

**AGREEMENT BY AND BETWEEN  
FIRST NATIONAL BANK OF GILMER  
GILMER, TEXAS  
AND  
THE OFFICE OF THE COMPTROLLER OF THE CURRENCY**

First National Bank of Gilmer, Gilmer, Texas (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/her National Bank Examiner, has examined the Bank, and his/her findings are contained in the Report of Examination for the examination that commenced on March 24, 2003 (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/her 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. § 1831i.

(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 (ADC) pursuant to this Agreement shall be forwarded to:

Marshall W. Mitchell  
Assistant Deputy Comptroller  
Longview Field Office  
1800 West Loop 281, Suite 306  
Longview, Texas 75604

## **ARTICLE II - COMPLIANCE COMMITTEE**

(1) Within thirty (30) days, the Board shall appoint a Compliance Committee of at least five (5) directors, of which no more than 2 shall be employees of the Bank or any of its affiliates (as the term “affiliate” is defined in 12 U.S.C. § 371c(b)(1)), or a family member of any such person. Upon appointment, the names of the members of the Compliance Committee shall be submitted in writing to the ADC. The Compliance Committee shall be responsible for monitoring and coordinating the Bank's adherence to the provisions of this Agreement.

(2) The Compliance Committee shall meet at least monthly.

(3) Within thirty (30) days of the appointment of the Committee and quarterly thereafter, the Compliance Committee shall submit a written progress report to the Board setting forth in detail:

- (a) actions taken to comply with each Article of this Agreement; and
- (b) the results of those actions.

(4) The Board shall forward a copy of the Compliance Committee's report, with any additional comments by the Board, to the ADC.

**ARTICLE III – CONSUMER LOAN UNDERWRITING**

(1) Within thirty (30) days, the Board shall develop, implement, and thereafter adhere to a written program to improve the Bank’s consumer loan underwriting. The program shall include at a minimum the following:

- (a) a description of acceptable types of direct and indirect loans;
- (b) a provision that current and satisfactory credit information will be obtained on each borrower;
- (c) maximum debt to income ratios;
- (d) a maturity schedule related to the anticipated source of repayment, and the useful life of the collateral;
- (e) a maximum ratio of loan to collateral value; and
- (f) collection procedures, to include follow-up efforts that are systematically and progressively stronger.

(2) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the policies developed pursuant to this Article.

(3) Upon completion, a copy of the program shall be forwarded to the ADC.

**ARTICLE IV – COMMERCIAL LOAN UNDERWRITING**

(1) Within thirty (30) days, the Board shall develop, implement, and thereafter adhere to a written program to ensure that extensions of credit are granted, by renewal or otherwise, to any borrower only after obtaining and analyzing current and satisfactory credit information. For those commercial borrowers with aggregate debt equal to or greater than one hundred thousand dollars (\$100,000) procedures should require at a minimum the following:

- (a) trend and financial ratio analysis, including financial statement spreads, along with written detail of the obligor's financial strengths, weaknesses, and any pertinent discussions with the borrower; and
  - (b) cash flow analysis to include all debt service requirements of the borrower, including that from other financial institutions.
- (2) Upon completion, a copy of the program shall be forwarded to the ADC.

#### **ARTICLE V - CREDIT AND COLLATERAL EXCEPTIONS**

(1) Within thirty (30) days, the Board shall develop, implement, and thereafter ensure Bank adherence to a written program to reduce the level of documentation exceptions. The program shall include at a minimum the following:

- (a) procedures to ensure satisfactory and perfected collateral documentation;
  - (b) procedures to ensure that extensions of credit are granted, by renewal or otherwise, to any borrower only after obtaining and analyzing current and satisfactory credit information; and
  - (c) a system to track, analyze, and correct exceptions.
- (2) Upon completion, a copy of the program shall be forwarded to the ADC.

#### **ARTICLE VI - CRITICIZED ASSETS**

(1) The Bank shall take immediate and continuing action to protect its interest in those assets criticized in the ROE, in any subsequent Report of Examination, by internal or external loan review, or in any list provided to management by the National Bank Examiners during any examination.

(2) Within thirty (30) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to a written program designed to eliminate the basis of criticism of assets criticized in the ROE, in any subsequent Report of Examination, or by any internal or external loan review, or in any list provided to management by the National Bank Examiners during any examination as "doubtful," "substandard," or "special mention." This program shall include, at a minimum:

- (a) an identification of the expected sources of repayment;
- (b) the appraised value of supporting collateral and the position of the Bank's lien on such collateral where applicable;
- (c) an analysis of current and satisfactory credit information, including cash flow analysis where loans are to be repaid from operations; and
- (d) the proposed action to eliminate the basis of criticism and the time frame for its accomplishment.

(3) Upon adoption, a copy of the program for all criticized assets equal to or exceeding one hundred thousand dollars (\$100,000) shall be forwarded to the ADC.

(4) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the program developed pursuant to this Article.

(5) The Board, or a designated committee, shall conduct a review, on at least a monthly basis, to determine:

- (a) the status of each criticized asset or criticized portion thereof that equals or exceeds one hundred thousand dollars (\$100,000);
- (b) management's adherence to the program adopted pursuant to this Article;
- (c) the status and effectiveness of the written program; and
- (d) the need to revise the program or take alternative action.

(6) A copy of each review shall be forwarded to the ADC on a quarterly basis in a format similar to Appendix A, attached hereto.

(7) The Bank may extend credit, directly or indirectly, including renewals, extensions or capitalization of accrued interest, to a borrower whose loans or other extensions of credit are criticized in the ROE, in any subsequent Report of Examination, in any internal or external loan review, or in any list provided to management by the National Bank Examiners during any examination and whose aggregate loans or other extensions exceed one hundred thousand dollars (\$100,000) only if each of the following conditions is met:

- (a) the Board or designated committee finds that the extension of additional credit is necessary to promote the best interests of the Bank and that prior to renewing, extending or capitalizing any additional credit, a majority of the full Board (or designated committee) approves the credit extension and records, in writing, why such extension is necessary to promote the best interests of the Bank; and
- (b) a comparison to the written program adopted pursuant to this Article shows that the Board's formal plan to collect or strengthen the criticized asset will not be compromised.

(8) A copy of the approval of the Board or of the designated committee shall be maintained in the file of the affected borrower.

#### **ARTICLE VII- ALLOWANCE FOR LOAN AND LEASE LOSSES**

(1) The Board shall review the adequacy of the Bank's Allowance for Loan and Lease Losses (Allowance) and shall establish a program for the maintenance of an adequate Allowance. This review and program shall be designed in light of the comments on maintaining a proper

Allowance found in the Allowance for Loan and Lease Losses booklet, A-ALLL, of the Comptroller's Handbook, and shall focus particular attention on the following factors:

- (a) results of the Bank's internal loan review;
- (b) results of the Bank's external loan review;
- (c) an estimate of inherent loss exposure on each significant credit;
- (d) loan loss experience;
- (e) trends of delinquent and nonaccrual loans;
- (f) concentrations of credit in the Bank; and
- (g) present and prospective economic conditions.

(2) The program shall provide for a review of the Allowance by the Board at least once each calendar quarter. Any deficiency in the Allowance shall be remedied in the quarter it is discovered, prior to the filing of the Consolidated Reports of Condition and Income, by additional provisions from earnings. Written documentation shall be maintained indicating the factors considered and conclusions reached by the Board in determining the adequacy of the Allowance.

(3) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the program developed pursuant to this Article.

#### **ARTICLE VIII - CAPITAL PLAN**

(1) By June 30, 2003, the Board shall develop, implement, and thereafter ensure Bank adherence to a three year capital program. The program shall include:

- (a) specific plans for the maintenance of adequate capital;

- (b) projections for growth and capital requirements based upon a detailed analysis of the Bank's assets, liabilities, earnings, fixed assets, and off-balance sheet activities;
- (c) projections of the sources and timing of additional capital to meet the Bank's current and future needs;
- (d) the primary source(s) from which the Bank will strengthen its capital structure to meet the Bank's needs;
- (e) contingency plans that identify alternative methods should the primary source(s) under (d) above not be available; and
- (f) a dividend policy that permits the declaration of a dividend only:
  - (i) when the Bank is in compliance with its approved capital program;
  - (ii) when the Bank is in compliance with 12 U.S.C. §§ 56 and 60; and
  - (iii) with prior written notice to the ADC.

(2) Upon completion, the Bank's capital program shall be submitted to the ADC for prior determination of no supervisory objection. Upon receiving a determination of no supervisory objection from the ADC, the Bank shall implement and adhere to the capital program. The Board shall review and update the Bank's capital program on an annual basis, or more frequently if necessary. Copies of the reviews and updates shall be submitted to the ADC. The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the program developed pursuant to this Article.



## **ARTICLE IX- BUDGET**

(1) By June 30, 2003, the Board shall develop, implement, and thereafter ensure Bank adherence to a budgetary process. This budget shall include, at minimum, the following elements:

- (a) realistic and comprehensive budgets, including projected balance sheets and year-end income statements on a monthly and year to date basis;
- (b) a budget review process to monitor both the Bank's income and expenses, and to compare actual figures with budgetary projections; and
- (c) a description of the operating assumptions that form the basis for major projected income and expense components.

(2) The budgets and related documents required in paragraph (1) above for 2003 shall be submitted to the ADC upon completion. The Board shall submit to the ADC annual budgets as described in paragraph (1) above for each year this FA remains in effect. The budget for each year shall be submitted on or before November 30, of the preceding year.

(3) The Board shall forward comparisons of its balance sheet and profit and loss statement to the profit plan projections to the ADC on a quarterly basis.

(4) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the plan developed pursuant to this Article.

## **ARTICLE X – INTERNAL AUDIT**

(1) Within sixty (60) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to an independent, internal audit program sufficient to:

- (a) detect irregularities in the Bank's operations;

- (b) determine the Bank's level of compliance with all applicable laws, rules and regulations;
- (c) evaluate the Bank's adherence to established policies and procedures, with particular emphasis directed to the Bank's adherence to its loan policies concerning underwriting standards and problem loan identification and classification;
- (d) ensure adequate audit coverage in all areas; and
- (e) establish an annual audit plan using a risk based approach sufficient to achieve these objectives.

(2) As part of this audit program, the Board shall evaluate the audit reports of any party providing services to the Bank, and shall assess the impact on the Bank of any audit deficiencies cited in such reports.

(3) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the program developed pursuant to this Article.

(4) The Board shall ensure that the audit function is supported by an adequately staffed department or outside firm, with respect to both the experience level and number of the individuals employed.

(5) The Board shall ensure that the audit program is independent. The persons responsible for implementing the internal audit program described above shall report directly to the Board, that shall have the sole power to direct their activities. All reports prepared by the audit staff shall be filed directly with the Board and not through any intervening party.

(6) All audit reports shall be in writing. The Board shall ensure that immediate actions are undertaken to remedy deficiencies cited in audit reports, and that auditors maintain a written record describing those actions.

(7) The audit staff shall have access to any records necessary for the proper conduct of its activities. National bank examiners shall have access to all reports and work papers of the audit staff and any other parties working on its behalf.

(8) Upon adoption, a copy of the internal audit program shall be promptly submitted to the Assistant Deputy Comptroller.

#### **ARTICLE XI - CLOSING**

(1) Although the Board has agreed to submit certain programs and reports to the ADC 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 ADC 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) In each instance in this Agreement in which the Board is required to ensure adherence to, and undertake to perform certain obligations of the Bank, it is intended to mean that the Board shall:

- (a) authorize and adopt such actions on behalf of the Bank as may be necessary for the Bank to perform its obligations and undertakings under the terms of this Agreement;
- (b) require the timely reporting by Bank management of such actions directed by the Board to be taken under the terms of this Agreement;
- (c) follow-up on any non-compliance with such actions in a timely and appropriate manner; and
- (d) require corrective action be taken in a timely manner of any non-compliance with such actions.

(6) This Agreement is intended to be, and shall be construed to be, a supervisory “written agreement entered into with the agency” as contemplated by 12 U.S.C. § 1818(b)(1), and expressly does not form, and may not be construed to form, a contract binding on the OCC or the United States. Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the OCC may enforce any of the commitments or obligations herein undertaken by the Bank under its supervisory powers, including 12 U.S.C. § 1818(b)(1), and not as a matter of contract law. The Bank expressly acknowledges that neither the Bank nor the OCC has any intention to enter into a contract. The Bank also expressly acknowledges that no OCC officer or employee has statutory or other authority to bind the United States, the U.S. Treasury

Department, the OCC, or any other federal bank regulatory agency or entity, or any officer or employee of any of those entities to a contract affecting the OCC's exercise of its supervisory responsibilities. The terms of this Agreement, including this paragraph, are not subject to amendment or modification by any extraneous expression, prior agreements or arrangements, or negotiations between the parties, whether oral or written.

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

/S/  
\_\_\_\_\_  
Marshall W. Mitchell  
Assistant Deputy Comptroller  
Longview Field Office

5/21/03  
\_\_\_\_\_  
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/ _____ Frank Breazeale	5/21/03 _____ Date
/S/ _____ Tom Cook	5/21/03 _____ Date
/S/ _____ Steve Dean	5/21/03 _____ Date
/S/ _____ George Dodd	5/21/03 _____ Date
/S/ _____ Dr. Bob Glaze	5/21/03 _____ Date
_____ Joe Riley Jones, Jr.	_____ Date
/S/ _____ Sammy D. Satterwhite	5/21/03 _____ Date
/S/ _____ Stephen Williams	5/21/03 _____ Date