

AGREEMENT BY AND BETWEEN
The Bank of Miami, N.A.
Coral Gables, FL
and
The Comptroller of the Currency

The Bank of Miami, N.A., Coral Gables, FL (“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.

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.

ARTICLE II

COMPLIANCE COMMITTEE

(1) Within ten (10) days, the Board shall appoint a Compliance Committee of at least three (3) directors, none of whom shall be an employee of the Bank. 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 Director for Special Supervision (“Director”). The Compliance Committee shall meet monthly and is responsible for monitoring and coordinating the Bank's adherence to the provisions of this Order.

(2) 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 description of the actions needed and taken to achieve full compliance with each Article of this Agreement; and the results and status of those actions.

(3) The Board shall forward, via overnight mail, a copy of the Compliance Committee's report, with any additional comments by the Board, to the Director and the South Florida Field Office within ten (10) days of receiving such report.

(4) The Board shall ensure that the Bank has sufficient processes, personnel, and control systems to effectively implement and adhere to all provisions of this Agreement, and that Bank personnel have sufficient training and authority to execute their duties and responsibilities under this Agreement.

ARTICLE III

STRATEGIC PLAN

(1) Within ninety (90) days, the Board shall review and revise as necessary the written Strategic Plan for the Bank covering at least a three-year period. The Strategic Plan shall establish objectives for the Bank's overall risk profile, earnings performance, growth, balance sheet mix, off-balance sheet activities, liability structure, capital adequacy, reduction in the volume of nonperforming assets, product line development, and market segments that the Bank intends to promote or develop, together with strategies to achieve those objectives, and shall, at a minimum, include:

- (a) a mission statement that forms the framework for the establishment of strategic goals and objectives;
- (b) a description of the Bank's targeted market(s) and an assessment of the current and projected risks and competitive factors in its identified target market(s);
- (c) the strategic goals and objectives to be accomplished;
- (d) specific actions to improve Bank earnings and accomplish the identified strategic goals and objectives;
- (e) identification of Bank personnel to be responsible and accountable for achieving each goal and objective of the Strategic Plan, including specific time frames;
- (f) a financial forecast, to include projections for major balance sheet and income statement accounts, targeted financial ratios, and growth projections over the period covered by the Strategic Plan;
- (g) a description of the assumptions used to determine financial projections and growth targets;

- (h) an identification and risk assessment of the Bank's present and planned future product lines (assets and liabilities) that will be utilized to accomplish the strategic goals and objectives established in the Strategic Plan, with the requirement that the risk assessment of new product lines must be completed prior to the offering of such product lines;
- (i) specific plans for the maintenance of adequate capital including projections of the sources and timing of additional capital to meet the Bank's future needs;
- (j) a description of control systems to mitigate risks associated with planned new products, growth, or any proposed changes in the Bank's markets;
- (k) 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 established in the Strategic Plan;
- (l) a management employment and succession program to promote the retention and continuity of capable management;
- (m) assigned responsibilities and accountability for the strategic planning process, new products, growth goals, and proposed changes in the Bank's operating environment; and
- (n) a description of systems to monitor the Bank's progress in meeting the Strategic Plan's goals and objectives.

(2) Prior to adoption, a copy of the Strategic Plan shall be forwarded to the Director for review and prior written determination of no supervisory objection. Upon receiving a

determination of no supervisory objection from the Director, the Bank shall implement and adhere to the Strategic Plan.

(3) At least quarterly, the Board shall prepare a written evaluation of the Bank's actual performance against the Strategic Plan, which includes a written explanation of any significant differences between actual and projected balance sheets, income statements, and expense accounts, including descriptions of extraordinary and/or nonrecurring items, and shall include a description of the actions the Board will require the Bank to take to address any shortcomings. Within ten (10) days of completing its evaluation, the Board shall submit a copy to the Director.

(4) The Bank may not initiate any action that deviates significantly from the Board-approved Strategic Plan without a written determination of no supervisory objection from the Director. The Board must give the Director advance, written notice of its intent to deviate significantly from the Strategic Plan, along with an assessment of the impact of such change on the Bank's condition, including a profitability analysis and an evaluation of the adequacy of the Bank's organizational structure, staffing, management information systems, internal controls, and written policies and procedures to identify, measure, monitor, and control the risks associated with the change in the Strategic Plan.

ARTICLE IV

LOAN PORTFOLIO MANAGEMENT

(1) Within sixty (60) days, Board shall review ,and revise as necessary, the Bank's written credit policy, which shall include (but is not limited to):

- (a) a description of the types of credit information required from borrowers and guarantors, including (but not limited to) annual audited statements,

interim financial statements, personal financial statements, and tax returns with supporting schedules;

- (b) procedures that require any extension of credit (new, maturity extension, or renewal) is made only after obtaining and validating current credit information about the borrower and any guarantor sufficient to fully assess and analyze the borrower's and guarantor's cash flow, debt service requirements, contingent liabilities, and global liquidity condition, and only after the credit officer prepares a documented credit analysis;
- (c) procedures that require any extension of credit (new, maturity extension, or renewal) is made only after obtaining and documenting the current valuation of any supporting collateral, and that reasonable limits are established on credit advances against collateral, based on a consideration of (but not limited to) a realistic assessment of the value of collateral, the ratio of loan to value, and overall debt service requirements;
- (d) procedures and controls to periodically verify the existence and lien position of collateral;
- (e) a requirement that borrowers and/or guarantors maintain any collateral margins established in the credit approval process;
- (f) procedures that prohibit the capitalization of accrued interest on any loan renewal or extension;
- (g) procedures that prohibit, on any loan renewal or extension, the establishment of an interest reserve using the proceeds of any Bank loan to the same borrower or guarantor;

- (h) procedures to ensure that all exceptions to the credit policy shall be clearly documented on the loan offering sheet, problem loan report, and other MIS; and approved by the Board or a committee thereof before the loan is funded or renewed;
 - (i) credit risk rating definitions consistent with applicable regulatory guidance;
 - (j) procedures for early problem loan identification by lending officers, to ensure that credits are accurately risk rated at least monthly;
 - (k) prudent lending and approval limits for lending officers that are commensurate with their experience and qualifications, and that prohibit combining individual lending officers' lending authority to increase limits;
- (2) Upon completion, a copy of the Bank's revised credit policy, and associated written procedures shall be forwarded to the Director.

ARTICLE V

LOAN REVIEW

- (1) The Board shall maintain an effective, independent, and on-going loan review program to review, at least quarterly, the Bank's loan and lease portfolios, to assure the timely identification and categorization of problem credits. The program shall provide for a written report to be filed with the Board promptly after each review, with a copy submitted to the Director, and shall employ a loan and lease rating system consistent with the guidelines set forth in "Rating Credit Risk" and "Allowance for Loan and Lease Losses," booklets A-RCR and A-ALLL, respectively, of the *Comptroller's Handbook*. Such reports shall include, at a minimum:
- (a) conclusions regarding the overall quality of the loan and lease portfolios;
 - (b) the identification, type, rating, and amount of problem loans and leases;
 - (c) the identification and amount of delinquent loans and leases;

- (d) credit and collateral documentation exceptions;
- (e) loans meeting the criteria for nonaccrual status;
- (f) the identity of the loan officer of each loan reported in accordance with subparagraphs (b) through (e);
- (g) the identification and status of credit-related violations of law, rule, or regulation;
- (h) concentrations of credit;
- (i) loans and leases to the directors, executive officers, and principal shareholders of the Bank and to their related interests; and
- (j) loans and leases in nonconformance with the Bank's lending and leasing policies, and exceptions to the Bank's lending and leasing policies.

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

ARTICLE VI

CRITICIZED ASSETS

(1) The Bank shall take immediate and continuing action to protect its interest in those assets criticized in the most recent Report of Examination (“ROE”), in any subsequent ROE, 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 most recent ROE, in any subsequent ROE, 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 million dollars (\$1,000,000) shall be forwarded to the Director.

(4) 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 million dollars (\$1,000,000);
- (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.

(5) A copy of each review shall be forwarded to the Director on a monthly basis.

(6) The Bank may extend credit, directly or indirectly, including renewals or extensions, to a borrower whose loans or other extensions of credit are criticized in the most recent ROE, in any subsequent 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 exceed one million (\$1,000,000) 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.

(7) 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 ensure adherence to a program for the maintenance of an adequate Allowance for Loan and Lease Losses ("ALLL"). The program shall be consistent with the comments on maintaining a proper ALLL found in the Interagency Policy Statement on the ALLL contained in OCC Bulletin 2006-47 (December 13, 2006) and with "Allowance for Loan and Lease Losses," booklet A-ALLL of the *Comptroller's Handbook*, and shall incorporate the following:

- (a) internal risk ratings of loans;
- (b) results of the Bank's independent loan review;
- (c) criteria for determining which loans will be reviewed under Financial Accounting Standard ("FAS") 114, how impairment will be determined, and procedures to ensure that the analysis of loans complies with FAS 114 requirements;
- (d) criteria for determining FAS 5 loan pools and an analysis of those loan pools;

- (e) recognition of non-accrual loans in conformance with generally accepted accounting principles (“GAAP”) and regulatory guidance;
- (f) loan loss experience;
- (g) trends of delinquent and non-accrual loans;
- (h) concentrations of credit in the Bank; and
- (i) present and projected economic and market conditions.

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

ARTICLE VIII

LIQUIDITY MANAGEMENT PROGRAM

(1) Within thirty (30) days, the Board shall ensure implementation and maintenance of a comprehensive liquidity management program that assesses, on an ongoing basis, the Bank's current and expected funding needs, and ensures that sufficient funds or access to funds exist to meet those needs. Such a program must include effective methods to achieve and maintain sufficient liquidity, and to measure and monitor liquidity risk, and must include, at a minimum:

- (a) a deposit maturity schedule by deposit type, including brokered deposits and uninsured deposits, that shows the balances available for immediate withdrawal and maturities, by week for the next two months and by month for the following ten months, which schedule shall be updated at least monthly;

- (b) a funding obligation schedule by funding type, including outstanding lines of credit, unfunded loan commitments, and outstanding letters of credit, that shows the funds that can be drawn upon immediately, by week for the next two months and by month for the following ten months, which schedule shall be updated at least monthly;
- (c) a listing of funding sources, to be updated monthly, including:
 - (i) federal funds sold;
 - (ii) borrowing lines by lender, including original amount borrowed, current balance, remaining availability, type and book value of collateral pledged, terms, and maturity date, if applicable;
 - (iii) unpledged assets and assets available for sale; and
 - (iv) other available sources of funds to meet liquidity needs.
- (d) a report of sources and uses of funds covering each of the next eight weeks, updated monthly, that reflects known and projected changes in asset and liability accounts under best case and worst case scenarios, and sets out the assumptions used in developing the projections, to include:
 - (i) projected additional funding requirements, in the event of: a reduction in deposit accounts, including uninsured and brokered deposits; cancellation of unsecured borrowing lines or an inability to access federal funds; or a reduction in available secured borrowing lines;
 - (ii) projected additional funding sources, including loan payments, loan sales/participations, or deposit increases; and
 - (iii) projected impact of changes in reputation and in economic and credit conditions in the Bank's market.

- (e) strategies to maintain sufficient liquidity at reasonable costs, including (but not limited to) the following:
 - (i) better diversification of funding sources, with particular emphasis on increasing traditional core funding; and
 - (ii) increasing liquidity through such actions as obtaining additional capital, imposing limits on asset growth, pursuing aggressive collection of problem loans and recovery of charged-off assets, and asset sales.
- (f) a contingency funding plan that forecasts funding needs and funding sources under a stressed scenario, and that:
 - (i) represents management's best estimate of balance sheet changes that may result from a liquidity or credit event;
 - (ii) identifies, quantifies, and ranks all sources of funding by preference for best case and worst case scenarios, including asset funding, liability funding, and off-balance sheet funding; and
 - (iii) employs administrative policies and procedures that are consistent with Board-approved risk tolerances and guidance.

(2) Upon completion, the Board shall submit a copy of the comprehensive liquidity management program, along with the monthly schedules and reports required by this Article, to the Director for review.

ARTICLE IX

CLOSING

(1) Although the Board has agreed to submit certain programs and reports to the Director 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 Director 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

Ronald G. Schneck
Director for Special Supervision
Office of the Comptroller of the Currency

1-5-2009

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.

<i>signed</i> _____ William D. Atwell	12-12-2008 _____ Date
<i>signed</i> _____ Barry G. Craig	12-12-2008 _____ Date
<i>signed</i> _____ Carlos J. Fernandez	12-12-2008 _____ Date
<i>signed</i> _____ Stephen L. Herbert	12-12-2008 _____ Date
<i>signed</i> _____ Carlos F. Mejia	12-12-2008 _____ Date
<i>signed</i> _____ Alba M. Prestamo	12-12-2008 _____ Date
<i>signed</i> _____ Francisco A. Soler	12-12-2008 _____ Date
<i>signed</i> _____ Jose Valdez-Fauli	12-12-2008 _____ Date