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Comptroller of the Currency  
Administrator of National Banks

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Washington, DC 20219

January 8, 2004

**Corporate Decision #2004-3  
February 2004**

James E. Britton, Esquire  
Britton, Gray, Ramsey & McCutcheon, P. C.  
Attorneys and Counselors at Law  
700 Corporate Tower  
101 N. Robinson  
Oklahoma City, OK 73102

Subject: Agreement By and Between The Absentee Shawnee Tribe of Indians of Oklahoma (“the Tribe”) and the Office of the Comptroller (“Tribal Agreement”), and Agreement By and Between First National Bank of Calumet, Calumet, OK (“the Bank”) and the Office of the Comptroller (“Bank Agreement”).

Dear Mr. Britton:

We understand that on November 12, 2003, the Federal Reserve Board of Governors (“the FRB”) approved the application by AllNations Bancorporation, Inc., Shawnee, OK (“AllNations”) to become a bank holding company through the acquisition of the Bank. AllNations is owned by the Tribe. We also understand that this transaction was consummated on December 4, 2003.

As part of the process of reviewing and acting on applications involving national banks, the FRB requested comments from the OCC. Our comments were provided to the FRB on July 7, 2003. Subsequently, the enclosed Agreements were executed. As you are aware, the Agreements are construed to be “written agreements” within the meaning of 12 U.S.C. § 1818, and as such are enforceable under the law. We are enclosing copies of the Agreements for your records.

Should you have any questions, please do not hesitate to contact me at (202) 874-5060.

Sincerely,

**-signed-**

Beverly Evans  
Senior Licensing Analyst

**AGREEMENT BY AND BETWEEN**

**First National Bank of Calumet  
Calumet, Oklahoma  
and  
The Office of the Comptroller of the Currency**

WHEREAS, pursuant to 12 U.S.C. § 1842(a), a company is required to secure the prior approval of the Board of Governors of the Federal Reserve System (Board of Governors) before becoming a bank holding company;

WHEREAS, the Absentee Shawnee Tribe of Indians of Oklahoma (Tribe), a federally recognized tribe primarily located in Shawnee, Oklahoma, has formed AllNations Bancorporation, Inc. (AllNations), a wholly owned corporation duly organized under the laws of the Tribe and the laws of the State of Oklahoma;

WHEREAS, on or about June 6, 2003, the Tribe submitted an Application (Application) to the Federal Reserve Bank of Kansas City, by which Application the Tribe proposed, in accordance with Section 3(a)(1) of the Bank Holding Company Act of 1956 as amended (12 U.S.C. § 1841, et seq.), that AllNations be permitted to acquire 100% of the stock of The First National Bank of Calumet, Calumet, Oklahoma (Bank), and thus for AllNations to become a bank holding company;

WHEREAS, as detailed in the Business Plan submitted to the Federal Reserve Bank in connection with the Application (hereinafter, the Business Plan), the Bank, after acquisition, is expected to be operated in conformity with the Business Plan;

WHEREAS, on or about July 7, 2003, the Office of the Comptroller of the Currency (OCC or Comptroller), in accordance with 12 U.S.C. § 1842(b), informed the Board of Governors of the Federal Reserve System (Board of Governors) in writing of certain concerns

that the OCC had regarding said Application;

WHEREAS, in order to address the Comptroller's concerns, on or about November 20, 2003, the Tribe and the OCC entered into an Agreement November 20, 2003, which November 20, 2003 Agreement specified, inter alia, that, after AllNations had acquired the Bank, the Tribe would cause the Bank to enter into a written Agreement with the OCC so as to ensure that the Bank would operate in conformance with the Business Plan and would further operate in a safe and sound manner and in accordance with all applicable laws, rules, and regulations;

WHEREAS, the Bank and the Comptroller seek to ensure that the Bank will operate in conformance with the Business Plan, and will further operate in a safe and sound manner and in accordance with all applicable laws, rules, and regulations;

NOW, THEREFORE, the OCC and the Bank, by and through its duly elected Board of Directors (Board), agree as follows:

## 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(i)(2).
- (3) This Agreement shall not be construed to be a "written agreement" within the meaning of 12 C.F.R. § 6.4.
- (4) This Agreement shall be construed to be a "written agreement" within the

meaning of 12 U.S.C. § 1818(u)(1)(A).

- (5) All correspondence related to this Agreement, and any information, documentation, reports, plans and/or other written submissions which the Bank or Board has agreed to submit pursuant to this Agreement shall be forwarded, by overnight mail, to:

Kyle Jones (or other OCC personnel)  
Assistant Deputy Comptroller  
Office of the Comptroller of the Currency  
The Harvey Parkway Building  
301 NW 63rd St., Suite 490  
Oklahoma City, Oklahoma 73116-7098

and with copies sent by overnight mail to:

Deputy Comptroller for the Southern District  
Office of the Comptroller of the Currency  
500 North Akard Street, Suite 1600  
Dallas, Texas 75201-3342

and to:

Freda Arnold (or other OCC personnel)  
Examiner-in-Charge  
Office of the Comptroller of the Currency  
The Harvey Parkway Building  
301 NW 63rd St., Suite 490  
Oklahoma City, Oklahoma 73116-7098

and to:

Randall M. Ryskamp (or other OCC personnel)  
District Counsel  
Office of the Comptroller of the Currency  
500 North Akard Street, Suite 1600  
Dallas, Texas 75201-3342

## ARTICLE II

### ABSOLUTE AND UNCONDITIONAL WAIVER OF SOVEREIGN IMMUNITY

(1) The Bank agrees to waive, and to cause each present and future affiliate of the Bank to waive, any claim that any Tribal court has jurisdiction over, and further agrees not to assert sovereign immunity as a defense to, any matter, issue, dispute, investigation, action, subpoena, examination, or proceeding involving the OCC.

(2) The Bank agrees to provide, and agrees to cause any affiliate of the Bank to provide, all information requested for any investigation, action, or proceeding by the OCC relating to:

- A. Enforcement or possible enforcement of any laws and/or regulations enforced by the OCC.
- B. AllNation's and/or the Tribe's ownership or control of the Bank.
- C. The Bank's operations or activities, and/or the activities of any institution-affiliated parties (IAPs), including any potential violation of law or regulation, any unsafe or unsound practice, or breach of fiduciary duty by the Bank or any IAP.
- D. The compliance by the Bank, by any IAP, and/or by any affiliate of the Bank with this Agreement's provisions.

## ARTICLE III

### OATHS OF BOARD MEMBERS

(1) Consistent with the requirements under 12 U.S.C. § 73, when appointed or elected to the Board, each member of the Board shall take an oath which addresses his

obligations as a director of a national bank. Attached to this Agreement at Attachments A and B are OCC-prescribed Oaths of Bank Directors, which oaths shall be administered to the various members of the Board.

#### ARTICLE IV

##### BOOKS AND RECORDS

(1) The Bank shall maintain its books, records, and management information systems in a complete and accurate condition, and the Bank's files shall contain all records and information necessary to allow the Comptroller to determine the details or purposes of each of the Bank's transactions.

#### ARTICLE V

##### POLICIES AND PROCEDURES

(1) If it has not already done so, the Board must develop and fully implement a written lending policy and related procedures to ensure that the Bank continues to operate in a safe and sound manner. In addition, the Board shall periodically review, and modify where necessary, the Bank's existing policies and procedures, so as to ensure that the Bank continues to operate in a safe and sound manner. The Board acknowledges that it is responsible for regular review and modifications of its policies and procedures and for ensuring continuous compliance with them.

#### ARTICLE VI

##### SIGNIFICANT DEVIATION FROM, OR CHANGE TO, THE BUSINESS PLAN

(1) The Bank agrees that it shall not significantly deviate from, or change, the Business Plan, without giving the OCC at least sixty (60) days prior written notice of its intent to do so, and obtaining the OCC's prior written determination of no objection to such action. The Bank

expressly acknowledges that if the OCC issues a written determination of no supervisory objection to any significant deviation from, or change to, the Business Plan, the Bank still must comply with the articles detailed in this Agreement.

## ARTICLE VII

### SERVICES PERFORMED BY, AND PAYMENTS TO, AFFILIATES

(1) Any services performed by affiliates for the Bank and payments to said affiliates by the Bank shall be rendered pursuant to contracts that comply with applicable federal laws and regulations, reflect safe and sound practices, and are at costs similar to those the Bank would pay an independent third party for the same services.

## ARTICLE VIII

### SERVICES PERFORMED BY, AND PAYMENTS TO, VENDORS

(1) Beginning on the Effective Date of this Agreement, prior to entering into a contract with a vendor, the Bank shall notify that vendor in writing of the OCC's examination and regulatory authority over the vendor pursuant to 12 U.S.C. 1867(c).1 All final vendor contracts must stipulate that the performance of services provided by the vendors to the Bank is subject to the OCC's examination and regulatory authority.

## ARTICLE IX

### DEFINITIONS

(1) **Tribe** means, individually and collectively, The Absentee Shawnee Tribe of Indians of Oklahoma, and any council, committee, division, office, commission, department, board, agency, authority, facility, instrumentality of The Absentee Shawnee Tribe of Indians of Oklahoma, or any other subordinate organization. Attached to this Agreement at **Attachment C** are, as represented on this date by the Bank to the OCC, the name and each business activity of and/or other function performed by each such subordinate organization of the Tribe, and the relation of each such subordinate organization to, the Tribe, and which by this reference is incorporated.

(2) **Affiliate of the Bank** means, individually and collectively, any company that from time-to-time is controlled (as defined in the Board's Regulation O, 12 CFR 215.2(c)) by the Bank, acting alone or in concert with one or more other persons (as defined in the Federal Reserve Board's Regulation Y, 12 CFR 225.2(k)). Attached hereto is **Attachment D**, which sets forth, as represented on this date by the Bank to the OCC, the name, address and business activity of each affiliate of the Bank, and the equity interest of the Bank, as of this date, and which by this reference is incorporated.

(3) **Bank** means The First National Bank of Calumet, Calumet, Oklahoma, including any successors thereto. Bank includes each company that from time-to-time is a subsidiary of the Bank.

(4) **Banking law** means:

(a) All federal, tribal, and state statutes, rules, and regulations that the OCC, the Federal Reserve Board, the Federal Deposit Insurance Corporation (FDIC), the U.S.

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<sup>1</sup>The OCC has the authority to assess the Bank for the cost of examining a service provider. See 12 C.F.R. 8.6.

Department of Justice (DOJ), the U.S. Department of the Treasury (DOT), or any other federal banking agency or department (individually, a "federal banking authority" and, collectively, the "federal banking authorities") administers or for which such federal banking authority has rulemaking or enforcement authority, including without limitation, all provisions of Title 12, U.S. Code, as from time-to-time may be applicable to the Bank, any institution-affiliated party (IAP) (as defined in sections 3(u) and 8(b)(3) of the Federal Deposit Insurance Act (FDIA)) thereof, the Tribe, or any affiliate of the Tribe.

(b) All federal criminal law violations that arise (i) from the applicability of any provision of a banking law; or (ii) under section 1001 of Title 18 of the U.S. Code as it relates to information, statements, omissions, writings, or reports to a federal banking authority; or (iii) any other provision of Title 18 of the U.S. Code applicable to the ownership, control, operation or activities of a bank, bank holding company, or subsidiary thereof, or to the activities of any IAP for such bank, bank holding company or subsidiary; or (iv) under The Bank Secrecy Act, or the Currency and Foreign Transactions Reporting Act.

(c) Any order or written agreement issued by any federal banking authority or an administrative law judge acting under authority delegated by any federal banking authority or federal court of competent jurisdiction pursuant to a banking law against or with bank, the Tribe, any affiliate of the Tribe, or any IAP.

## ARTICLE X

## CONCLUDING PROVISIONS

(1) 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.

(2) 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 Comptroller or his duly authorized representative for good cause upon written application by the Board.

(3) 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.

(4) To the extent that any of the provisions of this Agreement conflict with the terms found in any existing agreement between the Comptroller and the Bank, the provisions of this Agreement shall control.

(5) This Agreement is intended, 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 OCC or the United States. Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the OCC may enforce any of the commitments or obligations herein undertaken by the Bank under its 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 OCC has any

intention to enter into a contract. The Bank also expressly acknowledges that no OCC officer or employee has statutory or other authority to bind the United States, the U.S. Treasury Department, the OCC, or any other federal bank regulatory agency or entity, or any officer or employee of any of those entities to a contract affecting the OCC's exercise of its supervisory responsibilities. The terms of this Agreement, including this paragraph, are not subject to amendment or modification by any extraneous expression, prior agreements or arrangements, or negotiations 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/ Kyle M. Jones  
\_\_\_\_\_  
Kyle Jones (or other OCC official)  
Assistant Deputy Comptroller for the  
Oklahoma City Field Office  
Office of the Comptroller of the Currency

12/29/03  
\_\_\_\_\_  
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.

Austin Bynum _____ [insert name], Chairman of the Board	12/4/03 _____ Date
Richard D. Thompson _____ [insert name], President	12-4-03 _____ Date
Richard D. Thompson _____ [insert name], Director	12-4-03 _____ Date
James F. Thompson _____ [insert name], Director	12-4-03 _____ Date
S. Gene Davis _____ [insert name], Director	12-4-03 _____ Date
Austin Bynum _____ [insert name], Director	12-4-03 _____ Date
Anita Chishila _____ [insert name], Director	12/4/03 _____ Date
_____ [insert name], Director	_____ Date

**ATTACHMENT A**

**OCC Prescribed Oath of Bank Director Format  
(Sample Format #1)**

Bank Name \_\_\_\_\_  
State of \_\_\_\_\_  
County of \_\_\_\_\_

I, the undersigned, a (proposed) director of the Bank do solemnly swear (affirm) that:

I acknowledge that as a director of the Bank, the Bank and members of the Board of Directors of the Bank are governed by and subject to banking laws,<sup>2</sup> including, but not limited to titles 12, 18, 15 and 42 of the United States Code. I further acknowledge that the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Trade Commission, the United States Department of Justice, the United States Department of the Treasury, the United States Department of Housing and Urban Development, and any other federal banking agency or department (individually a “federal banking authority” and collectively the “federal banking authorities”), as appropriate, may enforce compliance with the federal banking laws against me personally, as a director of the Bank, pursuant to 12 U.S.C. § 1813(u).

As with all directors of national banks, I understand that I have a legal responsibility and fiduciary duty to shareholders to administer the Bank’s affairs faithfully, and oversee its management. I shall, commensurate with my duties, diligently and honestly administer the affairs of the Bank, and I shall not knowingly violate, or willingly permit to be violated, any applicable federal banking law. I shall exercise reasonable care and place the interests of the Bank before my own interests. I shall fulfill my duties of loyalty and care to the association.

Furthermore, I shall ensure that I learn of changes in federal banking laws, as they are administered by the federal banking authorities, which affect my duties, responsibilities, or obligations as a director and affiliated person of the association.

I am the owner, in good faith and in my own right, of the number of shares of stock required by law. I have either subscribed for this stock or it is issued and outstanding, and it is not hypothecated, or in any way pledged, as security for any loan or debt.

I shall make a good faith effort to attend meetings of the board of directors and participate fully on all committees of the board to which I am appointed.

Signature

\_\_\_\_\_  
<sup>2</sup> For purposes of this Oath, the term "banking law" is defined as set forth in Attachment A, attached hereto, and incorporated by reference. (If applicable, attach a tribal Agreement from the Tribe that the proposed director represents. If proposed director does not represent a tribe, attach Sample Format #2.)

Typed Name  
Mailing Address  
City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code

**Notary's Affirmation**

Subscribed and sworn (affirmed) to before the undersigned, who is not an officer of the above-named bank, this \_\_\_\_\_ day of \_\_\_\_\_,

Notary Public  
Commission Expires:

**ATTACHMENT B**

**Oath of Bank Director  
For Directors Not Affiliated With a Native American Tribe**

Bank Name \_\_\_\_\_ Date \_\_\_\_\_  
State of \_\_\_\_\_  
County of \_\_\_\_\_

I, the undersigned, a (proposed) director of the above-named bank do solemnly swear (affirm) that:

As a director, I have a legal responsibility and a fiduciary duty to shareholders to administer the depository institution's affairs faithfully and to oversee its management. In carrying out my duties and responsibilities, I shall exercise reasonable care and place the interests of the depository institution before my own interests. I shall fulfill my duties of loyalty and care to the above-named depository institution.

I shall, commensurate with my duties, diligently and honestly administer the affairs of the depository institution, and I shall not knowingly violate, or willingly permit to be violated, any applicable statute or regulation. I shall ensure that I learn of changes in statutes, regulations, and policies of the Office of Comptroller of the Currency, the Federal Deposit Insurance Corporation, or any state to whose jurisdiction my association is subject, which affect my duties, responsibilities, or obligations as a director and affiliated person of the association.

I am the owner, in good faith and in my own right, of the number of shares of stock that the law requires. I have either subscribed for this stock or it is issued and outstanding, and it is not hypothecated, or in any way pledged, as security for any loan or debt.

I shall attend meetings of the board of directors and participate fully on all committees of the board to which I am appointed.

Signature \_\_\_\_\_  
Typed Name \_\_\_\_\_  
Mailing Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_

**Notary's Affirmation**

Subscribed and sworn (affirmed) to before the undersigned, who is not an officer of the above-named bank, this \_\_\_\_\_ day of \_\_\_\_\_,

Notary Public

Commission Expires:

**APPENDIX C TO**  
**Agreement By and Between**  
**The First National Bank of Calumet**  
**Calumet, Oklahoma**  
**and**  
**The Office of the Comptroller of the Currency**

Subordinate Organizations of the Tribe:

None

**APPENDIX D TO**  
**Agreement By and Between**  
**The First National Bank of Calumet**  
**Calumet, Oklahoma**  
**and**  
**The Office of the Comptroller of the Currency**

Affiliates of the Bank:

1. AllNations Bancorporation, Inc. (“AllNations”), is a corporation organized under the laws of the Tribe, authorized to do business in the State of Oklahoma, with an address of 2025 South Gordon Cooper, Shawnee, Oklahoma 74801-9381. AllNations is a wholly-owned subsidiary of the Tribe and its business activity is to be the parent and holding company for The First National Bank of Calumet, Calumet, Oklahoma (the “Bank”).

2. Absentee-Shawnee Economic Development Authority, Inc. (the “Authority”), a wholly owned subsidiary of the Tribe, is a corporation organized under the laws of the United States (25 USC 205) with an address of 2025 South Gordon Cooper, Shawnee, Oklahoma 74801-9381. The Authority currently has no business activity. The Authority was formed to provide a corporate entity to provide economic development for the Tribe.

**AGREEMENT BY AND BETWEEN**

**The Absentee Shawnee Tribe of Indians of Oklahoma,  
Shawnee, Oklahoma  
and  
The Office of the Comptroller of the Currency**

WHEREAS, pursuant to 12 U.S.C. § 1842(a), a company is required to secure the prior approval of the Board of Governors of the Federal Reserve System (Board of Governors) before becoming a bank holding company;

WHEREAS, the Absentee Shawnee Tribe of Indians of Oklahoma (“Tribe”), a federally recognized tribe primarily located in Shawnee, Oklahoma, has formed AllNations Bancorporation, Inc. (“AllNations”), a wholly owned corporation duly organized under the laws of the Tribe and the laws of the State of Oklahoma;

WHEREAS, on or about June 6, 2003, the Tribe, through AllNations, submitted to the Federal Reserve Bank of Kansas City an application (“the Application”) for approval for AllNations to acquire 100 percent of the issued and outstanding shares of the First National Bank of Calumet, Calumet, Oklahoma (“the Bank”), and for AllNations to become a bank holding company;

WHEREAS, the Office of the Comptroller of the Currency (“OCC” or “Comptroller”) has some concerns regarding the Application and its possible effects on the Bank;

WHEREAS, if the Board of Governors approves AllNations’ Application to become a bank holding company and the Tribe were to subsequently acquire control of the Bank, the Tribe and the Comptroller seek to protect the interests of the Bank’s depositors and other customers and seek to ensure that the Bank will operate safely and soundly and in accordance with all applicable laws, rules, and regulations;

NOW, THEREFORE, in consideration of the above premises, the Tribe, by and through

its duly elected representatives, agrees as follows:

ARTICLE I

JURISDICTION

(1) The Tribe is deemed to an “institutional-affiliated party” (“IAP”) within the meaning of 12 U.S.C. § 1813(u)(3).

(2) In all dealings with the Bank, any affiliate of the Tribe (except for a bank holding company) is deemed to be an IAP within the meaning of 12 U.S.C. § 1813(u).

(3) 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).

(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 be a “written agreement” within the meaning of 12 C.F.R. § 6.4.

(6) All correspondence related to this Agreement, and any information, documentation, reports, plans and/or other written submissions which the Tribe has agreed to submit pursuant to this Agreement shall be forwarded, by overnight mail, to:

Kyle Jones (or other OCC personnel)  
Assistant Deputy Comptroller  
Office of the Comptroller of the Currency  
The Harvey Parkway Building  
301 NW 63rd St., Suite 490  
Oklahoma City, Oklahoma 73116-7098

and with copies sent by overnight mail to:

Deputy Comptroller for the Southern District  
Office of the Comptroller of the Currency

500 North Akard Street, Suite 1600  
Dallas, Texas 75201-3342

and to:

Freda Arnold (or other OCC personnel)  
Examiner-in-Charge  
The Harvey Parkway Building  
301 NW 63rd St., Suite 490  
Oklahoma City, Oklahoma 73116-7098

and to:

Randall M. Ryskamp (or other OCC personnel)  
District Counsel  
Office of the Comptroller of the Currency  
500 North Akard Street, Suite 1600  
Dallas, Texas 75201-3342

## ARTICLE II

### DEFINITIONS

(1) **Tribe** means, individually and collectively, the Absentee Shawnee Tribe of Indians of Oklahoma and any council, committee, division, office, commission, department, board, agency, authority, facility, instrumentality of the Absentee Shawnee Tribe of Indians of Oklahoma, or any other subordinate organization. Attached to this Agreement at Attachment A are, as represented to the OCC by the Tribe on this date, the name and each business activity of and/or other function performed by each such subordinate organization of the Tribe, and the relation of each such subordinate organization to, the Tribe, and which by this reference is incorporated.

(2) **Affiliate of the Tribe** means, individually and collectively, any company that from

time-to-time is controlled (as defined in the Board's Regulation O, 12 C.F.R. §215.2(c)) by the Tribe, acting alone or in concert with one or more other persons (as defined in the Board's Regulation Y, 12 C.F.R. § 225.2(k)), but excluding any company identified and listed as a subordinate organization of the Tribe in Attachment A of this Agreement. Attached hereto is Attachment B, which sets forth, as represented to the OCC by the Tribe on this date, the name, address and business activity of each affiliate of the Tribe, and the equity interest of the Tribe, as of this date, and which by this reference is incorporated.

(3) **Bank** means The First National Bank of Calumet, Calumet, Oklahoma, including any successor thereto. Bank includes each company that from time-to-time is a subsidiary of the Bank.

(4) **Banking law or banking laws** means:

- (a) All federal, tribal, and state statutes, rules, and regulations that the OCC, the Board of Governors, the Federal Deposit Insurance Corporation (FDIC), the U.S. Department of Justice (DOJ), the U.S. Department of the Treasury (DOT), or any other federal banking agency or department (individually, a "federal banking authority" and, collectively, the "federal banking authorities") administers or for which such federal banking authority has rulemaking or enforcement authority, including without limitation, all provisions of Title 12, U.S. Code, as from time-to-time may be applicable to the bank, any IAP (as defined in sections 3(u) and 8(b)(3) of the Federal Deposit Insurance Act (FDIA)) thereof, the Tribe, or any affiliate of the Tribe.

- (b) All federal criminal law violations that arise:
  - (i) From the applicability of any provision of a banking law.
  - (ii) Under section 1001 of Title 18 of the U.S. Code as it relates to information, statements, omissions, writings, or reports to a federal banking authority.
  - (iii) Any other provision of Title 18 of the U.S. Code applicable to the ownership, control, operation or activities of a bank, bank holding company, or subsidiary thereof, or to the activities of any IAP for such bank, bank holding company or subsidiary.
  - (iv) The Bank Secrecy Act, or the Currency and Foreign Transactions Reporting Act.
- (c) Any order or written agreement issued by any federal banking authority or an administrative law judge acting under authority delegated by any federal banking authority or federal court of competent jurisdiction pursuant to a banking law against or with bank, the Tribe, any affiliate of the Tribe, or any IAP.

### ARTICLE III

#### ABSOLUTE AND UNCONDITIONAL WAIVER OF SOVEREIGN IMMUNITY

(1) The Tribe agrees to waive and to cause each present and future affiliate of the Tribe to waive any claim that any Tribal court has jurisdiction over, and the Tribe agrees not to assert sovereign immunity as a defense to any matter, issue, dispute, investigation, action, subpoena, examination, or proceeding (collectively, proceedings) involving any federal banking authority

that arises as a result of the Tribe's ownership interest of the Bank or to assert such defense in any adjudicative body of competent jurisdiction relating to such proceedings. In all dealings of the Tribe or any affiliate of the Tribe with the Bank, the Tribe expressly acknowledges that the Tribe is an IAP of the Bank. Before consummation of the proposed Application, the Tribe shall submit to the OCC:

- (a) A properly executed and authenticated certificate of official action (including the relevant resolution) of the appropriate governing body of the Tribe, directing an authorized official to execute the Agreement on its behalf, and by so doing to bind the Tribe to each article of the Agreement, including the waiver of any jurisdictional claim in any tribal court and the waiver of sovereign immunity as provided in this Agreement, to which the official seal or stamp of the Tribe, as the case may be, is affixed.
- (b) An opinion of counsel, in form and content that are satisfactory to the OCC, that the Tribe is authorized under all of its organizational and other governing documents (e.g., tribal constitution, bylaws, articles of incorporation, partnership agreements) to make, and the legal sufficiency of, the waiver of any jurisdictional claim in any tribal court and the waiver of sovereign immunity, as provided in the Agreement.

#### ARTICLE IV

##### ACCESS TO INFORMATION

(1) The Parties agree to provide, and agree to cause any affiliate of the Tribe to provide, all information, regardless of whether such information is located within or without the

Tribe's territory (tribal territory), requested for any examination, investigation, action, or proceeding initiated by the OCC relating to:

- (a) Enforcement or possible enforcement of any laws enforced by the OCC.
- (b) The Tribe's ownership or control of the Bank.
- (c) The operations or activities of the Bank, and/or the activities of any IAP, under the banking law, including any potential violation of law or regulation, any unsafe or unsound practice, or breach of fiduciary duty by the Bank or any IAP.
- (d) The compliance of the Tribe and/or any affiliate with the provisions of this Agreement.

## ARTICLE V

### SIGNIFICANT DEVIATION OR CHANGE

(1) Before consummation of the proposed Acquisition, and proceeding thereafter, the Parties shall not cause the Bank to significantly deviate from or change the proposed Business Plan as submitted with the Application without obtaining the OCC's written determination of no objection to such significant deviation or change.

(2) Before consummation of the proposed Acquisition, and proceeding thereafter, the Parties shall not cause the Bank to change the proposed management and directorate of the Bank from that proposed in the Application without first obtaining the OCC's prior written determination of no objection.

## ARTICLE VI

### INSIDER AND AFFILIATE TRANSACTIONS

(1) In all dealings with the Bank, the Tribe, and any affiliates thereof will be deemed to be insiders for purposes of the Board of Governors of the Federal Reserve System's (Federal Reserve Board) Regulation O, 12 CFR Part 215, and all insiders thereof will comply with all requirements set out under the Federal Reserve Board's Regulation O. In all such dealings, the Tribe and each affiliate thereof will be deemed to be affiliates of the Bank for purposes of sections 23A and 23B of the Federal Reserve Act and the Federal Reserve Board's Regulation W; and will comply with the requirements of sections 23A and 23B of the Federal Reserve Act and Regulation W applicable to affiliates of banks. The Bank will not, directly or indirectly, make any extension of credit to the Tribe or to any affiliate of the Tribe, nor will the Tribe or any Affiliate thereof secure, directly or indirectly, any extension of credit from the Bank, including the issuance of a commercial or standby letter of credit or guarantee for the benefit of the Tribe or any affiliate of the Tribe, in an amount exceeding the applicable limits of, or in a manner inconsistent with, the requirements regarding extensions of credit subject to sections 12 USC 375a, 375b, 1817(k), and 1972 and implementing regulations set forth at 12 CFR parts 31 and 215. For purposes of this article, any transaction, including any extension of credit, with a third party shall be deemed to be a transaction with the Tribe or an affiliate of the Tribe to the extent that the proceeds of the transaction are used for the benefit of, or are transferred to the Tribe or an affiliate of the Tribe.

(2) The Parties agree to submit to the OCC appropriate revisions to Attachments A and/or B to reflect any change in the information contained therein within 30 days after any such change and annually thereafter, or upon the request of OCC staff. Should an entity become a subordinate organization or an affiliate of the Tribe and remain as such before the Tribe submits

a revised notice as previously described, any such event shall be reported to the OCC within 30 days of any change. All representations shall apply in full to any entity that becomes a subordinate organization or an affiliate of the Tribe after this date, immediately upon such entity satisfying the definitions of such terms in Attachments A and B hereof, as if such entity were a subordinate organization or an affiliate of the Tribe, as the case may be, on this date. All such notices shall be submitted to the OCC together with an opinion of counsel that the subordinate organization of the Tribe or the affiliate of the Tribe, as the case may be, is authorized under all of its organizational and other governing documents (e.g., tribal constitution, bylaws, articles of incorporation, partnership agreement) to make, and the legal sufficiency of, each of the representations including the waiver of sovereign immunity, as provided in Article III of this Agreement.

## ARTICLE VII

### AGREEMENT TO BE ENTERED INTO BETWEEN THE BANK AND THE COMPTROLLER

(1) If the Board of Governors approves the Application, no later than three business (3) days after AllNations acquires control of the Bank, the Tribe shall cause the Bank to enter into a written agreement, as has been provided separately by OCC to the Tribe by letter dated September 16, 2003, so as to ensure that the Bank continues to operate in a safe and sound manner and in compliance with all applicable laws and regulations.

## ARTICLE VIII

### TERM OF AGREEMENT

(1) This Agreement shall become effective immediately upon its execution by both parties (Effective Date), and shall remain in full force and effect until such time as the Tribe (or

any of its affiliates) ceases to own or control AllNations or the Bank for purposes of the Bank Holding Company Act (12 U.S.C. § 1841 et. seq), ceases to be an IAP pursuant to 12 U.S.C. § 1813 (u) and Paragraph (1) of Article I of this Agreement, or the Board of Governors does not approve the Application.

## ARTICLE IX

### CONCLUDING PROVISIONS

(1) 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.

(2) 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 Comptroller or his duly authorized representative for good cause upon written application by the Tribe.

(3) 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.

(4) This Agreement is intended, 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 OCC or the United States. Notwithstanding the absence of mutuality of obligation, or of consideration, or of

a contract, the OCC may enforce any of the commitments or obligations herein undertaken by the Tribe under its supervisory powers, including 12 U.S.C. § 1818(b)(1), and not as a matter of contract law. The Tribe expressly acknowledges that neither the Tribe nor the OCC has any intention to enter into a contract. The Tribe also expressly acknowledges that no OCC officer or employee has statutory or other authority to bind the United States, the U.S. Treasury Department, the OCC, or any other federal bank regulatory agency or entity, or any officer or employee of any of those entities to a contract affecting the OCC's exercise of its supervisory responsibilities. The terms of this Agreement, including this paragraph, are not subject to amendment or modification by any extraneous expression, prior agreements or arrangements, or negotiations 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/ Kyle M. Jones  
Kyle Jones  
Assistant Deputy Comptroller for the  
Oklahoma City Field Office  
Office of the Comptroller of the Currency

11/20/03  
Date

IN TESTIMONY WHEREOF, the undersigned, as the duly elected and acting Governor of the Tribe, has hereunto set his hand on behalf of the Tribe.

Signed  
James Edwards, Governor

10-06-03  
Date

**ATTACHMENT A TO**

**AGREEMENT BY AND BETWEEN**

**The Absentee Shawnee Tribe of Indians of Oklahoma  
Shawnee, Oklahoma  
and  
The Office of the Comptroller of the Currency**

Subordinate Organizations of the Tribe:

None

**ATTACHMENT B TO**

**AGREEMENT BY AND BETWEEN**

**The Absentee Shawnee Tribe of Indians of Oklahoma  
Shawnee, Oklahoma  
and  
The Office of the Comptroller of the Currency**

Affiliates of the Tribe:

1. AllNations Bancorporation, Inc. (“AllNations”), is a corporation organized under the laws of the Tribe, authorized to do business in the State of Oklahoma, with address of 2025 South Gordon Cooper, Shawnee, Oklahoma 74801-9381. AllNations is a wholly-owned subsidiary of the Tribe and its business activity is to be the parent and holding company for The First National Bank of Calumet, Calumet, Oklahoma (the “Bank”), provided the Application with the Board of Governors of the Federal Reserve System for the acquisition of the Bank has been approved.
2. Absentee Shawnee Economic Development Authority, Inc. (the “Authority”), is a corporation organized under the laws of the United States (25 USC 503) with address of 2025 South Gordon Cooper, Shawnee, Oklahoma 74801-9381. The Authority currently has no business activity. The Authority was formed to provide a corporate entity to provide economic development for the Tribe.



# Absentee Shawnee Tribe of Oklahoma

2025 S. Gordon Cooper  
Shawnee, Oklahoma 74801  
(405) 275-4030

Office of  
Tribal Attorney

December 2, 2003

The Office of the Comptroller  
of the Currency  
c/o Kyle Jones  
Assistant Deputy Comptroller  
The Harvey Parkway Building  
301 N.W. 63<sup>rd</sup> Street, Suite 490  
Oklahoma City, Oklahoma 73116-7098

Re: The Absentee Shawnee Tribe of Indians of Oklahoma,  
Shawnee, Oklahoma / Opinion Letter

Ladies and Gentlemen:

I am Tribal Counsel for The Absentee-Shawnee Tribe of Indians of Oklahoma, Shawnee Oklahoma (the "Tribe") in connection with the Agreement (the "Agreement") by and between the Tribe and The Office of the Comptroller of the Currency, signed by the Governor of the Tribe on October 6, 2003. This Opinion Letter is provided to you pursuant to Article III, Section (1)(b) of the Agreement. Except as otherwise indicated, capitalized terms used herein are defined as in the Agreement.

In so acting, I have considered such matters of law and of fact, and relied upon such certificates and other information as I have deem appropriate as a basis for the opinions set forth below, including but not limited to, Executive Resolution No. E-AS-2003-35 of the Tribe, dated June 26, 2003.

This Opinion Letter is governed by, and shall be interpreted in accordance with the, the Legal Opinion Accord (the "Accord") of the ABA Section of Business Law (1991). The law covered by the opinion expressed herein is limited to the laws of the United States and the tribal laws of the Tribe.

Based upon the foregoing, I am of the opinion that:

1. The Agreement is enforceable against the Tribe and all Affiliates of the Tribe in accordance with its terms, including but not limited to, the waiver of the Tribe to any jurisdictional claim in any tribal court and the waiver of the Tribe to sovereign immunity, as limited by the Agreement.

2. The execution and delivery by the Tribe of, and performance of its obligations under, the Agreement do not violate the Constituent Documents.

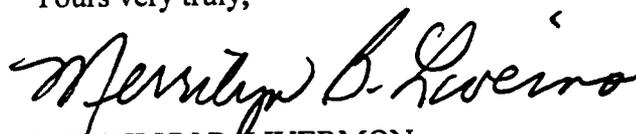
As used in this Opinion Letter, the term "Constituent Documents" means the Constitution of the Tribe or other similar documents of organizational or governing character of the Tribe.

This Opinion Letter is based on the law and the facts as they exist at the date of this Opinion Letter, and I assume no responsibility to supplement this Opinion Letter in the event of any change in the facts or the law.

This Opinion Letter is subject to the bankruptcy and insolvency exception, the equitable principles limitation, and such other applicable common qualifications, all as more fully set forth in the Accord. All assumptions set forth in the Accord are hereby incorporated by reference and the opinions number 1 and 2 set forth above are subject to such assumptions.

This Opinion Letter may be relied upon by you only in connection with Agreement and this transaction may not be used or relied upon by any other person for any purpose whatsoever.

Yours very truly,

  
MERRILYN B. LIVERMON