

AGREEMENT BY AND BETWEEN  
National Bank of Kansas City  
Overland Park, Kansas  
and  
The Comptroller of the Currency

National Bank of Kansas City, Overland Park, Kansas (“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 unsafe and unsound banking practices relating to supervision of the affairs of 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 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 the:

Assistant Deputy Comptroller  
Kansas City South - Joplin Field Office  
Fountainside Plaza, Suite H  
1710 East 32nd Street  
Joplin, Missouri 64804

## ARTICLE II

### COMPLIANCE COMMITTEE

(1) Within ten (10) days of the date of this Agreement, the Board shall appoint a Compliance Committee of at least three (3) 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 calendar quarter 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

#### MANAGEMENT AND BOARD SUPERVISION STUDY

(1) Within ninety (90) days, the Board shall complete a study of management and Board supervision presently being provided to the Bank, the Bank's management structure, and its staffing requirements in light of the Bank's present condition. The findings and recommendations of the Board shall be set forth in a written report (the "Management Study").

At a minimum, the report shall contain:

- (a) The identification of present and future management and staffing needs of each area of the Bank, with particular emphasis given to the loan work-out and collections area;
- (b) Detailed written job descriptions for all executive officers;

- (c) An evaluation of each officer's qualifications and abilities, and a determination of whether each of these individuals possesses the experience and other qualifications required to perform present and anticipated duties of his/her officer position;
- (d) Recommendations as to whether management or staffing changes should be made, including reallocation of existing resources, and the need for additions to or deletions from the current management team;
- (e) Performance objectives by which management's effectiveness will be measured;
- (f) An evaluation of current lines of authority, reporting responsibilities and delegation of duties for all officers, including identification of any overlapping duties or responsibilities;
- (g) A recommended organization chart that clearly reflects areas of responsibility and lines of authority for all officers, including the Bank's president and chief executive officer; and
- (h) Recommendations to correct or eliminate any other deficiencies in the supervision or organizational structure of the Bank.

(2) A copy of the Management Study shall be forwarded to the Assistant Deputy Comptroller within five (5) days of completion for a written determination that the Management Study complies with the terms of this Agreement.

(3) Within thirty (30) days of receiving the written determination required in paragraph (2) of this Article, the Board shall develop a written plan, with specific time frames, to correct any deficiencies which are noted in the Management Study. A copy of the Bank's

written plan shall be forwarded to the Assistant Deputy Comptroller within five (5) days of completion for a prior written determination of no supervisory objection. Upon receiving the prior written determination of no supervisory objection, the Board shall immediately implement and thereafter ensure Bank adherence to the written plan, as modified by the Assistant Deputy Comptroller, if appropriate.

(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 IV

##### CAPITAL AND STRATEGIC PLAN

- (1) The Bank shall at all times maintain the following minimum capital ratios:
- (a) Tier 1 capital at least equal to:
    - (i) Eight and one-half percent (8.5%) of adjusted total assets by June 30, 2008; and
    - (ii) Nine percent (9%) of adjusted total assets by September 30, 2008;
  - (b) Total risk-based capital at least equal to eleven percent (11%) of risk-weighted assets.
- (2) For purposes of this Article, “tier 1 capital”, “total risk-based capital”, “adjusted total assets”, and “risk-weighted assets” are defined in 12 C.F.R. Part 3.
- (3) The requirement in this Agreement to meet and maintain a specific capital level means that the Bank is not deemed “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).

- (4) Effective immediately, the Bank shall only declare dividends:
  - (a) When the Bank is in compliance with the Bank's Three-Year Plan described in Paragraphs (5) and (6) of this Article;
  - (b) When the Bank is in compliance with 12 U.S.C. §§ 56 and 60; and
  - (c) With the prior written approval from the Assistant Deputy Comptroller.

(5) Within sixty (60) days of the date of this Agreement, the Board shall develop a written capital and strategic plan that covers at least the next three years (hereafter the Bank's "Three-Year Plan"), complete with specific time frames that incorporate the capital, strategic and other requirements of this Article. Copies of the Bank's Three-Year Plan shall be forwarded to the Assistant Deputy Comptroller for a prior written determination of no supervisory objection. Upon receipt of prior written determination of no supervisory objection, the Board shall immediately implement and thereafter ensure adherence to the Bank's Three-Year Plan, as modified by the Assistant Deputy Comptroller, if appropriate.

(6) The Bank's Three-Year Plan shall establish objectives and projections for the Bank's overall risk profile, earnings performance, growth expectations, balance sheet mix, off-balance sheet activities, liability structure, capital and liquidity adequacy, product line development and market segments that the Bank intends to promote or develop, together with strategies to achieve those objectives, that are specific, measurable, and verifiable. At a minimum, the Bank's Three-Year Plan shall address or include:

- (a) An assessment of the Bank's present and future operating environment;
- (b) A mission statement that forms the framework for the establishment of strategic goals and objectives;

- (c) The development of strategic goals and objectives to be accomplished over the short and long term;
- (d) The elimination of deficiencies in management supervision and Board oversight as described in the supervisory letter from the OCC to the Board dated March 12, 2008;
- (e) Specific plans to establish responsibilities and accountability for the strategic planning process, new products, loan growth, proposed changes in the Bank's operating environment, and reduction of problem assets;
- (f) Growth limitations and actions to reduce significant concentrations of credit;
- (g) Recognition that the Bank cannot offer or introduce new products or enter new market segments until it adopts a sound credit culture, implements appropriate risk management systems, reduces significant concentrations of credit, and returns the Bank to a satisfactory condition;
- (h) Specific plans for maintaining adequate capital at levels that are no less than the requirements specific in Paragraph (1) of this Article;
- (i) Specific plans for maintaining adequate liquidity in accordance with the requirements of Article V, including developing an appropriate contingency funding plan;
- (j) The primary source(s), especially those that are not credit sensitive, from which the Bank will maintain a capital structure sufficient to meet the Bank's needs;

- (k) Contingency plans that identify alternative capital sources should the primary source(s) under subparagraph (i) not be available;
- (l) A financial forecast to include projections for major balance sheet and income statement accounts and desired financial ratios over the next three years; and
- (m) Systems to monitor the Bank's progress in meeting the plan's goals and objectives.

## ARTICLE V

### LIQUIDITY

- (1) Within sixty (60) days of the date of this Agreement, the Board shall take the necessary steps to ensure liquidity risk is controlled, to include at a minimum:
  - (a) An Asset Liability Committee ("ALCO") that formally meets at least monthly;
  - (b) Enhancements to the asset/liability management policy that incorporate forward-looking risk measurements and liability concentration limits such as limits on the amount of funds that may be sourced from any individual customer or groups of customers, or liability concentration limits by instrument;
  - (c) A sources and uses of funds report to assist with monitoring the funds flow in the Bank; and
  - (d) A contingency funding plan that forecasts funding needs and funding sources under multiple stress scenarios and:



- (i) Represents management's best estimate of balance sheet changes that may result from a liquidity or credit event.
- (ii) Provides for assumptions based on the possible cumulative reductions in the primary liquidity sources.
- (iii) Includes assumptions specifically providing for the impact of a significant increase in the level of problem assets, along with an assumption that the Federal Home Loan Bank may restrict borrowing capacity and that other sources of wholesale funding may be unavailable.
- (iv) Identifies, quantifies, establishes, and ranks all sources of funding by preference for the various scenarios, including asset side funding, liability side funding, and off-balance sheet funding; and
- (v) Ensures that administrative policies and procedures are consistent with the Board's guidance and risk tolerances.

(2) A copy of the contingency funding plan required under paragraph (1) of this Article shall be forwarded to the Assistant Deputy Comptroller immediately upon of completion.

## ARTICLE VI

### CREDIT UNDERWRITING AND ADMINISTRATION

(1) Effective as of the date of this Agreement, the Board shall ensure that lending officers comply with all laws, rules, regulations, Bank policies and procedures, safe and sound banking practices, and fiduciary duties.

(2) Within sixty (60) days of the date of this Agreement, the Board shall revise, adopt, implement, and thereafter ensure Bank adherence to a written program of policies and procedures designed to aggregate and track exceptions to the Bank Loan Policy and underwriting guidelines for all loans and exceptions to the appraisal requirements specified in paragraph (5) of this Article. This includes at a minimum, monthly Board monitoring of policy exceptions reports that track aggregate number and dollar amount of loans with material underwriting exceptions by type of loan and by loan officer.

(3) Effective as of the date of this Agreement, the Bank may not grant, extend, renew, alter or restructure any commercial or commercial real estate loan or extension of credit without:

- (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 of repayment;
- (d) Obtaining current and satisfactory credit information, including performing and documenting analysis of credit information and a detailed cash flow analysis of all expected repayment sources, including a detailed analysis of the financial support of significant guarantors;
- (e) Performing a consistent and complete overview of the borrower's other obligations (at both this Bank and other financial institutions) to analyze and determine the borrower's overall debt load and ensure a robust global debt service analysis;

- (f) Determining and documenting whether the loan complies with the Bank's Loan Policy, and if it does not comply, providing identification of the exception and ample justification to support waiving the policy exception;
- (g) Documenting a determination regarding the customer's ability to repay the credit on the proposed repayment terms;
- (h) Providing an accurate risk assessment grade according to the guidelines set forth in Rating Credit Risk, A-RCR, of the Comptroller's Handbook, and recognizing nonaccrual status for each credit according to the guidelines set forth in the Instructions for Preparation of Consolidated Reports of Condition and Income ("Call Report");
- (i) Documenting, with adequate supporting material, the value of collateral and proper perfection of the Bank's lien on applicable collateral; and
- (j) Obtaining the written approval of the Executive Loan Committee for any commercial real estate credits and any other credit greater than \$300,000.

(4) Within thirty (30) days of the date of this Agreement, the Board shall revise, adopt, implement and thereafter ensure Bank adherence to a written program of policies and procedures designed to manage the risk in the Bank's commercial real estate ("CRE") loan portfolio in accordance with the guidelines in OCC Bulletin 2006-46, Concentrations in Commercial Real Estate Lending, Sound Risk Management Practices (dated December 6, 2006).

The written program shall, at a minimum, include:

- (a) Procedures to strengthen credit underwriting in the CRE portfolio, including expanded loan presentations and analysis providing for:
  - (i) Detailed project plans;

- (ii) Timeframes for project completion;
  - (iii) Detailed market analysis;
  - (iv) Stress testing of significant property and lending assumptions, including, as applicable, stress testing of interest rates, capitalization rates, absorption and pricing data, occupancy/vacancy rates, and rental rates on non-owner occupied properties; and
  - (v) Detailed analysis of the financial support of significant guarantors;
  - (b) The establishment of diversified CRE concentration limits;
  - (c) Strategies and procedures, including appropriate CRE loan growth restrictions, to ensure that CRE concentrations conform with established limits;
  - (d) Monthly monitoring of concentration reports that stratify CRE portfolio by product type, locality and other meaningful measures;
  - (e) Monthly or more frequent reports, if necessary, to senior management and the loan committee of project status, including:
    - (i) Development status;
    - (ii) Comparison of sales activity and development costs to budget;
    - (iii) Current market conditions and activity;
    - (iv) Level of interest reserve and comparison to budget; and
    - (v) Any other significant comments on development.
- (5) Within thirty (30) days, the Board shall revise, adopt, implement and thereafter ensure Bank adherence to a written program of policies and procedures designed to ensure the

Bank obtains appraisals in compliance with USPAP, 12 C.F.R. Part 34, Advisory Letter 2003-9, and OCC Bulletin 2005-6. Specific to commercial real estate, the written program shall, at a minimum, include:

- (a) The required use of a standard appraisal form for ordering all appraisals;
  - (b) The ordering of appraisals, independent of the lending function;
  - (c) The use of Board approved appraisers only;
  - (d) Expectations regarding the selection of comparable sales, and when income or cost analysis should be used for income producing properties;
  - (e) Procedures to ensure that an appraisal or evaluation is obtained when:
    - (i) There has been material deterioration in market conditions or physical aspects of the property which would threaten the institution's collateral protection; or
    - (ii) There has been deterioration in the borrower's financial condition and/or credit standing;
  - (f) The establishment of a policy requiring a meaningful review, independent of the lender, of all appraisals to include analysis commensurate with the type, size and complexity of the property being appraised; and
  - (g) The establishment of a tickler system for tracking appraisals ordered, received, returned, and reviewed.
- (6) A copy of the various written programs required pursuant to this Article shall be forwarded to the Assistant Deputy Comptroller immediately upon of completion.

## ARTICLE VII

### PROBLEM LOAN MANAGEMENT

(1) Effective as of the date of this Agreement, the Board shall take immediate and continuing action to protect the Bank's interest in those assets criticized in any Report of Examination (ROE), management assessment, internal or external loan review, or in any list provided to management by the National Bank Examiners during an examination.

(2) The Board's compliance with Paragraph (1) of this Article shall include the development of problem asset reports on all criticized credit relationships totaling three hundred thousand dollars (\$300,000) or above. Problem asset reports must be updated and submitted to the Board monthly and shall include, at a minimum, analysis and documentation of the following:

- (a) An identification of the expected source of repayment;
- (b) The appraised value of supporting collateral and the position of the Bank's lien on such collateral, where applicable, as well as other necessary documentation to support the collateral valuation;
- (c) An analysis of current and satisfactory credit information, including cash flow analysis where loans are to be repaid from operations;
- (d) The proposed action to eliminate the basis of criticism and the time frame for its accomplishment; and
- (e) Trigger dates for positive borrower actions or for loan officers to reassess the strategy and enact collection plans.

(3) The Board's compliance with Paragraph (1) of this Article shall include the development of actions plans for each parcel of Other Real Estate Owned ("OREO") to ensure

that these assets are managed in accordance with 12 U.S.C. § 29 and 12 C.F.R. Part 34, Subpart E. Actions plans must be updated and submitted to the Board monthly, and, at a minimum, each action plan shall:

- (a) Identify the Bank officer(s) responsible for managing and authorizing transactions relating to the OREO property;
- (b) Contain an analysis of each OREO property which compares the cost to carry against the financial benefits of near term sale;
- (c) Detail the marketing strategies for each parcel;
- (d) Identify targeted time frames for disposing of each parcel of OREO;
- (e) Establish targeted write-downs at defined periodic intervals if marketing strategies are unsuccessful;
- (f) Establish procedures to require periodic market valuations of each property, and the methodology to be used; and
- (g) Provide for reports to the Board on the status of OREO properties on at least a quarterly basis.

(4) Effective as of the date of this Agreement, the Bank may not extend credit, directly or indirectly, including renewals, extensions or capitalizations of accrued interest, to a borrower whose loans or other extensions of credit are criticized in a ROE, 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 of credit are one hundred thousand dollars (\$100,000) or above, unless each of the following conditions is met:

- (a) The Board 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 a designated committee thereof, approves the credit extension and records, in writing, why such extension is necessary to promote the best interests of the Bank; and

- (b) The Board's formal plan to collect or strengthen the criticized asset will not be compromised by the extension of additional credit.

## ARTICLE VIII

### LOAN WORKOUT PLAN

(1) Within thirty (30) days, the Board shall establish a plan that will reduce the volume of problem assets by ensuring that management promptly addresses and intervenes, as appropriate, to resolve problem credit situations consistent with OCC Banking Circular 255.

(2) Within thirty (30) days, the Board shall reallocate internal sources to ensure that a person with demonstrated experience and skills leads management's efforts to resolve and reduce problem assets. This loan workout specialist shall report to the Board of Directors and shall not be responsible for or have oversight of his/her own loan portfolio. Prior to the appointment of the loan workout specialist, the Board shall submit the name and qualifications of the proposed individual to the Assistant Deputy Comptroller for a prior written determination of no supervisory objection.

(3) The Board shall take all necessary steps to improve the operations of the Bank's workout function, including, but not limited to:

- (a) The establishment of policies and procedures that distinguish problem assets from assets that shall be managed by the originating unit and require



the centralized monitoring and oversight of problem credits according to guidelines set forth in Article VII of this Agreement; and

(b) The development and implementation of all MIS necessary to measure the success of workout activities.

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

## ARTICLE IX

### LOAN REVIEW

(1) The Board shall review, revise, and thereafter ensure adherence to a Loan Review Program, that at a minimum:

(a) Assigns risk ratings on credits reviewed that are consistent with the guidelines set forth in “Rating Credit Risk” and “Allowance for Loan and Lease Losses” booklets of the Comptroller’s Handbook;

(b) Operates independently from Bank management and that specifically prohibits management from overturning any downgrades made or recommended by Loan Review;

(c) Is adequately staffed; and

(d) Recognizes loan losses and records charge-offs in a timely manner in accordance with Generally Accepted Accounting Principles (“GAAP”).

(2) The Loan Review Program shall require that a written report be submitted to the Board after each review, but at least quarterly. Such reports shall include, at a minimum, comments and conclusions regarding:

- (a) The loan review scope and coverage parameters;
- (b) The overall quality of loan and lease portfolios reviewed;
- (c) The identification, type, rating, and amount of problem loans and leases, including grading differences;
- (d) The identification, type and amount of charged off loans;
- (e) The identification and amount of delinquent loans and leases;
- (f) The identification and amount of performing loans that have extended terms;
- (g) The identification of credit and collateral documentation exceptions;
- (h) The identification and status of credit related violations of law, rule or regulation;
- (i) Loans and leases identified as exceptions to the Bank's Loan Policy;
- (j) The identity of the loan officer who originated each loan reported in accordance with subparagraphs (c) through (i) of this Paragraph; and
- (k) Any recommendations for improvements.

(3) The revised Loan Review Program shall also require an annual report to the Board containing an independent reviewer's assessment of the Bank's systems to:

- (a) Accurately identify and risk rate problem credits based on lending officer submissions;
- (b) Measure, monitor and control risk in significant credit concentrations;
- (c) Evaluate the repayment ability of real estate construction and development borrowers with multiple projects;

- (d) Evaluate guarantor support of real estate construction and development projects;
- (e) Monitor compliance with the Bank's lending policies and applicable laws, rules, and regulations; and
- (f) Monitor and control the volume of credit and collateral documentation exceptions.

(4) A written description of the Loan Review Program called for in this Article shall be forwarded to the Assistant Deputy Comptroller upon implementation.

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

(6) The Board shall evaluate the internal loan review report(s) and shall ensure that immediate, adequate, and continuing remedial action, if appropriate, is taken upon all findings noted in the report(s).

(7) Within sixty (60) days of the date of this Agreement, the Bank shall engage an independent, external loan review. The purpose of the independent, external loan review shall be to verify the accuracy of internal risk ratings, with specific emphasis on and beginning with the construction and land development portfolios. Subsequently, external loan reviews shall be conducted each quarter on other segments of the loan portfolio until the Loan Review Program required pursuant to this Article is fully implemented. The scope of the independent, external loan reviews shall be based on the Board's and management's assessments of portfolio risk. Upon completion, all external loan review reports shall be submitted to the Board for review and approval.

(8) By June 30, 2008, the Bank, using any combination of qualified internal or external resources, shall complete a loan review of all construction and land development loans greater than two hundred fifty thousand dollars (\$250,000).

## ARTICLE X

### INTERNAL AUDIT

(1) The Board shall immediately ensure that the Bank's independent, internal audit program is supported by an adequately staffed department or outside firm, with respect to both the experience level and number of individuals employed.

(2) 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, which shall have the sole power to direct their activities. All reports prepared by the audit staff shall be filed directly with the Board or its designated committee pursuant to the requirements of 12 CFR § 363.

(3) All audit reports shall be in writing. The Board or its designated committee shall ensure that immediate actions are taken to remedy deficiencies cited in the audit reports, and that auditors maintain a written record describing those actions.

## ARTICLE XI

### 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 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.

/s/  
\_\_\_\_\_  
Karen W. Swingler  
Assistant Deputy Comptroller  
Kansas City South Office

5/20/08  
\_\_\_\_\_  
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.

<u>/s/</u> James E.C. Tinsman, Sr.	<u>May 20, 2008</u> Date
<u>/s/</u> Gilbert H. Bledsoe	<u>5/20/08</u> Date
<u>/s/</u> Jerry E. Mayne	<u>5/20/08</u> Date
<u>/s/</u> Stephen R. Hughes	<u>5/20/08</u> Date
<u>/s/</u> Frederick A. Embry	<u>5/20/08</u> Date
<u>/s/</u> C. Humbert Tinsman	<u>5/20/08</u> Date
<u>/s/</u> John M. Holliday	<u>5/20/08</u> Date
<u>/s/</u> Stephen K. Matthews	<u>5/20/08</u> Date
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