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From: "Kenny Dockery" <kdockery@ucbristol.com>
To: "Barbara Bjerke" <bbjerke@ucbristol.com>
Sent: Wednesday, December 19, 2001 11:05 AM
Attach: header.htm
Subject: Fw: FUND2001 - LP AGREEMENT.DOC

— Original Message —

From: Daniel Gecker
To: KDOCKERY@UCBRISTOL.COM
Sent: Sunday, December 16, 2001 6:24 PM
Subject: FUND2001 - LP AGREEMENT.DOC

**THE VIRGINIA HISTORIC TAX CREDIT FUND 2001 L.P.
LIMITED PARTNERSHIP AGREEMENT**

THIS LIMITED PARTNERSHIP AGREEMENT is made as of the ____ day of December, 2001, by and between The Virginia Historic Tax Credit Fund 2001 L.L.C., a Virginia limited liability company ("General Partner"), and those persons whose names are listed Exhibit A attached hereto ("Limited Partners").

WITNESSETH:

In consideration of the mutual promises made and for other good and valuable consideration, the parties hereto agree as follows.

1. **Definitions.** Unless stated otherwise or the context so requires, "Partnership" means this Limited Partnership; "Partner" or "Partners," unless preceded by "General" or "Limited," means the General Partner and the Limited Partner.

2. **Formation.** This Limited Partnership is formed pursuant to the laws of the Commonwealth of Virginia and the Revised Uniform Limited Partnership Act applying therein (the "Act"), as amended from time to time. The Partners will execute a Certificate of Limited Partnership upon the execution of this Agreement and a Certificate of Registration, which shall be promptly filed pursuant to the provisions of the Act.

3. **Name.** The name of the Partnership is The Virginia Historic Tax Credit Fund 2001 L.P. The Partnership may conduct its business under such other fictitious names as the General Partner

may select, and the law permits, provided that appropriate amendments and required filings are first obtained.

4. **Purposes.** The sole purpose of the Partnership is to (i) acquire an interest in partnerships or limited liability companies ("Operating Partnerships") and the associated allocation of Virginia Historic Rehabilitation Tax Credits ("Tax Credits") related to the rehabilitation of certain real property located in Virginia, (the "Property"); (ii) to own, hold, sell, assign, transfer, operate, lease, mortgage, pledge and otherwise deal with the Tax Credits; and (iii) to exercise all powers enumerated in Limited Partnership Law of Virginia as necessary or convenient to the conduct, promotion or attainment of the purposes otherwise set forth.

5. **Office and Agent.**

(a) The principal place of business of the Partnership shall be at 1111 East Main Street, Suite 800, Richmond, Virginia 23219. The Partnership may maintain additional offices at the election of the General Partner.

(b) The business office of the Partnership, in which shall be kept its books and records, shall be located at the Partnership's principal place of business.

(c) The name of the Registered Agent of the Partnership is Daniel A. Gecker, who is a resident of Virginia and a member of the Virginia State Bar. The Registered Agent's address is 1111 East Main Street, Suite 800, Richmond, Virginia 23219.

6. **Term.** The term of the Partnership shall begin on the date of the filing of the Certificate of Limited Partnership and end on December 31, 2049, unless it is terminated sooner by one or more of the following acts of dissolution.

(a) The disposition of substantially all of the real and personal property owned by the Partnership; or

(b) The withdrawal, liquidation, retirement, death, judicially declared insanity, bankruptcy, or expulsion of the sole remaining General Partner, unless the Partnership is continued pursuant to the provisions of section 16 hereof.

7. **Capital Contributions.**

(a) The General Partner is authorized to sell up to 400 Limited Partnership Units. Fractional units may be owned. Each Limited Partner shall contribute \$18,500 to the capital of the Partnership for each unit acquired. The maximum capital that the General Partner will accept is \$7,400,000 and the minimum capital is \$740,000 represented by 40 units. Each Limited Partner shall have a percentage participation in the Partnership equal to one percent (1%) multiplied by a fraction the number of which is the number of units owned by the Limited Partner and denominator of which is the total number of units outstanding. The General Partner will not make a capital contribution in excess of \$100 to an Operating Partnership until the General Partner has received certification from the Virginia Department of Historic Resources that the rehabilitation constitutes a qualified rehabilitation and the amount of qualified rehabilitation expenditures paid or incurred by the Operating Partnership for calendar year 2001 Virginia Rehabilitation Tax Credits (the "Historic Certification"). Each unit shall be allocated \$25,000 of Virginia Rehabilitation Tax Credits, to be shown on Schedule A. To the extent the Partnership is unable to allocate \$25,000 of Virginia Rehabilitation Tax Credits per unit to a Limited Partner, the Partnership shall return an amount of capital to the Limited Partner equal to \$.74 multiplied by the difference between (i) \$25,000 multiplied by the number of units owned by the Limited Partner and (ii) the number of Virginia Rehabilitation Tax Credits actually allocated to the Limited Partner.

(b) Capital contributions by the Partners shall be made in cash, payable upon subscription to the Partnership. The Limited Partners' capital contributions shall be deposited in an interest bearing account of the Partnership until the capital relating to an investment in a particular Operating Partnership is paid over to such Operating Partnership. If the Historic Certification for a particular Operating Partnership investment is not received by February 28, 2002, the General Partner, in its sole discretion, shall determine whether to terminate any investment in such Operating Partnership and refund to the Limited Partners the *pro rata* portion of their investment allocable to such Operating Partnership, plus an allocable share of interest earned on the returned funds, net of expenses, or extend the due date for receipt of the Historic Certification to a date no later than March 31, 2002. If the Historic Certification is not received by such extended due date, if any, the Partnership will terminate its investment in the Operating Partnership and refund to the Limited Partners the *pro rata* portion of their investment allocable to the Operating Partnership, plus an allocable share of interest earned on the

returned funds, net of expenses.

(c) If additional equity capital is required by the Partnership, the General Partner shall determine the purpose for which it is required, and such decision as to the purpose shall be final. No Partner is obligated to contribute additional capital.

8. Percentage Participation.

(a) "Percentage participation" shall mean the interest of a Partner in the profit and loss, and net cash receipts of the Partnership.

(b) The percentage participations of the Partners in profit or loss, and net cash receipts for accounting, income tax, and cash-flow purposes shall be as shown on the attached Schedule A.

(c) No Partner shall be entitled to withdraw any part of his capital account or to receive any distributions from the Partnership except as set forth herein.

9. Powers of General Partners.

(a) The General Partner shall possess all of the powers and rights of a General Partner under the Virginia Revised Uniform Limited Partnership Act to carry out the purposes of the Partnership set out in Section 4, including the power, in the General Partner's absolute discretion and on behalf of the Partnership, to:

(i) Assign, convey, or otherwise transfer title to any portion of the Partnership's real and personal property, including any interest in any mortgage (embracing, for the purpose of this Agreement, deeds of trust, security agreements, financing statements, and similar loan transaction documentation), lease, or other interest in real or personal property, with the written consent of a majority in interest of the Limited Partners;

(ii) Lease, upon such terms as may be deemed proper, all or any portion of the Partnership's real or personal property, whether or not the leased space or facility is to be occupied by the lessee or subleased in whole or in part to others;

(iii) Determine the amount of the Partnership's investment capital to be invested in particular Operating Partnerships;

- (iv) [Intentionally Omitted];
- (v) [Intentionally omitted];
- (vi) [Intentionally omitted];
- (vii) Employ from time to time, on such terms and for such compensation as are proper, persons, to operate and manage the Partnership's real and personal property;
- (viii) Set aside Partnership capital or other funds for payment of past, current, and future liabilities of the Partnership;
- (ix) [Intentionally omitted];
- (x) Unless otherwise provided in this Agreement, determine in accordance with generally accepted accounting principles consistently applied, whether items of income, gain, loss, deduction, or credit shall be treated either as capital or extraordinary items, or, alternatively, as profit or loss items;
- (xi) Select and open Partnership bank accounts and/or money market accounts at brokerage firms, with withdrawals from these accounts to be made upon signature(s) designated by the General Partner;
- (xii) Keep books of account, including accounts required to reflect Partners' profits or loss and capital, in which each Partnership transaction shall be entered. These books of account, kept on the basis of the calendar year, together with a certified copy of the Certificate of Limited Partnership and any amendments to the Certificate, shall be maintained at the Partnership's principal office or at any other place designated by the General Partner, and shall be open to reasonable inspection and examination by the Partners and their duly authorized representatives;
- (xiii) Have the accountants for the Partnership prepare annual financial reports and deliver to the Partners reports of operations. The General Partner shall deliver to each Partner as soon as practicable after the close of each Partnership year a copy of the annual report or a separate report indicating the Partner's share for federal income tax purposes of the profits, losses, and other allocable items of the Partnership for that year; and

(xiv) Execute, acknowledge, and deliver any and all instruments to effectuate any of the foregoing powers.

(b) In the event of the distribution of property by the Partnership within the meaning of Section 734 of the Internal Revenue Code of 1986, as amended, or the transfer of an interest in the Partnership within the meaning of Section 743 of said Code, the General Partner, in his or her sole and absolute discretion and in keeping with generally accepted accounting principles consistently applied, may elect to adjust the basis of the Partnership property pursuant to Sections 734, 743, and 754 of said Code, Partners affected by this election, if made, shall supply to the Partnership the information that may be required to make the election.

(c) Each Limited Partner irrevocably constitutes and appoints the General Partner his true and lawful attorney to make, execute, acknowledge and file in his name, place, and stead:

(i) Certificate of Limited Partnership and of registration under applicable laws, as required;

(ii) Any certificate or other instrument, including registrations or filings concerning the use of fictitious names and necessary or appropriate filings under the federal and state Securities Acts that may be required to be filed by the Partnership under the laws of any state or which the General Partner shall deem advisable to file;

(iii) Documents required to effectuate the dissolution and termination of the Partnership in accordance with the provisions of this agreement; and

(iv) Amendments and modifications of the instruments described above.

(d) Each Limited Partner agrees that the power of attorney is coupled with an interest. The power of attorney, as well as the other powers of the General Partner set forth in this Agreement, shall survive the death or legal incapacity of a Limited Partner as well as the delivery by a Limited Partner of an assignment of the whole or any portion of his Partnership interest, except that when an assignee of a Partnership interest has been approved by the General Partner as a Substituted Limited Partner, the power of attorney of the assignor Limited Partner shall survive the delivery of the

assignment for the sole purpose of enabling the General Partner to execute, acknowledge, and file any instruments necessary to effectuate the substitution.

10. **Services of General Partners and Affiliates.**

The General Partner shall devote whatever time and effort may be necessary or appropriate to the business and affairs of the Partnership.

11. **Limitations of Limited Partner.** Except as otherwise stated in this agreement, no Limited Partner as a Partner shall take any part in the conduct of the business or control of the assets of the Partnership or in the sale, leasing, financing, or refinancing of any of its assets, or have any right or authority to act for or bind the Partnership. A Limited Partner shall not become liable as a General Partner nor shall he be liable to creditors of the Partnership. Except to the extent provided in Article 7, no interest shall be due, paid, or payable on capital contributions.

12. **Disbursements and Distributions.** The cash receipts from operations, profits, income items, and other funds, resulting from refinancings, sales, exchanges, rollovers of Partnership assets, and other dealings, that are earned or received by the Partnership shall be disbursed and distributed as follows:

(a) On behalf of the Partnership, in payment or as reserves for all expenses, charges, and costs paid, payable, incurred, or to be incurred in the operation of the Partnership's business, and for all indebtedness due, to become due, or to be incurred in respect of any mortgage, deed of trust, or loan in accordance with the provisions and terms thereof.

(b) All cash receipts not required for the payments or reserves provided in paragraph (a) immediately above shall be disbursed by the General Partner to the Partners as soon as available to the Partnership. These net cash receipts shall be distributed to the Partners according to their percentage participation as stated in Article 8.

(c) Notwithstanding the foregoing provisions of this Article 12, if the Partnership receives a credit adjuster payment from an Operating Partnership, after paying any legal, accounting or other expenses incurred in connection with obtaining such credit adjuster payment, all remaining funds shall be disbursed as soon as practicable to the Limited Partners in the proportion that they share Virginia Rehabilitation Tax Credits set forth in Exhibit A attached hereto.

13. **Treatment of Losses.** Items of expense or loss shall be allocated to the Partners, and all losses suffered or incurred by the Partnership shall be charged against the Partners' respective shares of capital. No Partner shall have any obligation to restore a negative capital account.

14. **Allocation of Virginia Historic Rehabilitation Tax Credits** The Partnership anticipates that it will receive an allocation of tax credits pursuant to Section 58.1-339.2 of the Code of Virginia. The Partners agree that those tax credits shall be allocated to the partners in the amounts shown on the attached Schedule A.

15. **Restrictions on the Transfer of Partnership Interest.**

(a) A General Partner may not assign or otherwise transfer his interest nor voluntarily withdraw or otherwise terminate his participation as a General Partner. Subject to Article 15, a Limited Partner may not assign or otherwise transfer his interest or withdraw from the Partnership, except with the written consent of the General Partner. An "assignment or other transfer" for this purpose includes, but is not limited to, a sale, exchange, hypothecation, collateral assignment, and subjecting the interest to a security interest.

(b) Notwithstanding the written consent of the General Partner to the transfer of the interest of a Limited Partner, the transferee shall not become a Substituted Limited Partner without the written consent of the General Partner, which shall not be given unless the transferee has:

(i) Accepted and assumed, in a form satisfactory to the General Partner, all the terms and provisions of this Agreement;

(ii) Provided, in the case of a corporate assignee, a certified copy of a resolution of its Board of Directors authorizing it to become a Limited Partner under the terms and provisions of this Agreement;

(iii) Provided an opinion of counsel, in form and substance satisfactory to counsel for the Partnership, that the assignment of the interest does not violate any federal or state securities or comparable law;

(iv) Executed a statement that he is acquiring the Partnership interest for investment and not for resale;

(v) Executed such other documents or instruments as the General Partner

may reasonably require in order to effect the admission of the transferee as a Limited Partner;

(vi) Paid such reasonable expenses as may be incurred by the Partnership in connection with the admission of the transferee as a Limited Partner; and

(vii) Executed a power of attorney substantially identical to that contained in Article 9(d) of this Agreement.

(c) Each Limited Partner hereby grants to the General Partner an option to acquire the units owned by the Limited Partner for an amount equal to the fair market value thereof. The fair market value shall equal the amount the Limited Partner would receive in the event the properties owned by the Operating Partnerships were sold at the time that the option is exercised and the sale proceeds thereof were distributed by the Operating Partnership to the Partnership and the Partnership were liquidated and any sale proceeds were distributed to the Limited Partner. Alternatively, the General Partner and the Limited Partner may agree upon another exercise price. The General Partner may exercise the option by giving the Limited Partner written notice thereof during the six month period commencing on April 1, 2002. The closing date shall be a date no later than sixty days subsequent to the exercise and the purchase price shall be paid in cash.

In the event that the General Partner exercises the option set forth in this Section 15(c) to purchase the units owned by a Limited Partner, and subsequently the Partnership receives a credit adjuster payment from an Operating Partnership which relates to a recapture or loss of Virginia Rehabilitation Tax Credits originally allocated to such Limited Partner then after paying any legal, accounting or other expenses incurred in connection with obtaining such credit adjuster payment, the Partnership shall pay to the Limited Partner the remainder of such credit adjuster payment to the extent that it relates to Virginia Rehabilitation Tax Credits originally taken by such Limited Partner.

16. Termination of Partnership Interests.

(a) The termination of the interest of a General Partner shall occur upon the death, incapacity, bankruptcy, expulsion, or withdrawal of the Partner or the assignment of his interest in the Partnership as provided in Article 15.

(i) "Incapacity" shall mean an adjudication of insanity or incompetency.

(ii) "Bankruptcy" shall be deemed to occur when a Partner files a petition in bankruptcy, voluntarily takes any advantage of any bankruptcy or insolvency law, has entered on his behalf, voluntarily or involuntarily, an Order for Relief in Bankruptcy, or he consents to the filing or does not object within sixty (60) days of the filing, unless the petition or answer was discharged or denied prior thereto. "Bankruptcy" includes Chapter proceedings under the federal bankruptcy or receivership laws and any comparable proceedings under state law, or any compromise, settlement, composition, workout, or similar arrangement with creditors, whether or not court-supervised. If a termination of a Partner occurs by reason of bankruptcy, the Partnership, at its sole election, shall have the right to purchase the terminated Partner's interest in the Partnership at the net book value of his Partnership interest.

(iii) A General Partner may be expelled from the Partnership for misconduct, gross negligence in the affairs of the Partnership, inattention to the business of the Partnership, or for other similar good cause shown, upon the affirmative vote of the Partners holding title to sixty percent (60%) of the percentage participations in the Partnership, as allocated in Article 8.

(b) Upon the termination of the General Partner for the reasons stated in paragraph (a) of this Article, the business shall be continued by the remaining General Partner, if any. Upon the termination of the sole remaining General Partner, a Substituted General Partner may be designated by a majority in interest of the Limited Partners. The affairs of the Partnership shall not be wound up, but the business of the Partnership shall be continued by the Substituted General Partner as a Continuing Limited Partnership bound by the terms of this Agreement. The Continuing Limited Partnership shall automatically, and without further assent or act of the Limited Partner, succeed to all of the assets of the Partnership. If a Substituted General Partner is not designated within sixty (60) days after the termination of the sole remaining General Partner, the Partnership shall be dissolved and liquidated. If the Partnership is continued, it may retain the use of its name.

(c) Upon the death or bankruptcy of any Limited Partner, his Partnership interests shall vest in his heir, legatee, successor, trustee, receiver, or other legal representative, or assignee who may be admitted as a Substituted Limited Partner, subject to the provisions of Article 15.

(d) The termination of a Limited Partner or of one of several General Partners shall not cause the dissolution of the Partnership. Whether or not the existing General Partner is terminated, a General Partner may be admitted to the Partnership upon the affirmative vote of the Partners holding title to a majority in interest of the percentage participations in the Partnership, as allocated in Article 8, and all percentage participations shall be reduced pro rata to admit him, provided that the dissolution, unless agreed otherwise by all the Partners, shall not exceed the amount necessary to give the admittee a five percent (5%) percentage participation in each class of them.

17. **Other Interests of a Partner.** Any Partner may engage or possess interests in other business ventures of every nature and description, independently or with others, including, but not limited to, the ownership, financing, leasing, operation, management, syndication, brokerage, and development of real property. Neither the Partnership nor any Partner shall have any right to independent ventures or to the income or profits derived from any such independent venture. The fact that a Partner, a member of his family, or an associate of his is employed by, or owns, or is otherwise directly or indirectly interested in connection with, any person, firm, or corporation employed or retained by the Partnership to render or perform management, contracting, mortgage placement, financing, brokerage, or other services, or from whom the Partnership may buy merchandise or other property, borrow money, arrange financing, or place securities, or to or from whom the Partnership may lease real property, shall not prohibit the General Partner from executing a lease with or employing that person, firm, or corporation or otherwise dealing with him or it, and neither the Partnership nor any of the Partners shall have any rights in or to any income or profits derived therefrom. Any dealings between the Partnership and the General Partner or any of his affiliates as hereinafter defined shall, however, be conducted by the General Partner upon the terms and in a manner that shall be fair and reasonable to the interests of the Partnership and the Limited Partners. "Affiliate" for this purpose shall mean any person, corporation, partnership, trust, or other entity in which a General Partner has, directly

or indirectly, any financial interests.

18. Dissolution of Partnership.

(a) Upon the dissolution of the Partnership, the Liquidator shall cancel the Certificate of Limited Partnership, liquidate the Partnership's assets, and apply and distribute the net proceeds of the Liquidation to satisfy the obligations of the Partnership and to fund reasonable reserves therefore. Any remaining assets shall be distributed to the Partners in accordance with the positive balances in their respective capital accounts. The Liquidator shall have no discretion as to retentions beyond the reserve necessary to satisfy known or ascertained contingent liabilities.

(b) The Liquidator shall be the General Partner, if there is one; otherwise, he shall be selected by a majority in interest of the Limited Partners.

(c) Notwithstanding the provisions of paragraph (a) of this Article, if, on the dissolution of the Partnership, the Liquidator shall determine that an immediate sale or part or all of the Partnership assets would cause undue loss to the Partners, he may either defer, for a reasonable time, the liquidation of any assets except those necessary to satisfy the liabilities of the Partnership to others than the Partners or he may distribute to the Partners, as tenants in common and in accordance with paragraph (a) of this Article, an undivided interest in any Partnership assets in lieu of cash, liquidating only assets that are necessary to satisfy Partnership liabilities.

19. Limitation of Liability of General Partners.

(a) The General Partner shall not be personally liable to the Partners for the return of capital contributions, the repayment of the purchase price for a percentage participation by the Limited Partner, the repayment of any loans or advances to the Partnership by the Limited Partner, or the payment of interest thereon.

(b) The General Partner shall not be liable to any Limited Partner for any act, omission, or decision that did not constitute a breach of any provision of this Agreement that was done, omitted, or made in good faith and which does not constitute gross negligence, fraud or willful misconduct, notwithstanding that the act, omission, or decision may have directly or indirectly caused loss or damage to the Limited Partner. The General Partner shall be held harmless against loss,

damages, or liability as a General Partner by reason of any act or omission performed by it in good faith within the scope of its authority as General Partner so long as such act or omission does not constitute gross negligence, fraud or willful misconduct. Such indemnification shall be satisfied only from Partnership assets to the extent that the assets are not applied to the creditors of the Partnership other than Partner-creditors.

20. **Execution of Certificates.** Each of the parties to this Agreement shall execute and acknowledge any and all certificates or other instruments required to be filed by the Partnership under the Virginia Revised Uniform Limited Partnership Act or any other statute.

21. **Reference of Pronouns.** All pronouns shall be deemed to refer to the masculine, feminine, singular, and plural as the identity of the person or persons may require.

22. **Section Captions.** Section titles or captions contained in this Agreement are inserted only as a matter of convenience and in no way define, modify, limit, extend, or describe the scope of this Agreement, nor are they relevant to the intent of any provisions of this Agreement.

23. **Construction.** This Agreement shall be construed under the Virginia Revised Uniform Limited Partnership Act, as amended.

24. **Benefits.** Except as otherwise specifically provided, this Agreement shall be binding upon and inure to the benefit of the parties to this Agreement and their personal representatives and assigns.

25. **Notices.** All notices, offers, acceptances, requests, and other communications provided for in this Agreement shall be in writing and shall be delivered by certified mail, return receipt requested, to a Partner at his address as set forth on the attached Schedule A, as amended from time to time.

26. **Amendments.** This Agreement may be amended only by a written instrument signed by the General Partner and all of the Limited Partners.

IN WITNESS WHEREOF, the parties hereto have executed this Partnership Agreement.

**The Virginia Historic Tax Credit Fund 2001 L.L.C.,
general partner**

By: _____

Its: _____

SCHEDULE A

Name and Address «INVESTOR» «ADDRESS»	Percentage Participation <hr/>	Capital Contribution «INVESTAMT»	Allocation of State Credits «CRALLOC»
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