

THIS INSTRUMENT PREPARED BY: 170
 Lynn E. Miller, General Counsel
 Tennessee Housing Development Agency
 404 James Robertson Parkway, Suite 1114
 Nashville, Tennessee 37243-0900

**DECLARATION OF LAND USE RESTRICTIVE COVENANTS
 FOR LOW-INCOME HOUSING TAX CREDITS**

THIS DECLARATION OF LAND USE RESTRICTIVE COVENANTS FOR LOW-INCOME HOUSING TAX CREDITS (the "Agreement"), dated December 30, 1998, by and between Madison Partners, L.P. (the "Owner"), and Tennessee Housing Development Agency ("THDA").

WITNESSETH:

WHEREAS, certain low-income housing tax credits ("Tax Credits") may be available under Section 42 of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, THDA is designated as the housing credit agency to allocate Tax Credits under Section 42 of the Code ("Section 42") in the State of Tennessee; and

WHEREAS, Owner applied to THDA for Tax Credits in an initial application dated March 28, 1998 (the "Application"); and

WHEREAS, the Application describes a rental housing development proposed by Owner known as Park Trace Apartments (TN97-026) and located on certain real property in the City of Jackson, County of Madison, State of Tennessee, as more particularly described in Exhibit A, which is attached hereto and incorporated herein by this reference (the "Project"); and

WHEREAS, Section 42 requires, as a condition precedent to the final allocation of Tax Credits to Owner for the Project, the full execution, delivery and recordation of this Agreement;

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, and other valuable consideration, the receipt and sufficiency of which is acknowledged, the Owner and THDA agree as follows:

PARAGRAPH 1 - DEFINITIONS

- (a) The terms "Section 42" and the "Code" shall include all subsequent tax legislation duly enacted by the Congress of the United States and shall be deemed to include the United States Treasury Regulations proposed or in effect with respect thereto (including regulations first promulgated under previous versions of the Code) and shall also include revenue procedures, revenue rulings or other published determinations of the Treasury Department or Internal Revenue Service of the United States.
- (b) All words, terms and phrases defined in Section 42 or in the Code or by relevant United States Department of Housing and Urban Development ("HUD") regulations shall have the same meaning when used in this Agreement.
- (c) The term "Application" shall include the initial application delivered by the Owner to THDA dated as shown above, together with all subsequent materials and information submitted by Owner to THDA in connection with a reservation of or an allocation of Tax Credits, including without limitation, at the time of carryover, if applicable, and at the time the Project is placed in service. The Application is incorporated herein by this reference as if set forth herein verbatim.

PARAGRAPH 2 - RECORDING AND FILING; COVENANTS TO RUN WITH THE LAND

- (a) Owner shall record a fully executed original of this Agreement, together with all subsequent amendments hereto, in the Register's Office of the county in which the Project is located, as referenced above, and shall pay all fees and charges incurred in connection therewith. The Owner shall provide THDA with the executed original of this recorded Agreement showing all pertinent recording data at least five (5) business days prior to the date THDA makes a final allocation of Tax Credits to the Owner for the Project.
- (b) Owner intends, declares and covenants, on behalf of itself, its successors and assigns and all future owners and operators of the Project that, during the Term of this Agreement, all provisions of this Agreement: (i) shall be and are covenants running with the land, encumbering the Project; (ii) are not merely personal covenants of the Owner, and (iii) shall be binding for the benefit of THDA, any past, present or prospective tenant of the Project who meets the requirements of Section 42, and their respective successors and assigns. Any and all requirements of the laws of the State of Tennessee to be satisfied for this Agreement to constitute valid, binding and enforceable restrictive covenants running with the land and binding upon the Project are hereby deemed satisfied in full. In the alternative, Owner agrees that an equitable servitude is hereby created for the benefit of the parties referenced hereinabove.

- (c) For the longer of the period Tax Credits are claimed or the Term of this Agreement, each and every deed of trust, lease, deed or other instrument hereafter executed conveying or encumbering the Project or any portion thereof shall expressly provide that such conveyance or encumbrance is subject to this Agreement. This Agreement shall, however, survive, be effective and be binding upon the Project regardless of whether such deed of trust, lease, deed or other instrument hereafter executed expressly so provides.

PARAGRAPH 3 - REPRESENTATIONS, COVENANTS AND WARRANTIES OF THE OWNER

To induce THDA to make a final allocation of Tax Credits to Owner for the Project, Owner hereby represents, covenants and warrants as follows:

- (a) Owner (i) is a limited partnership duly organized, existing and in good standing under the laws of the State of Mississippi, and is qualified to transact business under the laws of the State of Tennessee; (ii) has the power and authority to own its properties and assets and to carry on its business as now being conducted; and (iii) has the full legal right, power and authority to execute, deliver, and perform in accordance with this Agreement.
- (b) The execution, delivery and performance of this Agreement by Owner (i) will not violate any provision of law, rule or regulation, or any order of any court or other agency or governmental body; (ii) will not violate any provision of any indenture, agreement, deed of trust, note, or other instrument to which Owner is a party or by which Owner or the Project is bound; and (iii) will not result in the creation or imposition of any prohibited encumbrance of any nature.
- (c) Owner has good and marketable title to the Project free and clear of any lien or encumbrance except this Agreement and the matters shown in the Application.
- (d) There is no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of Owner, threatened against or affecting Owner or the Project, or any of Owner's properties or rights, which, if adversely determined, would materially impair Owner's right to carry on business substantially as now conducted (and as contemplated by this Agreement) or which would materially and adversely affect Owner's financial condition or which would impair the use of the Project as contemplated by this Agreement.
- (e) This Agreement is the "extended low-income housing commitment" required by and defined in Section 42(h)(6)(B).
- (f) The Project, and each unit therein, as of the date hereof, complies and will, for the Term of this Agreement, continue to comply with all requirements of Section 42 and the Application. Owner expressly covenants and agrees to take all steps determined by THDA to be necessary to remedy any non-compliance with respect to Section 42, the Application, or this Agreement.
- (g) Subject to the requirements of Section 42, the Application, and this Agreement, Owner may sell, transfer, exchange or refinance not less than the entire Project at any time, provided, however, as a condition precedent to such sale, transfer, exchange or refinance, Owner shall obtain and deliver to THDA the written agreement of any buyer, other party acquiring the Project or any interest therein, or lender that such sale, transfer, exchange or refinance is subject to this Agreement, Section 42 and the Application. This provision shall not be a waiver of any other restriction on sale, transfer or exchange of the Project. In the event of a failure or refusal to provide a written agreement, any sales, transfers, exchanges or refinancings which occur during the Term of this Agreement shall, nevertheless, be subject to this Agreement, Section 42 and the Application.
- (h) Owner shall notify THDA in writing at least thirty (30) days prior to any sale, transfer, exchange or refinance of the Project. Within thirty (30) days following a closing, Owner shall provide THDA a complete copy of all the closing documents (with evidence of recording satisfactory to THDA on all recorded documents).
- (i) Owner shall not demolish or permit the demolition of any part of the Project or remove or permit the removal of any real or personal property from the Project or use or permit the use of any residential unit in the Project for any purpose other than rental housing during the Term of this Agreement.
- (j) If the Project, or any part thereof, shall be damaged or destroyed or shall be condemned or acquired for public use, Owner shall use its best efforts to repair or restore the Project to substantially the same condition as existed prior to the event causing such damage or destruction,

- or to relieve the condemnation, and thereafter the Project will, for the remainder of the Term of this Agreement, be in compliance with Section 42, this Agreement, and the Application.
- (k) Owner has not executed, and will not execute, any other agreement with provisions contradictory to, or in opposition to Section 42, this Agreement, or the Application. In the event of a conflict between this Agreement and any other agreement to which Owner is a party, this Agreement shall control.
 - (l) No changes have occurred with respect to any of the facts, circumstances, or representations made by or on behalf of Owner in connection with the Project as set forth in the Application.

PARAGRAPH 4 - OCCUPANCY RESTRICTIONS

- (a) Pursuant to Section 42(g), Owner hereby elects the following minimum set-aside of units in the Project:
 - (1) At least 20% or more of the residential units in the Project are both rent-restricted and occupied by individuals whose income is 50% or less of area median gross income.
 - (2) X At least 40% or more of the residential units in the Project are both rent-restricted and occupied by individuals whose income is 60% or less of area median gross income.
- (b) As elected in the Application, Owner hereby elects to make 100% of the residential units in the Project both rent-restricted and limited to occupancy by individuals whose income is 60% or less of area median gross income and further elects to make 20% of the residential units in the Project both rent restricted and limited to occupancy by individuals whose income is 50% or less of area median gross income.

(Collectively, the Owner's elections in Section 4(a) and Section 4(b) above are referred to herein, collectively, as the "Occupancy Restrictions".)
- (c) Owner shall make at least an annual determination of whether individuals residing in the Project meet the Occupancy Restrictions. Documentation verifying such determination shall be submitted to THDA as THDA may require.

PARAGRAPH 5 - APPLICABLE FRACTION

As elected in the Application, the applicable fraction (as defined in Section 42) for each building is 100%.

PARAGRAPH 6- TERM OF AGREEMENT

- (a) Except as herein provided, the term of this Agreement shall be thirty (30) years (the "Term"), commencing on the first day of the taxable year in which any building which is part of the Project is placed in service as low-income housing (the "Commencement Date"). The compliance period, as defined in Section 42, begins on the Commencement Date and extends for the first twenty (20) years of the Term (the "compliance period"). The extended use period, as defined in Section 42, begins on the Commencement Date and extends for the entire Term (the "extended use period").
- (b) Subject to Paragraph 6(d), the extended use period shall terminate on the date the Project is acquired by foreclosure or by instrument in lieu of foreclosure so long as such acquisition is not deemed to be part of an arrangement by Owner, a purpose of which is to terminate the Term.
- (c) Subject to Paragraph 6(d), the extended use period may be terminated by Owner at any time after the nineteenth (19th) full year of the compliance period upon the following terms and conditions:
 - (i) Owner may request a termination by written request to THDA sent by registered mail, postage prepaid, return receipt requested;
 - (ii) At any time during a one (1) year period beginning on the date of receipt of the notice specified in sub-paragraph (c)(i) above, THDA shall have the right, but not the obligation, to present Owner with a "qualified contract" (as defined in Section 42) for the acquisition of the low income portion of the Project by a person who will continue to operate that portion of the Project as a qualified low income building or project at a price calculated pursuant to Section 42.

- (iii) The extended use period shall terminate on the last day of the one (1) year period specified in sub-paragraph (c)(ii) in the event THDA does not present Owner with a qualified contract on or before the last day of such one (1) year period.
- (d) Notwithstanding a termination of the extended use period under Paragraph 6(b) or Paragraph 6(c), the following actions shall be prohibited for a period of three (3) years beginning on the date the extended use period is terminated:
 - (i) the eviction or termination of the tenancy of an existing tenant of any unit in the Project subject to Occupancy Restrictions, for other than good cause; or
 - (ii) any increase in the gross rent of any unit in the Project subject to Occupancy Restrictions, not otherwise expressly permitted.

PARAGRAPH 7 - COMPLIANCE, MONITORING AND ENFORCEMENT

- (a) Owner shall maintain books and records for the Project and shall submit, in a timely fashion, any information, documents or certifications requested by THDA which THDA deems necessary to substantiate Owner's continuing compliance with the Application, this Agreement and Section 42.
- (b) Owner shall permit, during normal business hours and upon reasonable notice, any duly authorized representative of THDA to inspect any and all books and records of Owner regarding the Project.
- (c) Owner covenants that it will (i) comply or ensure compliance with all requirements of Section 42, the Application and this Agreement, and (ii) take any lawful action deemed necessary by THDA ensure full compliance with Section 42, the Application and this Agreement.
- (d) OWNER, IN CONSIDERATION OF THE TAX CREDITS ALLOCATED TO IT FOR THIS PROJECT, CONSENTS TO THE ENFORCEMENT OF THIS AGREEMENT BY THDA OR BY ANY INDIVIDUAL WHO IS QUALIFIED BY INCOME UNDER SECTION 42 TO RESIDE IN THE PROJECT, INCLUDING ALL CURRENT, FORMER OR PROSPECTIVE RESIDENTS ("QUALIFIED INDIVIDUAL"), IN ANY COURT OF COMPETENT JURISDICTION. IN THE EVENT OF A BREACH OF THIS AGREEMENT OR ANY DEFAULT HEREUNDER, THDA OR ANY QUALIFIED INDIVIDUAL SHALL BE ENTITLED TO ENFORCE SPECIFIC PERFORMANCE OF THIS AGREEMENT, IN ADDITION TO ALL OTHER REMEDIES PROVIDED BY LAW OR IN EQUITY. Owner specifically acknowledges that THDA and any Qualified Individual, as beneficiaries of Owner's obligations hereunder, cannot be adequately compensated by monetary damages in the event of any breach of or default under this Agreement.
- (e) Owner agrees that the representations and covenants set forth herein may be relied upon by THDA and all persons interested in compliance under Section 42, the Application, this Agreement.
- (f) Owner shall pay fees to THDA for monitoring compliance with section 42, the Application and this Agreement. Such fees shall be determined by THDA in its reasonable discretion and shall be due and payable by Owner on or before ten (10) days after receipt of demand therefor.

PARAGRAPH 8 - MISCELLANEOUS

- (a) Severability. The invalidity of any clause, part or provision of this Agreement shall not affect the validity of the remaining portions hereof.
- (b) Notices. Unless otherwise set forth herein, all notices given to Owner pursuant to this Agreement shall be deemed given when mailed by certified or registered mail, postage prepaid, return receipt requested, or sent via an overnight delivery or courier service, or sent via facsimile transmission addressed to Owner at the addresses and/or the fax number set forth below or to such different address, addresses or fax number as Owner may notify THDA from time to time in writing:

TO OWNER: Chip Triplett
 Madison Partners, L.P.
 P.O. Box 741
 Jackson, MS 39205

Unless otherwise set forth herein, all notices given to THDA pursuant to this Agreement shall be deemed given when received by THDA at the address set forth below or to such different address or addresses as THDA may notify Owner from time to time in writing:

TO THDA: Tennessee Housing Development Agency
ATTN: Low Income Housing Tax Credit
404 James Robertson Parkway, Suite 1114
Nashville, TN 37243-0900

- (c) Amendment. Owner shall take all actions deemed necessary by THDA to amend this Agreement to comply with Section 42, the Code, or the Application.
- (d) Subordination of Agreement. This Agreement is subordinate to the lien of that certain deed of trust of record in Book _____, page(s) _____, in the Register's Office for _____ County, Tennessee, except to the extent Section 42 or this Agreement require otherwise.
- (e) Governing Law. This Agreement shall be governed by the laws of the State of Tennessee and, where applicable, the laws of the United States of America.
- (f) Survival of Obligations. The obligations of Owner as set forth herein, in the Application, and in Section 42 shall survive final allocation of Tax Credits and shall not be deemed to terminate or merge with final allocation of Tax Credits.
- (g) Recovery of Attorney's Fees. In the event THDA incurs legal fees or other expenses in enforcing this Agreement, Owner shall reimburse THDA for all such fees and expenses within ten (10) days of receipt of written demand therefor.
- (h) Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of THDA and Owner.
- (i) Conflicting Provisions. In the event of a conflict among provisions of this Agreement, the Application or Section 42, the more stringent provisions shall apply.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their respective duly authorized representatives, as of the date first written above.


MADISON PARTNERS, L.P.

BY: Park Wood LLC

BY: _____
J.H. Thames, Jr., Member

Rodney F. Triplett, Jr., Member

TENNESSEE HOUSING DEVELOPMENT AGENCY

BY: 
W. Jeff Reynolds, Executive Director

Declaration of Land Use Restrictive Covenants
for Low-Income Housing Tax Credits
Owner: Madison Partners, L.P.
Project Name: Park Place Apartments (TN97-026)

BK T1166 PG 175

STATE OF _____)
COUNTY OF _____)

Before me, _____, a Notary Public of the state and county mentioned, personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged herself/himself to be a/the general partner of _____, the within named bargainor, a general/limited partnership, and that she/he, as such general partner, executed the foregoing instrument for the purpose therein contained, by signing the name of the general/limited partnership by herself/himself as general partner.

Witness my hand and seal, at office, this _____ day of _____, 199__.

Notary Public

My Commission Expires: _____

STATE OF _____)
COUNTY OF _____)

Before me, _____, a Notary Public of the state and county mentioned, personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged herself/himself to be a/the general partner of _____, the within named bargainor, a general/limited partnership, and that she/he, as such general partner, executed the foregoing instrument for the purpose therein contained, by signing the name of the general/limited partnership by herself/himself as general partner.

Witness my hand and seal, at office, this _____ day of _____, 199__.

Notary Public

My Commission Expires: _____

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

Before me, Bonnie S. Fowler, a Notary Public of the state and county mentioned, personally appeared W. Jeff Reynolds, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged that he is Executive Director of Tennessee Housing Development Agency, the within named bargainor and that he, as such Executive Director, executed the foregoing instrument for the purpose therein, by signing the name of Tennessee Housing Development Agency by himself as Executive Director.

Witness my hand and seal, at office, this 30th day of December, 1998.

Bonnie S. Fowler
Notary Public

My Commission Expires: _____
My Commission Expires SEPT. 23, 2000



BK T1166 PG 176

Unless otherwise set forth herein, all notices given to THDA pursuant to this Agreement shall be deemed given when received by THDA at the address set forth below or to such different address or addresses as THDA may notify Owner from time to time in writing:

TO THDA: Tennessee Housing Development Agency
ATTN: Low Income Housing Tax Credit
404 James Robertson Parkway, Suite 1114
Nashville, TN 37243-0900

- (c) Amendment. Owner shall take all actions deemed necessary by THDA to amend this Agreement to comply with Section 42, the Code, or the Application.
- (d) Subordination of Agreement. This Agreement is subordinate to the lien of that certain deed of trust of record in Book T1102, page(s) 650, in the Register's Office for Madison County, Tennessee, except to the extent Section 42 or this Agreement require otherwise.
- (e) Governing Law. This Agreement shall be governed by the laws of the State of Tennessee and, where applicable, the laws of the United States of America.
- (f) Survival of Obligations. The obligations of Owner as set forth herein, in the Application, and in Section 42 shall survive final allocation of Tax Credits and shall not be deemed to terminate or merge with final allocation of Tax Credits.
- (g) Recovery of Attorney's Fees. In the event THDA incurs legal fees or other expenses in enforcing this Agreement, Owner shall reimburse THDA for all such fees and expenses within ten (10) days of receipt of written demand therefor.
- (h) Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of THDA and Owner.
- (i) Conflicting Provisions. In the event of a conflict among provisions of this Agreement, the Application or Section 42, the more stringent provisions shall apply.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their respective duly authorized representatives, as of the date first written above.

MADISON PARTNERS, L.P.

BY: Park Wood LLC

BY: J.H. Thames, Jr.
J.H. Thames, Jr., Member

Rodney F. Triplett, Jr.
Rodney F. Triplett, Jr., Member

TENNESSEE HOUSING DEVELOPMENT AGENCY

BY: W. Jeff Reynolds
W. Jeff Reynolds, Executive Director

Declaration of Land Use Restrictive Covenants
for Low-Income Housing Tax Credits
Owner: Madison Partners, L.P.
Project Name: Park Place Apartments (TN97-026)

BK T1166 PG 177

STATE OF Mississippi)
COUNTY OF RANKIN)

Before me, Amy Galyon, a Notary Public of the state and county mentioned, personally appeared J.H. THOMAS JR., with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged herself/himself to be a/the general partner of MADISON PARTNERS, L.P., the within named bargainer, a general/limited partnership, and that she/he, as such general partner, executed the foregoing instrument for the purpose therein contained, by signing the name of the general/limited partnership by herself/himself as general partner.

Witness my hand and seal, at office, this 30 day of DEC, 1998.

My Commission Expires
March 29, 2002

Amy Galyon
Notary Public

My Commission Expires: _____



STATE OF Mississippi)
COUNTY OF RANKIN)

Before me, Amy Galyon, a Notary Public of the state and county mentioned, personally appeared Rodney F. Triplett, Jr., with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged herself/himself to be a/the general partner of MADISON PARTNERS, L.P., the within named bargainer, a general/limited partnership, and that she/he, as such general partner, executed the foregoing instrument for the purpose therein contained, by signing the name of the general/limited partnership by herself/himself as general partner.

Witness my hand and seal, at office, this 30 day of DEC, 1998.

My Commission Expires
March 29, 2002

Amy Galyon
Notary Public

My Commission Expires: _____



STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

Before me, Bonnie S. Fowler, a Notary Public of the state and county mentioned, personally appeared W. Jeff Reynolds, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged that he is Executive Director of Tennessee Housing Development Agency, the within named bargainer and that he, as such Executive Director, executed the foregoing instrument for the purpose therein, by signing the name of Tennessee Housing Development Agency by himself as Executive Director.

Witness my hand and seal, at office, this 30th day of December, 1998.

Bonnie S. Fowler
Notary Public

My Commission Expires: My Commission Expires SEPT. 23, 2000



LEGAL DESCRIPTION

BK T1166 PG 178

BEGINNING on an iron stake in the western margin of Whitehall Street (US Highway 70) and being 30 feet from the center of said street and also being the southeast corner of Jackson State Community College; thence following a fence with the south line of said college north 87 degrees 29 minutes 30 seconds west a distance of 1342.91 feet to an iron rod in the east boundary of Smithwood Industrial Park and at a fence corner; thence with the boundary of said Industrial park and with a fence most of the way south 2 degrees 47 minutes 38 seconds a distance of 295.31 feet to a pine tree stump in a fence corner and also being in the north boundary line of Parkway Village, Inc.; thence with Parkway Village South 88 degrees 11 minutes 39 seconds East a distance of 1148.58 feet to an iron stake in the western margin of Whitehall Street and being approximately 15 feet northeast of a fire hydrant; thence with the margin of said street and with a curve to the left having a radius of 1791.09 feet a distance of 43.24 feet to a point; thence north 33 degrees 11 minutes 17 seconds East a distance of 282.82 feet to the point of beginning and containing 8.199 acres.

State of Tennessee, County of MADISON
Received for record the 31 day of
DECEMBER 1998 at 11:00 AM. (RECH 26069)
Recorded in Book T1166 pages 170-178
State Tax \$.00 Clerks Fee \$.00,
Recording \$ 38.00, Total \$ 38.00,
Register of Deeds CURTIS WHITE
Deputy Register LINDA WALDON