

**ATTACHMENT \_\_\_: FORM OF AGREEMENT**

STATE OF GEORGIA,  
COUNTY OF \_\_\_\_\_:

**AGREEMENT FOR AUDIT SERVICES**

THIS AGREEMENT FOR AUDIT SERVICES, hereinafter referred to as "Agreement", is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2013, (the "Date Hereof"), by \_\_\_\_\_ and \_\_\_\_\_ between \_\_\_\_\_ a (sole proprietorship, general or limited partnership, professional corporation or business corporation) whose agent and address \_\_\_\_\_ for purposes of this agreement is \_\_\_\_\_

\_\_\_\_\_, (hereinafter "Auditor") and the Georgia Housing and Finance Authority, a body corporate and politic which shall be deemed an instrumentality of the State of Georgia and a public corporation performing an essential governmental function for the purposes of this Agreement (hereinafter "GHFA" or "Authority").

**WITNESSETH THAT:**

WHEREAS, GHFA is a governmental entity, pursuant to the Official Code of Georgia Annotated § 50-26-1 et seq.; and

WHEREAS, GHFA is required to be audited on a regular basis in accordance with certain specified audit standards; and

WHEREAS, the Auditor is a (describe private entity) organized under the laws of the State of Georgia engaged in the practice of accountancy and business of performing professional Audit Services; and

WHEREAS, the GHFA desires to utilize the professional services of the Auditor, in accordance with the needs, requirements, terms and conditions contained in a Request for Proposals, RFP Number: 12013AUD (the "RFP"), and the proposal (the "Auditor's Proposal") submitted by the Auditor in response to the RFP, which RFP and Auditor's Proposal are attached hereto and by this reference incorporated herein ("Audit Services"); and

WHEREAS, the GHFA awarded the contract for Audit Services to the Auditor in accordance with the RFP and in reliance upon the representations and certifications contained in the Auditor's Proposal; and

WHEREAS, the Auditor and GHFA desire to document the terms and conditions of their Agreement.

**NOW, THEREFORE**, for and consideration of the mutual covenants contained herein, the receipt and sufficiency of which is hereby acknowledged, it is agreed as follows:

ARTICLE 1  
BASIC AGREEMENT

The Auditor will perform professional Audit Services in accordance with the Audit Requirements of the RFP. GHFA will provide the information required by the RFP. The Auditor shall be compensated for its services as provided in the RFP and the Auditor's Proposal.

ARTICLE 2  
COVENANTS AND REPRESENTATIONS

2.1 Covenants of the Auditor. The Auditor is engaged for the sole purpose of performing Audit Services and shall perform professional Audit Services in accordance with the Audit Requirements of the RFP, and any attachments thereto, all of which are by this reference incorporated herein.

2.2 Covenants of the Authority. The Authority will provide to Auditor all information reasonably necessary, useful or customary pursuant to both standard accounting and auditing practices and customary within GHFA's trade or business activities.

2.3 Representations. To induce the GHFA to enter into this Agreement, the GHFA shall be entitled to rely upon the representations and certifications made by the Auditor in the Auditor's Proposal, without independent investigation and verification, and each such representation or certification shall be deemed to be material to this Agreement. The person negotiating and executing this Agreement on behalf of the Auditor has the full right, power, and authority to enter into, execute and perform this Agreement in accordance with the terms hereof, and when executed and delivered, this Agreement will constitute a valid and binding obligation of the Auditor and will be enforceable in accordance with the terms thereof.

2.4 Conflict of Interest. Auditor agrees to warrant, represent and certify that, to the best of its knowledge, no member, employee, officer, agent or official of Auditor has any direct or indirect conflict of interest. Auditor agrees to comply with all applicable regulations on conflict of interest under federal or state law. Auditor agrees that its performance of Audit Services under this Agreement will not conflict with or be prohibited in any way by any legal, financial or other obligation other than the contractual obligations resulting from the RFP.

2.5 Immigration Reform and Control Act. Auditor warrants that it complies with the Immigration Reform and Control Act of 1986 (IRCA), D.L. 99-603, the Georgia Security and Immigration Compliance Act (HB 2), the Illegal Immigration Reform and Enforcement Act of 2011 (HB 87) and any other applicable state or federal immigration law. The Authority will maintain on file the driver's license or other acceptable form of identification and the Immigration and Security Affidavit of the person who is authorized to enter into and sign this agreement for services.

2.6 Georgia Open Records Act. The Georgia Open Records Act, as provided in O.C.G.A. §§ 50-18-70 et seq., requires that public records be open and available for inspection by any member of the public. Auditor acknowledges that the Audit Services performed are subject to the Georgia Open Records Act.

2.7 Lobbying. Auditor hereby certifies that the Auditor and its lobbyists are in compliance with the Lobbyist Registration Requirements in accordance with the Georgia Vendor Manual.

2.8 Negligence or Misconduct. Auditor agrees to perform its obligations in accordance with the highest professional standards of care. If anyone associated with Auditor commits a grossly negligent or reckless act or engages in willful or intentional misconduct while performing Audit Services under this Agreement, Auditor must immediately report such action or misconduct in writing to the Authority.

2.9 Certification Regarding Sales and Use Tax. By executing this Agreement, the Auditor certifies it is either (a) registered with the State Department of Revenue, collects, and remits State sales and use taxes as required by Georgia law, including Chapter 8 of Title 48 of the O.C.G.A.; or (b) not a “retailer” as defined in O.C.G.A. § 48-8-2. Auditor also acknowledges that the State may declare this Agreement void if the above certification is false. Auditor also understands that fraudulent certification may result in the Authority or its representative filing for damages for breach of contract.

2.10 Insurance. Auditor agrees to maintain the following insurance coverage during the term of this Agreement:

2.10.1 Workers Compensation Insurance (Occurrence) in the amounts of the statutory limits established by the General Assembly of the State of Georgia (A self-insurer must submit a certificate from the Georgia Board of Workers Compensation stating that the Auditor qualifies to pay its own workers compensation claims.) In addition, the Auditor shall require all subcontractors occupying the premises or performing work under the Agreement to obtain an insurance certificate showing proof of Workers Compensation Coverage with the following minimum coverage:

- 2.10.1.1 Bodily injury by accident--per employee \$100,000;
- 2.10.1.2 Bodily injury by disease--per employee \$100,000;
- 2.10.1.3 Policy limits \$500,000.

2.10.2 Commercial General Liability Policy with the following minimum coverage:

- 2.10.2.1 General Aggregate including
- 2.10.2.2 Products and Completed Operations-- \$1,000,000;
- 2.10.2.3 Each Occurrence-- \$1,000,000; Aggregate Limit-- \$3,000,000.

2.10.3 Business Auto Policy to include but not be limited to liability coverage on any owned, non-owned and hired vehicle used by the Auditor or Auditor’s personnel in the

performance of this Agreement. The Business Automobile Policy shall have a per occurrence limit of at least \$1,000,000.

2.11 Drug-free Workplace. Auditor hereby certifies as follows:

2.11.1 Auditor will not engage in the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of this Agreement; and

2.11.2 If Auditor has more than one employee, including Auditor, Auditor shall provide for such employee(s) a drug-free workplace, in accordance with the Georgia Drug-free Workplace Act as provided in O.C.G.A. § 50-24-1 et seq., throughout the duration of this Agreement; and

2.11.3 Auditor will secure from any subcontractor hired to work on any job assigned under this Agreement the following written certification: "As part of the subcontracting agreement with (Auditor's Name), (subcontractor's Name) certifies to the Auditor that a drug-free workplace will be provided for the subcontractor's employees during the performance of this Agreement pursuant to paragraph 7 of subsection (b) of Code § 50-24-3."

2.11.4 Auditor may be suspended, terminated, or debarred if it is determined that:

2.11.4.1 Auditor has made false certification here in above; or

2.11.4.2 Auditor has violated such certification by failure to carry out the requirements of O.C.G.A. § 50-24-3(b).

2.12 Compliance with the Law. During the performance of this Agreement, the Auditor shall comply with all applicable laws, including, but not, limited to federal, state and local laws, codes, regulations, ordinances, rules and orders, including all laws concerning fair housing and equal opportunity that protect individuals and groups against discrimination on the basis of race, color, national origin, religion, disability, familial status or sex. The Auditor, its employees, agents and subcontractors shall also comply with all federal, state and local laws regarding business permits and licenses that may be required to carry out the work performed under this Agreement. Auditor and Auditor's personnel shall also comply with all State and Authority policies and standards in effect during the performance of the Agreement, including but not limited to the Authority's policies and standards relating to personnel conduct, security, safety, confidentiality, and ethics. Further, the provisions of O.C.G.A. § 45-10-20 et seq. have not and must not be violated under the terms of this Agreement.

ARTICLE 3  
FEES AND BILLING

3.1 Fees. The Auditor shall be paid for its Audit Services as provided in the schedule of fees and expenses submitted by the Auditor in the Auditor's Proposal in the sealed dollar cost bid as stated in the Cost Proposal component of the RFP, Section V, which are by this reference incorporated herein. Additional services shall be compensated in the manner set forth in the Addendum to this Agreement, at the same rates as set forth in the schedule of fees and expenses submitted by the Auditor in the Auditor's Proposal.

3.2 Billing. Auditor shall submit an invoice for the Audit Services supplied to the Authority under this Agreement. GHFA shall pay all approved invoices in arrears and in accordance with applicable provisions of State law. Unless otherwise agreed in writing by the Authority and the Auditor, the Auditor shall not be entitled to receive any other payment or compensation from the Authority for Audit Services provided by or on behalf of the Auditor under this Agreement. Auditor shall be solely responsible for paying all costs, expenses and charges it incurs in connection with its performance under this Agreement.

ARTICLE 4  
CONTINGENCIES

4.1 Contingent Obligations of the GHFA. The obligations of the GHFA are subject to the following conditions:

4.1.1 The ability of the GHFA to carry out the terms of this Agreement in accordance with the laws and Constitution of the State of Georgia.

4.1.2 The timely performance by the Auditor of each and every covenant, agreement, and obligation imposed upon the Auditor in this Agreement.

4.1.3 The truth and accuracy as of the Date Hereof of each and every representation made by the Auditor.

4.1.4 This Agreement is expressly made subject to other laws affecting its subject matter. In the event of any conflict between such laws and this Agreement, such laws shall take precedence.

4.2 Contingent Obligations of the Auditor. The obligations of the Auditor are subject to the following conditions:

4.2.1 The timely performance by the GHFA of each and every covenant, agreement, and obligation imposed upon the GHFA in this Agreement.

ARTICLE 5  
TERM

5.1 Term. This Agreement shall have an initial term of up to twelve (12) months, to run concurrently with a fiscal year of the GHFA, commencing on the Date Hereof and terminating

on the same day of the following year, and be subject to renewal for four (4) additional successive term(s), if the GHFA gives notice of its election to renew the Agreement within thirty (30) days prior to the end of the term and with the approval of AFI and EDI.

5.2 Renewal. If the Agreement is renewed, Auditor shall remain obligated to perform in strict accordance with this Agreement unless otherwise agreed by the Auditor and the Authority. Renewal will be accomplished through the issuance of a Renewal Letter.

5.3 Extension. In the event that the agreement(s), if any, resulting from the award of this RFP shall terminate or be likely to terminate prior to the making of an award for a new contract for the Audit Services, GHFA may, with the written consent of the Auditor, extend the agreement(s) for such period of time as may be necessary to permit GHFA's continued supply of the identified products and/or services. The agreement(s) may be amended in writing from time to time by mutual consent of the parties.

## ARTICLE 6 NOTICES

All notices, demands or requests required or permitted to be given pursuant to this Agreement shall be in writing and given or served either in person or by United States Mail, postpaid, registered or certified with Return Receipt Requested, showing the name of the recipient and the date of delivery. Notices shall be addressed to the party or parties identified and at the address as set forth in the introductory paragraph of this Agreement, and the date upon which such notice is delivered shall be deemed the effective date thereof. Either party may, from time to time, by five (5) days' prior written notice to the other party, specify a different agent or address to which notices can be delivered. Rejection or other refusal to accept a notice or inability to deliver a notice because of a changed agent or address of which no notice was given shall constitute receipt of the notice on the date when personal service is attempted or the date of the postmark, if mailed.

## ARTICLE 7 RIGHTS CUMULATIVE

All rights, powers, and privileges conferred hereunder shall be cumulative and not restrictive of those given by law.

## ARTICLE 8 NON-WAIVER

No failure of GHFA to exercise any right or power given to it under this Agreement, or to insist upon strict compliance by the Auditor with the provisions of this Agreement, and no custom or practice of GHFA or the Auditor at variance with the terms and conditions of this Agreement, shall constitute a waiver of GHFA's right to demand exact and strict compliance with the terms and conditions of this Agreement.

ARTICLE 9  
CONTINUITY

Each of the provisions of this Agreement shall be binding upon and inure to the benefit and detriment of the Auditor and GHFA and the heirs, devisees, legatees, legal representatives, successors and assigns of the Auditor and GHFA.

ARTICLE 10  
DATE FOR PERFORMANCE

If the time period by which any right, option or election provided under this Agreement must be exercised, or by which any act required hereunder must be performed, or by which the Closing must be held, expires on a Saturday, Sunday or legal holiday, then such time period shall be automatically extended through the close of business on the next regularly scheduled business day.

ARTICLE 11  
TIME OF THE ESSENCE

All time limits stated herein are of the essence of this Agreement.

ARTICLE 12  
CAPTIONS

The brief headings or titles preceding each provision hereof are for purposes of identification and convenience only and should be completely disregarded in construing this Agreement.

ARTICLE 13  
COUNTERPARTS

This Agreement is executed in two (2) counterparts which are separately numbered but each of which is deemed an original of equal dignity with the other and which is deemed one and the same instrument as the other.

ARTICLE 14  
CHOICE OF LAW

The laws of the State of Georgia shall govern and determine all matters arising out of or in connection with this Agreement without regard to the choice of law provisions of State law. In the event any proceeding of a quasi-judicial or judicial nature is commenced in connection with this Agreement, such proceeding shall solely be brought in a court or other forum of competent jurisdiction within DeKalb County, Georgia. This provision shall not be construed as waiving any immunity to suit or liability, including without limitation sovereign immunity, which may be available to the State.

ARTICLE 15  
NO ASSIGNMENT, NO THIRD PARTY BENEFICIARIES

14.1 This Agreement is a personal retention of Auditor as an independent Auditor. Auditor must perform by its own forces and may not delegate, subcontract, assign, transfer, or otherwise obtain its performance of this Agreement, without the express written consent of GHFA.

14.2 Nothing herein shall be construed as conferring upon or giving to any person, other than the parties hereto, any rights or benefits under or by reason of this Agreement.

ARTICLE 16  
NOTICE

15.1 Notice. Any and all notices, designations, consents, offers, acceptances or any other communication provided for herein shall be given in writing by registered or certified mail, return receipt requested, by receipted hand delivery, by Federal Express, courier or other similar and reliable carrier which shall be addressed to the following persons:

If to Auditor:

If to GHFA:

Each such notice shall be deemed to have been provided at the time it is actually received; or within one (1) day in the case of overnight hand delivery, courier or Services such as Federal Express with guaranteed next day delivery; or within five (5) days after it is deposited in the U.S. Mail in the case of registered U.S. Mail. From time to time, the parties may change the name and address of the person designated to receive notice. Such change of the designated person shall be in writing to the other party and as provided herein.

[Signatures on the Next Page]

**IN WITNESS WHEREOF**, the Auditor and GHFA have caused these presents to be duly signed, sealed and delivered on the day, month, and year first above written.

**AUDITOR**

By \_\_\_\_\_ (Seal)

Name:

Title:

(If corporation, fill in below)

Attest: \_\_\_\_\_ (Seal)

Name:

Title:

(Corporate seal affixed)

**GEORGIA HOUSING AND FINANCE AUTHORITY**

By \_\_\_\_\_ (Seal)

Name:

Title: