

AGREEMENT BY AND BETWEEN
Midsouth Bank, National Association
Dothan, Alabama
and
The Comptroller of the Currency

Midsouth Bank, N.A., Dothan, Alabama (“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 deficient Board and management supervision, deficient concentration risk management, and violations of 12 U.S.C. §§ 161, 375a, and 375b and 12 C.F.R. §§ 34.43, 215.4(e) and 215.5(c) at the Bank.

In consideration of the above premises, it is agreed, between the Bank, by and through its duly elected and acting Board of Directors (“Board”), and the Comptroller, through his authorized representative, that the Bank shall operate at all times in compliance with the articles of this Agreement.

ARTICLE I

JURISDICTION

(1) This Agreement shall be construed to be a “written agreement entered into with the agency” within the meaning of 12 U.S.C. § 1818(b)(1).

(2) This Agreement shall be construed to be a “written agreement between such depository institution and such agency” within the meaning of 12 U.S.C. § 1818(e)(1) and 12 U.S.C. § 1818(i)(2).

(3) This Agreement shall be construed to be a “formal written agreement” within the meaning of 12 C.F.R. § 5.51(c)(6)(ii). See 12 U.S.C. § 1831i.

(4) This Agreement shall be construed to be a “written agreement” within the meaning of 12 U.S.C. § 1818(u)(1)(A).

(5) 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
Birmingham Field Office
100 Concourse Parkway, Suite 240
Birmingham, Alabama 35244

ARTICLE II

COMPLIANCE COMMITTEE

(1) Within thirty (30) 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 two (2) 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 ninety (90) days of the date of this Agreement and quarterly 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

LENDING POLICY

(1) Within one hundred and twenty (120) days, the Board shall review and revise the Bank’s written loan policy. In revising this policy, the Board shall refer to “Loan Portfolio Management” booklet of the Comptroller’s Handbook. This policy shall incorporate, but not necessarily be limited to, the following:

- (a) distribution of loans by category;
- (b) guidelines for loans to insiders, including a statement that such loans will not be granted on terms more favorable than those offered to similar outside borrowers;
- (c) guidelines and limitations on concentrations of credit;
- (d) measures to correct the deficiencies in the Bank’s lending procedures noted in any ROE;
- (e) guidelines designed to improve Board oversight of the loan approval process, specifically with regard to credits exhibiting significant risk. At a minimum, the policy shall:

- (i) require that all credits which deviate from the Bank's normal course of business, including all credits which deviate from the Bank's written strategic plan, in the amount of two hundred and fifty thousand dollars (\$250,000.) or greater receive the prior approval of the Board, or a committee thereof.
- (f) guidelines consistent with the Retail Classification Policy (OCC Bulletin 2000-20), setting forth the criteria under which renewals of extensions of credit may be approved. At a minimum the policy shall:
 - (i) ensure that renewals are not made for the sole purpose of reducing the volume of loan delinquencies; and
 - (ii) provide guidelines and limitations on the capitalization of interest;
- (g) charge-off guidelines, by type of loan or other asset, including Other Real Estate Owned, addressing the circumstances under which a charge-off would be appropriate and ensuring the recognition of losses within the quarter of discovery;
- (h) guidelines for periodic review of the Bank's adherence to the revised lending policy;
 - (i) requirements for construction loans, draws and inspections;
 - (j) an appraisal review process that is independent and effective; and
 - (k) a process for periodic reviews and Board approval of the appraiser list.

(2) Upon adoption, the policy shall be implemented, the Board shall thereafter ensure Bank adherence to the policy, and a copy of the policy shall be forwarded to the Assistant Deputy Comptroller for review.

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

ARTICLE IV

LOAN PORTFOLIO MANAGEMENT

(1) The Board shall, within one hundred and twenty (120) days, develop, implement, and thereafter ensure Bank adherence to a written program to improve the Bank's loan portfolio management. The program shall include, but not be limited to:

- (a) procedures to ensure satisfactory and perfected collateral documentation;
- (b) procedures to ensure that extensions of credit are granted, by renewal or otherwise, to any borrower only after obtaining and analyzing current and satisfactory credit information;
- (c) procedures to ensure conformance with loan approval requirements;
- (d) a system to track and analyze credit, collateral and policy exceptions;
- (e) procedures to ensure conformance with Call Report instructions;
- (f) procedures to ensure the accuracy of internal management information systems;
- (g) a performance appraisal process, including performance appraisals, job descriptions, and incentive programs for loan officers, which adequately consider their performance relative to policy compliance, documentation standards, accuracy in credit grading, and other loan administration matters;

- (h) procedures to track and analyze concentrations of credit, significant economic factors, and general conditions and their impact on the credit quality of the Bank's loan and lease portfolios; and
- (i) procedures to ensure compliance with OCC Bulletin 2006-27 (Allowance for Loan and Lease Losses: Guidance and Frequently Asked Questions on the ALLL).

(2) Upon completion, a copy of the program shall be forwarded to the Assistant Deputy Comptroller.

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

ARTICLE V

CREDIT RISK

(1) Within ninety (90) days, the Board shall develop, implement, and thereafter ensure Bank adherence to a written program to reduce the high level of credit risk in the Bank.

The program shall include, but not be limited to:

- (a) procedures to strengthen credit underwriting, particularly in the commercial real estate portfolio;
- (b) procedures to strengthen management of loan operations and to maintain an adequate, qualified staff in all areas;
- (c) procedures for strengthening collections; and
- (d) an action plan to control loan growth.

(e) The Board shall submit a copy of the program to the Assistant Deputy Comptroller.

(f) At least quarterly, the Board shall prepare a written assessment of the bank's credit risk, which shall evaluate the Bank's progress under the aforementioned program. The Board shall submit a copy of this assessment to the Assistant Deputy Comptroller.

(2) 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 VI

CRITICIZED ASSETS

(1) The Bank shall take immediate and continuing action to protect its interest in those assets criticized in the ROE, in any subsequent Report of Examination, by internal or external loan review, or in any list provided to management by the National Bank Examiners during any examination.

(2) Within one hundred and twenty (120) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to a written program designed to eliminate the basis of criticism of assets criticized in the ROE, in any subsequent Report of Examination, or by any internal or external loan review, or in any list provided to management by the National Bank Examiners during any examination as "doubtful," "substandard," or "special mention." This program shall include, at a minimum:

(a) an identification of the expected sources of repayment;

- (b) the appraised value of supporting collateral and the position of the Bank's lien on such collateral where applicable;
- (c) an analysis of current and satisfactory credit information, including cash flow analysis where loans are to be repaid from operations; and
- (d) the proposed action to eliminate the basis of criticism and the time frame for its accomplishment.

(3) Upon adoption, a copy of the program for all criticized assets equal to or exceeding five hundred thousand dollars (\$500,000.00) shall be forwarded to the Assistant Deputy Comptroller.

(4) The Board, or a designated committee, shall conduct a review, on at least a quarterly basis, to determine:

- (a) the status of each criticized asset or criticized portion thereof that equals or exceeds five hundred thousand dollars (\$500,000.00);
- (b) management's adherence to the program adopted pursuant to this Article;
- (c) the status and effectiveness of the written program; and
- (d) the need to revise the program or take alternative action.

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

(6) The Bank may extend credit, directly or indirectly, including renewals, extensions or capitalization of accrued interest, to a borrower whose loans or other extensions of credit are criticized in the ROE, in any subsequent Report of Examination, in any internal or external loan review, or in any list provided to management by the National Bank Examiners during any

examination and whose aggregate loans or other extensions exceed five hundred thousand dollars (\$500,000.00) only if each of the following conditions is met:

- (a) the Board or designated committee finds that the extension of additional credit is necessary to promote the best interests of the Bank and that prior to renewing, extending or capitalizing any additional credit, a majority of the full Board (or designated committee) approves the credit extension and records, in writing, why such extension is necessary to promote the best interests of the Bank; and
- (b) a comparison to the written program adopted pursuant to this Article shows that the Board's formal plan to collect or strengthen the criticized asset will not be compromised.

(7) A copy of the approval of the Board or of the designated committee shall be maintained in the file of the affected borrower.

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

ARTICLE VII

COMMERCIAL REAL ESTATE CONCENTRATION RISK MANAGEMENT

(1) Within one hundred and twenty (120) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to a written commercial real estate (CRE) concentration risk management program consistent with OCC Bulletin 2006-46. The program shall include, but not necessarily be limited to, the following:

- (a) Board and management oversight, to include policy guidelines and an overall CRE lending strategy, procedures and controls to effectively adhere to and monitor compliance with the Bank's lending policies and strategies, review information that identifies and quantifies the nature and level of risk presented by CRE concentrations, and periodic review and approval of CRE risk exposure limits;
- (b) Portfolio management, to include internal lending guidelines and concentration limits that control the Bank's overall risk exposure;
- (c) Management information systems, to include sufficient information to identify, measure, monitor, and manage CRE concentration risk;
- (d) Market analysis, to provide management and the Board with information to assess whether its CRE lending strategy and policies continue to be appropriate in light of changes in CRE market conditions;
- (e) Credit underwriting standards, to include maximum loan amount by type of property, loan terms, pricing structures, collateral valuation, loan-to-value limits by property type, requirements for feasibility studies and sensitivity analysis or stress testing, minimum requirements for initial investment and maintenance of hard equity by the borrower, and minimum standards for borrower net worth, property cash flow, and debt service coverage for the property;
- (f) Portfolio stress testing and sensitivity analysis; and
- (g) Credit risk review, to include an effective, accurate, and timely risk-rating system.

(2) The Board shall forward a copy of any analysis performed on existing or potential CRE concentrations to the Assistant Deputy Comptroller immediately following the review.

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

ARTICLE VIII

INTERNAL LOAN REVIEW

(1) The Board shall within forty-five (45) days employ or designate a sufficiently experienced and qualified person(s) or firm to ensure the timely and independent identification of problem loans and leases.

(2) Within sixty (60) days, the Board shall establish an effective, independent and on-going loan review system to review, at least quarterly, the Bank's loan and lease portfolios to assure the timely identification and categorization of problem credits. The system shall provide for a written report to be filed with the Board after each review and shall use a loan and lease grading system consistent with the guidelines set forth in "Rating Credit Risk" and "Allowance for Loan and Lease Losses" booklets of the Comptroller's Handbook. Such reports shall include, at a minimum, conclusions regarding:

- (a) the overall quality of the loan and lease portfolios;
- (b) the identification, type, rating, and amount of problem loans and leases;
- (c) the identification and amount of delinquent loans and leases;
- (d) loans with credit, collateral or policy exceptions, or loans and leases not in conformance with the Bank's lending and leasing policies, and exceptions to the Bank's lending and leasing policies;

- (e) the identification and status of credit-related violations of law, rule or regulation;
- (f) the identity of the loan officer who originated each loan reported in accordance with subparagraphs (b) through (e) of the Article;
- (g) concentrations of credit;
- (h) loans and leases to executive officers, directors, principal shareholders (and their related interests) of the Bank; and
- (i) loans and leases to executive officers, directors, or principal shareholders of the Bank and to their related interests, as these terms are defined in 12 C.F.R. § 215.2.

(3) The Board shall evaluate the internal loan and lease 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).

(4) A copy of the reports submitted to the Board, as well as documentation of the action taken by the Bank to collect or strengthen assets identified as problem credits, shall be preserved in the Bank.

(5) A copy of these reports shall also be submitted to the Assistant Deputy Comptroller on a quarterly basis.

(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 IX

INVESTMENT POLICY

(1) Within sixty (60) days, the Board shall review and revise the Bank's investment policy and implement the revised policy, and thereafter ensure Bank adherence to the policy.

The policy shall contain the basic elements of a sound investment policy consistent with regulatory guidance provided in An Examiner's Guide to Investment Products and Practices (December 1992), 12 C.F.R. Part 1, and OCC Bulletin 98-20 (April 27, 1998) and shall include:

- (a) an investment portfolio strategy that is consistent with Board-approved Bank asset and liability management policies and interest rate risk tolerances;
- (b) approval procedures that will include dollar size limits, quality limitations, maturity limitations, and concentration or diversification guidelines;
- (c) prudent investment risk diversification guidelines and concentration limits by type, originator, and issuer for asset-backed securities ("ABS"), including but not limited to trust and corporate bond collateralized debt obligations ("CDOs") and private label collateralized mortgage obligations ("CMOs");
- (d) a requirement that investment securities be supported by adequate credit and interest rate risk measurement information as described in the "Interest Rate Risk" booklet of the Comptroller's Handbook and in OCC Bulletin 98-20 (April 27, 1998);

- (e) a requirement for an independent analysis to validate any pre-purchase analysis completed by the Bank's broker on the Bank's purchase of ABS or similar securities;
- (f) procedures for developing a written exit strategy, should the Bank's ABS or funding sources fail to perform as projected. The strategy shall focus on limiting exposure to earnings and capital through planned sales and repayment of debt, and shall include the following:
 - (i) identification of potential risks;
 - (ii) identification of specific triggers that require action by the Bank;
and
 - (iii) planned steps to be taken to exit the Bank's ABS and related funding mechanisms;
- (g) monthly review by the Board's investment committee of the Bank's investment portfolio activity to ensure adherence to the investment policy and to applicable banking and securities laws and regulations;
- (h) a requirement for quarterly independent valuations on each ABS that include at least three (3) different sources; and
- (i) MIS reports, to include, at a minimum, the following:
 - (i) monthly reports to and approval by the Board for all investment portfolio purchases and sales, and strategy changes;
 - (ii) monthly review by the Board's investment committee of the Bank's investment portfolio activity to ensure adherence to the

- (iii) monthly reports that detail the securities ratings from all nationally recognized statistical rating organizations (including Moody's, Standard & Poor's, and Fitch); and
- (iv) quarterly reports that detail valuation changes on each ABS and any identified other-than-temporary impairment.

(2) The revised investment policy shall be implemented and a copy shall be forwarded to the Assistant Deputy Comptroller within ten (10) days of Board approval for a prior written determination of no supervisory objection.

(3) Upon receiving a written determination of no supervisory objection from the Assistant Deputy Comptroller, the Bank shall immediately implement and adhere to the investment policy.

(4) The Board shall review and update the investment policy on an annual basis, or more frequently if necessary. Copies of the reviews and updates shall be submitted to the Assistant Deputy Comptroller.

(5) Copies of the following Bank MIS reports shall be forwarded to the Assistant Deputy Comptroller on a quarterly basis:

- (a) the ABS analysis performed by the Bank's broker;
- (b) a report listing all securities identified as below investment grade, and any downgrades of securities by a nationally recognized statistical rating organization;
- (c) market and book values for each ABS; and

- (d) a listing of sales transactions or purchases of ABS, to include copies of confirmation tickets.
 - (e) For the specific ABS securities on the Bank's books as of December 31, 2009, an internal review may be substituted for the independent review required under paragraph (1)(h) of this Article.
- (6) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the policy developed pursuant to this Article.

ARTICLE X

RECOGNITION OF OTHER-THAN-TEMPORARY IMPAIRMENT

- (1) Within sixty (60) days, the Bank shall develop and implement policies and procedures to ensure the timely identification, recognition and ongoing monitoring of other-than-temporary impairment with respect to investment securities (both debt and equity).
- (2) The Board shall approve the policy and procedures, and the policy and procedures shall be submitted to the Assistant Deputy Comptroller within ten (10) days for a prior written determination of no supervisory objection. Upon receiving a written determination of no supervisory objection from the Assistant Deputy Comptroller, the Bank shall immediately implement and thereafter adhere to the policy and procedures.
- (3) The Bank's policy shall call for a quarterly written review to determine which securities have a fair value below amortized cost in order to evaluate whether a decline in the fair value is other-than-temporary. Such a review shall encompass, as applicable, the factors specified in Statement of Financial Accounting Standards No. 115, "Accounting for Certain Investments in Debt and Equity Securities" (SFAS 115), OCC Bulletin 2009-11, "Other-than-

Temporary Impairment Accounting: OCC Advisory on Financial Accounting Standards Board Changes,” and other accounting guidance. The factors include:

- (a) whether fair value is significantly below amortized cost;
- (b) the period of time the decline has existed;
- (c) the Bank’s intent and the ability to hold the security for a period of time sufficient to allow for any anticipated recovery in fair value;
- (d) downgrades in securities from investment grade to below investment grade or other sudden and significant downgrades;
- (e) the financial condition of the issuer;
- (f) whether the decline is attributable to adverse conditions specifically related to the issuer or to specific conditions in an industry or in a geographic area;
- (g) the reduction or elimination of dividends;
- (h) any failure to make scheduled interest or principal payments;
- (i) changes in tax laws, regulations, or other governmental policies significantly affecting the issuer; and
- (j) forecasts of economic, market or industry trends.

(4) For other securities with an amortized cost below fair value that, upon review, are adversely affected by the factors listed in paragraph (3), the Bank must provide objective and verifiable evidence documenting why it should not use an other-than-temporary classification. The objective evidence must indicate the reasons the decline in value below amortized cost is “temporary” and detail how the decline in value can reasonably be expected to be reversed. Objective evidence supporting “temporary” impairment may include the issuer’s financial

performance (including such factors as earnings trends, dividend payments, asset quality and specific events), the financial condition and near term prospects of the issuer, and the economic conditions and prospects for the issuer's region and industry.

(5) If the bank determines that an impairment of a particular investment is other-than-temporary, the investment must be written down to fair value, through earnings, in the period in which the impairment occurred, if:

- (a) the Bank intends to sell the security;
- (b) it is more likely than not that the Bank will be required to sell the security prior to the recovery of the cost basis;
- (c) an adverse change in the amount or timing of cash flows occurs (as covered by FASB Emerging Issues Task Force (EITF) Issue No. 99-20 and its subsequent amendments); or
- (d) recovery of the entire cost basis is not expected (considering the factors in Securities and Exchange Commission (SEC) Staff Accounting Bulletin (SAB) 59).

(6) The amount of the other-than-temporary impairment recognized may be through a combination of earnings for the credit loss and other comprehensive income for any other market-related loss if:

- (a) The Bank has no intent to sell the securities; and
- (b) no sale is likely to occur prior to the cost recovery.

(7) Quoted market prices shall be used to support fair value, when available. If a quoted market price is not available, the estimate of fair value shall be based on the best information available in the circumstances. Once other-than-temporary impairment has been

recognized, the fair value is the new cost basis of the asset. The new cost basis is not adjusted by subsequent recoveries of value at a later date.

(8) The Bank shall retain the services of a qualified and independent person(s) or firm to conduct the reviews required by paragraphs (3), (4) and (5) of this Article. A written report must be filed with the Board after each review. Reviews are required at least once each calendar quarter prior to the Bank filing its Consolidated Reports of Condition and Income.

(9) The Board shall evaluate the independent other-than-temporary impairment review report(s) and shall ensure immediate, adequate, and continuing remedial action, if appropriate, is taken upon all findings noted in the report(s).

(10) A copy of all of the reports submitted to the Board pursuant to this Article, as well as documentation of the action taken by the Bank to address the findings noted in the reports, shall be submitted to the Assistant Deputy Comptroller.

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

ARTICLE XI

COMPLIANCE MANAGEMENT PROGRAM

(1) Within one hundred and eighty (180) days, the Board shall adopt, implement, and thereafter ensure adherence to a written consumer compliance program designed to ensure that the Bank is operating in compliance with all applicable consumer protection laws, rules and regulations. This program shall include, but not be limited to:

- (a) a written description of the duties and responsibilities of the compliance officer;

- (b) adequate internal controls to ensure compliance with consumer protection laws, rules, and regulations;
- (c) the preparation of a policies and procedures manual covering all consumer protection laws, rules and regulations for use by appropriate Bank personnel in the performance of their duties and responsibilities;
- (d) semiannual updates of the written policies and procedures manual to ensure it remains current;
- (e) an audit program to test for compliance with consumer protection laws, rules and regulations;
- (f) procedures to ensure that exceptions noted in the audit reports are corrected and responded to by the appropriate Bank personnel;
- (g) the education and training of all appropriate Bank personnel in the requirements of all federal and state consumer protection laws, rules and regulations; and
- (h) periodic reporting of the results of the consumer compliance audit to the Board or a committee thereof.

(2) Upon adoption, a copy of the program shall be forwarded to the Assistant Deputy Comptroller for review.

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

ARTICLE XII

VIOLATIONS OF LAW

(1) The Board shall immediately take all necessary steps to ensure that Bank management corrects each violation of law, rule or regulation cited in the ROE and in any subsequent Report of Examination. The quarterly progress reports required by Article II of this Agreement shall include the date and manner in which each correction has been effected during that reporting period.

(2) Within ninety (90) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to specific procedures to prevent future violations as cited in the ROE and shall adopt, implement, and ensure Bank adherence to general procedures addressing compliance management which incorporate internal control systems and education of employees regarding laws, rules and regulations applicable to their areas of responsibility.

(3) Within sixty (60) days of receipt of any subsequent Report of Examination which cites violations of law, rule, or regulation, the Board shall adopt, implement, and thereafter ensure Bank adherence to specific procedures to prevent future violations as cited in the ROE and shall adopt, implement, and ensure Bank adherence to general procedures addressing compliance management which incorporate internal control systems and education of employees regarding laws, rules and regulations applicable to their areas of responsibility.

(4) Upon adoption, a copy of these procedures shall be promptly forwarded to the Assistant Deputy Comptroller.

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

ARTICLE XIII

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/her 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/
Julie A. Pleimling
Assistant Deputy Comptroller
Birmingham Field Office

3/25/2010
Date

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

/s/
Tommy Kirkland

3/25/2010
Date

/s/
Davis Malone

3/25/2010
Date

/s/
Alyson M. Bagby

3/25/2010
Date

/s/
Ronnie Pippin

3/25/2010
Date

/s/
Catherine Wilson

3/25/2010
Date