MASTER LEASE

 This Master Lease is entered into by and between [Housing Provider], a Vermont 501(c)3 non-profit and [Service Provider], a Vermont non-profit corporation, this [Date]. In consideration of the premises and the covenants and agreements hereinafter set forth, the parties agree as follows:

PREMISES

1. The property that is the subject of this Lease consists of [#] unit in [Development Name] (the “Unit”). The Unit is located at [Address] in [Town], VT and is furnished with appliances, fixtures and furnishings located in, on or about the Unit. The Unit, together with appliances, fixtures and furnishings, is more particularly described in Exhibit A – Floor Plans, and Exhibit B – Fit-up Schedule, and Exhibit C – Program Description. The Unit complies with applicable federal, state and local regulations relative to housing and building codes. The Unit includes the common elements appurtenant to the Unit as established in the Declaration. The Unit is subject to an encumbrance that restricts occupancy to families with the [Program Name] program and that meet tax credit eligibility requirements. The encumbrances require that the apartments be perpetually affordable to the tenants who occupy the apartments.

2. [Housing Provider’s] title to the Unit is subject to encumbrances identified in Section 12.

COVENANTS AND AGREEMENTS

3. [Housing Provider] leases the Unit to [Service Provider] and [Service Provider] take the Unit from [Housing Provider] on the terms and conditions hereinafter set forth.

4. The term of this Lease shall be one year (the “Term”). [Housing Provider] shall provide [Service Provider] notice thirty (30) days prior to the effective date of the beginning of the Term. If such notice is not provided before [Date one Year from Start], [Service Provider] may elect to terminate this Master Lease and with such election [Service Provider] will have no obligations under this Master Lease. Unless extended as set out in this paragraph below, this lease shall terminate on the last day to the 12th month following the effective date of the beginning of the Term. [Service Provider] may elect to renew this Master Lease for up to [#] additional one year terms upon the same terms and conditions by providing [Housing Provider] written notice of such election 90 days prior to the end of the previous Term.

5. The Rent for the first calendar year of the Term is $[Amount] or such higher amount as may be secured in a Project-Based Voucher Contract by and between [Housing Provider] or [Service Provider] and the [Housing Authorities] and approved by [Service Provider] and [Housing Provider]. The Rent shall be payable in monthly installments equal to 1/12 the annual rent due on the first day of the first full month of the term. If [Service Provider] occupies the building for a partial month, the Rent for that month shall be prorated and payable on the first day of occupancy. For each year thereafter, the rent shall be increased by no less than [#]% and no higher than the amount required by [Permanent Loan Funder] as Mortgagee or such higher amount as may be secured in a Project-Based Voucher Contract by and between [Service Provider] or [Housing Provider] and the [Housing Authority]. Notwithstanding anything set out in Section 7, in no event shall the annual rent exceed that allowed under Section 42 of the Internal Revenue Code of 1986.

6. [Service Provider] shall deposit with the [Housing Provider] an amount of money equal to one (1) month’s rental payment. As of [Date] this amount will be $[Amount]. This amount may change from year to year depending on future lease agreements.

7. Anything in this agreement notwithstanding, [Service Provider] shall be entitled to terminate this Master Lease upon a sixty (60) days prior written notice to [Housing Provider] (“Notice Period”) in the event that, in the reasonable opinion of [Service Provider] there is a material adverse change in the viability of the program described in Exhibit D hereto (the “Program”), including but not limited to, the following circumstances:

(a)Lack of adequate ongoing funding to support the Program, including but not limited to, any scheduled termination or material reduction of any funding source for the Program, provided that [Service Provider] and [Housing Provider] are unable, after their combined good faith efforts, to obtain an adequate replacement funding source for the Program;

(b) any material change in use, programming or character of any building or lands comprising the project or the tenant population thereof, other that the Unit, which in [Service Provider]’s reasonable opinion materially and adversely effects [Service Provider]’s ability to effectively operate the Program as designed by [Service Provider] or [Service Provider]’s use and quiet enjoyment of the Premises.

In the event that [Service Provider] shall provide written notice to [Housing Provider] that it is terminating this Master Lease pursuant to the terms of this Section 7, or for any other reason whatsoever other than a default by [Housing Provider], then [Service Provider]’s liability under this Master Lease shall be limited to the payment of the monthly rental for the Notice Period plus the forfeiture to [Housing Provider] of the Operating Reserve Account more particularly described in Section 7 herein, the “Liability Cap”. [Housing Provider] shall use its best efforts and work with [Service Provider] and independently to find a replacement tenant(s) for the Unit and reduce [Service Provider]’s liability. Anything in this Section 7 notwithstanding, in the event that such replacement tenant shall be obtained and shall begin occupancy prior to end of the first year following the expiration of the Notice Period, then the liability of [Service Provider] shall be the lesser of 1) the “Liability Cap” or 2) the amount calculated as follows: the monthly rent due during the Notice Period through the date of occupancy by the replacement tenant(s), plus the difference between the rent paid by the replacement tenant(s) and that which would be otherwise owed by [Service Provider] during the Notice Period, plus, during the first year following the end of the Notice Period, the difference between the rent paid by the replacement tenant(s) and that which would have been due from [Service Provider] under the Master Lease had [Service Provider] not terminated.

8. [Housing Provider] shall perform all of the maintenance of and repairs to the Unit at [Housing Provider]’s expense. The Unit shall be maintained in as good or better condition as the condition of the Unit on the date it is placed in service except for ordinary wear and tear. In the event that [Service Provider] has actual knowledge of a necessary repair [Service Provider] shall give [Housing Provider] prompt notice of all necessary repairs that require performance.

9. [Service Provider] shall hold and use the Unit solely for residential purposes and purposes incidental thereto including but not limited to the programming described on Exhibit C hereto. The Unit shall not be used for any other purpose whatsoever.

10. The Unit is or will become subject to any encumbrances listed in the audited statements.

11. [Housing Provider] is entering into this Master Lease with [Service Provider] because of, among other things, [Housing Provider]’s interest in fostering [Service Provider]’s social goals and the special confidence [Housing Provider] has in [Service Provider]. [Service Provider] may not assign this Master Lease or any of its rights hereunder to another entity or person without [Housing Provider]’s prior written permission which consent will not be unreasonably withheld or delayed. [Service Provider] may, however, sublet each apartment in the Unit to a qualified tenant, approved by the Management Agent, in accordance with the terms of the Lease, without further consent of [Housing Provider], but may not otherwise sublet the Unit or any portion thereof. The approval of a qualified tenant shall not be unreasonably withheld or delayed by the Management Agent.

12. [Service Provider] shall enter into a written sublease with each tenant to whom it leases an apartment. Each sublease shall be in a form acceptable to [Service Provider] and [Housing Provider]. [Service Provider] acknowledges that the form and the term of the lease must satisfy certain requirements imposed by Section 42 of the Internal Revenue Code of 1986 and the encumbrances. In no event shall [Service Provider] sublease an apartment to a person who is not a qualified tenant under Section 42 of the Internal Revenue Code of 1986. In no event shall [Service Provider] sublease an apartment to any person for a term of less than six months. The approval by [Housing Provider] of any sublease to any subtenant shall constitute the acknowledgment by [Housing Provider] that as of the date of such approval, [Service Provider] is in compliance with the covenants set out in this Section 12 as they relate to the subject Unit/subtenant.

1. Attached hereto as Exhibit C is [Service Provider]’s proposed target tenant population. [Housing Provider] hereby agrees that the population described on Exhibit C is not inconsistent with the requirements of Section 42, the encumbrances and all agreements, instruments, laws, rules or regulations to which [Housing Provider] is bound.

13. By the execution hereof [Service Provider] assigns all of its subleases, and all of the rents it earns there from, to [Housing Provider]. This is an assignment for security for [Service Provider]’s performance of its obligations hereunder, which may be exercised at the election of [Housing Provider] if [Service Provider] is in default of any of its material obligations hereunder. Notwithstanding this assignment, [Service Provider] shall have the right to the possession and use of the rents it earns from its subleases until such time as [Housing Provider] gives written notice to [Service Provider] that [Service Provider] is in default hereunder and [Housing Provider] is taking possession of such rents, in which event [Service Provider] shall thereafter have no right to the possession or the use of the rents it earns from its subleases unless and until the such defaults have been cured by [Service Provider].

14. [Service Provider] shall create and deliver to every tenant to whom it subleases an apartment a tenant’s manual which shall set forth all of the rules and regulations governing the tenant’s conduct. The manual shall be in a form approved by [Housing Provider], which approval shall not be unreasonably withheld or delayed.

15. [Service Provider] and [Housing Provider] shall each purchase and maintain in full force and effect at all times a policy of hazard insurance insuring [Service Provider] and [Housing Provider], as their interest may appear, against loss from damage to or the destruction of the Unit or any element thereof. Each policy of insurance shall be purchased from an insurance company licensed to do business in Vermont and subject to the jurisdiction of the Vermont Department of Financial Regulation. Each contract of insurance shall insure the Unit against all hazards ordinarily insured against, and shall include so-called extended coverage provisions. Each contract of insurance shall not include co-insurance conditions. Each contract of insurance shall provide for payment to [Housing Provider] and [Service Provider] of the lesser of (i) the maximum amount of coverage that can be obtained for commercially reasonable premiums or (ii) [Amount].

16. [Service Provider] and [Housing Provider] shall each obtain and maintain in full force and effect a contract of liability insurance with an insurance company licensed to do business in the State of Vermont and subject to the jurisdiction of the Department of Financial Regulation. Each contract of insurance shall insure [Service Provider] and [Housing Provider], as their interests may appear, against loss due to the damage to or destruction of Unit caused by a third person, or the injury to or death of a person. Each contract of insurance shall provide coverage, in the case of any incident, of not less than $1,000,000 per person and $3,000,000 per incident.

17. The Unit shall be managed by a management agent (the “Management Agent”) retained by [Housing Provider] pursuant to a written contract, and subsequent amendments, approved by [Housing Provider]. A copy of any proposed contract, and subsequent amendments, with a management agent will be provided to [Service Provider].

18. [Service Provider] has the sole authority to enforce its subleases according to the terms thereof PROVIDED, HOWEVER, that [Service Provider] shall strictly enforce any provisions of any lease if the failure to enforce the same shall place [Service Provider] in default of this Master Lease, and agrees to take such reasonable actions in regard to enforcement of its subleases and the Management Agent and [Housing Provider], in their sole judgment, may determine are reasonably necessary to avoid or remedy a default of [Housing Provider] in regard to the encumbrances and covenants on this property.

19. The occurrence of any one or more of the following events shall constitute an Event of Default hereunder:

1. [Service Provider]’s failure to pay timely any of the rent if such failure continues for more than ten (10) days after the same shall be due and payable;
2. [Service Provider]’s or [Housing Provider]’s failure to comply with any provision of this Master Lease and such failure remains uncured for more than thirty (30) days (or such shorter period as shall be necessary to avoid a material default by [Housing Provider] or [Service Provider] under any written agreement or written obligation to which [Housing Provider] or [Service Provider] is bound to the other) after the aggrieved party has notified [Service Provider] or [Housing Provider] of such non-compliance by written notice;
3. The filing of any voluntary or involuntary petition by or against [Service Provider], [Housing Provider] or any Partner of [Housing Provider] under the United States Bankruptcy Code or any state insolvency law for reorganization or liquidation or other relief from [Service Provider], [Housing Provider] or any Partner of [Housing Provider]’s creditors; or [Service Provider], [Housing Provider] or any Partner of [Housing Provider]’s making of an assignment for the benefit of creditors; or the appointment of a receiver or trustee for [Service Provider], [Housing Provider] or any Partner of [Housing Provider]’s property, and such receiver or trustee is not removed within ninety (90) days after appointment; provided, however, that no such event shall be treated as an Event of Default for so long as [Service Provider], [Housing Provider] or any Partner of [Housing Provider] or the trustee or receiver promptly pays when due all rent payable under this Master Lease, complies with all of [Service Provider], [Housing Provider] or any Partner of [Housing Provider]’s obligations and covenants under this Master Lease and , in the case a trustee or receiver exercises assumption or waiver of its right (if any) to reject this Master Lease within ninety (90) days of its appointment;
4. [Service Provider], [Housing Provider] or any Partner of [Housing Provider] cessation of its normal business operations;
5. [Service Provider]’s abandonment of the Unit;
6. [Housing Provider]’s failure to comply with its obligations under this Master Lease, including, but not limited to, [Housing Provider]’s obligations to maintain hazard and liability insurance;
7. [Service Provider]’s making of any material alteration or addition to the Unit without [Housing Provider]’s prior written consent;
8. [Service Provider]’s failure to cooperate fully with [Housing Provider] and the Management Agent in the operation of the Unit; or
9. [Housing Provider]’s failure to remedy a default of Management Contract by the Management Company that materially effects [Service Provider]’s program operation within 90 days of [Housing Provider]’s receipt of written notice of such default from [Service Provider]; or
10. [Housing Provider]’s failure to make payments for any of its expenses that are included in the computation of the rent reserved or otherwise fails to meet any of its other material obligations under this Master Lease, and such failure continues for thirty (30) days after [Service Provider], by written notice, has informed [Housing Provider] of such failure; or
11. [Service Provider]’s failure to manage its own affairs in an efficient and businesslike manner if such failure adversely affects the operation of Unit to any material degree.

20. (a) Default by [Service Provider]. Upon the occurrence of any Event of Default and, with respect to any default that is curable, that remains uncured for the applicable cure period, [Housing Provider] may pursue any remedy that may be available to it at law or in equity including termination of this Master Lease. In addition, [Service Provider] shall forfeit the amount of funds in the Operating Reserve Account. [Service Provider] shall be liable to [Housing Provider] for reasonable attorneys’ fees and other costs that [Housing Provider] incurs in connection with any default or action filed against [Service Provider] to enforce [Housing Provider]’s rights under this Master Lease, if [Housing Provider] is the substantially prevailing part in such dispute. The waiver of any default by [Housing Provider] shall not constitute a waiver of any other breach or default. No failure on the part of [Housing Provider] to enforce any obligation or covenant herein contained, nor any waiver of any right hereunder by [Housing Provider], unless in writing, shall discharge or invalidate such obligation or covenant or affect the right of [Housing Provider] to enforce the same in the event of any subsequent breach or default.

(b) Default by [Housing Provider]. Upon the occurrence of any Event of Default and, with respect to any default that is curable, that remains uncured for the applicable cure period [Service Provider] may, terminate the Master Lease, withhold and pay any amounts necessary to make such payments directly without first paying them to [Housing Provider] and may pursue any and all remedies available to it under law or equity. In the event of a Default by [Housing Provider] under this Master Lease, [Housing Provider] shall be responsible for all reasonable attorneys’ fees of [Service Provider] resulting therefrom. In the event that [Service Provider] lawfully elects to terminate the Master Lease because of a material Default by [Housing Provider], [Housing Provider] shall have no claim against funds held in the Operating Reserve Account.

21. For as long as [Service Provider] is in compliance with all of the terms and conditions of this Master Lease, it shall be entitled to and shall have the quiet enjoyment of its possession of the Unit during the Term.

22. This is the only agreement between the parties hereto relating to the subject matter hereof. This Master Lease may be amended only by a written agreement executed by the parties hereto. This Master Lease shall be construed in accordance with the laws of the State of Vermont in effect on the date of the execution hereof. This Master Lease shall be binding on the parties hereto and their successors and assigns.

23. [Housing Provider] acknowledges that one (1) parking space convenient to the Unit shall be provided by [Housing Provider] to [Service Provider] during the Term of this Master Lease. [Housing Provider] will provide [Service Provider] staff with access to the Unit up to 30 days prior to the start of the Term so that [Service Provider] staff may begin program preparation. Such access shall be restricted by completion of work on the Unit and the completion of work on the project site.

24. [Housing Provider] and [Service Provider] acknowledge the necessity of resolving disputes in an expeditious, organized, and fair manner. The mediation and arbitration procedures set forth in this Section 24 shall govern the procedures by which disputes shall be resolved:

1. Should any dispute arise between [Service Provider] and [Housing Provider] concerning the rights or duties of either of them under this Master Lease which cannot be resolved by them, the following mediation and arbitration procedures shall be used PROVIDED, HOWEVER, that any dispute which involves the legal validity of this Master Lease or any portion thereof is specifically excluded from this arbitration agreement. Any such dispute shall be subject to judicial resolution rather than arbitration.
2. [Service Provider] or [Housing Provider] may notify the other by written notice of its desire to enter into non-binding mediation to resolve a dispute. Within fifteen (15) days of receipt of this written notice, [Service Provider] and [Housing Provider] shall mutually agree upon a disinterested person to mediate the dispute. The mediator shall be a person who has prior experience in mediation of disputes. Efforts to resolve a dispute through mediation shall end as soon as [Service Provider] or [Housing Provider] announces that, despite good faith efforts, the parties are unable to resolve the dispute. In any event, either [Service Provider] or [Housing Provider] shall be free to resort to arbitration (i) if the dispute has not been resolved within thirty (30) days of the selection of a mediator or (ii) if the parties are unable to agree upon a mediator within fifteen (15) days of the receipt of the written notice of a request to mediate. Neither [Service Provider] nor [Housing Provider] may seek arbitration without first utilizing the mediation process in accordance with this Section 24.
3. If a dispute is not resolved through mediation, [Service Provider] or [Housing Provider] shall notify the other by written notice of its selection of a disinterested arbitrator. Within fifteen (15) days of receipt of this written notice, the other party shall by written notice to the initiator of the arbitration process appoint a disinterested arbitrator of its choice. These two arbitrators shall select a third arbitrator. If the other party timely fails to name an arbitrator in response to receiving the written notice from the initiator of the arbitration process, the arbitrator selected by the initiator shall be the sole arbitrator.
4. The arbitrator(s) shall hold a hearing within thirty (30) days after the initial written notice by the initiator of the arbitration process. At the hearing, [Service Provider] and [Housing Provider] shall present evidence and question witnesses in the presence of each other.
5. Within thirty (30) days after the conclusion of the hearing, the arbitrator(s) shall render its/their judgment. A decision made by three arbitrators shall be by a majority of the panel.
6. The decision and award of the panel shall be binding upon and final between [Service Provider] and [Housing Provider]. The prevailing party shall be entitled to recover its attorneys’ fees in any arbitration proceedings and in any judicial proceeding connected with the arbitration.

**THE PARTIES ACKNOWLEDGE THAT THIS MASTER LEASE CONTAIN AN AGREEMENT TO ARBITRATE. AFTER SIGNING THIS DOCUMENT, THE PARTIES UNDERSTAND THAT THEY WILL NOT BE ABLE TO BRING A LAWSUIT CONCERNING ANY DISPUTE THAT MAY ARISE WHICH IS COVERED BY THE AGREEMENT TO ARBITRATE, UNLESS IT INVOLVES A QUESTION OF CONSTITUTIONAL OR CIVIL RIGHTS. INSTEAD, THE PARTIES AGREE TO SUBMIT ANY SUCH DISPUTE TO AN IMPARTIAL ARBITRATOR(S).**

Executed this\_\_\_\_\_\_\_\_\_, 20\_\_

[Service Provider] [Housing Provider]

by\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ by\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Witness to [Service Provider] and [Housing Provider]

STATE OF VERMONT

[County] COUNTY, ss:

At [Town] in said County and state this \_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_ personally appeared\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, authorized agent for [Housing Provider], and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, authorized agent for [Service Provider], and they acknowledged the foregoing Master Lease, by them subscribed, to be their free acts and deeds and the free acts and deed of [Housing Provider]and [Service Provider],

 Before me, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Notary Public

**List of Exhibits**

Exhibit A – Floor Plans

Exhibit B – Fit-up Schedule

Exhibit C – [Service Provider] Programming Information

**EXHIBIT A**

**Floor Plans**

See Attached

**EXHIBIT B**

**Sample Fit-up Schedule**

1. Refrigerator – [Brand], [#] cu.ft., Energy Efficient Model #[Model #]
2. Electric Range – [Brand], [#] inch stove with oven, Model #[Model #]
3. Range Hood – [Brand] [#] inch non-vented

**EXHIBIT C**

**[Service Provider]’s Program Information**

See Attached