

AGREEMENT BY AND BETWEEN  
National Bank of Commerce  
Superior, Wisconsin  
and  
The Comptroller of the Currency

National Bank of Commerce, Superior, Wisconsin (“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 or unsound banking practices relating to credit administration 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) Unless otherwise informed in writing by the Comptroller, all programs, reviews, or plans which the Bank or Board has agreed to submit to the Assistant Deputy Comptroller pursuant to this Agreement shall be forwarded to:

Nancy M. Sundstrom  
Assistant Deputy Comptroller  
Minneapolis Field Office  
222 South Ninth Street, Suite 800  
Minneapolis, Minnesota 55402

## ARTICLE II

### PROBLEM LOAN WORKOUTS

(1) The Bank shall take immediate and continuing action to protect its interest in those assets criticized<sup>1</sup> in the Report of Examination dated as of June 30, 2009 (“ROE”), in any subsequent Report of Examination, or in any list provided to management by the National Bank Examiners, or by internal or external loan review.

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<sup>1</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.

(2) Within sixty (60) 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 in any list provided to management by the National Bank Examiners, or by internal or external loan review as "doubtful," "substandard," or "special mention." 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;
- (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 actions to eliminate the basis of criticism and the dates by which the actions will be taken.

(3) A copy of the workout plan adopted pursuant to this Article shall be maintained in the file of the affected borrower.

(4) Upon adoption, a copy of the workout plans for all criticized assets equal to or exceeding five hundred thousand dollars (\$500,000) shall be forwarded to the Assistant Deputy Comptroller.

(5) The Board, or a designated committee, shall conduct a review, on at least a quarterly basis, of each workout plan adopted pursuant to this Article for all criticized assets equal to or exceeding five hundred thousand dollars (\$500,000) to determine:

- (a) the status of each criticized asset or criticized portion thereof;
- (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.

(6) A copy of each review conducted pursuant to Paragraph (5) of this Article shall be forwarded to the Assistant Deputy Comptroller on a quarterly basis (in a format similar to Appendix A, attached hereto).

(7) The Bank may extend credit, directly or indirectly, including renewals, extensions or capitalization of accrued interest, to a borrower whose loans or other extensions of credit are criticized in the ROE, in any subsequent Report of Examination, or in any list provided to management by the National Bank Examiners, or by any internal or external loan review and whose aggregate loans or other extensions exceed one million dollars (\$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 its 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 by the credit extension.

(8) The restrictions of Paragraph (7) do not apply to occasional, short-term advances of \$10,000 or less to cover overdraft balances in the normal course of business.

(9) Copies of the approvals and comparisons of the Board or designated committee obtained pursuant to Paragraph (7) of this Article shall be maintained in the file of the affected borrower.

### ARTICLE III

#### ANNUAL REVIEWS

(1) Within sixty (60) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to an annual credit review program for borrowers with aggregate commercial or agricultural loan balances over five hundred thousand dollars (\$500,000). The annual credit review shall be conducted by the responsible lending officer and shall document, at a minimum:

- (a) the specific reason or purpose of the loan;
- (b) the expected source of repayment;
- (c) past repayment performance;
- (d) terms and covenants related to each loan;
- (e) a global analysis of the borrower's (and primary guarantor's) current financial position, cash flow, and repayment ability;
- (f) an analysis of collateral coverage and documentation of the Bank's lien position;
- (g) a description of events that could have a material adverse effect on the borrower's financial condition or repayment capacity; and
- (h) the assigned credit risk rating, including accrual designation and the amount of any impairment reserve, if necessary

(2) Upon adoption, a written description of the program called for in this Article shall be forwarded to the Assistant Deputy Comptroller for review and determination of no supervisory objection.

## ARTICLE IV

### LOAN RISK RATING SYSTEM

(1) Within forty five (45) 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 \$500,000 (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 forty five (45) 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) 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 V

### CREDIT AND COLLATERAL EXCEPTIONS

(1) Within sixty (60) days the Board shall obtain current and satisfactory credit information on all loans lacking such information, including those listed in the ROE, in any subsequent Report of Examination, in any internal or external loan review, or in any listings of loans lacking such information provided to management by the National Bank Examiners.

(2) Within sixty (60) 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 National Bank Examiners.

(3) If the Board and management are unable to obtain the credit information or collateral documentation required by paragraphs (1) and (2) of this article within sixty (60) days, the Board and management shall document their efforts to obtain such information or documentation, and maintain documentation of their efforts in the loan file.

(4) Effective immediately, the Bank may grant, extend, renew, alter or restructure any loan or other extension of credit equal to or exceeding five hundred thousand dollars (\$500,000) only after:

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



## ARTICLE VI

### APPRAISALS OF REAL PROPERTY

- (1) Within thirty (30) days, the Board shall engage the services of an independent, professionally certified, or licensed appraiser(s) to provide:
  - (a) a written or updated appraisal, in accordance with 12 C.F.R. Part 34, for each parcel of real property that represents primary collateral behind any extension of credit in excess of two hundred fifty thousand dollars (\$250,000) where:
    - (i) the loan was criticized in the ROE, any list provided to management by National Bank Examiners, or by the Bank's internal loan review and the most recent independent appraisal is more than twelve (12) months old; or
    - (ii) accrued interest or loan fees have been or will be added to the outstanding principal balance, and the most recent independent appraisal is more than twelve (12) months old.
  - (b) a written appraisal on each parcel of Other Real Estate Owned where it is needed to bring the Bank into conformity with the provisions of 12 C.F.R. Part 34.
- (2) All such appraisals shall be completed within one hundred twenty (120) days, and certification by the Board attesting to the completion of the appraisals shall be forwarded to the OCC upon request.
- (3) Within 60 days, the Board shall adopt, implement, and thereafter ensure adherence to a written real estate valuation program designed to ensure that the Bank assesses and maintains current information on the adequacy of collateral securing its real estate loans. The program shall, at a minimum;

- (a) provide for the independence of the persons ordering, performing, and reviewing appraisals;
  - (b) ensure that appraisals contain sufficient information to support the appraised value;
  - (c) maintain criteria for content and appropriate use of real estate evaluations;
  - (d) implement internal controls that promote compliance with the appraisal regulation, the Interagency Appraisal and Evaluation Guidelines, and industry appraisal standards; and
  - (e) establish criteria for obtaining appraisals or evaluations for transactions that are not otherwise covered by regulatory requirements.
- (4) Upon adoption, a copy of the program shall be forwarded to the Assistant Deputy Comptroller for review and determination of no supervisory objection.
- (5) 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 VII

### BROKERED DEPOSITS

- (1) The Bank shall not exceed the level of brokered deposits, as measured by the Bank's ratio of total brokered deposits to total liabilities as of September 30, 2009, without obtaining the prior written determination of no supervisory objection from the Assistant Deputy Comptroller. "Brokered deposit" shall have the meaning set forth in 12 C.F.R. § 337.6(a)(2).

(2) The limitation of paragraph (1) shall include the acquisition of Brokered Deposits through any transfer, purchase, or sale of assets.

(3) If the Bank seeks to acquire Brokered Deposits exceeding the limitation in paragraph (1), the Board shall apply to the Assistant Deputy Comptroller for written permission. Such application shall contain, at a minimum, the following:

- (a) the dollar volume, maturities, and cost of the Brokered Deposits to be acquired;
- (b) the proposed use of the Brokered Deposits, e.g., short-term liquidity or restructuring of liabilities to reduce cost;
- (c) alternative funding sources available to the Bank; and
- (d) the reasons why the Bank believes that the acceptance of the Brokered Deposits does not constitute an unsafe and unsound practice in its particular circumstances.

(4) The Assistant Deputy Comptroller may require the submission of such additional information as necessary to make an informed decision. Upon consideration of the Bank's application, the Assistant Deputy Comptroller will determine whether the proposed acquisition of Brokered Deposits may be accomplished in a safe and sound manner and may condition the Bank's acquisition as the Assistant Deputy Comptroller shall deem appropriate.

(5) Nothing in the Article shall relieve the Bank of its obligation under 12 U.S.C. § 1831f to seek necessary approvals from the Federal Deposit Insurance Corporation before accepting Brokered Deposits and to comply with all the requirements of 12 U.S.C. § 1831f.

## ARTICLE VIII

### CLOSING

(1) Although the Board has agreed to submit certain programs, reviews, and plans 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 that certain actions are taken, and to ensure adherence to certain programs, policies, and procedures, 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 Bank management to report on a timely basis on the results of such actions directed by the Board to be taken under the terms of this Agreement;
- (c) analyze the underlying reasons for any non-compliance with such actions in a timely and appropriate manner; and
- (d) initiate corrective action deemed appropriate for any non-compliance with such actions in a timely manner.

(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 her hand on behalf of the Comptroller.

/s/  
\_\_\_\_\_  
Nancy M. Sundstrom  
Assistant Deputy Comptroller  
Minneapolis Field Office

1/19/2010  
\_\_\_\_\_  
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.

/s/  
\_\_\_\_\_  
Edward Aamodt

1/19/2010  
\_\_\_\_\_  
Date

/s/  
\_\_\_\_\_  
Robert Hall

1/19/2010  
\_\_\_\_\_  
Date

/s/  
\_\_\_\_\_  
LeRoy Kolquist

1/19/2010  
\_\_\_\_\_  
Date

/s/  
\_\_\_\_\_  
Joseph Konradt

1/19/2010  
\_\_\_\_\_  
Date

/s/  
\_\_\_\_\_  
James Korthals

1/19/2010  
\_\_\_\_\_  
Date

/s/  
\_\_\_\_\_  
Terry L. Lundberg

1/19/2010  
\_\_\_\_\_  
Date

/s/

Rick A. Magnuson

1/19/2010

Date

/s/

Mark A. Manion

1/19/2010

Date

/s/

Daniel Markham

1/19/2010

Date

/s/

William F. Schnell, M.D.

1/19/2010

Date

/s/

Lonnie J. Swartz

1/19/2010

Date

/s/

Joseph J. Till, III

1/19/2010

Date

/s/

Judy L. Weber

1/19/2010

Date