

**AGREEMENT BY AND BETWEEN  
SURETY BANK, NATIONAL ASSOCIATION  
Hurst, Texas  
AND  
THE OFFICE OF THE COMPTROLLER OF THE CURRENCY**

The Surety Bank, National Association, Hurst, Texas (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, through his National Bank Examiner, has examined the Bank, and his findings are contained in the Report of Examination, dated June 29, 1998 (ROE).

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, the Assistant Deputy Comptroller, that the Bank shall operate at all times in compliance with the articles of this Agreement.

**ARTICLE I**

(1) This Agreement supersedes the Conditional Approval Letter issued March 25, 1998, in connection with the application by the Bank to acquire TexStar National Bank, Universal City, Texas, and the capital requirements set out in that letter are hereby terminated.

(2) 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).

(3) 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).

**ARTICLE II  
RISK-BASED CAPITAL**

(1) The Bank shall achieve, and thereafter maintain, the following capital levels (as defined in 12 C.F.R. Part 3):

(a) Total Risk Based Capital at least equal to twelve percent (12%) of risk-weighted assets by March 31, 1999; and, Total Risk Based Capital at least equal to fourteen percent (14%) of risk weighted assets by December 31, 1999.

(b) Tier 1 leverage capital at least equal to seven and one half percent (7 ½ %) of adjusted total assets by March 31, 1999.

(2) Within thirty (30) days, the Board shall develop a three year capital program. The program shall include:

- (a) specific plans for the accomplishment and maintenance of adequate capital which may in no event be less than the requirements of paragraph (1);
- (b) projections for growth and capital requirements based upon a detailed analysis of the Bank's assets, liabilities, earnings, fixed assets, and off-balance sheet activities;
- (c) projections of the sources and timing of additional capital to meet the Bank's current and future needs;
- (d) the primary source(s) from which the Bank will strengthen its capital structure to meet the Bank's needs;
- (e) contingency plans which identify alternative methods should the primary source(s) under (d) above not be available; and,
- (f) a dividend policy.

(3) Upon completion, the Bank's capital program shall be submitted to the Assistant Deputy Comptroller for approval. Upon approval by the Assistant Deputy Comptroller, the Bank shall implement and adhere to the capital program. The Board shall review and update the Bank's capital program on an annual basis, or more frequently if necessary. Copies of the reviews and updates shall be submitted to the Assistant Deputy Comptroller.

### **ARTICLE III DIVIDENDS**

- (1) The Board shall not declare or pay dividends **unless**:
- (a) the Bank is in compliance with 12 U.S.C. §§ 56 and 60;
  - (b) the Bank is in compliance with its approved capital program;
  - (c) the Bank has obtained the prior written approval of the Assistant Deputy Comptroller; and,
  - (d) the Bank is in compliance with capital levels as set out in Article II, above.

### **ARTICLE IV MANAGEMENT INFORMATION SYSTEMS**

(1) Within ninety (90) days, the Bank shall adopt and implement a plan to address the deficiencies in its management information systems. In particular, the plan shall require that management information reports include enough detail to enable management and the Board to assess the Bank's risk exposure.

(2) At a minimum, the management information reports shall provide sufficient information in the following areas:

- (a) **Insurance Premium Financing (IPF)**. IPF reports should include detailed information, such as,
  - (i) estimates of the Ledger Balance versus the unearned premium,

using the short rate method;

- (ii) the cancellation rate by agent and by location (i.e., by region of the United States);
- (iii) an underwriting exception report detailing the types of exceptions, for example,
  - (A) low or no down payment;
  - (B) payment terms longer than nine (9) months;
  - (C) funding of unapproved agents; and,
  - (D) funding without adequate financial information;
- (iv) a past due report;
- (v) a nonaccrual report;
- (vi) a loan loss report; and,
- (vii) a report identifying and tracking policies with “minimum earned” clauses.

(b) **Medical Claims Factoring (MCF).** MCF reports should include detailed information, such as,

- (i) percent advanced versus percent collected for each provider; and,
- (ii) collection ratios on charged off accounts, both on a “per provider” basis, and in the aggregate.

(2) Upon completion, the Bank’s Management Information Systems policy shall be submitted to the Assistant Deputy Comptroller for approval.

**ARTICLE V  
STRATEGIC PLAN**

(1) Within ninety (90) days, the Board shall adopt and implement a 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, off-balance sheet activities, liability structure, capital adequacy, reduction in the volume of nonperforming assets, product line development and market segments which the Bank intends to promote or develop, together with strategies to achieve those objectives and, at a minimum, include:

- (a) a mission statement which forms the framework for the establishment of strategic goals and objectives;
- (b) an assessment of the Bank's present and future operating environment;
- (c) an evaluation of the Bank's internal operations, staffing requirements, Board and management information systems and policies and procedures;
- (d) the development of strategic goals and objectives to be accomplished over the short and long term;
- (e) a management employment and succession program to promote the retention and continuity of capable management;
- (f) product line development and market segments which the Bank intends to promote or develop;
- (g) an action plan to improve bank earnings and accomplish identified strategic goals and objectives to include individual responsibilities, accountability, and specific time frames; and,

- (h) 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.
- (i) a requirement that, prior to the Bank's involvement in any new products or services, the Board must prepare a written analysis of said product or service. The analysis shall, at a minimum, assess the risks and benefits of the product or service to the Bank. A copy of the analysis shall be submitted to the Assistant Deputy Comptroller for approval, *prior to* the Bank's involvement in the product or service.

(2) Upon adoption, a copy of the strategic plan shall be forwarded to the Assistant Deputy Comptroller for approval.

#### **ARTICLE VI LENDING POLICY**

(1) Within sixty (60) days, the Board shall review and revise the Bank's written loan policy. In revising this policy, the Board shall refer to the Loan Policy section of the *Comptroller's Handbook - Loan Portfolio Management - April 1998*. This policy shall incorporate, but not necessarily be limited to, the following:

- (a) a requirement that all divisions of the lending area shall be reviewed at least annually by the Loan Review staff;
- (b) the minimum standards for financial analysis; and,
- (c) the minimum standards for the timely submission and analysis of financial information.

- (2) In addition, the loan policy shall address the following specific areas:
- (a) **Insurance Premium Financing (IPF).** The IPF section of the loan policy must include, at a minimum,
    - (i) criteria for permitting direct funding of agents;
    - (ii) minimum financial information required for
      - (A) Board approval of funding without complete information; and,
      - (B) committee approval limits; and,
    - (iii) concentration limits for direct funding of agents for loans without the minimum financial information.
  - (b) **Medical Claims Financing (MCF).** The MCF section of the loan policy must include, at a minimum,
    - (i) criteria for underwriting claims, including a requirement for assessing the provider's background, financial strength, industry reputation, and advance rates;
    - (ii) specific criteria for underwriting personal injury claims, including verification of claims, claims filed, and the carrier accepting liability;
    - (iii) a requirement that MCF activities be conducted via an operating subsidiary established in compliance with the regulation at 12 C.F.R. § 5.34, in order to protect the Bank from unlimited liability.

- (c) **Used Car Dealer Financing (UCDF).** The UCDF section of the loan policy must include, at a minimum,
  - (i) a requirement that an investigation be made of any instance involving a dealer selling collateral “out of trust” prior to providing that dealer with any new or additional financing;
  - (ii) a requirement that a dealer’s true financial condition be determined, by obtaining timely, accurate, and sufficient financial information prior to providing that dealer with new or additional financing; and,
  - (iii) the criteria which must be met before the Bank may engage in split inventory financing, in order to reduce the risk of double financing of individual units.

(3) Upon adoption, a copy of the amended loan policy shall be forwarded to the Assistant Deputy Comptroller for approval.

## **ARTICLE VII LOAN CLASSIFICATION POLICY**

(1) Within sixty (60) days, the Board shall adopt and implement a loan classification policy. This policy shall include, but not be limited to, the following:

- (a) **Insurance Premium Financing (IPF).** The IPF section of the loan classification policy must include, at a minimum,
  - (i) a requirement that any loan for which no payment has been received for thirty past the contractual due date be classified “past due,” consistent with the instructions for completing the Consolidated Report of Condition and Income (Call Report);



- (ii) a requirement that any loan which is 120 to 149 days past due be classified “substandard.” A specific allocation of 25 percent must be made to the Bank’s Allowance for Loan and Lease Losses account (ALLL), and the loan must be placed on “nonaccrual.” The loan must also be reported as nonaccrual on the Bank’s Call Report;
  - (iii) a requirement that any loan which is 150 to 179 days past due be classified “doubtful,” with a 50 percent specific allocation to the ALLL; and,
  - (iv) a requirement that any loan which is 180 days past due be charged off, unless the loan is entirely secured by a state guaranty fund, in which case the loan should be retained in the “doubtful” category.
- (b) **Medical Claims Financing (MCF).** The MCF section of the loan classification policy must include, at a minimum,
- (i) a requirement that any account which is 60 days past the date the bank first extended funds to the provider, be considered “due”;
  - (ii) a requirement that any account which is 61 to 89 days beyond the due date be classified “special mention”, with a ten percent specific allocation to the ALLL;
  - (iii) a requirement that any account which is 90 to 149 days beyond the due date be classified “substandard,” with a 33 percent specific allocation to the ALLL. Also, at 90 days beyond the due date, the account would be 30 days past due for Call Report purposes;

- (iv) a requirement that any account which is 150 to 179 days beyond the due date be classified “doubtful,” and be placed on nonaccrual. Also, at 150 days beyond the due date, the account would be 90 days past due for Call Report purposes; and,
- (v) a requirement that any account which is 180 days beyond the due date be charged off.

(2) Upon adoption, a copy of the loan classification policy shall be forwarded to the Assistant Deputy Comptroller for approval.

**ARTICLE VIII  
CLOSING**

(1) Although the Board has agreed to submit certain programs and reports to the Assistant Deputy Comptroller for review or approval, 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 by the Assistant Deputy Comptroller for good cause upon written application by the Board.

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

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

*/s/ Mark R. Holder*

*11-19-98*

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Mark R. Holder  
Assistant Deputy Comptroller  
Fort Worth Field Office

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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:

Signed	11/19/98
_____ C. JACK BEAN	_____ DATE
Signed	11/19/98
_____ WILLIAM E. BYRD	_____ DATE
Signed	11/19/98
_____ B.J. "BUD" CURLEY	_____ DATE
Signed	11-19-98
_____ BOB W. HACKLER	_____ DATE
Signed	11-19-98
_____ JOSEPH S. HARDIN	_____ DATE
Signed	11-19-98
_____ G.M. "MATT" HEINZELMANN	_____ DATE
Signed	11-19-98
_____ MARGARET E. HOLLAND	_____ DATE
Signed	11-19-98
_____ MICHAEL L. MILAM	_____ DATE
Signed	11/19/98
_____ GARRETT MORRIS	_____ DATE
Signed	11-19-98
_____ CULLEN W. TURNER	_____ DATE