Consultation document about perpetual ground leases for newly released land in Amsterdam

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1. Consultation about perpetual ground leases for future property development

The City of Amsterdam is planning to introduce a perpetual ground lease system, which will provide more certainty to leaseholders with regard to the costs of ground rent. The college of mayor and alderpersons initially wants to apply this new system to newly issued ground leases. You can participate in the discussions about the City's proposals relating to the introduction of a perpetual ground lease system from 22 February to 4 April 2016.

Reading guide
This consultation document is intended to assist you in forming your opinion. It contains information about the new system and the rules that apply to it. The rules are defined in the policy for granting perpetual ground leases and the General Conditions. You can read the draft text of both documents in chapters 5 and 6.

On which issues is the City of Amsterdam asking for your opinion?
The college of mayor and alderpersons have presented the new perpetual ground lease system for consultation. This system consists of the General Conditions for Perpetual Ground Leases in Amsterdam, 2016 (hereafter: General Conditions) and the policy for granting perpetual ground leases. This policy describes how perpetual ground leases will be issued.

The General Conditions include the following points:
- that there is a case for a perpetual ground lease,
- how annual indexing is calculated in the case of indexed ground rent,
- the mutual rights and obligations of the leaseholder and the City,
- procedures applying to changes requested by the leaseholder, such as a change to the use of the land or a division of the lease.

The City of Amsterdam can never unilaterally change the agreements; in this way the General Conditions guarantee certainty to the leaseholder.

We would like to hear your opinions about the City's proposals for dealing with perpetual ground leases for newly released land, i.e., future property development. Additionally we would like to know whether you would choose for a fixed ground rent, an indexed ground rent, or a lump sum payment.



To whom does this consultation apply?
The new perpetual lease system will apply to all commercial and private leaseholders, with the exception of housing associations and the Port of Amsterdam.

- *New leaseholders*: once ratified, the new General Conditions will automatically apply to new leases (for future building projects). This

does not affect any agreements the City might have with a future leaseholder that are based on the current ground lease system. In such cases, these agreements remain in force, and switching to the new system can take place at a later date. For this to occur, a transition regulation for existing leaseholders must first be drafted.

- *Existing leaseholders*: people with an existing lease contract will be given the opportunity to voluntarily switch to the perpetual ground lease system later. The City is still formulating a transition regulation to this end, which will be presented in a second public consultation. The General Conditions will also apply to those who make the switch.
- *Residents of Amsterdam*: this updating of the ground lease system can impact on the City's budget and is therefore important for all of Amsterdam's residents.
- *Other interested parties*: for example, interest groups such as the Stichting Erfpachters Belang Amsterdam (SEBA), which represents leaseholders' interests; the house owners' collective Vereniging Eigen Huis; and professionals such as notaries, banks and estate agents.

The following topics are excluded from this round of consultations:

- The choice for a perpetual ground lease system is stipulated in the coalition agreement, and the options of 'purchasing' or 'full ownership' are therefore unavailable. At present, we want to hear your opinions on how the new perpetual ground lease system should be implemented.
- The costs to existing leaseholders when switching to the new system. These will only become clear after the transition regulation has been formulated and presented for public consultation.
- The ways in which leaseholders can apply for changes to their lease, for example, with regard to the use of the land, subdividing property into apartments, plot expansions, etc. This policy will be dealt with separately.
- Land valuation policy, ground rent percentages and information about lump sum buyouts. These are established annually by the city council, and include the actual land price per square metre, the ground rent calculation, and the lump sum buyout options available to leaseholders.

Information fair

The City is organising a three-day-long information fair as part of the consultation. At the fair you can request additional information, ask questions and share your reactions to the proposals.

You are welcome in the first floor foyer of Amsterdam City Hall, Amstel 1, on:

- Tuesday 15 March 2016 16:00-21:00
- Wednesday 16 March 2016 16:00-21:00
- Thursday 17 March 2016 16:00-21:00

The route and parking facilities can be found at:
www.amsterdam.nl/contact/routestadhuis

How can you respond?
You can respond in the following ways:

- with the online form
- by post: Gemeente Amsterdam, re: 'Consultation Perpetual Ground Lease', Antwoordnummer 10999, 1000 RA Amsterdam
- during the information fair
- by e-mail: erfpacht@amsterdam.nl re: 'Consultation Perpetual Ground Lease'

We must receive your feedback before midnight on 4 April 2016. Any input that arrives after this deadline will not be included in the deliberations.

What happens to your input?
The City processes all the reactions into a so-called Memorandum of Responses, which contains a summary of all your feedback. It also details any adjustments to the General Conditions or to the policy for granting perpetual ground leases that have occurred in response to your feedback. After processing the reactions, the college of mayor and alderpersons will present the General Conditions, the policy for granting perpetual ground leases and the Memorandum of Responses to the city council. The associated land price policy for new perpetual ground leases will also be submitted to the city council. If the council approves, the new perpetual leases will begin to be issued.

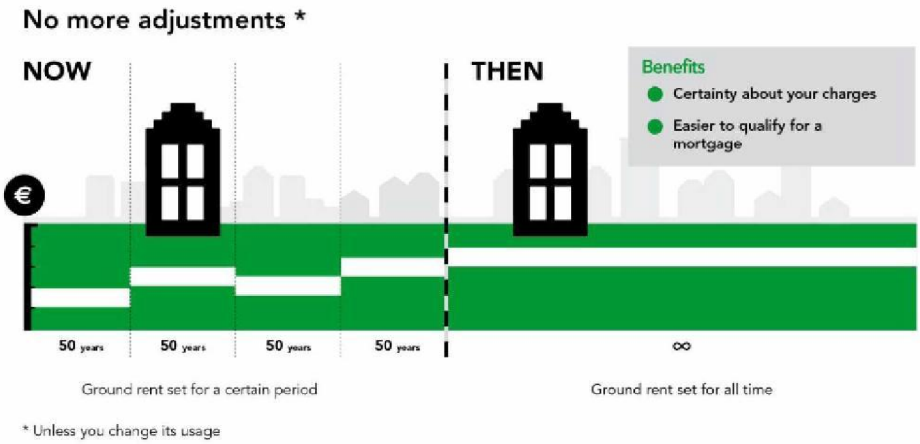
For the latest information in Dutch and to subscribe to the Dutch newsletter about these changes to the ground lease system, go to: www.amsterdam.nl/erfpacht

2. What is a perpetual ground lease?

After 100 years of a continuous ground lease system, the City of Amsterdam is introducing a perpetual ground lease system. In this new system, the City calculates the amount that leaseholders have to pay for the use of the (built-up) land it owns only once and for all time. This means leaseholders will have more clarity about the cost of their ground lease.

A large proportion of the houses and businesses in Amsterdam are built on land that is owned by the City. People with a house or business on City-owned land pay the City a fee for this use. This fee is called a ground rent. The City uses this money to develop the city and its facilities for its residents.

What is leasehold?
Leasehold is the right to use immovable property owned by another, in this case, the City of Amsterdam. **Immovable property** means the land as well as the buildings and greenery that are on that land.
For convenience, immovable property is referred to as 'land' in this consultation document.
As a leaseholder, you are permitted to build on the City's land. You can also sell the leasehold or take out a mortgage on the lease. However, the City remains the owner of the land and the buildings thereon. You pay an annual fee, the **ground rent**, to the City.



Certainty

The City currently has mostly continuous leases. With continuous leases, the City can unilaterally impose new General Conditions at the end of each period (every 50 or 75 years). In addition, the ground rent is recalculated at the end of each period, based on the value of the land at the time. This causes uncertainty for leaseholders, as well as for banks and estate agents, and is something that the City wants to put an end to. In fact, in the current system the ground rent can only be calculated a few years before a new period begins. If it transpires that the value of the land has increased, the ground rent increases too.

Predictable

With a perpetual lease, the ground rent will be determined once, and for all time. The ground rent is then only indexed annually (inflation). The ground rent and other agreements will never again be revised, unless the leaseholder changes the way the land is used. The new system provides clarity and certainty for leaseholders and the City. Mortgage providers will also be assured of the value of the leasehold as collateral for their loans.

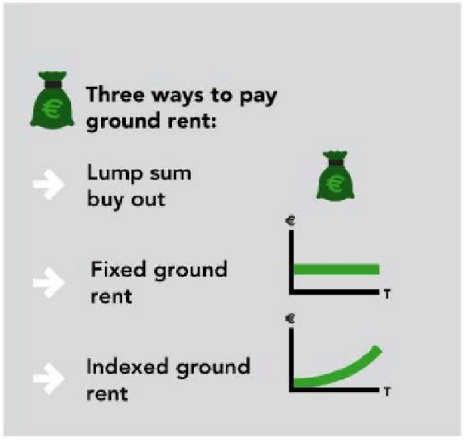
Changes to the use of the land

The ground rent can only be adjusted under the new system if the leaseholder wants to alter the terms of the lease, for example, if he or she changes the use of the land from a residence to a hotel, or from an office to a shop. The ground rent is also adjusted if a commercial building is expanded. Private residences can be enlarged without the ground rent being affected, as long as the number of buildings doesn't increase, the residence isn't commercially exploited, and has been occupied for at least four years.

3. How would you prefer to pay?

The proposal for a perpetual leasehold system provides two payment options for leaseholders: a ground rent that can only be indexed annually (adjusted for inflation), or the option to buy out the ground rent (with a lump sum payment). The college of mayor and alderpersons have also considered the option of a fixed ground rent, which is not indexed, and is examining the possibility of mandatory lump sum buyouts in some situations.

Indexed ground rent
The indexed ground rent is adjusted annually to meet the expected inflation, and only changes if the use of the land changes. The indexed ground rent is initially lower than the fixed ground rent, but will increase each year due to inflation. After a long period (approximately 28 years in the example below), the leaseholder would pay more than the fixed ground rent. However, the exact point of convergence is dependent on actual inflation in the future. Under current tax law, the ground rent for owner-occupied residences is deductible from income tax.



Fixed ground rent
In the case of fixed ground rent, the leaseholder pays an annual fixed amount that will never be adjusted, unless he or she changes the use of the land. Under current tax law, the ground rent for owner-occupied housing is deductible from income tax. The fixed ground rent is initially higher than the indexed ground rent. After a long period (28 years in the example below), the leaseholder would pay less than the indexed ground rent.

Lump sum buyout
With a lump sum buyout, the leaseholder pays all future ground rent in one go. As long as the function and/or use of the leasehold remains unchanged, no further ground lease will have to be paid, in perpetuity.
Under current tax legislation, the interest on any loans for owner-occupied homes is deductible from income tax for 30 years, subject to conditions.[1]

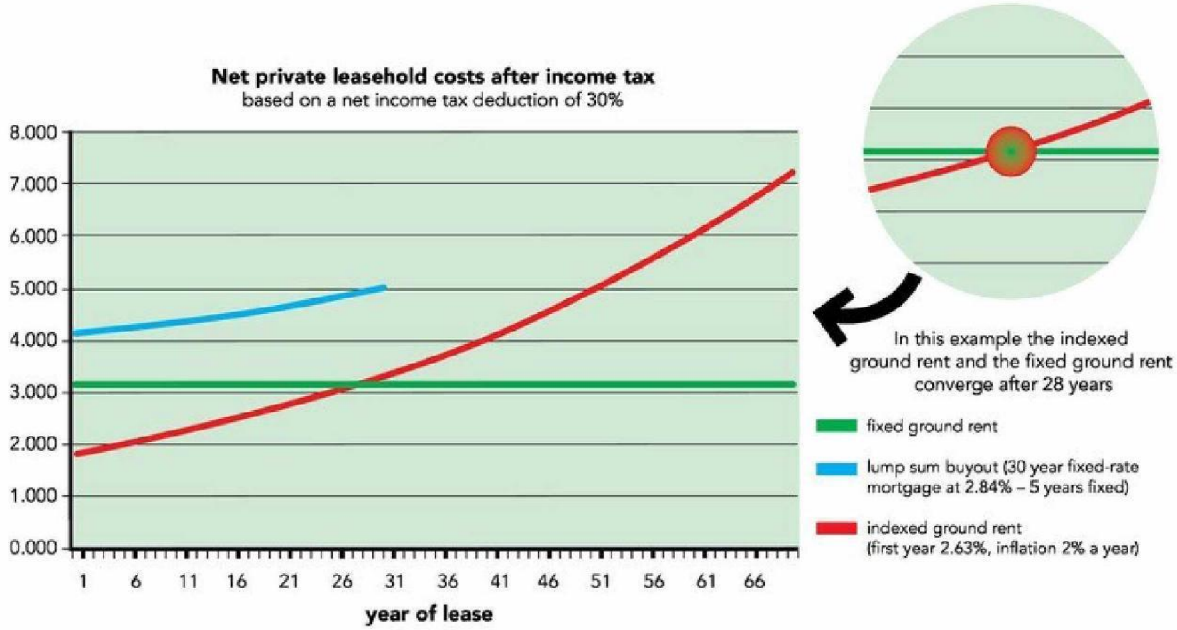
Comparison of the payment options for a newly built residence
The table below clearly illustrates the differences between the various forms of payment.

[1] The personal situation of the leaseholder may result in additional provisions for tax deduction

	Indexed ground rent	Fixed ground rent	Lump sum payment
General	▪ periodic payments to the City ▪ annual correction for inflation ▪ indexed ground rent is initially cheaper, but after time is more expensive than a fixed ground rent	▪ periodic payments to the City ▪ a fixed amount, no correction for inflation ▪ a fixed ground rent is initially more expensive, but over time becomes cheaper than an indexed ground rent	▪ a one-off payment to the City ▪ mortgage costs dependent on financing and length of fixed interest period
income tax	▪ ground rent fully tax deductible without restrictions ▪ risk: potential limits on the tax deductibility of ground rent in the future		▪ only the interest on financing is tax deductible for max. 30 years (subject to conditions) ▪ risk: potential restriction of tax-deductible mortgage interest in the future
borrowing capacity	▪ based on income ▪ dependent on ground rent payments (the amount) or lump sum buyout ▪ borrowing capacity is higher with ground rent payments than with a one-off payment ▪ borrowing capacity is initially higher for indexed ground rent than for fixed ground rent (see housing costs, next page)		

The table below compares the net leasehold costs of the different forms of payment for a leaseholder of a home. This calculation is based on a leaseholder with a 30% income tax deduction. The value of the leasehold land has been set at 100,000 euros for this example. The indexed ground rent is adjusted by 2% annually. This results in the following differences:

Indexed ground rent	Fixed ground rent	Lump sum payment
▪ taking current variables into account, the indexed ground rent percentage is 2.63% ▪ the initial ground rent is 2630 euros and will increase annually by 2% ▪ the net amount after tax deduction is initially 1840 euros and will increase annually ▪ the indexed ground rent is higher than the fixed ground rent after approximately 28 years	taking current variables into account, the fixed ground rent percentage is 4.53% ▪ the fixed ground rent is 4530 euros and will remain so forever ▪ the net amount after tax benefits is 3170 euros ▪ the fixed ground rent is higher than the indexed ground rent for the first 28 years	▪ with 30 years annuity financing and 5 years fixed interest (average) ▪ nominal interest: 2.84% ▪ annuity: 4.95% ▪ net cost of mortgage interest repayments initially 4150 euros, increases annually ▪ free if paid off after 30 years; no more mortgage costs



Considerations when deciding on a payment method

The future perpetual costs of fixed ground rent, indexed ground rent and a lump sum payment are identical at the moment the land is released. Yet there are differences for the leaseholder. The lump sum is of course paid in one go, often by including it in the mortgage. Indexed ground rent initially costs the least, but depending on inflation can end up costing more in the future than fixed ground rent. The financial status of individual leaseholders will differ and likewise their preference for how to pay.

In the current system, there are several types of ground rent in addition to lump sum buyouts. Besides indexed ground rents, there are also 5-, 10- or 25-year fixed ground rents. Having several different types of ground rent eventually leads to significant differences in annual payments for leaseholders. This creates a lack of transparency, especially for future buyers. For them, it is difficult to compare the selling price of similar properties with different ground rent models. The college of mayor and alderpersons want a simpler and more transparent system. In addition to the lump sum payment, its preference is for one type of ground rent (indexed ground rent).

Should buyouts be obligatory ?

Paying ground rent doesn't mean that you are buying the land. You could compare it to a perpetual interest-only loan. The ground rent is used to cover the interest on the loan, but the

City's debt remains unpaid.
The City of Amsterdam borrows money to cover the costs it incurs whilst preparing land for building and habitation. When leaseholders buy off their leases, the City's loans can be repaid with these lump sums. The City strives to keep its debts to a minimum, and is therefore examining ways to stimulate lease buyouts or even in certain situations to make them mandatory. This will reduce the City's debt.

We are examining the options for lump sum buyouts in the following areas:
• new land releases: because leaseholders can take a potential mandatory lump sum buyout into account when considering a property, and furthermore include it in their mortgage applications.
• existing leases on land with commercial real estate: if a leaseholder wants to switch over to a perpetual ground lease or alter the terms of the lease (change of land use).

The college of mayor and alderpersons consider mandatory lump sum buyouts for existing leaseholders who are also house owners to be unreasonable. Existing leaseholders could not have anticipated this, and the transition to a perpetual ground lease may not be the logical moment for them to arrange (re)financing.

Consultation question:
Would you choose a fixed ground rent, an indexed ground rent, or a lump sum payment, and what are your reasons?

4. Information about the General Conditions and the policy for granting perpetual ground leases

Perpetual leases give leaseholders certainty about the lease costs for as long as the use of the land remains unchanged. This is covered in the new General Conditions, which the City is now presenting for consultation. The agreements stated herein apply to holders of leases that are covered by the General Conditions for Perpetual Leasehold 2016. The City cannot change these agreements unilaterally; changes can only occur with mutual consent.

This chapter summarises the main features of the policy for granting perpetual ground leases and the General Conditions for Perpetual Leasehold 2016. The full text is included in Chapters 5 and 6.

The General Conditions and the policy for granting perpetual ground leases specify how a leaseholder acquires the right to use the land. It takes effect from the moment that the City releases the land in perpetual leasehold. However, a contract must first be signed before this can happen. The steps that both parties – the prospective leaseholder and the City – have to take are explained in the policy for granting perpetual ground leases.

The steps towards a lease contract for a newly issued perpetual lease (future property development)

An offer from the City to a prospective leaseholder

The City sends an offer to the person or company who will be the primary leaseholder of the specified piece of land: with housing that is yet to be built this is often a property developer. The offer refers to the General Conditions for Perpetual Leasehold 2016. These conditions, or rules, apply to the leasehold. The amount of the ground rent and any special conditions applicable to the lease are stated in the offer. Special conditions are provisions that apply to a specific lease, for example, the function, the authorised use, and the maximum built area of the future ground lease. The completion date of the leaseholder's construction works is also specified.

The City's decision

Once the offer has been accepted in writing, the City releases the land, after which the leasehold contract is binding.

Issuing the lease

A notary legally formulates the lease contract in a so-called leasehold deed. This official document is then registered at the Land Registry, which formalises the leasehold. The leaseholder has the right to use the land from hereon. The General Conditions and special conditions must of course be complied with. As stated in the General Conditions, from this moment on, the City cannot unilaterally change the lease. Changes can only occur if both the leaseholder and the City are in agreement, for example, if the leaseholder successfully applies

for a change of use.

Ground lease and lump sum buyouts

Ground rent calculation

The leaseholder pays the ground rent (the fee for using the land) from the date the ground lease comes into effect. The City calculates the ground rent by multiplying the current leasehold land value by the ground rent rate.

Leasehold land value

The leasehold land value is the value of the land as stated in the leasehold deed. This value is determined by the intended use when the land is released, the authorised use, and by the maximum allowable floor area. These are also stipulated in the leasehold deed. The value of the buildings is not included in the leasehold land value.

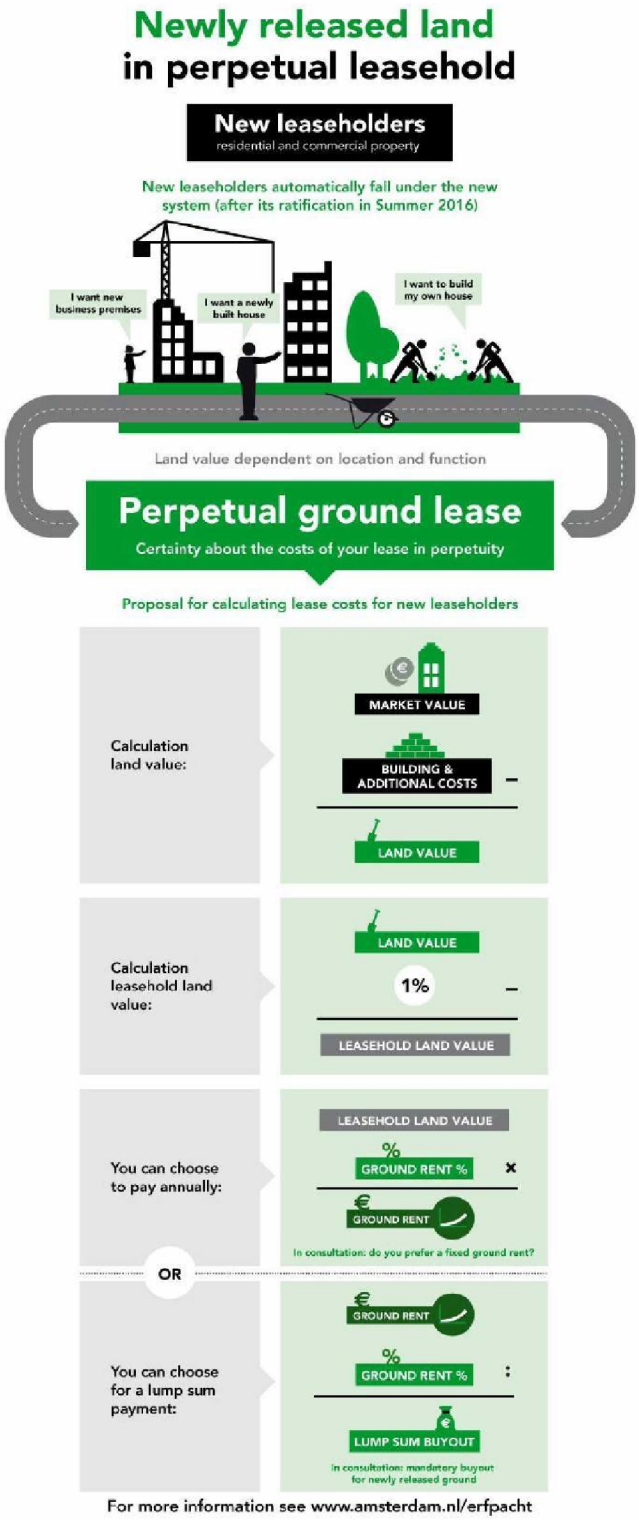
Ground rent rate

The city council periodically sets the rate of the ground rent and publishes it in the land valuation policy at www.amsterdam.nl/erfpacht. In principle this is done annually. The land valuation policy also describes the method used to calculate the price of the land and the actual land price per square metre at different locations in Amsterdam. The ground rent rate is only relevant at the time of release, or later, if the ground rent payments are settled with a lump sum payment.

Methods of payment: the current proposal allows for annual ground rent payments or a lump sum buyout

The proposal for the perpetual lease system contains two payment options. During this consultation period we would like to hear which payment method you prefer (see Chapter 3). The college of mayor and aldermen will consider your responses when formulating its final proposal regarding the types of payment. There are two payment options in the draft of the General Conditions:

- The periodic payment of indexed ground rent: the rent is indexed annually



(inflation). The City applies the inflation percentage as determined by the Central Bureau of Statistics (CBS) using the CPI (Consumer Price Index for all households). If there is deflation (negative inflation), the ground rent remains unchanged for the following year.

- Lump sum buyout of the lease for perpetuity: the leaseholder pays all future instalments of the ground rent at one time. This lump sum payment compensates the City for forfeiting all future ground rent instalments. The lump sum is calculated by dividing the current ground rent by the actual ground rent rate. The amount of the lump sum buyout is at least equal to the leasehold land value.

Should they choose the first payment option, leaseholders can always switch from annual ground rent instalments to a lump sum buyout later. However, after having decided on the buyout option, a return to paying annual ground rent is no longer possible.

Amendments to the agreements and potential ground rent adjustments

Leases can be amended in the following cases, but only with the City's permission. The City may attach conditions to its consent, such as adjusting the ground rent. Examples include:

- a change to the purpose or the authorised use (for example, the leaseholder wants to change an office to owner-occupied residence);
- a change to the maximum permissible floor area (the ground rent does not change when enlarging an owner-occupied residence, but does when increasing the floor area on land leased for other purposes, for example, business premises);
- expansion of the plot (by extending the leasehold with more City-owned land);
- dividing the leasehold (the leasehold is divided into two or more independently tradable apartment rights or leases);
- a lease merger (two or more leases are merged into one);

Private residences can be enlarged without the ground rent being affected, as long as the number of buildings doesn't increase, the residence isn't commercially exploited, and has been occupied for at least four years.

Arbitration Committee

If a leaseholder thinks that the City made an error when applying the rules to its calculations relating to changes to the ground rent, he or she can contact the Arbitration Committee 'Application of method for calculating ground rent'. The City will appoint this committee. Of course, the leaseholder can always consult a court of law.

Termination

Termination by the City

The General Conditions and special conditions define not only the leaseholder's rights but also his or her obligations. For example, the ground rent must be paid on time. If not, then a so-called default interest must be paid, which is equal to the legal interest, but is set at a minimum of 6%. The City can also impose a fine.

In these extreme cases, the City can terminate the leasehold:

- if the leaseholder hasn't paid the ground rent for two years (default),
- if the leaseholder fails to fulfil key obligations,
- for reasons of public interest. This is comparable to the way that the City can anyway expropriate land for the public good. In such cases, the leaseholder is compensated.

Termination by the leaseholder

The leaseholder cannot terminate the lease. This differs from the current lease system. In the current system, the leaseholder can terminate the lease at the end of the period if the City offers new terms and the leaseholder has to pay a new ground rent. This option has been scrapped because the City can no longer unilaterally revise the terms or the ground rent of a perpetual lease.

Consultation question:

What are your views on the way in which the City intends to introduce a perpetual ground lease system for new land releases?

5. Draft Policy for Granting Perpetual Ground Leases (Leaseholds) 2016

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Article 1 Definitions

In this policy the following definitions shall apply:

a. **lump sum**:
   a one-time amount to be paid in lieu of all future ground rent payments that are not due yet;

b. **special conditions**:
   the provisions that apply in addition to, alongside or in derogation from the general conditions to be declared applicable to the leasehold right and that will be included in the leasehold deed together with these general conditions;

c. **ground rent**:
   the amount due to the municipality by the leaseholder, whether or not periodically, as compensation for the leasehold right;

d. **ground rent percentage**:
   the percentage used to calculate the ground rent. This percentage shall be periodically established and announced by the municipality;

e. **leasehold deed**:
   the notarial deed whereby the leasehold right is created. In the leasehold deed the rights and obligations attaching to the leasehold right shall be recorded;

f. **leasehold land value**:
   the value of the parcel determined on the basis of the purpose included in the leasehold deed, the permitted use and the maximum permitted floor area of the parcel on which the ground rent calculation is based. This does not cover the value of any buildings situated on the parcel;

g. **leasehold right**:
   the leasehold right *in rem* ("*zakelijk recht van erfpacht*") as set out in the leasehold deed (as well as the undivided share therein);

h. **immovable property**:
   the land with any buildings situated or to be built in/on that land, or the apartment right;

i. **public registers**:

the public registers in which the Dutch Land Registry Office and Public Registers (Cadastre) records rights *in rem*, amongst other matters;

j. **buildings**:
development/construction, works and trees, plants and shrubs;

k. **parcel**:
the immovable property in respect of which a leasehold is or will be granted;

l. **release of leasehold land:**
the first time that a parcel is released in leasehold;

m. **floor area**:
the floor area of the building(s), calculated in accordance with standard sheet NEN 2580. For residences, this shall be expressed as the usable area (UA) and for other purposes as gross floor area (GSA).

Article 2 Offer to grant a perpetual leasehold

2. The grant of a leasehold shall be preceded by a written offer. This offer may be a binding part of a comprehensive area agreement.

3. The offer shall state, as a minimum:
   a. the area of the parcel, the Land Registry designation and, to the extent that it is known, the local designation;
   b. the structure of the division that will apply if apartment rights are being granted which have been formed by the municipality. Whether this is the case will be determined on the basis of the implementation policies adopted for that purpose by the municipality;
   c. the structure of the grant of the leasehold that will apply if more than one leasehold right is established based on the leasehold agreement to be concluded. The structure of the grant of the leasehold shall be determined by mutual agreement, with due observance of the implementation policies adopted for that purpose by the municipality;
   d. a reference to the general conditions for perpetual leaseholds that apply to the leasehold right;
   e. the special conditions that apply to the leasehold right, which shall at any rate include provisions on:
      1° the acceptance of the parcel;
      2° the purpose, the permitted use and the maximum permitted floor area;
      3° the date on which, or the period within which, the building(s) must be completed;
      4° a ban on granting a full or partial sublease for the parcel;
      5° a ban on:
         - dividing the leasehold right by transfer or assignment and/or
         - dividing the leasehold right into apartment rights and/or
         - terminating the leasehold;

6° the power of the municipality to initiate the evacuation of the parcel by virtue of the process-server's copy of the leasehold deed, if the municipality has terminated the leasehold due to failure to pay, default or for reasons of general interest;

f. the financial conditions, including:
   1° the leasehold land value agreed on by the parties;
   2° the amount of the ground rent with the accompanying ground rent percentage;
   3° the amount of the lump sum if the leaseholder should opt to pay the ground rent in advance at the time the leasehold right is created;

g. the planned effective date of the leasehold right;

h. the period within which the offer is valid;

i. the period within which the financial conditions referred to under paragraph 2f shall apply. The municipality shall be authorised to amend the financial and any other conditions, if this period has expired without the leasehold right having been created or without the prospective leaseholder having obtained the economic ownership of the leasehold right. If this can be attributed to the municipality, it shall not make use of that authority;

j. the period within which the leaseholder must start the construction work. If the construction work has not started within this period, the municipality shall be authorised to:
   1° amend the financial and any other conditions, or
   2° to dissolve the leasehold agreement, as long as the leasehold right has not been created;

k. the obligation on the part of the prospective leaseholder to pay a deposit to the municipality. This amount shall be paid by the leaseholder after the acceptance of the offer. The leaseholder must pay the deposit by way of security that he will perform his obligations under the leasehold agreement;

l. a possibility to do the following with regard to the parcel against the payment of a compensation:
   1° to reserve the parcel on the conditions set out in the offer, and
   2° to prolong the reservation after the expiry of a period included in the offer;

m. an integrity clause allowing the municipality to do the following:
   1° suspend the implementation of the leasehold agreement, or
   2° dissolve the leasehold agreement in whole or in part, or
   3° terminate the leasehold agreement;

n. where appropriate, a reservation of administrative approval. This reservation shall lapse with the resolution mentioned in article 3 of the present policies.

4. The municipality shall add a drawing to its offer, which must show the location and boundaries of the parcel or of the site to which the parcel relates. The corner points of the boundaries must also be stated in this drawing with their coordinates. The Land Registry Office and Public Registers (Cadastre) will measure the parcel on the basis of this drawing. The outcome of that measurement shall replace the above-mentioned drawing.

Article 2 Acceptance of the offer and decision to grant the leasehold

1. The municipality shall not take a decision to grant a leasehold until after the prospective leaseholder:
   a. has accepted the offer in writing, and
   b. has performed his obligations recorded in the leasehold offer, to the extent that they relate to the phase until the creation of the leasehold right or the economic acquisition of the leasehold right.

2. If the offer is a binding part, in the form of a model leasehold confirmation of a more comprehensive area agreement, no separate decision to grant the leasehold shall be required, as in that case the leasehold agreement will already have been formed when the area agreement was concluded. In that case, the municipality shall create the leasehold right as soon as the prospective leaseholder has performed all his obligations under the area agreement. The following shall serve as the basis for the creation:
   a. the leasehold confirmation to the prospective leaseholder, which forms the elaboration of the model leasehold confirmation;
   b. the building plan developed by the prospective leaseholder, and
   c. the structure of the grant of the leasehold agreed with him.

3. If the offer is a binding part, in the form a model leasehold offer, of an option agreement, no separate decision to grant the leasehold shall be required. The leasehold agreement shall in that case be created, if the prospective leaseholder makes use of his option by accepting the leasehold offer unconditionally.
   As soon as the prospective leaseholder has performed his obligations under the option agreement, the municipality shall create this leasehold offer on the basis of:
   a. the model leasehold offer;
   b. the building plan developed by the prospective leaseholder, and
   c. the structure of the grant of the leasehold agreed with him.

6. Draft General Conditions for Perpetual Ground Lease (Leasehold) 2016

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I GENERAL

Article 1 Leasehold (ground lease) in Amsterdam

The Municipality of Amsterdam releases parcels for perpetual ground lease. The municipality observes these General Conditions and declares them to be applicable. Complementary or in contrast to these, the municipality will agree on special conditions for each release with the leaseholder (ground lessee). These concern, among other things, the purpose and permitted use of the parcel.

Article 2 Definitions

1 The following terms have the following meanings in these General Conditions:

a. **lump sum:**
a one-time amount to be paid in lieu of all future ground rent payments that are not due yet;

b. **General Conditions:**
the General Conditions for perpetual ground lease (leasehold) 2016 Amsterdam;

c. **article:**
an article of the General Conditions;

d. **special conditions:**
the provisions that apply in addition to, alongside or in derogation from the General Conditions as mentioned in the leasehold deed;

e. **ground rent:**
the amount that is due to the municipality by the leaseholder, whether or not periodically, as compensation for the leasehold right;

f. **ground rent percentage:**
the percentage used to calculate the ground rent. This percentage shall be periodically established and announced by the municipality;

g. **leasehold deed:**
the notarial deed in which the rights and obligations associated with the leasehold right are set out. These include:
- the deed of establishment in which the leasehold right is created;
- all subsequent notarial deeds in which the rights and obligations associated with the leasehold right are amended, including the conversion deed in which the general conditions are declared applicable to an existing leasehold right;

h. **leasehold land value:**
the value of the parcel determined on the basis of the purpose included in the leasehold deed, the permitted use and the maximum permitted floor area of the parcel on which the ground rent calculation is based. This does not cover the value of any buildings situated on the parcel;

i. **leasehold right:**
the leasehold right *in rem* ("*zakelijk recht van erfpacht*") as set out in the leasehold deed (as well as the undivided share therein);;

j. **immovable property:**
the land with any buildings situated or to be built in/on that land, or the apartment right;

k. **public registers:**
the public registers in which the Dutch Land Registry Office and Public Registers (Cadastre) records rights *in rem*, amongst other matters;

l. **buildings:**
development/construction, works and trees, plants and shrubs;

m. **parcel:**
the immovable property in respect of which a leasehold is or will be granted;

n. **release of leasehold land:**
the first time that a parcel is released in leasehold;

a. **floor area:**
the floor area of the building(s), calculated in accordance with standard sheet NEN 2580. For residences, this shall be expressed as the usable area (UA) and for other purposes as gross floor area (GSA).

II RELEASE

Article 3 Release of leasehold land

1 *Establishing the leasehold right*

The release of a parcel in perpetual leasehold takes place with a deed of establishment. The deed is executed by a civil law notary established within the city limits of Amsterdam. The municipality chooses the notary after consultations with the leaseholder.

2 *Contents of the deed of establishment*

In all cases, the deed of establishment contains the following:

a. the area of the parcel, the Land Register designation and, to the extent it is known, the local designation;
b. a reference to the General Conditions;
c. the special conditions that apply to the leasehold right, including:
   - the acceptance of the parcel;
   - the purpose, permitted use and maximum permitted floor area;
   - the date on which, or the period within which the building(s) must be completed;
   - the authority of the municipality as mentioned in o, evacuation by virtue of the copy of the leasehold deed;
d. the financial conditions, including:
   - the amount of the ground rent,
   - the associated ground rent percentage and
   - the leasehold land value;
e. the start date of the lease;
f. the dates on which the ground rent must have been paid;
g. the choice of domicile at the office of a notary who is established within the city limits of Amsterdam, if the leaseholder has no actual or elected domicile in the Netherlands.
h. the lump sum, if the ground rent is bought out in accordance with o.

3 *Soil investigation report to be attached to the deed of establishment*

A soil investigation report will be attached to the deed of establishment, which will at least meet the requirements of a baseline investigation according to standard sheet NEN 5740. The investigation provides insight into the environmental soil conditions of the parcel on the date:

a. the leasehold right is established, or
b. of the economic acquisition of the leasehold right; this is the case if the leaseholder has taken the parcel into use before the establishment of the leasehold right.

During the lease period, this soil investigation will serve as a starting point for the application of o and o.

4 *Obligation of delivery*

Unless stated otherwise in the written offer preceding the release of leasehold land and/or in the special conditions, the municipality is obliged to:

a. deliver to the leaseholder a leasehold right that:
   - is unconditional and cannot be restricted, terminated or in any way declared void;
   - is not encumbered with attachments, mortgages or registrations thereof, with the exception of the limited rights specified;
   - is free from rent, lease or any other right of use;
   - is free from other special liabilities and limitations which hinder or restrict the agreed development/construction, the subsequent design and commissioning of the parcel;
b. ensure that the site to which the leasehold right applies:
   - is suitable for the agreed purpose and use from an environmental hygiene point of view. That is to say that the parcel is sufficiently free from substances which in generally accepted views at the time of delivery, taking into account the intended purpose would pose a serious risk to public health or the environment;
   - has been adequately drained;
   - has been raised, should that be necessary.

The municipality does not guarantee the absence of defects that it is not aware of.

Article 4 Development/construction, design and commissioning of the parcel

1 Subject to the conditions and the terms stated in the leasehold deed, the leaseholder is required to do the following:

a. build on the parcel in accordance with the building plan approved by the municipality;
b. lay out and maintain the part of the parcel which is not built on in an appropriate manner in accordance with the purpose and the permitted use as specified in the leasehold deed;
c. take the parcel into use. This use must concur with the purpose and the permitted use as specified in the leasehold deed;
d. separate the parcel from the public road and/or the adjacent parcels in an appropriate manner and to keep it separated.

2 Upon a request in writing from the leaseholder, the municipality may grant the leaseholder exemption from one or more of the obligations specified in paragraph 1 under a to c. Any exemptions are subject to the provisions in o.

Article 5 Transfer before commissioning

3 The leaseholder is not allowed to transfer his leasehold right in whole or in part or to assign it before he has fulfilled the obligations specified in o paragraph 1. Nor is the leaseholder allowed to establish a limited rights through which third parties obtain the use of the parcel.

4 Upon a request in writing from the leaseholder, the municipality may grant the leaseholder permission for one or more of the acts mentioned in paragraph 1. Such permission is subject to the provisions in o.

Article 6 Charges and taxes

All charges and taxes in relation to the parcel are at the expense of the leaseholder from the date the deed of establishment was executed. If the leaseholder has occupied the parcel before the deed of establishment was executed, these charges and taxes will be at the expense of the leaseholder from the date the parcel was occupied.

III FINANCIAL

Article 7 Ground rent

1 The ground rent is due from the date the leasehold right comes into force. Payment of the ground rent is subject to the provisions in o.

2 the ground rent for the allocation of perpetual leasehold is determined by the leasehold land value calculated at the time of release, to be multiplied by the ground rent percentage. This percentage is periodically established and announced by the municipality.

3 After the ground rent has been calculated, the level of the ground rent can be adjusted as a result of changes in the leasehold right as meant in o.

4 Each year, the ground rent is adjusted to the rate of inflation. The rate of inflation is established using the Consumer Price Index (CPI) with regard to the category 'All households'. This index reflects the price changes of the package of goods and services purchased by all households in the Netherlands on average. The municipality calculates the indexed ground rent by multiplying the applicable ground rent with an adjustment factor.

$$\text{Adjustment factor} = \frac{CPI_{\text{June last year}}}{CPI_{\text{June year before last year}}}$$

In this formula, the following terms are defined as stated below:

$CPI_{\text{June last year}}$ ..... : the consumer price index for the month of June of the first year before indexing

$CPI_{\text{June year before last year}}$: the consumer price index for the month of June of the second year before indexing

5 if the calculations result in a lower ground rent than mentioned in the previous paragraph (deflation), the ground rent will not be adjusted. The leaseholder will have to pay the ground rent at the existing level.

6 The municipality establishes the adjustment factor each year and publicly announces this. This adjustment factor applies to one calendar year in principle.

7 In establishing the adjustment factor, the municipality uses consumer price indices. Statistics Netherlands (the Dutch Statistical Agency) or, in its absence, another independent institute announces the consumer price indices.

8 If one consumer price index or both indices is/are not published or not published in time, the municipality calculates the adjustment factor in a way that matches the calculation method described in this article as closely as possible.

9 The municipality will notify the leaseholder about the adjusted ground rent as soon as possible. Late notification does not relieve the leaseholder from his obligation to make extra payments nor does it annul his entitlement to a refund.

Article 8 Buying out the ground rent

1 The municipality may agree with the leaseholder that the leaseholder can pay all the ground rent that has not become due yet for the perpetual leasehold by paying a lump sum.

2 The municipality sets the lump sum at such a level as it deems necessary to compensate the municipality for the fact that it will no longer receive the ground rent that has not become due yet.

3 The municipality will calculate the lump sum using a generally published instruction.

4 The lump sum paid by the leaseholder will be recorded in a notarial deed. In any case, this deed will contain the following:
   a. the area of the parcel, the Land Register designation and, to the extent it is known, the local designation;
   b. the amount of the ground rent;
   c. the amount of the lump sum;
   d. the discharge granted by the municipality to the leaseholder for paying the lump sum.

IV ADMINISTRATION

Article 9 Use according to purpose

1 The leaseholder is required to use the parcel according to the purpose and the permitted use as specified in the leasehold deed.

2 At any rate, the leaseholder is not allowed to:
   a. make no use or hardly any use of the parcel in whole or in part for more than one year;
   b. engage in activities that could lead to a decrease in the value of the parcel;
   c. carry out activities in or work on the parcel, or fail to carry out such activities or work or to run a business which would endanger, damage, hinder or harm the public health and/or the environment.

3 If the leaseholder acts in breach of paragraph 1 and/or paragraph 2, the municipality has the authority to demand from the leaseholder that he:
   a. immediately ceases the activity which constitutes the breach and
   b. compensates the damage that was caused.

4 The leaseholder will be liable for any and all damage that directly or indirectly ensues from any act or omission on the part of the leaseholder in contravention of paragraph 1 and/or paragraph 2.

5 Upon written request from the leaseholder, the municipality may grant the leaseholder exemption from one or more of the obligations and prohibitions mentioned in paragraph 1 and paragraph 2. Any exemptions are subject to the provisions in 0.

Article 10 Maintaining the buildings

1 The leaseholder is required to maintain the parcel and the buildings in such a state that they are fit for the purpose and the permitted use specified in the leasehold deed.

2 The leaseholder is not allowed to demolish the buildings partly or completely or to change the floor area of the buildings.

3 The leaseholder is required to restore the buildings fully if they have been damaged or destroyed, irrespective of the cause.

4 Upon written request from the leaseholder, the municipality may grant the leaseholder exemption from one or more of the obligations and prohibitions mentioned in paragraph 1 to paragraph 3. Any exemptions are subject to the provisions in 0.

5 The exemption referred to in paragraph 4 for an enlargement of the floor area stated in the leasehold deed will be granted in principle if:
   a. the leasehold right is designated in the leasehold deed as exclusively intended for 'living', and
   b. the residence is not used commercially, and
   c. the residence has been occupied for at least four years,

   without there being a change in the number of residences too. The ground rent will not be revised with this exemption.

Article 11 Dividing and merging the leasehold right

1 Regarding the leasehold right, the leaseholder is not allowed to:
   a. divide the leasehold right into leasehold rights;
   b. divide the leasehold right into apartment rights;
   c. merge the leasehold right with another leasehold right;
   d. create membership rights of associations or cooperatives or
   e. grant participation or membership rights or holdings.

   What has been included in 1a to 1e also applies to the rights related to the (virtually) exclusive use of (a part of) the ground and/or the buildings which, as the layout shows, is/are designed to be used as (a) separate entity/entities.

2 Upon a written request from the leaseholder, the municipality may grant the leaseholder permission for one or more of the acts mentioned in paragraph 1. Such permission is subject to the provisions in 0.

3 If the municipality grants permission for division as referred to in paragraph 1, the municipality also establishes the division of the ground rent according to a generally published instruction.

4 If the leasehold right has been divided into apartment rights, the apartment owners are jointly and severally liable for the ground rent that is due by one or more apartment owners.

5 The contents of this article also applies to the apartment owner mutatis mutandis.

Article 12 Sublease

1 The leaseholder is not allowed to sublease the property to which the leasehold applies either in part or in full.

2 Upon written request from the leaseholder, the municipality may grant the leaseholder permission for the act mentioned in paragraph 1. Such permission is subject to the provisions in 0.

Article 13 Obligations of tolerance

1 The leaseholder is required to tolerate and permit the following on, in, and above the parcel:
   a. the presence of structures and facilities for public and/or communication purposes such as public lighting, sewers and pipes/networks for the transport of gas, water, heat/cold, electricity, telephony, cable television, data and suchlike;
   b. the installation, maintenance and renovation of these facilities if the municipality orders this.

   This concerns structures and facilities that have been or are installed by the municipality, on behalf of the municipality or its designated third parties.

2 Damage which is the immediate consequence of the work as referred to in the previous paragraph, will be repaired or compensated after consultations with the leaseholder. This also applies to damage that is the result of the presence of structures and facilities installed after the release of the parcel. Repairs will be carried out by the municipality or by a third party on behalf of the municipality. The costs of these repairs will be borne by the municipality or this third party. If the municipality and the leaseholder cannot agree on the nature and the amount of the compensation, it will be established by experts.

Article 14 Risk in the case of a deteriorated immovable property

If the immovable property has deteriorated, this will be at the risk of the leaseholder if this has been caused after the start date of the lease by either:
   a. soil pollution, or
   b. another factor

that cannot be attributed to the municipality.

Article 15 Liability and support in legal proceedings

1 After the start date of the lease, the leaseholder is liable for the damage to third parties that is the result of or is directly related to:
   a. soil pollution, or
   b. another factor

   This only applies if the soil pollution or other cause is at the risk of the leaseholder. In this respect, it is irrelevant whether the leaseholder or the municipality is held liable.

2 If the leaseholder, by virtue of paragraph 1, is liable and legal action is brought against the municipality, the leaseholder is required to enter the proceedings so as to defend the interests of the municipality.

Article 16 Transfer of leasehold right

In the event of transferring or assigning the leasehold right, the leaseholder is required to include the following in the notarial deed:
   a. that which is established with regard to 0, paragraph 2, under a to h;

b. changes recorded in the leasehold deed(s) after the establishment of the leasehold right, and
c. any obligations of the leaseholder as referred to in o.

Article 17 Failure on the part of the leaseholder to fulfil his obligations

1 If the leaseholder does not fulfil his obligations, or does not do so in time or properly, the municipality can use its powers mentioned in the General Conditions or the special conditions. If necessary, the municipality can use these powers to sign simultaneously or consecutively. The municipality retains its powers by virtue of the law notwithstanding the provisions in the General Conditions or special conditions.

2 Insofar as the leaseholder is not in default by operation of law, the municipality declares the leaseholder to be in default in writing before it uses any of its powers mentioned in the law, the General Conditions or the special conditions. It will set the leaseholder a time within he can still honour his obligations.

3 With a view to maintaining what is included in the leasehold deed, the municipality has the right at all times to enter the parcel (with equipment) and to inspect it both internally and externally. The disruption of business operations will be kept to a minimum. The municipality will inform the leaseholder of its intention to carry out an inspection. The municipality will offer the leaseholder the opportunity for consultation.

4 If the leaseholder does not fulfil his obligation of payment, the costs of recovery will be borne by the leaseholder.

Article 18 Fine

1 The municipality may impose a fine on the leaseholder if the leaseholder does not fulfil his obligations arising from the General Conditions or special conditions, or if he or does not do so in time or properly. The fine will be at most ten times the amount of the ground rent that is applicable at the time. The leaseholder must pay the fine within one month after it has been imposed.

2 In addition to the fine as referred to in paragraph 1, the municipality can impose a fine for each day or part of a day that the leaseholder persists in his failure to fulfil his obligations, or to do so in time or properly. This daily fine amounts to three percent (3%) of the ground rent at most.

3 If the ground rent has been bought out in perpetuity, the fine is determined as if there was a periodic ground rent.

4 The municipality may waive a fine in whole or in part or refund it if it thinks that that is justified.

5 The costs of collecting the fine will be borne by the leaseholder.

Article 19 Remedy by the municipality

1 If the leaseholder does not fulfil an obligation arising from the General Conditions or the special conditions, or fails to do so in time or properly, the municipality can have this obligation fulfilled at the expense of the leaseholder. The General Conditions explicitly authorise the municipality to do that. It is also authorised to undo anything the leaseholder has done in breach of the obligations, at the expense of the leaseholder.

2 The municipality will notify the leaseholder in writing of its intention to use this authority as referred to in paragraph 1. The leaseholder will be given a period of time within which he can still fulfil his

obligations. With this notice, the municipality will enclose a specification of the likely amount of the expenses associated with this work.

3 The leaseholder is required to pay the costs associated with the remedial work upon first demand from the municipality. The municipality will include a specification of the costs with this demand notice.

4 If the leaseholder rejects the charges as too high, he will inform the municipality about this in writing within two months after receipt of the aforementioned notice. If no agreement can be reached about the level of this amount, experts will calculate the amount.

V Changing the leasehold

Article 20 Conditions for granting exemption or permission

1 a. The leaseholder will need prior written exemption or permission from the municipality to derogate from obligations, prohibitions and periods mentioned in the following articles:
- o - Development/construction, design and commissioning of the parcel;
- o - Transfer before commissioning;
- o - Use according to purpose;
- o - Maintaining the buildings;
- o - Dividing and merging the leasehold right, and
- o - Sublease..

b. The municipality may impose conditions and/or a time limit with regard to granting this exemption or permission. These conditions also apply to an adjustment of the ground rent as referred to in this article.

2 The municipality only grants the requested exemption or permission if:
a. granting it is compatible with the current public law provisions and it is not contrary to any municipal interest, and
b. full agreement has been reached with the leaseholder about the conditions attached to the exemption or permission. This agreement must be reflected in an unconditional acceptance in writing of a municipal offer to grant the requested exemption or permission.

3 The municipality may revise the ground rent, or the paid lump sum if the ground rent has been bought out in perpetuity, if the value of the leasehold changes as a consequence of the change for which the leaseholder requests exemption or permission on the grounds of these General Conditions.

4 If the derogation from the obligations, prohibitions and periods as referred to in paragraph 1 relates to:
a. a request for exemption or permission regarding a modification of the buildings, purpose or use or with regard to a division as meant in o, the adjusted ground rent will be calculated by applying the formula:

A + (B - C) x D, where:

A stands for the ground rent that applies at the time of revision. If this ground rent has been bought out in perpetuity, it is assumed for factor A that the ground rent has not been bought out.

B stands for the leasehold land value that applies at the time of revision for the requested,

amended leasehold;

C stands for the leasehold land value that applies at the time of revision for the existing leasehold;

D stands for the ground rent percentage that applies at the time of revision.

b. a request for exemption or permission other than meant under paragraph 4a, the new ground rent will be calculated with the formula:

X x Y, where:

X stands for the leasehold land value that applies at the time of revision for the permitted development/construction, purpose and use;

Y stands for the ground rent percentage that applies at the time of revision.

5 If the calculation mentioned in the previous paragraph results in a lower ground rent, the ground rent will not be adjusted. The leaseholder will remain liable for the ground rent that is due at that time, unless the municipality takes the view that the municipal interests require something else.

6 The revised ground rent is due from the date on which:

a. the modification of the development/construction, the purpose and/or the use is started, or

b. the granted exemption or permission can be turned to use.

Article 21 Arbitration committee 'Application of method for calculating ground rent'

1 If the leaseholder believes that the method calculated by the municipality to determine the change in the ground rent has not been applied correctly arithmetically, the leaseholder may turn to the arbitration committee 'Application of method for calculating ground rent'.

2 In that case, the leaseholder must provide his reasons in writing as to why he believes the ground rent hast been calculated incorrectly from an arithmetical point of view.

3 The arbitration committee only checks whether the method for calculating ground rent as established by the municipality has been applied correctly, arithmetically.

4 The arbitration committee informs parties in writing of its advice, providing its reasons, within six months after the leaseholder applied to the arbitration committee.

5 The advice of the arbitration committee is not binding. Advice from the arbitration committee does not preclude an appeal to the competent court.

6 The arbitration committee is appointed by the municipality.

Article 22 Modification of leasehold right

7 The municipality may include a section about integrity in the agreement entered into with the leaseholder prior to a modification of the leasehold right. This section will include, among other things, the municipality's authority to suspend, dissolve either in whole or in part or terminate the agreement to modify the leasehold right.

8 Any modification of the leasehold right as referred to in o paragraph 1 under a will be recorded in a notarial deed. The deed is executed by a notary established in the municipality of Amsterdam.

9 The notarial deed referred to in paragraph 2 will at any rate state:

a. the area of the parcel, the Land Register designation and, to the extent it is known, the local designation;

b. the increase in ground rent, if any, and in the additional lump sum if the increase in the ground rent has been/is bought out in perpetuity;
c. the increase in the leasehold land value, if any;
d. the ground rent after adjustment;
e. the start date of the modification of the leasehold right;
f. the purpose and permitted use;
g. the maximum permitted development/construction.

VI TERMINATION

Article 23 No termination by the leaseholder

The leaseholder is not allowed to terminate the leasehold.

Article 24 Termination because of a shortcoming on the part of the leaseholder and/or non-payment of the ground rent

1 The municipality may terminate the leasehold if the leaseholder:
a. seriously fails to fulfil any obligation arising from the General Conditions and/or the special conditions and has been given the opportunity to fulfil those obligations, or
b. has defaulted on his payments of the ground rent for two years running.

2 Termination takes place by cancelling the leasehold right after the municipality has made a decision to that effect. The municipality also has the right in that case to claim compensation from the leaseholder for all the costs, (any) fines, interest and damage.

3 The municipality will inform the leaseholder and those persons who are listed in the public registers as having limited rights or as parties levying an attachment on the leasehold in writing of its intention to terminate the leasehold. The municipality will state its reasons for termination. The municipality will also publicly announce its intention to terminate the leasehold.

4 The municipality will not make the decision to terminate the leasehold until at least two months after the notification in writing as referred to in paragraph 3.

5 Cancellation subsequently takes place through notification by bailiff service, where the municipality observes a period of at least six months. After the notification has been served on the leaseholder, the cancellation must be served within eight days on those persons who are listed in the public registers as having limited rights or as parties levying an attachment on the leasehold. The municipality will have the cancellation recorded in the public registers.

6 The decision by the municipality to terminate the leasehold and the notice of cancellation to the leaseholder will not have legal effects if:
a. the cause of the termination is removed before the date on which the leasehold ends and
b. all the costs, fines, interest and damage mentioned under paragraph 2 have been compensated to the municipality before that date.

7 If the parcel has not been vacated on the date on which the leasehold ends, the municipality can start evacuation without further notice of default, with due observance of the rights of use legally obtained by third parties and the lien the leaseholder may have.

Article 25 Effects of termination on the grounds of a shortcoming on the part of the leaseholder and/or non-payment of the ground rent

1 The leaseholder can only claim compensation for the value of the leasehold from the municipality on the basis of what is established in this article.

2 As from the date on which the leasehold ended, the municipality has the right to all proceeds from and the use of the parcel. Also, all ordinary and extraordinary costs will then be borne by the municipality. Among other items, these costs include the taxes and levies related to the parcel.

3 Unless otherwise agreed with the leaseholder and mortgage holder(s), the municipality is required to sell a leasehold right to be established on the parcel within six months after the date the leasehold right ends. The sale takes place in public, in the presence of a qualified notary and under the conditions for auction which are in effect at that time. The sale can also be private in accordance with Book 3 Article 268 of the Dutch Civil Code.

4 The leasehold right is established under the General Conditions, specific conditions and the ground rent that applied for the terminated leasehold. If the ground rent for the terminated leasehold was bought out, the ground rent of the new leasehold to be established will be deemed to have been bought out. The rights of use that were legally obtained by third parties will be observed.

5 If no offers are made at the public sale, experts will establish the compensation. Payment will take place in accordance with paragraph 6 and paragraph 7 and with due observance of paragraph 8.

6 The municipality will pay the proceeds of the sale or the amount as established by experts – should paragraph 5 be applicable – to the leaseholder after the deduction of:
   a. all that the leaseholder still owes the municipality with regard to the leasehold by virtue of the General Conditions and the special conditions,
   b. the costs incurred by the municipality with regard to demanding from the leaseholder to honour his obligations/make the required payments,
   c. the costs incurred by the municipality in undoing what was created in breach of the General Conditions and special conditions, and
   d. the costs incurred by the municipality with regard to the sale.

7 If the ground lease is encumbered with a mortgage at the time of termination, the municipality is authorised to pay the mortgage holder(s) the proceeds of the sale minus:
   a. all that the leaseholder still owes the municipality with regard to the leasehold by virtue of the General Conditions and the special conditions, and
   b. the costs incurred by the municipality as mentioned in paragraph 6.

   The amount to be established by the municipality on this basis is at most equal to the amount that the mortgage holder(s) would receive if there were a division of the sale price in the event of a compulsory sale of the leasehold.

8 So long as the parcel has not been made freely available to the municipality, with the exception of rights of use legally obtained by third parties and the lien the leaseholder may have, the municipality is authorised to suspend payment of the compensation.

9 If third parties have legally obtained rights of use, the leaseholder will ensure that guarantees and/or securities (including interest) that have been provided or deposited on the basis of these rights of use will be immediately made available to the municipality.

10 So long as the parcel has not been placed at the municipality's disposal after the termination of the leasehold, everything that is provided in 0 remains in full force.

Article 26 Termination of the leasehold in the public interest

1 The municipality may terminate the leasehold in the public interest.

2 Termination takes place by cancelling the leasehold after the municipal council has made a decision to that effect.

3 The municipal executive will submit a proposal to the municipal council to terminate the leasehold. They will explain in this proposal the reasons for termination as something which is in the public interest. The municipal executive will inform the leaseholder and those persons who are listed in the public registers as having limited rights or as parties levying an attachment on the leasehold in writing the proposal to terminate the leasehold. The municipal executive will also publicly announce its intention to terminate the leasehold.

4 The municipal council will not make a decision to terminate the leasehold until at least six months after the date of the communication in writing as referred to in paragraph 3.. The leaseholder, those who are listed in the public registers as having limited rights or as parties levying an attachment on the leasehold as well as interested third parties may lodge objections to the proposal with the municipal executive during this period.
The municipal council will make a decision within one year after the proposal from the municipal executive to terminate the leasehold was dated.

5 Cancellation takes place through notification by bailiff service, where the municipality observes a period of at least one year. After the notification has been served on the leaseholder, the cancellation must be served within eight days on those persons who are listed in the public registers as having limited rights or as parties levying an attachment on the leasehold. The municipality will have the cancellation recorded in the public registers.

6 If the parcel has not been vacated on the date on which the leasehold ends, the municipality can start evacuation without further notice of default, with due observance of the rights of use legally obtained by third parties and the lien the leaseholder may have.

Article 27 Effects of the termination in the public interest

1 If the leasehold is terminated in the manner referred to in 0, compensation will be paid in accordance with the Compulsory Purchase Act. If the ground rent of the terminated leasehold was bought out, this will be set off in the amount of compensation.

2 As from the date on which the leasehold ended, the municipality has the right to all proceeds from and the use of the parcel. Also, all ordinary and extraordinary costs will then be borne by the municipality. Among other items, these costs include the taxes and levies related to the parcel.

3 No compensation will be paid to the leaseholder for:
   a. the value of all that has been created in breach of the General Conditions and special conditions;
   b. the damage sustained by the leaseholder as a result of the termination of an activity carried out in breach of the General Conditions and special conditions.

4 Based on the principles referred to in paragraph 1 and paragraph 3, the municipality will make an offer in writing to the leaseholder. If the leaseholder does not agree with the compensation offered by the municipality, he will inform the municipality about this in writing within two months. The municipality and the leaseholder will then enter into consultations. If they cannot reach an agreement about the level of compensation, this will be established by experts.

5 The municipality will pay compensation to the leaseholder after deduction of all that the leaseholder still owes the municipality with regard to the leasehold by virtue of the General Conditions and the special conditions.

6 If the ground lease is encumbered with a mortgage at the time of termination, the municipality is authorised in derogation of paragraph 5 to pay the mortgage holder(s) the proceeds of the sale minus all that the leaseholder still owes the municipality with regard to the leasehold.
The amount to be established by the municipality on this basis is equal to, or less than, the amount that the mortgage holder(s) would receive if there were a division of the sale price in the event of a compulsory sale of the leasehold.

7 So long as the parcel has not been made freely available to the municipality, with the exception of rights of use legally obtained by third parties and the lien the leaseholder may have, the municipality is authorised to suspend the payment of the compensation.

8 If third parties have legally obtained rights of use, the leaseholder will ensure that guarantees and/or securities (including interest) that have been provided or deposited on the basis of these rights of use will be immediately made available to the municipality.

9 So long as the parcel has not been placed at the municipality's disposal after the termination of the leasehod, everything that is provided in 0 remains in full force.

VII FINAL PROVISIONS

Article 28 Payments

1 All payments by the leaseholder should be made in the manner instructed by the municipality.

2 If the municipality has made a payment that should be at the expense of the leaseholder, pursuant to the General Conditions or the special conditions, the leaseholder must refund the municipality.

3 Reducing or offsetting payments to be made by the leaseholder is only allowed if they involve claims against the municipality that are directly related to the leasehold right.

4 If the leaseholder does not pay or does not pay on time, he will owe arrears interest as from the due date. This arrears interest amounts to six percent (6%) per annum on the outstanding amount. If the statutory interest is higher than six percent (6%), the arrears interested equal to the statutory interest. At the end of each year, the amount on which arrears interest is calculated will be increased with the arrears interest due for the past year (compound interest).

5 Irrespective of the description given to the payment by the leaseholder, the municipality will offset each payment with his debts in the following order:
   a. fine(s) owed in accordance with 0;
   b. interest owed in accordance with paragraph 4 of this article;
   c. other debts than the ones mentioned before under a and b and hereafter under d that the leaseholder has as a result of the leasehold;
   d. the ground rent or the lump sum.

Article 29 Experts

1 Where these conditions refer to experts, they involve three parties.

2 If the municipality or the leaseholder intends to submit a dispute as referred to in 0, 0, 0 and 0 to experts, it or he will notify the other in writing about this.
If the municipality wishes to submit the dispute to experts, the leaseholder will be given the opportunity to choose to have the dispute settled by a competent court for one month after the written communication as referred to in paragraph 2 was dated. If he does not use this opportunity during this period, he agrees to having the dispute settled by experts.

3 The party that wishes to submit the dispute in question to experts must request the court in Amsterdam to appoint the three experts as soon as possible.

4 The experts will give both parties the opportunity to be heard. Parties will also be given the opportunity to be heard about the draft advice. if so desired, they can be represented by a proxy. The experts will then formulate their advice with due regard for:
   a. the General Conditions and special conditions that apply to the leasehold, and:
   b. the policy established by the municipality for the implementation of the General Conditions and special conditions.

5 The experts will inform the parties in writing of their advice, providing their reasons, within six months after they have been appointed. The advice of the experts is binding.

6 a. The municipality and the leaseholder will each pay half of the costs of the experts' advice.
   b. Notwithstanding paragraph 6a, the municipality will pay the full costs of experts in the event of termination for reasons of public interest.
   c. Notwithstanding paragraph 6a, the leaseholder will pay the full costs of experts in the event of termination because of a shortcoming on the part of the leaseholder and/or non-payment of the ground rent.

Article 30 Several liability

1 If the leasehold is in the name of two or more persons, they are severally liable for defaulting on the obligations ensuing from the leasehold deed and the General Conditions. With regard to the ground rent, this several liability does not apply if the leasehold has been divided into apartment rights. The ground rent will then also be divided according to this division.

2 The obligations for the leaseholder ensuing from the leasehold are always indivisible with regard to the municipality.

3 After the transfer of the ground lease, the successor and his legal predecessor are both liable for unpaid ground rent that is due for the previous five years. This also applies if a part of the leasehold, a share thereof or a share in a part of the leasehold transfers to another person.

Article 31 Representation

1 If the leasehold is in the name of two or more persons, they will appoint one of them as their representative. This representative is mentioned in the deed of establishment. Legal successors will register the representative in a statement. This statement must be drawn up in accordance with the form associated with these conditions.

2 If the representative changes, the municipality must be informed about this immediately in writing.

3 The municipality may legally address all notifications, announcements and cancellations in respect of the leasehold to the representative who last reported to the municipality. The municipality can also make all claims against the representative with regard to the leasehold.

Article 32 Vacation/evacuation

The parcel and the buildings must be vacated voluntarily on the day the leasehold expires. If that has not happened, the municipality will be authorized to start the evacuation by virtue of the copy of the deed of establishment.

Article 33 Perfection, qualitative obligations and perpetual clause

1 Parties will explicitly strive for perfection with regard to their rights and obligations pursuant to the General Conditions and the special conditions. The provisions in paragraph 2 and paragraph 3 of this article were drawn up to reinforce this perfection.

2 All obligations of a party mentioned in the conditions agreed on to tolerate or refrain from something and, that do not have real right effects, will be established as qualitative obligations. These obligations therefore transfer to new leaseholders. They also apply to those who obtain a right of use from the rightholder.

3 Obligations of the leaseholder that do not have real right effects by virtue of the conditions agreed on and for which there are no qualitative obligations as referred to in paragraph 2 of this article either will be imposed by the leaseholder for the benefit of the municipality by means of a perpetual clause and the leaseholder will ensure that they are accepted by his legal successor or the person with limited rights. The leaseholder applies this perpetual clause in the event of:
   a. transfer of the leasehold or a part thereof, or
   b. encumbrance of the leasehold or a part thereof with a limited right of enjoyment.

Article 34 Communications

Unless explicitly agreed otherwise, all communications, notifications, requests and approvals related to the leasehold will be made in writing. All claims will also be made in writing.

Article 35 Choice of domicile

1 The leaseholder or the representative as referred to in o must ensure that his address is known to the municipality.

2 If the leaseholder or the representative as referred to in o has no actual or elected domicile in the Netherlands, he must elect domicile at the office of a notary who is established in the municipality of Amsterdam.

3 The leaseholder or the representative as referred to in o must inform the municipality in writing of the choice of domicile or any change therein.

4 The municipality may legally address all notifications, announcements and cancellations in respect of the leasehold to the place of residence that was last specified.

Article 36 Costs relating to notarial deed

If, because of the contents of the General Conditions or special conditions, a notarial deed must be drawn up, the municipality will decide whether and to what extent the associated costs will be paid by the municipality These costs relate to the notary's fees and the cost of registering the deed in the public registers. The taxes and other charges that are due are at the expense of the leaseholder.

Article 37 General Extension of Time Limits Act

The General Extension of Time Limits Act applies to the periods mentioned in the General Conditions.

Article 38 Official title

The General Conditions can be quoted as:
General Conditions for Perpetual Leasehold 2016 Amsterdam.

Enclosure: Representative Appointment Form [1)]

.....

notary in ....., hereby declares

that the leasehold locally known as:

address .....

postal code and place of residence .....,

recorded in the land register of:

the municipality of: ....., section: ..... , no.: .....

was transferred to:

names .....

address .....

postal code and place of residence .....

by deed entered in the public registers in section: ..... , no. .....

Representative/correspondence/billing address

name .....

address .....

postal code and place of residence .....

bank account number .....

Place: .....

Date: .....

Signature ..... stamp:

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1) Pertains to article 31 of the General Conditions for perpetual ground lease 2016 Amsterdam.