

AGREEMENT BY AND BETWEEN
The First National Bank of Fleming
Fleming, Colorado
and
The Office of the Comptroller of the Currency

AA-WE-2019-80

The First National Bank of Fleming, Fleming, Colorado (“Bank”) and the Office of the Comptroller of the Currency (“OCC”) wish to assure the safety and soundness of the Bank and its compliance with laws and regulations.

The Comptroller of the Currency (“Comptroller”) has found unsafe or unsound practices, including those relating to credit underwriting and administration, credit risk rating, allowance for loan and lease losses, and inspection independence.

Therefore, the OCC, through the duly authorized representative of the Comptroller, and the Bank, through its duly elected and acting Board of Directors (“Board”), hereby agree that the Bank shall operate at all times in compliance with the following:

ARTICLE I

JURISDICTION

- (1) The Bank is an “insured depository institution” as that term is defined in 12 U.S.C. § 1813(c)(2).
- (2) The Bank is a national banking association within the meaning of 12 U.S.C. § 1813(q)(1)(A), and is chartered and examined by the OCC. *See* 12 U.S.C. § 1 *et seq.*
- (3) The OCC is the “appropriate Federal banking agency” as that term is defined in 12 U.S.C. § 1813(q).

ARTICLE II

COMPLIANCE COMMITTEE

(1) By December 1, 2019, the Board shall appoint a Compliance Committee of at least three (3) members of which a majority shall be directors who are not employees or officers of the Bank or any of its subsidiaries. The Board shall submit in writing to the Assistant Deputy Comptroller (“ADC”) the names of the members of the Compliance Committee within ten (10) days of their appointment. In the event of a change of the membership, the Board shall submit in writing to the ADC within ten (10) days the name of any new or resigning committee member. The Compliance Committee shall monitor and oversee the Bank’s compliance with the provisions of this Agreement. The Compliance Committee shall meet at least quarterly and maintain minutes of its meetings.

(2) By January 31, 2020, and thereafter within thirty (30) days after the end of each quarter, the Compliance Committee shall submit to the Board a written progress report setting forth in detail:

(a) a description of the corrective actions needed to achieve compliance with each Article of this Agreement;

(b) the specific corrective actions undertaken to comply with each Article of this Agreement; and

(c) the results and status of the corrective actions.

(3) Upon receiving each written progress report, the Board shall forward a copy of the report, with any additional comments by the Board, to the ADC within ten (10) days of the first Board meeting following the Board’s receipt of such report.

ARTICLE III

CREDIT UNDERWRITING AND ADMINISTRATION

(1) Within seventy-five (75) days of the date of this Agreement, the Bank shall submit to the ADC for review and prior written determination of no supervisory objection a credit underwriting and administration program (“Program”) designed to ensure the Bank obtains and analyzes credit and collateral information sufficient to identify, monitor, and report the Bank’s credit risk, properly account for loans, and assign accurate risk ratings in a timely manner. The Program shall be consistent with safe and sound banking practices.

- (2) The credit underwriting and administration program shall, at a minimum, include:
- (a) policies that address acceptable loan types, terms, concentration limits, and collateral requirements and exceptions;
 - (b) a description of the types of credit information required from borrowers and guarantors prior to making a loan determination, including, annual statements, interim financial statements, personal financial statements, and tax returns with supporting schedules;
 - (c) procedures that require any extensions of credit are granted, by renewal or otherwise, only after obtaining the required credit information and adequately analyzing and documenting the borrower’s and guarantor’s cash flow, debt service requirements, contingent liabilities, global liquidity condition, and sensitivity analysis in support of the credit decision;
 - (d) specific assignment of responsibility and accountability over the credit administration process to ensure the Program developed pursuant to this Article is effectively implemented; and

- (e) the Board must review the experience level of lending staff, on an annual basis, to ensure employees have the requisite knowledge to perform their duties, and must implement a plan to hire additional staff and/or provide periodic training where staffing or knowledge gaps exist.

(3) Effective as of the date of this Agreement, the Bank may not grant, extend, renew, alter or restructure any loan or other 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;
- (e) 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;
- (f) determining and documenting the customer's ability to repay the credit on the proposed repayment terms;
- (g) providing an accurate risk assessment rating and proper accrual status for each credit; and
- (h) documenting, with adequate supporting material, the value of collateral; and properly perfecting the Bank's lien on it where applicable.

(4) Within fifteen (15) days following receipt of the ADC's written determination of no supervisory objection to the Program, the Board shall adopt and Bank management, subject to Board review and ongoing monitoring, shall immediately implement and thereafter ensure adherence to the Program and any amendments or revisions thereto.

ARTICLE IV

CREDIT RISK RATING

(1) Within seventy-five (75) days of the date of this Agreement, the Bank shall submit to the ADC for review and prior written determination of no supervisory objection an acceptable credit risk ratings program designed to ensure that the risk associated with the Bank's loans and other assets is properly reflected and accounted for on the Bank's books and records. Refer to the "Rating Credit Risk" booklet of the *Comptroller's Handbook* for guidance.

(2) The credit risk ratings program shall address, at a minimum:

- (a) policies and procedures designed to ensure the Bank's loans and other assets are appropriately and timely risk rated and charged off by management using a safe and sound loan grading system that is based upon current facts, existing repayment terms, considers the loan purpose, and focuses on the primary source of repayment;
- (b) policies and procedures designed to ensure credit risk ratings are reviewed and updated whenever relevant new information is received, but no less than annually, and include procedures for timely risk rating downgrades when conditions warrant without compromise or delay based on unfounded reliance on guarantors, payment history, borrower character or potential future events;

- (c) annual training for loan officers and management on risk rating definitions and the importance of accurate and timely risk ratings;
- (d) policies and procedures for holding loan officers and management accountable for failing to appropriately and timely risk rate and/or place loans on nonaccrual;
- (e) the maintenance of appropriate analysis and documentation in the credit files to support the current and previous risk rating and accrual determination for each credit relationship; and
- (f) the engagement of an independent loan review firm to evaluate the following:
 - (i) the identification, type, rating, and amount of problem loans and leases;
 - (ii) loans not in conformance with the Bank's lending policies;
 - (iii) credit underwriting and documentation exceptions;
 - (iv) credit analysis and documentation of such;
 - (v) accuracy of internal risk ratings;
 - (vi) overall credit administration practices, including extension and renewal practices;
 - (vii) the Bank's Allowance for Loan and Lease Losses ("ALLL") methodology; and
 - (viii) the completeness and effectiveness of problem loan workout plans.

(3) Within ninety (90) days of the date of this Agreement, the Board shall ensure that management takes the necessary steps to ensure that all credit relationships equaling one hundred thousand (\$100,000) or above are reviewed and accurately risk rated.

(4) Within fifteen (15) days following receipt of the ADC's written determination of no supervisory objection to the credit risk ratings program, the Board shall adopt and Bank management, subject to Board review and ongoing monitoring, shall immediately implement and thereafter adhere to the credit risk ratings program and any amendments or revisions thereto.

ARTICLE V

ALLOWANCE FOR LOAN AND LEASE LOSSES METHODOLOGY

(1) Within seventy-five (75) days of the date of this Agreement, the Bank shall submit to the ADC for review and prior written determination of no supervisory objection written policies and procedures for maintaining an adequate ALLL in accordance with the Federal Accounting Standards Board's ("FASB") GAAP. Refer to the Federal Financial Institutions Examination Council's "Interagency Policy Statement on the Allowance for Loan and Lease Losses" dated December 13, 2006 (OCC Bulletin 2006-47), for guidance. The ALLL policies and procedures shall at a minimum include procedures for the following:

- (a) determining whether a loan is impaired and measuring the amount of impairment, consistent with GAAP (including FASB's Accounting Standards Codification ("ASC") 310-10, Receivables - Overall - Subsequent Measurement - Impairment);
- (b) segmenting the loan portfolio and estimating loss on groups of loans that are consistent with GAAP (including FASB's ASC 450-20, Loss Contingencies);

- (c) ensuring that the estimation of credit losses considers the relevant trends in the Bank's internal risk ratings as well as in delinquent and nonaccrual loans; qualitative and environmental factors, with particular focus on the following:
 - (i) results of the Bank's external loan review;
 - (ii) concentrations of credit in the Bank;
 - (iii) present and prospective economic conditions; and
 - (iv) applicable experience of the Bank's lending staff.

(2) Within fifteen (15) days following receipt of the ADC's written determination of no supervisory objection to the policies and procedures, the Board shall adopt and Bank management, subject to Board review and ongoing monitoring, shall immediately implement and thereafter ensure adherence to the policies and procedures.

ARTICLE VI

INSPECTION INDEPENDENCE

(1) Within seventy-five (75) days of the date of this Agreement, the Bank shall submit to the ADC for review and prior written determination of no supervisory objection revised loan policies and procedures to ensure that periodic (no less than annual) inspections of livestock and crops pledged as collateral are performed, which shall, at a minimum, include an inspection report to be used on agricultural and/or farm visits that accounts for the current value of the borrower's agricultural assets. The Bank's revised lending policy shall provide for:

- (a) on-site inspections with written reports detailing the condition of farm assets and farm operations. The frequency of such inspections and valuations shall depend on the structure and purpose of the loan and the current level of credit risk;

- (b) inspection processes that are performed by an independent and qualified person other than, or in addition to, the assigned loan officer; and
- (c) a requirement for a review of the Bank's adherence to the revised lending policy for inspection of livestock and crops on at least an annual basis.

(2) Within fifteen (15) days following receipt of the ADC's written determination of no supervisory objection to the policies and procedures, the Board shall adopt and Bank management, subject to Board review and ongoing monitoring, shall immediately implement and thereafter ensure adherence to the policies and procedures.

ARTICLE VII

STRATEGIC PLAN

(1) Within seventy-five (75) days of the date of this Agreement, the Board shall forward to the ADC, a written Strategic Plan for the Bank, covering at least a three-year period. The Strategic Plan shall establish objectives for the Bank's earnings performance, growth, balance sheet mix, liability structure, and capital and liquidity adequacy, together with strategies to achieve those objectives, and shall, at a minimum, include:

- (a) a mission statement that forms the framework for the establishment of strategic goals and objectives, including those that address customer retention and deposit gathering;
- (b) an action plan to accomplish identified strategic goals and objectives identified in the mission statement; and
- (c) a management employment and succession plan designed to promote adequate staffing and continuity of capable management.

(2) At least annually, a written evaluation of the Bank's performance against the Strategic Plan shall be prepared by Bank management and submitted to the Board. Within thirty

(30) days of the submission of the evaluation, the Board shall review the evaluation and determine the corrective actions the Board will require Bank management to take to address any identified shortcomings. The Board's review of the evaluation and discussion of any required corrective actions to address any identified shortcomings shall be documented in the Board's meeting minutes. Upon completion of the Board's review, the Board shall submit to the ADC a copy of the evaluation as well as a detailed description of the corrective actions the Board will require the Bank to take to address any identified shortcomings.

(3) The Board shall review and update the Strategic Plan at least annually and more frequently if necessary or if required by the ADC in writing.

ARTICLE VIII

GENERAL BOARD RESPONSIBILITIES

(1) The Board shall ensure that the Bank has timely adopted and implemented all corrective actions required by this Agreement, and shall verify that the Bank adheres to the corrective actions and they are effective in addressing the Bank's deficiencies that resulted in this Agreement.

(2) In each instance in which this Agreement imposes responsibilities upon the Board, it is intended to mean that the Board shall:

- (a) authorize, direct, and adopt corrective actions on behalf of the Bank as may be necessary to perform the obligations and undertakings imposed on the Board by this Agreement;
- (b) ensure that the Bank has sufficient processes, management, personnel, control systems, and corporate and risk governance to implement and adhere to all provisions of this Agreement;

- (c) require that Bank management and personnel have sufficient training and authority to execute their duties and responsibilities pertaining to or resulting from this Agreement;
- (d) hold Bank management and personnel accountable for executing their duties and responsibilities pertaining to or resulting from this Agreement;
- (e) require appropriate, adequate, and timely reporting to the Board by Bank management of corrective actions directed by the Board to be taken under the terms of this Agreement; and
- (f) address any noncompliance with corrective actions in a timely and appropriate manner.

ARTICLE IX

OTHER PROVISIONS

(1) As a result of this Agreement, the Bank is in “troubled condition,” as set forth in 12 C.F.R. § 5.51(c)(7)(ii), unless otherwise informed in writing by the OCC. In addition, as a result of this Agreement, the Bank is not an “eligible bank” for purposes of 12 C.F.R. § 5.3(g) and 12 C.F.R. § 24.2(e), unless otherwise informed in writing by the OCC.

(2) This Agreement supersedes all prior OCC communications issued pursuant to 12 C.F.R. §§ 5.3(g)(5), 5.51(c)(7)(ii), and 24.2(e)(4).

ARTICLE X

CLOSING

(1) This Agreement is intended to be, and shall be construed to be, a “written agreement” within the meaning of 12 U.S.C. § 1818, and expressly does not form, and may not be construed to form, a contract binding on the United States, the OCC, or any officer, employee,

or agent of the OCC. 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 officer, employee, or agent of the OCC 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, employee, or agent of any of those entities to a contract affecting the OCC's exercise of its supervisory responsibilities.

(2) This Agreement is effective upon its issuance by the OCC, through the Comptroller's duly authorized representative. Except as otherwise expressly provided herein, all references to "days" in this Agreement shall mean days and the computation of any period of time imposed by this Agreement shall not include the date of the act or event that commences the period of time. The provisions of this Agreement shall remain effective and enforceable except to the extent that, and until such time as, such provisions are amended, suspended, waived, or terminated in writing by the OCC, through the Comptroller's duly authorized representative. If the Bank seeks an extension, amendment, suspension, waiver, or termination of any provision of this Agreement, or within any plan or program submitted pursuant to this Agreement, the Board or a Board-designee shall submit a written request to the ADC asking for relief. Any request submitted pursuant to this paragraph shall include a statement setting forth in detail the special circumstances that prevent the Bank from complying with the relevant provision(s) of the Agreement or plan or program submitted pursuant to this Agreement, and shall be accompanied by relevant supporting documentation. The OCC's decision concerning a request submitted

pursuant to this paragraph, which will be communicated to the Board in writing, is final and not subject to further review.

(3) The Bank will not be deemed to be in compliance with this Agreement until it has adopted, implemented, and adhered to all of the corrective actions set forth in each Article of this Agreement; the corrective actions are effective in addressing the Bank's deficiencies; and the OCC has verified and validated the corrective actions. An assessment of the effectiveness of the corrective actions requires sufficient passage of time to demonstrate the sustained effectiveness of the corrective actions.

(4) Each citation, guidance, or issuance referenced in this Agreement includes any subsequent citation, guidance, or issuance that replaces, supersedes, amends, or revises the referenced cited citation, guidance, or issuance.

(5) No separate promise or inducement of any kind has been made by the OCC, or by its officers, employees, or agents, to cause or induce the Bank to enter into this Agreement.

(6) All reports, plans, or programs submitted to the OCC pursuant to this Agreement shall be forwarded, by overnight mail or via email, to the following:

Assistant Deputy Comptroller
Denver Field Office
Office of the Comptroller of the Currency
1225 17th Street, Suite 450
Denver, Colorado 80202

(7) 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 as his duly authorized representative, has hereunto set his signature on behalf of the Comptroller.

//s// Digitally Signed, Date: 2019.11.22

Gary D. TeKolste
Assistant Deputy Comptroller
Denver North Field Office

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

/s/ _____
Anthony Monroe

11-22-19 _____
Date

/s/ _____
Rick Unrein

11-22-19 _____
Date

/s/ _____
Anthony J. Wernsman

11-22-19 _____
Date

/s/ _____
Paul W. Wernsman

11-22-19 _____
Date

/s/ _____
Stephen C. Wernsman

11.22.19 _____
Date