

**AMENDED AND RESTATED
COMMUNITY REVITALIZATION ENHANCEMENT DISTRICT (CR_eED)
TAX CREDIT AGREEMENT**

(REV: 9/13)

This Amended and Restated Agreement (the "Agreement") is between the **INDIANA ECONOMIC DEVELOPMENT CORPORATION** (the "IEDC") and **CORNERSTONE MARION LLC and CV EAST, LLC**, jointly and severally (collectively, the "Company"). This Agreement amends and restates, in its entirety, the Tax Credit Agreement between the IEDC and the Company executed on June 27, 2013. The parties to this Agreement, in consideration of the mutual covenants, obligations, and stipulations set forth herein, witness and agree as follows:

1. PURPOSE OF AGREEMENT:

To fulfill the purposes provided in Indiana Code § 5-28-1-1 and Indiana Code § 6-3.1-19, and in accordance with the terms and conditions contained herein, the IEDC has awarded Community Revitalization Enhancement District Tax Credit. As set forth in Indiana Code § 6-3.1-19 and Indiana Code § 36-7-13, the purpose of this award is to encourage investment in, and the reuse of, existing and former parcels in highly distressed areas to encourage economic growth. This Agreement specifies the terms of this credit for the Company, against its Indiana state tax liability, as defined by Indiana Code § 6-3.1-19-1 ("State and Local Tax Liability"), for each Taxable Year (as defined in Paragraph 4 below).

2. TERM OF AGREEMENT:

This Agreement will be effective as of the Commencement Date (as defined at Exhibit A), and shall remain in effect until the Expiration Date (as defined at Exhibit A) ("Term"). Exhibit A is attached hereto and incorporated herein by reference.

3. DESCRIPTION OF PROJECT:

The Company will complete the project as described at Exhibit A (the "Project"). The Project will be at the location(s) listed at Exhibit A (collectively, the "Project Location"). The Company represents that the number of permanent, Indiana resident full-time employees (as defined in Indiana Code § 6-3.1-13-4) employed as of the Commencement Date at the Project Location is as set forth at Exhibit A (the "Base Employment Number") and that such Full-Time Employees had an average hourly wage of the Base Average Wage (as defined at Exhibit A). During each calendar year of the Term, the Base Employment Number and the new permanent, Indiana resident full-time jobs (as defined in Indiana Code § 6-3.1-13-6), and the annual average hourly wage shall meet or exceed the Fiscal Impact Requirements set forth at Exhibit A (the "Fiscal Impact Requirements"). The IEDC's obligations and commitments are made in reliance on and are conditioned upon these representations.

4. DEFINITIONS OF TAXABLE YEAR:

For purposes of this Agreement, the terms "Taxable Year" and "Taxable Years" shall mean a period or periods beginning on January 1st and ending on December 31st. The Company may elect to have its own filing taxable year that has beginning and end dates different from the Taxable Year defined in this Agreement.

5. DURATION OF TAX CREDIT:

In accordance with Indiana Code § 6-3.1-19-2, the IEDC has approved an award up to the Maximum Credit (as defined in Exhibit A). The Company may claim a tax credit for any Taxable Year during the Term in which the Company makes a qualified investment, as defined in Indiana Code § 6-3.1-19-2 (a "Qualified Investment"), subject to verification by the Indiana Department of Revenue per Indiana Code § 6-3.1-19-6. A tax credit may first be claimed under this Agreement for the taxpayer's "First Taxable Year" (as defined at Exhibit A). Notwithstanding the foregoing or anything in this Agreement to the contrary, the Company shall not be entitled to a tax credit for any Qualified Investment made after the Investment Deadline (as defined at Exhibit A). The

Company may carry forward an unused tax credit for nine (9) consecutive Taxable Years beginning with the Taxable Year after the Taxable Year in which the Company makes the Qualified Investment, even if such Taxable Year extends beyond the Expiration Date.

6. CREDIT AMOUNT ALLOWED FOR EACH TAXABLE YEAR:

Subject to the limitations set forth herein, the tax credit allowed for each Taxable Year shall equal the product of the Award Percentage (as defined at Exhibit A) multiplied by the amount of the Qualified Investment made by the Company during such Taxable Year, plus any unused credit carried forward from a prior Taxable Year. Notwithstanding the foregoing or anything in this Agreement to the contrary, the aggregate tax credits for all Taxable Years shall not exceed the Maximum Credit (as defined at Exhibit A). Furthermore, the Company acknowledges and agrees that the tax credit granted pursuant to this Agreement is conditioned upon the representations of the Company set forth in this Agreement. If the Company fails to meet or exceed the Fiscal Impact Requirements for a given Taxable Year, the IEDC's sole recourse shall be to recommend to the Indiana Department of Revenue that an assessment be made against the Company pursuant to Paragraph 8 below. For each Taxable Year, the Company shall compute the amount of tax credit to which it is entitled consistent with the terms and conditions of this Agreement. The actual amount of the tax credit allowable to the taxpayer is subject to final determination by the Indiana Department of Revenue (the "IDOR") under Indiana Code § 6-8.1-3-12 and Indiana Code § 6-8.1-5.

7. DUTIES AND RESPONSIBILITIES OF COMPANY:

- A. Pursuant to the provisions of this Agreement, the Company shall submit to the IEDC, not later than the 45th day following the close of each Taxable Year for which this Agreement is in force, an annual report, the form and medium of which will be provided by the IEDC. The information submitted to the IEDC in the Annual Report must be certified as true and correct by an officer of the Company. The Annual Report shall contain the information listed below (the "Annual Report"):
- (1.) The information requested by the IEDC in its annual Incentive Procedure Packet, including information about the Qualified Investment made pursuant to Indiana Code § 6-3.1-19-2 for the period prior to the Expiration Date (as defined in Exhibit A), and after the Expiration Date, confirmation that the Qualified Investment property is maintained in Indiana;
 - (2.) The Company's federal identification number and taxpayer account number, as assigned by the Indiana Department of Workforce Development for the purpose of unemployment insurance, to assist in the verification of the information provided by the Company;
 - (3.) The total amount, by Taxable Year, of the tax credits claimed by the taxpayer under this Agreement in its tax filings;
 - (4.) The number of Full-Time Employees employed by the Company at the Project Location, listed by employee name, last four (4) digits of Social Security number, mailing address, hire date, and termination date (if applicable);
 - (5.) The average wage of all Full-Time Employees employed by the Company at the Project Location;
 - (6.) The total payroll amount (excluding non-taxable fringe benefits) paid to Full-Time Employees employed by the Company at the Project Location during the Taxable Year, and the total payroll withholdings;

- (7.) Any other information required by the IEDC to perform its duties under Indiana Code § 6-3.1-19 and this Agreement, so long as the Company is given notice of such requirements and reasonable time to prepare such information.

The foregoing information is submitted pursuant to Indiana Code § 6-8.1-7-1, and the IEDC shall further treat the above information as confidential, financial information pursuant to Indiana Code § 5-14-3-4(a)(5), unless the IEDC determines that it is prohibited from doing so by law or judicial order.

- B. As required under Indiana Code § 6-3.1-19-6 the Company shall submit all information that the Indiana Department of Revenue determines is necessary for the calculation of the credit and for the determination of whether an expenditure was for a qualified investment.
- C. In entering into this Agreement, the Company has made certain representations to the IEDC regarding the Project. These representations include but are not limited to the amount of the anticipated Capital Investment (as set forth at Exhibit A), the number of anticipated new jobs that were not jobs previously performed by Company employees in Indiana, certain tax information, and the Company's annual payroll. The Company verifies that these representations are true and accurate.
- D. The Company shall maintain operations at the Project Location for at least the Term of this Agreement as set forth in Paragraph 2.
- E. The Company shall use the following specific method for determining the number of New Employees (as defined by Indiana Code § 6-3.1-13-6(b)) employed during a Taxable Year: the Company shall subtract the number of Full-time Employees employed at the Project Location in the Base Year (as defined at Exhibit A) from the number of Full-time Employees employed at the Project Location on the last day of the applicable Taxable Year. For purposes of this paragraph, Full-time Employees shall not include employees excluded from the definition of New Employees pursuant to Indiana Code § 6-3.1-13-6(b).
- F. The Company shall keep at the Project Location the Qualified Investment property that is the basis for the tax credit in Indiana for at least (i) the useful life of the property, as determined for federal income tax purposes; or (ii) ten (10) years, whichever is less.
- G. The Company shall pay an average wage to all its employees, excluding Highly Compensated Employees, in each Taxable Year that the tax credit provided herein is available, that equals at least one hundred fifty percent (150%) of the hourly minimum wage under Indiana Code § 22-2-2-4 or its equivalent.
- H. During the Term of this Agreement, the Company shall maintain, at the Project Location where the Qualified Investment is made, a total payroll that is at least equal to the payroll level that existed before the Qualified Investment was made.
- I. The Company shall provide written notice to the IEDC not more than thirty (30) days after it makes or receives a proposal that would assign and transfer its State Tax Liability obligations to a successor taxpayer. The successor taxpayer may only receive the tax credits pursuant to this Agreement with the advance written consent of the IEDC.
- J. The Company agrees that at least the Minimum State Investment Percentage (as defined at Exhibit A) of its Qualified Investment will be spent with Indiana Businesses (as defined by Indiana Code § 5-22-15-20.5). The Company shall determine and report the percentage of Qualified Investment spent with Indiana Businesses at the request of the

IEDC. Furthermore, the Company shall permit the IEDC to conduct an on-site audit, or other means of assessment, to determine the Company's compliance with this provision.

8. DUTIES AND RESPONSIBILITIES OF THE IEDC:

- A. The IEDC shall review the Company's Annual Report to the IEDC, which shall be provided pursuant to Paragraph 7A above. The IEDC is hereby authorized to verify with the appropriate State agencies the information reported by the Company, as well as any other information submitted by the Company.
- B. This Agreement is subject to the compliance and enforcement provisions provided in this Agreement and applicable law. If the IEDC finds that the Company is not complying with the requirements of this Agreement or any of the provisions of Indiana Code § 6-3.1-19, the IEDC shall, after giving the Company an opportunity to explain the noncompliance (at a closed-door hearing, as explained in Paragraph 8C below), make a final determination of noncompliance, notify the IDOR of the noncompliance, and request an assessment against the Company, as permitted under applicable law. The IEDC agrees that for any part of the tax credit that is claimed (and allowed by DOR) after it has been passed through to a member of the Company, an assessment will not be sought against the member, and the sole recourse will be to seek an assessment against the Company. The Company agrees that it will be solely liable for any part of the tax credit which is passed through.
- C. Prior to making a final determination, and only to the extent required by Indiana law, the IEDC shall hold a closed-door hearing to provide the Company an opportunity to prove its compliance or otherwise explain its noncompliance. The Company hereby consents and agrees that (i) a hearing shall consist solely of the IEDC providing the Company a brief opportunity to prove the Company's compliance or explain the Company's non-compliance, either in person or telephonically, which opportunity shall occur no sooner than ten (10) days (unless waived by the Company) and no later than forty-five (45) days (unless waived by the IEDC) after the IEDC provides written notice of the Company's potential noncompliance (pursuant to Paragraph 18 below); (ii) the hearing may be conducted at any time set by the IEDC during business hours (EST) and may take place at the IEDC's principal office or within five (5) miles thereof, or at such other time and location as agreed upon by the parties; (iii) unless the IEDC and the Company mutually agree to an alternative time or the Company can demonstrate to the IEDC that exceptional circumstances prevented its attendance, the Company's failure to attend the scheduled in-person or telephonic hearing, either through an authorized Company representative or by counsel, shall be considered a full and irrevocable waiver of any right of the Company under Indiana Code § 5-28-6-6; and (iv) the aforementioned guidelines are reasonable, fair, and consistent with Indiana law. The Company hereby waives any right to a hearing in the event of a default under Paragraph 19 or Paragraph 23J. The Company further acknowledges that the IEDC may temporarily impose a penalty to protect its legal interests, which penalty may be rescinded, adjusted, or removed upon the completion of the hearing. The IEDC will consider written responses or materials of no more than ten (10) pages received no later than one (1) full business day prior to the scheduled hearing, which written response shall act as a waiver of any right of the Company to a hearing unless the written response specifically and conspicuously states otherwise. After having been offered an opportunity for a hearing in writing under this paragraph, the Company may waive in writing any right to a hearing or other further proceeding under Indiana law. The Company acknowledges and agrees that the provisions of Indiana law shall apply only to a violation of this Paragraph 8. The Company hereby acknowledges and agrees that notice provided to the Company in accordance with Paragraph 18 shall fully satisfy any requirement of this paragraph or Indiana law.

- D. Any penalty imposed or assessment recommended by the IEDC upon the Company may become a matter of public record and may state the total incentive received by the Company under this Agreement in a fair and balanced way. The IEDC may disclose certain information relating to (i) any assessment upon the Company under this Agreement as a result of the Company's noncompliance; (ii) any waivers or modifications of this Agreement; (iii) information describing any hearings or determinations made pursuant to this Paragraph 8; and (iv) any other incentive information required to be disclosed by law, as determined by the IEDC.

9. TERMS:

Terms not otherwise defined in this Agreement shall have the meanings set forth in Indiana Code § 6-3.1-19.

10. ACCESS TO RECORDS:

The Company agrees that the IEDC may elect to engage in monitoring practices independently of, or in conjunction with the IDOR under Indiana Code § 6-8.1-3-12. Upon reasonable notice, the Company shall make available to the IEDC, its agents, or other appropriate State agencies or officials all books or records in its possession or control which pertain to this Agreement, the tax credits, and the Project, including but not limited to records of personnel and conditions of employment. All such inspections are to be performed so as not to unreasonably disrupt or interfere with the normal business operations of the Company.

11. SUBSTANTIAL PERFORMANCE:

This Agreement shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any modification thereof.

12. STATUTORY AUTHORITY OF COMPANY:

As a condition of receiving a tax credit award, the Company expressly represents and warrants to the IEDC that it is statutorily eligible to receive the tax credit awards under Indiana Code § 6-3.1-19. The Company expressly agrees to promptly pay all assessments imposed under this Agreement should a legal determination of the Company's ineligibility be made.

13. COMPLIANCE WITH LAWS:

- A. The Company agrees to comply with all applicable federal, State, and local laws, rules, regulations, and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. At the request of either party, the enactment of any relevant State or federal statute or the promulgation of regulations thereunder after execution of this Agreement will be reviewed by the IEDC and the Company to determine whether the provisions of this Agreement require formal modification.
- B. The Company and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the Company and the State of Indiana (the "State"), as set forth in Indiana Code § 4-2-6, Indiana Code § 4-2-7, the regulations promulgated thereunder, and Executive Order 04-08, dated April 27, 2004. If the Company is not familiar with these ethical requirements, the Company should refer any questions to the Indiana State Ethics Commission, or visit the Indiana State Ethics Commission website (www.in.gov/ethics/). If the Company or its agents violate any applicable ethical standards, the IEDC may, in its sole discretion, terminate this Agreement immediately upon notice to the Company. In addition, the Company may be subject to penalties under Indiana Code § 4-2-6-12.
- C. The Company certifies, by entering into this Agreement, that neither it nor any of its principals is presently in arrears in payment of its taxes, permit fees, or other statutory, regulatory, or judicially required payments to the IEDC or the State. Further, the Company agrees that any payments in arrears and currently due to the IEDC or the State may be withheld from tax refunds due to the Company. Additionally, further refunds may

be withheld, delayed, or denied and/or this Agreement suspended until the Company is current in its payments and has submitted proof of such payment to the IEDC.

- D. The Company warrants that it has no pending, current, or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the IEDC of any such actions, should they arise. The IEDC may determine that such action is a default and may suspend this Agreement until the default is cured, as long as the cure occurs in a reasonable time.
- E. If a legitimate dispute exists as to the Company's liability or guilt in any action initiated by the IEDC, the State, or its agencies, and the IEDC decides to delay, withhold, or deny funding to the Company, the Company may request that funding be continued.
- F. The Company warrants that the Company and its subcontractors, if any, will obtain and maintain all required permits, licenses, and approvals, as well as comply with all health, safety, and environmental statutes, rules, and regulations. Failure to do so is a material breach of this Agreement and is grounds for immediate assessment under this Agreement.
- G. The Company hereby affirms that it is properly registered and owes no outstanding reports with the Indiana Secretary of State, and that it is in good standing with the IDOR. The Company also affirms that (i) there are no outstanding enforcement actions against it by agencies of the State, and (ii) there are no significant workforce issues pending against the Company. The below named signatory hereby warrants that he/she is authorized to make such affirmations to the IEDC.
- H. The Company agrees that the IEDC may confirm, at any time, that no liabilities exist to the IEDC or to the State. If any such liabilities are discovered, the Company agrees that the IEDC or the State may bar the Company from contracting with the IEDC or the State in the future, cancel existing contracts, withhold payments to offset such obligations, and/or withhold further payments or purchases until the Company becomes current in its payments on its liability to the IEDC or to the State and has submitted proof of such payment to the IEDC or to the State.
- I. Any payments that the IEDC may delay, withhold, deny, or apply under this Agreement shall not be subject to penalty or interest under Indiana Code § 5-17-5.

14. COMPLIANCE WITH TELEPHONE SOLICITATIONS ACT:

As required by Indiana Code § 5-22-3-7:

- A. The Company and any principals of the Company certify that:
 - (1.) The Company, except for de minimis and nonsystematic violations, has not violated the terms of:
 - (a.) Indiana Code § 24-4.7 [Telephone Solicitation of Consumers];
 - (b.) Indiana Code § 24-5-12 [Telephone Solicitations]; or
 - (c.) Indiana Code § 24-5-14 [Regulation of Automatic Dialing Machines]in the previous three hundred sixty-five (365) days, even if Indiana Code § 24-4.7 is preempted by federal law; and
 - (2.) The Company will not violate the terms of Indiana Code § 24-4.7 for the duration of this Agreement, even if Indiana Code § 24-4.7 is preempted by federal law.
- B. The Company and any principals of the Company certify that an affiliate or principal of the Company and any agent acting on behalf of the Company or on behalf of an affiliate or principal of the Company:
 - (1.) Except for de minimis and nonsystematic violations, has not violated the terms of Indiana Code § 24-4.7 in the previous three hundred sixty-five (365) days, even if Indiana Code § 24-4.7 is preempted by federal law; and

- (2.) Will not violate the terms of Indiana Code § 24-4.7 for the duration of this Agreement, even if Indiana Code § 24-4.7 is preempted by federal law.

15. CONFLICT OF INTEREST:

- A. As used in this Paragraph 15:
 - (1.) "Immediate family" means the spouse and the unemancipated children of an individual.
 - (2.) "Interested party" means:
 - (a.) The individual executing this Agreement;
 - (b.) An individual who, combined with his immediate family, has an equity interest of one percent (1%) or more of the Company, if the Company is not an individual; or
 - (c.) Any member of the immediate family of an individual specified under Paragraph 15A(1) or 15A(2) above.
 - (3.) "Commission" means the State Ethics Commission.
- B. The IEDC may cancel this Agreement without recourse by the Company if such cancellation is consistent with an opinion of the Commission or if any interested party is (i) an employee of the State or the IEDC; (ii) a State officer or special State appointee of the IEDC under Indiana Code § 4-2-6; or (iii) a public servant of the IEDC under Indiana Code § 35-44-1.
- C. The Company has an affirmative obligation under this Agreement to disclose to the IEDC when an interested party is or becomes an employee, officer, or special State appointee of the State or a public servant of the IEDC. The obligation under this paragraph extends only to those facts that the Company knows or reasonably could know.

16. DRUG-FREE WORKPLACE CERTIFICATION:

- A. The Company hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace during the term of this Agreement. The Company will give written notice to the IEDC within ten (10) days after receiving actual notice that the Company, or an employee of the Company in the State, has been convicted of a criminal drug violation occurring in the Company's workplace.
- B. It is further expressly agreed that a false certification, violation of the certification, or the failure of the Company to in good faith comply with the terms of this Paragraph 16 shall entitle the IEDC to impose, or may otherwise result in, sanctions against the Company including, but not limited to, suspension of the credits offered under this Agreement, the termination of this Agreement, and/or the debarment of the Company from doing further business with the IEDC and the State for up to three (3) years.
- C. In addition to the provisions of Paragraphs 16A and 16B above, if the total credits amount set forth in this Agreement exceeds twenty-five thousand dollars (\$25,000.00), the Company hereby further agrees that this Agreement is expressly subject to the terms, conditions, and representations of the following Certification:

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. Pursuant to its delegated authority, the IDOA is requiring the inclusion of this certification in all awards with or from the State in excess of \$25,000.00. No award shall be made, and no grant, purchase order, or agreement, the total amount of which exceeds \$25,000.00, shall be valid, unless and until this certification has been fully executed by the Company and made part of the tax credit or agreement as part of the contract documents.

The Company certifies and agrees that it will provide a drug-free workplace by:

- (1.) Publishing and providing to all of its employees a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Company's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;
- (2.) Establishing a drug-free awareness program to inform employees about:
 - (a.) The dangers of drug abuse in the workplace;
 - (b.) The Company's policy of maintaining a drug-free workplace;
 - (c.) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (d.) The penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
- (3.) Notifying all employees in the statement required by Paragraph 16C(1) that, as a condition of continued employment, the employee will:
 - (a.) Abide by the terms of the statement; and
 - (b.) Notify the Company of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- (4.) Notifying the IEDC, in writing, within ten (10) days after receiving notice from an employee under Paragraph 16C(3)(b), or otherwise receiving actual notice of such conviction;
- (5.) Within thirty (30) days after receiving notice under Paragraph 16C(3)(b) of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace:
 - (a.) Appropriate personnel action against the employee, up to and including termination; or
 - (b.) Requiring that such employee satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purpose by a federal, State, or local health, law enforcement, or other appropriate agency; and
- (6.) Making a good faith effort to maintain a drug-free workplace through the implementation of Paragraphs 16C(1) through 16C(5).

17. NONDISCRIMINATION:

Pursuant to Indiana Code § 22-9-1-10, the Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Company shall not discriminate against any employee or applicant for employment related to this Agreement with respect to the hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, sex, age, disability, national origin, ancestry, or status as a veteran. Breach of this covenant may be regarded as a material breach of this Agreement. Acceptance of this Agreement also signifies compliance with applicable federal and state laws and regulations prohibiting the aforementioned discrimination in the provision of services.

18. NOTICE TO PARTIES:

- A. Whenever any notice, statement, or other communication ("Notice") is required under this Agreement, it shall be sent to the following address, unless otherwise advised in writing:
- (1.) Notices to the IEDC shall be sent to:

INDIANA ECONOMIC DEVELOPMENT CORPORATION
Attention: General Counsel
One North Capitol, Suite 700

Indianapolis, IN 46204-2288

- (2.) Notices to the IDOR shall be sent to:

INDIANA DEPARTMENT OF REVENUE
Office of the Commissioner
IGC-North, Room N248
Indianapolis, IN 46204

- (3.) Notices to the Company shall be sent to the Company Contract Administrator (as defined at Exhibit A).

- B. Notice from the IEDC to the Company may be provided via electronic mail to the Company's electronic mail address specified at Exhibit A, or via certified, registered, or first-class U.S. mail (the "Mail"), at the option of the IEDC. Notice shall be deemed delivered upon dispatch. Any change in Company Contract Administrator or contact information must be provided in writing by the Company to the IEDC.

19. ASSIGNMENT:

- A. Agreement.

This Agreement binds the Company's successors and assignees to all terms and condition herein. The Company shall not assign, subgrant, or subcontract the whole or any part of the Project or this Agreement without prior written approval of the IEDC.2. In the event of any reorganization, transfer of assets, consolidation, merger, or dissolution, the Company must notify the IEDC in writing within thirty (30) days following the reorganization, transfer of assets, consolidation, merger, or dissolution. The Company may not, through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities, or any other voluntary action, seek to avoid the observance or performance of its obligations to the IEDC under this Agreement.

- B. Tax Credit.

The Company may elect to assign all or any portion of the tax credit certification due for any calendar year, subject to the requirements of Indiana Code § 6-3.1-19-3 (a)-(d). For each year the Company makes the election, the Company must notify the IEDC in writing of the election, including: (1) the percentage of the tax credit that should be assigned, (2) the assignee's contact information, (3) the assignee's EIN, and (4) the Company's representation that it has complied with Indiana Code § 6-3.1-19-3 (a)-(d) in making the assignment. The election must be made on or before the reporting deadline of February 15, so that the IEDC may issue the tax credit certification directly to the assignee. The Company's failure to make a timely election shall constitute a waiver of the election.

20. INDEMNIFICATION:

The Company agrees to indemnify, defend, and hold harmless the IEDC and the State and their respective agents, officers, employees, and representatives from all claims and suits. The Company shall bear all costs, including court costs, attorney's fees, and other expenses caused by any act or omission of the Company and/or its contractors or invitees, if any. The IEDC shall not provide any indemnification to the Company or its employees, contractors, or invitees.

21. DEBARMENT AND SUSPENSION:

The Company certifies, by entering into this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Agreement by any federal agency or department, the IEDC, or any agency or political subdivision of the State. The term "principal" for purposes of this Agreement means an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Company.

22. PENALTIES; INTEREST; ATTORNEY'S FEES:

The IEDC will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law, including Indiana Code § 5-17-15, Indiana Code § 34-54-8, and Indiana Code § 34-13-1. Notwithstanding the provisions contained in Indiana Code § 5-17-5, the parties hereto stipulate and agree that any liability of the IEDC shall be limited to only the amount of tax credits for which the Company is eligible due to its performance under this Agreement. In the event of legal action or proceedings of any kind, including without limitation enforcement of payment terms, or for an assessment, whether brought by either party, the IEDC shall be entitled to reasonable attorney's fees, court costs, and other related reasonable expenses, plus interest pursuant to Indiana Code § 34-51-4-9.

23. MISCELLANEOUS:

- A. The headings in this Agreement are intended solely for convenience or reference and will be given no effect in the construction or interpretation of this Agreement.
- B. This Agreement, including any attached Exhibits, supersedes all prior oral and written proposals and communications, if any, and sets forth the entire Agreement of the parties with respect to the subject matter hereof. This Agreement may not be altered or amended except in writing, signed by an authorized representative of each party hereto. The annual credit amount in Paragraph 6 and set forth at Exhibit A may be amended only with the review and certification of the State Budget Director.
- C. Any inconsistency or ambiguity in this Agreement shall be resolved by giving precedence in the following order: (1) Indiana Code § 6-3.1-19; (2) regulations governing the IEDC and the IDOR; (3) this Agreement, including its Exhibits. All of the foregoing are fully incorporated herein by reference.
- D. The construction and enforcement of this Agreement will be governed by the laws of the State of Indiana, without regard to principles of choice of law. The venue for any court action shall be the circuit or superior court of Marion County, Indiana or the United States District Court of the Southern District of Indiana. The Company hereby consents to the personal jurisdiction of said courts.
- E. No waiver of any default, failure to perform, condition, provision, or breach of this Agreement will be deemed to imply or constitute a waiver of any other like default, failure to perform, condition, provision, or breach of this Agreement.
- F. If any paragraph, term, condition, or provision of this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable, or if any paragraph, term, condition, or provision is found to violate or contravene the laws of the State of Indiana, then the paragraph, term, condition, or provision so found will be deemed severed from this Agreement, but all other paragraphs, terms, conditions, and provisions will remain in full force and effect.
- G. The parties to this Agreement, in the performance thereof, will be acting in an individual capacity and not as agents, employees, partners, joint venturers, or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of any other party for any purposes whatsoever. No party will assume any liability for any injury (including death) to any persons, or any damage to any property arising out of the acts or omissions of the agents, employees, or subagents of any other party.

- H. The Company shall be responsible for providing all legally required unemployment and workers' compensation insurance for its employees.
- I. Unless otherwise terminated or modified as expressly permitted hereunder, this Agreement will remain in force during the term stated in Paragraph 2. Notwithstanding anything contained herein to the contrary, provisions of this Agreement which by their nature contemplate rights and obligations of the parties to be enjoyed or performed after the expiration or termination of this Agreement will survive until their purposes are fulfilled.
- J. The IEDC may terminate this Agreement, and the Company (but not its members) shall be subject to an immediate tax assessment under this Agreement in the amount of any tax credits previously claimed under this Agreement by the Company and/or its members, plus any applicable interest and penalties, if any one or more of the following events occur: (i) the Company makes an assignment, conveyance or surrender of the Project facilities for the benefit of creditors; (ii) the Company applies to any court for the appointment of a trustee or receiver of any substantial part of the assets of the same or commences any proceedings relating to any of the same under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution, or other liquidation law of any jurisdiction; or (iii) any application is filed or proceedings are commenced as described above against the Company and the Company indicates its approval, consent, or acquiescence, or an order is entered appointing a trustee or receiver or adjudication of any of the same as a bankrupt or an insolvent or approving the petition in any such proceedings, and such proceedings are not dismissed within sixty (60) days after the filing or commencement of such proceedings. Should any of the aforementioned events occur, the Company shall immediately provide written notice to the IEDC. This paragraph shall not be construed to limit the ability of the IEDC or the IDOR to collect, or limit the Company's obligation to repay, any tax credits claimed under this Agreement, plus any applicable interest and penalties, should any one or more of the aforementioned events occur. The IEDC agrees that it will not seek an assessment against the Company's members.
- K. This Agreement may be executed through an original or through a facsimile copy, and in duplicate or through counterparts, each of which shall be deemed to be an original, and all of which shall constitute but one and the same Agreement.

24. REPRESENTATIONS CONCERNING APPLICATION:

The Company represents and warrants that all representations, statements, and all other matters contained in the application submitted by the Company to the IEDC are true and complete in all material respects, unless disclosed or made a part of this Agreement. It shall be considered a material breach of this Agreement if such representations, statements, and other matters were not true and complete at the time the application was made.

25. AUTHORITY TO COMMIT TO AGREEMENT:

Notwithstanding anything in this Agreement to the contrary, the signatory for the Company represents that he/she has been duly authorized to execute contracts on behalf of the Company and has obtained all necessary or applicable approvals to make this Agreement fully binding upon the Company when his/her signature is affixed. This Agreement is not subject to further acceptance by the Company once accepted by the IEDC.

26. NOTICE OF SEVERE WORKFORCE REDUCTIONS:

During the term of this Agreement, the Company will provide the IEDC written notice at least sixty (60) days in advance of any reductions in the Company's workforce that will result in loss of employment for fifty percent (50%) or more of the employees at the Project Location.

27. DISLOCATED WORKER PROGRAM:

As required by law, the Company agrees to consider qualified dislocated workers who reside in Indiana and apply to the Company for available employment positions related to the Project. The Company is also encouraged to post available job openings and to solicit applications by using IndianaCareerConnect (www.indianacareerconnect.com), or such other resources promoted by the IEDC Dislocated Worker Program. The Company understands that failure to comply with this provision may subject the Company to immediate assessment under this Agreement.

28. NON-COLLUSION AND ACCEPTANCE:

The undersigned representative of the Company attests, subject to the penalties for perjury, (i) that he/she is the contracting party or that he/she is the duly authorized representative, agent, member, or officer of the Company; (ii) that he/she has not, nor has any other member, employee, representative, agent, or officer of the Company, directly or indirectly, to the best of the undersigned's knowledge, entered into or offered to enter into any combination, collusion, or agreement to receive or pay; and (iii) that he/she has not received or paid, any sum of money or other consideration for the execution of this Agreement other than that which appears upon the face of this Agreement.

(Remainder of page intentionally left blank)

IN WITNESS WHEREOF, the Company and the IEDC have, through duly authorized representatives, understood the foregoing terms of this Agreement and do by their respective signatures hereby enter into this Agreement and agree to the terms hereof.

CORNERSTONE MARION LLC



LARRY POLHILL
Director/*MANAGER*

9-25-13

DATE

CV EAST, LLC



LARRY POLHILL
Director/*MANAGER*

9-25-13

DATE

INDIANA ECONOMIC DEVELOPMENT CORPORATION



ERIC DODEN
PRESIDENT



9-26-13

DATE

COMMUNITY REVITALIZATION ENHANCEMENT DISTRICT (CReED) TAX CREDIT AGREEMENT

CORNERSTONE MARION LLC and CV EAST, LLC

EXHIBIT A

1. SCHEDULE OF TERMS:

A. Time Frames:

- (1.) "Base Year" shall mean the calendar year ending **December 31, 2012**.
- (2.) "Commencement Date" shall mean **December 6, 2012**, the issue date of the preliminary approval letter sent to the company by the IEDC.
- (3.) "First Eligible Tax Year" shall mean the Taxable Year ending on **December 31, 2013**, the year immediately succeeding the Base Year.
- (4.) "Investment Deadline" shall mean **December 31, 2015**.
- (5.) "Expiration Date" shall mean **December 31, 2022**.

B. Financials:

- (1.) "Base Employment Number" shall mean **0**.
- (2.) "Base Average Wage" shall mean [REDACTED]
- (3.) "Award Percentage" shall mean **25%**.
- (4.) "Maximum Credit" shall mean **\$5,800,000**.
- (5.) "Qualified Investment," pursuant to Indiana Code § 6-3.1-19-2, shall mean **\$23,200,000**. The Company intends to invest at least \$8,000,000 on or before December 31, 2013.
- (6.) "Minimum State Investment Percentage" shall mean **50%**.

C. "Company Contract Administrator" shall mean:

Mr. Larry Polhill
Director
Cafe Valley, Inc
7000 W. Buckeye Rd
Phoenix, AZ 85043
lpolhill@cafevalley.com
http://www.cafevalley.com

2. PROJECT INFORMATION:

- A. The Project shall consist of the Company relocating their commercial bakery operation from Phoenix, AZ to Marion, IN.
- B. The Capital Investment for the entire Project is anticipated to be **\$42,000,000**.
- C. The Project will be located at **Marion, IN** (the "Project Location").

3. FISCAL IMPACT REQUIREMENTS:

<u>Calendar Year</u>	<u>Aggregate Indiana Employment at Project Location</u>	<u>Average Hourly Wage of All Indiana Employees</u>
2013	0	
2014	100	
2015	275	
2016	350	
2017	400	
2018	400	
2019	400	
2020	400	
2021	400	
2022	400	

4. JOINT AND SEVERAL LIABILITY:

This Agreement is with Cornerstone Marion LLC, and CV EAST, LLC, which shall be jointly and severally responsible to satisfy the obligations under the Agreement. In the event of a default, all entities are jointly and severally liable for the obligations in the Agreement, irrespective of which entity caused the default and irrespective of which entity actually received or expended the credits.