

**#2008-081**

AGREEMENT BY AND BETWEEN  
Granite Community Bank, National Association  
Granite Bay, California  
and  
The Comptroller of the Currency

Granite Community Bank, National Association, Granite Bay, California (“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 and unsound banking practices relating to supervision of the affairs of 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) 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:

Brian J. Quade  
Assistant Deputy Comptroller  
San Francisco Field Office  
One Front Street, Suite 1000  
San Francisco, California 94111

## ARTICLE II

### COMPLIANCE COMMITTEE

(1) Within ten (10) days of the date 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 thirty (30) days of the date of this Agreement and every thirty (30) days thereafter, the Compliance Committee shall submit a written progress report to the Board setting forth in detail:

- (a) A description of the action needed to achieve full compliance with each Article of this Agreement;
  - (b) Actions taken to comply with each Article of this Agreement; and
  - (c) The results and status of those actions.
- (4) The Board shall forward a copy of the Compliance Committee's report, with any additional comments by the Board, to the Assistant Deputy Comptroller within ten (10) days of receiving such report.

### ARTICLE III

#### CAPITAL PLAN AND HIGHER MINIMUMS

- (1) The Bank shall at all times maintain the following minimum capital ratios:
- (a) Tier 1 capital at least equal to nine percent (9%) of adjusted total assets; and
  - (b) Total risk based capital at least equal to eleven percent (11%) of risk-weighted assets.
- (2) For purposes of this Article, “tier 1 capital”, “total risk-based capital”, “adjusted total assets”, and “risk-weighted assets” are defined in 12 C.F.R. Part 3.
- (3) The requirement in this Agreement to meet and maintain a specific capital level means that the Bank is not deemed “well capitalized” for purposes of 12 U.S.C. § 1831o and 12 C.F.R. Part 6 pursuant to 12 C.F.R. § 6.4(b)(1)(iv).
- (4) Within thirty (30) days of the date of this Agreement, the Board shall develop, implement, and thereafter ensure Bank adherence to a three year capital program. The program shall include:

- (a) Specific plans for the maintenance of adequate capital that may in no event be less than the requirements of paragraph (1);
- (b) Projections for growth and capital requirements based upon a detailed analysis of the Bank's assets, liabilities, earnings, fixed assets, and off-balance sheet activities;
- (c) Projections of the sources and timing of additional capital to meet the Bank's current and future needs;
- (d) The primary source(s) from which the Bank will strengthen its capital structure to meet the Bank's needs;
- (e) Contingency plans that identify alternative methods should the primary source(s) under (d) above not be available; and
- (f) A dividend policy that permits the declaration of a dividend only:
  - (i) when the Bank is in compliance with its approved capital program;
  - (ii) when the Bank is in compliance with 12 U.S.C. §§ 56 and 60; and
  - (iii) With the prior written determination of no supervisory objection by the Assistant Deputy Comptroller.

(5) Upon completion, the Bank's capital program shall be submitted to the Assistant Deputy Comptroller for prior written determination of no supervisory objection. Upon receiving a written determination of no supervisory objection from the Assistant Deputy Comptroller, the Bank shall implement and adhere to the capital program. The Board shall review and update the Bank's capital program on an annual basis, or more frequently if necessary. Copies of the reviews and updates shall be submitted to the Assistant Deputy Comptroller.

(6) 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 IV

##### LIQUIDITY

(1) The Board shall take appropriate action to ensure adequate sources of liquidity in relation to the Bank's needs. Within thirty (30) days of the date of this Agreement, and every thirty (30) days thereafter, management shall prepare monthly reports that set forth liquidity requirements and sources, and provide relevant information to the Board in order to manage, monitor, and control liquidity risk in an effective manner. The monthly reports shall include, at a minimum:

- (a) A maturity schedule of certificates of deposit, including large uninsured deposits;
- (b) The volatility of demand deposits, including escrow deposits;
- (c) The amount and type of loan commitments and standby letters of credit;
- (d) An analysis of the continuing availability and volatility of present funding sources;
- (e) An analysis of the impact of decreased cash flow from the Bank's loan portfolio resulting from delinquent and non-performing loans;
- (f) Geographic disbursement of, and risk from brokered deposits, including guidelines concerning the nature, extent, and purpose of the Bank's use of

brokered deposits consistent with the Bank's overall funds management strategies; and

- (g) Limitations on concentrations of funding sources and compliance with these limits.

(2) The Bank shall forward a copy of each monthly liquidity report required pursuant to paragraph (1) to the Assistant Deputy Comptroller within ten (10) days of preparation of such report.

(3) Within thirty (30) days of date of this Agreement, the Board shall establish a contingency funding plan that forecasts funding needs and funding sources under multiple stress scenarios. The contingency funding plan shall include, at a minimum:

- (a) Assignment of back-up responsibilities in case the primary person is unable to fulfill his/her duties;
- (b) Detailed listing of contact information for various outside agencies, large depositors, and other sources of funds;
- (c) Deposit run-off scenarios with step-by-step procedures that management must follow;
- (d) An assumption that brokered deposits are no longer available as an alternative funding source;
- (e) Long-term market funding disruption scenarios;
- (f) Asset secured funding impairment scenarios; and
- (g) Specific triggering events and/or limits, as appropriate, that if met or exceeded shall require the Bank to implement the contingency funding plan and improve asset liquidity.

(4) Upon completion, the Bank's contingency funding plan shall be submitted to the Assistant Deputy Comptroller for prior written determination of no supervisory objection.

## ARTICLE V

### BUDGET/BUSINESS PLAN

(1) Within sixty (60) days, the Board shall prepare, implement, and thereafter ensure Bank adherence to a written three-year business plan that shall include a projection of major balance sheet and income statement components, and shall provide for injections of equity capital, as necessary. The business plan shall also include a written profit plan and a detailed budget. Specifically, the plan shall describe the Bank's objectives for improving Bank earnings, contemplated strategies and major capital expenditures required to achieve those objectives. Such strategies shall include specific market segments that the Bank intends to promote or develop. Procedures shall also be established to monitor the Bank's actual results against these projections and to provide for appropriate adjustments to the budget and profit plan. The plan shall set forth specific time frames for the accomplishment of these objectives.

(2) A copy of the plan shall be submitted to the Assistant Deputy Comptroller for review and prior written determination of no supervisory objection. Upon receiving a written determination of no supervisory objection from the Assistant Deputy Comptroller, the Bank shall implement and adhere to the program.

(3) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the plan developed pursuant to this Article.

## ARTICLE VI

### CREDIT RISK RATINGS AND LOAN REVIEW

(1) Within sixty (60) days of the date of this Agreement, the Bank shall have a qualified consultant perform an independent external loan review to verify the accuracy of internal risk ratings, with specific emphasis on and beginning with the real estate secured loan portfolio. Subsequently, external loan reviews shall be conducted each quarter on other segments of the loan portfolio until the Loan Review Program required pursuant to this Article is fully implemented. The independent external loan review shall include review of, at a minimum:

- (a) New appraised values or other valuations;
- (b) Project performance;
- (c) Payment performance to date;
- (d) Maturity dates;
- (e) Remaining interest reserves; and
- (f) Current financial information about principals and guarantors.

(2) Prior to the employment of any individual to perform the independent external loan review required pursuant to Paragraph (1), the Board shall submit the name and qualifications of the proposed consultant and the proposed terms of employment to the Assistant Deputy Comptroller for a prior written determination of no supervisory objection.

(3) The Board shall review, revise, and thereafter ensure adherence to a Loan Review Program, that at a minimum:

- (a) Assigns risk ratings on credits reviewed that are consistent with the guidelines set forth in “Rating Credit Risk” and “Allowance for Loan and Lease Losses” booklets of the Comptroller’s Handbook;

- (b) Specifically prohibits management from overturning any downgrades made or recommended by Loan Review;
- (c) Is adequately staffed; and
- (d) Recognizes loan losses and records charge-offs in a timely manner in accordance with Generally Accepted Accounting Principles (“GAAP”).

(4) The Loan Review Program shall require that a written report be submitted to the Board after each review, but at least quarterly. The Board shall forward a copy of the quarterly report, with any additional comments by the Board, to the Assistant Deputy Comptroller within thirty (30) days after completion of the review. Such reports shall include, at a minimum, comments and conclusions regarding:

- (a) The loan review scope and coverage parameters;
- (b) The overall quality of loan and lease portfolios reviewed;
- (c) The identification, type, rating, and amount of problem loans and leases, including grading differences;
- (d) The identification, type and amount of charged off loans;
- (e) The identification and amount of delinquent loans and leases;
- (f) The identification and amount of performing loans that have extended terms;
- (g) The identification of credit and collateral documentation exceptions;
- (h) The identification and status of credit related violations of law, rule or regulation;
- (i) Loans and leases identified as exceptions to the Bank’s Loan Policy;

(j) The identity of the loan officer who originated each loan reported in accordance with subparagraphs (c) through (i) of this Paragraph; and

(k) Any recommendations for improvements.

(5) The revised Loan Review Program shall also require an annual report to the Board containing an independent reviewer's assessment of the Bank's systems to:

(a) Accurately identify and risk rate problem credits based on lending officer submissions;

(b) Measure, monitor and control risk in significant credit concentrations;

(c) Evaluate the repayment ability of real estate construction and development borrowers with multiple projects;

(d) Evaluate guarantor support of real estate construction and development projects;

(e) Monitor compliance with the Bank's lending policies and applicable laws, rules, and regulations; and

(f) Monitor and control the volume of credit and collateral documentation exceptions.

(6) A written description of the Loan Review Program called for in this Article shall be forwarded to the Assistant Deputy Comptroller upon implementation.

(7) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the revised Loan Review Program developed pursuant to this Article.

(8) The Board shall evaluate the internal loan review report(s) and shall ensure that immediate, adequate, and continuing remedial action, if appropriate, is taken upon all findings

noted in the report(s). The Board shall maintain a written response to the loan review report with the Board minutes for review by the National Bank Examiners.

## ARTICLE VII

### CREDIT UNDERWRITING AND ADMINISTRATION

(1) Effective immediately, the Board shall take necessary steps to ensure the Bank's credit risk management systems are sufficient to ensure the Bank's loan portfolio is managed in a safe and sound manner.

(2) Effective as of the date of this Agreement, the Bank may not grant, extend, renew, alter or restructure any loan or extension of credit without:

- (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 current and satisfactory credit information, including performing and documenting analysis of credit information and a detailed cash flow analysis of all expected repayment sources, including a detailed analysis of the financial support of significant guarantors;
- (e) Performing a consistent and complete overview of the borrower's other obligations (at both this Bank and other financial institutions) to analyze and determine the borrower's overall debt load and ensure a robust global debt service analysis;

- (f) 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;
- (g) Documenting a determination regarding the customer's ability to repay the credit on the proposed repayment terms;
- (h) Providing an accurate risk assessment grade according to the guidelines set forth in Rating Credit Risk, A-RCR, of the Comptroller's Handbook, and recognizing nonaccrual status for each credit according to the guidelines set forth in the Instructions for Preparation of Consolidated Reports of Condition and Income ("Call Report");
- (i) Documenting, with adequate supporting material, the value of collateral and proper perfection of the Bank's lien on applicable collateral; and
- (j) Obtaining the written approval of the Executive Loan Committee for any loan or extension of credit greater than \$250,000.

(3) Within thirty (30) days of the date of this Agreement, the Board shall revise, adopt, implement and thereafter ensure Bank adherence to a written program of policies and procedures designed to manage the high level of credit risk in the Bank's loan portfolio, to include at a minimum:

- (a) Procedures to strengthen credit underwriting, particularly in the Bank's commercial real estate ("CRE") portfolio, including expanded loan presentations and analysis providing for:
  - (i) Detailed project plans;
  - (ii) Timeframes for project completion;

- (iii) Detailed market analysis;
- (iv) Stress testing of significant property and lending assumptions at both the transaction level and the portfolio level at the time of underwriting and periodically throughout the duration of the credit. This includes, as applicable, stress testing of interest rates, capitalization rates, absorption and pricing data, cost overruns, occupancy/vacancy rates, lease rates, and rental rates on non-owner occupied properties; and
- (v) Detailed analysis of the financial support of significant guarantors;
- (b) The establishment of CRE concentration limits;
- (c) Strategies and procedures, including appropriate CRE loan growth restrictions, to reduce CRE concentrations to conform with established limits;
- (d) Monthly monitoring of concentration reports that stratify the CRE portfolio by product type, locality and other meaningful measures;
- (e) At a minimum, quarterly reports to senior management and the loan committee of project status, including:
  - (i) Development status;
  - (ii) Comparison of sales activity and development costs to budget;
  - (iii) Current market conditions and activity;
  - (iv) Level of interest reserve and comparison to budget; and
  - (v) Any other significant comments on development.

- (f) Procedures to strengthen management of loan workout operations and to maintain an adequate, qualified staff in all lending function areas; and
- (g) Procedures for strengthening collections.

(4) Within sixty (60) days, 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 policy and underwriting guideline for CRE, to include at a minimum, monthly Board monitoring of policy exception reports that track aggregate number and dollar amount of loans of material underwriting exceptions by type of loan, to include exceptions to the appraisal requirements described in paragraph (5) below.

(5) Within sixty (60) days, the Board shall revise, adopt, implement and thereafter ensure Bank adherence to a written program of policies and procedures designed to ensure the Bank obtains appraisals in compliance with the Uniform Standards of Professional Appraisal Practice, 12 C.F.R. Part 34, OCC Advisory Letter 2003-9, and OCC Bulletin 2005-6, to include at a minimum:

- (a) The required use of a standard appraisal form for ordering all appraisals;
- (b) The ordering of appraisals, independent of the lending function;
- (c) The use of Board approved appraisers only;
- (d) The establishment of a policy requiring a meaningful, independent review of all appraisals to include analysis commensurate with the type, size and complexity of the property being appraised; and
- (e) The establishment of a tickler system for tracking appraisals ordered, received, returned, and reviewed.

(6) The Board shall submit a copy of the revised policies and procedures required by this Article to the Assistant Deputy Comptroller.

(7) At least quarterly, the Board shall prepare a written assessment of the bank's credit risk, which shall evaluate the Bank's progress in reaching compliance with the policies and procedures required by this Article. The Board shall submit a copy of this assessment to the Assistant Deputy Comptroller.

(8) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the policies and procedures developed pursuant to this Article.

## ARTICLE VIII

### PROBLEM LOAN MANAGEMENT

(1) Effective as of the date of this Agreement, the Board shall take immediate and continuing action to protect the Bank's interest in those assets criticized in any Report of Examination (ROE), management assessment, internal or external loan review, or in any list provided to management by the National Bank Examiners during an examination.

(2) The Board's compliance with Paragraph (1) of this Article shall include the development of Criticized Asset Reports ("CARs") on all criticized credit relationships totaling \$250,000 or more. CARs must be updated and submitted to the Board monthly. Each CAR shall cover an entire credit relationship, and include, at a minimum, analysis and documentation of the following:

- (a) The origination data for each criticized asset, including date, amount, and purpose of the loan;

- (b) An identification of the expected primary and secondary sources of repayment;
- (c) Grade history of the loan (not just the current grade of the loan) and the historic reasons for the grade changes;
- (d) 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;
- (e) An analysis of current and satisfactory credit information, including cash flow analysis where loans are to be repaid from operations;
- (f) Cumulative information for significant developments, including a separate section and discussion of changes since the prior CAR, if any;
- (g) The proposed action to eliminate the basis of criticism and the time frame for its accomplishment, including an appropriate exit strategy; and
- (h) Trigger dates for upgrades and downgrades, including positive borrower actions or for loan officers to reassess the strategy and enact collection plans.

(3) The Board's compliance with Paragraph (1) of this Article shall include the development of actions plans for each parcel of Other Real Estate Owned ("OREO") to ensure that these assets are managed in accordance with 12 U.S.C. § 29 and 12 C.F.R. Part 34, Subpart E. Actions plans must be updated and submitted to the Board monthly, and, at a minimum, each action plan shall:

- (a) Identify the Bank officer(s) responsible for managing and authorizing transactions relating to the OREO property;

- (b) Contain an analysis of each OREO property which compares the cost to carry against the financial benefits of near term sale;
- (c) Detail the marketing strategies for each parcel;
- (d) Identify targeted time frames for disposing of each parcel of OREO;
- (e) Establish targeted write-downs at defined periodic intervals if marketing strategies are unsuccessful;
- (f) Establish procedures to require periodic market valuations of each property, and the methodology to be used; and
- (g) Provide for reports to the Board on the status of OREO properties on at least a quarterly basis.

(4) Effective as of the date of this Agreement, the Bank may not extend credit, directly or indirectly, including renewals, extensions or capitalizations of accrued interest, to a borrower whose loans or other extensions of credit are criticized in a ROE, in any internal or external loan review, or in any list provided to management by the National Bank Examiners during any examination, unless each of the following conditions is met:

- (a) The Board 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 a designated committee thereof, approves the credit extension and records, in writing, why such extension is necessary to promote the best interests of the Bank. A copy of the Board's findings and approval shall also be included in the appropriate credit file or loan presentation; and

- (b) The Board's formal plan to collect or strengthen the criticized asset will not be compromised by the extension of additional credit.

## ARTICLE IX

### BANK SECRECY ACT INTERNAL CONTROLS

(1) Within sixty (60) days of the date of this Agreement, the Board shall develop, implement, and thereafter ensure Bank adherence to a written program of policies and procedures to provide for compliance with Bank Secrecy Act ("BSA"), as amended (31 U.S.C. §§ 5311 et seq.), the regulations promulgated thereunder at 31 C.F.R. Part 103, as amended, and 12 C.F.R. Part 21, Subparts B and C, and the rules and regulations of the Office of Foreign Assets Control ("OFAC") (collectively referred to as the "Bank Secrecy Act" or "BSA") and for the appropriate identification and monitoring of transactions that pose greater than normal risk for compliance with the BSA ("BSA Program"). The BSA Program shall include the following:

- (a) Identification of the risks associated with the Bank's products, services, customers, and geographies served;
- (b) Enhanced written policies and procedures for identifying and monitoring customers or accounts that exhibit high risk characteristics for money laundering, terrorist financing, or other illicit activity;
- (c) The creation of a list of customers or accounts exhibiting high risk characteristics for money laundering, terrorist financing, or other illicit activity;

- (d) Well-defined written policies and procedures for investigating and resolving transactions that have been identified as posing greater than normal risk for compliance with the Bank Secrecy Act;
- (e) Adequate controls and written procedures to ensure that all suspicious and large currency transactions are identified and reported to FinCen, IRS and the Board, as appropriate;
- (f) Written procedures to maintain records on monetary instrument transactions and funds transfers, as required by the BSA;
- (g) A method for introducing new products and services that ensures that the written policies and procedures governing new products and services are consistent with the Bank's program for compliance with the Bank Secrecy Act.

(2) The BSA Program shall include written policies and procedures to provide for the Bank's monitoring of suspicious cash, monetary instruments, wire transfers, and other activities for all types of transactions, accounts, customers, products, services, and geographic areas, to include at a minimum:

- (a) Reviews of cash purchases of monetary instruments;
- (b) Periodic analysis of aggregate cash, monetary instrument, and wire activity;
- (c) Periodic analysis of Currency Transaction Report filings;
- (d) Automatic reviews of accounts or customers for which the Bank has received criminal subpoenas that may involve the Bank Secrecy Act;

- (e) Reviews of high risk transactions, accounts, customers, products, services, and geographic areas; and
- (f) Submission of Suspicious Activity Reports (SARs) based on these reviews and analyses.

(3) The BSA Officer or designee shall periodically review, not less than each calendar year, all account documentation for all high risk customers and accounts and the related accounts of those customers at the Bank to determine whether the account activity is consistent with the customer's business and the stated purpose of the account.

(4) The Bank shall consider not opening any account for a customer and shall consider closing any existing account of a customer if the information available to the Bank indicates that the customer's relationship with the Bank would be detrimental to the reputation of the Bank.

(5) The Board shall ensure that the Bank has processes, personnel, and control systems to implement and adhere to the program developed pursuant to this Article.

## ARTICLE X

### INFORMATION SECURITY

(1) Within ninety (90) days, the Board shall take the necessary steps to ensure the Bank's information security program complies with the requirements of Gramm-Leach-Bliley Act 501(b) ("GLBA") and the Interagency Guidelines Establishing Information Security Standards, 12 C.F.R. Part 30, Appendix B ("Guidelines").

(2) Compliance with paragraph (1) of this Article shall include the adoption of a revised information security program that requires a risk assessment that, at a minimum:

- (a) Consists of the identification and valuation of assets, including an analysis of the assets, in relation to potential threats and vulnerabilities, resulting in a ranking of risks that shall be mitigated and strategies to mitigate the risks;
- (b) Gathers data regarding the information and technology assets of the Bank and identify the location of all confidential customer and corporate information;
- (c) Identifies reasonably foreseeable internal and external threats to those assets that could result in unauthorized disclosure, misuse, alteration, or destruction of customer information or customer information systems;
- (d) Assesses the likelihood and potential damage of threats to Bank assets, taking into consideration the sensitivity of customer information;
- (e) Prioritizes the risks present due to threats and vulnerabilities to determine the appropriate level of training, controls, and assurance necessary for effective mitigation; and
- (f) Regularly tests the key controls, systems and procedures of the information security program.

(3) Compliance with paragraph (1) of this Article shall include the adoption of a revised information security program that includes a business continuity plan. The business continuity plan shall provide for measures to protect against destruction, loss, or damage of customer information that, at a minimum, includes:

- (a) Measures taken that would utilize one of the three other banks sites and replicate communication and data storage to it;

- (b) Plans to allow bank employees to access FISERV from an alternate site;
- (c) Identification of an alternate locations for employees to operate and customers to access; and
- (d) Annual testing of existing plans and, as appropriate, procedures developed where lessons learned would be incorporated into the plan.

(4) The Board shall submit a copy of the Bank's revised information security program to the Assistant Deputy Comptroller for a prior written determination of no supervisory objection.

## ARTICLE XI

### CLOSING

(1) Although the Board has agreed to submit certain programs and reports to the Assistant Deputy Comptroller for review or prior written determination of no supervisory objection, the Board has the ultimate responsibility for proper and sound management of the Bank.

(2) It is expressly and clearly understood that if, at any time, the Comptroller deems it appropriate in fulfilling the responsibilities placed upon him by the several laws of the United States of America to undertake any action affecting the Bank, nothing in this Agreement shall in any way inhibit, estop, bar, or otherwise prevent the Comptroller from so doing.

(3) Any time limitations imposed by this Agreement shall begin to run from the effective date of this Agreement. Such time requirements may be extended in writing by the Assistant Deputy Comptroller for good cause upon written application by the Board.

(4) The provisions of this Agreement shall be effective upon execution by the parties hereto and its provisions shall continue in full force and effect unless or until such provisions are amended in writing by mutual consent of the parties to the Agreement or excepted, waived, or terminated in writing by the Comptroller.

(5) In each instance in this Agreement in which the Board is required to ensure adherence to, and undertake to perform certain obligations of the Bank, it is intended to mean that the Board shall:

- (a) Authorize and adopt such actions on behalf of the Bank as may be necessary for the Bank to perform its obligations and undertakings under the terms of this Agreement;
- (b) Require the timely reporting by Bank management of such actions directed by the Board to be taken under the terms of this Agreement;
- (c) Follow-up on any non-compliance with such actions in a timely and appropriate manner; and
- (d) Require corrective action be taken in a timely manner of any non-compliance with such actions.

(6) This Agreement is intended to be, and shall be construed to be, a supervisory “written agreement entered into with the agency” as contemplated by 12 U.S.C. § 1818(b)(1), and expressly does not form, and may not be construed to form, a contract binding on the Comptroller or the United States. Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the Comptroller may enforce any of the commitments or obligations herein undertaken by the Bank under his supervisory powers, including 12 U.S.C. § 1818(b)(1), and not as a matter of contract law. The Bank expressly acknowledges that neither

the Bank nor the Comptroller has any intention to enter into a contract. The Bank also expressly acknowledges that no officer or employee of the Office of the Comptroller of the Currency has statutory or other authority to bind the United States, the U.S. Treasury Department, the Comptroller, or any other federal bank regulatory agency or entity, or any officer or employee of any of those entities to a contract affecting the Comptroller's exercise of his supervisory responsibilities. The terms of this Agreement, including this paragraph, are not subject to amendment or modification by any extraneous expression, prior agreements or prior arrangements between the parties, whether oral or written.

IN TESTIMONY WHEREOF, the undersigned, authorized by the Comptroller, has hereunto set his hand on behalf of the Comptroller.

/s/  
\_\_\_\_\_  
Brian J. Quade  
Assistant Deputy Comptroller  
San Francisco Field Office

7/21/2008  
\_\_\_\_\_  
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/ Damon G. Eberhart	7/21/2008 Date
/s/ D. Mark Davis	7/21/2008 Date
/s/ Kirk C. Doyle	7/21/2008 Date
/s/ Ronald L. Feist	7/21/2008 Date
/s/ Allan R. Frumkin	7/21/2008 Date
/s/ David R. Kaiser	7/21/2008 Date
/s/ Marcus J. Lo Duca	7/21/2008 Date
/s/ Irma T. McClure	7/21/2008 Date
/s/ Renate Seeba	7/21/2008 Date
/s/ Georgene K. Waterman	7/21/2008 Date