



Farm Asset Reinvestment Management (FARM) *Participating Lender's Agreement*

THIS PARTICIPATING LENDER'S AGREEMENT (the "Agreement"), is made and entered into as of _____, 20____, by and between the Wisconsin Housing and Economic Development Authority, a public body corporate and politic ("WHEDA"), and the "Lender" whose name and address is set forth directly below:

Name of Lender

Type of Business Entity

Loan Officer Contact

Complete Street Address	City	County	State	Zip Code
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Complete Mailing Address	City	County	State	Zip Code
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Contact Telephone Number

Contact Fax Number

Contact Email Address

Lender Website

Banks with multiple branches must complete the Branch Rider attached hereto as Exhibit A in order for branch loans to be eligible and qualify for FARM.

Lender's existing FARM Lender Number (if applicable): _____

New Lender Number (to be assigned by WHEDA): _____

WITNESSETH:

WHEREAS, WHEDA is authorized pursuant to Chapter 234 of Wisconsin Statutes to establish and administer the Farm Asset Reinvestment Management Loan Guarantee Program ("FARM");

WHEREAS, WHEDA has described FARM, including the requirements which must be met for a loan to qualify for FARM, in its Lender Manual, as amended and supplemented from time to time by WHEDA; and

WHEREAS, the Lender wishes to make and WHEDA wishes to guarantee loans which qualify for FARM in accordance with Chapter 234 of Wisconsin Statutes, the Lender Manual and the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of the premises and the promises and covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, WHEDA and the Lender agree as follows:

ARTICLE I – PARTICIPATION IN FARM

1.01 Definitions. Capitalized terms used herein and not otherwise defined have the meanings set forth in the Lender Manual. For purposes of this Agreement, the term "Lender" includes any branch identified on the Branch Rider attached hereto as Exhibit A.

1.02 Commitment. Lender shall, as described herein and in the Lender Manual, originate, service and, to the extent reasonably possible, collect payment for loans which qualify for FARM, as reasonably determined by Lender and confirmed by WHEDA in accordance with the procedures set forth in the Lender Manual (the "Loans"). WHEDA hereby certifies to Lender that the Lender Manual sets forth in reasonable detail the requirements for a loan to qualify for FARM. WHEDA hereby guarantees, as described herein and in the Lender Manual, for each loan, the repayment to Lender of up to the lesser of (a) the Borrower's net worth, or (b) twenty-five percent (25%) of the eligible loan amount (as described in the Lender's Manual), calculated at the time the loan is made, of all FARM loans for which it receives a written claim from Lender and is satisfied, in its sole discretion, that the loan is qualified for FARM and that Lender has made every reasonable effort to collect the loan and any deficiency judgment against the Borrower.

1.03 Limitation of WHEDA's Commitment. Lender acknowledges that other lenders and WHEDA have or will enter into agreements similar to this Agreement. WHEDA can only guarantee an aggregate principal amount of FARM loans originated by Lender which, when added to the aggregate principal amount of the Guaranteed Loans originated by other lenders and for other guarantee products authorized by Wis. Stats. Chapter 234 does not exceed the maximum amount authorized by law. WHEDA shall pay to Lender on its guarantee claims only an amount which, when added to the aggregate principal amount of such guarantee claims made by other lenders equals the amount WHEDA is authorized by law to pay for such claims. Should the aggregate of the guarantee claims from all lenders exceed the amount available to pay such claims,

WHEDA shall pay lenders the amount available in the order in which claims are received, and request the Legislature to appropriate additional funds as needed. In no event shall WHEDA's obligation to all lenders with guarantee claims exceed the monies appropriated by the Legislature.

1.04 Commitment Commencement Date. Lender may commence to originate FARM loans pursuant to this Agreement as of the date this Agreement is executed by both Lender and WHEDA.

1.05 Lender Number. Lender shall provide to WHEDA in all correspondence, telephone conversations and conferences, its "Lender Number" which appears on the first page of this Agreement or on the Branch Rider attached hereto as Exhibit A.

ARTICLE II – LENDER REQUIREMENTS

2.01 Consumer Laws. Lender shall have the sole responsibility for ensuring full compliance with any and all current and future federal and Wisconsin laws applicable to the FARM loan transaction, and shall indemnify WHEDA from any loss or liability resulting or arising from any failure by Lender to comply with such law.

2.02 Loan Documentation and Collateral Perfection. Lender shall have the sole responsibility for ensuring that all documents evidencing and securing the FARM loan are fully and accurately prepared/completed, properly authorized and fully executed by the Borrower in accordance with the Lender's normal prudent loan documentation procedures and the requirements contained in the Lender Manual. In addition, Lender shall have the sole responsibility for properly perfecting the Lender's security interest in the collateral securing the FARM loan. WHEDA is entitled at any time, after reasonable notice to Lender, to examine and make copies of all loan documents, loan repayment records and any other documents or records held or maintained by Lender which relate to the FARM Loan.

2.03 Lender Fees. Lender shall be entitled to charge interest and fees on the FARM loan at a rate not to exceed the equivalent of a per annum interest rate established by WHEDA and in effect at the time Lender originates the FARM loan, non-compounded, on the daily outstanding principal amount of the FARM loan from the date of the FARM loan note until the maturity date. All application fees, origination fees and other loan fees charged by Lender shall be included in determining the per annum rate of interest on the FARM loan, except UCC financing statement filing fees and/or other filing/recording fees which are incurred by Lender in connection with perfecting Lender's security interest in the collateral securing the FARM loan and for which Borrower is charged at loan closing shall be excluded from the determination of the per annum interest rate on the FARM loan.

2.04 Loan Collection. Lender shall not accept from WHEDA any payment for FARM loan guarantee claims prior to fully and accurately disclosing to WHEDA all amounts collected, or to be collected, in repayment of the FARM loan, or prior to making every reasonable effort to collect payment for the FARM loan and from the Borrower,

including, but not limited to, foreclosing Lender's security interest in any collateral for the FARM loan, enforcing any deficiency judgment against the Borrower and all the Borrower's assets, and applying the same toward the FARM loan.

2.05 Application of Funds Collected. Notwithstanding the terms of any promissory note evidencing a FARM loan or any other loan agreement between Borrower and Lender with respect to a FARM loan, any and all funds collected by Lender from the Borrower or guarantor of a non-performing FARM loan shall be applied by Lender first to the payment of the outstanding principal amount of the FARM loan, second to the payment of accrued and unpaid interest on the FARM loan, and then to the extent any funds remain, to the payment of other loans or amounts owing by the Borrower to Lender.

2.06 Lender's Insurance. Lender shall maintain throughout the term of this Agreement, at Lender's expense, a fidelity bond, fire and extended coverage insurance on Lender's office, theft insurance, forgery insurance, and errors and omissions insurance. Such bonds and insurance policies shall be in amounts reasonably calculated to protect WHEDA from loss under this Agreement.

2.07 Lender's Representations and Warranties. Lender hereby makes the following representations and warranties for WHEDA's reliance:

(a) Lender is duly organized and validly existing and in good standing or active status under the laws of the jurisdiction under which it is organized, and is qualified to do business in the State of Wisconsin;

(b) Lender is duly authorized by all necessary corporate actions to enter into this Agreement. Upon execution, this Agreement will be a valid and binding agreement by Lender, enforceable in accordance with its terms, and will not constitute a violation of any law or any requirement imposed by any government authority or regulatory body;

(c) Lender is not under any cease and desist order or any other order of a similar nature which would in any way restrict Lender from complying with any and all terms of this Agreement;

(d) Each FARM loan guaranteed by WHEDA pursuant to the terms of this Agreement shall conform in all respects to each and every requirement and procedure set forth in this Agreement and the Lender Manual; and

(e) Each of the foregoing representations and warranties of Lender are continuing and shall be deemed to have been made and shall be true and correct as of the date each loan is approved for FARM, and as of the date WHEDA makes any FARM loan guarantee payments pursuant to the terms of this Agreement.

2.08 Lender's Indemnification Obligations. Except to the extent caused by WHEDA's own negligence, the Lender shall indemnify and hold harmless WHEDA and its agents, employees, officers and directors from and against all claims, damages, losses and expenses, including reasonable attorney's fees, arising in any way out of, in

connection with or resulting from this Agreement, the Lender's Manual, and the loan documents evidencing the FARM loans. The provisions of this Section 2.08 shall survive the termination of this Agreement.

2.09 Lender's Stipulation. In connection with any FARM guarantee payment made by WHEDA, Lender agrees (a) to respond to all future loan status report requests made by WHEDA, and (b) to forward to WHEDA the appropriate percentage of any future payments made by the Borrower (after WHEDA has made its guarantee payment to Lender). The provisions of this Section 2.09 shall survive the termination of this Agreement.

2.10 Change in Ownership of Lender. Lender shall provide prior written notice to WHEDA of any (a) sale of all or substantially all of Lender's assets, (b) any merger, consolidation, or other transaction which results in a change of ownership or control of Lender, and/or (c) any change in servicing procedures or personnel responsible for the servicing of loans included in FARM.

ARTICLE III – TERMINATION; REMEDIES

3.01 Termination of Agreement.

(a) Termination for Cause. If, in the sole judgment of WHEDA, Lender has failed to: (1) originate loans pursuant to the terms of this Agreement and the Lender Manual; (2) exercise proper quality control, documentation and/or judgment in originating, processing or closing loans; (3) service or collect loans pursuant to the terms of this Agreement and the Lender Manual; or (4) perform any duty or obligation of Lender to be performed pursuant to the terms of this Agreement or the Lender Manual, WHEDA may terminate this Agreement immediately upon the giving of written notice to Lender. Upon the termination of this Agreement for cause, WHEDA's guarantee of any outstanding FARM loans originated by Lender shall be revoked and invalidated and of no further force or effect.

(b) Termination for Bankruptcy/Insolvency. This Agreement shall terminate immediately upon the statutory insolvency or bankruptcy of Lender and WHEDA's guarantee of any outstanding FARM loans originated by Lender shall be revoked and invalidated and of no further force or effect.

(c) New Loans Not Eligible for FARM. Without cause and for any reason, upon thirty (30) days prior written notice to Lender, any new loans originated by Lender after the date of WHEDA's notice will no longer be eligible for inclusion in FARM. Notwithstanding the foregoing, WHEDA's guarantee of any outstanding loans originated by Lender shall remain in effect and this Agreement shall remain in effect and continue to govern the rights and obligations of Lender and WHEDA with respect to such outstanding Loans.

3.02 Remedies. Upon termination of this Agreement for cause, WHEDA shall be entitled to all remedies available at law or in equity, including but not limited to: the right

to seek equitable relief by way of injunction to prevent the breach or threatened breach of any of the provisions of this Agreement, or require specific performance thereof; and the right to seek damages, including consequential damages and attorney's fees. Termination of this Agreement shall not diminish the rights of WHEDA under this Agreement which are intended to survive termination of this Agreement, including, without limitation, WHEDA's rights under Section 2.08 and Section 2.09 hereof. All remedies set forth herein shall be cumulative, and the exercise by WHEDA of any one or more of them shall not in any way alter or diminish WHEDA's right to any other remedy provided herein or by law or equity.

ARTICLE IV – MISCELLANEOUS PROVISIONS

4.01 Incorporation of Lender Manual. The Lender Manual, as it may be amended from time to time, all exhibits, certificates, affidavits, warranties and other documents required by the Lender Manual, are specifically incorporated into this Agreement as if fully set forth herein.

4.02 Time is of the Essence. Time is of the essence hereof.

4.03 Modification. No provision of this Agreement or of the Lender Manual may be waived or modified unless such waiver or modification is made in a signed writing; provided, however, that WHEDA may amend or supplement the Lender Manual by mailing written notice of such amendment or supplement to Lender. Amendments or supplements shall become effective ten (10) business days after the date of mailing unless otherwise stated in the notice.

4.04 Applicable Law. This Agreement is made and entered into in the State of Wisconsin and all questions as to the validity, construction, performance or enforcement thereof shall be governed by the laws of the State of Wisconsin.

4.05 Severability. The invalidity of any provision of this Agreement or of the Lender Manual shall in no way affect any other provision of this Agreement or the Lender Manual, which shall remain in full force and effect.

4.06 Assignment. Lender shall not assign any of its rights under this Agreement to any other person without the written consent of WHEDA.

4.07 Binding Effect. This Agreement shall bind and inure to the benefit of WHEDA and Lender, and their respective successors-in-interest and permitted assigns. This Agreement may be executed in one or more counterparts, each of which shall be an original, but all such counterparts shall constitute one in the same Agreement. For purposes of this Agreement and any documents delivered in connection herewith, electronic signature pages shall be binding on the parties and have the same force and effect as signed, original signature pages.

4.08 Notice. All notices, tenders or demands made pursuant to this Agreement or the Lender Manual shall be made in writing and personally delivered or mailed to

Lender at the address set forth on the first page of this Agreement and to WHEDA at the address set forth below.

Attn: FARM
Wisconsin Housing and Economic Development Authority
Post Office Box 1728
Madison, Wisconsin 53701-1728

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the date first written above.

LENDER:

WHEDA:

**WISCONSIN HOUSING AND
ECONOMIC DEVELOPMENT
AUTHORITY**

[INSERT NAME OF LENDER]

_____(SEAL)
Chief Executive Officer Signature

_____(SEAL)
WHEDA Representative Signature

Date

Date

Printed Name

Printed Name

EXHIBIT A

Branch Rider

Name of Parent Lender

Parent WHEDA Lender Number: _____

Please include information set forth below for each Branch:

Branch 1

Name of Branch: _____

Street Address: _____

Mailing Address of Branch: _____

Branch Contact Name: _____

Branch Contact Telephone Number _____

Branch Contact E-mail Address _____

Branch WHEDA Lender Number: _____

Branch 2

Name of Branch _____

Street Address _____

Mailing Address of Branch _____

Branch Contact Name _____

Branch Contact Telephone Number _____

Branch Contact E-mail Address _____

Branch WHEDA Lender Number: _____

Additional pages may be added if necessary.