

AGREEMENT BY AND BETWEEN  
First National Bank  
Fort Collins, Colorado  
and  
The Comptroller of the Currency

First National Bank, Fort Collins, Colorado (“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 has found: violations of 12 C.F.R. Part 22; 12 C.F.R. Part 226; and 24 C.F.R. Part 3500 at the Bank.

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 not to be designated as an “eligible bank” for purposes of 12 C.F.R. § 5.3(g).

(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:

Robert P. Sejnoha  
Assistant Deputy Comptroller  
Comptroller of the Currency  
Midsize Bank Supervision  
One Financial Place, Suite 2700  
440 South LaSalle Street  
Chicago, Illinois 60605-1073

With copies to:

Michael Bazata  
National Bank Examiner, Examiner in Charge  
Comptroller of the Currency  
Kansas City Field Office  
7101 College Boulevard, Suite 1600  
Overland Park, Kansas 66210-2077

## ARTICLE II

### COMPLIANCE COMMITTEE

(1) Within fifteen (15) days of the date of this Agreement, the Board shall appoint a Compliance Committee comprised of at least five (5) directors, of which no more than two (2) 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 forty-five (45) days of the date of this Agreement and quarterly 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

#### CONSUMER COMPLIANCE PROGRAM

(1) Within ninety (90) days, the Board shall adopt, implement, and thereafter ensure adherence to a written Consumer Compliance Program designed to ensure that the Bank is operating in compliance with all applicable consumer protection laws, rules, and regulations.

This program shall include, but not be limited to:

- (a) a written compliance department staffing plan and organization chart that clearly reflects areas of responsibility and lines of authority;

- (b) a detailed written description of the duties and responsibilities of the Bank's Compliance Officer, regional Senior Compliance Official, and Bank compliance officers, respectively;
- (c) written employee accountability guidelines for all Bank business units and departments and, upon which employee's performance and effectiveness, including the Compliance Officer and regional Senior Compliance Official, will be measured, monitored, and reported;
- (d) adequate internal controls to ensure compliance with consumer protection laws, rules, and regulations, including but not limited to 12 C.F.R. Part 22;
- (e) the preparation or revision of policies and procedures manual/s covering all consumer protection laws, rules, and regulations for use by appropriate Bank personnel in the performance of their duties and responsibilities;
- (f) at least annual updates of the Bank's written policies and procedures manual/s to ensure they remain current as laws and regulations and Bank processes and procedures change;
- (g) an effective monitoring program to test for compliance with consumer protection laws, rules, and regulations;
- (h) procedures to ensure that exceptions noted in the monitoring and/or audit reports are responded to, and corrected by, the appropriate Bank personnel within thirty (30) days of identification in the respective

report (monitoring and/or audit reports shall identify root causes of problems and corrective actions shall be directed at those root causes);

- (i) a program to track and report the status of corrective actions, including periodic testing of completed corrective actions to ensure implementation and effectiveness;
- (j) periodic reporting of the results of consumer compliance monitoring and audit to the Board or a committee thereof (reports shall include all significant issues even if corrected since the previous report); and
- (k) written program to establish comprehensive training for all appropriate Bank personnel in the requirements of all federal and state consumer protection laws, rules, and regulations, including ensuring training maintains current as laws and regulations and Bank processes and procedures change.

(2) Upon adoption, a copy of the program shall be forwarded to the Assistant Deputy Comptroller for review.

(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 IV

##### VIOLATIONS OF LAW

(1) The Board shall immediately take all necessary steps to ensure that Bank management corrects each violation of law, rule, or regulation cited in the June 6, 2005 Report of Examination and in any subsequent Report of Examination. The quarterly progress reports

required by Article II of this Agreement shall include the date and manner in which each correction has been effected during that reporting period.

(2) Within seventy-five (75) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to procedures to prevent future violations as cited in the June 6, 2005 Report of Examination and shall adopt, implement, and ensure Bank adherence to procedures addressing compliance management that incorporate internal control systems and education of employees regarding laws, rules, and regulations applicable to their areas of responsibility

(3) Within sixty (60) days of receipt of any subsequent Report of Examination that cites violations of law, rule, or regulation, the Board shall adopt, implement, and thereafter ensure Bank adherence to procedures to prevent future violations and shall adopt, implement, and ensure Bank adherence to procedures addressing compliance management that incorporate internal control systems and education of employees regarding laws, rules and regulations applicable to their areas of responsibility.

(4) Upon adoption, a copy of these procedures shall be promptly forwarded to the Assistant Deputy Comptroller.

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

## ARTICLE V

### BANK SECRECY ACT INTERNAL CONTROLS

(1) Within ninety (90) days of the date of this Agreement, the Board shall develop, implement and thereafter ensure Bank adherence to a written program of policies and procedures

to provide for compliance with the Bank Secrecy Act (“Risk-Based BSA Program”) to include due diligence programs, operating procedures, and quality control systems that ensure an ongoing risk-based assessment of the Bank’s customer base including:

- (a) identification of high-risk accounts both at the time of opening and based upon subsequent account monitoring;
- (b) application of due diligence procedures and enhanced due diligence procedures to high-risk accounts that conforms with sound risk management practices, including, but not limited to documentation of the following, if applicable:
  - (i) the type of transaction;
  - (ii) level of account activity anticipated;
  - (iii) source of opening deposit;
  - (iv) nature of business;
  - (v) location of customer;
  - (vi) principal owners;
  - (vii) source of wealth;
  - (viii) Federal government licenses or registrations;
  - (ix) state licenses;
  - (x) other services requested of the Bank by the customer for which there should be a clear understanding of the purpose; and
  - (xi) any other information deemed necessary.
- (c) enhanced due diligence for higher-risk accounts including:
  - (i) money service businesses;

- (ii) private banking accounts;
  - (iii) accounts of non-resident aliens; and
  - (iv) senior foreign political figures, or any immediate family members or close associates of a senior foreign political figure.
- (d) the identification of and the timely, accurate, and complete reporting of all known or suspected violations of law and suspicious activities against or involving the Bank to law enforcement and supervisory authorities consistent with 12 C.F.R. § 21.11.

(2) The Bank shall have a policy for not opening an account, allowing the use of an account while verifying a customer's identity or other risks, closing an account, and filing suspicious activity reports if the Bank does not receive the information required in paragraph (1) of this Article by the date the information is due, or if the Bank is not able to form a reasonable belief that it knows the true identity of a customer.

(3) Within one-hundred twenty (120) days of the effective date of this Agreement, the Board shall ensure that existing high-risk accounts are identified and that a review of existing high-risk accounts be undertaken for the purpose of determining if proper due diligence has been conducted. For those accounts where additional due diligence is warranted, an account assessment should be conducted, information gathered, and the account file documented to include all pertinent data.

(4) Within one-hundred fifty (150) days of the effective date of this Agreement, the Board shall undertake an evaluation of the Bank's revised Risk-Based BSA Program to assess the quality of due diligence performed and ensure appropriate adjustments are completed to



ensure ongoing compliance. The Board shall prepare a written report on results, conclusions, and recommendations of the evaluation.

(5) Upon completion, a copy of the Bank's revised Risk-Based BSA Program and evaluation report shall be submitted to the Assistant Deputy Comptroller for review and prior written determination of no supervisory objection. In the event the Assistant Deputy Comptroller recommends changes to the program, the Bank shall immediately incorporate those changes into the program.

## ARTICLE VI

### ADMINISTRATIVE APPEALS AND EXTENSIONS OF TIME

(1) If the Bank requires an extension of any time frame within this Agreement, the Board shall submit a written request to the Assistant Deputy Comptroller asking for relief.

(2) Any written requests submitted pursuant to this Article shall include a statement setting forth in detail the special circumstances that require an extension of any time frame within this Agreement. All such requests shall be accompanied by relevant supporting documentation.

(3) The Assistant Deputy Comptroller's decision regarding the request is final and not subject to further review.

## ARTICLE VII

### 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.

(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 \_\_\_\_\_  
Robert P. Sejnoha  
Assistant Deputy Comptroller  
Midsize Bank Supervision

7-20-06  
\_\_\_\_\_  
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.

Signed  
Mark P. Driscoll

7/20/06  
Date

Signed  
John A. Duffey

7/20/06  
Date

Signed  
Dwight L. Ghent

7-20-06  
Date

Signed  
Thomas J. Gleason

7-20-06  
Date

Signed  
Roger G. Gunlikson

7-20-06  
Date

Signed  
Lucia A. Liley

7/20/06  
Date

Signed  
Douglas E. Markley

7/20/06  
Date

Signed  
Dennis A. O'Neal

7-20-06  
Date

Signed  
D. Christian Osborn

7-20-06  
Date

Signed  
Merlin G. Otteman

7-20-06  
Date

Signed  
Stephen J. Schrader

7-20-06  
Date

Signed  
Wayne K. Schrader

7-20-06  
Date

Signed  
David L. Wood

7-20-06  
Date