

AGREEMENT BY AND BETWEEN  
The Midland National Bank of Newton  
Newton, Kansas  
and  
The Comptroller of the Currency

The Midland National Bank of Newton, Newton, 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 determined that the Bank has engaged in unsafe and unsound banking practices relating to its Board and management oversight, strategic and capital planning, credit administration and risk management.

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 not be construed to require the Bank “to meet and maintain a specific capital level” within the meaning of 12 C.F.R. § 6.4.

## **ARTICLE II**

### **COMPLIANCE COMMITTEE**

(1) Within ten (10) days 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 ten (10) days of the end of every calendar quarter, 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.

(5) 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  
Wichita Field Office  
3450 North Rock Road, Suite 505  
Wichita, Kansas 67226

(6) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the policies, procedures, and programs required by this Agreement.

### **ARTICLE III**

#### **CAPITAL AND STRATEGIC PLAN**

(1) Effective immediately, the Bank shall only declare dividends when:

- (a) the Bank is in compliance with the Bank's Three-Year Plan as described below;
- (b) the Bank is in compliance with 12 U.S.C. §§ 56 and 60; and
- (c) the Bank has received a prior written determination of no supervisory objection from the Assistant Deputy Comptroller.

(2) Within ninety (90) days of this Agreement, the Board shall develop a written strategic plan for the Bank covering at least the next three years (hereafter the "Bank's Three-Year Plan"), complete with specific time frames that incorporate the strategic and other requirements of this Article. A copy of the Bank's Three-Year Plan shall be forwarded to the Assistant Deputy Comptroller for a prior written determination of no supervisory objection.

(3) 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 specific strategies to achieve those objectives, that are specific, measurable, verifiable, and, at a minimum, address or include:

- (a) a mission statement that forms the framework for the establishment of strategic goals and objectives;
- (b) an assessment of the Bank's present and future operating environment;
- (c) the development of strategic goals and objectives to be accomplished over the short and long term;
- (d) a dividend policy that only permits the declaration of a dividend in accordance with Paragraph (1) of this Article;
- (e) the identification of present and future product line development (assets and liabilities) and market segments that the Bank intends to develop or promote;
- (f) an action plan to improve earnings and accomplish identified strategic goals and objectives, including individual responsibilities, accountability, and specific time frames;
- (g) specific plans for the maintenance of adequate capital, consistent with the Bank's overall condition and risk profile;
- (h) projections for growth and capital requirements based upon a detailed analysis of the Bank's assets, liabilities, earnings, fixed assets, provision expense, and off balance sheet activities;

- (i) projections of the sources and timing of additional capital, including support from the Bank's holding company, to meet the Bank's current and future needs;
- (j) contingency plans that identify alternative methods should the capital primary sources not be available;
- (k) a succession plan for key management positions and the Board;
- (l) provisions for plan updates and review by the Board on an annual basis, or more frequently if necessary; and
- (m) systems to monitor the Bank's progress in meeting the plan's goals and objectives.

(4) Upon receiving a written determination of no supervisory objection from the Assistant Deputy Comptroller, the Board shall immediately implement and thereafter ensure adherence to the Bank's Three-Year Plan.

#### **ARTICLE IV**

##### **CREDIT UNDERWRITING AND ADMINISTRATION**

(1) Effective as of the date of this Agreement, the Board shall ensure that all 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 this Agreement, the Board shall review, revise, and thereafter ensure adherence to the Bank's Loan Policy to include, at a minimum, revisions relating to:

- (a) compliance with OCC Bulletin 2000-20, Uniform Retail Credit Classification and Account Management Policy, and OCC Bulletin 2005-9, Overdraft Protection Programs;
- (b) expectations regarding required credit file information for each different lending product offered;
- (c) limits for the number and dollar amount of credit, collateral, and underwriting exceptions allowable at any given time;
- (d) a system for measuring exceptions against the Board approved limits, monthly Board monitoring of exception reports, and accountability by the lending staff for such exceptions that considers such exceptions in periodic performance reviews and compensation of such lending staff;
- (e) requirements that lending officers appropriately analyze and document appropriate credit and collateral information on all extensions of credit (new, maturity extension, or renewal) including participations purchased, equal to or exceeding two hundred thousand dollars (\$200,000), to include, at a minimum:
  - (i) documenting the specific reason or purpose for the extension of credit;
  - (ii) identifying the expected source of repayment in writing;
  - (iii) structuring the repayment terms to coincide with the expected source of repayment;
  - (iv) obtaining current and satisfactory credit information about the borrower and any guarantor, including performing and documenting analysis of credit information and a detailed cash

- flow analysis of all expected repayment sources, sufficient to fully assess and analyze the borrower's and guarantor's cash flow, debt service requirements, contingent liabilities, and global liquidity condition;
- (v) 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;
  - (vi) making and documenting determinations regarding the customer's ability to repay the credit on the proposed repayment terms, including an evaluation of both primary and secondary sources of repayment, as well as a global cash flow analysis that considers all customer debt service requirements;
  - (vii) verification of liquid assets that the Bank is relying on as a source of repayment;
  - (viii) documenting, with adequate supporting material, the value of collateral and properly perfecting the Bank's lien on it where applicable;
  - (ix) providing an accurate risk assessment grade;
  - (x) ongoing requirements for obtaining and analyzing financial statements; and
  - (xi) ongoing requirements for obtaining periodic collateral inspections as appropriate;
- (f) requirements relating to guarantor support;

- (g) minimum loan covenants;
- (h) maturity scheduling related to the anticipated source of repayment, the purpose of the loan, and the useful life of the collateral;
- (i) a definition of the Bank's trade area;
- (j) guidelines and limitations for loans originating outside of the Bank's trade area;
- (k) guidelines for loans to insiders, including a statement that such loans will not be granted on terms more favorable than those offered to similar outside borrowers;
- (l) guidelines and limitations on concentrations of credit, including by type of credit, geographic location, and source;
- (m) a limitation on the type and size of loans that may be made by loan officers without prior approval by the Board or a committee established by the Board for this purpose;
- (n) guidelines for participations as set forth in Banking Circular 181 (Revised), dated August 2, 1984, and the requirements of 12 C.F.R. Part 34, and a prohibition against purchasing any participation for which the Bank does not have the knowledge, skills or ability to properly underwrite on its own;
- (o) a system for identifying and monitoring legal lending limit compliance, and combination rules;
- (p) guidelines for loan stress testing and/or sensitivity analysis to quantify the impact of common stresses; and
- (q) procedures for periodic review of the Bank's adherence to the revised lending policy.



(3) The Board shall take the necessary steps to ensure that current and satisfactory credit and proper collateral information is maintained on all loans. Within thirty (30) days of this Agreement, the Board shall ensure that the Bank obtains any missing credit and collateral information described in the Report of Examination for the examination conducted as of June 30, 2010 and updated through September 30, 2010 as appropriate (the “ROE”), 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.

(4) Within sixty (60) days 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. This includes at a minimum, monthly Board monitoring of policy exception reports that track aggregate number and dollar amounts of loans with material policy exceptions by type of loan and loan officer.

## **ARTICLE V**

### **APPRAISAL AND EVALUATION PROCESS**

(1) Within sixty (60) days of this Agreement, the Board shall revise, adopt, implement and thereafter ensure Bank adherence to a written policy designed to ensure the Bank obtains real estate appraisals and evaluations in compliance with USPAP, 12 C.F.R. Part 34, Advisory Letter 2003-9, and OCC Bulletin 2005-6, to include at a minimum:

- (a) the establishment of criteria for obtaining and reviewing updated appraisals, new appraisals, and evaluations;
- (b) the development of procedures to ensure that appraisals, updates, and evaluations are ordered in a timely manner;

- (c) the establishment of a tickler system for tracking when appraisals, updates and evaluations are received, reviewed and adjustments are made, as appropriate, to reflect ASC 310-10 impairment and changes in risk ratings.

## **ARTICLE VI**

### **CREDIT RISK RATINGS AND NONACCRUAL RECOGNITION**

(1) Within sixty (60) days of this Agreement, the Board shall develop, and submit to the Assistant Deputy Comptroller for a prior written determination of no supervisory objection, a program to ensure that: 1) the risk associated with the Bank's loans and other assets is properly reflected and accounted for on the Bank's books and records, and that 2) the Bank does not improperly recognize income, to include, at a minimum, provisions requiring that:

- (a) the Board adopts a loan grading system that is consistent with the guidelines set forth in Rating Credit Risk, A-RCR, of the Comptroller's Handbook and is based upon definitive objective and subjective criterion;
- (b) the Bank's loans and other assets are graded based upon current facts and existing/reasonable (considering the loan purpose) repayment terms with a focus upon whether the primary repayment source is threatened by a well-defined weakness and whether the credit relies heavily upon secondary repayment sources, especially illiquid collateral or an unsubstantiated guarantor;
- (c) the Bank's loans and other assets are timely placed on nonaccrual by the lending officers in accordance with the guidelines set forth in the instructions to the Consolidated Report of Income and Condition (Call Report);

- (d) lending officers conduct periodic formal reviews for determining the appropriate risk rate and accrual determination;
- (e) appropriate analysis and documentation are maintained in the credit files to support the current and previous risk rate or accrual determination for all credit relationships totaling two hundred thousand dollars (\$200,000) or more;
- (f) the President, Senior Loan Officer, and all lending officers receive immediate training with respect to the application of Subparagraphs (a) through (e) of this Article.

(2) Upon receiving a written determination of no supervisory objection from the Assistant Deputy Comptroller, the Board shall immediately implement and thereafter ensure adherence to the program required by this Article.

## **ARTICLE VII**

### **CRITICIZED ASSET MANAGEMENT**

(1) Effective as of the date of this Agreement, the Board shall take immediate and continuing action to protect its interest in those assets criticized as “doubtful,” “substandard,” or “special mention” in the 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 sixty (60) days of this Agreement, the Board shall prepare and submit to the Assistant Deputy Comptroller for a prior written determination of no supervisory objection, a written program designed to reduce the Bank’s criticized assets (the “Criticized Assets Program”). The Criticized Assets Program shall include or address the following matters:

- (a) aggregate reporting of criticized asset levels by type to the Board or a designated committee thereof every month; and
- (b) specific plans for the reduction of criticized assets by asset type with target reductions by month.

(3) The Board's compliance with Paragraph (2) of this Article shall include the development of procedures for the monthly review and preparation of written determinations by the Board or a designated committee thereof regarding the effectiveness of the responsible officer's efforts to eliminate the weaknesses in each criticized credit relationship or Other Real Estate ("ORE") totaling two hundred thousand dollars (\$200,000) or more, and that require the preparation of Criticized Asset Reports ("CARs") that contain, at a minimum, analysis and documentation of the following:

- (a) an identification of the root cause of the problem;
- (b) an identification of the expected sources of repayment and an analysis of their adequacy;
- (c) 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;
- (d) an analysis of current and satisfactory credit information, including cash flow analysis where loans are to be repaid from operations;
- (e) the proposed actions to eliminate the basis of criticism and the time frame for their accomplishment, including an appropriate rehabilitate or exit strategy;
- (f) the results of any ASC 310-10 impairment analysis;

- (g) significant developments, including a discussion of changes since the prior CAR, if any; and
- (h) trigger dates for positive borrower actions or for loan officers to reassess the strategy, enact collection plans, and make appropriate risk rating changes or place on nonaccrual; and
- (i) documentation of the analysis and reasoning to support the current risk rating.

(4) Upon receiving a written determination of no supervisory objection from the Assistant Deputy Comptroller, the Board shall immediately implement and thereafter ensure adherence to the program required by this Article. Copies of CARs should be maintained in each respective credit file.

(5) The Bank shall not extend credit, directly or indirectly, including, but not limited to, renewals, extensions or capitalization of accrued interest, to a borrower whose loans or other extensions of credit are criticized by the OCC in a Report of Examination or otherwise, or in any internal or external loan review, and whose aggregate loans or other extensions of credit, are two hundred thousand dollars (\$200,000) or more, unless the Board or a designated committee thereof certifies in writing that:

- (a) the Board's formal plan to collect or strengthen the criticized asset will not be compromised; and
- (b) the extension or renewal is necessary to promote the best interests of the Bank, with documentation for the reasons thereof and that include consideration of the following:
  - (i) an analysis of current, complete credit information, including a detailed cash flow analysis of all expected repayment sources, to

determine whether the borrower can repay the indebtedness as agreed; and

- (ii) an analysis of the collateral value, including appropriate support and compliance with the appraisal requirements of 12 C.F.R. Part 34, to determine whether the loan is adequately secured.

## **ARTICLE VIII**

### **EXTERNAL LOAN REVIEW**

(1) Within thirty (30) days of this Agreement, the Board shall modify as necessary the Bank's engagement with a qualified consultant to perform semi-annual asset quality reviews of the Bank's loan portfolio that meet the requirements of this Article. The scope of the external loan review shall include at least seventy percent (70%) by dollar volume of the commercial, agricultural, and commercial real estate portfolios on an annual basis, and provide for a written report to be filed with the Board after each semi-annual review, with the first report due no later than April 30, 2011, and shall use a loan and lease grading system consistent with the guidelines set forth in Rating Credit Risk, A-RCR, of the *Comptroller's Handbook*. Such reports shall, at a minimum, include comments and conclusions regarding:

- (a) the loan review scope and coverage;
- (b) overall quality of the loan and lease portfolios;
- (c) the identification, type, rating, and amount of problem loans and leases;
- (d) the identification and amount of delinquent and nonaccrual loans;
- (e) the identification/status of credit related violations of law or regulation;
- (f) loans not in conformance with the Bank's lending policies;
- (g) credit underwriting and documentation exceptions;

- (h) credit analysis and documentation of such;
- (i) accuracy of internal risk ratings;
- (j) the identity of the loan officer who originated each loan reported in accordance with Subparagraphs (b) through (g) of the Article;
- (k) overall credit administration practices; and
- (l) completeness and effectiveness of problem loan workout plans.

(2) Prior to any change in the appointment or employment of any individual as loan review consultant or entering into any contract with any consultant, the Board shall submit the name and qualifications of the proposed consultant and the proposed scope and terms of employment to the Assistant Deputy Comptroller for a prior written determination of no supervisory objection. After the OCC has advised the Bank that it does not take supervisory objection to the loan review consultant or the scope of the review, the Board shall immediately engage the loan review consultant pursuant to the proposed terms of the engagement.

(3) The Board or a designated committee shall review the independent loan review reports and ensure that, if appropriate, immediate, adequate, and continuing remedial action, is taken upon the findings noted in the reports.

(4) A copy of the reports submitted to the Board, as well as documentation of the action taken by the Bank to collect or strengthen assets identified as problem credits, shall be submitted to the Assistant Deputy Comptroller and maintained in the books and records of the Bank.

(5) The Bank shall not terminate the consultant's asset quality review services without a prior written determination of no supervisory objection from the Assistant Deputy Comptroller.

## **ARTICLE IX**

### **ALLOWANCE FOR LOAN AND LEASE LOSSES**

(1) Within thirty (30) days of this Agreement, the Board shall revise, adopt, implement, and thereafter ensure adherence to written policies and procedures for maintaining an appropriate Allowance for Loan and Lease Losses (“Allowance”) in accordance with GAAP. The Allowance 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), and July 20, 2001 (OCC Bulletin 2001-37), and shall at a minimum include:

- (a) procedures for determining whether a loan is impaired and measuring the amount of impairment, consistent with Accounting Standards Codification 310-10 (formerly known as FASB Statement of Financial Accounting Standards No. 114);
- (b) procedures for segmenting the loan portfolio and estimating loss on groups of loans, consistent with Accounting Standards Codification 310-10 and 450-20 (formerly known as FASB Statement of Financial Accounting Standards No. 5, Accounting for Contingencies);
- (c) procedures for validating the Allowance methodology; and
- (d) procedures to ensure that the estimation of credit losses considers the relevant qualitative and environmental factors, with particular focus on the following:
  - (i) trends in the Bank’s internal risk ratings, delinquent, and nonaccrual loans;
  - (ii) results of the Bank’s external loan review;



- (iii) concentrations of credit in the Bank;
- (iv) present and prospective economic conditions; and
- (v) applicable experience of the Bank's lending staff.

(2) The program shall provide for a process for summarizing and documenting, for the Board's review and approval, the amount to be reported in the Call Reports for the Allowance. Any deficiency in the Allowance shall be remedied in the quarter it is discovered, prior to the filing of the Call Report, by additional provisions from earnings. Written documentation shall be maintained indicating the factors considered and conclusions reached by the Board in determining the adequacy of the Allowance.

(3) Upon receiving a written determination of no supervisory objection from the Assistant Deputy Comptroller, the Board shall immediately implement and thereafter ensure adherence to the program, policies, and procedures required by this Article.

## **ARTICLE X**

### **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 noncompliance with such actions in a timely and appropriate manner; and
- (d) require corrective action be taken in a timely manner of any noncompliance 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/

February 3, 2011

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Thomas J. Jorn  
Assistant Deputy Comptroller  
Wichita Field Office

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Date

**IN TESTIMONY WHEREOF**, the undersigned, as duly elected and acting Board of Directors of the Bank, have hereunto set their hands on behalf of the Bank.

Richard L. Alumbaugh	Date
/s/	February 3, 2011
David C. Burns	Date
/s/	February 3, 2011
Mary B. Carman, PhD	Date
/s/	February 3, 2011
Milton A. Claassen, MD	Date
/s/	February 3, 2011
Darrell D. Conrade	Date
/s/	February 3, 2011
Jay S. Holstine	Date
/s/	February 3, 2011
Ronald R. Lang	Date
/s/	February 3, 2011
Paul M. Suderman	Date
/s/	February 3, 2011
John R. Suderman	Date
/s/	February 3, 2011
J. Daniel Suderman	Date
/s/	February 3, 2011
James H. Suderman	Date