

#2002-61

**AGREEMENT BY AND BETWEEN
First National Bank
Ft. Pierre, South Dakota
and
The Office of the Comptroller of the Currency**

First National Bank, Ft. Pierre, South Dakota ("Bank") and the Comptroller of the Currency of the United States of America ("Comptroller") wish to protect the interests of the depositors, other customers, and shareholders of the Bank and, toward that end, wish the Bank to operate safely and soundly and in accordance with all applicable laws, rules and regulations.

The Comptroller, through his National Bank Examiners, has examined the Bank, and his findings are contained in the Report of Examination, dated December 31, 2001 ("ROE").

In consideration of the above premises it is agreed between the Bank, by and through its duly elected and acting Board of Directors ("Board"), and the Comptroller, through his authorized representative, that the Bank shall operate at all times in compliance with the articles of this Agreement.

ARTICLE I

JURISDICTION

(1) This Agreement shall be construed to be a "written agreement entered into with the agency" within the meaning of 12 U.S.C. § 1818(b)(1).

(2) This Agreement shall be construed to be a "written agreement between such depository institution and such agency" within the meaning of 12 U.S.C. § 1818(e)(1) and 12 U.S.C. § 1818(i)(2).

(3) This Agreement shall be construed to be a "formal written agreement" within the meaning of 12 C.F.R. § 5.51(c)(6)(ii). *See* 12 U.S.C. § 1831(i).

(4) This Agreement shall be construed to be a "written agreement" within the meaning of 12 U.S.C. § 1818(u)(1)(A).

(5) All reports or plans which the Bank or Board has agreed to submit to the Assistant Deputy Comptroller pursuant to this Agreement shall be forwarded to the:

Assistant Deputy Comptroller
Minneapolis West Field Office
4900 South Minnesota Avenue – Suite 300
Sioux Falls, South Dakota 57108

ARTICLE II

PROHIBITION ON DECEPTIVE ACTS OR PRACTICES IN CREDIT CARD

OPERATIONS

(1) The Bank shall not make any misleading or deceptive representation, statement, or omission, expressly or by implication, in the initial solicitation(s) sent to any consumer, or in any other communication with any consumer, in connection with a credit card available from, or issued by, the Bank.

ARTICLE III

DISCLOSURES ON CREDIT LINE AMOUNTS AND THE AMOUNT OF INITIAL

AVAILABLE CREDIT

(1) The Bank shall not make any misleading or deceptive representation, statement, or omission, expressly or by implication, to any consumer concerning the amount of credit that would be available for use by the consumer at account opening.

(2) The Bank shall not make any misleading or deceptive representation, statement, or omission, expressly or by implication, to any consumer concerning the cost or any other

aspect of a credit card issued by the Bank.

(3) If the Bank offers a credit card where a range of credit lines is available, and the majority of consumers who apply for the credit card receive the minimum credit line and, due to the fees attached to the card, the initial available credit is substantially less than the credit line, the Bank shall clearly and conspicuously disclose that a majority of consumers who apply for the credit card will actually receive that lower credit line and, due to fees attached to the card, that lower amount of initial available credit.

ARTICLE IV

DISCLOSURES CONCERNING ALTERNATIVE CREDIT TERMS

(1) In any communication that solicits a credit card application, if the Bank refers to a credit card term, but the consumer may be offered a credit card with less favorable terms,

(a) the Bank shall not make any misleading or deceptive representation, statement, or omission, expressly or by implication, to any consumer concerning the credit card terms the consumer will receive if the consumer submits an application and

(b) the Bank shall clearly and conspicuously disclose:

(i) That the consumer may receive, rather than the card applied for, an offer for a card with a less favorable credit card term; and

(ii) Details of the less favorable credit card term, or if details are unavailable, the nature of the less favorable term.

(2) If, in response to a credit card application, the Bank offers a credit card with any less favorable terms than those disclosed in the solicitation for which the application was

submitted, the Bank shall clearly and conspicuously disclose any right of the consumer to receive a refund of fees submitted with the credit card application, if such refund was described in the solicitation materials or otherwise communicated to the consumer before the application was submitted.

ARTICLE V

MONITORING PROGRAM

(1) Within ninety (90) days of the effective date of this Agreement, the Bank shall implement a written program pursuant to which the Bank's compliance officer and legal counsel shall on an ongoing basis evaluate the Bank's solicitations and customer complaints to determine compliance with this Agreement and to determine whether the Bank's solicitations should be modified or revised and whether appropriate actions are being taken in response to customer complaints. The Bank's compliance officer and legal counsel shall report their findings and make any recommendations of modifications or revisions to the Board.

ARTICLE VI

PROGRESS REPORTING - QUARTERLY

(1) The Board shall submit quarterly progress reports to the address identified in Article I, paragraph five (5) of this Agreement. These reports shall set forth in detail:

- (a) actions taken to comply with each Article of this Agreement;
- (b) results of those actions; and,
- (c) a description of the actions needed to achieve full compliance with each Article of this Agreement.

(2) The progress reports should also include any actions initiated by the Board and the Bank pursuant to the criticisms and comments in the ROE or in any future Report of Examination.

(3) The first progress report shall be submitted for the period ending September 30, 2002 and will be due within fifteen (15) days of that date. Thereafter, progress reports will be due within fifteen (15) days after the quarter end.

ARTICLE VII

DEFINITIONS

Notwithstanding anything to the contrary in this Agreement,

(1) “Assistant Deputy Comptroller” shall mean the Assistant Deputy Comptroller for the Minneapolis West Field Office at the address indicated in Article I.

(2) “Available credit” shall mean the difference, in dollar terms, between the credit line and the outstanding balance on the account.

(3) “Clear and conspicuous” shall mean that the disclosure is readable and reasonably understandable (or in the case of oral disclosures audible and reasonably understandable) and designed to call attention to the nature and significance of the information in the disclosure. For example, if a claim as to the cost or availability of a feature, benefit, or credit term is made in a written advertisement or solicitation, and there is any material limitation or condition to obtaining the feature, benefit, or credit term that is not disclosed in close proximity to the claim, this clear and conspicuous standard requires that:

- (a) The advertisement or solicitation shall contain a reference to the limitation, condition or cost disclosure in type of at least 10 point type size (other than on the outside of a direct mail envelope, where the text shall be in at least 8 point type size) either in close proximity to the claim or, if indicated by an asterisk affixed to the claim, on the page where the claim is stated;
- (b) The reference shall call attention to the fact that the disclosure contains limitation, condition, or cost information, by using the terms “limitation” or “condition” or “cost” or their substantial equivalents;
- (c) The reference shall direct the consumer to the location of the disclosure, which shall be in or with the advertisement or solicitation; and
- (d) The actual disclosure of limitation, condition, or cost information shall itself be readable and reasonably understandable and designed to call attention to the nature and significance of the information in the disclosure. For example, if the specific disclosure of limitation, condition, or cost information is located within a written document that contains numerous provisions, the specific disclosure shall be presented in a manner that, through heading, format, and/or type size, is designed to call attention to the nature and significance of the specific disclosure.

These requirements would apply to situations where, for example, a claim is made regarding the cost or availability of a feature, benefit, or credit term, but such claim is subject to material

conditions or limitations, or where a claim, explicitly or by implication, indicates that the consumer will receive the feature, benefit, or credit term, but there is a material limitation or condition on the consumer receiving the feature, benefit, or credit term.

(4) “Communication” shall include, unless the context indicates otherwise, communications in oral, written, or electronic form, including over the Internet.

(5) “Credit card account,” and “credit card,” and “account” shall mean a credit card issued by the Bank.

(6) “Credit line” shall mean the credit limit on a credit card account disclosed to consumer, and shall not include any tolerance applied by the Bank, whether or not such tolerance is disclosed to the consumer, before a fee may be imposed for exceeding the credit limit.

(7) “Days” shall mean calendar days unless otherwise specified.

(8) “Misleading” and “deceptive” shall mean deceptive as that term is interpreted under the Federal Trade Commission Act.

(9) “Written” shall include communications over the Internet.

ARTICLE VIII

CLOSING

(1) Although the Board has agreed to submit certain programs and reports to the Assistant Deputy Comptroller for review or approval, the Board has the ultimate responsibility for proper and sound management of the Bank.

(2) It is expressly and clearly understood that if, at any time, the Comptroller deems

it appropriate in fulfilling the responsibilities placed upon him/her by the several laws of the United States of America to undertake any action affecting the Bank, nothing in this Agreement shall in any way inhibit, estop, bar, or otherwise prevent the Comptroller from so doing.

(3) Any time limitations imposed by this Agreement shall begin to run from the effective date of this Agreement. Such time requirements may be extended in writing by the Assistant Deputy Comptroller for good cause upon written application by the Board.

(4) The provisions of this Agreement shall be effective upon execution by the parties hereto and its provisions shall continue in full force and effect unless or until such provisions are amended in writing by mutual consent of the parties to the Agreement or excepted, waived, or terminated in writing by the Comptroller.

(5) Nothing in this Agreement shall be construed to be and is not intended to imply any admission or denial by the Bank as to any fact, finding, conclusion, issue of law, or violation of law, nor shall compliance with the Agreement constitute or be construed as an admission or denial by the Bank of any fact, finding, conclusion, issue of law, or violation of law. The Bank's agreement to institute a practice pursuant to this Agreement does not constitute an admission or denial that the Bank's practice was otherwise prior to the date of this Agreement.

IN TESTIMONY WHEREOF, the undersigned, authorized by the Comptroller, has hereunto set her hand on behalf of the Comptroller.

/s/ Christine A. Hartman

July 18, 2002

Christine A. Hartman
Assistant Deputy Comptroller
Minneapolis West Field Office

Date

IN TESTIMONY WHEREOF, the undersigned, as the duly elected and acting Board of Directors of the Bank, have hereunto set their hands on behalf of the Bank.

/s/ Max Cruse	7/16/02
_____ Max Cruse	_____ Date
/s/ Michael T. Denton	7/16/02
_____ Michael T. Denton	_____ Date
/s/ Todd A. Douglas	7-16-02
_____ Todd A. Douglas	_____ Date
/s/ Brent E. Dykstra	7-16-02
_____ Brent E. Dykstra	_____ Date
/s/ Frank L. Farr	7/16/02
_____ Frank L. Farrar	_____ Date
/s/ Robert J. Farrar	7-16-02
_____ Robert J. Farrar	_____ Date
/s/ William S. Fuchs	7-16-02
_____ William S. Fuchs	_____ Date
/s/ G. Homer Harding	7/16/02
_____ G. Homer Harding	_____ Date
/s/ E. E. Hawk	7-16-0
_____ E. E. Hawk	_____ Date
_____	_____

/s/ Jerry Klocker	07/18/02
Jerry Klocker	Date
/s/ B. O. Lindbloom	07-18-02
B. O. Lindbloom	Date
/s/ Bert D. Neiber	07-18-02
Bert D. Neiber	Date
