

SHARED WATER SYSTEM AGREEMENT

This Shared Water System Agreement (the “Agreement”), made and entered into as of this ____ day of _____, 2024, is by and between the **TOWN OF CHARLOTTE**, a Vermont municipality in the County of Chittenden and State of Vermont, (the “Town”); **ROLAND GAUJAC and LISA GAUJAC**, residents of the Town of New Haven, County of Addison and State of Vermont, (the “Gaujacs”); and **JUSTIN WYGMANS and MAURA WYGMANS**, residents of the Town of Charlotte, County of Chittenden and State of Vermont, (the “Wygmans” and collectively with the Town and the Gaujacs, the “Parties”).

W I T N E S S E T H:

WHEREAS, the Town owns a water well, pipelines and associated appurtenances located on lands and premises easterly of Greenbush Road and westerly of U.S. Route 7 on the +/-55-acre former Burns property, so-called, which was conveyed to the Town by Warranty Deed of Earl L. Burns, Mary A Burns, Richard E. Burns, Barbara R. Burns and North Central Auto Body, Inc., dated August 31, 2000, and recorded in Volume 112, Page 113 of the Town of Charlotte Land Records (the “Town Parcel”); and

WHEREAS, the Gaujacs own a +/-9.54-acre parcel of land with improvements thereon known as the “Old Lantern Inn and Barn” located at 3260 Greenbush Road by the Warranty Deed of Lantern Vision, LLC, dated August 15, 2006, and recorded in Volume 164, Page 11 of the Town of Charlotte Land Records (the “Old Lantern Parcel”); and

WHEREAS, the Wygmans own a +/-5.01-acre parcel of land with improvements thereon known as the “Farmhouse,” located at 3176 Greenbush Road by the Quitclaim Deed of Justin Wygmans to Justin Wygmans and Maura E. O’Dea (n/k/a Maura Wygmans), dated February 2, 2009, and recorded in Volume 177, Page 121 of the Charlotte Land Records (the “Wygmans Parcel”); and

WHEREAS, both the Old Lantern Parcel and the Wygmans Parcel are benefitted by rights to use water from the aforesaid water well and related rights described in the aforesaid Warranty Deeds of Lantern Vision, LLC and Peter J. Coleman, as:

A nonexclusive easement and right to use a well, water lines and water system located on land and premises now owned by the Town of Charlotte which it acquired by Warranty Deed of Earl L. Burns, Mary A Burns, Richard E. Burns and Barbara R. Burns and North Central Auto Body, Inc. dated August 31, 2000 and recorded in Volume 112 at Page 113 of said Land Records. Such well, lines and system currently serves the “Farmhouse” and

other improvements located on the herein conveyed land and premises as well as the Old Lantern Banquet Hall and other improvements located on the land and premises owned by Lantern Vision, LLC. Such use shall be used only for the benefit of the herein conveyed land and premises and shall be for any and all purposes including, but not limited to use for any additional buildings or improvements made upon the herein conveyed lands and premises including but not limited to an inn or bed and breakfast. The herein conveyed easement and right of way includes the right to enter upon the premises of the Town of Charlotte for the purpose of maintaining, repairing, replacing or extending the well, water lines and water system, provided such easement and right-of-way shall be limited to a twenty foot wide strip of land located ten feet either side of the well, water lines and water system. The easement and right-of-way is granted subject to the right of the Town of Charlotte to relocate the water pipelines and water system, provided such relocation shall not adversely affect the quality or quantity of the water supply. The easement and right of way are granted with the condition that in the event the Grantee, its successors and assigns, enter the burdened land and premises to exercise its rights pursuant to this easement that it shall restore the affected premises to the condition existing prior to its entry.

WHEREAS, the small scale water system was installed prior to effective date of any permitting requirements and is therefore a grandfathered system; and

WHEREAS, the Parties have reached this Agreement relative to supplying water from the well and the cost of supplying said water to the Old Lantern Parcel, the Wygmans Parcel and for other Town uses; and

WHEREAS, the water well on the Town Parcel, together with water pipelines, distribution facilities and related appurtenances thereto, hereinafter referred to as "Water System," is for the purpose of supplying water to all properties connected to the Water System; and

WHEREAS, it is the intention and purpose of the Parties that the Water System shall be used and operated to provide an adequate supply of water for each of the properties connected thereto, for the consumption of the occupants of said properties, and to assure the continuous and satisfactory operation and maintenance of the Water System for the benefit of the present and future owners, their heirs, successors and assigns of the properties connected thereto; and

WHEREAS, the said well serving the Water System is deemed by the Parties to be of adequate capacity to supply each of the parcels described herein with water from the well for all uses thereon, and may be of sufficient capacity to supply other uses approved by the Town, provided any such capacity shall exceed the capacity of

the well that is necessary to supply the Old Lantern Parcel and the Wygmans Parcel for their respective uses; and

WHEREAS, the Parties hereto desire to enter this Agreement for the purpose of reducing to writing their respective rights and obligations pertaining to said Water System.

NOW THEREFORE, in consideration of the mutual promises and covenants herein contained, it is agreed that the Water System, including the well and water distribution pipelines and appurtenances thereto, situated on the Town Parcel shall be used by the Parties to this Agreement, as well as by all future owners and occupants of said parcels, upon the following terms and conditions:

1. **Water Supply.** Until this Agreement is terminated, as hereinafter provided, the Parties hereto, their heirs, successors and assigns, are hereby granted the right in common with the other Parties to this Agreement, to draw water from the well located on the Town Parcel for the benefit of the uses of their respective parcels of land and for the uses of the Town as it shall so designate, which Town uses shall not interfere with the Gaujacs' or Wygmans' use of the Water System. This provision is expressly not intended to modify or otherwise alter each party's respective deeded rights to the Water System, as described above.

2. **Metering.** Within ninety (90) days of the date hereof, each party hereto shall install a meter at the point of connection of their water service line(s) to the Water System, and the Town shall install a so-called "master meter" at the well to measure the total well usage.

3. **Shared Costs, Fees and Charges.** Each party hereto shall pay or cause to be paid promptly to the Town, a proportionate share of all expenses for the operation, maintenance, repair, replacement and improvement of the shared portions of the Water System that may become necessary, including but not limited to electricity charges. Each respective share shall be determined by dividing the amount of each expense by each parties' respective pro rata share of water used based off the last four quarterly meter readings in comparison to the total amount of water used, as determined by each party's respective meter. Shared expenses include but are not limited to the electricity for pumping and repairs and maintenance on the portions of the Water System that serve all Parties hereto. Notwithstanding the foregoing and for the first year from the date the meters are installed, the Gaujacs shall pay two-thirds (2/3rd) and the Wygmans shall pay a one-third (1/3rd) of all Water System expenses. The Town agrees not to connect to the Water System until at least one year after the meters are installed.

4. **Individual Costs, Fees and Charges.** Notwithstanding Section 3, above, the cost of any maintenance, repair, removal or replacement, if necessary, of any part or

portion or the whole of water pipelines and appurtenances thereto used by fewer than all the Parties to this Agreement shall be borne solely by the parties using those facilities or that are served thereby, except that costs to remove and replace common boundary fencing or walls damaged as a result of repair shall be shared equally between or among the parties so damaged.

5. Consent to Expenses. All Parties with meters on the Water System shall consent, which shall not be unreasonably withheld, conditioned or delayed, to pay a proportionate share of costs prior to embarking upon expenditures for Water System maintenance, repair, replacement or improvement, except in emergency situations. In the event all Parties with meters on the Water System do not agree to said expenditures, a neutral third-party decisionmaker shall be chosen by the Parties with meters on the Water System, who shall be consulted and render a decision on whether the costs are warranted. The decisionmaker's decision shall be final and conclusive. Each party with meters on the Water System shall share equally in the payment of the decisionmaker's costs and fees, but the Parties with meters on the Water System shall each bear their own respective costs and attorneys' fees, if any, in connection with said process. In the event the Parties with meters on the Water System cannot agree on a neutral third-party decision-maker, then they shall each select an individual for the role, and the individuals selected by each of the Parties with meters on the Water System will choose a third individual to act as the neutral third-party decisionmaker.

6. Electricity Charges. Each party hereto shall pay their respective share of electricity charges as noted in Section 3, above, and payments for electricity costs shall be made to the Town not later than the 20th day of each succeeding month during the term of this Agreement.

7. Sampling and Testing. The undersigned Parties shall permit periodic well water sampling and testing by a responsible authority at the request of an undersigned party or mortgagee.

8. Right of Access. Each party hereto does hereby grant to the other, and its respective heirs, successors and assigns, such rights of access and easements over, across and through their respective parcels as shall be reasonably necessary for the operation, maintenance, repair, replacement and improvement of the Water System, including but not limited to the well, water pipelines, pumping equipment, mains, electrical wiring and conduit consistent with the purposes of this Agreement.

9. Landscaping and Other Improvements. No party hereto shall install trees, vegetation, landscaping or other improvements, including fences, walls or any other structure, that will impair the use of the Water System or easements related thereto.

10. Emergencies. Each party hereto shall have the right to act to correct an emergency situation and shall have access to the pertinent parcel in the absence of the other. An emergency situation shall be defined as the failure of any shared portion of the Water System to deliver water upon demand.

11. Expansion. Each party hereto covenants and agrees that they will not allow or permit other persons, to take, draw, use or receive water from the Water System, nor permit other persons to connect to the portion of the Water System, unless the Town has given its advanced consent in writing, which consent may be given or withheld in the Town's sole and absolute discretion, and unless a permit has been issued by the Agency of Natural Resources for the same.

12. Contamination of Water System. In the event the Water System or well shall become contaminated and shall no longer supply water suitable for consumption by the Parties, or shall no longer supply water adequate for the needs of all Parties, then the Parties shall meet within fifteen (15) days of such event and negotiate in good faith to find a solution to any such contamination or inadequate supply, which solution may include but shall not be limited to capping the well and terminating this Agreement as set forth below.

13. Delinquent Costs, Fees and Expenses. In the event any cost, fee or expense arising hereunder, including but not limited to those assessed pursuant to Sections 3 through 6 above, shall remain unpaid for a period of sixty (60) days, such delinquency, inclusive of applicable interest and penalties, shall constitute a lien on the property, which may be enforced and collected in the same manner and to the same extent as delinquent property taxes. In addition to such lien, the Town in its sole discretion may terminate the supply of water to the delinquent party until all arrearages in payment are received in accordance with the procedures set forth in 24 V.S.A. Chapter 129. The Parties agree that that they shall permit a third party to cure a default of payment or other obligation and shall permit water distribution services to be reinstated upon such curative action.

14. Termination. The respective rights and obligations of the Parties shall continue until the parties who wish to terminate their participation in this Agreement have executed and filed a written statement of termination for recording in the Town of Charlotte Land Records. Upon termination of participation in this Agreement, the owner and occupant of each property which is terminated from the Agreement shall pay all costs due and owing under this Agreement up to the date of termination but shall have no further right to the use of the Water System, including but not limited to the well. The terminated parties shall disconnect their respective lateral connection from said Water System, shall reconvey any rights to the Water System to the Town by deed and bill of sale, and shall have no further obligation to pay or collect for maintenance and related expenses incurred

thereafter. The costs of disconnection from the Water System shall be borne by the owner of the pertinent parcel.

15. Amendment. The Parties may amend this Agreement by written instrument to assure equitable distribution of shared costs and responsibilities; however, this Agreement may not be amended during the term of a Federally-insured (direct) or guaranteed mortgage on any property served, except for the purpose of adding to the prescribed number of parties.

16. Term. The term of this Agreement shall be perpetual, except as otherwise limited herein.

17. Dispute Resolution. Except with respect to a dispute over expenses pursuant to Section 5, above, in the event of a dispute arising as a result of the implementation of this Agreement, resolution shall be addressed in the following order:

a. Step 1 – Within thirty (30) days of the date of the initial dispute, the parties having the dispute shall meet at least once to attempt to resolve the dispute.

b. Step 2 – If the dispute is unresolved after Step 1 and before commencement of any suit or action in a court of competent jurisdiction, the parties having the dispute shall endeavor to settle the dispute by mediation before a mutually agreed-upon mediator within ninety (90) days of the date of writing from any party indicating that the discussion under Step 1, above, has failed or not occurred. If a suit or action is commenced, the Parties agree that specific performance may be sought as a remedy in addition to any other remedy at law or equity.

Through mutual agreement, the Parties may skip Step 1, but Step 2 is mandatory prior to commencement of any suit or action in a court of competent jurisdiction. The costs and fees of any mediator selected in Step 2 shall be shared equally by the parties participating in the mediation, and each such party shall bear their own attorneys' fees and costs incurred in connection with the mediation.

18. Runs with the Land; Successor and Assigns. The benefits and burdens of this Agreement shall constitute a covenant running with the parcels of land described herein and shall be binding upon, shall inure to the benefit of, and shall be enforceable by any heirs, successors or assigns of the Parties.

19. Enforceability. If any provision of this Agreement shall be determined to be invalid or unenforceable, it shall be interpreted to the maximum extent feasible so as to avoid such invalidity or unenforceability. If such interpretation is not

possible, or if the provision is a material provision of this Agreement, then unless the Parties agree in writing otherwise, this Agreement shall be deemed null and void; provided the Parties have engaged in mediation substantially as described in Section 17 to attempt to resolve any differences regarding any invalid or unenforceable provision hereof.

20. Cooperation Required. The Parties acknowledge that various documents may be created, shared and executed to operate and maintain the Water System and hereby agree to cooperate in good faith to ensure each party has an adequate supply of water from the Water System and that the same is maintained in good order and repair.

21. Representations. The undersigned, by voluntarily affixing their signatures hereto, hereby represent and acknowledge that they are fully authorized to execute this Agreement on behalf of the party indicated, and further acknowledge that they have fully read and fully understand this Agreement and that upon and after consultation with legal counsel, where applicable, they consent and agree to each and all of its provisions.

22. Time is of the Essence. The Parties acknowledge that time is of the essence in the Parties' compliance with the terms of this Agreement. Accordingly, the Parties expressly agree that in any instance where their respective cooperation, action and/or approval is required pursuant to this Agreement, such cooperation, action and/or approval will not be unreasonably withheld or delayed.

23. Counterparts. This Agreement may be executed in counterparts and shall be effective upon the date of the last party affixing its signature hereto.

24. No Waiver. No failure to exercise, and no delay in exercising any right, power or remedy hereunder or under any document delivered pursuant hereto shall impair any right, power or remedy which the Parties hereto may have, nor shall any such delay be construed to be a waiver of any of such rights, powers or remedies, or an acquiescence in any breach or default under this Agreement, nor shall any waiver of any breach or default of any party hereunder be deemed a waiver of any default or breach subsequently occurring.

25. Attorneys' Fees. The Parties understand and agree that each party shall bear its own attorneys' and witness fees, costs, and expenses related to, incurred in connection with, or arising from a dispute among the Parties regarding this Agreement, any mediation pursuant to this Agreement or the enforcement or interpretation of rights under this Agreement.

26. Interpretation Presumption. This Agreement has been negotiated by the Parties hereto. The Parties represent and warrant to one another that each has

individually, or through legal counsel, actively participated in the finalization of this Agreement, and in the event of a dispute concerning the interpretation of this Agreement, each of the Parties hereby waives the doctrine that an ambiguity should be interpreted against the party which has drafted the document.

27. Sufficiency of Consideration. Each of the Parties acknowledge they have received good and satisfactory consideration for the agreements contained herein, and the Parties agree that the consideration recited in this Agreement shall be a complete bar to any subsequent action or proceeding to set aside or vacate this Agreement because of a mistake in fact or otherwise.

28. Headings. Section headings are for convenience of reference only and shall in no way affect the interpretation of this Agreement.

29. Waiver of Jury Trial. TO THE EXTENT ALLOWED BY LAW, THE PARTIES HERETO WAIVE ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING BROUGHT TO INTERPRET OR ENFORCE THIS AGREEMENT. This waiver shall not apply to any future litigation between the parties relating to any other matter.

TOWN OF CHARLOTTE

DATE: _____

BY: _____
James Faulkner, Selectboard Chair
and its Duly Authorized Agent

STATE OF VERMONT)
CHITTENDEN COUNTY, ss)

At Charlotte in said County this ____ day of _____, 2024, personally appeared **James Faulkner**, Selectboard Chair and Duly Authorized Agent of the **TOWN OF CHARLOTTE**, and he acknowledged the foregoing instrument by him executed to be his free act and deed and the free act and deed of the **TOWN OF CHARLOTTE**.

Before me,

Notary Public
My Commission expires: 1/31/2025
My Commission #:

DATE: _____

Roland Gaujac

Lisa Gaujac

STATE OF VERMONT)
_____) COUNTY, ss)

At _____ in said County this ____ day of _____, 2024,
personally appeared **Roland Gaujac** and **Lisa Gaujac**, and they acknowledged the
foregoing instrument by them executed to be their free act and deed.

Before me,

Notary Public
My Commission expires: 1/31/2025
My Commission #:

DATE: _____

Justin Wygmans

Maura Wygmans

STATE OF VERMONT)
CHITTENDEN COUNTY, ss)

At _____ in said County this ____ day of _____, 2024,
personally appeared **Justin Wygmans** and **Maura Wygmans**, and they
acknowledged the foregoing instrument by them executed to be their free act and
deed.

Before me,

Notary Public
My Commission expires: 1/31/2025
My Commission #: