

AGREEMENT BY AND BETWEEN  
Bank of Indiana, N.A.  
Dana, IN  
AND  
THE OFFICE OF THE COMPTROLLER OF THE CURRENCY

Bank of Indiana, N.A. (“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 National Bank Examiner, has examined the Bank, and has found unsafe or unsound practices, including unsafe or unsound practices related to credit administration.

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) Pursuant to 12 C.F.R. §5.51(c)(6)(ii), the Bank shall be subject to the requirements of 12 C.F.R. § 5.51, unless otherwise informed in writing by the Comptroller. Pursuant to 12 C.F.R. § 5.3(g)(4), the Bank shall not be “eligible” 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  
Champaign Field Office  
Harris Center 3001 Research Road, Suite E-2  
Champaign, Illinois 61821

## ARTICLE II

### CAPITAL MINIMUMS

(1) The Bank shall achieve by December 31, 2009, and thereafter maintain the following minimum capital levels (as defined in 12 C.F.R. Part 3):

- (a) Tier 1 capital at least equal to eight and one-half percent (8.5%) of adjusted total assets.<sup>1</sup>
- (b) Total Risk Based Capital of at least twelve and one-half percent (12.5%) of risk-weighted assets.

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<sup>1</sup> Adjusted total assets is defined in 12 C.F.R. § 3.2(a) as the average total asset figure used for Call Report purposes minus end-of-quarter intangible assets.

(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 ninety (90) days, the Board shall develop a three year 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);
- (b) projections for growth and capital requirements based upon a detailed analysis of the Bank's assets, liabilities, earnings, fixed assets, and off-balance sheet activities;
- (c) projections of the sources and timing of additional capital to meet the Bank's current and future needs;
- (d) the primary source(s) from which the Bank will strengthen its capital structure to meet the Bank's needs;
- (e) contingency plans that identify alternative methods should the primary source(s) under (d) above not be available; and
- (f) a dividend policy that permits the declaration of a dividend only:
  - (i) when the Bank is in compliance with its approved capital program;
  - (ii) when the Bank is in compliance with 12 U.S.C. §§ 56 and 60; and
  - (iii) with the prior written determination of no supervisory objection by the Assistant Deputy Comptroller.

(4) Within 10 days of completion, the Bank shall submit the capital program to the Assistant Deputy Comptroller for review and prior written determination of no supervisory objection. Upon receiving a determination of no supervisory objection from the Assistant Deputy Comptroller, the Board shall immediately implement and ensure Bank adherence to the capital program.

### ARTICLE III

#### CRITICIZED ASSETS

(1) The Bank shall take immediate and continuing action to protect its interest in those assets criticized<sup>2</sup> in the Report of Examination dated “as of” March 31, 2009 (“ROE”), in any subsequent Report of Examination, by internal or external loan review, or in any list provided to management by the National Bank Examiners during any examination.

(2) Within forty-five (45) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to individual workout plans 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. Each workout plan shall include, at a minimum:

- (a) an identification of the expected sources of repayment;
- (b) the current value of supporting collateral and the position of the Bank's lien on such collateral where applicable;

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<sup>2</sup> The term “criticized” as used in this Article is meant to refer to assets rated the equivalent of “doubtful,” “substandard,” or “special mention” as defined in the “Rating Credit Risk” booklet of the Comptroller’s Handbook.

- (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 timeframes within which the actions will be taken.

(3) A copy of all workout plans adopted pursuant to this Article shall be maintained in the file of the affected borrower. Upon adoption, a copy of the workout plan for all criticized assets equal to or exceeding one hundred thousand dollars (\$100,000) shall be forwarded to the Assistant Deputy Comptroller.

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

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

(5) A copy of each review conducted pursuant to Paragraph (4) of this Article shall be forwarded to the Assistant Deputy Comptroller on a quarterly basis.

(6) 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 or extending any additional credit, or capitalizing any accrued interest, 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 workout plan 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 obtained pursuant to Paragraph (6) of this Article shall be maintained in the file of the affected borrower.

#### ARTICLE IV

##### LOAN RISK RATING SYSTEM

(1) Within sixty (60) days, and on an ongoing basis thereafter, the Board must ensure that the Bank's internal risk ratings of commercial credit relationships in excess of \$100,000 ("covered relationship"), as assigned by responsible loan officers and by internal loan review, are timely, accurate, and consistent with the regulatory credit

classification criteria set forth in the Rating Credit Risk Booklet, A-RCR, of the Comptroller's Handbook. At a minimum, the Board must ensure, on an ongoing basis, that with respect to the assessment of credit risk of any covered relationship:

- (a) the primary consideration is the strength of the borrower's primary source of repayment (i.e., the probability of default rather than the risk of loss);
- (b) if the primary source of repayment is cash flow from the borrower's operations, the strength of the borrower's cash flow is determined through analysis of the borrower's historical and projected financial statements, past performance, and future prospects in light of conditions that have occurred;
- (c) collateral, non-government guarantees, and other similar credit risk mitigants that affect potential loss in the event of default (rather than the probability of default) are taken into consideration only if the primary source of repayment has weakened and the probability of default has increased;
- (d) collateral values should reflect a current assessment of value based on actual market conditions and project status;
- (e) credit risk ratings are reviewed and updated whenever relevant new information is received, but no less frequently than annually;  
and
- (f) the credit risk rating analysis is documented and available for review by the Board and the OCC upon request.

(2) Within sixty (60) days, and on an ongoing basis thereafter, the Board must ensure that any covered relationship with a high probability of payment default or other well-defined weakness is rated no better than Substandard, unless the debt is secured by marketable securities or cash. Consistent with the guidance in the Rating Credit Risk Booklet, A-RCR, of the Comptroller's Handbook, the presence of illiquid collateral or existence of a plan for improvement does not, and a non-government guarantee generally will not, mitigate the probability of default or a well-defined weakness.

(3) Within sixty (60) days, the Board must establish, implement, and ensure Bank adherence to a credit risk rating management information system that provides, at a minimum, the following information to the Board on a monthly basis:

- (a) individual detail regarding the identification, type, amount, and assigned rating of all problem loans in excess of \$100,000 (one hundred thousand dollars);
- (b) individual, or summary, detail regarding this same information for all problem loans less than or equal to \$100,000 (one hundred thousand dollars);
- (c) ratings equivalent to, or readily convertible to, the common regulatory risk rating definitions of pass, special mention, substandard, doubtful and loss set forth in the Rating Credit Risk booklet of the Comptroller's Handbook; and
- (d) summary loan portfolio data highlighting trends in, and condition of, the quality of loans rated pass.



## ARTICLE V

### CREDIT AND COLLATERAL INFORMATION

(1) Within ninety (90) days, the Board shall obtain and analyze current and satisfactory credit information on all loans 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.

(2) Within ninety (90) days, the Board shall ensure proper collateral documentation is maintained on all loans and 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.

(3) If the Board is unable to obtain the credit information or collateral documentation required by paragraphs (1) or (2) of this Article within ninety (90) days, the Board shall document its efforts to obtain such information or documentation, and maintain the documentation of its efforts in the loan file.

(4) Effective immediately, the Bank may grant, extend, renew, alter or restructure any loan or other extension of credit 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 of repayment;

- (d) obtaining and analyzing current and satisfactory credit information;
- (e) documenting, with adequate supporting material, the value of collateral and properly perfecting the Bank's lien on it where applicable; and
- (f) for loans or other extensions of credit exceeding \$100,000, completing a global analysis of the borrower's current financial position, cash flow, and repayment ability.

(5) Failure to obtain the information required by paragraph (4)(d) of this Article 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 required by paragraph (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) and a centralized file for review by the Board, senior management and examiners.

## ARTICLE VI

### ALLOWANCE FOR LOAN AND LEASE LOSSES

(1) Within sixty (60) days, the Board shall adopt, implement, and thereafter ensure adherence to written policies and procedures for maintaining an adequate Allowance for Loan and Lease Losses ("ALLL") in accordance with generally accepted accounting principles. The ALLL policies and procedures shall be consistent with the guidance set forth in the Federal Financial Institutions Examination Council's

“Interagency Policy Statement on the Allowance for Loan and Lease Losses” dated December 13, 2006, (OCC Bulletin 2006-47) (“Interagency Statement”) and shall at a minimum include:

- (a) procedures for determining whether a loan is impaired and measuring the amount of impairment, consistent with FASB Statement of Financial Accounting Standards No. 114, Accounting by Creditors for Impairment of a Loan;
- (b) procedures for segmenting the loan portfolio and estimating loss on groups of loans that are consistent with FASB Statement of Financial Accounting Standards No. 5, Accounting for Contingencies, and address the nine qualitative factors set forth in the Interagency Statement;
- (c) procedures for validating the ALLL methodology;
- (d) a process for summarizing and documenting, for the Board’s review and approval, the amount to be reported in the Consolidated Reports of Condition and Income (“Call Reports”) for the ALLL. Any deficiency between the ALLL balance as determined by the analysis required by this Article and the Bank’s actual ALLL balance, regardless of the amount of such deficiency, shall be remedied through additional provision expense in the quarter it is discovered, prior to the filing of the Call Reports.

## ARTICLE VII

### COMPLIANCE COMMITTEE

(1) Within thirty (30) days, 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 ninety (90) 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 VIII

### 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/

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Mark A. Zeihen  
Assistant Deputy Comptroller  
Champaign/Indianapolis Field Offices

November 6, 2009

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Date

