

LEASE AGREEMENT

This Lease Agreement ("Lease Agreement") is made on the ____ day of _____, 2011 between Champlain Housing Trust, a Vermont nonprofit corporation ("CHT"), and City of Burlington, a municipal corporation organized under the laws of the State of Vermont ("Tenant").

WITNESSET H:

WHEREAS, CHT is the record owner of a certain building (the "Building") and the parcel of land containing the Building located at 179 South Winooski Avenue in the City of Burlington, Vermont, and more particularly described in Exhibit A attached hereto (the land described in Exhibit A, together with the Building and other improvements, are referred to in this Lease Agreement as the "Property"); and

WHEREAS, the Tenant desires to lease a portion of the Building from CHT on a long-term basis, as shown in the copy of the floor plan attached hereto as Exhibit B (the "Premises"),

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, the parties hereto agree as follows:

ARTICLE I

Grant of Lease, Term and Possession

Section 1.01 Grant. CHT leases and demises the Premises to the Tenant, and the Tenant hereby leases and rents the Premises from CHT, upon the terms and conditions set forth in this Lease Agreement. The "Premises" include a right in favor of the Tenant, in common with other tenants and CHT, to use "Common Areas" of the Property (as described below). The Common Areas include elevators, stairways, electrical and mechanical rooms and the exterior grounds around the Building in Exhibit B.

Section 1.02 Possession and Term. The leasehold interest granted to the Tenant by CHT under this Lease Agreement shall, unless sooner terminated in accordance with the provisions of this Lease Agreement, have a term of five (5) years with Tenant having an option to renew for an additional 5 years, subject to annual and/or supplemental appropriations of the City of Burlington's City Council, commencing on the date that CHT delivers possession of the Premises (the "Term"). In the event that the City Council does not make the necessary appropriation to continue the lease, the City shall notify and give Champlain Housing Trust 90 days notice prior to lease termination. Any non-appropriation will not be an event or act of default and will be excluded from any remedies listed under Article XIII if the City has complied with the terms and conditions of this section. Upon delivery of possession, CHT and the Tenant shall sign a written memorandum confirming the date of commencement of the Term. Upon expiration of the Term, all rights, duties and obligations of the parties under this Lease Agreement shall terminate, unless otherwise specifically provided in this Lease Agreement.

ARTICLE II

Rent

Section 2.01 Base Rent. The Tenant shall pay to CHT the annual base rent for the Premises of \$49,680. The Tenant shall pay the annual rent in twelve equal monthly installments, in advance, on the first day of each calendar month during the Term, except that if the Term does not commence on the first day of a calendar month, the rent for the partial calendar months at the beginning of the Term and at the end of the Term shall be prorated in the proportion that the number of days in each such partial month bear to the total number of days in such calendar month and the rent shall be paid at the commencement of each such partial month. The Tenant shall pay the monthly rent, without notice, demand, or set off, at the office of CHT at the address provided in this Lease Agreement for notice, or to such other person or at such other place as CHT may from time to time designate by written notice hereunder. Tenant shall receive a reduction in base rent in equal proportion to any reduction in rent received by the other ReLief agencies renting space in the Building.

Section 2.02 Prospective Adjustment of Base Rent. The base rent payable under Section 2.01 is intended to cover the Tenant's share of the Direct Expenses expected to be incurred by CHT in the ownership, operation, maintenance and repair of the Property. The term "Direct Expenses" shall mean all direct costs incurred by CHT in the ownership, operation, maintenance and repair of the Property during a Fiscal Year and shall include, without limitation, the following: debt service on the Bonds and any extension, renewal, or refinancing of the loan of the Bond proceeds, real and personal property taxes and special assessments, insurance premiums, costs of repair and janitorial service, funding of replacement and operating reserves, and all charges and impositions for water and sewer service; the estimated Direct Expenses used in calculating the Tenant's base rent are set forth in Exhibit C attached hereto.

The term "Fiscal Year" means a one-year period commencing on October 1 of one calendar year and ending on September 30 of the following calendar year; the term "Fiscal Year" also includes the period commencing on the commencement date of the Term and ending on the next June 30, and the period commencing on the July 1 next preceding the expiration date of the Lease and ending on such expiration date. If the Direct Expenses for any Fiscal Year subsequent to the first full Fiscal Year will exceed the estimated Direct Expenses shown in Exhibit D, CHT shall be entitled from time to time to prospectively adjust the Base rent to include the Tenant's share of the estimated increase in Direct Expenses. CHT shall exercise its right to increase the base rent by giving the Tenant written notice at least ninety (90) days prior to the effective date of the prospective adjustment, together with copies of invoices, bills, estimates or statements upon which such prospective adjustment is based, and the Tenant shall, upon the effective date of the prospective adjustment, commence payment of the adjusted base rent. In calculating a prospective adjustment, the Tenant's share of the estimated increase in Direct Expenses shall be determined in the same manner as the Tenant's share of estimated Direct Expenses for the first full Fiscal Year. *The City will have the right to review the information and seek clarification and verification. CHT shall make every reasonable effort to mitigate any prospective adjustment of rent through the use of prior years net operating*

surpluses.

Section 2.03 Retroactive Adjustment of Base Rent. To the extent that Tenant's share of actual Direct Expenses for any Fiscal Year exceeds the estimated Direct Expenses used in calculating the Tenant's base rent, CHT shall be entitled to charge the Tenant for the excess as provided in this Section 2.03. If CHT elects to charge the Tenant for a retroactive adjustment under this Section 2.03 with respect to any Fiscal Year, CHT shall provide the Tenant, within ninety (90) days following the end of such Fiscal Year, with a written invoice for the retroactive adjustment. The invoice shall include a detailed statement of the actual Direct Expenses incurred during the preceding Fiscal Year, and a detailed calculation of the Tenant's share. In calculating a retroactive adjustment, the Tenant's share of the actual Direct Expenses shall be determined in the same manner as the Tenant's share of estimated Direct Expenses. The retroactive adjustment amount shall be paid in full by the Tenant to CHT within thirty (30) days of the date of the invoice, provided that if the retroactive adjustment exceeds two months' base rent, the Tenant may elect to pay the amount due in consecutive monthly installments at least equal to one month's base rent. ~~The City will have the right to review the information and seek clarification and verification.~~ CHT shall make every reasonable effort to mitigate any retroactive adjustment of rent through the use of prior years net operating surpluses.

Section 2.04 Additional Rent. In addition to the base rent and adjustments to base rent set forth in Sections 2.01, 2.02 and 2.03, the Tenant agrees to pay to CHT, as additional rent, the Tenant's share of allocable utility costs as set forth in Article VI of this Lease, and any other costs, fees or charges required to be paid by the Tenant hereunder.

ARTICLE III

Use of Premises

Section 3.01 Office Use. The Tenant agrees that it shall use and occupy the Premises during the Term as office space for its staff and for professional services, and for purposes incidental thereto. The Premises shall not be used for additional or other purposes without the prior written approval of CHT.

Section 3.04 Compliance With Law. The Tenant shall not use or permit anything to be done in or about the Property which will in any way conflict with any law, statute, ordinance or governmental rule, regulation or requirement now enforced or which may hereinafter be enacted or promulgated.

ARTICLE IV

Condition of the Premises; Maintenance and Repair

Section 4.01 CHT's Repair and Maintenance. During the Term, CHT shall be responsible for providing janitorial service necessary to keep the Common Areas in a clean, safe condition and for making all repairs necessary to keep the Building and the Premises in good working order and condition, except (i) repairs to alterations, additions, or

improvements constructed by the Tenant, (ii) repairs of damage, destruction or other harm for which the Tenant is responsible, as set forth in Section ~~4.02~~ ~~4.03~~, and (iii) as provided in Article VIII, which shall govern repairs of casualty damage and destruction.

Section 4.02 The Tenant's Repair and Maintenance. During the Term, the Tenant shall be responsible at its cost for (i) making all repairs to any portion of the Building or the Premises damaged, destroyed or unreasonably worn or torn by the act or omission of any of the Tenant's officers, employees, agents, contractors, servants, invitees, guests, licensees or concessionaires, and all repairs necessary to keep any alterations, additions or improvement constructed by the Tenant in good working order and condition, and (ii) providing janitorial service necessary to keep the Premises in a clean, safe condition.

ARTICLE V

Alteration of the Premises

The Tenant shall have the right, at its cost and expense, to alter, improve or add to the Premises during the Term, provided that such alterations, additions and improvements do not increase the floor area or change the exterior dimensions of the Building, and further provided that any such alterations, improvements or additions that will materially reduce the value or usefulness of the Premises upon expiration of the Term shall be subject to CHT's consent, which shall not be unreasonably withheld. Any fixtures installed as part of any alterations, additions or improvements, including light and electrical fixtures and any built-in furniture or equipment permanently affixed to the floors, walls or ceilings of the Premises shall be removed by the Tenant at the Tenant's cost upon expiration of the Term and the Tenant shall repair any damage resulting from such removal so as to restore the Premises to the condition that existed at the commencement of the Term, reasonable wear and tear excepted. All such restorations shall be completed within thirty (30) days after expiration of the Term. The Tenant shall pay all costs and expenses in connection with any alterations, additions and improvements undertaken by the Tenant and shall discharge or bond against any mechanics' liens filed against the Property in connection with Tenant's work ' within a period of thirty (30) days after the Tenant receives notice of the filing of any such liens, and the Tenant shall indemnify, defend and hold harmless CHT from and against any claims or liabilities arising from the failure of the Tenant to comply with this Article V, including but not limited to reasonable attorneys' fees.

ARTICLE VI

Utilities

The Tenant shall pay directly to the providing utility company as and when the same shall become due and payable all charges and impositions of every kind for electric, gas, telephone, CATV, trash disposal and other utility services furnished to the Premises (except for water and sewer, which are covered by the base rent) which are separately metered for the Premises or for which bills are rendered directly to the Tenant. In addition, the Tenant shall reimburse CHT, upon monthly invoice, for the Tenant's share of all other such charges and impositions for utility services furnished to the Premises, and for the Tenant's share of all such charges and impositions for utility services

furnished to the Common Areas, such shares to be determined in accordance with the percentages set forth in Exhibit D attached hereto.

ARTICLE VII

Insurance

Section 7.01 Casualty Insurance. During the Term, CHT shall keep the Building insured against fire and other hazards covered by so-called "extended coverage" in an amount equal to the replacement cost of the Building, with such coverages as are required in connection with the issuance of the Bonds. During the Term, the Tenant shall maintain adequate insurance for loss of personal property, trade fixtures and other equipment or property of the Tenant located on the Premises.

Section 7.02 Liability Insurance. During the Term, the Tenant shall carry and maintain with respect to the Premises, and CHT shall carry and maintain with respect to the Common Areas of the Property, comprehensive public liability insurance, (including premises, property damage, and bodily injury) on an occurrence basis with minimum limits of liability in the amount of One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) combined single limit and policy aggregate for bodily injury and One Hundred Thousand Dollars (\$100,000.00) with respect to property loss or damage. The Tenant's liability insurance on the Premises shall name CHT and CHT's mortgagees as additional insureds.

Section 7.03 General Provisions. Each party shall provide the other with certificates of insurance and/or policies upon request. All insurance policies shall be issued by insurance companies licensed to do business in the State of Vermont with assets sufficient to cover the potential losses, and shall otherwise be reasonably acceptable to both parties. CHT and the Tenant agree to negotiate in good faith to modify the insurance requirements in the event that the coverages required by this Article VII become unavailable for a commercially reasonable premium or become inadequate to protect the interests of the parties, according to industry standards then prevalent.

ARTICLE VIII

Fire and Other Casualty

If the Building is destroyed or damaged during the Term by fire or other casualty covered by the insurance required in Section 7.01, and if the proceeds of such insurance are made available to CHT for such purpose by CHT's mortgagees, then CHT shall promptly repair and restore the same to substantially the condition in which it was immediately prior to such casualty, using the proceeds of such insurance. If the Building is damaged or destroyed by casualty not covered by the insurance required in Section 7.01, CHT may, if it so elects, repair and restore the same to substantially the condition in which it was immediately prior to such casualty; CHT shall make such election by giving written notice to the Tenant within fifteen (15) days after the date of the casualty, and if CHT fails to give such notice, CHT shall be deemed to have elected not to restore the Building. If CHT does not elect to restore the Building or if CHT does not restore the Building

within one hundred eighty (180) days from the date of the casualty, and in either case the Tenant's use and enjoyment of the Premises is materially impaired, then the Tenant shall have the right to terminate this Lease Agreement and the Term retroactive to the date of the casualty by written notice to CHT, provided that the Tenant shall not have the right to terminate as long as CHT is making reasonable progress in such restoration. During the period from the date of casualty until the Premises are repaired and restored, the Tenant's obligation to pay rent hereunder shall abate equitably in proportion to any material impairment of the use of the Premises.

ARTICLE IX

Condemnation

Section 9.01 Entire Premises Taken. If the entire Property is taken during the Term for appropriation to public use, or so much of the Property is taken so as to make the Premises unfit for the uses provided herein, by any public authority under right of eminent domain, this Lease Agreement and the Term shall terminate at the time that possession of the Property is surrendered to the public authority.

Section 9.02 Portion of the Premises Taken. If only a portion of the Property is taken during the Term by appropriation to public use, and the Premises can continue to be used for the purposes provided herein, this Lease Agreement shall continue in full force and effect, and the base rent payable hereunder shall be abated equitably.

Section 9.03 Award. Any award received for a full or partial taking of the Property shall be payable to CHT and its mortgagees.

ARTICLE X

Hazardous Materials

The Tenant shall not use, transport, store, dispose of or in any manner deal with hazardous materials in, on or about the Property, except in compliance with all applicable Federal, state and local laws, ordinances, rules and regulations. The term "hazardous materials" as used herein shall include, without limitation, gasoline, petroleum products, explosives, radioactive materials, or any other substances or materials defined as hazardous or toxic substances or materials by any Federal, state or local law, ordinance, rule or regulation. The Tenant unconditionally and irrevocably indemnifies and agrees to defend and hold harmless CHT and its officers, employees, agents, contractors and those claiming by, through or under CHT, from and against all loss, cost and expense (including but not limited to attorneys' fees) of whatever nature suffered or incurred by CHT on account of the existence in, at or on the Premises during the Term, or the release or discharge in, at, on, from or to the Premises during the Term, of any hazardous material, including, without limitation, any claims, costs, losses, liabilities and expenses arising from the violation (or claimed violation) of any law, rule, regulation or ordinance or the institution of any action by any party against the Tenant, CHT or the Property based upon nuisance, negligence or other tort theory alleging liability due to the improper use, storage, disposal, transportation, generation, removal or treatment of any hazardous

materials or the imposition of a lien on any part of the Property under any law pursuant to which a lien may be imposed on CHT due to the existence of hazardous materials, except to the extent such existence, release or discharge was caused by CHT or its officers, employees, agents or contractors. The Tenant unconditionally and irrevocably guarantees the payment of any fees and expenses incurred by CHT in enforcing the liability of the Tenant under this indemnification, provided, however, that the Tenant shall not be responsible for hazardous materials in existence in, at or on the Property at the commencement of the Term. If any remedial work is required because of, or in connection with, any occurrence or event covered by the indemnification set forth in this Article X, the Tenant shall either perform, or cause to be performed the remedial work in compliance with the applicable law, regulation, order or agreement, or shall promptly reimburse CHT for the cost of such remedial work. The provisions of this Article X shall survive the expiration of the Term and the termination of this Lease Agreement.

ARTICLE XI

General Indemnification

The Tenant shall indemnify, defend and hold harmless CHT from all suits, actions, damages, liabilities and expenses, including but not limited to reasonable attorneys' fees, in connection with loss of life, bodily or personal injury or property damage arising from or out of the use or occupancy of the Premises during the Term or occasioned wholly or in part by any act or omission of the Tenant or its officers, employees, agents, contractors, servants, invitees, licensees or concessionaires, except to the extent attributable to the negligence or willful misconduct of CHT, or its officers, employees, agents or contractors. [Please add reciprocal indemnification for acts arising out of CHT's ownership of the property and CHT's compliance with their obligations under the lease.](#)

CHT shall indemnify, hold harmless, and defend the Tenant, its officers, agents, representatives, successors, assignees, and employees from any and all liability, expense, including costs and reasonable attorney's fees incurred, claim, suit, loss, injury, including death, or damage of whatever kind or nature to any person or damage to any property occurring in connection with CHT's ownership of the Property and compliance with the obligations under this lease or arising in whole or in part from any act or acts or omission or omissions of CHT, its agents, servants, employees, licensees, contractors or guests or invitees, except to the extent attributable to the negligence or willful misconduct of Tenant, or its officers, employees, agents or contractors..

ARTICLE XII

Notices

Any notices required to be given hereunder shall be in writing and shall be deemed given when deposited in the United States mail, postage prepaid, addressed as follows:

If to CHT:

Champlain Housing Trust
88 King Street
Burlington, VT 05401

Attention: Chief Operating and Financial Officer

If to the Tenant:

ARTICLE XIII

Default and Remedies

Section 13.01 Default. If the Tenant shall fail to pay any rent when due hereunder and such failure continues for a period of ten (10) days after the Tenant receives written notice of such failure from CHT, or if the Tenant shall fail to satisfy or discharge any of its other duties and obligations under this Lease Agreement and such failure continues for a period of thirty (30) days after the Tenant receives written notice of such failure from CHT, or if the Tenant shall file a voluntary petition in bankruptcy or take the benefit of any insolvency act or be dissolved or adjudicated a bankrupt, or if a receiver shall be appointed for its business or its assets or a petition shall be filed against it under any bankruptcy or insolvency act and the appointment of such receiver or the filing of such petition is not vacated or dismissed within sixty (60) days after such appointment or filing, or if the Tenant shall make an assignment for the benefit of its creditors, then the Tenant shall be in default under this Lease Agreement, and CHT shall have the right, at its option, without further notice or legal process, to take possession of the Premises and to remove the Tenant therefrom.

Notwithstanding the above, any non-appropriation by the City Council will not be an event or act of default and will be excluded from any remedies for default if the City has complied with the terms and conditions of this section.

Section 13.02 Acceleration. In addition to CHT's right to recover possession of the Premises, in the event of the Tenant's default CHT may, at its option, declare immediately due and payable all the remaining installments of rent herein provided for the remainder of the Term and such amount shall be construed as liquidated damages and shall constitute a debt provable in bankruptcy or receivership. CHT shall make a good faith effort to re-let the Premises and in the event that CHT is successful in such effort, the Tenant shall be liable only for the difference between the rents due hereunder and those amounts actually received by CHT upon such re-letting for the remaining Term hereof. In addition, the Tenant shall be responsible for CHT's costs, interest and expenses, including but not limited to reasonable attorneys' fees, in re-letting the Premises.

Section 13.03 Termination. In addition to CHT's right to recover possession and CHT's right to accelerate the rent, in the event of the Tenant's default CHT shall also have the right to terminate this Lease Agreement and the Term.

Section 13.04 Remedies Cumulative; Waiver. The remedies of CHT set forth in this Article XIII shall be cumulative and shall be in addition to any other remedies available to CHT at law or in equity upon the default of the Tenant. The acceptance of rent or the

failure to take possession of the Premises by CHT shall not effect a waiver of CHT's right to terminate this Lease Agreement or to exercise its other remedies hereunder.

Section 13.05 Tenant's Remedies. Nothing in this Lease Agreement is intended to limit the rights or remedies of the Tenant under this Lease Agreement in the event of a breach of CHT's obligations under this Lease Agreement.

ARTICLE XIV

Termination

This Lease Agreement and the Term shall terminate at the end of the lease term as specified.

ARTICLE XV

Miscellaneous

Section 15.01 Nonassignability. This Lease Agreement and the leasehold interest granted hereby shall not be assigned, sublet, mortgaged or otherwise transferred or encumbered by the Tenant, in whole or in part, without the prior written consent of CHT, which shall not be unreasonably withheld.

Section 15.02 Waiver. No waiver of a breach of any of the covenants, agreements or provisions contained in this Lease Agreement shall be construed to be a waiver of any subsequent breach of the same or of any other provision in the Lease Agreement.

Section 15.03 Governing Law. This Lease Agreement shall be construed in accordance with and governed by the laws of the State of Vermont.

Section 15.04 Entire Agreement. This Lease Agreement contains the entire understanding of the parties with respect to the subject matter hereof.

Section 15.05 Writing Required. No change, amendment or modification of this Lease Agreement shall be valid unless in writing and signed by the parties hereto or their respective successors and assigns.

Section 15.06 Binding Effect. Subject to the provisions of section 15.01, this Lease Agreement shall be binding upon and inure to the benefit of CHT and the Tenant and their respective successors and assignees.

Section 15.07 Titles and Headings. The titles and headings of sections of this Lease Agreement are intended for convenience only and shall not in any way affect the meaning or construction of any provision of this Lease Agreement.

Section 15.08 Severability and Enforceability. If any of the provisions of this Lease Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Lease Agreement shall not be affected thereby and every provision of this Lease Agreement

shall be valid and enforceable to the fullest extent permitted by law.

Section 15.09 No Joint Venture. Neither this Lease Agreement nor any right or benefit conferred on the Tenant hereunder shall constitute or be deemed to constitute CHT a partner of or a joint venturer with the Tenant or any of its sublessees or assigns.

Section 15.10 Counterparts. This Lease Agreement may be executed in several counterparts, each of which shall be deemed an original instrument, and all such counterparts together shall constitute one and the same instrument.

Section 15.11 Amendments. All references in this Lease Agreement to any documents, including this Lease Agreement/shall include reference to all amendments, modifications and addenda to such documents now or hereafter entered into.

Section 15.12 Holding Over. If the Tenant continues in possession of the Premises following the expiration of the Term, then at CHT's election the Tenant's leasehold interest will continue as a tenancy-at-will under all of the terms and conditions set forth in this Lease Agreement, except that the leasehold shall be terminable by either party upon thirty days' advance written notice.

IN WITNESS WHEREOF, the parties have executed this Lease Agreement on the date first above written.

IN THE PRESENCE OF:

CHAMPLAIN HOUSING TRUST

By _____

Its _____

CITY OF BURLINGTON, VERMONT

By _____

Its _____

STATE OF VERMONT
CHITTENDEN COUNTY, SS.

At Burlington, in said County, this _____ day of _____, 2011, personally appeared _____, duly authorized agent of Champlain Housing Trust, and he/she acknowledged this instrument, by him/her subscribed, to be his/her free act and deed and the free act and deed of Champlain Housing Trust.

Before me: _____

Notary Public

STATE OF VERMONT
CHITTENDEN COUNTY, SS.

At Burlington, in said County, this _____ day of _____, 2011, personally appeared _____, duly authorized agent of _____, and he/she acknowledged this instrument, by him/her subscribed, to be his/her free act and deed and the free act and deed of _____.

Before me: _____
Notary Public