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LEASE
TO BE UTILIZED IN CONNECTION WITH DISPOSITION OF LAND OWNED BY
THE TOWN OF CARLISLE FOR
AFFORDABLE HOUSING DEVELOPMENT FOR INDIVIDUALS WITH
INTELLECTUAL DISABILITIES

Between
Carlisle Affordable Housing Trust
and
Carlisle Housing Authority

Dated as of June 30, 2014

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13

14 **EXHIBITS:**

15

16

17 **Exhibit A - Plan**

18

19

1 **LEASE**

2 This lease (this "**Lease**") is entered into as of this 30th day of June, 2014 by and between
3 the Carlisle Affordable Housing Trust having a principal place of business at c/o Carlisle Town
4 Hall, 66 Westford Street, Carlisle, Massachusetts 01741 (the "**Trust**") and Carlisle Housing
5 Authority established pursuant to G.L. c. 121B and having a principal place of business at c/o
6 Carlisle Town Hall, 66 Westford Street, Carlisle, Massachusetts 01741 (the "**Tenant**").

7 **BACKGROUND**

8 Pursuant to a vote taken on Article 1 of the November 13, 2012 Carlisle Special Town
9 Meeting, the Trust acquired the fee interest in a certain parcel of land located at 338 Bedford
10 Road, shown as Lot A on a plan entitled "Plan of Land in Carlisle, Massachusetts (Middlesex
11 County) For: Daniel Moseley," dated October 16, 2012, signed and stamped by Joseph March,
12 PLS on October 30, 2012, said Lot A containing 5.0390 acres, more or less (the "**Property**").
13 The Trust acquired the Property subject to the terms of its Declaration of Trust, for affordable
14 housing purposes and other general municipal purposes. The Trust wishes to lease a portion of
15 the Property to the Tenant consisting of approximately 1.3615 acres (59,308 sq. ft.), more or less,
16 as more particularly described herein, to permit the Tenant to enter into a sublease and
17 development agreement with a developer to construct and operate an affordable group home for
18 individuals with intellectual disabilities on that portion of the Property, as further described
19 herein, pursuant to a Request for Proposals to be issued by, and selection of developer by, the
20 Tenant.

21 The Trust and Tenant now agree as follows:

22 **ARTICLE 1**

23 **PREMISES**

24
25 1.1 Lease of Premises. The Trust, for and in consideration of the covenants and
26 agreements hereinafter contained on the part of Tenant to be paid, kept and performed, hereby
27 leases to Tenant, and Tenant hereby leases from the Trust, for the Term (as defined in Section
28 2.1 below) upon the terms and conditions set forth herein, the following described premises
29 (hereinafter called the "**Premises**"):

30 A certain portion of the Property located at 338 Bedford Road, Carlisle, Massachusetts,
31 consisting of approximately 1.3615 acres (59,308 sq. ft.), more or less, and shown as "Lease
32 Area" on a plan entitled "Plan of Land in Carlisle, Massachusetts (Middlesex County) For:
33 Carlisle Housing Authority" dated March 28, 2014, prepared by Stamski and McNary, Inc. (the
34 "Plan"), and attached hereto as **Exhibit A** and made a part hereof.

35
36 The Premises include the following appurtenant rights:

37 (a) the right to permit, construct, use, repair, maintain, replace and operate two (2)
38 affordable group homes, which may be connected, for individuals with intellectual disabilities
39 providing a minimum of nine (9) and a maximum of ten (10) bedrooms, in the aggregate, all of

1 which shall be eligible to be counted on the Town of Carlisle's Commonwealth of Massachusetts
2 Department of Housing and Community Development Subsidized Housing Inventory; and
3

4 (b) the right to permit, install, use, repair, maintain, replace, and operate water, septic,
5 gas, electric, data, telephone and communications utilities, parking, landscaping and other related
6 improvements and amenities, along with other specified rights, serving the Premises and
7 Improvements constructed by Tenant.
8

9 All of the improvements constructed or to be constructed and operated by Tenant
10 pursuant to this Agreement and/or any sublease the Tenant may execute with its sub-tenant, on,
11 over, in or under the Premises, including without limitation utility lines not owned by the
12 respective utility company, parking areas and fixtures that are now or hereafter located on,
13 installed in, or attached to, the Premises (collectively, the "**Improvements**"), and all easements,
14 rights, privileges, licenses, covenants and other matters that benefit or burden the Premises or the
15 Improvements or the use or occupancy of the Premises or the Improvements, whether or not of
16 record, shall be referred to as the "**Project**;"
17

18 1.2 Reserved Rights. The Trust reserves the following rights and imposes upon
19 Tenant the following obligations in connection with the Premises:

20 (a) Upon reasonable prior notice to Tenant, the Trust shall have the right to access and
21 enter upon the Premises for the purposes of inspection, complying with all applicable laws,
22 ordinances, rules, regulations, statutes, by-laws, court decisions and orders and requirements of
23 all public authorities and exercising any right reserved to the Trust by this Lease. The Trust shall
24 use commercially reasonable efforts to minimize interference with or disruption of Tenant and its
25 respective businesses, occupants, and authorized operators and lessees;

26 (b) The Trust retains control of, and hereby reserves to itself and its successors and
27 assigns, in common with Tenant and others entitled thereto from time to time, a right-of-way
28 over a twenty (20) foot wide strip extending from Bedford Road along the northwest boundary of
29 the Property, and shown as the "Access and Utility Easement" on the Plan. The Access and
30 Utility Easement may, in the Trust's discretion, be extended, relocated and/or expanded from
31 time to time to include the existing paved driveway that extends from Bedford Road, across the
32 Premises to the portion of the Property outside the Premises. In the event that the Trust elects to
33 relocate, extend and/or expand the Access and Utility Easement to include the existing driveway,
34 the Trust and Tenant shall cause a revised Plan to be prepared, shall allow the Tenant the
35 opportunity for review and comment and shall amend this Agreement by attaching the revised
36 Plan as Exhibit A. The Access and Utility Easement may be used for general municipal
37 purposes, including, without limitation, vehicular or pedestrian passage and parking; installation,
38 repair, replacement, maintenance, use and operations of utilities to serve improvements to be
39 made to the non-leased section of the Property; and travel on sidewalks and footpaths. The Trust
40 may make any improvements to the Access and Utility Easement that it deems appropriate. The
41 Trust's expansion of the easement shall not interfere with the intellectually-disabled resident's
42 use and enjoyment of their homes. Any plans for an easement will allow landscaping to be
43 installed and maintained by the Tenant between any future residences and the easement. When

1 such improvements have been designed, the Trust shall cause a plan to be prepared showing the
2 location of the improvements and will file the Plan with the Middlesex North Registry of Deeds.

3 (c) The Tenant agrees to waive any legal setback required for development on the
4 unleased area from the leased Premises line, so long as a setback of at least 20 feet is provided.

5 **ARTICLE 2**

6 **TERM**

7
8 2.1 Term. The Premises are hereby leased unto Tenant for a term of ninety-nine (99)
9 years (the "**Term**"), commencing on the date on which both parties have executed this Lease (the
10 "Commencement Date") and unless earlier terminated in accordance with the provisions hereof,
11 ending on May 31, 2113 (the "**Termination Date**").

12 2.2 Early Termination. Tenant agrees that if construction of the Improvements has
13 not commenced (as defined in Section 3.1 below) by the Outside Construction Start Date (as
14 defined in Section 3.1 below), the Trust may elect to terminate this Lease upon thirty (30) days'
15 written notice to Tenant; provided, however, that if construction of the Improvements
16 commences within such 30-day period and continues with all due diligence and application, such
17 termination notice shall be null and void and this Lease shall continue in full force and effect.

18 **ARTICLE 3**

19 **TENANT'S IMPROVEMENTS**

20
21 3.1 Improvements. (a) Tenant shall commence work on the Improvements within
22 three (3) years following the date of Commencement Date of this Lease (the "**Outside**
23 **Construction Start Date**"), which construction Tenant shall thereafter diligently and
24 continuously prosecute to Final Completion (as defined below) in accordance with a schedule
25 and plans, to be developed by the Tenant. For purposes of this Lease, construction of the
26 Improvements shall be deemed to have "commenced" upon the commencement of actual
27 physical work (including, without limitation, site work) on the Premises pursuant to a full,
28 unconditional building permit for the construction of the Improvements, and "**Final**
29 **Completion**" of the Improvements will be deemed to have occurred upon the issuance of a
30 permanent certificate of occupancy for the Improvements. The date upon which Final
31 Completion of the Improvements occurs shall be referred to herein as the "**Final Completion**
32 **Date**," which shall occur not later than four (4) years from the date of this Lease.

33 3.2 Required Permits. (a) Tenant shall obtain all final permits, approvals and
34 licenses from governmental authorities, ("Required Permits") required for construction and use
35 of the Improvements, and for any other alterations, removals, installations, additions, changes,
36 replacements or improvements to the Premises (collectively with the Improvements, "Tenant
37 Work"), and shall, provide the Trust with a copy of each. Upon full or partial completion of the
38 Improvements and prior to occupying any part of the Premises for any purpose other than
39 performing the Improvements, and upon completion of any other Tenant Work, Tenant shall
40 obtain from each authority granting the final Required Permits or such other evidence of

1 approval ("Required Approval") as may be necessary to permit such part of the Premises to be
2 used and occupied for the Permitted Uses (as defined in Section 8.1 below). For Required
3 Permits and Required Approval to be deemed "final," as required herein, all appeal periods
4 applicable to such permits, licenses, approvals, and releases shall have expired without an appeal
5 having been taken, or if appeal has been taken, after successful resolution thereof and all further
6 appeal periods having expired. Tenant may occupy all or part of the Premises under temporary
7 or conditional certificates of occupancy, but shall not be relieved from the obligation of
8 obtaining permanent certificates of occupancy for the Improvements or other similar licenses or
9 permits required to permit the Premises to be used and occupied for the Permitted Uses.

10 (b) The Trust promptly shall execute and deliver any reasonable documents which may
11 be necessary to obtain or maintain any Required Permit or Required Approval and shall further
12 cooperate with Tenant in obtaining or maintaining any Required Permit or Required Approval, as
13 Tenant may from time to time reasonably request; provided, however, that with the exception of
14 zoning or other matters, where the Trust's execution of petitions, application, appeals or other
15 documents or joinder in proceedings may be required as a condition to Tenant's proposed action,
16 the Trust shall in no event be required to join in or become a party to any document or
17 proceeding in which it will oppose the Town of Carlisle or the Commonwealth of Massachusetts
18 or any agency, authority, branch, Town, division, office or subdivision of or for the Town of
19 Carlisle or the Commonwealth of Massachusetts, nor shall the Trust be required in connection
20 with any such document or proceeding or otherwise to oppose in any way any policy previously
21 established by the Town nor to take a position inconsistent with a position previously taken and
22 made public by the Town. The Trust shall not be required to incur any costs in connection with
23 any documentation under this Section. Tenant agrees to reimburse the Trust, within thirty (30)
24 days from Trust's request, for any reasonable third party costs it may incur in connection with
25 the review of such documentation.

26 (c) Tenant may contest, in good faith and on the same terms and conditions as provided
27 in Section 8.4, the validity or applicability of any Legal Requirement (as defined in Section 8.3
28 below) which is the basis for any Required Permit or Required Approval.

29 3.3 General Contractor; Development Team. Tenant shall provide to the Trust the
30 names of each member of Tenant's development team including but not limited to Tenant's
31 general contractor, architect and landscape architect, and engineer for the design and
32 construction of the Improvements together with such information as may be reasonably
33 requested by the Trust to assure the Trust that the development team has sufficient experience
34 and capacity to undertake and complete their respective portions of the Improvements.

35 3.4 Ownership. During the Term, the Improvements shall be vested in Tenant and
36 Tenant shall be entitled to any depreciation deductions and investment tax credits thereon for
37 income tax purposes. Upon the expiration or earlier termination of this Lease, title to the
38 Improvements, including without limitation, utility lines not owned by the respective utility
39 company, parking and loading areas, drainage facilities, and water and septic lines, facilities and
40 equipment that are now or hereafter located on, installed in, or attached to, the Land and used in
41 connection with the Project shall immediately vest in the Trust and shall be surrendered at that
42 time in accordance with Section 15.1 below.

1 3.5 Reproducible Drawings. Within ninety (90) days after Final Completion of the
2 Improvements or any other Tenant Work affecting the exterior of the Premises, Tenant shall
3 provide to the Trust copies of any and all plans and other submission provided to the Town as
4 required under any permit. Notwithstanding the foregoing, if the Town designates a central
5 repository for such information, then Tenant may submit such information to such central
6 repository.

7 3.6 Manner of Construction; Cost of Improvements. Tenant shall timely construct all
8 Improvements and Tenant Work in a good and workmanlike manner, in compliance with Legal
9 Requirements as defined in Section 8.3 below and good engineering and construction practices.
10 The Improvements and Tenant Work shall be constructed in material compliance with the Final
11 Plans and in strict compliance with any Permits. Tenant shall take all reasonably necessary
12 measures to (i) minimize dust, noise and construction traffic, (ii) minimize any damage,
13 disruption or inconvenience caused by Improvements and Tenant Work, and (iii) make adequate
14 provision for the safety and convenience of all persons affected thereby and to properly police
15 same. Dust, noise and other effects of such work shall be controlled using commercially
16 accepted methods customarily utilized in order to control deleterious effects associated with
17 construction projects in a populated, developed, or environmentally sensitive area, all as required
18 by any Permits. Tenant shall pay (or cause to be paid) all costs and expenses associated with any
19 Improvements or Tenant Work (including, without limitation, all architectural, engineering,
20 construction, legal and consultant fees and costs) and shall defend, indemnify and hold the Trust
21 Parties (as defined in Section 7.12 below) harmless from and against any and all claims,
22 damages, losses, penalties, costs, expenses and fees (including without limitation reasonable
23 legal fees) (collectively, "**Claims**") attributable to the performance or failure to properly perform
24 any Improvements or Tenant Work.

25 3.7 Tenant's Responsibility to Discharge Liens. (a) If any mechanic's, laborer's or
26 materialman's lien shall at any time during the Term be filed against the Premises, the
27 underlying fee, or any part thereof with respect to the performance of any labor or the furnishing
28 of any materials to, by or for Tenant or anyone claiming by, through or under Tenant, Tenant,
29 within thirty (30) days after notice of the filing thereof, shall cause the same to be discharged of
30 record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. If
31 Tenant shall fail to cause such lien to be discharged within the period aforesaid, then, in addition
32 to any other right or remedy, the Trust may, but shall not be obligated to, discharge the same
33 either by paying the amount claimed to be due or by procuring the discharge of such lien by
34 deposit or by bonding proceedings. Any amount so paid by the Trust and all costs and expenses
35 incurred by the Trust in connection therewith, together with interest at the prime rate of interest
36 reported from time to time in the Wall Street Journal or any successor publication plus two
37 percentage points (the "**Default Rate**") from the respective dates of the Trust's making of the
38 payment or incurring of the cost and expense until paid in full, shall constitute Additional Rent
39 (as defined in Section 4.2 below) under this Lease and shall be paid by Tenant to the Trust on
40 demand.

41 (b) Notwithstanding the foregoing, Tenant may contest, in good faith by appropriate
42 proceedings, at Tenant's sole expense, the amount or validity in whole or in part of any

1 mechanic's, laborer's or materialman's lien, and may defer the discharge of record thereof,
2 provided that:

3 (i) Tenant shall provide the Trust with security reasonably satisfactory to the
4 Trust or shall bond over to assure payment of contested items;

5 (ii) Tenant shall immediately pay or shall bond over such contested item or
6 items if the protection of the Premises or of the Trust's interest therein from any lien or
7 claim shall, in the reasonable judgment of the Trust, require such payment;

8 (iii) The Trust shall not be required to join in any proceedings referred to
9 herein unless the provisions of any law, rule or regulation at the time in effect shall
10 require that such proceedings be brought by or in the name of the Trust. The Trust shall
11 not be subjected to any liability for the payment of any loss, costs or expenses in
12 connection with any such proceedings, and Tenant shall defend, indemnify and save the
13 Trust Parties harmless from and against any such loss, costs and expenses; and

14 (iv) Notwithstanding the provisions of Subsection (iii) above, the Trust shall
15 not be required to join in or become a party, nominal or otherwise, to any proceeding in
16 which it will oppose the Town of Carlisle or the Commonwealth of Massachusetts or any
17 agency, authority, branch, Town, division, office or subdivision of or for the Town of
18 Carlisle or the Commonwealth of Massachusetts, nor shall the Trust be required in
19 connection with any such proceeding or otherwise to oppose in any way any policy
20 previously established by the Trust nor to take any position inconsistent with a position
21 previously taken and made public by the Trust.

22 Subject to the foregoing, and without cost to it, the Trust shall promptly execute and deliver any
23 reasonable documents which may be necessary to permit Tenant so to contest any such lien and
24 shall further cooperate with Tenant in such contest, as Tenant may from time to time reasonably
25 request.

26 3.8 No Consent. Nothing contained in this Lease shall be deemed or construed in any
27 way as constituting the consent to payment or request of the Trust, express or implied, by
28 inference or otherwise, to any contractor, subcontractor, laborer or materialman for the
29 performance of any labor or the furnishing of any materials for any specific improvement,
30 alteration to, or repair of the Premises or any part thereof.

31 3.9 No Agency Relationship. Based on (a) the provisions of the Uniform
32 Procurement Act for the disposition by Lease of Trust-owned property, and (b) interpretations
33 of the purpose, intent, and scope of the bidding laws for public construction by Massachusetts
34 courts and by the Attorney General's Business and Labor Protection Bureau, the Trust and the
35 Tenant separately expect and intend (without any warranty or representation by the other party
36 with respect thereto) that this Lease, including without limitation its provisions applicable to
37 the Tenant's Work on the Improvements under Article 3, is not subject to bidding laws for
38 public construction, including without limitation G.L. c. 149, §§ 44A-44S, G.L. c. 30, § 39M et
39 seq., and G.L. c. 7, § 38K. In the event that a Court of competent jurisdiction issues a final,
40 binding, conclusive Judgment that such bidding laws for public construction do apply to

1 Tenant's work under Article 3 or other aspects of this Lease, then the Trust and the Tenant shall
2 use best efforts to enter into a further written agreement within sixty (60) days (or such
3 additional time as they may agree) from the entry of that Judgment as to how said bidding laws
4 for public construction shall be complied with in conformity with said Judgment. In the event
5 that, despite their best efforts, the parties fail to reach such an agreement within said sixty (60)
6 days (or such additional time as they may agree), then either the Trust or Tenant may elect to
7 terminate this Lease upon thirty (30) days' written notice to the other party.
8

9 ARTICLE 4

10 RENT

11
12 4.1 Rent. Commencing on the Commencement Date and continuing thereafter
13 throughout the Term, Tenant shall pay to the Trust base rent ("**Rent**") in the amount of \$1.00,
14 which amount shall be paid in full at the execution of the Ground Lease. Such Rent shall be
15 absolutely net of any taxes, fees, charges, assessments, and costs of permitting or operating the
16 Project.

17 4.2 Additional Rent. All reasonable sums paid by the Trust and all reasonable costs
18 and expenses incurred by the Trust, including reasonable attorneys' fees and expenses, in
19 connection with the cure of any "Event of Default" as defined in Section 14 of this Lease,
20 together with interest at the Default Rate from the date of such payment or incurrence by the
21 Trust of such cost and expense until the date paid in full, shall be paid to the Trust, as
22 "**Additional Rent**", on demand.

23 ARTICLE 5

24 TAXES AND UTILITIES

25
26 5.1 Taxes. Tenant shall pay and discharge as they become due, promptly and before
27 delinquency, all taxes, assessments, rates, charges, license fees, municipal liens, levies, excises,
28 or imposts, whether general or special, or ordinary or extraordinary, of every name, nature, and
29 kind whatever, including all governmental charges of whatever name, nature, or kind, which may
30 be levied, assessed, charged, or imposed, or which may become a lien or charge on the Premises
31 or the improvements, or any part of same, or on Tenant's estate which may be a subject of
32 taxation, or on the Trust by reason of its ownership of the fee or any easements underlying this
33 Lease, during the entire term of this Lease, saving and excepting only those taxes in this section
34 specifically excepted.

35 5.2. Assessments. Specifically and without in any way limiting the generality of
36 Paragraph 5.1 of this Section, Tenant shall pay all special assessments or levies or charges made
37 by any municipal or political subdivision for local improvements, and shall pay them in cash as
38 they shall fall due and before they shall become delinquent and as required by the act and
39 proceedings under which any such assessments or levies or charges are made by any municipal
40 or political subdivision. If the right is given to pay either in one sum or in installments, Tenant
41 may elect either mode of payment and its election shall be binding on the Trust. If by making

1 any such election to pay in installments any of such installments shall be payable after the
2 termination of this Lease or any extended term of this Lease, such unpaid installments shall be
3 prorated as of the date of termination, and amounts payable after that date shall be paid by the
4 Trust. All other taxes and charges payable under this section shall be prorated at the
5 commencement and expiration of the term of this Lease.

6 5.3 Contest. If Tenant shall in good faith desire to contest the validity or amount of
7 any tax, assessment, levy, or other governmental charge agreed in this Lease to be paid by
8 Tenant, Tenant shall be permitted to do so, and to defer the payment of the tax or charge, the
9 validity or amount of which Tenant is so contesting, until final determination of the contest, on
10 giving to the Trust written notice of the contest prior to the commencement of any such contest,
11 which shall be at least 21 days prior to delinquency, and shall protect the Trust on demand by a
12 good and sufficient surety bond against any such tax, levy, assessment, rate, or governmental
13 charge, and from any costs, liability, or damage arising out of any such contest.

14 5.4. Rebates. All rebates on account of any such taxes, rates, levies, charges, or
15 assessments, required to be paid and paid by Tenant under the provisions of this Lease shall
16 belong to Tenant. The Trust will, on the request of Tenant, execute any receipts, assignments, or
17 other acquittances that may be necessary in order to secure the recovery of any such rebates, and
18 will pay over to Tenant any rebates that may be received by the Trust.

19 5.5 Impositions. Tenant shall pay or cause to be paid as Additional Rent, before any
20 fine, penalty, interest or cost may be added thereto for the non-payment thereof, all taxes,
21 assessments, special use or assessment district taxes, excises, levies, license and permit fees and
22 all other governmental charges of any kind and nature which during the Term may be assessed,
23 levied, imposed upon or become due with respect to, or become a lien on the Premises or the
24 leasehold, or any part thereof, or any appurtenance thereto, and payments in lieu of such taxes,
25 assessments, charges or fees, whether such charges are made directly to Tenant or through or in
26 the name of the Trust. All such charges shall be referred to herein as "**Impositions**." Tenant
27 shall have the right to contest or object to the amount or validity of any Imposition but shall not
28 withhold payment of any Imposition while any such contest or objection is pending. Tenant,
29 upon request of the Trust, shall furnish to the Trust within thirty (30) days of the date when any
30 Imposition would become delinquent, official receipts of the appropriate taxing authority, or
31 other evidence reasonably satisfactory to the Trust, evidencing payment thereof.

32 5.6 Personal Property Taxes. Tenant shall pay promptly when due all taxes which
33 may be imposed upon personal property (including fixtures taxed as personal property) in, on or
34 within the Premises directly to the assessing party.

35 5.7 Utilities. (a) Tenant shall pay, or shall cause to be paid, directly to the utility
36 provider, all charges by any public authority or public utility for electricity, telephone, gas, data
37 or communications, and other services supplied or rendered to the Premises, and service
38 inspections made therefor, whether called charge, rate, tax, betterment, assessment, fee or
39 otherwise and whether such charges are made directly to Tenant or through or in the name of the
40 Trust ("**Utility Charges**").

1 (b) The Trust agrees to provide reasonable access rights and/or easements over the
2 Premises to utility companies for the purposes of bringing and connecting utility service to the
3 Premises.

4 5.8 No Liability of the Trust. The Trust shall not be required to furnish to Tenant
5 any facilities or services of any kind whatsoever during the Term, such as, but not limited to,
6 water, sewer, septic, steam, heat, gas, hot water, electricity, light and power, data or
7 communications. The Trust makes no representation or warranty that existing sources of supply,
8 distribution points or utilities are adequate or sufficient to supply the Improvements.

9 **ARTICLE 6**

10 **REPAIRS AND MAINTENANCE**

11
12 6.1 Repair and Maintenance. (a) Throughout the Term of this Lease, Tenant, at its
13 sole cost and expense, shall take good care of the Premises (including all Improvements and all
14 water and septic lines, equipment and facilities) and all roadways, parking areas, sidewalks,
15 curbs, landscaped areas, drainage areas, fences and entranceways adjoining the same, and shall
16 keep the same in good order and condition, except for damage from a Taking (as defined in
17 Section 11.1 below) or from fire or other casualty after the last repair, replacement, restoration or
18 renewal required to be made by Tenant pursuant to its obligations hereunder, and shall make all
19 necessary repairs thereto, interior and exterior, structural and non-structural, ordinary and
20 extraordinary, and foreseen and unforeseen in order to keep the Premises in operational, safe,
21 clean and sanitary condition throughout the Term. Without limitation, Tenant shall keep the
22 common roadway, parking areas, loading areas and sidewalks in good order and condition and
23 shall be responsible for removing ice and snow therefrom. Tenant shall keep the Premises and
24 Improvements free of accumulations of dirt and rubbish, and shall use all reasonable precautions
25 to prevent waste, damage or injury to the Premises and Improvements.

26 6.2 No Obligation of the Trust. Except as otherwise expressly provided herein, the
27 Trust shall in no event be required to maintain or repair or to make any alterations, restoration,
28 replacements, changes, additions or improvements to the Premises during the Term of this Lease.

29 **ARTICLE 7**

30 **INSURANCE AND INDEMNITY**

31
32 7.1 Casualty Insurance. During the Term, Tenant, at its sole cost and expense, shall
33 keep in full force and effect property insurance on the Improvements and other property installed
34 or used in, on or about any Improvement in amounts sufficient at all times to prevent the Trust or
35 Tenant from becoming a co-insurer under the provisions of applicable policies of insurance, but,
36 in any event, at least equal to the full replacement cost thereof (exclusive of cost of excavations,
37 foundations and footings), without deduction for depreciation, against all risks of direct physical
38 loss or damage as may from time to time be included within the definition of an "All Risks
39 Insurance Policy" and extended to include coverage against earthquake, earth movement, flood
40 (including back-up of sewers and drains), sprinkler leakage, breakdown of boilers, machinery
41 and electrical equipment, lightning, wind storm, hail, explosion, riot, civil commotion, aircraft,

1 vehicles, smoke and demolition. Such insurance also shall cover increased cost of construction,
2 demolition and debris removal coverage, and contingent liability arising out of the enforcement
3 of building laws and ordinances governing repair and reconstruction and shall include an agreed
4 amount endorsement satisfactory to the Trust.

5 7.2 Builder's Risk. During the period of any construction or structural alteration of
6 the Premises or the Improvements, Tenant shall also keep in full force and effect, at its sole cost
7 and expense, "Builder's All Risk" insurance against loss or damage on a completed value non-
8 reporting basis from such hazards and in such amounts as the Trust may reasonably require.

9 7.3 Liability Insurance. Throughout the Term, Tenant shall maintain, for the benefit
10 of the Trust and Tenant, and identifying the Trust and Tenant as additional insureds, commercial
11 general liability insurance against claims for personal injury, death, and property damage
12 occurring upon, in or about the Premises or the Improvements, and on, in or about the adjoining
13 sidewalks and passageways (including, without limitation, personal injury, death, and property
14 damage resulting directly or indirectly from any change, alteration, improvement or repair
15 thereof) for at least Two Million (\$2,000,000) Dollars combined single limit, including bodily
16 injury and death and for property damage. If Tenant has other locations that it owns or leases,
17 the policy shall include an aggregate limit per location endorsement. Such liability insurance
18 shall be primary and not contributing to any insurance available to the Trust, and the Trust's
19 insurance shall be in excess thereto.

20 7.4 Personal Property Insurance. Throughout the Term, Tenant shall maintain personal
21 property insurance insuring all equipment, trade fixtures, inventory, fixtures and personal property
22 located on or in the Premises for perils covered by the cause of loss – special form ("special form").
23 Such insurance shall be written on a replacement cost basis in an amount equal to no less than
24 eighty percent (80%) of the full insurable replacement value of the aggregate of the foregoing.

25 7.5 Insurance Carried by Contractors. During the construction of the Improvements,
26 Tenant shall require the construction manager and/or general contractor for the Improvements to
27 maintain (i) for the benefit of Tenant and the Trust, as additional insureds, commercial general
28 liability insurance, including products and completed operations coverage, against any claims for
29 personal injury, death and property damage occurring upon, in or about the Premises and on, in
30 and about the adjoining sidewalks and passageways during the construction of the Improvements
31 for at least Two Million Dollars (\$2,000,000) combined single limit; (ii) worker's compensation
32 in amounts required by state statute; (iii) employer's liability insurance with limits of not less
33 than of One Million Dollars (\$1,000,000); (iv) automobile liability insurance, including the
34 ownership, maintenance and operation of any automotive equipment, owned, hired or non-
35 owned, in an amount not less than of One Million Dollars (\$1,000,000) combined single limit;
36 and (v) umbrella liability insurance in an amount not less than Two Million Dollars (\$2,000,000)
37 combined single limit.

38 7.6 Insurance Coverage Increases. The minimum coverage stated in this Section 7
39 shall be reviewed every three (3) years by the Trust and Tenant, and shall be increased at such
40 intervals if such increases are reasonably necessary to reflect inflation or changes in the nature or
41 degree of risks insured or to protect against judgments from time to time being awarded in
42 Massachusetts for injury, death and property damage.

1 7.7 Insurance Carriers, Policies All insurance provided for in this Section 7 shall be
2 effected under valid and enforceable policies, issued by insurers of recognized responsibility
3 licensed and doing business in Massachusetts and having a so-called Best's Rating of "A:X" or
4 better, or, if such rating is no longer issued, an equal or better rating by a successor insurance
5 carrier rating service reasonably acceptable to the Trust and the Tenant. Any deductible amounts
6 under any insurance policies required hereunder shall not exceed Twenty-Five Thousand
7 (\$25,000.00) Dollars.

8 7.8 Blanket Policy. Nothing in this Section 7 shall prevent Tenant from taking out
9 insurance of the kind and in the amounts provided for under this Section 7 under a blanket
10 insurance policy or policies covering other properties as well as the Premises, provided,
11 however, that any such policy or policies of blanket insurance (i) shall specify therein, or in a
12 written statement from the insurers under such policy or policies specifying, the amount of the
13 total insurance allocated to the Premises, which amounts shall not be less than the amounts
14 required by this Section 7, and (ii) such amounts so specified shall be sufficient to prevent any of
15 the insureds from becoming a co-insurer within the terms of the applicable policy or policies, and
16 provided further, however, that any such policy or policies of blanket insurance shall, as to the
17 Premises, otherwise comply as to endorsements and coverage with the provisions of this Section
18 7.

19 7.9 No Separate Insurance. Tenant shall not take out separate insurance concurrent in
20 form or contributing in the event of loss with that required in this Section 7 to be furnished by, or
21 which may reasonably be required to be furnished by, Tenant unless the Trust and Tenant are
22 included therein as insureds, with loss payable as in this Lease provided. Tenant shall
23 immediately notify the Trust of the placing of any such separate insurance and shall cause the
24 same to be delivered as in Section 7.8 hereof required.

25 7.10 Adjustment. All policies of insurance provided for in Section 7 hereof shall name
26 the Trust and Tenant as the insureds as their respective interests may appear. The loss, if any,
27 under such policies shall be adjusted with the insurance companies by Tenant, and shall be
28 payable to Tenant. All such policies shall provide that the loss, if any, thereunder shall be
29 adjusted and paid as hereinabove provided. Each such policy shall, to the extent obtainable,
30 contain a provision that no act or omission of any of the Tenant Parties (as defined in Section
31 7.13 below) shall affect or limit the obligation of the insurance company so to pay the amount of
32 any loss sustained.

33 7.11 Non-cancellation. Each policy or binder issued by an insurer shall, to the extent
34 obtainable, contain an agreement by the insurer that such policy shall not be canceled, non-
35 renewed or substantially modified without at least thirty (30) days' prior written notice to the
36 Trust, Tenant and any Permitted Institutional Mortgagee (as defined in Section 13.2 below)
37 named therein.

38 7.12 Indemnification. (a) Tenant shall defend (with counsel reasonably acceptable to
39 the indemnified party), indemnify and save the Trust, the Town of Carlisle, members of the
40 Carlisle Affordable Housing Trust, and all board members, commissioners, trustees, employees,
41 agents, servants, and licensees of any of the foregoing (collectively the "**Trust Parties**")

1 harmless against and from any and all Claims which may be imposed upon or incurred by or
2 asserted against the Trust Parties by reason of any of the following occurrences:

3 (i) any work or thing done during the Term of this Lease in, on or about the Premises
4 or any part thereof, including during construction of the Improvements and any other Tenant
5 Work, by Tenant or any other party other than the Trust Parties;

6 (ii) any use, non-use, possession, occupation, condition, operation, maintenance or
7 management of the Premises or any part thereof, including any roadway, sidewalk or curb,
8 parking areas, loading areas, drainage facility, or water or septic line, equipment or facility,
9 appurtenant to or serving the Premises, during the Term of this Lease by Tenant or any other
10 party other than the Trust Parties;

11 (iii) any negligence or willful misconduct on the part of Tenant or any of its agents,
12 contractors, servants, employees, subtenants, occupants, guests, licensees, operators, or invitees
13 (together with Tenant, the "**Tenant Parties**");

14 (iv) any accident, injury or damage to any person or property occurring in, on or about
15 the Premises or any Improvement or any part thereof, including any roadway, sidewalk or curb,
16 parking areas, loading areas, drainage facility, or water or septic line, equipment or facility,
17 appurtenant to the Premises, unless the same occurs solely as a result of the gross negligence or
18 wrongful act of any of the Trust Parties; and

19 (v) any failure on the part of Tenant to perform or comply with any of the covenants,
20 agreements, terms, provisions, conditions or limitations contained in this Lease on its part to be
21 performed or complied with.

22 (b) If the Trust obtains separate counsel due to reasonable concerns that its interests
23 and that of Tenant may be adverse or that counsel provided by Tenant may have a conflict in
24 interest or is not providing effective representation of the Trust, then the reasonable expenses of
25 such separate counsel shall be at Tenant's expense.

26 (c) The foregoing express obligation of indemnification shall not be construed to
27 negate or abridge any other obligation of indemnification running to the Trust which would exist
28 at common law or under any other provision of this Lease, and the extent of the obligation of
29 indemnification shall not be limited by any provision of insurance undertaken in accordance with
30 this Section 7. This Lease is made on the express condition that the Trust shall not be liable for,
31 or suffer loss by reason of, any damage or injury to any property, fixtures, buildings or other
32 improvements, or to any person or persons, at any time on the Premises, specifically including any
33 damage or injury to the person or property of Tenant or any of the Tenant Parties, from whatever
34 cause, in any way connected with the condition, use, occupational safety or occupancy of the
35 Premises or the Improvements, unless caused by the gross negligence or willful misconduct of
36 the Trust.

37 (d) The provisions of this Section 7.12 shall survive termination or expiration of this
38 Lease.

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ARTICLE 8

USE OF PREMISES

4 8.1 Permitted Uses. The Premises and the Improvements shall be used exclusively
5 for purposes of developing and operating two (2) affordable group homes, which may be
6 connected, for individuals with intellectual disabilities providing a minimum of nine (9) and a
7 maximum of ten (10) bedrooms, in the aggregate, all of which shall be eligible to be counted on
8 the Town of Carlisle’s Department of Housing and Community Development Subsidized
9 Housing Inventory and accessory uses and structures which are ancillary thereto (collectively,
10 the “**Permitted Uses**”), subject to the affordability commitments set forth in Article 9. In no
11 event shall the Project ever be converted to home ownership whether through condominiums or
12 cooperatives or otherwise.

13 8.2 Abandonment of Use. Subject to Unavoidable Delays and, except during
14 selection of a developer-operator sub-tenant, permitting and timely construction of the
15 Improvements and thereafter during reasonable periods of repair, remodeling and/or restoration,
16 Tenant covenants and agrees to continuously and uninterruptedly use the Premises for the
17 Permitted Uses. If at any time after completion of permanent financing with a Permitted
18 Institutional Mortgagee, the Premises shall be abandoned, deserted, or vacated by the Tenant
19 (such decision to abandon, desert, vacate or discontinue construction or operation, the facilities
20 located on the Premises shall be referred to as a decision to “**Discontinue Operations.**” Trust
21 shall have the right, subject to the rights of the Permitted Institutional Mortgagees set forth in
22 this Section 8.2, to terminate the Lease by written notice to Tenant, as provided in Article 13.2,
23 and recover exclusive possession of the Premises. In the event the Trust exercises its right to
24 terminate the Lease under this Section 8.2, the Lease shall terminate sixty (60) days after the date
25 of the Trust’s notice to Tenant thereof, unless within such sixty (60) day period, the Premises are
26 leased and occupied in accordance with Section 8.1. Each Permitted Institutional Mortgagee
27 shall have the same rights to cure as set forth in Article 13.2(c) and (d).

28 8.3 Legal Requirements. Throughout the Term of this Lease, Tenant, at its sole
29 expense, shall promptly comply with and shall cause all Tenant Parties to promptly comply with,
30 all present and future laws, ordinances, orders, rules, regulations and requirements of all federal,
31 state and municipal governments, departments, housing authorities, boards and officers, foreseen
32 or unforeseen, ordinary as well as extraordinary, which may be applicable to the Premises and
33 the roadway, sidewalk or curb, parking areas, loading areas, drainage facilities, adjoining the
34 same, the water and septic lines, equipment and facilities servicing the Premises and/or the
35 Improvements or to the use or manner of use of the same or to any of the Tenant Parties, whether
36 or not such law, ordinance, rule, regulation or requirement is specifically applicable or related to
37 the conduct of the Permitted Uses, or shall affect the interior or exterior of the Improvements or
38 any Tenant Work, or shall necessitate structural changes or improvements, or shall interfere with
39 the use and enjoyment of the Premises (collectively, “**Legal Requirements**”). Tenant shall, in
40 the event of any violation or any attempted violation of this Section by any Tenant Party, take
41 steps, immediately upon knowledge of such violation, as Tenant determines to be reasonably
42 necessary to remedy or prevent the same as the case may be.

1 8.4 Contests. Tenant shall have the right to contest by appropriate legal proceedings
2 diligently conducted in good faith, in the name of Tenant, without cost or expense to the Trust,
3 the validity or application of any Legal Requirement, subject to Tenant providing the Trust with
4 written notice thereof on or before the date of contesting same, and further subject to the
5 following:

6 (a) If, by the terms of any such Legal Requirement, compliance therewith pending the
7 prosecution of any such proceeding may legally be delayed without the incurrence of any lien,
8 charge or liability of any kind against the Premises or any part thereof and without subjecting
9 Tenant or the Trust to any liability, civil or criminal, for failure so to comply therewith, Tenant
10 may delay compliance therewith until the final determination of such proceeding; and

11 (b) If any lien, charge or civil liability would be incurred by reason of any such delay,
12 Tenant nevertheless may contest as aforesaid and delay as aforesaid, provided that such delay
13 would not subject the Trust to criminal liability or fine, and provided that Tenant (i) bonds over
14 such lien or furnishes to the Trust security, reasonably satisfactory to the Trust, against any loss
15 or injury by reason of such contest or delay, and (ii) prosecutes the contest with due diligence;
16 and

17 (c) The Trust shall not be required to join in or become a party, nominal or otherwise,
18 to any proceeding in which it will oppose the Town of Carlisle or the Commonwealth of
19 Massachusetts or any agency, authority, branch, division, office or subdivision of or for the
20 Town of Carlisle or the Commonwealth of Massachusetts, nor shall the Trust be required in
21 connection with any such proceeding or otherwise to oppose in any way any policy previously
22 established by the Trust nor to take a position inconsistent with a position previously taken and
23 made public by the Trust.

24 8.5 Compliance with Insurance Requirements. Throughout the Term of this Lease,
25 Tenant, at its expense, shall observe and comply with the requirements of all policies of public
26 liability, casualty and all other policies of insurance required to be supplied by Tenant at any
27 time in force with respect to the Premises, and Tenant shall, without limiting any other
28 requirements of this Lease, in the event of any violation or any attempted violation of the
29 provisions of this Section by any Tenant Party, take all reasonable steps, immediately upon
30 knowledge of such violation or attempted violation, to remedy or prevent the same as the case
31 may be.

32 8.6 Property Management. Tenant will either manage the Premises personally or
33 hire a reputable and experienced property management company to manage the Premises. If
34 Tenant will not personally manage the Premises, prior to the Final Completion Date and
35 thereafter from time to time prior to entering into any management contract, Tenant shall submit
36 to the Trust for approval, which approval shall not be unreasonably withheld, denied or delayed:
37 (a) the name of Tenant's proposed property management company, (b) evidence that such
38 company has (i) a good business and character reputation in the community and surrounding
39 area, and (ii) proven property management experience with affordable rental housing
40 developments, and (c) the identity, background and experience of the senior operational officer,
41 and all agents and employees who will be engaged in the management of the Premises.

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ARTICLE 9

AFFORDABILITY COMMITMENTS

4 9.1 Affordability Commitments. From and after the Final Completion Date until the
5 expiration or earlier termination of the Term of this Lease, Tenant covenants to operate or ensure
6 that its sub-tenant operates affordable group home housing for individuals with intellectual
7 disabilities on the Premises in accordance with the affordability commitments ("**Affordability**
8 **Commitments**") set forth in this Section 9.1. At a minimum, no less than nine (9) and no more
9 than ten (10) bedrooms shall be leased to individuals with intellectual disabilities with annual
10 income at or below such level as will cause every bedroom to be a Unit on Subsidized Housing
11 Inventory (SHI) for Carlisle, provided, however, that the number and level of affordability of the
12 affordable units shall not be inconsistent with the affordability requirements of M.G.L. c. 40B to
13 ensure the units qualify for the Department of Housing and Urban Development's (the "**DHCD**")
14 SHI published by the DHCD.

15 9.2 Group Home Requirements. Group homes shall be occupied and rented in
16 accordance with the regulations of the DHCD and the Department of Developmental Services
17 (the "**DDS**") (or any successor thereto) as amended from time to time so that each bedroom in
18 the group homes will continue to qualify as affordable housing for individuals with intellectual
19 disabilities and continue to be included on DHCD's Subsidized Housing Inventory for the Town
20 of Carlisle.

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ARTICLE 10

DAMAGE OR DESTRUCTION

24 If the whole or any part of the Improvements or Premises shall be damaged or destroyed by any
25 cause whatsoever, whether insured or uninsured, at any time during the Term of this Lease,
26 Tenant will require its sub-tenant to, irrespective of insurance proceeds, promptly commence to
27 replace or repair the portion of the Improvements or Premises that is damaged or destroyed, and
28 complete such repair and/or restoration with due diligence and at the sub-tenant's sole cost and
29 expense, with such changes, alterations or modifications as are reasonably determined by Tenant
30 so long as such changes, alterations or modifications do not diminish the overall utility for the
31 Permitted Uses. However, if (i) Tenant reasonably determines that replacement and repair of the
32 Improvements or Premises is not in furtherance of the Permitted Uses or that the continued
33 operation of the Improvements or Premises after such replacement and repair in substantially the
34 same manner as conducted prior to the damage or destruction will not be economic and feasible,
35 and (ii) the damage to or destruction of the Improvements or Premises was covered by insurance
36 as may be required pursuant to Section 7 hereof or by insurance otherwise carried by Tenant, and
37 (iii) upon the Trust's request, Tenant demolishes any destroyed buildings and secures any
38 damaged buildings, in each case to a safe condition reasonably satisfactory to the Trust and the
39 Tenant and in compliance with Legal Requirements, then Tenant may elect, within one hundred
40 eighty (180) days after the date of such casualty, not to repair or replace the portion of the
41 Premises damaged and may terminate this Lease by giving notice to the Trust (the "**Casualty**
42 **Termination Notice**"). After delivery of the Casualty Termination Notice to the Trust, (i)
43 Tenant will vacate the Premises as soon as reasonably possible; and (ii) Tenant shall assign to the