

REFCLT Lease Agreement

A. General Terms

1. This is a binding legal document, consisting of ___ pages, between Red Earth Farms Community Land Trust, Inc., (to be referred to below as "REFCLT") and the undersigned lessee or lessees (referred to below as "Leaseholder(s)"). In this document, REFCLT agrees to lease certain property and property interests located in Scotland County, Missouri, according to the terms set forth below. This lease and its terms as described below is made on this day, _____.

2. The present address of said Leaseholder(s) is _____ .

3. REFCLT is a nonprofit organization engaged in the administration of the land to be leased for the mutual benefit of Leaseholder(s) and future generations.

4. REFCLT and the Leaseholder(s), for themselves and their respective heirs, executors, administrators, successors and assigns, mutually covenant and agree to the terms of this lease. During the lease term described below, REFCLT leases unto Leaseholder(s) and Leaseholder(s) accept from REFCLT, upon the terms and conditions in this lease, possession and occupancy of the parcel of land located as shown on Appendix A attached to this lease. This parcel of land is known as Leasehold #____.

5. The Leaseholder(s)' interest in their parcel, as regarding this lease, will be referred to as 'Leaseholder(s)' interest' and the parcel of land itself shall be referred to as the 'Leasehold'.

B. Lease Term

The Leaseholder(s) shall have and hold the Premises for a term of ninety-nine (99) years beginning on the ___ day of ____, 20____, and shall automatically be renewed in perpetuity at no additional fee every ninety-nine (99) years, assuming that the Leaseholder(s)' successors, heirs, or assigns are in good standing with the community. The terms, rights and obligations of this lease, or of any renewal, shall be binding upon the named parties, or upon any successors to either party. This lease shall in no way be construed to represent a purchase agreement.

C. Lease Fee

1. REFCLT shall determine the Current Lease Fee which is the size based fee that all Leaseholds shall be be leased for that year, including the sale of leases between members (see D. Assignment and Transfer of Lease and Improvements section 2).

2. In return for such possession, occupancy and use of the Leasehold, described as Leasehold #____, the Leaseholder(s) agree to either: Pay REFCLT without demand or deduction \$_____ as a one time fee, or: Pay \$_____ as a down payment, with a balance of \$_____ . Leaseholder(s) shall assume this balance as a loan payable in equal monthly installments of \$_____ , at a fixed rate of %__ interest per annum. The first installment is due on the 1st day of _____, 20__ and monthly thereafter until _____, at which time all principal and interest shall be due and payable.

D. Leaseholders' Rights and Responsibilities

1. If several Leaseholder(s) cosign this lease, they are jointly and severally responsible for honoring the terms, obligations, and restrictions described herein. The number of cosigners to this lease shall not exceed five.

2. Leaseholder(s) shall not encumber any of their rights to interests in the Leasehold or premises except with prior consent in writing from REFCLT and in accordance with the provisions of this lease.

3. Leaseholder(s) shall do all things necessary to prevent the filing of any lien whatsoever against all or part of the Leasehold or its improvements. If any such lien is filed against the Leasehold, the Leaseholder(s) shall either cause the same to be discharged of record within twenty (20) days after filing or, if Leaseholder(s), in their discretion and in good faith, determines that such lien should be contested, they shall furnish such security as may be necessary to prevent any foreclosure proceedings against the Leasehold during pendency of such contest. If the Leaseholder(s) shall fail to discharge such lien within said time period or fail to furnish such security, then, REFCLT may at its election, in addition to any other right or remedy available to it, discharge the lien by paying the amount claimed to be due, or procure the discharge by giving security or in such manner as may be allowed by law. If REFCLT acts to discharge or secure the lien, then the Leaseholder shall immediately reimburse REFCLT for all sums paid and all costs and expenses incurred by REFCLT involving such lien together with interest on the total expense and costs at the maximum lawful rate.

4. From the date of the beginning of the term of this lease agreement, the Leaseholder(s) shall assume sole responsibility and liability to any and all persons and authorities related to the possession, occupancy and use of Leaseholder(s)' premises.

5. The Leaseholder(s) shall pay all service bills and utility charges against Leasehold premises. Property tax on the land and improvements, as assessed by Scotland County, shall be paid by REFCLT. Leaseholder(s) shall reimburse REFCLT for their portion of the property tax on the land and for taxes assessed on improvements on their Leasehold.

6. The Leaseholder(s) shall safeguard the Leasehold against damage, waste, or trespass, and shall hold harmless REFCLT from any liability or loss thus incurred.

7. In the event REFCLT shall be required to pay any sum whatsoever in behalf of the Leaseholder(s)' responsibility or liability, the Leaseholder(s) shall reimburse REFCLT for all sums paid and all costs and expenses incurred by REFCLT together with interest on the total expense and costs at the maximum lawful rate.

8. Leaseholder(s) shall use the Leasehold and Leasehold interest only as described and in accordance with the lease, any existing REFCLT land use plan and provisions included in this lease restricting their use.

9. Leaseholder(s) shall use the Leasehold in a socially responsible manner, causing no real harm and creating no serious nuisances to neighbors. Leaseholder(s) shall take responsibility for the use of the Leasehold by family members, guests, or visitors, and shall make them aware of the spirit, intent, and appropriate terms of this lease.

10. Leaseholder(s) agree to secure written consent from REFCLT for any uses which are possibly inconsistent with the purposes, conditions and restrictions of this lease.

11. Leaseholder(s) agree that residents of their Leasehold who have not signed this lease must sign a Residency Agreement with REFCLT, and that it is the responsibility of the Leaseholder(s) to bring such a matter to the attention of REFCLT if a resident lives on the Leasehold for more than six months.

12. The rights and responsibilities of Leaseholder(s) as defined in this lease apply to the leasehold only. No rights over land owned by REFCLT, not part of the Leasehold, are conveyed by this lease.

13. Leaseholder(s) will allow authorized agents of REFCLT to enter the Leasehold for the purpose of verifying compliance with the terms and restrictions of this lease.

14. Certain powers over the Leasehold are reserved by REFCLT and are not granted to Leaseholder(s) as part of this lease without specific consent in writing from REFCLT. These powers include but are not limited to: road building, granting of easements, adding additional restrictions or limitations to the land such as the creation of land conservation areas, and any other such restrictions, codes, or ordinances as may be adopted by REFCLT in the future.

15. REFCLT reserves to itself all the minerals and other extractive resources. This reservation shall not diminish the right of the Leaseholder(s) under this lease to occupy and freely use the Leasehold. REFCLT shall not extract any resources by going onto the Leasehold during the term of this lease.

16. Leaseholder(s) shall not initiate action(s) on their leasehold which affect the air, water, soil, or sound environment of this or other leaseholds, except as listed in Appendix B of this agreement.

17. Leaseholder(s) shall not make changes to their leasehold including but not limited to felling/planting trees, construction of buildings, earthworks such as ponds and drains, and agricultural establishment such as gardens and fields except as described in Appendix C of this agreement.

18. Leaseholder(s) shall defend, indemnify and hold harmless REFCLT and its officers, directors, employees, agents, parent, subsidiaries and other affiliates, from and against any and all damages, costs, liability, and expense, whatsoever (including attorneys' fees and related disbursements) incurred by reason of (a) the death or injury to any individual, or damage to or loss of REFCLT property or the property of REFCLT members due to the negligence and/or willful acts of Leaseholder(s) or Leaseholder(s) guest(s); (b) any wrongful act or omission by Leaseholder(s) or their guest(s), whether or not the same constitutes a breach of this Agreement, including but not limited to those acts or omissions which are considered tortious, discriminatory or otherwise unlawful under any applicable law; or (c) any breach by Leaseholder(s) of any representation, warranty, or covenant under this Agreement.

E. Addition or Removal of Cosigner from Lease

In the case of a lease with fewer than five cosigners, additional cosigners may be added to the lease at the mutual consent of the Leaseholder(s) and REFCLT, so long as the total number of signers on the lease does not exceed five. In the case of a lease which has more than one signer, the names of one or several cosigners may be removed from the lease at the mutual consent of all Leaseholder(s) and REFCLT, so long as one Leaseholder remains a signer of the lease. In such case, remaining Leaseholder(s) shall be responsible for all terms and conditions set out in the original lease, including any ongoing fees as described in this lease and outstanding obligations that may remain.

F. Assignment and Transfer of Lease and Improvements

1. This lease grants the specific right to the Leaseholder(s) to convey or transfer equity in any buildings or developments owned by Leaseholder(s) on the Leasehold to an approved member of REFCLT. In the event of the transfer of improvements, any consideration paid for said improvements shall be no higher than five percent (5%) above the Fair Market Value of the improvement. Fair Market Value may be established by mutual consent, or failing consent, shall be determined by appraisers selected following procedures prescribed for selecting arbitrators (see G. Provisionary Clauses, section 6). The price set by the appraisers shall constitute Fair Market Value.

2. The right to sell, bequeath, or transfer this lease to an approved member of REFCLT is also granted. In the event of a transfer of this lease, any consideration paid for the Leasehold itself, exclusive of improvements, shall be the Current Lease Fee for a Leasehold of this size as established by REFCLT.

3. The right to sell, transfer, or encumber this lease and any improvements located therein to non-members of REFCLT is not granted, without written permission from REFCLT.

G. Transfer upon Death of Leaseholder(s)

1. Upon the death of the last surviving Leaseholder, REFCLT shall agree to lease the Leasehold (provided all conditions set forward in this lease are agreed to) to one or more of the following:

- a. The testamentary heir of the Leaseholder; or
- b. The spouse or domestic partner of the Leaseholder; or
- c. The child or children of the Leaseholder; or
- d. Member(s) of the Leaseholder(s)' household or residential group.

2. Upon such death, REFCLT must receive written application from one of above listed within ninety (90) days of date of death, indicating desire to continue to lease the Leasehold for the remaining duration of the lease term. In so doing, REFCLT shall take into consideration the expressed wishes, if any, of the lessees of this lease, and the relative needs and abilities of their successors to make responsible use the Leasehold. If such application is not received within ninety (90) days of date of death, the Leasehold shall revert to REFCLT.

3. It is the intent of REFCLT to honor the expressed wishes of the deceased. However if the expressed wishes of the deceased indicate a person who REFCLT does not consider an appropriate Leaseholder or who is not accepted for membership in REFCLT, the lease shall revert to REFCLT. If REFCLT chooses to re-lease this Leasehold, any consideration paid for the Leasehold itself, exclusive of improvements, shall be the Current Lease Fee for a Leasehold of this size as established by REFCLT and shall be paid to the person indicated by the deceased as inheritor of the lease when the Leasehold is re-leased.

H. Termination of Lease

1. If membership in REFCLT is terminated, either by the Leaseholder or by REFCLT according to the terms spelled out in the Membership Agreement and the By-Laws which are incorporated by reference herein, this Lease shall simultaneously terminate and their personal

property and improvements shall be disposed of as stated below.

2. REFCLT may terminate this lease, at its discretion, in the event the Leaseholder(s) have:

- a. violated any of the provisions of this lease; or
- b. used the Leasehold in any manner seriously detrimental to the ecological integrity of the land, the surrounding community or the inherent interests of future Leaseholder(s); or
- c. default by Leaseholder(s) in the payment of any note due REFCLT. In the event of any claim for default or termination, REFCLT shall give to Leaseholder(s) sixty (60) days written notice to cure said default; or
- d. been absent from the Leasehold for at least six consecutive months, unless previously otherwise agreed with REFCLT. REFCLT shall make reasonable arrangements with the Leaseholder(s) for necessary absences, provided the Leaseholder(s) have a firm intention to return to the Leasehold as a primary residence. Should the Leaseholder(s) be absent from their Leasehold for a period of six consecutive months without notice or arrangements with REFCLT, REFCLT after reasonable effort to contact Leaseholder(s) may declare the Leasehold abandoned, terminate the lease and take possession of the Leaseholder(s)' property, buildings and improvements. On such occurrence, REFCLT may charge the Leaseholder(s) reasonable storage charges or cleanup costs related to the process of restoring the Leasehold to its original condition. Notice shall be given via registered mail or similar process at least sixty (60) days before such declaration is made by REFCLT. Notice will be sent to the contact address that Leaseholder(s) have provided to REFCLT; providing this address and being responsible for its accuracy is the responsibility of the Leaseholder(s); or
- e. failed to comply with any ruling or judgment made through the process for arbitration of disputes or grievances hereinafter provided. However, REFCLT shall not terminate the lease without first giving the Leaseholder(s) a sixty (60) day notice, citing the cause of termination, and granting an opportunity to correct their default. Leaseholder(s) may request arbitration of any issues relating to the cause of termination at any time within the sixty (60) day period before termination occurs according to provisions herein.

3. Upon termination of the lease, Leaseholder(s) are responsible for selling or removing personally owned improvements (See Assignment and Transfer of Lease and Improvements, section 2 and section 6). REFCLT retains first option to buy any or all improvements at Fair Market Value as described in Assignment and Transfer of Lease and Improvements section 2. REFCLT will respond to the Leaseholder(s) offer to sell within thirty (30) days.

4. If and when final notice of termination of this lease is made, the Leaseholder(s) will make every effort to sell their improvements and leave the Leasehold without damaging or defacing the Leasehold in any way. During this time, all provisions of this lease agreement shall remain in effect.

5. If this lease is terminated for any reason, the Leaseholder(s) must vacate the Leasehold within sixty (60) days, with the provisions of this lease still in effect during this time. If the Leaseholder(s) do not, REFCLT may take any legal action necessary to remove all remaining persons.

6. If this lease is terminated for any reason, the Leaseholder(s) have one (1) year from date of the termination of this lease to realize the value of their interest in any buildings or improvements on the Leasehold covered by this lease, as described in Assignment and Transfer of Lease and Improvements section 2. At this time REFCLT will by public or private sale dispose of the Leaseholder(s)' interests in buildings and improvements at the best price obtainable under distress circumstances. Proceeds from the sale shall be applied in this order:

- a. to any amounts owed to REFCLT, include storage and cleanup costs incurred in the process of returning the Leasehold to its original condition;
- b. to the holder of any lien against buildings and improvements;
- c. to the cost of the sale;
- d. to the Leaseholder(s).

If REFCLT does not receive enough money/proceeds from the sale to cover all claims against the Leasehold, the Leaseholder(s) will be personally and jointly liable for the difference.

7. REFCLT will not be liable to prosecution for damage for taking any of the above actions.

I. Provisionary Clauses

REFCLT requires that Leaseholder(s) conform to and abide by the following provisions:

1. Membership: Leaseholder(s) must maintain a regular membership in good standing with REFCLT, pursuant to the aims and purposes of the articles and bylaws of that organization.
2. Noxious or offensive trade or activity: No noxious or offensive trade or activity shall be carried on. Discharge of firearms must not constitute a danger to other persons.
3. Subleasing and subdivision: Subleasing or subdivision of property

is prohibited without the express permission of REFCLT.

4. Improvements:

- a. Leaseholder(s) shall own and have title to all buildings and improvements made to or on the Leasehold by them, at their expense or on their behalf, upon the conditions provided in this lease. Leaseholder(s) shall bear full responsibility for any taxes due on buildings or improvements.
- b. Leaseholder(s) have the right to physically sever and remove any of their buildings or improvements at any time, provided they do no harm to the Leasehold in the process and are current in any payments owed by them to REFCLT.

5. Advertising: Any advertisements, billboards, or signs of any kind that are erected or maintained on any parcel, or improvements thereon, may not be more than five (5) square feet in size. Any larger signs or other advertising structures must be approved by the REFCLT.

6. Arbitration: Should any dispute or grievance arise between the parties to the lease, concerning their respective rights and duties under the terms of the lease which cannot be resolved in normal interaction, the following arbitration procedure shall be used:

- a. Either party may, by written notice to the other, appoint one arbitrator. Within ten (10) days after such notification, the other party shall, by written notice to the former, appoint a second arbitrator (and in default of such appointment, the first arbitrator shall be the sole arbitrator). These first two arbitrators shall appoint a third arbitrator. Any and all of the arbitrators so chosen shall be persons with significant experience in land trusts, community activities, and/or the specific issue in dispute.
- b. The arbitrator(s) shall meet and give each party an opportunity to present evidence and witnesses, if any, in the presence of the other. As soon as possible after the hearings(s), the arbitration panel shall make a written report of its findings and decisions (by majority vote), including a personal statement by each arbitrator of his/her vote and the reasons for it. Arbitration shall begin within thirty (30) days of the appointment of the second arbitrator, and judgment should be rendered within sixty (60) days of the start of arbitration.
- c. The decisions and awards of the arbitration panel shall be binding, and judgment may be entered thereon in any court having jurisdiction.

7. Access:

- a. Leaseholder(s) shall not deny access to persons on foot, with carts, on bicycle, or any form of human propelled vehicles,

hereafter referred to as Human Traffic, across their Leaseholds. Leaseholder(s) shall be required to provide access across or through any modifications they make to the Leasehold if requested to by REFCLT. The locations of paths for Human Traffic shall be designated by REFCLT.

- b. All traffic other than Human Traffic across Leaseholds shall be restricted to roads and easements designated by REFCLT.

8. Modifications and Variances to this Lease

Modifications and variances to the terms and appendices of this lease may be granted by REFCLT. Any such modifications or variances shall require the mutual consent of the Leaseholder(s) and REFCLT, shall be given in writing, and shall be signed by the Leaseholder(s) and REFCLT before being deemed granted.

9. Miscellaneous provisions:

- a. Rights to civil liberties, privacy and quiet enjoyment: REFCLT may not interfere with the personal lives, associations, expressions or actions of the Leaseholder(s), except insofar as they involve the terms and conditions of this lease, and that their rights be guaranteed from infringement on their basic civil liberties (including due process rights of notice and to a hearing on violations) which rights REFCLT will not unreasonably abridge under the guise of enforcement of the terms of this lease, or by any other means.
- b. Whenever this lease shall require that either party give notice to, or be advised by, the other, that notice shall be given in writing, mailed by registered mail, to the last known address of the party to be notified, and such written notice shall also be delivered in person, if possible. Notice shall be deemed given on the date on which it is mailed.
- c. Whenever either party to this lease asks for the consent of the other in accordance with the provisions of this lease, that consent must be given or refused, if that is reasonably possible, within thirty (30) days, unless otherwise provided. If a well informed judgment requires a longer period, all reasonable steps must be taken to begin that process within thirty (30) days of the request, and continue it promptly to completion.
- d. The failure of REFCLT to insist, in any one or more instances, upon a strict performance of any of the covenants or conditions of this lease, or to exercise any right or option herein contained, shall not be construed as a waiver of the option to do so, but such covenants, rights and options shall continue in full force and effect. No waiver of any one covenant, right or option shall be deemed a waiver of any other.

- e. The receipt of REFCLT of any payment, with the knowledge of the Leaseholder(s)' breach of any covenant hereof, shall not be deemed a waiver of REFCLT's remedies for such breach.
- f. Both parties agree to submit any disputes concerning their respective rights and duties under the terms of this lease to arbitration (as provided in section 6 above) before any legal action is taken.
- g. If any clause or provision of this lease shall be adjudged invalid, such fact shall not affect the validity of any other clause or provision, or give rise to any cause of action in favor of either party as against the other.