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Indexing Instructions:

STATE OF MISSISSIPPI  
COUNTY OF \_\_\_\_\_

**TAX CREDIT ASSISTANCE PROGRAM WRITTEN AGREEMENT**

BETWEEN

[BORROWER ENTITY], L.P.

\_\_\_\_\_  
Phone: \_\_\_\_\_

AND

MISSISSIPPI HOME CORPORATION  
735 Riverside Drive  
Jackson, Mississippi 39202  
Phone: 601.718.4642

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## TAX CREDIT ASSISTANCE PROGRAM WRITTEN AGREEMENT

THIS TAX CREDIT ASSISTANCE PROGRAM WRITTEN AGREEMENT (the "TCAP Agreement") is dated as of the \_\_\_\_ day of \_\_\_\_\_, 2010 (the "Effective Date"), and entered into by and between [BORROWER ENTITY], L.P., a Mississippi limited partnership ("Borrower"), and MISSISSIPPI HOME CORPORATION, a governmental instrumentality duly created, organized and existing under the laws of the State of Mississippi ("Lender"). Borrower and Lender hereinafter may be referred to individually as a "Party" or collectively as the "Parties."

WHEREAS, Borrower received an award of low-income housing tax credits ("LIHTC") under [Section 42(h) or Section 1400N, as applicable] of the Internal Revenue Code of 1986, 26 U.S.C. 42 ([**"Section 42"** or **"Section 1400N"**]) for the development of low-income housing [through new construction, or rehabilitation, as applicable] as more fully described in **Exhibit A** (the "**Project**"), on the Property (as hereinafter defined), located at \_\_\_\_\_, \_\_\_\_\_, Mississippi, as more fully described in **Exhibit B**;

WHEREAS, Lender is the recipient of certain funds from the United States Department of Housing and Urban Development ("**HUD**") under the Tax Credit Assistance Program ("**TCAP**"), created pursuant to Title XII of the American Recovery and Reinvestment Act of 2009 ("**ARRA**") and the implementing regulations promulgated pursuant thereto, for the assistance of certain projects receiving an award of LIHTC under [Section 42 or Section 1400N];

WHEREAS, Borrower has applied to Lender for a loan from the proceeds of TCAP (the "**TCAP Funds**") in the amount of \_\_\_\_\_ (\$\_\_\_\_\_) (the "**Loan**") for certain construction and development costs relating to the Project, and Lender is willing to make the Loan on the terms and conditions hereinafter set forth;

WHEREAS, Borrower and Lender have entered into that certain Loan Agreement (TCAP - Construction) (the "**Loan Agreement**") relative to the Loan;

WHEREAS, the Loan is evidenced by that certain Promissory Note, of even date herewith, made by Borrower in the principal amount of \_\_\_\_\_ (\$\_\_\_\_\_) (as amended, modified or restated, and any replacement or substitute notes therefore, by means of multiple notes or otherwise, the "**Note**");

WHEREAS, the obligations of Borrower under this TCAP Agreement, the Loan Agreement, the Note, the Deed of Trust (as hereinafter defined) and the other Loan Documents (as hereinafter defined) will be secured by, among other items, the Deed of Trust encumbering the Property and granting Lender a lien on the Property;

WHEREAS, the terms and provisions of the Loan Agreement, the Note and the Deed of Trust are hereby incorporated by reference in this TCAP Agreement; and

WHEREAS, this TCAP Agreement shall be recorded as a restrictive covenant against the Property, ensuring compliance with the requirements of TCAP;

**NOW, THEREFORE**, in consideration of the premises and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**1. DEFINITIONS.** Capitalized terms used but not defined in this TCAP Agreement shall have the meanings ascribed to such terms in the Loan Agreement. The following terms, when used in this TCAP Agreement (including when used in the above recitals), shall have the following meanings:

(a) **"Affiliate"** means in relation to any Person, any other Person: (i) directly or indirectly controlling, controlled by, or under common control with, the first Person; (ii) directly or indirectly owning or holding ten percent (10%) or more of any equity interest in the first Person; or (iii) ten percent (10%) or more of whose voting stock or other equity interest is directly or indirectly owned or held by the first Person. For purposes of this definition, "control" (including with correlative meanings, the terms "controlling", "controlled by" and "under common control with") means the possession directly or indirectly of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise. Where expressions such as "[name of party] or any Affiliate" are used, the same shall refer to the named party and any Affiliate of the named party. Further, the Affiliates of any Person that is an entity shall include all natural persons who are officers, agents, directors, members, partners, or employees of the entity Person.

(b) **"Applicable TCAP Laws and Requirements"** means all applicable laws, rules, regulations, conditions, guidance and other requirements as prescribed by ARRA, TCAP, HUD, and/or Lender relative to the receipt, disbursement and/or expenditure of TCAP Funds.

(c) **"ARRA"** is defined in the recitals of this TCAP Agreement.

(d) **"Borrower"** means all persons or entities identified as **"Borrower"** in the first paragraph of this TCAP Agreement, together with their successors, assigns, heirs, grantees or lessees.

(e) **"Deed of Trust"** means that certain Deed of Trust, Assignments of Rents and Leases, Security Agreement and Fixture Filing, as same may be modified or amended from time to time.

(f) **"Effective Date"** is defined in the recitals of this TCAP Agreement.

(g) **"Eligible Costs"** is defined in Section 4(b).

(h) **"Energy Star Qualified Units"** means those units in the Project certified by HUD as meeting the Energy Star standard.

(i) **"Environmental Clearance"** means the receipt by Borrower of the "Authority to Use Grant Funds (HUD 7015.16)" or equivalent instrument executed by HUD.

16. (j) **“Event of Default”** means the occurrence of any event listed in Section

(k) **“Governmental Authority”** means any board, commission, department or body of any municipal, county, state or federal governmental unit, or any subdivision of any of them, that has or acquires jurisdiction over the Property or the Project or the use, operation or improvement of the Property.

(l) **“HUD”** is defined in the recitals of this TCAP Agreement.

(m) **“Lender”** means the entity identified as **“Lender”** in the first paragraph of this TCAP Agreement and its successors and assigns, or any subsequent holder of the Note.

(n) **“LIHTC”** is defined in the recitals of this TCAP Agreement.

(o) **“LIHTC Qualified Units”** means those units in the Project that are to be held for occupancy by Borrower and occupied in such a manner as to qualify such unit as a “low-income unit” under Section 42(i)(13) of the IRC.

(p) **“LIHTC Requirements”** means all requirements associated with Low Income Housing Tax Credits allocated by Lender pursuant to Section 42 of the IRC, including but not limited to those requirements set forth in Lender’s Qualified Allocation Plan and Compliance Monitoring Plan and in Section 42 of the IRC, the U.S. Treasury Regulations and any other rules or regulations relative to Low Income Housing Tax Credits.

(q) **“Loan”** is defined in the recitals of this TCAP Agreement.

(r) **“Loan Agreement”** means the Loan Agreement (TCAP - Construction) described on Page 1 of this TCAP Agreement, as same may be amended from time to time.

(s) **“Loan Documents”** means the Note, this TCAP Agreement, the certain Loan Agreement and any other documents now or in the future executed by Borrower or any other person in connection with the loan evidenced by the Note, as such documents may be amended from time to time.

(t) **“NEPA Requirements”** means the National Environmental Policy Act (42 U.S.C. §§ 4321, et seq.) as amended, and implementing regulations at 24 CFR , Part 58.

(u) **“Note”** means the Promissory Note described on page 1 of this TCAP Agreement.

(v) **“Notice”** means HUD CPD Notice 09-03, “Implementation of the Tax Credit Assistance Program (TCA””, issued May 4, 2009 and revised July 27, 2009, as amended.

(w) **“OMB”** means the United States Office of Management and Budget.

(x) **“Project Budget”** means the budget for the Project, attached to this TCAP Agreement as **Exhibit D**, as same may be amended from time to time in accordance with Section 4(c).

(y) **“Project”** is defined in the recitals of this TCAP Agreement.

(z) **“Property”** means the Property (including land and improvements) described in **Exhibit B**, together with all property now or hereafter located thereon and all related facilities, amenities and FF&E owned by Borrower and which shall be encumbered by and are more particularly described in the Deed of Trust.

(aa) **“Property Jurisdiction”** is defined in Section 23(a).

(bb) **“Recapture Event”** means the occurrence of any event listed in Section 17(a).

(cc) [**“Section 42”** or **“Section 1400N”**] is defined in the recitals of this TCAP Agreement.

(dd) **“Section 504”** is defined in Section 5(e).

(ee) **“TCAP”** is defined in the recitals of this TCAP Agreement.

(ff) **“TCAP Application”** is defined in Section 26.

(gg) **“TCAP Funds”** is defined in the recitals of this TCAP Agreement.

**2. BINDING NATURE OF RESTRICTIONS.** This TCAP Agreement shall be recorded against the Property in the Office of the Chancery Clerk of \_\_\_\_\_ County, Mississippi. The restrictions and covenants contained in this Agreement shall run with the land and shall be binding upon Borrower and all of Borrower’s successors, assigns, heirs, grantees or lessees for the term of this Agreement.

**3. PROJECT DESCRIPTION.** Borrower shall develop the Project as described in Exhibit A, including meeting the following specifications:

Total number of units: \_\_\_\_\_

Total number of LIHTC-Qualified Units: \_\_\_\_\_

Total number of Section 504 accessible units: \_\_\_\_\_

Total number of Energy Star Qualified Units: \_\_\_\_\_

Amount of LIHTC: \_\_\_\_\_

Source of LIHTC: \_\_\_\_\_

**4. PROVISION AND USE OF TCAP FUNDS; PROJECT BUDGET.**

(a) The TCAP Funds are to be provided in the form of the Loan, pursuant to the terms of this TCAP Agreement and the Loan Documents, and evidenced by the Note and secured by a Deed of Trust on the Property. The general terms of the Loan are described in **Exhibit C**. The funding of the Loan is expressly conditioned upon Borrower complying with all of the Applicable TCAP Laws and Requirements and the terms of this TCAP Agreement and the other Loan Documents.

(b) Borrower shall adhere to the Project Budget as set forth in **Exhibit D** and shall utilize the TCAP Funds to finance capital investments as set forth therein, in accordance with the eligible uses as set forth in the Notice ("Eligible Costs") and in accordance with the LIHTC Requirements. Borrower expressly acknowledges and covenants that the TCAP Funds may not be applied to any costs that are not Eligible Costs.

(c) The Project Budget may be amended or modified only with the consent of Lender, which consent shall not be unreasonably withheld, conditioned or delayed, and shall only be effective if approved in writing by Lender.

(d) The TCAP Funds shall not be disbursed until needed to pay for Eligible Costs and only in the amount of actual costs incurred. Borrower shall submit to Lender requests for disbursements in such form and manner as required by the Loan Documents or at such times as Lender otherwise may require. Each request for disbursement of TCAP Funds shall (i) state the amount requested to be disbursed, (ii) identify the nature of the Eligible Costs to be funded, (iii) be certified by a designated officer, partner or member of Borrower as to the matters stated therein including payments and percentage of completion, and (iv) affirm that the representations and warranties previously made to Lender remain true and correct on the date thereof.

(e) Borrower agrees that Lender shall not disburse TCAP Funds for items other than the Eligible Costs shown in the Project Budget, as more fully set forth in Exhibit D, or in amounts greater than those set forth in the Project Budget. Lender will not disburse TCAP Funds to Borrower for costs that: (i) are not Eligible Costs or are otherwise prohibited under the Applicable TCAP Laws and Requirements; (ii) are not in accordance with the terms of the Loan Documents; or (iii) were requested during the occurrence and continuation of an uncured Event of Default.

(f) In the event that Lender shall determine that the TCAP Funds have been used to pay costs other than Eligible Costs, Lender shall provide Borrower with written notice thereof and Borrower shall pay to Lender, within thirty (30) days from the date of said notice, an amount equal to that portion of the TCAP Funds used to pay costs other than Eligible Costs.

## **5. COMPLIANCE WITH LAWS AND TCAP REQUIREMENTS.**

(a) Borrower shall comply with the requirements of all present and future applicable laws, rules, regulations and orders of any Governmental Authority in all jurisdiction in which it is now doing business or may hereafter be doing business, including, but not limited to, the Applicable TCAP Laws and Requirements.

(b) Borrower shall (i) utilize the TCAP Funds only as permitted or required under TCAP, (ii) use the Property only as permitted or required by TCAP, (iii) otherwise comply with the terms, covenants and restrictions of TCAP and (iv) not perform or fail to perform any act the performance or non-performance of which would result in noncompliance with TCAP requirements, including, without limitation, the requirements expressly set forth in this TCAP Agreement.

(c) Borrower acknowledges that HUD has not promulgated final rules and regulations for TCAP and may adopt additional guidelines, rules or regulations, including additional requirements with respect to this TCAP Agreement. Borrower shall, upon the request of Lender, execute an amendment to this TCAP Agreement to comply with any such TCAP rules or regulations.

(d) Borrower shall comply with the LIHTC Requirements.

(e) In addition to the other requirements set forth in this Section 5, Borrower shall develop and manage the Project in compliance with the following:

- (1) The Fair Housing Act (42 U.S.C. §§ 3601-19), as amended, and implementing regulations at 24 CFR Part 1000 and the regulations at 24 CFR Part 107;
- (2) Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 6101-07), as amended, and implementing regulations at 24 CFR Part 146;
- (3) The Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07), as amended, and implementing regulations at 24 CFR Part 146; and
- (4) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, as amended, and implementing regulations at 24 CFR Part 8. "Nondiscrimination Based on Handicap in Federally-Assisted Programs and Activities of the Department of Housing and Urban Development" ("**Section 504**").

6. **TERM.** The term of this TCAP Agreement shall commence on the Effective Date and shall continue \_\_\_\_\_.

7. **CONSTRUCTION AND EXPENDITURE SCHEDULE.**

(a) Borrower shall expend (i) not less than seventy-five percent (75%) of the TCAP Funds for Eligible Costs on or before February 16, 2011 and (ii) one hundred percent of the TCAP Funds for Eligible Costs on or before February 16, 2012 (unless such dates shall be extended by HUD) (collectively, the "Statutory Expenditure Requirements"). Failure to satisfy the Statutory Expenditure Requirements constitutes an Event of Default as defined in Section 16.

(b) In addition, Borrower shall adhere to the Construction and Expenditure Schedule attached as **Exhibit E**.

**8. AFFIRMATIVE MARKETING.** Borrower shall comply with the TCAP affirmative fair housing marketing plan and procedures established by Lender and with Borrower's affirmative fair housing marketing plan. Upon receipt of Lender's affirmative fair housing marketing plan and procedures, Borrower shall execute a certification statement acknowledging its receipt.

**9. ENVIRONMENTAL CLEARANCE AND COMPLIANCE.**

(a) Notwithstanding anything to the contrary contained herein, Borrower shall have no legal claim to any TCAP Funds unless it has received Environmental Clearance from HUD.

(b) Borrower shall comply with NEPA in developing and managing the Project. This shall include any ongoing requirements related to any required mitigation resulting from the review conducted pursuant to NEPA and from the terms of the Environmental Clearance. This shall also include procuring and maintaining flood insurance as required by the National Flood Insurance Reform Act of 1994, if same is applicable to the Project.

(c) Borrower shall comply with the Lead-Based Paint Poisoning Prevention Act and the Residential Lead-Based Paint Hazard Reduction Act of 1992 and implementing regulations at 24 CFR, Part 35, as applicable. [Must also include the status of applicability of lead-based paint regulations to the Project.]

**10. LABOR STANDARDS.**

(a) Borrower shall comply with the requirements of the Davis Bacon Act (40 U.S.C. § 3141 and 42 U.S.C. § 5310), as amended, and the implementing regulations, as required by section 1606 of Division A of ARRA.

(b) [If applicable, include the date of applicability of Davis-Bacon requirements.]

**11. ANTI-LOBBYING RESTRICTION; CERTIFICATION REGARDING LOBBYING.** Borrower shall comply with the restrictions on lobbying in 31 U.S.C. § 1352 and implementing regulations at 24 CFR Part 87. Borrower certifies, to the best of its knowledge that:

(a) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

(b) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress or an employee of a

member of Congress in connection with the TCAP Funds or the Project, Borrower shall complete and submit Standard Form – LLL, “Disclosure of Lobbying Activities,” in accordance with its instructions.

In addition, each person who requests or receives a subgrant, contract or subcontract exceeding \$100,000 at any tier from TCAP Funds must submit a certification, and a Standard Form – LLL, “Disclosure of Lobbying Activities” (if required), at the time that person requests or receives TCAP Funds.

**12. COMPLIANCE WITH DRUG-FREE WORKPLACE ACT OF 1988.** Borrower shall comply with the requirements of the Drug-Free Workplace Act of 1988, (41 U.S.C. §§ 701, *et seq.*), as amended, and the implementing regulations at 24 CFR Part 87.

**13. DEBARMENT.**

(a) By executing this TCAP Agreement, Borrower certifies that neither it nor any of its principals or Affiliates is currently debarred from submitting proposals or entering into Agreements issued by any Governmental Authority.

(b) Borrower shall comply with subpart C of 2 CFR Part 180, as required by 2 CFR Part 2424, and, in accordance therewith, shall not award a contract to a contractor who is debarred, suspended or otherwise excluded from, or ineligible for, participation in federal assistance programs.

**14. SIGNAGE.** Borrower shall comply with all requirements of HUD and Lender relative to signage at the Project site.

**15. REPORTS AND RECORDKEEPING.**

(a) Borrower shall submit any information and reports as directed by Lender, in order to assist Lender in meeting its recordkeeping and reporting requirements under TCAP, as such may be amended from time to time by HUD or OMB. Such reports shall include, but not be limited to, those providing the information and data described in **Exhibit F**, and shall be submitted for the periods as indicated on the forms in Exhibit F for the duration of the term of this Agreement in the format prescribed in Exhibit F.

(b) Borrower shall maintain any and all records or reports that demonstrate compliance with the requirements of this TCAP Agreement for at least fifteen (15) years from the date of this TCAP Agreement.

(c) During normal business hours, Borrower shall provide Lender, HUD and the HUD Inspector General access to the Project and to any and all Project records as described in the Loan Agreement and the Deed of Trust. Borrower agrees and acknowledges that Lender shall conduct site inspections at least quarterly.

(d) Lender reserves the right to amend the reporting and recordkeeping requirements contained in this Section 15, and Borrower hereby acknowledges and agrees to Lender’s right to amend the reporting and recordkeeping requirements contained in this Section 15.

**16. EVENTS OF DEFAULT.** The occurrence of any one or more of the following shall constitute an Event of Default under this TCAP Agreement:

(a) any failure by Borrower to pay or deposit when due any amount required by the Note, this TCAP Agreement or any other Loan Document;

(b) if Borrower fails, in the opinion of Lender, to comply with or perform any of the conditions, requirements or covenants contained in this Agreement, or the policies and procedures promulgated by Lender, including but not limited to the following:

- (1) Borrower's failure to expend TCAP Funds for Eligible Costs;
- (2) Borrower's expenditure of TCAP Funds for costs other than Eligible Costs;
- (3) Borrower's failure to complete the Project in accordance with the schedule set forth in Exhibit E;
- (4) Borrower's failure to satisfy the Statutory Expenditure Requirements;
- (5) Borrower's failure to comply with the LIHTC Requirements;
- (6) Borrower's failure to comply with the Applicable TCAP Laws and Requirements; and
- (7) Borrower's failure to timely execute an amendment to this TCAP Agreement in such form as determined by Lender as required under Section 5(c).

(c) fraud or material misrepresentation or material omission by Borrower, or any of its officers, directors, trustees, general partners or managers, or any guarantor in connection with (i) the application for award of TCAP Funds, (ii) any financial statement, rent roll, or other report or information provided to Lender during the term of this TCAP Agreement, or (iii) any request for Lender's consent to any proposed action; and

(d) any failure by Borrower to perform any of its obligations as and when required under any Loan Document or any other act or omission of Borrower which constitutes an Event of Default under any other Loan Document.

**17. RECAPTURE EVENT**

(a) A Recapture Event shall be deemed to occur if any of the following events shall occur and remain uncured for thirty (30) days; (i) an Event of Default has occurred; (ii) Borrower's LIHTC award is terminated or cancelled; (iii) the Project fails to meet LIHTC Requirements; or (iv) TCAP Funds have been determined by Lender or HUD to have been expended for costs other than Eligible Costs and have not been repaid to Lender within the timeframe specified in Section 5(f).

(b) If a Recapture event occurs, other than a Recapture Event under Section 17(a)(iv), the TCAP Funds shall be subject to "recapture" in an amount equal to the amount of TCAP Funds actually disbursed to Borrower under the terms of the Loan Documents plus (i) all accrued but unpaid interest under the Note; (ii) any penalties that may accrue under the Applicable TCAP Laws and Requirements, and (iii) all out-of-pocket costs and/or fees including but not limited to attorneys' fees, incurred by Lender in connection with the Recapture Event. If the Recapture Event arises under Section 17(a)(iv), the amount of TCAP Funds subject to "recapture" shall be the amount of TCAP Funds expended on costs other than Eligible costs.

(c) Lender shall provide Borrower with written notice, in accordance with Section 23 hereof, of any Recapture Event.

(d) Borrower shall have the right to cure a Recapture Event within fifteen (15) days after Lender has sent notice of the Recapture Event. Lender, acting in good faith and with reasonable judgment, shall have the right to determine whether a cure has been properly and timely effected, except to the extent that such determinations are governed by or otherwise prescribed or determined by the Applicable TCAP Laws and Requirements.

(e) Any action under this Section 17 will not limit or deprive Lender from exercising any other rights and remedies it has under law or in equity, or any rights and remedies provided for in Section 18 or under the other Loan Documents.

**18. REMEDIES.** Upon the occurrence of an Event of Default, Lender shall have the right to exercise one or more of the following remedies, in addition to any and all other remedies available to it under this TCAP Agreement or any other Loan Document or at law or in equity, and each shall be cumulative and may be exercised concurrently, independently or successively, in any order:

(a) institute and prosecute any proceeding for an injunction or for specific performance of Borrower's obligations hereunder;

(b) upon written notice of Lender, prohibit Borrower and/or any of its Affiliates from doing business with Lender for a period of not less than three (3) years from the date of such breach or violation; and

(c) terminate any obligation or commitment to provide additional TCAP Funds for the Project and/or demand immediate repayment of all TCAP Funds theretofore provided by Lender for the Project.

**19. ENFORCEMENT.** Borrower, in consideration for receiving the TCAP Funds for the Project, hereby agrees and consents that this Agreement is enforceable by Lender, HUD and the residents of the Project.

**20. ASSET MANAGEMENT.** Borrower shall provide such reports, including but not limited to those submitted [insert frequency] providing the information described in **Exhibit G** related to financial and property management, and take such management actions, including financial restructuring, that may be required as determined in the reasonable judgment of Lender,

to ensure the long-term viability of the Project and Lender's compliance with its asset management obligations under TCAP.

**21. WAIVER OF STATUTE OF LIMITATIONS.** Borrower hereby waives the right to assert any statute of limitations as a bar to the enforcement of the lien of this TCAP Agreement or to any action brought to enforce any Loan Document.

**22. GOVERNING LAW; CONSENT TO JURISDICTION AND VENUE.**

(a) This TCAP Agreement, and any Loan Document which does not itself expressly identify the law that is to apply to it, shall be governed by the laws of the jurisdiction in which the Property is located (the "**Property Jurisdiction**").

(b) Borrower agrees that any controversy arising under or in relation to the Note, this TCAP Agreement, or any other Loan Document shall be litigated exclusively in the Property Jurisdiction. The state and federal courts and authorities with jurisdiction in the Property Jurisdiction shall have exclusive jurisdiction over all controversies which shall arise under or in relation to the Note, or any other Loan Document. Borrower irrevocably consents to service, jurisdiction, and venue of such courts for any such litigation and waives any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise.

**23. NOTICE.**

(a) All notices, demands and other communications ("**notice**") under or concerning this TCAP Agreement shall be in writing. Each notice shall be addressed to the intended recipient at its address set forth in the Loan Agreement, and shall be deemed given on the earliest to occur of (1) the date when the notice is received by the addressee; (2) the first Business Day after the notice is delivered to a recognized overnight courier service, with arrangements made for payment of charges for next Business Day delivery; or (3) the third Business Day after the notice is deposited in the United States mail with postage prepaid, certified mail, return receipt requested. As used in this Section 23, the term "**Business Day**" means any day other than a Saturday, a Sunday or any other day on which Lender is not open for business.

(b) Any Party to this TCAP Agreement may change the address to which notices intended for it are to be directed by means of notice given to the other Party in accordance with this Section 23. Each Party agrees that it will not refuse or reject delivery of any notice given in accordance with this Section 23, that it will acknowledge, in writing, the receipt of any notice upon request by the other Party and that any notice rejected or refused by it shall be deemed for purposes of this Section 23 to have been received by the rejecting Party on the date so refused or rejected, as conclusively established by the records of the U.S. Postal Service or the courier service.

(c) Any notice under the Note and any other Loan Document which does not specify how notices are to be given shall be given in accordance with this Section 23.

(d) Any Party giving notice under or concerning this TCAP Agreement shall simultaneously provide a copy of such notice to the Priority Lender and the Tax Credit Investor and their counsel at the following addresses:

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**24. SEVERABILITY; AMENDMENTS.** The invalidity or unenforceability of any provision of this TCAP Agreement shall not affect the validity or enforceability of any other provision, and all other provisions shall remain in full force and effect. This TCAP Agreement contains the entire agreement among the parties as to the rights granted and the obligations assumed in this TCAP Agreement. This TCAP Agreement may not be amended or modified except by a writing signed by both Parties.

**25. CONSTRUCTION.** The captions and headings of the sections of this TCAP Agreement are for convenience only and shall be disregarded in construing this TCAP Agreement. Any reference in this TCAP Agreement to an "Exhibit" or a "Section" shall, unless otherwise explicitly provided, be construed as referring, respectively, to an Exhibit attached to this TCAP Agreement or to a Section of this TCAP Agreement. All Exhibits attached to or referred to in this TCAP Agreement are incorporated by reference into this TCAP Agreement. Any reference in this TCAP Agreement to a statute or regulation shall be construed as referring to that statute or regulation as amended from time to time. Use of the singular in this Agreement includes the plural and use of the plural includes the singular. As used in this TCAP Agreement, the term "including" means "including, but not limited to."

**26. NO CHANGE IN FACTS OR CIRCUMSTANCES.** All information in the application for TCAP Funds submitted to Lender (the "**TCAP Application**") and in all financial statements, rent rolls, reports, certificates and other documents submitted in connection with the TCAP Application is complete and accurate in all material respects. There has been no material adverse change in any fact or circumstance that would make any such information incomplete or inaccurate. Borrower agrees that it will not make any material changes to the development team as presented in the TCAP Application without the prior written approval of Lender, which approval shall not be unreasonably withheld, conditioned or delayed.

**IN WITNESS WHEREOF**, Borrower has signed and delivered this TCAP Agreement or has caused this TCAP Agreement to be signed and delivered by its duly authorized representative.

**BORROWER:**

**[BORROWER ENTITY], L.P.**, a Mississippi limited partnership

**BY:** \_\_\_\_\_, a Mississippi limited liability company, its General Partner

**BY:** \_\_\_\_\_, a Mississippi corporation, its Member

\_\_\_\_\_  
**BY:** \_\_\_\_\_

**ACKNOWLEDGEMENT**

STATE OF MISSISSIPPI

COUNTY OF \_\_\_\_\_

Personally appeared before me, the undersigned authority in and for the said county and state, on this the \_\_\_\_ day of \_\_\_\_\_, 2010, within my jurisdiction, the within named \_\_\_\_\_, who acknowledged that he is the \_\_\_\_\_ of \_\_\_\_\_, a Mississippi corporation, that is the member of \_\_\_\_\_, a Mississippi limited liability company, that is the general partner of [Borrower Entity], L.P., a Mississippi limited partnership and that for and on behalf of the said company as the general partner of said limited partnership, and as the act and deed of said company as the general partner of said limited partnership, and as the act and deed of said limited partnership, he/she executed the above and foregoing TCAP Agreement, after first having been duly authorized so to do.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

\_\_\_\_\_

[S E A L]

**EXHIBIT A**

**PROJECT DESCRIPTION**

**EXHIBIT B**

**PROPERTY DESCRIPTION**

**EXHIBIT C**

**GENERAL LOAN TERMS**

**EXHIBIT D**  
**PROJECT BUDGET**

**EXHIBIT E**

**CONSTRUCTION AND EXPENDITURE SCHEDULE**

**EXHIBIT F**

**FORM OF TCAP REPORT**

**EXHIBIT G**

**FORM OF ASSET MANAGEMENT REPORT**