the land. If you later add any of these things, they belong to you as well. Although you own the improvements, the lease controls your use and sale of them. None of these improvements may be removed from the land.

## 7.2 PURCHASE OF IMPROVEMENTS BY LESSEE

You are buying the improvements at the same time that you sign this lease.

## 7.3 CONSTRUCTION AND ALTERATION

After buying the improvements and signing the lease, you are allowed to change your improvements or to build new ones, as long as the proposed work meets five conditions:

1. You must pay all costs of the work. (If you have the skills, you can do the work yourself.)
2. The work must be done in a "worker like manner" and must comply with all applicable laws, ordinances, and regulations.
3. The work must be for a use that is permitted by the lease.
4. You can't increase the size or height of the building or add any new buildings or make any major improvements (requiring a building permit or certificate of occupancy, if appropriate), without the prior written consent of the PCLT. You must also give the PCLT a copy of any plans for such major work before beginning it.
5. You must give the PCLT a copy of all building permits for any work on your home before beginning it.

#### 7.4 PROHIBITION OF LIENS

No liens resulting from your improvements may be put on the land. If someone puts a lien on your home (or on the land) because of your actions, you must pay it off within 60 days. If you don't, the PCLT can pay it off and add the cost of paying off the lien to your Lease Fee. You may contest any liens at your own cost.

#### 7.5 MAINTENANCE AND SERVICES

You are completely responsible for all maintenance of the land and improvements. You must keep both in good condition. PCLT is not required to make repairs or to provide such services as electricity, water, heat, air conditioning, or snow removal.

#### 7.6 DISPOSITION OF IMPROVEMENTS UPON EXPIRATION OF LEASE TERM

When the lease ends, or is terminated early, you must turn over the improvements to the PCLT. If the lease is ending, the PCLT must pay you for these improvements at a price set by the resale formula in ARTICLE 10.

### **ARTICLE 8. Financing**

#### 8.1 PERMITTED MORTGAGE

When you make arrangements with a lender to provide a mortgage on the property, PCLT will need to review and approve the mortgage and mortgage documents. In addition, a mortgage on your home must meet certain conditions. These conditions are designed to protect your interests and the interests of PCLT. The mortgage lender should be an institutional lender or community development financial institution. The main reason for this is that both types of lenders are subject to governmental supervision. The loan must be a first mortgage with standard terms. The lender must agree to notify the PCLT if you default on your mortgage and must permit the PCLT to cure your default for you. It must give the PCLT the right to buy the mortgage if the lender is going to foreclose. The mortgage cannot make the PCLT responsible for repaying the loan or any of its costs.

#### 8.2 RIGHTS OF PERMITTED MORTGAGEE

To protect the lender's investment, the lease gives the lender certain rights. The lender can cure your default of the lease, the lender can take over the lease if it forecloses on your loan, and the lender is not liable for your responsibilities as ground lessee. The lender has 30 days to approve or disapprove any changes to the lease. If your lease is terminated for any reason, the PCLT must sign a lease with the lender. The PCLT cannot terminate the lender's interest in the lease if the lender is foreclosing on the loan. PCLT must also notify the lender if you are not complying with the conditions of the lease.

#### 8.3 REMOVAL OF CERTAIN PROVISIONS PURSUANT TO FORECLOSURE

If the lender takes title to the home, it can remove the resale and subletting restrictions in the lease. If the restrictions are removed, affordability and the PCLT's investment are lost. This is why the PCLT is concerned about your mortgage and requires any lender to allow the PCLT to cure your default or to buy your mortgage, BEFORE the lender can take your home.

#### 8.4 LESSOR'S RIGHT TO PROCEEDS IN EXCESS OF PURCHASE OPTION PRICE

ARTICLE 10, explained below, says that you cannot receive more from the sale of your home than the "Purchase Option Price." Article 8.5 says that this will also be true if a lender takes title to your home.

#### 8.5 AMENDMENTS SUBJECT TO APPROVAL BY PERMITTED MORTGAGEE

PCLT must notify a lender who holds a mortgage on your home of any proposed changes in the lease. The lender is given 30 days to approve or reject these proposed changes.

#### 8.6 SUBORDINATION OF PERMITTED MORTGAGE

If a lender who holds the mortgage on your home requires that the lease be subordinate (or secondary) to the terms of the mortgage, an agreement will be signed at the PCLT's discretion. You will be responsible for any cost associated with recording the agreement in the clerk's office of the city circuit court, if necessary.

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

#### 9.1 LESSEE'S LIABILITY

You, not the PCLT, are responsible and liable for whatever happens on the land.

#### 9.2 INDEMNIFICATION OF LESSOR

You agree to defend the PCLT if someone tries to claim the PCLT is liable for something that happened on the land. PCLT remains liable for its own negligence.

#### 9.3 PAYMENT BY LESSOR

If PCLT pays for something that is your responsibility, you agree to reimburse the expenses.

#### 9.4 INSURANCE

You are required to have and keep adequate hazard and liability insurance. At least every two years the amount of insurance coverage must be reviewed and adjusted if needed. The insurance must name the PCLT as additional insured and the PCLT must be notified if your insurance is going to be cancelled or reduced. PCLT is allowed to participate with you on any insurance claim. These provisions ensure that both your, and the PCLT's, investments are protected.

#### 9.5 DAMAGE OR DESTRUCTION

If your home is damaged or destroyed, you must rebuild with the insurance proceeds, unless it would be impossible or unless the insurance wouldn't cover the expense. While this limits what you could do, it keeps an affordable home available for future home buyers. If the insurance won't cover the cost of rebuilding and the PCLT can't get a bigger insurance payment, you can terminate the lease.

#### 9.6 EMINENT DOMAIN AND PUBLIC DEDICATION

There are instances where a government authority is allowed to take property for its own purposes if these purposes are considered to be for the public good. A "taking" can be all or just part of someone's property. The government entity is required to provide compensation for any property it takes. In the event that your home and leased property become subject to a

government taking to the extent that you cannot use the land for your home, the lease will terminate. Compensation will first go to you equal to the current Purchase Option price, and any remainder will go to PCLT. If the government entity only takes a portion of the land and your use of the house is not affected, then the compensation will go to PCLT. If you or the PCLT disputes with the government entity over the taking, the other party agrees to cooperate with the effort.

#### 9.7 REASSESSMENT OF RENTAL VALUE

If the government takes part of the land, but not enough to force you to leave your home, PCLT reserves the right to adjust your Lease Fee.

#### 9.8 RELOCATION OF LESSEE

If your home is destroyed or the land is taken by the government, the PCLT will try to lease you another piece of land.

### **ARTICLE 10. Transfers, Sale or Disposition of Improvements and Leased Premises**

#### 10.1 INTENT

The rules outlined in Article 10 impose resale restrictions on your home. By participating in this lease and abiding by these rules, both you and PCLT declare your intent to keep your home affordable to lower-income households.

#### 10.2 TRANSFERS TO INCOME-QUALIFIED PERSONS.

You may only sell or transfer your home to an Income-Qualified Person (defined as households earning less than 80% of the area median income for the county or city in which it is located in Virginia). Any other sale or transfer, except to a lender in foreclosure, is not permitted. This is what keeps the home affordable for future buyers.

#### 10.3 TRANSFER TO LESSEE'S HEIRS.

If you die, you may leave your home to your spouse, children, or member of your household who had been living with you in the year before your death. These heirs may inherit the home and assume the current land lease (or enter into a new one) even if they are not Income-Qualified. This provides housing security to your family. If you leave the home to an heir other than the three listed above, that heir must be Income-Qualified or be required to sell the home.

#### 10.4 LESSEE'S NOTICE OF INTENT TO SELL

When you want to sell your home, you must notify the PCLT in writing. You can suggest someone who would like to buy it.

#### 10.5 APPRAISAL

After telling the PCLT that you want to sell your home, an appraisal of the market value of your home and the land is needed to calculate the formula price. PCLT will pay for the appraisal.

#### 10.6 LESSOR'S PURCHASE OPTION

Starting on the date when you tell PCLT that you want to sell your home, PCLT will have 60 days to sign a Purchase and Sale Agreement with you to buy your home at the Purchase Option Price. (The PCLT can also designate an Income-Qualified buyer to buy it.)

#### 10.7 IF PURCHASE OPTION IS NOT EXERCISED OR PURCHASE OPTION EXPIRES

If PCLT does not buy your home within 60 days, then you may sell your home yourself to any Income Qualified Person, but not for more than the Purchase Option Price. If after six months you have been unable to sell your home to an Income Qualified Person, you may sell it for no more than the Purchase Option Price to someone whose income is up to 120% of the median household income of the area.

#### 10.8 LESSOR'S POWER OF ATTORNEY TO CONDUCT SALE.

If PCLT does not buy your home and you have been unable to sell your home for a year and you have moved out of your home, then PCLT may seek a buyer and negotiate a sale at a reasonable price. This is meant to prevent the home from being vacant and unmaintained for a long period of time.

#### 10.9 PURCHASE OPTION PRICE.

If the appraised market value of your home (and other improvements) is less than the formula price, the price at which your home must be sold (the Purchase Option Price) will be the appraised market value. If the formula price is less than the appraised market price of your home, then your home must be sold for the formula price.

#### 10.10 CALCULATION OF THE FORMULA PRICE.

The main way your home will remain affordable to future homeowners is by controlling its resale price. The controlled resale price is called the Formula Price. It is determined through several mathematical steps. The first step is to figure out if the home and land have increased in value since you have owned the home. For this reason, a new appraisal is ordered and compared to the appraised value of the property when you purchased the home. If the new appraisal shows a higher value than the initial appraisal, the home and land have increased in market value. You are allowed to capture up to 25% of this increase in value when you sell the home. Thus, the second step is to multiply the increase in market value by .25 to figure out your share of the property's increase in market value. The final step in determining the property's resale value is to add your share of the property's increase in value to the price you paid to acquire the property.

The resale price, or Formula Price, is calculated in the following way:

*Current Appraised Value minus Initial Appraised Value = Increase in Market Value*

*Increase in Market Value multiplied by .25 = Your Share of Property's Increase in Value*

*Your Share of Property's Increase in Value plus Purchase Price = Formula Price*

#### 10.11 PURCHASER TO SIGN NEW LEASE

Whoever buys your home must enter in to a new ground lease with PCLT, starting a whole new 90-year lease period.



## **ARTICLE 11. Assignment and Sublease**

Except as allowed in ARTICLE 8 and ARTICLE 10, you are not allowed to give your lease or to rent your home to anyone else without the prior written consent of the PCLT. If the PCLT gives you permission to rent your home, the amount of rent that you charge must be approved by the PCLT and the renter must obey the lease use restrictions. This prevents PCLT homebuyers from moving out of their homes and renting them out for a large profit.

## **ARTICLE 12. Default**

### **12.1 MONETARY DEFAULT BY LESSEE**

You default on the lease agreement if you break any of its provisions. If the PCLT notifies you that you're in default because you haven't paid the Lease Fee (or other monetary charges you owe to the PCLT), you have 30 days to pay at least 2/3 of what you owe before the PCLT can terminate the lease.

### **12.2 NONMONETARY DEFAULT BY LESSEE**

If the PCLT notifies you that you're breaking some other lease provision – that is, one that does not involve the payment of money to PCLT—then you have 60 days to fix the problem or to make a good-faith effort to do so.

### **12.3 DEFAULT BY LESSEE RESULTING FROM JUDICIAL PROCESS**

If you are bankrupt or insolvent and are forced by a judicial process to give your home to your creditors, the PCLT can terminate the lease.

### **12.4 TERMINATION**

If you fail to fix a monetary or non-monetary default, the PCLT can terminate the lease and evict you from the land.

### **12.5 CROSS-DEFAULT**

If you default on the terms of your mortgage, it will be considered a default of the terms of the lease and the PCLT can terminate the lease.

### **DEFAULT BY LESSOR**

If the PCLT is in default, you must notify PCLT in writing and give it 60 days to fix the problem.

## **ARTICLE 13. Arbitration**

### **13.1 ARBITRATION PROCESS**

If you and PCLT can't resolve a dispute on your own, you will use an arbitration procedure. Each of you will pick an arbitrator. The two arbitrators will pick a third. The three will hear both sides of the issue and make a decision. You and PCLT both agree to accept their decision as a final solution to the problem. Unless decided otherwise by the arbitration panel, the cost of this arbitration process will be split equally between you and the PCLT.

## **ARTICLE 14. General Provisions**

### **14.1 NOTICES**

Whenever the lease requires that you notify PCLT of something (such as your decision to sell your home), or that PCLT notify you of something, that notice must be in writing and either delivered in person or mailed, by certified or registered mail, return receipt requested. If it is a notice from you, the lessee, to PCLT, a copy must also be sent to PCLT's attorney, name and address specified in the ground lease.

### **14.2 NO BROKERAGE**

This certifies that you and PCLT have not used any real estate broker or agent other than the one listed in the lease in connection with the purchase of your home and signing of the lease.

### **14.3 SEVERABILITY AND DURATION OF LEASE**

If any one part of the lease becomes unenforceable or invalid, that material will be removed from the lease and it will not affect the validity of any other part of the lease. Also, it cannot be used in any legal cause of action between you and PCLT. Even the long term of this lease shall not make its provisions void.

### **14.4 RIGHT OF FIRST REFUSAL IN LIEU OF OPTION**

If the law changes and the PCLT's option to repurchase your home at the Purchase Option Price is no longer enforceable, PCLT will still have the first right to repurchase your home by matching the price that is offered by any legitimate buyer.

### **14.5 WAIVER**

PCLT can waive requirements of the lease, but any waiver must be in writing and must be signed by an authorized representative of the PCLT.

### **14.6 LESSOR'S RIGHT TO PROSECUTE OR DEFEND**

PCLT can, but is not obliged to, prosecute or defend in its name or in your name, any legal actions or proceedings appropriate to protecting the PCLT's title to, and your interest in, the land.

### **14.7 CONSTRUCTION**

Wherever a pronoun is used in the lease, it is meant to represent either the singular or plural, masculine or feminine, as the case shall demand.

### **14.8 CAPTIONS AND TABLE OF CONTENTS**

The table of contents and captions in the lease are for convenience only and are not a part of the lease.

### **14.9 PARTIES BOUND**

The Ground Lease is the only agreement about leasing the land and can be changed only through a written agreement signed by you and by the PCLT.

### **14.10 GOVERNING LAW**

The lease is subject to the laws of Virginia.

#### 14.11 RECORDING

A shorter version of this lease will be recorded with the County Recorder of Deeds.

#### SIGNATURES

You and a representative of PCLT will sign the lease to make it official. A notary will notarize the signatures.

#### EXHIBITS

The Exhibits are documents attached to the lease. When attached to the lease, they become part of the lease. Some of them you will sign, others you won't.

LETTER OF STIPULATION AND ACKNOWLEDGEMENT - A letter from you stating, or stipulating, that you understand the rights, responsibilities, and restrictions defined in the lease agreement

LETTER OF ACKNOWLEDGMENT – Letter from your attorney stating that they have explained the rights, responsibilities, and restrictions of this lease to you.

PERMITTED MORTGAGES – The mortgage you get for the property must follow these rules.

FIRST REFUSAL – If you offer your property for sale, PCLT will be given the opportunity to purchase the property first.

PREMISES - Describes the land you are leasing.

ZONING – Shows the zoning classification of the land your house sits upon. The use of the land is limited to the uses outlined in the local zoning ordinance under its classification.

RESTRICTIONS - Describes any restrictions on your use of land that aren't written into the lease itself.

INITIAL APPRAISAL – This is the appraisal that is performed before you purchase the property. It will show the values of the land and the house separately.