

AGREEMENT BY AND BETWEEN

The National Bank of Vernon

Vernon, New York

and

The Comptroller of the Currency

The National Bank of Vernon, Vernon, New York (“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 Examiners, has examined the Bank, and his/her findings are contained in the Report of Examination (“ROE”) for the examination that commenced on August 16, 2005.

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. § 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) This Agreement shall cause the Bank to be designated as in “troubled condition,” as set forth in 12 C.F.R. § 5.51(c)(6), unless otherwise informed in writing by the Comptroller. In addition, this Agreement shall cause the Bank not to be designated as an “eligible bank” for purposes of 12 C.F.R. § 5.3(g), unless otherwise informed in writing by the Comptroller.

(6) 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:

Daniel L. Bailey  
Assistant Deputy Comptroller  
Syracuse Field Office  
231 Salina Meadows Parkway, Suite 105  
Syracuse, New York 13212

## Article II

### COMPLIANCE COMMITTEE

(1) Within fifteen (15) days of the date of this Agreement, the Board shall appoint a Compliance Committee of at least four (4) directors, of which no more than one (1) shall be an employee or controlling shareholder 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 and, in the event of a change of the membership, the name of any new member shall be submitted in writing to the Assistant Deputy Comptroller. 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 date of this Agreement and every thirty (30) days thereafter, the Compliance Committee shall submit a written progress report to the Board setting forth in detail:

(a) a description of the action needed to achieve full compliance with each Article of this Agreement;

(b) actions taken to comply with each Article of this Agreement; and

(c) the results and status 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 Assistant Deputy Comptroller within ten (10) days of receiving such report.

### Article III

#### BOARD TO ENSURE COMPETENT MANAGEMENT AND BOARD OVERSIGHT

(1) Within thirty (30) days, the Board shall engage an independent firm to assess the capabilities and effectiveness of management and the Board as directed in paragraphs (2) – (4) of this article.

(2) Within sixty (60) days, the independent firm shall assess the capabilities and effectiveness of the directors and ensure that all directors are actively participating in decisions

to improve and maintain the condition of the bank, which conform to their fiduciary responsibilities as directors. For those directors who are no longer able to make this high level contribution, consideration should be given by the remainder of the board to ask the affected parties to resign, and replace them, if needed, with directors that have qualifications which would allow them to exhibit a high level contribution that would fulfill their fiduciary responsibilities.

(3) Within sixty (60) days, the independent firm shall review the capabilities of the Bank's management to perform present and anticipated duties and provide the Board with recommended changes to management, including the need for additions to or deletions from current management.

(4) Within one hundred twenty (120) days, the Board shall ensure the Bank has competent management in place on a full-time basis in its senior management (President, Senior Loan Officer, Chief Financial Officer) positions to carry out the Board's policies, ensure compliance with this Agreement, applicable laws, rules and regulations, and manage the day-to-day operations of the Bank in a safe and sound manner.

(5) If the independent firm determines that an officer could continue in his/her position but that the officer's depth of skills needs improvement, the Board will within thirty (30) days develop and implement a written program, with specific time frames, to improve the officer's supervision and management of the Bank. At a minimum the written program shall include:

- (a) an education program designed to ensure that the officer has skills and abilities necessary to supervise effectively;
- (b) a program to improve the effectiveness of the officer;
- (c) objectives by which the officer's effectiveness will be measured; and

- (d) a performance appraisal program for evaluating performance according to the position's description and responsibilities and for measuring performance against the Bank's goals and objectives.

Upon completion, a copy of the written program shall be submitted to the Assistant Deputy Comptroller.

(6) If a position mentioned in paragraph (4) of this Article is vacant now or in the future, including if the Board realigns an existing officers' responsibilities and a position mentioned in Paragraph (4) of this Article becomes vacant, the Board shall within sixty (60) days of such vacancy appoint a capable person to the vacant position who shall be vested with sufficient executive authority to ensure the Bank's compliance with this Agreement and the safe and sound operation of functions within the scope of that position's responsibility.

(7) Prior to the appointment of any individual to an executive officer position, the Board shall submit to the Assistant Deputy Comptroller the following information:

- (a) the information sought in the "Changes in Directors and Senior Executive Officers" booklet of the Comptroller's Corporate Manual, together with a legible fingerprint card for the proposed individual;
- (b) a written statement of the Board's reasons for selecting the proposed officer; and
- (c) a written description of the proposed officer's duties and responsibilities.

(8) The Assistant Deputy Comptroller shall have the power to disapprove the appointment of the proposed new officer. However, the lack of disapproval of such individual shall not constitute an approval or endorsement of the proposed officer.

(9) The requirement to submit information and the prior disapproval provisions of this Article are based on the authority of 12 U.S.C. § 1818(b)(6)(E) and do not require the Comptroller to complete his/her review and act on any such information or authority within ninety (90) days.

#### Article IV

#### PROFIT PLAN

(1) Within ninety (90) days, the Board shall develop, implement, and thereafter ensure Bank adherence to a written profit plan to improve and sustain the earnings of the Bank. This plan shall include, at minimum, the following elements:

- (a) identification of the major areas in and means by which the Board will seek to improve the Bank's operating performance;
- (b) realistic and comprehensive budgets, including projected balance sheets and year-end income statements;
- (c) a budget review process to monitor both the Bank's income and expenses, and to compare actual figures with budgetary projections;
- (d) a description of the operating assumptions that form the basis for major projected income and expense components;
- (e) an identification of the Bank's present and future product lines (assets and liabilities) that will be utilized to accomplish the strategic goals and objectives established in paragraph (1) of this Article; and
- (f) an evaluation of the Bank's internal operations, staffing requirements, board and management information systems and policies and procedures

for their adequacy and contribution to the accomplishment of the goals and objectives developed under paragraph (1) of this Article.

(2) The budgets and related documents required in paragraph (1) above for 2006 shall be submitted to the Assistant Deputy Comptroller upon completion. The Board shall submit to the Assistant Deputy Comptroller annual budgets as described in paragraph (1) above for each year this Agreement 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 Assistant Deputy Comptroller on a quarterly basis.

## Article V

### CAPITAL PLAN AND HIGHER MINIMUMS

(1) The Bank shall maintain the following capital levels (as defined in 12 C.F.R. Part 3):

- (a) Tier 1 leverage capital at least equal to nine and one-half percent (9.5%) of adjusted total assets as defined by 12 C.F.R. § 6.2(d) and (f);
- (b) Tier 1 risk-based capital at least equal to fourteen percent (14%) of risk-weighted assets as defined by 12 C.F.R. § 6.2(i) and (f); and,
- (c) Total risk-based capital of fifteen percent (15%) of risk weighted assets as defined by 12 C.F.R. § 6.2(k) and (f).

(2) The requirement in this Agreement to meet and maintain a specific capital level means that the Bank may not be deemed to be “well capitalized” for purposes of 12 U.S.C. § 1831o and 12 C.F.R. Part 6 pursuant to 12 C.F.R. § 6.4(b)(1)(iv).

(3) Within sixty (60) days, the Board shall review and revise the Bank's current capital plan to develop, implement, and thereafter ensure Bank adherence to a comprehensive capital program. The program shall include:

- (a) specific plans for the maintenance of adequate capital that may in no event be less than the requirements of paragraph (1) in this Article;
- (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 over a three to five year time period;
- (d) contingency plans that identify alternative methods should the primary source(s) under (c) above not be available; and,
- (e) 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) when prudent depending on the capital needs of the bank.

(4) Upon completion, the Bank's capital program shall be submitted to the Assistant Deputy Comptroller for review. 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 Assistant Deputy Comptroller.



## Article VI

### ALLOWANCE FOR LOAN AND LEASE LOSSES

(1) The Board shall continue to review the adequacy of the Bank's Allowance for Loan and Lease Losses (“Allowance”) and shall continue to ensure a program for the maintenance of an adequate Allowance. The review and program shall continue to be designed in conjunction with the comments on maintaining a proper Allowance found in the “Allowance for Loan and Lease Losses” booklet of the Comptroller’s Handbook, OCC Bulletin 2001-37 – Policy Statement on Allowance for Loan and Lease Losses Methodologies and Documentation for Banks and Savings Institutions, and Statement of Financial Accounting Standards (FASB)114 – Accounting by Creditors for the Impairment of a Loan, and shall focus particular attention on the following factors:

- (a) results of the Bank's internal and external loan reviews;
- (b) an estimate of inherent loss exposure on each significant credit;
- (c) loan loss experience;
- (d) trends of criticized, delinquent and nonaccrual loans;
- (e) concentrations of credit in the Bank;
- (f) present and prospective economic conditions;
- (g) all other qualitative factors detailed in the “Allowance for Loan and Lease Losses” booklet of the Comptroller’s Handbook; and
- (h) documentation to support Allowance assumptions and decisions.

(2) The program shall continue to provide for a review of the Allowance by the Board at least once each calendar quarter. Any deficiency in the Allowance shall continue to 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. If the deficiency applies to prior periods, than management must restate the Consolidated Reports of Condition and Income immediately. Written documentation shall continue to be maintained indicating the factors considered and conclusions reached by the Board in determining the adequacy of the Allowance.

## Article VII

### CREDIT RISK MANAGEMENT

(1) The Bank shall take immediate and continuing action to develop, implement, and ensure Bank adherence to a written program to reduce the level of credit risk in the loan portfolio, improve the Bank's loan portfolio management and correct each deficiency cited in the ROE. At least quarterly, the Board shall prepare a written assessment of the Bank's credit risk, which shall evaluate the Bank's progress under the aforementioned program. The written program and quarterly assessments shall be submitted to the Assistant Deputy Comptroller. The program shall include, but not be limited to:

- (a) procedures to strengthen credit administration, underwriting, and problem loan identification particularly in the commercial, commercial real estate, and agricultural loan portfolios;
- (b) procedures to strengthen management of lending operations and to maintain an adequate, qualified staff in all functional areas, including lending officers; and,
- (c) action plans to manage and control commercial loan growth.

(2) 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.

(3) The Board shall hold all Bank officers who are involved in lending accountable for properly risk rating loans and bringing potential and actual problem loans to the attention of management and the Board in a timely manner.

(4) Effective immediately, the Bank will grant, extend, renew, alter or restructure any commercial or agricultural loan or other extension of credit in an amount greater than \$100,000 only after:

- (a) documenting the specific reason or purpose for the extension of credit;
- (b) identifying the expected source of repayment in writing;
- (c) structuring the repayment terms to coincide with the expected source and timing of repayment;
- (d) obtaining and analyzing current and satisfactory credit information, including cash flow analysis, where loans are to be repaid from operations;
- (e) failure to obtain the information in (4)(d) shall require a majority of the full Board (or a delegated committee thereof) to certify in writing the specific reasons why obtaining and analyzing the information in (4)(d) would be detrimental to the best interests of the Bank. A copy of the Board certification shall be maintained in the credit file of the affected borrower(s). The certification will be reviewed by this Office in subsequent examinations of the Bank; and,
- (f) documenting, with adequate supporting material, the value of collateral and properly perfecting the Bank's lien on it where applicable.

(5) Within ninety (90) days, the Board shall develop, implement, and thereafter ensure the Bank's adherence to a written program providing for a comprehensive and well-defined internal risk rating system to properly categorize and report the level of risk in the loan portfolio. The program shall use a loan and lease grading system consistent with the guidelines set forth in the "Rating Credit Risk" booklet of the Comptroller's Handbook.

- (a) Within ninety (90) days, the Bank shall conduct a review of all commercial and agricultural lending relationships in excess of one hundred thousand dollars (\$100,000) to ensure the relationship is properly risk rated in accordance with guidelines set forth in paragraph (5). A written report summarizing the results of this review shall be presented to the Board, with a copy forwarded to the Assistant Deputy Comptroller.
- (b) Within ninety (90) days, the Board shall conduct a review of short-term time notes to determine if any have been inappropriately used to supplement the cash flow of the borrower. This review shall ensure the loans are properly risk rated, and determine if nonaccrual status is warranted. A written report summarizing the results of this review shall be presented to the Board, with a copy forwarded to the Assistant Deputy Comptroller.
- (c) Within thirty (30) days, the Board shall develop and implement a system to formally track and report changes in loan risk ratings to senior management and the Board at least monthly.

(d) The Board shall provide sufficient training to ensure all applicable personnel fully understand risk rating definitions and proper application of those risk rating definitions and standards.

(6) Within ninety (90) 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." Upon adoption, and quarterly thereafter, a copy of the program for all criticized assets equal to or exceeding one hundred thousand dollars (\$100,000) shall be forwarded to the Assistant Deputy Comptroller.

- (a) This program shall include written action plans for each criticized borrower. At a minimum, these action plans should include:
- (i) an identification of the expected sources of repayment;
  - (ii) a valid appraisal of supporting collateral and the position of the Bank's lien on such collateral where applicable;
  - (iii) an analysis of current and satisfactory credit information, including cash flow analysis where loans are to be repaid from operations;  
and,
  - (iv) the proposed action to eliminate the basis of criticism and the timeframe for its accomplishment.
- (b) The Board, or a designated committee, shall conduct a review, on at least a quarterly basis, to determine:

- (i) the status of each criticized asset or criticized portion thereof that equals or exceeds one hundred thousand dollars (\$100,000);
- (ii) management's adherence to the program adopted pursuant to paragraph (6);
- (iii) the status and effectiveness of the written program; and,
- (iv) the need to revise the program or take alternative action.
- (v) A copy of each review shall be forwarded to the Assistant Deputy Comptroller on a quarterly basis.

(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 paragraph (6) of this Article shows that the Board's formal plan to collect or strengthen the criticized asset will not be compromised.

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

(8) Within ninety (90) days, the Board shall review and revise the Bank's written loan policy. In revising this policy, the Board shall refer to the "Loan Portfolio Management" booklet of the Comptroller's Handbook. Upon adoption, the policy shall be implemented, the Board shall thereafter ensure Bank adherence to the policy, and a copy of the policy shall be forwarded to the Assistant Deputy Comptroller for review. This policy shall adequately address, but not be limited to, the following:

- (a) a provision that current and satisfactory credit information will be obtained on each borrower;
- (b) minimum requirements for uniform and comprehensive credit analysis, including full disclosure of all significant aspects of the proposed credit and an assessment of the risks involved, prior to credit approval;
- (c) maturity scheduling related to the anticipated source of repayment, the purpose of the loan, and the useful life of the collateral;
- (d) maximum ratio of loan value to appraised value or acquisition costs of collateral securing the loan;
- (e) collection procedures, to include follow-up efforts, that are systematically and progressively stronger;
- (f) a limitation on the type and size of loans that may be made by loan officers without prior approval by the Board or a committee established by the Board for this purpose;

- (g) guidelines designed to improve Board oversight of the loan approval process, specifically with regard to credits exhibiting significant risk. At a minimum, the guidelines shall:
  - (i) establish dollar limits on extensions of credit to any one borrower, above which the prior approval of the Board, or a committee thereof, would be required;
  - (ii) establish dollar limits on aggregate extensions of credit to any one borrower, above which any new extensions of credit to that borrower, regardless of amount, would require the prior approval of the Board, or a committee thereof; and,
  - (iii) require that all credits, which deviate from the Bank's normal course of business, including all credits, which deviate from the Bank's written strategic plan, receive the prior approval of the Board, or a committee thereof;
- (h) guidelines setting forth the criteria under which renewals of extensions of credit may be approved. At a minimum, the guidelines shall:
  - (i) ensure that renewals are not made for the sole purpose of reducing the volume of loan delinquencies;
  - (ii) ensure that renewals are supported by a defined source and timing of repayment; and,
  - (iii) provide guidelines and limitations on the capitalization of interest at the time of renewal.



- (i) guidelines for placing loans on nonaccrual status consistent with the Instructions for Preparation of Consolidated Reports of Condition and Income (Call Report Instructions); and,
- (j) guidelines on real estate appraisal practices and appraisal review processes.

(9) Within ninety (90) days, the Board shall expand processes and systems to identify, monitor, and analyze policy, credit and collateral exceptions. This information shall be produced and presented to the Board at least monthly.

(10) Within ninety (90) days, the Board shall continue to take prudent action designed to obtain current and satisfactory credit information on all loans lacking such information, including those listed in the ROE, in any subsequent Report of Examination, in any internal or external loan review, or in any listings of loans lacking such information provided to management by the National Bank Examiners at the conclusion of an examination.

(11) Within ninety (90) days, the Board shall continue to take prudent action designed to ensure proper collateral documentation is maintained on all loans and continue to take prudent action designed to correct each collateral exception listed in the ROE, in any subsequent Report of Examination, in any internal or external loan review, or in any listings of loans lacking such information provided to management by the National Bank Examiners at the conclusion of an examination.

(12) The Board shall continue to implement and ensure Bank adherence to a written program providing for an independent review of the Bank's loan portfolios, including problem loans and leases, for the purpose of monitoring portfolio quality and trends, on at least an annual basis.

- (a) The program shall provide for an independent reviewer's assessment of the Bank's:
  - (i) monitoring systems for early problem loan identification to assure the timely identification and rating of loans and leases based on lending officer submissions;
  - (ii) systems for monitoring compliance with the Bank's lending policies and laws, rules, and regulations pertaining to the Bank's lending function; and, systems for monitoring the adequacy of credit and collateral documentation.
  
- (b) The independent loan review program shall continue to provide for a written report to be filed with the Board after each review. Such reports shall, at a minimum, include conclusions regarding:
  - (i) the overall quality of the loan and lease portfolios;
  - (ii) the identification, type, rating, and amount of problem loans and leases;
  - (iii) the identification and amount of delinquent loans and leases;
  - (iv) credit and collateral documentation exceptions;
  - (v) the identification and status of credit related violations of law, rule or regulation;
  - (vi) the identity of the loan officer who originated each loan reported; concentrations of credit; and,

- (vii) loans and leases not in conformance with the Bank’s lending and leasing policies, and exceptions to the Bank’s lending and leasing policies.
- (c) The Board shall ensure that the independent loan review function appropriately applies risk ratings in accordance with risk rating definitions found in the “Rating Credit Risk” booklet of the Comptroller’s Handbook, and that the independent loan review comments and documentation are consistent with and support the assigned risk rating.
- (d) The Board shall ensure that the scope of the independent loan review is sufficient to test the accuracy of credit file information used in determining risk rating decisions.
- (e) A written description of the program called for in this Article shall be forwarded to the Assistant Deputy Comptroller upon implementation.
- (f) The Board shall evaluate all external loan and lease review reports and shall ensure that immediate, adequate, and continuing remedial action, if appropriate, is taken upon all findings noted in the reports.

## Article VIII

### INTEREST RATE RISK MANAGEMENT

(1) Within sixty (60) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to a comprehensive, written interest rate risk policy. In formulating this policy, the Board shall refer to the “Interest Rate Risk” booklet of the Comptroller’s Handbook. The policy shall provide for a coordinated interest rate risk strategy and, at a minimum, address:

- (a) the establishment of adequate management reports on which to base sound interest rate risk management decisions;
- (2) Within ninety (90) days, the Board shall provide management with the following:
- (a) effective tools to measure and monitor the Bank's performance and overall interest rate risk profile;
  - (b) prudent limits on the nature and amount of interest rate risk that can be taken; and
  - (c) action plans for reducing exposure in the event that limits are exceeded.
- (3) Within ninety (90) days, management shall develop reasonable assumptions for all rate sensitive asset and liability accounts especially for mortgage-backed securities, callable securities and non-maturity deposits.
- (a) assumptions should be well-supported, formally documented and based on historically valid data;
  - (b) assumptions should be developed for each type of model – earnings-at-risk and economic value of equity;
  - (c) assumptions for all rate-sensitive accounts should be reported in detail to the Board at least annually;
  - (d) assumptions should be approved by the Board at least annually.
- (4) On at least a quarterly basis, management should provide reports to the Board detailing compliance with the approved limits and actions being taken to reduce exposure, if applicable.

(5) Within one hundred eighty (180) days, the Board shall engage an independent firm to assess the reasonableness of the assumptions used in the earnings-at-risk and economic value of equity models.

(a) The independent firm shall report to the Board their findings in writing.

(b) Within thirty (30) days of issuance of the report, management shall implement corrective action to remedy the firm's findings.

(6) Upon adoption, a copy of the written policy shall be forwarded to the Assistant Deputy Comptroller for review.

## Article IX

### CLOSING

(1) Although the Board has agreed to submit certain programs and reports to the Assistant Deputy Comptroller for review or prior written determination of no supervisory objection, 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) 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 Comptroller or the United States. Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the Comptroller may enforce any of the commitments or obligations herein undertaken by the Bank under his 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 Comptroller has any intention to enter into a contract. The Bank also expressly acknowledges that no officer or employee of the Office of the Comptroller of the Currency has statutory or other authority to bind the United States, the U.S. Treasury Department, the Comptroller, or any other federal bank regulatory agency or entity, or any officer or employee of any of those entities to a contract affecting the Comptroller's exercise of his supervisory responsibilities. The terms of this Agreement, including this paragraph, are not subject to amendment or modification by any extraneous expression, prior agreements or prior arrangements between the parties, whether oral or written.

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

*Signed*

*1/30/06*

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Michael Timpano  
Acting Assistant Deputy Comptroller  
Syracuse Field Office

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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.

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*Signed*

Jeffrey S. Gilbert

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*1/30/06*

Date

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*Signed*

Luke Lewis

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*1/30/2006*

Date

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*Signed*

Thomas F. Malecki

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*1/30/06*

Date

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*Signed*

David J. Rapke

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*1/30/06*

Date

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*Signed*

Richard A. Thaler

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*1/30/06*

Date

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*Signed*

George C. Trost

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*February 2, 2006*

Date