

**Note:** In the following document, a mortgagee (together with a lessee/mortgagor) agrees to all of the conditions of a “standard permitted mortgage,” as defined in the Revised Model Lease (Section 8.1 and Exhibit PERMITTED MORTGAGES), which are here identified as “the Stipulated Conditions.” These conditions being accepted, the lessor consents to the mortgage and agrees that the holder of the mortgage will have all of the rights that the Lease assigns to a Permitted Mortgagee. If a CLT negotiates a different set of conditions with a mortgage lender, this sample document can be modified to reflect those conditions. If the conditions agreed upon between the CLT and a mortgage lender are actually incorporated in the mortgage or a rider to the mortgage, then there may be no need for a document such as this sample; however the CLT should still sign a statement of consent to the mortgage, acknowledging that it is a Permitted Mortgage.

### PERMITTED MORTGAGE AGREEMENT

This Agreement is made by and among:

\_\_\_\_\_ (Mortgagee),  
\_\_\_\_\_ Community Land Trust (“Lessor”), and  
Mary Doe (“Lessee” or “Mortgagor”),

**Whereas:**

- a) Lessor and Lessee have entered, or are entering, into a ground lease (“the Ground Lease”), conveying to Lessee a leasehold interest in the premises located at \_\_\_\_\_ (“the Leased Premises”); and Lessee has purchased, or is purchasing, the improvements located on the Leased Premises (“the Improvements”).
- b) The Mortgagee has been asked to provide certain financing to the Lessee, and is being granted concurrently herewith a mortgage and security interest (the “Mortgage”) in the Leased Premises and Improvements, all as more particularly set forth in the Mortgage, attached hereto as Schedule A.
- c) The Ground Lease states that the Lessee may mortgage the Leased Premises only with the written consent of Lessor. The Ground Lease further provides that Lessor is required to give such consent only if the terms of the mortgage and related documentation include certain conditions that are stipulated in the Ground Lease (“the Stipulated Conditions”).
- d) The Lessor would be unwilling to consent to the Mortgage unless the Lessee/Mortgagor and the Mortgagee agree to the inclusion of the Stipulated Conditions among the terms and conditions of the Mortgage.

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

Lessor hereby consents to the Mortgage with the Stipulated Conditions and confirms that the Mortgage with such conditions is a Permitted Mortgage and that the holder of the Mortgage is a Permitted Mortgagee and shall have all of the rights granted to a Permitted Mortgagee by the Ground Lease.

**Stipulated Conditions:**

1) In the event of a default in any of the Mortgagor's obligations under the Mortgage, the holder of the Mortgage shall notify Lessor of such fact and Lessor shall have the right (but not the obligation) within 120 days after its receipt of such notice, to cure such default in the Mortgagor's name and on mortgagor's behalf, provided that current payments due the holder during such 120-day period (or such lesser time period as may have been required to cure such default) are made to the holder. Said holder shall not have the right, unless such default shall not have been cured within such time, to accelerate the note secured by the Mortgage or to commence to foreclose under the Mortgage on account of such default.

2) If, after such cure period, the holder intends to accelerate the note secured by the Mortgage or initiate foreclosure proceedings under the Mortgage, in accordance with the provisions of the Ground Lease, the holder shall first notify Lessor of its intention to do so and Lessor shall have the right, but not the obligation, upon notifying the holder within thirty (30) days of receipt of said notice from said holder, to pay off the indebtedness secured by the Mortgage and to acquire the Mortgage.

3) In the event of foreclosure sale by the holder of the Mortgage or the delivery of a deed to the holder in lieu of foreclosure, upon acquisition of title to the Improvements and Lessee's interest in the Leased Premises by the holder of the Mortgage, the holder shall give the Lessor written notice of such acquisition and the Lessor shall have an option to purchase the Improvements and Lessee's interest in the Leased Premises from the Permitted Mortgagee for the full amount owing to the holder of the Mortgage; provided, however, that the Lessor notifies the holder in writing of the Lessor's intent to make such purchase within thirty (30) days following the Lessor's receipt of the holder's notice of such acquisition of the Improvements and Lessee's interest in the Leased Premises; further provided that Lessor shall complete such purchase within sixty (60) days of having given written notice of its intent to purchase; and provided that, if the Lessor does not complete the purchase within such period, the holder of the Mortgage shall be free to sell the Improvements and Lessee's interest in the Leased Premises to another person;

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

5) The holder of the Mortgage shall not look to Lessor or Lessor's interest in the Leased Premises, but will look solely to Lessee, Lessee's interest in the Leased Premises, the Improvements, or such other buildings and improvements which may from time to time exist on the Leased Premises, for the payment of the debt secured by the Mortgage. (It is the

Appendix C: Sample Permitted Mortgage Agreement

intention of the parties hereto that Lessor's consent to the Mortgage shall be without any liability on the part of Lessor for any deficiency judgement).

6) In the event that any part of the Leased premises is taken in condemnation or by right of eminent domain, the proceeds of the award shall be paid over to the holder of the Mortgage in accordance with the provisions of the Ground Lease.

7) Nothing in the Mortgage obligates Lessor to execute an assignment of the Ground Lease Fee or other rent payable by Lessee under the terms of this Lease.

By:

\_\_\_\_\_ for Mortgagee                      Date: \_\_\_\_\_

\_\_\_\_\_ for Lessee/Mortgagor              Date: \_\_\_\_\_

\_\_\_\_\_ for Lessor                              Date: \_\_\_\_\_