

MASTER NON-RECOURSE PARTICIPATION AGREEMENT

ANY LOAN PARTICIPATION PURCHASED AND SOLD PURSUANT TO THIS AGREEMENT CONSTITUTES A SALE OF A PERCENTAGE OWNERSHIP INTEREST IN THE INDEBTEDNESS, NOTE OR NOTES, COLLATERAL AND OTHER LOAN DOCUMENTS AND SHALL IN NO WAY BE CONSTRUED AS AN EXTENSION OF CREDIT BY THE BUYER TO THE SELLER. THE INTEREST BEING PURCHASED IN THE LOAN PARTICIPATION MAY NOT BE LIQUIDATED IN A TIMELY MANNER IF THE BORROWER IS UNABLE TO REPAY THE LOAN WHEN DUE, AND LOAN COLLECTION ACTIVITY MIGHT BE REQUIRED TO CONVERT THE LOAN INTO CASH RESOURCES. AS SUCH, THIS PARTICIPATION INTEREST SHOULD NOT BE CONSIDERED READILY LIQUID, AS THE TIME TO LEGALLY COLLECT ON THE LOAN AND CONVERT THE LOAN TO CASH PROCEEDS MAY BE CONSIDERABLE.

This Master Non-Recourse Participation Agreement (hereinafter referred to as "Agreement") is made this ____ day of _____, **2014** by and between **North Island Credit Union, a California chartered credit union** (hereinafter referred to as "Lead Lender, Originator, Servicer or Seller"), and Xxxxxx Xxxxxx Credit Union (hereinafter referred to as "Buyer").

THE ABOVE PARTIES ACKNOWLEDGE THAT BY EXECUTING THIS AGREEMENT, EACH PARTY IS AGREEING TO BE BOUND BY THE TERMS OF THIS AGREEMENT WHENEVER IT ENGAGES IN A LOAN PARTICIPATION TRANSACTION, AND THE PARTICIPATION CERTIFICATE REFLECTS THAT THE PARTICIPATION TRANSACTION IS SUBJECT TO THIS AGREEMENT.

A. Background

1. The Parties desire to enter into this Agreement wherein Seller may sell and Buyer may buy a portion of any qualifying loan. Seller, Buyer, Servicer and Borrower (as those terms, with others, are hereinafter defined) of a particular loan (hereinafter the "Loan") will be identified in the Loan Participation Certificates, which are incorporated by reference into this Agreement. The Loan Participation Certificates will also set forth all the economic terms of the Participation Interest (as hereinafter defined) in the particular transaction negotiated between Seller and Buyer, and the identity of borrower (hereinafter "Borrower"). Buyer, Seller and any other buyers of participation interests in the Loan are collectively referred to as "Participants". Buyer and Seller are collectively and individually referred to as "Parties" or "Party." Seller shall service the Loan and in such role shall be referred to as the "Servicer." The duties and rights of the respective Parties are more specifically described within this Agreement.
2. The promissory note (hereinafter referred to as the "Note") for the Loan is attached to each Loan Participation Certificate as Exhibit "A" thereto. If the interest rate on the Note is variable, the amount of interest received by Seller and by Buyer shall vary and will increase or decrease based upon changes in the interest rate on the Note.
3. Borrower's performance of its obligations under the Note and Loan Agreement (if applicable) is to be secured by a Deed of Trust (hereinafter referred to as the "Deed of Trust"), a copy of which will be provided to each Participant by Seller. The Deed of Trust shall constitute a first lien on the real property described therein, unless fully disclosed by the Seller in writing; such priority to be assured by an ALTA policy of title insurance in favor of Seller.

4. Participants have reviewed the Loan Documents (which are comprised of the Note, the Deed of Trust, the credit application, business and personal financial statements, collateral information and all the other supporting documents) and have made an independent investigation into and determination of the Borrower's financial condition and credit worthiness and the value and lien status of the collateral securing the Loan.
5. As a result of said independent investigation into and determination of Borrower's financial condition and credit worthiness and the value and lien status of the collateral securing the Loan and based on the representations and warranties provided by Seller and Servicer herein, Buyer desires to purchase an undivided interest in the Loan on the terms and conditions hereinafter set forth.

B. Purchase and Sale

1. Seller agrees to sell, assign, and transfer to Buyer and Buyer agrees to purchase from Seller a Participation Interest in the Loan subject to the terms and conditions of this Agreement. Seller may sell undivided interests in the Loan to more than one buyer.
2. The respective Participation Interest of Buyer shall be evidenced by the Loan Participation Certificate, which shall be executed by Seller and delivered to Buyer.
3. As reflected on the Loan Participation Certificate, the Parties agree that (a) Buyer will buy the percentage of the Loan(s) that is set forth in the Loan Participation Certificate and will adjust its principal payment accordingly, if required; or (b) Buyer will not be obligated to pay more than the dollar amount set forth in the Loan Participation certificate for the Participation Interest and the percentage purchased shall be adjusted accordingly, if required.
4. The Originator must remain a Participant in the Loan throughout the life of the Loan.
5. The Originator shall retain a minimum of 5% ownership interest in any participated Loan or group of Loans, unless a higher percentage is required under state law consistent with other risk retention standards, such as Dodd-Frank requirements for securitizers.

C. Participation Interest

Such undivided interest in the Loan is hereinafter referred to as the "Participation Interest."

D. Buyer's Payment

Upon demand by Seller either verbally or written, as appropriate, Buyer will make available to Seller at its main office, located at 9201 Spectrum Center Blvd., San Diego, CA 92123, in immediately available funds, an amount equal to the Participation Interest and/or each advance to be made under the Loan Agreement.

E. Limitation of Parties

The Parties to the Agreement are limited to federally chartered credit unions, state chartered credit unions, federally chartered financial institutions and federally insured financial institutions.

F. Non-Recourse Element of Sale

To comply with true sale of the asset accounting rules, all Participation Interests are sold without recourse. Each Participant bears the risk of Borrower default on the Loan in proportion to the Participation Interest held by the respective Participant. The Loan also carries the risk of accelerated principal pay down up to and including Loan pay off.

G. Resale of Participation Interests

Subject to any applicable regulatory requirements, and in accordance with Paragraph M herein, Buyer may sell to, or purchase a Participation Interest or portion thereof from any other Participant, or any eligible Party under Paragraph E above, at any time. If Buyer of the resold Participation Interest is not a signatory on this Agreement, such Buyer's signature on the Loan Participation Certificate shall serve as agreement to assume and be bound by the terms of this Agreement and evidences such Buyer's consent to be so bound. A copy of this Agreement shall be provided to such Buyer. Seller shall not be bound by any representations or agreements made by a secondary seller to Buyer.

H. Servicer

1. Duties. Servicer will be responsible for segregating, reporting, and delivering to each Participant and any successors and assignees its pro-rata share of actual principal collections and its interest, separately designated, in a manner consistent with the respective Participation Interests then outstanding on or before the date of the month stated in the Participation Certificate. The accounting cut-off date for remittance shall be the date of the month stated in the Loan Participation Certificate. Servicer shall take collection actions in accordance with the terms of this Agreement.
2. Fees. Servicer's fee for its services is set forth in the Loan Participation Certificate. Servicer shall also receive all default penalties, extension fees, forbearance fees and late charges payable by the defaulting Borrower.
3. Financial Disclosure. Servicer shall provide on an annual basis or at the reasonable request of a Participant, current financial information on the Servicer. A financial package and other due diligence information has been compiled to meet Participant's reasonable requirements and is available at www.myisland.com/partners

I. Covenants, Warranties and Representations

1. By Seller. Seller makes the following representations and warranties to Buyer:
 - a. Seller is authorized to sell the Participation Interest in the Loan.
 - b. The Originator is qualified to underwrite loans of the type that have been offered for sale and the Loans have been underwritten to at least the same standard as loans maintained in the Originator's direct portfolio in regards to underwriting policies and procedures.
 - c. The Loan has been made by Seller pursuant to and in compliance with all applicable federal and state laws, regulations, and rules as from time to time amended, including and to the extent applicable: usury limitations, the Truth-in-Lending Act of 1968, the Equal Credit Opportunity Act, the Real Estate Settlement Procedures Act, the Fair Housing Act and the NCUA Rules & Regulations.

- d. At Buyer's request, Seller will provide Buyer with copies of all relevant credit and other information currently in the possession of Seller, that were used by Seller as a basis of and for its decision to make the Loan to the Borrower.
- e. At Buyer's request, Seller will provide Buyer with copies of the Loan Documents that were executed (and/or that are to be executed) by the Borrower as well as by other co-makers, guarantors and endorsers, as applicable, under the Loan.
- f. All Loan Documents, all magnetic or computer tapes, all exhibits, schedules and every document or report delivered, or to be delivered, by Seller to Buyer accurately and completely reflect in all material respects the facts stated therein, including, without limitation, the outstanding principal balances or other charges or payment due under the Loans, and any and all other significant events relating to the Loans. Neither this Agreement, nor any statement, report or other document furnished, or to be furnished pursuant to this Agreement, or in connection with the transaction contemplated herein, contains any untrue statement or misrepresentation of material fact or omits to state any material fact necessary to make any statement or representation that has been made not materially misleading.
- g. All costs, fees and expenses incurred in making, closing and recording the mortgage or lien against the collateral have been paid and the full principal amount of the mortgage has been disbursed or advanced to the Borrower or disbursed or advanced according to the direction of the Borrower. Each Loan is valid and complies with all applicable lending laws and regulations. The Loan Documents contain all documents, instruments or other writings pertaining to each Loan, duly executed on the dates indicated and in due and proper form.
- h. To the best of Seller's knowledge the collateral is insured by an insurer licensed to do business in the state where the collateral is located and generally acceptable in the industry against loss by fire, theft, vandalism and hazards as are customary in the area in which the collateral is located, in an amount which is at least equal to the replacement cost of the improvements. All such policies are in full force and effect.
- i. To the best of Seller's knowledge, no hazardous substance has been installed, placed, disposed of, released, identified or dealt with in any manner in, on, under, around or at any collateral. No collateral has been used for the release, storage, treatment, generation or disposal of Hazardous Substances. No hazardous substances are present in, on, under, around, at or below any collateral in such a manner or concentration as to violate any law, regulation or guideline. No collateral, by itself or as part of any other property, has been identified by any government agency as the site of a "release", within the meaning of CERCLA or RCRA, of a hazardous substance, unless fully disclosed to Buyer and mitigated by obtaining Environmental Insurance to cover the potential exposure.
- j. All Borrowers are credit union members of Seller or are other persons to whom Seller was permitted by law to make the Loan.
- k. There are no events of default under the Loan and/or under the Loan Documents known to Seller.
- l. The Loan has not been classified on the books of Seller and has been properly reflected on Seller's books (and timely and properly charged off or written down) in accordance with NCUA Letter to Credit Unions 03-01 and GAAP.
- m. The Loan is presently on accrual status.
- n. The terms of the Loan have not previously been renegotiated as a result of a prior deterioration in the Borrower's financial condition.

- o. To Seller's knowledge, the Loan Documents were validly executed by the Borrower, as well as, to the degree applicable, by the co-makers, guarantors and / or endorsers under the Loan.
- p. To the extent required under applicable law, the security agreements under the Loan were (and/or will be) properly recorded in order to result in the valid perfection of a security interest on the collateral subject to such agreements.
- q. To the extent required under applicable law, Seller has taken (and/or will take, and/or will continue to take) whatever additional actions may be necessary and proper to validly perfect and maintain a security interest on the collateral securing the Loan.
- r. No conduct by Seller, not apparent on the face of written matter provided to Buyer, violates applicable law or rights of the Borrower so as to affect the full collectability of the Loan, or provide Borrower or co-maker (s) or guarantor(s) with any defense to their obligations under the Loan Documents.
- s. Except as otherwise disclosed in writing to Buyer, Seller is the sole owner of the Loan, has the full right to transfer the Participation Interest sold herein, and the same is not pledged, hypothecated or encumbered for any indebtedness of Seller or for any other purpose.
- t. Seller has no knowledge of any fact, not apparent on the face of the written matter provided to Buyer, which would materially and adversely affect the Loan. All material facts known to Seller regarding credit, character and/or financial condition of the Borrower have been disclosed to Buyer.
- u. Seller shall promptly notify Buyer should Seller, whether acting as Seller or in any other capacity, learn or have any knowledge of the occurrence of an event of default under the Loan Documents that remains uncured after the giving of any notice, if required under the Loan Documents, and expiration of any period in which to cure, if provided for under the Loan Documents.
- v. Seller (or its designee) has in its possession all original Loan Documents representing each such loan and all records required to be maintained for such loans and will provide, upon request, access thereto at any reasonable time during normal business hours pursuant to applicable law and regulations and will deliver copies of any such instructions and records to Buyer at Buyer's request.
- w. Seller shall promptly notify Buyer should Seller, whether acting as Seller, or in any other capacity, learn or have any actual knowledge of the following:
 - i. Any material change in the financial condition of the Borrower, as determined by Seller, or of any co-maker, guarantor or endorser under the Loan, which in the opinion of Seller may have a material adverse effect upon continuation of payments under the Loan or the Loan's ultimate collectability.
 - ii. Any material damage to or decrease in the value of collateral securing the Loan.
 - iii. Any change in the lien status affecting the collateral having an adverse effect on Seller's lien priority.
 - iv. Any request by Borrower, or by any co-maker, guarantor or endorser under the Loan, for any material change in the terms and conditions of the Loan, or in the terms of the Note, Deed of Trust or any other Loan Document.
 - v. Any request by Borrower, or by any co-maker, guarantor or endorser under the Loan for the release, substitution or exchange of any collateral

securing the Loan differing materially from any release provisions of the Loan Documents.

- vi. Any request by Borrower, or by any co-maker, guarantor or endorser under the Loan, for the release of any personal obligations of any such party under the Loan.
- vii. Any failure by Borrower to pay principal and/or interest payments under the Loan more than thirty (30) days past due.
- viii. Any material failure of any Borrower to perform any obligation under the Loan, or under the Note, or under the Deed of Trust.
- ix. Any sale or transfer of any security in violation of the Loan Documents.
- x. The death, bankruptcy, insolvency, or other disability of any Borrower and/or guarantor which might impair the repayment of the Loan, as determined by Seller
- xi. Any disrepair or other deterioration or waste suffered or committed in respect to the Loan collateral in excess of \$50,000.
- xii. Any failure by Borrower to maintain insurance coverage on the collateral as required by the Loan Documents; and
- xiii. Any request by a co-maker or guarantor to be released from its obligations with respect to the Loan.

2. Mutual Warranties. Each Participant warrants to the other as follows:

- a. By entering into this Agreement such Participant does not and will not violate any provision of State or Federal law applicable to it;
- b. By participating in the Agreement it is not exceeding its maximum credit limits.
 - I. All Participants will limit purchases from one originator to not more than the greater of Five Million Dollars (\$5,000,000) or 100% of the Participant's net worth.
 - II. Unless Participant obtains a waiver from the NCUA, all Participants shall adhere to the maximum loans to one borrower, including associated borrowers, to 15% of the Participant's net worth.

J. Acknowledgment of Limitation of Seller's Warranties

Buyer acknowledges that Seller has made no representation or warranty of any kind, whether expressed or implied, with respect to the validity, collectability, or enforceability of the Loan, the financial condition of Borrower, or the validity and enforceability of the Loan Documents except as expressly set forth in this Agreement. Upon Buyer's request either prior to or after a Loan Participation Interest purchase, Seller shall provide Buyer with copies of any and all Loan Documents requested by Buyer.

K. Additional Covenants of Seller

1. Legal Title to Loan

Seller shall hold legal title to the Loan with respect to which the Participation Interest is sold under this Agreement. Seller as Servicer or another Servicer agreed to by the Participants is to act in all Loan administration and servicing matters hereunder for the other Participants as an independent contractor, and to hold the Participation Interest in the Loan, and the Loan receipts hereunder, and to make the remittances as specified in

this Agreement. Seller shall not transfer legal title to the Loan except in accordance with the terms of this Agreement.

2. Custody of Original Loan Documents

Servicer (or its designee) shall retain the physical possession of the original Loan Documents (or copies thereof, if Servicer is not Seller) and shall be responsible for seeing that all title evidence and policies of insurance for the account of all Participants are properly maintained. Seller and Servicer will keep all such documents in segregated files (which may include electronic media) appropriately marked to show that a Participation Interest has been sold, and all envelopes and files pertaining to such documents shall be so marked. Seller and Servicer shall hold the Loan and documents for the benefit of all owners of Participation Interests to the extent of their beneficial interests. Any Participant, or Participant's representative or regulator, including, but not limited to the National Credit Union Administration (NCUA) or the California Department of Business Oversight and their examiners or supervisory agents, has the right at any reasonable time during normal business hours to request and have access to and examine any and all books, records and documents relating to the Loan or relating to any of the matters covered by this Agreement.

3. Seller Representations regarding Participation Interests Sold

Seller will not represent to any person that Seller owns any portion of the Participation Interest sold under this Agreement. Each Participant will reflect the transaction hereunder on its balance sheet and other financial statements in accordance with Generally Accepted Accounting Practices. Seller will reflect the transaction hereunder on its balance sheet and other financial statements as a purchase of assets by Buyer and a sale of assets by Seller.

4. Buyer as Holder of Equitable Title and Beneficial Owner of Participation Interests in Loans

Upon Buyer's payment of the purchase price for any Participation Interest in the Loan, Buyer shall immediately become vested, to the extent of its Participation Interest, with beneficial ownership of its pro rata share of the Loan and any and all of the documents of every nature in the possession of Seller relating to the Loan. Each Participant is the holder of the equitable title to that Participant's pro rata share of each Loan.

L. Administration and Servicing of Loans

1. Identity of Servicer

Seller shall initially service the Loan. Servicer may with consent of the Participants, delegate its obligations and authority with respect to the servicing and administration of a Loan and the administration of the Participation Interest with respect to such Loan to a third party servicer affiliated with the Servicer or with which the Servicer has entered into a business services agreement. Servicer agrees that any delegation of responsibilities to a third party servicer will require the Servicer to obtain from the third party a written assumption of all obligations of Servicer regarding servicing and administration of the related Loan under this Agreement. Servicer agrees to indemnify, defend and hold Participants harmless for any actions taken by the third party servicer on behalf of Servicer in connection with the servicing and administration of the related Loan. In the event that Servicer fails to timely carry out its duties and responsibilities pursuant to this Agreement in any material respect, any Participant may provide written notice thereof to Servicer. If Servicer fails to cure such breach within thirty (30) days of receipt of such notice, Servicer shall be released of any further duties under this Agreement and shall immediately forward

the original Loan documents and all loan-related information to the Party as directed by the Participant(s) holding the majority Interest (51%) in the Loan, and such Participant shall become Servicer of the Loan ("Successor Servicer"), pursuant to the terms of this Agreement. Upon the occurrence of the termination of its appointment as Servicer for any reason, Servicer irrevocably constitutes and appoints the Successor Servicer its true and lawful attorney-in-fact, with full power of delegation, substitution and assignment, and with full and irrevocable power and authority in its place and stead, and in Borrower's name, or in the name of original Servicer, or otherwise, to execute and deliver on behalf of original Servicer, and to file or record such instruments and documents, with or without the signature of original Servicer, as the successor agent, at its option, may deem appropriate, and to perform all other acts which the Successor Servicer may deem appropriate to protect and preserve the rights of all the parties under this Agreement, and the Loan Documents.

2. Servicing Responsibilities

Servicer represents to the Participants that, in undertaking responsibility for performance of the services specified in this Agreement to be performed by Servicer, it will exercise that degree of care that Servicer exercises with respect to the administration and servicing of loans for Servicer's own account. Except as expressly provided herein, Servicer disclaims the existence of any heightened degree of care with respect to the servicing and administration of the Loan. Seller, as Servicer, shall have no duties or responsibilities except those set forth in this Agreement and those duties and liabilities shall be subject to the limitations and qualifications set forth herein. The duties of Servicer shall be mechanical and administrative in nature. Servicer shall be responsible for the execution of all appropriate notices and all other acts reasonably necessary to perfect title in Buyer, Buyer's successors and assignees, as the case may be, as to the ownership of the respective Participation Interests in the Loans sold under this Agreement and for preserving all rights (including without limitation, the amount and priority of any lien) in said Loans and administering them in all respects consistent with applicable law and regulations, and for servicing the same in a manner consistent with good lender practice. Servicer shall establish a custodial account at a federally insured financial institution for the deposit of principal and interest and a separate custodial account for tax and insurance escrow funds if required in the loan terms, which account will be administered in the same manner as Servicer manages its own custodial accounts. PARTICIPANT IS FURTHER ADVISED THAT, NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, WITH THE EXCEPTION OF SERVICER ACTING AS TRUSTEE SOLELY FOR THE PURPOSE OF HOLDING FUNDS ON BEHALF OF PARTICIPANTS, SERVICER IS NOT AND WILL NOT ACT AS A FIDUCIARY OF PARTICIPANTS, AND THAT CIRCUMSTANCES MAY ARISE DURING THE ADMINISTRATION OF THE SUBJECT LOAN WHERE THE INTEREST OF SERVICER MAY NOT AGREE WITH THE INTEREST OF PARTICIPANTS.

Servicer warrants and represents that it has all licenses necessary to fulfill its obligations pursuant to this Agreement. Servicer shall, at Servicer's expense, obtain and keep in force a policy of Comprehensive General Liability Insurance and comprehensive Dishonesty, Disappearance and Destruction Insurance with an insurance carrier(s) rated at least "A" by A.M. Best, each in an amount of not less than \$1,000,000 per occurrence.

3. Remittance

Each month, Servicer will be responsible for segregating, reporting, and delivering to all Participants by or before the remittance due date set forth in the Loan Participation Certificate as follows:

- a. Buyer's pro rata share of all interest received and applied to the Loan by the agreed cut-off date calculated at the Buyer's Interest Rate (as set forth in the Loan Participation Certificate) for the current contractual period using the average outstanding loan balance over the current period. Lead Lender and Buyer agree that if the Participant's interest rate for a Loan is less than the interest rate paid on the Loan by the Borrower, the difference shall constitute compensation to the Lead Lender for the administration of the Loan and the Participation Interest(s).
- b. All remittances will be wired to the Buyers within two business days of receipt by Servicer.
- c. Buyer's pro rata share of all principal payments that have been received and applied to the Loan principal by the agreed cut-off date for the Loan.
- d. If the Loan is more than ninety (90) days past due, or Borrower has declared bankruptcy, Servicer shall place the Loan on a non-accrual status.

4. Loan and Other Prepayments; Notices

In the event that a prepayment is made on the Loan, Seller will be responsible for segregating and delivering to all Participants their pro-rata portion of the amount of principal prepaid. Funds received on the account of the Loan for the purpose of paying taxes, assessments, insurance premiums, or other similar purposes will be retained and timely disbursed by Servicer to such third parties, in accordance with applicable law. Servicer will provide all initial and ongoing federal and state mandated notices to the Borrower, including without limitation, all notices regarding transfer of servicing and escrow accounts.

5. Allocation of Funds Recovered Under the Statutory Lien

In the event that (1) the Borrower is in default on the Loan participated under this Agreement and has other real estate secured loans with the respective Seller herein; (2) said loans are in default; (3) funds are recovered from Borrower's account(s) pursuant to a statutory lien, any other similar lien or other assets not specifically pledged as collateral for a specific loan; and (4) the funds recovered are not sufficient to cure all loans in default, Seller shall remit such funds to Servicer and Servicer shall apply the amount received on a pro rata basis in relationship to the amount of the defaults on each loan. This sharing of collateral does not apply to collateral and shares specifically pledged to secure a particular loan, in which case the lien and the lien priority of the collateral and shares will be honored by Seller. Notwithstanding the foregoing, Servicer shall notify all Participants regarding such "excess" funds and, given some states "one action rule" limitations, will not automatically apply any such "excess" funds to the Loan.

6. Servicer's Authority Regarding Loan Modifications and Collections

Subject to the specific provisions and limitations set forth herein, it is agreed that the exclusive right to decide how the Loan shall be serviced and collected is hereby vested exclusively in Servicer. Other Participants are not authorized to give directions to Servicer in connection with these matters, except that the Participants having ninety percent (90%) of the Participation Interests in the Loan as reflected on Servicer's books and records, may (but shall not be obligated to) direct that a particular collection action be taken.

Servicer shall not, however, without consent of Participants holding percentage interests in the Loan of at least fifty-one percent (51%), do any of the following:

- a. Make or consent to any material amendments in the terms and conditions of the Loan or Loan Documents.
- b. Waive or release any claim against any Borrower and/or against any co-maker, guarantor, or endorser under the Loan.
- c. Make or consent to any substitution, release or exchange of collateral.
- d. Accelerate payment under the Loan and/or under any Loan Document.
- e. Commence any type of legal proceeding against the Borrower and/or against any co-maker, guarantor or endorser under the Loan.
- f. Seize, substitute, exchange, sell, transfer, assign, foreclose or attempt to exercise against any collateral securing the Loan.
- g. Exercise any right of setoff against Borrower's deposit accounts.
- h. Commingle acquired collateral with any other property held by Seller.
- i. Except for a variable rate loan, decrease the interest rate and then only in accordance with the terms of the Note.
- j. Modify the payment schedule or reduce the principal owing.
- k. Modify the amount of credit.

Notwithstanding the foregoing, unless expressly authorized and approved by all Participants, Servicer will not approve an assumption of the Loan.

7. Records Maintenance

Servicer is responsible for maintaining, or requiring the maintenance of, a complete set of books and records, meeting industry standards as to the Loan, including but not limited to a record of each receipt and each disbursement. Participants and Servicer acknowledge that the indirect relationship between Borrower and the Participants makes it difficult for the Participants to assess the quality of the Loan without ongoing information from the Servicer. Therefore, Servicer shall permit any Participant reasonable access to the Loan Documents upon reasonable notice to Servicer. Furthermore, Servicer agrees to make a reasonable effort to induce the Borrower to provide updated financial information and to deliver all available credit information on the Borrower to the Participants on a continuing basis. Servicer shall provide Participant with all material financial and non-financial information bearing on the quality of the Loan, which information may be furnished by Borrower from time to time under the Loan Documents. Such information shall ordinarily include, but is not limited to:

- a. Current financial statement of the Borrower as well as of all co-makers, guarantors and endorsers under the Loan;
- b. The records of Servicer reflecting the amounts and dates of receipt of principal and interest payments under the Loan;
- c. Any information and/or documents in possession of the Servicer applicable to the existence, value and lien status of collateral securing the Loan or continuing credit worthiness of Borrower.
- d. Any reviews or reports concerning the Loan issued by a regulatory agency or audit entity.

In addition to making sure that the customary monthly reports and remittances are furnished to each Participant, Servicer shall ensure that such reports are accompanied by a monthly report of Loan delinquency.

8. Additional Advances

- a. **Advances for Taxes and Insurance.** It is agreed that Servicer, in its reasonable discretion may make additional advances with respect to the Loan for taxes and insurance premiums and that, the Participant will have been deemed to have participated pro-rata in the advance and shall promptly pay its pro-rata participation share.
- b. **Record of Advances.** In the case of every advance, a notation shall be made in the books and records required under this Agreement identifying and describing each advance and each Participant's participation therein. A copy thereof shall be promptly furnished to the Participants.

9. Servicer's Fees and Indemnification

- a. **Ordinary Fees.** For routine servicing duties, Servicer shall be paid as set forth in Paragraph H.
- b. **Extraordinary Expenses.** Any necessary extraordinary services which may be proper under this Agreement, such as repossession of collateral, court actions, and similar expenses, shall be contracted or done by Servicer at its customary cost for such services, provided such cost is reasonable. Servicer will be responsible for the prompt billing of each Participant hereunder for its pro rata portion of such expense, and each such Participant shall be required to pay promptly its pro rata share of such extraordinary expenses incurred and billed under this Agreement. To the extent that Servicer is able to recover its costs, the costs of collection shall be reimbursed in the same proportion as contributed by the Participants. For the purposes of this Agreement, it shall be presumed that the order of recovery is (1) costs of collection (2) interest (3) principal and (4) late fees.
- c. **Indemnification.** To the extent Borrower does not reimburse and save harmless the Servicer for and from all costs, expenses and disbursements incurred by Servicer in carrying out its duties under this Agreement, such costs, expenses and disbursements shall be borne by each of the Participants, in proportionate shares and the Participants agree on such basis (i) to reimburse Servicer for all such costs, expenses and disbursements on request and (ii) to indemnify and hold harmless the Servicer against and from any and all losses, obligations, penalties, actions, judgments and suits and other costs, expenses and disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against the Servicer other than as a consequence of actual gross negligence or willful misconduct on the part of the Servicer arising out of or in connection with this Agreement, including without limitation the costs, expenses and disbursement in connection with defending itself against any claim or liability, or answering any subpoena, related to the exercise or performance of any of its powers or duties under this Agreement, or the taking of any action under or in connection with this Agreement or the Loan Documents. Seller and Servicer agree to indemnify and defend Participant/Buyer in regards to any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever that may be imposed on, incurred by, or asserted against Participant/Buyer in any way relating to Seller's or Servicer's gross negligence or willful misconduct.

10. Origination, Modification and Assumption Fees

The Servicer will retain all origination, modification and assumption fees, unless the Participants agree in writing on an alternative arrangement.

11. Notification Requirements

- a. Servicer shall have a duty to use reasonable diligence to ascertain, and forthwith to notify the other Participants of any material failure of any Borrower to perform any obligation under the Loan after the giving of any required notice and the expiration of any period in which to cure, and also of any of the events for which Seller is required to provide notice above in Paragraph I.1.w.

It is understood, however, that no notice need be given to the other Participants of any facts other than those of which Servicer shall have actual notice or would, except for negligence, have had notice.

12. Default by Borrower

In the event of a default in the payment of principal or interest by a Borrower on the Loan, remittances of principal or interest to Participants hereunder shall not be required until collected from Borrower or for the account of Borrower. Servicer may declare a default under the Loan at any time after a default has occurred on the Loan, by written notice to Borrower and Guarantor in accordance with the Loan Documents. The declaration of default may state the required cure and cure period. If not done earlier, Servicer must declare a default under the Loan as soon as reasonably possible after a default has occurred on the Loan and is continuing in excess of ninety (90) days beyond any applicable cure period, by written notice to Borrower in accordance with the Loan Documents. Upon the occurrence of a Loan default or identification of an impending Loan default, Servicer shall be permitted to and shall undertake collection efforts as Servicer deems appropriate, including, but not limited to, hiring of legal counsel to represent Servicer; ordering appraisals of the collateral; initiation of judicial and/or non-judicial foreclosure proceedings; repossession of collateral; enforcement of guaranties; filing of court actions to obtain appointment of a receiver, to collect the debt or obtain the collateral; obtaining judgments and execution thereon; participation in bankruptcy proceedings affecting the Loan; management, marketing and sale of collateral in receivership or subject to a bankruptcy action; purchasing collateral at foreclosure by credit bid; and management, marketing and sale of real-estate-owned in connection with the Loan.

In managing the OREO, the Servicer may hire a property manager, real estate broker, attorney, contractor or other qualified professionals as needed to maintain and dispose of the property. The Servicer must act prudently with regard to expenses and must keep the participants informed of all developments and actions. Discretionary expenses, such as cosmetic repairs or enhancements require the consent of not less than 51% of the participants. The servicer may act unilaterally on mandatory expenses such as for professional services, security and public safety repairs. The Participants further acknowledge and agree that in the event the Borrower is in default at the time of Loan maturity or if Borrower is unable to obtain financing elsewhere, the Participants, as owners of undivided interests in the Loan, shall have no right to exit or divest themselves of such interest, other than the rights and remedies provided herein.

13. Substitution of Servicer

Servicer may be removed and a new Servicer substituted by any Participant if Servicer does not engage in the active collection of the debt upon thirty (30) days written demand by the Participant where Borrower is in default in excess of ninety (90) days and which default remains uncured. The written demand may be given at any time after default. For the purposes of this Agreement, the active collection of a debt shall mean the filing and prosecution of a lawsuit to collect the debt or obtain the collateral and/or attempting, through extra judicial means, to repossess or foreclose on the collateral and sell the collateral as permitted by law. Servicer may be removed and a new Servicer substituted at any time by the Participant(s) holding the majority of Participation Interests. The substituted Servicer must be a party to this Agreement and may be an appointing Participant. The original Servicer and all other Participants shall cooperate with the substituted Servicer in the transfer of the servicing duties, including the execution of any documents related to the role and actions of the substituted Servicer.

14. Notices

Servicer shall be entitled to act upon, and shall be fully protected in acting upon, any telegram, telex, teletype, bank wire, cable or radiogram or any writing, application, notice, report, statement, certificate, resolution, request, order, consent, letter or other instrument or paper or communication believed by Servicer in good faith to be genuine and correct and to have been signed or sent or made by an authorized Participant.

M. Transferability and Sale of Participation Interests to Third Parties

1. Authority to Transfer Participation Interests and Legal Title Held by Seller

Participation Interests in the Loan are transferable upon the books and records of Seller, or its designee. After each sale and transfer of a Participation Interest in the Loan pursuant to this Agreement, the Participation Interest of Seller and any other Participation Interest in the same Loan will be ratably concurrent, and none will have any priority over the other. The Participants understand that each may enter into other Loan Participation Agreements and/or transfer Participation Interests arising herein to other entities, provided all transfers comply with laws and regulations applicable to all Participants. Unless otherwise agreed, Seller will hold legal title to the Loan. Subject to applicable regulation and except as otherwise expressly provided herein, Seller may transfer legal title to the Loan to other persons, subject to the Participation Interests of the Participants.

2. Rights of Buyer from Secondary Seller on Resale

In the event Buyer or any successor or assignee of Buyer resells to another person all or a portion of its Participation Interest, and thus becomes a Secondary Seller, such other person shall succeed to all of the rights of Buyer for the portion purchased, and such resale will be evidenced by a new Loan Participation Certificate or Certificates which Secondary Seller or its successor or assignee shall issue in the same form as the Loan Participation Certificate attached hereto and which shall set forth the percentage of the underlying loans being resold. All Secondary Sellers to such resale transactions shall promptly provide to Servicer a copy of the Loan Participation Certificate representing such resold interests. Subject to the terms of this Paragraph M. 2, upon receipt of the copy of the Loan Participation Certificate, Servicer will be responsible for segregating and for causing notations to be made in the books and records to reflect the Participation Interests resulting from such resale. Thereafter, Servicer shall segregate and cause monthly remittances and reports to be delivered to the respective owners of such Participation

Interests in a manner consistent with the Participation Interests then outstanding and the provisions of this Agreement.

3. Limitation on Servicer's Obligations

Servicer shall not be required to provide Loan servicing for a greater number of Participants than the number of Buyers who purchased Participation Interests directly from Seller. If a Buyer of a Participation Interest from Seller resells all of its Participation Interest to another person, Servicer will service such other person directly as a Buyer. If a Buyer of a Participation Interest from Seller resells all of its Participation Interest to more than one other person or sells only part of its Participation Interest to another person, Servicer, at its discretion, may either (1) continue to provide servicing directly to the original Buyer/Secondary Seller only and such other person and the original Buyer/Secondary Seller is obligated to account to its Buyers, regardless of whether Buyer/Secondary Seller retains a Participation Interest, or (2) provide servicing directly to all Buyers from Secondary Seller (and to Secondary Seller if it retains a Participation Interest) and charge additional servicing fees as it may from time to time determine are appropriate.

4. Rights of Participants on Resale of a Participant's Interest

It is agreed that a Participant may sell, transfer, encumber, or assign all or any part of its Participation Interest in the Loan subject to the terms of this Agreement and applicable laws and regulations, and may pledge, hypothecate, or transfer its respective Participation Interests in the Loan to a third Party. In such event the Participant shall disclose the identity of Buyer of the Participation Interest and the percentage sold, pledged, or transferred. Prior to selling all or a portion of its Participation Interest, a Participant, as a Secondary Seller, shall provide written notice to the other Participants of its intent to sell all or a portion of its Participation Interest, with specific terms, at which point the Participants shall have a right of refusal to purchase Secondary Seller's Participation Interest upon the same terms set forth in the notice in proportion to the ownership among the Participants desiring to purchase the Participation Interest.

If the non-selling Participants do not exercise the offered first right of refusal to buy all of the Participation Interests Secondary Seller desires to sell within ten (10) business days after Secondary Seller's written notice, by tendering the stated consideration, subject to Paragraph G of this Agreement, Secondary Seller may sell the Participation Interests to any qualified Buyer within sixty (60) days of the written notice of intent to sell upon terms no more favorable to a Buyer than set forth in the written notice of intent to sell.

N. Seller's Insolvency, Breach of Contract and Majority Removal

1. Seller's Insolvency, Breach and Majority Removal

In the event of any of the following: (1) the insolvency of Seller; (2) the filing by or against Seller of a petition under any provision of bankruptcy law, or of an assignment for the benefit of creditors; (3) the appointment by any public or supervisory authority of any person or firm in charge of Seller or its assets; (4) a material breach by Seller of any covenant or agreement herein or in any Participation Certificate; (5) the involuntary sale of any loans or advances covered by this Agreement; (6) the issuance by an appropriate public monitoring or supervisory authority of a cease and desist order, or its equivalent, against Seller or its directors and officers involving the safety, soundness, or financial viability of Seller or (7) the majority interest holders of the Participation Interest in the Loan vote to remove Servicer, it is agreed that Participants holding at least a fifty-one percent interest in the Loan shall determine the successor servicer, who shall succeed to all rights,

titles, status and responsibilities, which Seller may have as Servicer of the Loan. Such person or firm shall exercise all of the powers hereinabove granted to Seller as Servicer, as such may appear.

2. Default

In the event any Participant fails promptly to provide funds for the payment of insurance, taxes, maintenance, improvements, or any expenses in connection with the Loan and advances, then any other Participant is authorized to supply the same, and it shall be reimbursed from the first funds available for the account of such defaulting Party. If a Participant defaults on a non-monetary obligation herein and fails to cure the default within thirty (30) days of written notice by the non-defaulting Participant, the non-defaulting Participant may elect to perform by assumption of the duties of the defaulting Participant. The defaulting Participant is liable to the non-defaulting Participants for all costs and expenses arising from any default and shall pay any sums advanced by the non-defaulting Participant to correct or cure the default, plus interest at the maximum rate then permitted by NCUA. Voting rights of the defaulting Participant as to the loan in question shall be suspended until the default is cured. These remedies herein are cumulative to any remedies the Parties have at law and equity.

O. Additional Loans

1. The Parties acknowledge and agree that each of them may have other loans outstanding to Borrower and/or may make additional loans in the future to the Borrower and/or other co-makers, guarantors and endorsers under the Loan, which other and/or future loans may not be participated among themselves or at all.
2. The Parties further acknowledge and agree that they are under no obligation to collect or attempt to collect payments under the Loan in preference over the collection and/or enforcement of any other existing or future loans as described in the preceding paragraph.
3. Each Party, however, agrees that the proceeds of all collateral directly securing repayment of the Loan shall be first applied to the payment of the Loan until it is paid in full. Any excess proceeds may be applied by the affected party to the payment of any other existing or future loans then owing to it that may be indirectly secured by such collateral as a result of the inclusion of "cross-collateralization" provisions in the security agreements executed in connection with the Loan in favor of it.
4. The parties hereto further agree that they shall have no interest in any other property of the Borrower or of any co-maker, guarantor or endorser, taken as collateral for any other existing or future loan(s) made by any of them, or acquired by any of them, or in any property now or hereafter in the possession or control of any of them, which other property may indirectly secure repayment of the Loan by reason of cross-collateralization;" except that, if any such other property or the proceeds thereof is applied to the reduction of the Loan, then the parties shall be entitled to share in such an application of payment or payments as provided by this Agreement.
5. The parties hereto agree that they are obligated to advise each other of any such ADDITIONAL LOANS presently in existence with Borrower and/or other co-makers, guarantors and endorsers under the Loan.

P. Seller's Limited Obligation to Repurchase

Seller (or Secondary Seller if Buyer purchased the respective Participation Interest from a Secondary Seller) agrees, upon Buyer's request, to repurchase any Participation Interest sold under this Agreement within one hundred and eighty (180) days after the date of Buyer's remittance of the purchase price therefore if any misstatement in writing of material fact by Seller (or Secondary Seller, as the case may be) is discovered by actual inspection by Buyer or its representative and if the matter cannot be resolved to Buyer's satisfaction by Seller (or Secondary Seller, as the case may be) within thirty (30) days written notice to Seller (or Secondary Seller, as the case may be) by Buyer. The repurchase price shall be an amount equal to such Participation Interest's then unpaid principal, plus accrued interest, less costs owed by Buyer. Nothing in this Section shall require Seller to repurchase a Participation Interest on account of a misstatement of a material fact by a Secondary Seller or by the Borrower. Seller is not obligated to repurchase a Participation Interest sold on a non-recourse basis merely because the Loan goes into default.

Q. Miscellaneous

1. Authorization of Authority

The Participants each warrant and represent that each Participant has been duly authorized by its respective Board of Directors to enter into this Agreement and that each will undertake an independent evaluation of the credit risks of the Loan upon the underwriting documentation assembled by Seller.

2. Hold Harmless

EACH PARTICIPANT SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS THE OTHER PARTICIPANTS FOR ANY DIRECT (BUT NOT SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL) LOSSES SUSTAINED (INCLUDING REASONABLE COSTS AND ATTORNEYS FEES) AS A DIRECT AND PROXIMATE RESULT OF THAT PARTICIPANT'S INTENTIONAL OR NEGLIGENT ACT OR OMISSION OR ITS FAILURE TO HONOR ITS WARRANTIES OR OBLIGATIONS IN THIS AGREEMENT.

3. Effect of Headings

The headings herein are for convenience only and shall not affect the construction of this Agreement.

4. Document contains Entire Agreement

This document contains the entire Agreement between the Participants hereto and cannot be modified in any respect except by an agreement in writing signed by all Participants. All Participants on a loan must agree in writing to a modification of this Agreement before a modification becomes effective in the administration of the Loan. The invalidity of any portion of this Agreement will in no way affect the balance thereof. This Agreement will remain in effect until the Loan is liquidated completely.

5. Assignment

Except as set forth herein, Participant or Seller may not assign this Agreement nor subcontract any right or interest hereunder without the prior written consent of all other Participants, which shall not be unreasonably withheld or delayed.

6. Confidentiality

The Participants acknowledge and agree that confidential data and information regarding each Participant's membership and consumers, as well as each Participant's marketing, strategies, business operations and business systems (collectively, "Confidential information") shall come into the other Participant's possession in connection with this Agreement. The Participants understand that they are subject to a number of federal and state laws regarding the privacy of membership and consumer information. The Participants agree to maintain the confidentiality of and safe keep and protect Confidential Information in accordance with all relevant state and federal laws, Regulations, rules and guidelines, including but not limited to, the California financial Information Privacy Act, the Gramm-Leach-Bliley Act of 1999, the Fair Credit Reporting Act, all applicable regulations related thereto and the requirements imposed upon service providers (which shall include without limitation all officers, agents, successors, assigns, subcontractors and sub-servicers) pursuant to the National Credit Union Administration Guidelines For Safekeeping of Member Information (12 CFR 748). The Participants, on behalf of their officers, employees, agents and successors and assigns, understand and agree to utilize best industry practices to secure and protect Confidential Information, and agree that it will not retain copies of any such information and that it will not use such Confidential Information to its commercial advantage or in any other manner except in the performance of this Agreement.

The Parties acknowledge and agree that during the course of this Agreement, the Parties may be sharing Confidential Information regarding members and consumers as contemplated under this Agreement. The Participants agree that they will structure all practices, procedures, communications, and transactions involving the sharing and/or dissemination of information, other than Transaction Information and Experience Information (as these terms are defined in the federal Fair Credit Reporting Act and all applicable regulations and interpretations applicable thereto (collectively, FCRA) between the participants such that they will not be considered consumer reporting agencies with respect to such information for purposes of the FCRA.

The Participants shall have an internal written security program in place at all times which shall reflect and require, at a minimum, compliance with the Participants' obligations pursuant to this section.

For electronic communications, the Participants will only transmit Confidential Information to each other in an encrypted format. The Participants will store all Confidential Information in a manner, which utilizes the highest level of security available, including, without limitation, 126-bit encryption for electronically- stored Confidential Information. The Participants shall immediately, permanently, and irretrievably destroy, delete, and erase all hard copy and all electronically stored Confidential Information once use of such Confidential Information is no longer required pursuant to the terms of this Agreement. In the event that there is a breach of any Participant's data systems, which in any way involves Confidential Information, such Participant will provide immediate written notice to all other Participants.

Each Participant agrees to indemnify and hold all other Participants harmless in the event of a breach of this confidentiality section in any manner by the Participant or its officers, employees, agents, successors, assigns, subcontractors, and/or sub-servicers.

Each Participant (and/or its regulator(s)) may, at any time during the term of this Agreement and upon reasonable notice to all other Participants, inspect each Participant's

practices and controls and/or require reasonable documentation from each Participant to verify that each Participant has complied with its obligations pursuant to this section.

The Participants agree that this section shall survive termination of this Agreement.

7. Relationship

This Agreement does not create, and shall not be construed to create, any joint venture or partnership between the Participants. No officer, employee, agent, servant, or independent contractor of any Participant shall at any time be deemed to be an employee, servant, agent, or contractor of the other Participant for any purpose whatsoever.

8. Notices

All notices, requests, demands, and other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given, made, and received only when personally delivered or delivered by Federal Express or other nationally recognized courier servicer, or two (2) days after having been deposited in the United States mail, certified mail, postage prepaid, return receipt requested, addressed as set forth below:

Seller: North Island Credit Union
5898 Copley Drive
San Diego, CA 92111

Attention: Robert Reck, First Vice President

Buyer: XXXXXX Credit Union

Attention: Xxxxxx Xxxxxx, Title

Any Party may change the address to which communications or copies are to be sent by giving notice of such change of address in conformity with the provisions of this section for the giving of notice.

9. Waiver

The failure of any Participant to seek a redress for violation, or to insist upon the strict performance, of any covenant, agreement, provision, or condition hereof shall not constitute the waiver of the terms or of the terms of any other covenant, agreement, provision or condition, and each Participant shall have all remedies provided herein with respect to any subsequent act which would have originally constituted the violation hereunder.

10. Dispute Resolution

In the event the Participants have a dispute under this Agreement that cannot be informally resolved, the Participants agree to submit the dispute upon the written demand of any Participant, to the American Arbitration Association in its office closest to Seller's main office for resolution by binding arbitration in accordance with their procedures. The costs of binding arbitration and reasonable counsel fees will be borne by the Participant

determined by the arbitrator to be the non-prevailing Participant. If the arbitrator does not make a finding as to whether a Participant is to be considered a prevailing Participant, the costs of arbitration shall be shared equally by the Participants and each Participant shall bear its own counsel fees. The Participants agree to be bound by the decision of the arbitrator.

11. Governing Law and Jurisdiction

This Agreement is entered into and will be performed in California and all questions relating to its validity, interpretation, performance, and enforcement (including, without limitation, provisions concerning limitations of action), shall be governed by and construed in accordance with the internal laws of the State of California, notwithstanding any conflict-of-laws doctrines of such state or other jurisdiction to the contrary. The Parties agree to submit to the personal jurisdiction of the courts of the State of California.

12. Successors and Assigns

This Agreement shall be binding upon the Participants hereto, as well as their respective legal representatives, successors and assigns.

13. Compliance

It is the intent of these Participants that this Agreement and actions of the Participant pursuant to this Agreement strictly conform, as applicable, to the loan participation requirements of the Federal Credit Union Act and Regulations of National Credit Union Administration and to the credit union loan participation requirements of laws and regulations of the several states (as to each state for which a state licensed or chartered credit union is a party). Each Participant hereto, whether a credit union or not, agrees that all records in its possession relating to the Loan shall be accessible on reasonable notice to the appropriate state and/or federal credit union regulatory agency.

IN WITNESS WHEREOF, each Participant warrants that the signatures below evidence the authorization of the Participant to enter into this Agreement on the date indicated which Agreement includes the Exhibits attached hereto.

North Island Credit Union

By: _____
Robert Reck, First Vice President

Date: _____

Xxxx Xxxxx Credit Union

By: _____
Xxxxxxx Xxxxxxx, Title

Date: _____