

**HARDIN COUNTY FISCAL COURT  
RESOLUTION NO. 2012-152**


**BE IT RESOLVED**, upon recommendation of Judge/Executive Harry L. Berry, to approve a five-year lease between the Association for Adult Developmental Disabilities, Inc. and the Hardin County Fiscal Court for property located at 1633 North Logsdon Parkway, Radcliff, Kentucky 40160.

**ADOPTED**, by the Hardin County Fiscal Court in its regular meeting on 9 October 2012.



Harry L. Berry  
Hardin County Judge/Executive

ATTEST:



Kenneth L. Tabb  
Hardin County Clerk

**LEASE**

This indenture of lease, hereinafter referred to as "Lease," made and entered into this 9<sup>th</sup> day of October, 2012, by and between COUNTY OF HARDIN, a political subdivision of the COMMONWEALTH OF KENTUCKY, c/o Hardin County Judge/Executive Harry L. Berry, P.O. Box 568, Elizabethtown, Kentucky 42702-0568, hereinafter referred to as "Lessor"; and ASSOCIATION FOR ADULT DEVELOPMENTAL DISABILITIES, INC., whose address is 1132 Sherwood Drive, Radcliff, Kentucky 40160, hereinafter referred to as "Lessee".

WITNESSETH:

WHEREAS, the Lessor is the sole owner of certain real property described below on which exists a commercial structure, and

WHEREAS, the parties hereto desire to enter into a lease agreement defining their respective rights, duties and liabilities relating to any subsequent lease,

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

1. PREMISES. The Lessor, in consideration of the rent to be paid and the covenants to be performed by the Lessee, does hereby demise and lease unto the Lessee, and the Lessee hereby rents from the Lessor, a portion of certain real property located at 1633 North Logsdon Parkway, Radcliff, Kentucky 40160, and more particularly describe as follows:

DESCRIPTION:

Being a portion of Lot 1-B, Section B of a record plat known as RADCLIFF INDUSTRIAL PARK in Plat Cabinet 1, Sheet 564, in the office of the Hardin County Court Clerk. The leased premises as of July 1, 2002 are more particularly described as approximately 3162 square feet of an existing 11,570 square foot building. The leased premises are highlighted in yellow on the attached floor plan which is incorporated herein and marked "Exhibit A". The leased premises as of July 1, 2003 are more particularly described as an additional 1,570 square feet, for

a total of 4,732 square feet of an existing 11,570 square foot building marked "Exhibit B". The leased premises also includes the non-exclusive, mutual use of the parking and access areas.

SOURCE OF TITLE:

The Lessor derived title to the subject real property by virtue a deed dated January 9, 1998, of record in Deed Book 888, page 354, in the Office of the Hardin County Court Clerk, Elizabethtown, Kentucky.

2. TERM. This lease agreement is for an initial term of five (5) years beginning on October 1, 2012, through and including September 30, 2017. This lease agreement shall automatically renew itself on a month to month basis after September 30, 2017, until such time this lease agreement is terminated by either party giving one hundred and eighty (180) days prior written notice to the other party.

3. RENT. During the initial term and any renewal term of this lease agreement, the Lessee shall pay to the Lessor as rental for the use and occupancy of said leased premises sum of Ten Dollars (\$10.00) per year beginning on October 1, 2012, with said rental due and payable on October 1<sup>st</sup> of each year during the rental term. Said rent shall be made payable to Hardin County, P.O. box 568, Elizabethtown, Kentucky 42702-0568.

4. TAXES, UTILITIES AND INSURANCE.

(a) The Lessor and the Lessee shall, during the term of this lease, pay or reimburse the other for the prorated real property taxes and assessments by any city, state, county, school district or other governmental entity assessed against the leased premises including all building and improvements presently thereon, and all additions, fixtures, improvements and repairs made upon the leased premises, if any. Such proration shall be based on the square footage each party occupies of the building located on the lease premises.

(b) The Lessee shall be financially responsible, during the term hereof for all charges for gas, electricity, light, heat or power, water rents, sewer service, and any other utilities which are exclusively used by the Lessee at the leased premises, and to indemnify the Lessor and save them harmless against any liability or damages on such account. The Lessor and the Lessee shall, during the term of this Lease, pay or reimburse the other for the prorated share of all charges for gas, electricity, light, heat or power, water rents, sewer service and any other utilities which are jointly used by the Lessor and the Lessee at the leased premises. Such proration shall be based on the square footage each party occupies of the building located on the leased premises with the Lessor being financially responsible for such proration as applied against the Lessors average utility cost at the leased premises for a period of one year prior to the Lessees occupancy as herein provided.

(c) The Lessor shall, at its own cost and expense, carry "all risk coverage", including the standard fire and extended coverage and vandalism and malicious mischief perils or other casualty in an amount that the Lessor determines is sufficient to cover the cost of reconstruction of the building but not contents, currently on the leased premises in the event of damages normally covered by this type of insurance. The Lessee shall, at its own cost and expense, carry "all risk coverage", including the standard fire and extended coverage and vandalism and malicious mischief perils or other casualty in an amount that the Lessee determines is sufficient to cover the cost of replacement or value of its personal property, furniture and furnishings, equipment and other contents located at the leased premises.

5. MAINTENANCE. The Lessee accepts the buildings, structures, improvements, fixtures and equipment located at the leased premises, specifically including, but not limited to, the heating and cooling systems, the electrical systems, and the plumbing systems "as is." The

Lessee shall, at their expense, maintain, repair or replace all of the improvements, additions, fixtures or equipment, specifically including, but not limited to, the heating and cooling facilities, plumbing facilities, electrical facilities, and interior of all such buildings or structures located on the leased premises, in good and tenantable condition, excepting reasonable wear and tear or damages caused by acts of God and those damages covered by applicable insurance. The Lessor shall, at their expense, maintain, repair or replace the roof, exterior and structural system of all such buildings or structures located on the leased premises, and the gravel parking lot in good and tenantable condition, excepting reasonable wear and tear.

6. IMPROVEMENTS. The Lessee shall have the right to make further interior improvements, including, but not limited to, the construction of partitions and installation of floor covering, subject to the prior written approval of the Lessor, which shall not be unreasonably withheld, and further provided that such improvement shall be done in a first-class workmanship manner. The Lessee shall pay for and provide all materials necessary to accomplish the interior improvements of which the Lessor has agreed to. The Lessee shall be solely responsible for any and all material and labor cost necessary to make such interior improvements. All such improvements or alterations shall be in accordance with the building code and zoning laws of all governmental entities. All additions, fixtures, improvements and repairs made upon said leased premises by Lessee are thereafter the property of the Lessor upon the termination of this lease, except any additions, fixtures, improvements or repairs necessary to the conduct of the Lessee's business which the Lessee shall have attached to or installed in the leased premises without the intention of making the same a permanent installation, and which can be detached and removed without material damage to said building.

7. MECHANIC'S LIEN. In the event that the Lessee erects any alterations or improvements to the leased premises as hereinabove provided, Lessee agrees to and does indemnify Lessor against any mechanic's liens that may be filed against the leased premises for labor furnished, and in the event any such lien is filed, the Lessee will immediately pay same or post a sufficient bond, and cause it to be satisfied and discharged of record.

8. CONDEMNATION. If during any term of this lease the leased premises or any part thereof shall be taken or condemned by competent authority for public or quasi-public use, this lease shall terminate as of the date of taking (the "taking date").

9. INJURY TO LEASED PREMISES. (a) If the leased premises are injured by fire or other casualty, within ten (10) days after the date on which the injury occurs (the "injury date") the Lessor shall ascertain and advise the Lessee in writing whether the damaged by the injury (the "damage") could reasonably be repaired within one hundred and twenty (120) days after the "injury date" (the "repair period").

(b) If the "damage" could reasonably be repaired within the "repair period", then: (i) the Lessee shall not be entitled to terminate this lease; (ii) the Lessor shall repair the "damage" with all reasonable speed and shall complete such repair within the "repair period"; and (iii) the Lessee's rent shall be reduced, pro rata for time and space, to the extent that the Lessee is deprived of the occupancy of any portion of the leased premises for the Lessee's purposes by reason of the injury and the making of the repairs. The Lessor's obligation to restore and repair the leased premises shall be limited to the amount of any insurance proceeds received by the Lessor from the insurance carried by the Lessor in accordance with the provisions of Paragraph 4(c) of this lease and shall be further subject to any rights of the Lessor's mortgagee in and to such proceeds. If the Lessor fails to complete the repair of the "damage" within the "repair

period" (as it may have been extended pursuant to the subsequent provisions of this subparagraph) the Lessee may, at the Lessee's option and in addition to any remedies that the Lessee may have against the Lessor as a result of such failure, at any time after the expiration of the "repair period" (and any extension thereof) and prior to the completion of the repair of the "damage", terminate this lease by written notice to the Lessor. If the repair of the "damage" by the Lessor is interrupted as a result of any strike or other labor disturbance, governmental restrictions on materials or physical forces beyond the control of the Lessor, the Lessor shall take all reasonable steps to minimize any delay in the completion of the repair of the "damage" by reason of any such interruption and the "repair period" shall be extended by the number of days that such interruption or interruptions persist in spite of such efforts of the Lessor.

(c) If the "damage" cannot reasonably be repaired within the "repair period", then the Lessee may terminate this lease by written notice to the Lessor within thirty (30) days after the "injury date". If the Lessee elects not to terminate this lease, the Lessor shall, subject to the foregoing limitation as to insurance proceeds and further subject to the rights of the Lessor's mortgagee in and to such proceeds, repair the "damage" with all reasonable speed and the Lessee's rent shall be reduced, pro rata for time and space, to the extent that the Lessee is deprived of the occupancy of any portion of the leased premises for the Lessee's purposes by reason of the injury and the making of the repairs.

(d) If the Lessee elects to terminate this lease pursuant to the provisions of subparagraph (b) of this paragraph, the Lessee's liability for the payment of the rent provided for herein shall cease as of the date that notice of the termination is given by the Lessee and the Lessee shall be entitled to a refund of any rent paid with respect to any period subsequent to that date. If this lease is terminated pursuant to the provisions of subparagraph (c) of this

paragraph, the Lessee's liability for the payment of the rent provided for herein shall cease as of the "injury date" and the Lessee shall be entitled to a refund of any rent paid with respect to any period subsequent to that date.

10. WASTE. Lessee shall not commit or suffer any waste or damage to any building or improvements on the leased premises.

11. RIGHT OF INSPECTION. The Lessee agrees that the Lessor or their representatives shall have the right at all reasonable times to enter upon and to inspect the leased premises to ascertain that the Lessee is carrying out the terms, conditions and provisions hereof, and to properly make any necessary repairs, improvements and alterations that are herein provided.

12. QUIET ENJOYMENT. The Lessor covenants and warrants that:

(a) Lessor is the owner of the leased premises and has the right to make this lease.

(b) Lessee, on paying the rent herein specified, and on performance of all the terms and conditions of this lease agreement, shall at all times during the term hereof, peacefully and quietly hold and enjoy the leased premises.

13. ENCUMBRANCES. The Lessee shall not allow or permit any liens or other encumbrance of any kind to be placed upon the leased premises.

14. SURRENDER. The Lessee shall surrender the leased premises to Lessor upon the termination of this lease agreement in as good condition and repair as the same shall be at the commencement of this lease and in as good condition and repair as shall be required of Lessee under the provisions of this lease agreement during the term hereof, reasonable wear and tear excepted.

15. INDEMNITY. Lessee agrees to indemnify and save Lessor harmless from all cost and expenses by reason of injury to any person or personal property on or about the leased



premises, which injury results from the careless or improper conduct on the part of the Lessee, Lessee's agents or employees. At all times during this lease agreement Lessee, at their sole expense, shall carry and maintain general public liability insurance against claims for injury, wrongful death, or property damage occurring upon, in or about the leased premises, in amounts not less than ONE MILLION DOLLARS (\$1,000,000.00) / THREE MILLION DOLLARS (\$3,000,000.00) aggregate, and shall have the Lessor identified as an additional named payee on said insurance.

16. USE OF PREMISES. The Lessee shall use the leased premises exclusively and solely for the purpose of providing services for mentally retarded persons. In the event he leased premises ceases to be used for such purpose, it shall revert to the Lessor with all the appurtenances and improvements thereon.

17. ASSIGNMENT AND SUBLETTING. It is agreed that this lease shall not be assigned, transferred, or the premises, or any part thereof, sublet without the prior written consent of Lessor and subject to the conditions as Lessor may impose in its sole discretion which shall not be reviewable by any court of competent jurisdiction.

18. DEFAULT. If default be made in any payment of said rent, or any part thereof, within ten (10) days from the date said payment is due, or in fulfillment of any of the covenants or agreements herein specified to be fulfilled by the Lessee, or if any waste be committed or unnecessary damage done upon or to said premises, Lessor may, at Lessor's election at any time while such default continues or before the replacement or repair of such waste or damage, declare the said term ended and enter into possession of said premises and sue for and recover all rent and damages accrued or accruing under this lease or arising out of any violation thereof. All notices, demands and requests by Lessor to Lessee shall be sent to the Lessee at the leased

premises or at such other place that Lessee may from time to time designate in writing. All such demands, notices and requests by Lessee to Lessor shall be sent to Lessor at the aforesaid address or such other place as Lessor may from time to time designate in writing.

19. CUMULATIVE RIGHTS. It is agreed that each and every one of the rights, remedies and benefits provided by this lease agreement shall be cumulative and shall not be exclusive of any other of said rights, remedies and benefits or of any other rights, remedies and benefits allowed by law.

20. WAIVERS. One or more waivers of any covenants or conditions by Lessor or by Lessee shall not be construed as a waiver of a further breach of the same covenant or condition.

21. ATTORNEY FEES. That if either the Lessor or the Lessee should default in the performance of any term or provision of this lease, and the non-defaulting party should deem it necessary to engage legal counsel and institute legal proceedings to effect or compel performance of any provision of this contract, then and in that case the court hearing such proceeding shall be fully empowered and authorized to order the defaulting party to pay reasonable attorney fees to such complaining party for legal services rendered to and on behalf of such complaining party in such proceeding.

22. BINDING UPON SUCCESSORS. The terms, conditions and provisions of this lease agreement shall inure to and be binding upon the Lessor and Lessee and their respective heirs, executors, administrators, successors and assigns.

23. ENTIRE AGREEMENT. It is distinctly understood between the parties hereto that all agreements and understanding of any character heretofore had between them are contained in this instrument, and no changes shall be made herein unless the same shall be in writing or duly signed by the parties hereto.


IN WITNESS WHEREOF, Lessor and Lessee have executed this lease in duplicate originals this day and year first above written.

LESSOR:

LESSEE:

HARDIN COUNTY

ASSOCIATION FOR ADULT DEVELOPMENT DISABILITIES, INC.


by:   
HARRY L. BERRY  
Hardin County Judge/Executive  
pursuant to a duly adopted  
resolution of the Hardin County  
Fiscal Court dated October 9, 2012

by: \_\_\_\_\_  
RITA VESSELS, PRESIDENT

STATE OF KENTUCKY  
COUNTY OF HARDIN

I, the undersigned Notary Public in and for the state and county aforesaid, do hereby certify that on this date the foregoing LEASE was produced before me in said state and county and was signed, acknowledged before me and delivered by HARRY L. BERRY, Hardin County Judge/Executive, for and on behalf of HARDIN COUNTY, to be its lawful act and deed.

GIVEN under my hand this 10<sup>th</sup> day of Oct., 2012.

  
\_\_\_\_\_  
NOTARY PUBLIC  
MY COMM. EXPIRES: 7/30/2016

STATE OF KENTUCKY  
COUNTY OF HARDIN

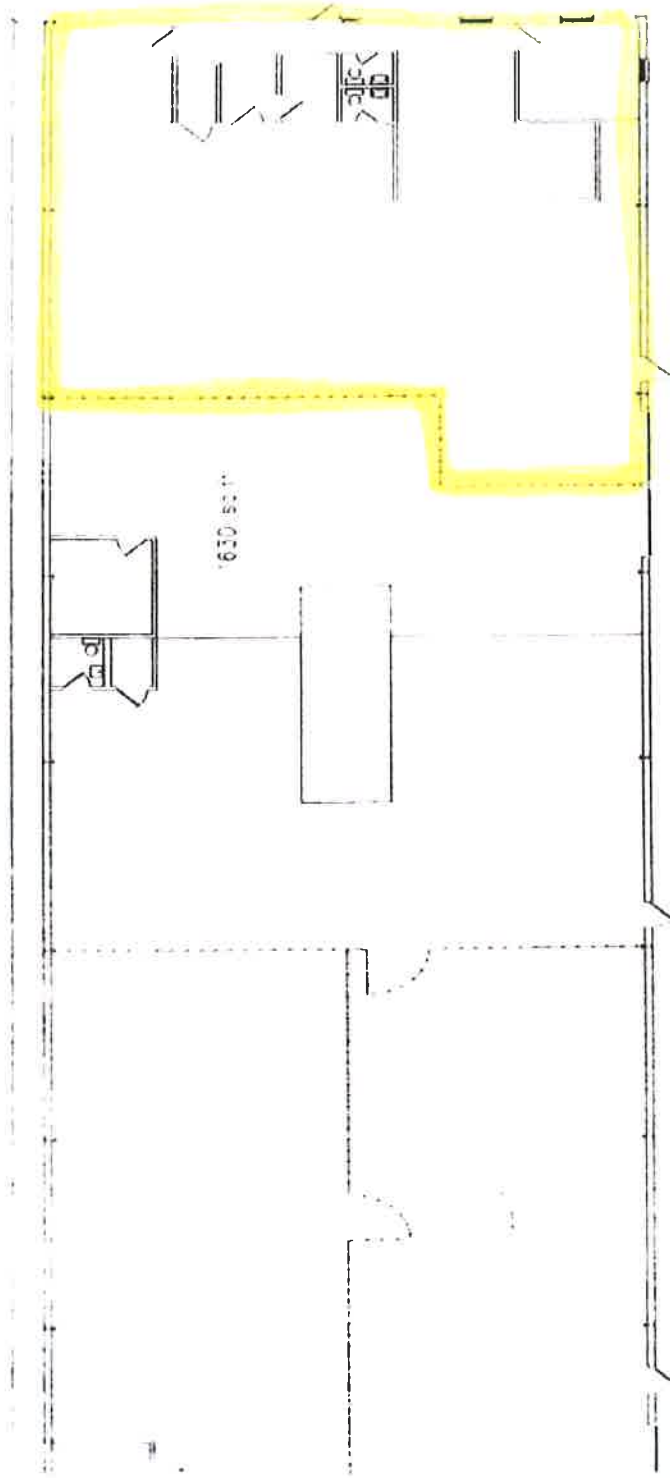
I, the undersigned Notary Public in and for the state and county aforesaid, do hereby certify that on this date the foregoing LEASE was produced before me in said state and county and was signed, acknowledged before me and delivered by RITA VESSELS, PRESIDENT, Association for Adult Developmental Disabilities, Inc. to be her voluntary act and deed.

GIVEN under my hand this \_\_\_ day of \_\_\_\_\_, 2012.

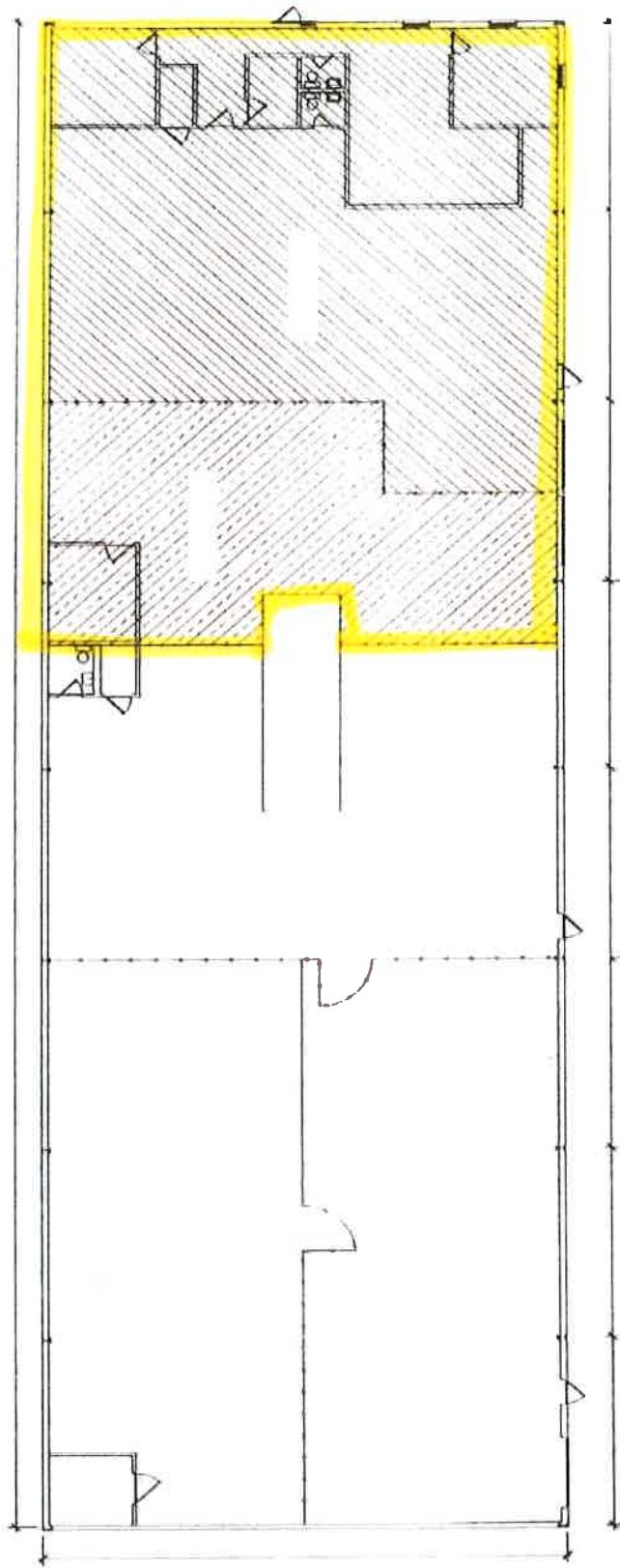
\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires: \_\_\_\_\_

This instrument was prepared by:

\_\_\_\_\_  
JENNIFER B. OLDHAM  
HARDIN COUNTY ATTORNEY  
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**Exhibit A**



**Exhibit B**