

AGREEMENT BY AND BETWEEN
Heritage Bank, National Association
Spicer, Minnesota
and
The Office of the Comptroller of the Currency

AA-WE-2023-32

Heritage Bank, National Association, Spicer, Minnesota (“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 practice(s), including those relating to inadequate capital and strategic planning, a lack of timely and adequate credit review, the failure to conduct ongoing monitoring of the credit portfolio, and failure to maintain adequate levels of liquidity and satisfactory liquidity management practices relative to the bank’s risk profile.

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 October 31, 2023, 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 or affiliates. The Board shall submit in writing to the Assistant Deputy Comptroller 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 Assistant Deputy Comptroller 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 monthly and maintain minutes of its meetings.

(2) By November 30, 2023, 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 Assistant Deputy Comptroller within ten (10) days of the first Board meeting following the Board’s receipt of such report.

ARTICLE III

STRATEGIC PLAN

(1) By November 30, 2023, the Board shall submit to the Assistant Deputy Comptroller for review and prior written determination of no supervisory objection an acceptable revised written strategic plan for the Bank, covering at least a three (3) year period (“Strategic Plan”). The revised strategic plan shall establish objectives for the Bank’s applicable risks and strategies, including but not limited to all leveraged loan portfolios, overall risk profile, earnings performance, growth, balance sheet mix, off-balance sheet activities, liability structure, and capital and liquidity adequacy, together with strategies to achieve those objectives, and shall, at a minimum, include:

- (a) the strategic goals and objectives to be accomplished, including key financial indicators and risk tolerances;
- (b) a detailed assessment of the actions necessary to achieve the Bank’s strategic objectives and goals, as well as processes to measure and monitor progress in meeting all strategic objectives and goals;
- (c) a well-delineated strategy to exit any product, service, or delivery channel that does not comport with the Bank’s strategic objectives and goals and/or operation of the Bank in a safe and sound manner;
- (d) an evaluation of the Bank's internal operations, staffing requirements, board and management information systems, policies, and procedures for their adequacy and contribution to the accomplishment of the strategic goals and objectives developed under paragraph (1)(b) of this Article;

- (e) a financial forecast to include projections for major balance sheet and income statement accounts and desired financial ratios over the period covered by the Strategic Plan;
- (f) an identification and thorough risk assessment of all leveraged lending portfolios and new planned product lines (assets and liabilities), services, and delivery channels, as well as the identification of risk management systems to identify, measure, monitor, and control risks within the product lines, services, and delivery channels;
- (g) assigned roles, responsibilities, and accountability for the strategic planning; and
- (h) a description of systems and metrics designed to monitor the Bank's progress in meeting the Strategic Plan's goals and objectives.

(3) Within thirty (30) days following receipt of the Assistant Deputy Comptroller's written determination of no supervisory objection to the revised Strategic Plan or to any subsequent amendment to the Strategic Plan, the Board shall adopt and Bank management, subject to Board review and ongoing monitoring, shall immediately implement and thereafter ensure adherence to the Strategic Plan. The Board shall review the effectiveness of the Strategic Plan at least annually, and more frequently if necessary or if required by the OCC in writing, and amend the Strategic Plan as needed or directed by the OCC. Any amendment to the Strategic Plan must be submitted to the Assistant Deputy Comptroller for review and prior written determination of no supervisory objection.

(4) Until the Strategic Plan required under this Article has been submitted by the Bank for the Assistant Deputy Comptroller's review, has received a written determination of no supervisory objection from the Assistant Deputy Comptroller, and has been adopted by the

Board, the Bank shall not significantly deviate from the products, services, asset composition and size, funding sources, structure, operations, policies, procedures, and markets of the Bank that existed immediately before the effective date of this Formal Agreement without first obtaining the Assistant Deputy Comptroller's prior written determination of no supervisory objection to such significant deviation.

(5) The Bank may not initiate any action that significantly deviates from a Strategic Plan (that has received written determination of no supervisory objection from the Assistant Deputy Comptroller and has been adopted by the Board) without a prior written determination of no supervisory objection from the Assistant Deputy Comptroller.

(6) Any request by the Bank for prior written determination of no supervisory objection to a significant deviation described in paragraphs (4) or (5) of this Article shall be submitted in writing to the Assistant Deputy Comptroller at least sixty (60) days in advance of the proposed significant deviation. Such written request by the Bank shall include an assessment of the effects of such proposed change on the Bank's condition and risk profile, including a profitability analysis and an evaluation of the adequacy of the Bank's organizational structure, staffing, management information systems, internal controls, and written policies and procedures to identify, measure, monitor, and control the risks associated with the proposed change.

(7) For the purposes of this Article, changes that may constitute a significant deviation include, but are not limited to, a change in the Bank's marketing strategies, products and services, marketing partners, underwriting practices and standards, credit administration, account management, collection strategies or operations, fee structure or pricing, accounting processes and practices, or funding strategy, any of which, alone or in the aggregate, may have a material effect on the Bank's operations or financial performance; or any other changes in

personnel, operations, or external factors that may have a material effect on the Bank's operations or financial performance.

(8) At least quarterly, 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 after 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 Assistant Deputy Comptroller 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.

ARTICLE IV

CAPITAL PLAN

(1) By November 30, 2023, the Board shall adopt a revised and updated internal capital planning process to assess the Bank's capital adequacy in relation to its overall risks and strategies, including, but not limited to, all leveraged lending loan portfolios. Thereafter, management shall implement, and the Board shall verify, no less than annually, adherence to the capital planning process. The capital planning process shall be consistent with safe and sound practices and ensure the integrity, objectivity, and consistency of the process through adequate governance. The Board shall document the capital planning process and thereafter review and document the capital planning process at least annually or more frequently, if appropriate, or required by the Assistant Deputy Comptroller in writing.

(2) By November 30, 2023, the Board shall submit to the Assistant Deputy Comptroller for review and prior written determination of no supervisory objection an acceptable

revised written capital plan for the Bank, consistent with the Strategic Plan required by Article III, covering at least a three (3) year time period (“Capital Plan”). The Bank’s revised Capital Plan shall, at a minimum:

- (a) include specific plans for the achievement and ongoing maintenance of adequate capital;
- (b) identify and evaluate all material risks, including, but not limited to, the risks posed by the Bank’s leveraged lending portfolios;
- (c) reassess the Bank’s capital needs in relation to material risks and strategic direction, with a particular emphasis on the risks posed by the leveraged lending portfolios; inclusive of a reassessment of the loss rates in the portfolios;
- (d) revise and update strategy to maintain capital and strengthen capital if necessary and establish a contingency or back-up capital plan commensurate with the Bank’s overall risk and complexity;
- (e) provide for improved, quarterly portfolio stress testing to ensure portfolio loss rates used are well supported and commensurate with the specific risks characteristics present in the leveraged lending portfolios;
- (f) include detailed quarterly financial projections which shall be consistent with the Strategic Plan required by Article III, and
- (g) include specific plans detailing how the Bank will comply with restrictions or requirements set forth in this Agreement that will have an impact on the Bank’s capital.

The Bank may declare or pay a dividend or make a capital distribution only:

- (a) when the Bank is in compliance with its Board-approved Capital Plan and would remain in compliance with such Capital Plan immediately following the declaration or payment of any dividend or capital distribution;
- (b) when the dividend or capital distribution would comply with 12 U.S.C. §§ 56, 60 and 1831o(d)(1) and 12 C.F.R. § 3.11(a)(4); and
- (c) following the Assistant Deputy Comptroller's prior written determination of no supervisory objection to the dividend or capital distribution.

(3) Within thirty (30) days following receipt of the Assistant Deputy Comptroller's written determination of no supervisory objection to the Bank's Capital Plan or to any subsequent amendment to the Capital Plan, the Board shall adopt and Bank management, subject to Board review and ongoing monitoring, shall immediately implement and thereafter ensure adherence to the Capital Plan. The Board shall review the effectiveness of the Capital Plan at least annually, and more frequently if necessary or if required by the OCC in writing, and amend the Capital Plan as needed or directed by the OCC. Any amendment to the Capital Plan must be submitted to the Assistant Deputy Comptroller for review and prior written determination of no supervisory objection.

(4) At least monthly, the Board shall review financial reports and earnings analyses that evaluate the Bank's performance against the goals and objectives established in the Capital Plan, as well as the Bank's written explanation of significant differences between the actual and projected balance sheet, income statement, and expense accounts, including a description of any extraordinary and/or nonrecurring items. This review shall include a description of the actions the Board and management will take to address any deficiencies.

ARTICLE V

ONGOING CREDIT MONITORING

(1) The Board shall ensure Bank adherence to a written program providing for a review of all of the Bank's purchased loan and lease portfolios for the purpose of monitoring portfolio trends, on at least a monthly basis. The program shall require a monthly report to the Board. At a minimum, the program must document oversight expectations for all purchased loan portfolios, including:

- (a) the performance of initial and ongoing credit analysis;
- (b) the risk rating decisioning process;
- (c) the establishment of risk limits and associated triggers;
- (d) the completion of comprehensive stress testing; and
- (e) the delineation of portfolio governance responsibilities.

(2) The Board shall evaluate the internal purchased 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).

(3) Commencing January 1, 2024, the Board shall no less than annually employ a qualified consultant to perform independent reviews of the Bank's loan portfolio at least annually to assure the timely identification and categorization of problem credits. The consultant must have the requisite experience and expertise to assess complex leveraged lending relationships.

(4) The scope of the engagement with the loan review consultant shall provide both for sufficient coverage of complex leveraged lending relationships; 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" booklet of the *Comptroller's Handbook*.

(5) A copy of all reports submitted to the Board, as well as documentation of the action taken by the Bank to collect or strengthen assets identified in internal or external reports shall be preserved in the books and records of the Bank.

ARTICLE VI

LIQUIDITY RISK MANAGEMENT

(1) By November 30, 2023, the Board shall submit to the Assistant Deputy Comptroller for review and prior written determination of no supervisory objection an acceptable revised and updated written Liquidity Risk Management Program (“Liquidity Program”) for the Bank. This Liquidity Program shall provide for the identification, measurement, monitoring, and control of the Bank’s liquidity risk exposure, and shall emphasize the importance of cash flow projections, diversified funding sources, a cushion of highly liquid assets, and a formal, well-developed contingency funding plan as primary tools for measuring and managing liquidity risk. In addition to the general requirements set forth above, the Liquidity Program shall, at a minimum:

- (a) identify strategies, policies, procedures, and limits to manage liquidity risk, commensurate with the Bank’s complexity and business activities;
- (b) assess, on an ongoing basis, the Bank’s current and projected funding needs, including the development of cash flow projections under both expected and adverse conditions;
- (c) ensure that sufficient funds or access to funds exist to meet those needs under both expected and adverse conditions;
- (d) assess the risks related to brokered deposit restrictions, deposit runoff, or rollovers;

- (e) detail action plans to identify and obtain sources of liquidity to meet projected shortfalls from existing sources under both expected and adverse conditions; and
- (f) include an updated Contingency Funding Plan that incorporates, at a minimum, a quantitative projection and evaluation of expected funding needs and funding capacity based on realistic assessments of the behaviors of funding providers during stress events; a definition of a liquidity crisis for the Bank; an identification of early warning liquidity triggers; and provision for management processes, reporting, and internal as well as external communication throughout the stress event.

(2) Within thirty (30) days following receipt of the Assistant Deputy Comptroller's written determination of no supervisory objection to the Liquidity Program, the Board shall adopt and Bank management, subject to Board review and ongoing monitoring, shall immediately implement and adhere to the Liquidity Program and any amendments or revisions thereto.

ARTICLE VII

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 VIII

OTHER PROVISIONS

(1) As a result of this Agreement, pursuant to 12 C.F.R. § 5.51(c)(7)(ii), the Bank is in “troubled condition,” and is not an “eligible bank” for purposes of 12 C.F.R. § 5.3 or 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 and 5.51(c)(7)(ii)

ARTICLE IX

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 calendar 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.

(3) 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, the Board or a Board-designee shall submit a written request to the Assistant Deputy Comptroller asking for the desired relief. Any request submitted pursuant to this

paragraph shall include a statement setting forth in detail the special circumstances that warrant the desired relief or prevent the Bank from complying with the relevant provision(s) of the 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.

(4) 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.

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

(6) 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.

(7) All reports, plans, or programs submitted to the OCC pursuant to this Agreement shall be forwarded, via secure email, to the following:

Assistant Deputy Comptroller; Assistant Deputy Comptroller Analyst

(8) 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 her signature on behalf of the Comptroller.

//s//

10-27-23

Christine K. Berglin
Assistant Deputy Comptroller
Sioux Falls Office

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

/s/

10/27/23

Gary D. Geiger

Date

/s/

10/27/23

Thomas W. Geiger

Date

/s/

10/19/23

Steven J. Nedrelow

Date

/s/

10/19/23

Wayne S. Nelson

Date

/s/

10/20/23

Don Spilseth

Date

Randy J. Wilkinson

Date