

LAND TRUST AGREEMENT

Purpose of Agreement

1. This Trust Agreement, dated _____ [date], and known as the “_____ [name of grantor] Land Trust,” is to certify that _____ [name of land trustee], of _____ County, Florida, as Trustee, is about to take title to the following described real estate in _____ County, Florida, to wit:

[Insert legal description of property:]

When the Trustee has taken the title to this or any other property conveyed to it as Trustee, the Trustee will hold it and the proceeds, profits, and avails, if any, that may come into the Trustee’s possession by direction of the beneficiary or beneficiaries or by the specific terms, in trust, for the ultimate use and benefit of the beneficiaries and their assigns.

Beneficiaries

2. The persons named in Schedule “A,” attached hereto and made a part of this Agreement, are the beneficiaries of this trust, and as such shall be entitled to the proceeds, profits, and avails of the trust property according to the respective interests set forth in Schedule “A.”

Interests of Beneficiaries as Personalty

3. It is understood and agreed by and between the Trustee and any person or persons who have or may become entitled to any interest under this trust, that the interests of any beneficiary shall consist solely of a power of direction to deal with title to the trust property, and the right to receive or direct the disposition of the proceeds from the rentals and from the mortgages, sales, or other disposition of the premises. The right in the avails and proceeds of the property shall be deemed to be personal property and may be treated, assigned, and transferred as such, and will be so treated for all purposes. In case of the death of any beneficiary during the existence of this trust, the beneficiary’s right and interest shall, except as otherwise specifically provided, pass to the beneficiary’s executor or administrator and not to his or her heirs at law. No beneficiary now has, or shall at any time have, any right, title, or interest in or to any proportion of the real estate as such, either legal or equitable, but only an interest in the earnings, avails, and proceeds, it being the intention of this instrument to vest the full legal and equitable title to the premises in the Trustee.

Death of Beneficiary

4. The death of any beneficiary shall not terminate the trust or in any manner affect the powers of the Trustee.

Notice of Assignment of Beneficial Interests

5. (a) No assignments of interests by a beneficiary shall be binding on the Trustee until the original or duplicate copy of the assignment, in the form as the Trustee may approve, is delivered to the Trustee and the Trustee’s acceptance is indicated. Any assignment not so delivered to the Trustee shall be void as to all subsequent assignees or purchasers without notice. The Trustee shall also revise Schedule “A” of this trust to reflect any change in ownership.

(b) Certificates evidencing the interests of the beneficiaries may be issued by the Trustee in the form as it may approve, in which event an assignment of an interest shall be valid only on the surrender of the certificate, and the assignee shall not be entitled to recognition as a beneficiary until the original certificate has been surrendered to the Trustee with a proper assignment and until a new certificate has been issued.

Tax Returns

6. The Trustee shall not be obligated to file any income, profit, or other tax reports or schedules. The beneficiaries shall individually make all the reports and pay any and all taxes on the earnings, avails, and proceeds of the trust property or taxes otherwise arising out of their interests. The Trustee shall make available, on request by the beneficiaries, accounting records of the trust that pertain to their respective interests.

Reimbursement and Indemnification of Trustee

7. In case and whenever the Trustee shall make any advance of money on account of this trust or shall be made a party to any litigation on account of holding title to real estate in this trust or in connection with this trust, or in case the Trustee, either personally or as Trustee, shall be compelled to pay any sum of money on account of this trust or any property included, whether on account of breach of contract, injury to personal property, fines, or penalties under any law or otherwise, the beneficiaries, in accordance with their respective interests, will, on demand, pay to the Trustee, with interest at the rate of _____ percent per year, all disbursements, advances, or payments made by the Trustee, together with the Trustee's expenses, including reasonable attorneys' fees. The Trustee shall be under no duty to convey or otherwise deal with the trust property at any time held until all of the disbursements, payments, advances, and expenses made or incurred by the Trustee have been fully paid, together with interest. The Trustee shall not be required to advance or to pay out any money on account of this trust or to commence or defend any legal proceedings involving this trust or any property or interest unless the Trustee shall be furnished with sufficient funds or be satisfactorily indemnified.

Reliance by Third Parties on Authority of Trustee

8. No party dealing with the Trustee in relation to the trust property in any manner whatsoever, and no party to whom the property or any part or interest is conveyed, contracted to be sold, leased, or mortgaged by the Trustee, shall be obliged to see to the proper handling, application, or disbursement of any money paid or to inquire into the necessity or expediency of or authority for any act of the Trustee or as to the provisions of this instrument.

Prohibition Against Recordation

9. This Agreement shall not be placed on record in the circuit court clerk's office of the county in which the trust property is situated, or elsewhere. Any recording shall not be considered as notice of the rights of any person derogatory to the title or powers of the Trustee.

Limitation on Disclosure of Beneficiaries

10. In the event of service of process on the Trustee at any time, the Trustee may in its discretion disclose to the other parties to any proceeding the names and addresses of the beneficiary or beneficiaries of this trust. The Trustee shall not otherwise disclose the identity of any beneficiary of this trust, except insofar as such disclosure may be required by law or on order of a court having jurisdiction over this trust.

Resignation and Replacement of Trustee

11. (a) The Trustee may resign at any time by sending a notice of its intention to do so by registered mail to each of the beneficiaries at his or her address last known to the Trustee. In the event of the Trustee's resignation, a successor or successors may be appointed by the _____ [person *or* _____ (any of *or* a majority in interest of *or* all) the persons] then entitled to direct the Trustee as to the disposition of the trust property, by an instrument in writing lodged with the resigning Trustee, having endorsed the acceptance of the successor trustee. The resigning Trustee shall convey the trust property to the successor or successors in trust.

(b) In the event no successor trustee is appointed as provided within sixty days from the date of the resignation, the resigning Trustee may convey the trust property to the beneficiaries in accordance with their respective interests and this trust shall terminate, or the Trustee may, at its option, apply for appropriate relief in any court of competent jurisdiction.

(c) Notwithstanding the resignation of the Trustee, the Trustee shall continue to have a first lien on the trust property for any unpaid costs and expenses, including reasonable attorneys' fees, and for its reasonable compensation.

(d) Every Successor Trustee or Trustees appointed shall become fully vested with all the estate, properties, rights, powers, trusts, duties, and obligations of its predecessor.

Powers and Duties of Trustee

12. While the Trustee is the sole owner of the real estate and any other property held by it, and so far as the public is concerned has full power to deal with the real estate and any other property, it is understood and agreed by the persons in interest and by any persons who may become interested that the Trustee will deal with the property only when authorized to do so in writing, and that notwithstanding any change in the beneficiary or beneficiaries, it will, on the written direction of _____ [*identify beneficiaries having power of direction; if more than one, identify number needed to agree, e.g., a majority in interest of the beneficiaries if beneficiaries are identified by name, add: , or their successors in interest*], make and execute contracts or deeds for the sale of, or otherwise deal with, the real estate or any part, and with the disposition of the proceeds from any rentals, mortgages, insurance, sales, or other disposition of the premises; provided, however, that the Trustee shall not be required without its consent to enter into any personal obligation or liability in dealing with the trust property or to make itself liable for any damages, costs, expenses, fines, or penalties, or to deal with the title so long as any money is due to it; and, to the extent of any moneys due to the Trustee, it shall have a lien on the property or the proceeds. Otherwise, the Trustee shall not be required to inquire into the propriety or purpose of any direction.

Rights and Duties of Beneficiaries

13. The beneficiary or beneficiaries shall have and retain (except as otherwise expressly provided) the management of the property and control of the renting, handling, encumbering, selling, or making of any other disposition, and any beneficiary or his or her agent shall be entitled to collect and handle the rents and the proceeds of any encumbrances, sales, or other disposition of the property. Each beneficiary shall be responsible for his or her share of expenses or other disbursements relating to the property. The Trustee shall not be called on to do anything with respect to the management or control of the property, the payment of taxes or assessments, insurance, litigation, or otherwise, except on written direction of the beneficiaries as provided, and after the payment to it of all money necessary to carry out the instructions.

Termination of Trust

14. If the trust property or any part remains in the trust _____ [*insert number of years not to exceed 360*] years after the date this trust was executed, the Trustee shall give written notice to the beneficiary or beneficiaries of the proposed termination of the trust. The notice shall be sent not later than thirty days after the _____ [*insert anniversary corresponding to proposed termination*] anniversary date. In the event that an agreement extending term of trust has not been agreed to by all parties within sixty days from the date of the notification, the Trustee shall either convey the trust property to the beneficiaries in accordance with their respective interests, or, on written direction of _____ [*specify, e.g., more than 50 percent of the beneficiaries in interest*], sell the same at public sale on reasonable notice and divide the proceeds of the sale among all the beneficiaries in accordance with their respective interests.

Insurance

15. The beneficiaries agree at all times to carry public liability insurance and other liability insurance as the Trustee shall deem necessary, insuring the Trustee in amounts and form acceptable to the Trustee. In the event of the failure to furnish liability insurance, the Trustee, in its discretion, may procure the insurance, and the beneficiaries do jointly and severally agree that they will forthwith on demand pay the Trustee the amount of the premium on the insurance plus interest at the annual rate of _____ percent.

Compensation of Trustee

16. The Trustee shall receive reasonable compensation for its services with respect to this trust and shall be entitled to reimbursement of its expenses reasonably incurred. The Trustee shall have no obligation to advance any sums on behalf of the trust but may do so in its discretion. The Trustee shall have a lien on the real estate and any other property of the trust in its hands for its fees, expenses, and advances. The grantors and any persons accepting an assignment of the interest of any beneficiary agree to pay the fees and to reimburse the Trustee for the expenses and advances on demand; the payment to be made pro rata based on each beneficiary's respective interest. Notwithstanding any other provision of this Agreement, the Trustee shall be under no obligation to make any deed, mortgage, lease, or conveyance of the real estate, or to enter into any contractual obligation with respect to the real estate, until its fees are paid and its expenses reimbursed, or until the fees and expenses are secured to its satisfaction.

Binding Effect on Successors

17. The terms and conditions of this Agreement shall inure to the benefit of and be binding on any Successor Trustee and on all successors in interest of the beneficiaries.

Governing Law

18. This Agreement shall be construed and regulated and its validity and effect shall be determined by the laws of Florida as such laws may from time to time exist.

Valid Notice Requirements

19. Any notice in writing required or permitted to be given to the grantors or the beneficiaries by the Trustee will be deemed to have been sufficiently given if personally delivered or mailed in an envelope addressed to the person at the address shown opposite that person's name in Schedule "A" of this Agreement or at another address the person may specify by written notice to the Trustee. Any notice in writing required or permitted to be given to the Trustee will be sufficiently given if delivered to the Trustee at its principal office or at another address as the Trustee may specify.

Amendment, Modification, or Termination of Agreement

20. This Agreement contains the entire understanding between the parties, and may be amended, revoked, or terminated only by a written agreement signed by the Trustee and all of the beneficiaries or their designees, except that termination may result from the operation of Paragraph 14 of this Agreement and except that this Agreement may be amended solely as to the identity of beneficiaries, so long as any change of beneficiaries occurs in accordance with the terms and conditions of this Agreement.

Nonliability of Trustee

21. All obligations incurred by the Trustee shall be the obligations of the trust only, and shall not under any circumstances be the individual obligations of the Trustee. No beneficiary shall have any authority to contract for or in the name of the Trustee, or to bind the Trustee personally, unless its consent is first obtained in writing.

[Optional:]

Restrictions on Transfers of Beneficial Interests

22. Any holder of a beneficial interest desiring to sell or dispose of the beneficial interest, or any portion, at any time, must first offer to sell the interest to the other beneficial interest holders, first according to their respective proportionate beneficial interests, and then to any remaining beneficial interest holders. The beneficial interest must be offered _____ [at its fair market value as determined by an independent appraisal by _____ (*name of appraiser or* an independent appraiser mutually agreed on by the parties) *or* at the same price as the highest written good faith offer by a third party to purchase the interest *or* at a price mutually agreed on by the parties]. An option for the purchase of the interest shall be given to the remaining beneficial interest holders for a period of thirty days. If the option is accepted, the purchasing beneficial interest holders shall have the right to purchase the interest for a lump-sum payment in cash within ten days after the exercise of the option, or payment may be made on terms agreeable to both the purchasing and selling beneficial interest holders. If the option is not accepted within the thirty-day period provided above, the beneficial interest may then be offered to any outside party, provided, however, that the other beneficial interest holders are given an option for an additional period of ten days to meet the price and terms at which it is proposed to sell the interest to the outside party. If the beneficial interest holders meet the price, the sale shall be made to them, for a lump-sum payment in cash or on other mutually agreeable terms, within ten days after the exercise of the subsequent option. This shall not interfere with the right of any beneficial interest holder to transfer a beneficial interest by will or gift. The beneficial interest, however, shall be subject to this provision in the hands of all future beneficial interest holders, including heirs, executors, administrators, personal representatives, donees, and assigns. The terms of this provision respecting the transferability of beneficial interests may be modified by agreement of all of the beneficial interest holders.

[Optional:]

Addition of Other Property to Trust

23. Additional property may at any time be conveyed to the Trustee under this trust, and the property and the proceeds shall be held, dealt with, and disposed of under the terms of this Agreement and in the same manner as the property specifically described. The terms and conditions of the deed or deeds by which the property is conveyed to the Trustee hereunder shall constitute and be construed as a part of this Agreement.

[Continue with the following:]

IN WITNESS WHEREOF, the undersigned have caused this Trust Agreement to be executed on their behalf on the day, month, and year first above written.

TRUSTEE

_____ [*name of trustee*]

_____ By: _____

_____ [*typed name and title*]

BENEFICIARIES

_____ [*signature*]

_____ [*typed name*]

_____ [*signature*]

_____ [*typed name*]

_____ [*signature*]

_____ [*typed name*]

Schedule "A"		
<u>Name of Beneficiary</u>	<u>Address</u>	<u>Interest %</u>