

AGREEMENT BY AND BETWEEN
Heritage Bank, National Association
Phoenix, Arizona
and
The Comptroller of the Currency

Heritage Bank, National Association, Phoenix, Arizona (“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) This Agreement shall cause the Bank not to be designated as an “eligible bank” for purposes of 12 C.F.R. § 5.3(g), unless otherwise informed in writing by the Comptroller.

(6) All reports or plans which the Bank or Board has agreed to submit to the Assistant Deputy Comptroller pursuant to this Agreement shall be forwarded to the:

Assistant Deputy Comptroller
Kansas City South - Joplin Field Office
1710 East 32nd Street, Suite H
Joplin, Missouri 64804

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 calendar quarter 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.

(5) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the provisions of this Agreement.

ARTICLE III

REDUCE PROBLEM ASSETS AND CONCENTRATION RISK

(1) Within thirty (30) days of the date of this Agreement, the Board shall establish and approve a plan that will reduce the volume of problem assets (hereafter the Bank's "Problem Asset Reduction Plan") by ensuring that management promptly addresses and intervenes, as appropriate, to resolve problem credit situations consistent with OCC Banking Circular 255. At a minimum, the plan shall establish:

- (a) the required format for loan workout plans, that must include:
 - (i) a detailed description and analysis of what caused the problem loan situation;

- (ii) a detailed proposal of the actions necessary to resolve or correct the problem loan situation;
 - (iii) the time horizon(s) necessary to implement proposed corrective actions; and
 - (iv) the specific loan officer follow-up requirements, including time horizons.
- (b) the required frequency for officer updates to loan workout plans;
 - (c) specific and measurable targets for overall reduction in the volume of problem assets; and
 - (d) no less frequent than semi-annual independent reviews of the loan portfolio to confirm internally assigned risk ratings and appropriateness of approved workout strategies.

(2) Within thirty (30) days of the date of this Agreement, the Board shall establish and approve a plan (hereafter the Bank's "Portfolio Diversification Plan") that will reduce the credit concentration in commercial real estate (CRE) lending. The Portfolio Diversification Plan shall include:

- (a) Short term initiatives to reduce exposure in the CRE portfolios that exceed Board approved concentration limits, including:
 - (i) strict enforcement of loan workout strategies to reduce problem assets that are concentrated in the CRE portfolio; and
 - (ii) temporary prohibitions on any new loans that increase exposure in CRE portfolios that exceed Board approved CRE limits;

- (b) Clearly stated long-term strategies pursuant to Article IV of this Agreement that promote general portfolio diversification, including:
 - (i) Strategies that promote controlled growth in non-CRE portfolios;
and
 - (ii) Actions necessary to strengthen the bank's aggregate experience and skill in non-CRE lending.

(3) Within ten (10) days of completion, copies of the bank's Problem Asset Reduction Plan and Portfolio Diversification Plan shall be forwarded to the Assistant Deputy Comptroller for a prior written determination of no supervisory objection. Upon receipt of prior written determination of no supervisory objection, the Board shall immediately implement and thereafter ensure adherence to the plan.

ARTICLE IV

CAPITAL AND STRATEGIC PLAN

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

- (a) When the Bank is in compliance with the Bank's Three-Year Plan as described in Paragraphs (5) and (6) of this Article;
- (b) When the Bank is in compliance with 12 U.S.C. §§ 56 and 60; and
- (c) With the prior written approval from the Assistant Deputy Comptroller.

(4) Within sixty (60) days of the date of this Agreement, the Board shall develop a written capital and strategic plan that covers at least the next three years (hereafter the Bank's "Three-Year Plan"), complete with specific time frames that incorporate the strategic requirements, including capital and loan portfolio diversification requirements, of this Article. Copies of the Bank's Three-Year Plan shall be forwarded to the Assistant Deputy Comptroller for a prior written determination of no supervisory objection. Upon receipt of prior written determination of no supervisory objection, the Board shall immediately implement and thereafter ensure adherence to the Bank's Three-Year Plan.

(5) 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 (including loan portfolio diversification), 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 strategies to achieve those objectives, that are specific, measurable, and verifiable. At a minimum, the Bank's Three-Year Plan shall address or include:

- (a) An assessment of the Bank's present and future operating environment;
- (b) A mission statement that forms the framework for the establishment of strategic goals and objectives;
- (c) The development of strategic goals and objectives to be accomplished over the short and long term;

- (d) Specific plans to establish responsibility and accountability for the strategic planning process, new products, loan growth, proposed changes in the Bank's operating environment, and reduction of problem assets;
- (e) Growth limitations and actions to reduce significant concentrations of credit;
- (f) Specific plans for maintaining adequate capital at levels that are no less than the requirements specific in Paragraph (1) of this Article;
- (g) The primary source(s), especially those that are not credit sensitive, from which the Bank will maintain a capital structure sufficient to meet the Bank's needs;
- (h) Contingency plans that identify alternative capital sources should the primary source(s) under subparagraph (g) not be available;
- (i) Specific plans for maintaining adequate liquidity in accordance with the requirements of Article VI, including developing an appropriate contingency funding plan;
- (j) A financial forecast to include projections for major balance sheet and income statement accounts and desired financial ratios over the next three years; and
- (k) Systems to monitor the Bank's progress in meeting the plan's goals and objectives.

ARTICLE V

EARNINGS IMPROVEMENT PLAN

(1) Within sixty (60) days of the date of this Agreement, the Board shall establish and approve a written plan that assists management in the analysis and monitoring of earnings improvement strategies (hereafter the Bank's "Earnings Improvement Plan"). The plan shall establish the parameters by which earnings improvement strategies will be analyzed for Board approval and monitored for success. The analysis of all earnings improvement strategies must:

- (a) Quantify the potential earnings improvement associated with the strategy;
- (b) Identify and quantify the potential risks associated with the strategy;
- (c) Assess the Board's and management's knowledge and understanding of risks associated with proposed strategies, as well as their ability to manage and control potential risks;
- (d) Identify the individuals responsible for monitoring the strategies performance;
- (e) Include proposed reports that will be used to monitor performance against projected performance; and
- (f) Establish an exit plan that projects the cost of exiting a particular earnings improvement strategy should it not perform as expected or risk in the strategy exceeds Board approved thresholds;

(2) Within ten (10) days of its completion, a copy of the Earnings Improvement Plan required under paragraph (1) of this Article and the documented analyses of all earnings improvement strategies approved and implemented since January 1, 2008, shall be forwarded to the Assistant Deputy Comptroller for review and prior written determination of no supervisory objection.

ARTICLE VI

LIQUIDITY

(1) Within sixty (60) days of the date of this Agreement, the Board shall take the necessary steps to ensure liquidity risk is controlled by establishing and approving, at a minimum:

- (a) An Asset Liability Committee (“ALCO”) that formally meets at least monthly;
- (b) Enhancements to the asset/liability management policy that incorporate forward-looking risk measurements and liability concentration limits such as limits on the amount of funds that may be sourced from any individual customer or groups of customers, or liability concentration limits by instrument;
- (c) A sources and uses of funds report to assist with monitoring the funds flow in the Bank; and
- (d) A comprehensive contingency funding plan that forecasts funding needs and funding sources under multiple stress scenarios and:
 - (i) Represents management’s best estimate of balance sheet changes that may result from a liquidity or credit event;
 - (ii) Provides for assumptions based on the possible cumulative reductions in the primary liquidity sources;
 - (iii) Includes assumptions specifically providing for the impact of a significant increase in the level of problem assets, along with an

assumption that wholesale funding may be restricted or unavailable;

- (iv) Identifies, quantifies, establishes, and ranks all sources of funding by preference for the various scenarios, including asset side funding, liability side funding, and off-balance sheet funding; and
- (v) Ensures that administrative policies and procedures are consistent with the Board's guidance and risk tolerances.

(2) Within ten (10) days of its completion, a copy of the contingency funding plan required under paragraph (1) of this Article shall be forwarded to the Assistant Deputy Comptroller for review and prior written determination of no supervisory objection.

ARTICLE VII

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/

Karen W. Swingler
Assistant Deputy Comptroller
Kansas City South Office

9/29/2008

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.

<u>/s/</u> John Benton	<u>9/18/08</u> Date
<u>/s/</u> Earl L. Chandler	<u>9/18/08</u> Date
<u>/s/</u> Robert W. Goldwater	<u>9/18/08</u> Date
<u>/s/</u> Troy Hutton	<u>9/18/08</u> Date
<u>/s/</u> James E. Tinsman, Jr.	<u>9/18/08</u> Date
<u>/s/</u> Robert W. Tinsman	<u>9/18/08</u> Date
<u>/s/</u> Brian Unruh	<u>9/18/08</u> Date
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