

UNITED STATES OF AMERICA  
BEFORE THE  
BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM  
WASHINGTON, D.C.

STATE OF FLORIDA  
OFFICE OF FINANCIAL REGULATION  
TALLAHASSEE, FLORIDA

Written Agreement by and among

HORIZON BANK  
Bradenton, Florida

FEDERAL RESERVE BANK  
OF ATLANTA  
Atlanta, Georgia

and

STATE OF FLORIDA  
OFFICE OF FINANCIAL REGULATION  
Tallahassee, Florida

Docket No. 09-146-WA/RB-SM

OFR Proceeding No. 0676-FI-09/09

WHEREAS, in recognition of their common goal to maintain the financial soundness of Horizon Bank, Bradenton, Florida (the “Bank”), a state chartered bank that is a member of the Federal Reserve System, the Bank, the Federal Reserve Bank of Atlanta (the “Reserve Bank”), and the State of Florida Office of Financial Regulation (the “OFR”) have mutually agreed to enter into this Written Agreement (the “Agreement”); and

WHEREAS, on November 4, 2009, the board of directors of the Bank, at a duly constituted meeting, adopted a resolution authorizing and directing Mary Ann Turner, Chairman of the Board of Directors, to enter into this Agreement on behalf of the Bank, and consenting to compliance with each and every provision of this Agreement by the Bank and its

institution-affiliated parties, as defined in Section 3(u) of the Federal Deposit Insurance Act, as amended (the “FDI Act”) (12 U.S.C. § 1813(u)), and Section 655.005(1)(i), Florida Statutes.

NOW, THEREFORE, the Bank, the Reserve Bank, and the OFR agree as follows:

### **Board Oversight**

1. Within 60 days of this Agreement, the board of directors of the Bank shall submit to the Reserve Bank and the OFR a written plan to strengthen board oversight of the management and operations of the Bank. The plan shall, at a minimum, address, consider, and include:

(a) The actions that the board of directors will take to improve the Bank’s condition and maintain effective control over, and supervision of, the Bank’s major operations and activities, including but not limited to, credit risk management, lending, credit administration, processes to mitigate risks associated with credit concentrations, liquidity, and earnings;

(b) the responsibility of the board of directors to monitor management’s adherence to approved Bank policies and procedures and to require management to document exceptions thereto at each regularly and specially called board meeting;

(c) the establishment of measures to ensure Bank staff’s adherence to approved policies and procedures;

(d) an evaluation of staffing levels, with particular emphasis on credit risk management, credit administration, and problem loan resolution; and

(e) a description of the information and reports that will be regularly reviewed by the board of directors in its oversight of the operations and management of the Bank, including

information on the Bank's adversely classified assets, concentrations of credits, allowance for loan and lease losses, capital, liquidity, and earnings.

### **Concentrations of Credit**

2. Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFR an acceptable written plan to strengthen the Bank's management of commercial real estate ("CRE") concentrations, including steps to reduce the risk of concentrations. The plan shall, at a minimum, include:

(a) Procedures to identify, limit, and manage concentrations of credit that are consistent with the Interagency Guidance on Concentrations in Commercial Real Estate Lending, Sound Risk Management Practices, dated December 12, 2006 (SR 07-1); and

(b) a schedule for reducing and the means by which the Bank will reduce the level of CRE concentrations, and timeframes for achieving the reduced levels.

### **Credit Risk Management**

3. Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFR an acceptable written plan to strengthen credit risk management practices. The plan shall, at a minimum, address, consider, and include:

(a) Periodic review and revision of risk exposure limits to address changes in market conditions;

(b) timely and accurate identification and quantification of credit risk within the loan portfolio;

(c) strategies to minimize credit losses and reduce the level of problem assets;  
and

(d) enhanced stress testing of loan and portfolio segments.

## **Lending and Credit Administration**

4. Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFR an acceptable written lending and credit administration program that shall, at a minimum, address, consider, and include:

- (a) Underwriting standards that require documented analyses of: (i) the borrower's repayment sources, global cash flow, and overall debt service ability; and (ii) the value of any collateral;
  - (b) standards for renewing, extending, or modifying existing loans, including, but not limited to, approval and documentation requirements;
  - (c) procedures for the periodic analyses, during the term of the loan, of:
    - (i) the borrower's repayment sources, global cash flow, and overall debt service ability; and
    - (ii) the value of any collateral;
  - (d) standards for interest-only loans;
  - (e) the appropriate use of interest reserves;
  - (f) standards for the timely movement of loans to non-accrual status;
  - (g) enhanced appraisal review procedures to ensure the quality of appraisals;
- and
- (h) adequate staffing of the loan workout function by qualified individuals.

## **Loan Review**

5. (a) Within 10 days of this Agreement, the Bank shall retain an independent consultant acceptable to the Reserve Bank and the OFR to assess the level of risk or exposure in the portion of the Bank's loan portfolio that was not reviewed at the most recent examination of

the Bank conducted by the Reserve Bank (“External Review”). The External Review shall be completed within 60 days of the retention of the independent consultant.

(b) Within 10 days of the completion of the External Review, a written report of the review shall be submitted simultaneously to the Bank, the Reserve Bank, and the OFR.

(c) Supporting material associated with the External Review shall be made available to the Reserve Bank and the OFR upon request.

6. Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFR an acceptable written program for the ongoing review and grading of the Bank’s loan portfolio by a qualified independent party or by qualified staff that is independent of the Bank’s lending function. The program shall, at a minimum, address, consider, and include:

(a) The scope and frequency of loan review;

(b) standards and criteria for assessing the credit quality of loans, including procedures to re-evaluate loans in the event of material changes in the borrower’s performance or the value of the collateral;

(c) application of loan grading standards and criteria to the loan portfolio;

(d) controls to ensure adherence to the revised loan review and grading standards; and

(e) written reports to the board of directors, at least quarterly, that identify the status of those loans that are nonperforming or adversely graded and the prospects for full collection or strengthening of the quality of any such loans.

## **Asset Improvement**

7. (a) The Bank shall not, directly or indirectly, extend or renew any credit to or for the benefit of any borrower, including any related interest of the borrower, who is obligated to the Bank in any manner on any extension of credit or portion thereof that has been charged off by the Bank or classified, in whole or in part, “loss” in the report of the examination of the Bank that was conducted by the Reserve Bank that commenced on May 25, 2009 (the “Report of Examination”) or in any subsequent report of examination, as long as such credit remains uncollected.

(b) The Bank shall not, directly or indirectly, extend or renew any credit to or for the benefit of any borrower, including any related interest of the borrower, whose extension of credit has been classified “doubtful” or “substandard” in the Report of Examination or in any subsequent report of examination, without the prior approval of the board of directors. The board of directors shall document in writing the reasons for the extension of credit or renewal, specifically certifying that: (i) the extension of credit is necessary to protect the Bank’s interest in the ultimate collection of the credit already granted or (ii) the extension of credit is in full compliance with the Bank’s written loan policy, is adequately secured, and a thorough credit analysis has been performed indicating that the extension or renewal is reasonable and justified, all necessary loan documentation has been properly and accurately prepared and filed, the extension of credit will not impair the Bank’s interest in obtaining repayment of the already outstanding credit, and the board of directors reasonably believes that the extension of credit or renewal will be repaid according to its terms. The written certification shall be made a part of the minutes of the board of directors meetings, and a copy of the signed certification, together with the credit analysis and related information that was used in the determination, shall be

retained by the Bank in the borrower's credit file for subsequent supervisory review. For purposes of this Agreement, the term "related interest" is defined as set forth in Section 215.2(n) of Regulation O of the Board of Governors of the Federal Reserve System (the "Board of Governors") (12 C.F.R. § 215.2(n)) and Section 658.48(4), Florida Statutes.

8. (a) Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFR an acceptable written plan designed to improve the Bank's position through repayment, amortization, liquidation, additional collateral, or other means on each loan or other asset in excess of \$250,000, including other real estate owned ("OREO"), that: (i) is past due as to principal or interest more than 90 days as of the date of this Agreement; (ii) is on the Bank's problem loan list; or (iii) was adversely classified in the Report of Examination.

(b) Within 30 days of the date that any additional loan or other asset, including OREO, in excess of \$250,000: (i) becomes past due as to principal or interest for more than 90 days; (ii) is on the Bank's problem loan list; or (iii) is adversely classified in any subsequent report of examination of the Bank, the Bank shall submit to the Reserve Bank and the OFR an acceptable written plan to improve the Bank's position on such loan, relationship, or asset.

(c) Within 30 days after the end of each calendar quarter thereafter, the Bank shall submit a written progress report to the Reserve Bank and the OFR to update each asset improvement plan, which shall include, at a minimum, the carrying value of the loan or other asset and changes in the nature and value of supporting collateral, along with a copy of the Bank's current problem loan list, a list of all loan renewals and extensions without full collection of interest in the last quarter, and past due/non-accrual report.

## **Allowance for Loan and Lease Losses**

9. (a) Within 10 days of this Agreement, the Bank shall eliminate from its books, by charge-off or collection, all assets or portions of assets classified “loss” in the Report of Examination that have not been previously collected in full or charged off. Thereafter the Bank shall, within 30 days from the receipt of any subsequent federal or state report of examination, charge off all assets classified “loss” unless otherwise approved in writing by the Reserve Bank and the OFR.

(b) Within 60 days of this Agreement, the Bank shall review and revise its allowance for loan and lease losses (“ALLL”) methodology consistent with relevant supervisory guidance, including the Interagency Policy Statements on the Allowance for Loan and Lease Losses, dated July 2, 2001 (SR 01-17 (Sup)) and December 13, 2006 (SR 06-17), and the findings and recommendations regarding the ALLL set forth in the Report of Examination, and submit a description of the revised methodology to the Reserve Bank and the OFR. The revised ALLL methodology shall be designed to maintain an adequate ALLL and shall address, consider, and include, at a minimum, the reliability of the Bank’s loan grading system, the volume of criticized loans, concentrations of credit, the current level of past due and nonperforming loans, past loan loss experience, evaluation of probable losses in the Bank’s loan portfolio, including adversely classified loans, and the impact of market conditions on loan and collateral valuations and collectability.

(c) Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFR an acceptable written program for the maintenance of an adequate ALLL. The program shall include policies and procedures to ensure adherence to the Bank’s revised ALLL methodology and provide for periodic reviews and updates to the ALLL methodology, as

appropriate. The program shall also provide for a review of the ALLL by the board of directors on at least a quarterly calendar basis. Any deficiency found in the ALLL shall be remedied in the quarter it is discovered, prior to the filing of the Consolidated Reports of Condition and Income, by additional provisions. The board of directors shall maintain written documentation of its review, including the factors considered and conclusions reached by the Bank in determining the adequacy of the ALLL. During the term of this Agreement, the Bank shall submit to the Reserve Bank and the OFR, within 30 days after the end of each calendar quarter, a written report regarding the board of directors' quarterly review of the ALLL and a description of any changes to the methodology used in determining the amount of the ALLL for that quarter.

### **Capital Plan**

10. Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFR an acceptable written plan to maintain sufficient capital at the Bank. The plan shall, at a minimum, address, consider, and include:

(a) The Bank's current and future capital needs, including compliance with the Capital Adequacy Guidelines for State Member Banks: Risk-Based Measure and Tier 1 Leverage Measure, Appendices A and B of Regulation H of the Board of Governors (12 C.F.R. Part 208, App. A and B);

(b) the adequacy of the Bank's capital, taking into account the volume of classified credits, concentrations of credit, ALLL, current and projected asset growth, and projected retained earnings; and

(c) the source and timing of additional funds to fulfill the Bank's future capital requirements.

11. The Bank shall notify the Reserve Bank and the OFR, in writing, no more than 30 days after the end of any quarter in which any of the Bank's capital ratios (total risk-based, Tier 1, or leverage) fall below the approved capital plan's minimum ratios. Together with the notification, the Bank shall submit an acceptable written plan that details the steps the Bank will take to increase its capital ratios to or above the approved capital plan's minimums.

### **Audit Committee Oversight**

12. Within 90 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFR an acceptable written plan to strengthen the oversight of the Bank's audit program by the audit committee. The plan shall, at a minimum, address, consider, and include:

- (a) Improved oversight of all aspects of the audit program, including the Bank's internal and external auditors;
- (b) measures to ensure the independence of the audit program, including the independence of the designated internal audit liaison;
- (c) development of an exception tracking report that includes all exceptions, designates the staff member responsible for correcting each exception, and establishes deadlines for correcting each exception; and
- (d) the findings and recommendations regarding audit committee oversight set forth in the Report of Examination.

### **Liquidity/Funds Management**

13. Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFR an acceptable written plan to improve management of the Bank's liquidity position and funds management practices. The plan shall, at a minimum, address, consider, and include:

(a) Measures to enhance the monitoring, measurement, and reporting of the Bank's liquidity to the board of directors; and

(b) a timetable to reduce reliance on short-term wholesale funding, including brokered deposits.

14. Within 60 days of this Agreement, the Bank shall revise and submit to the Reserve Bank and the OFR an acceptable written contingency funding plan that, at a minimum, includes adverse scenario planning and identifies and quantifies available sources of liquidity for each scenario.

### **Investment Portfolio Management**

15. Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFR acceptable written policies and procedures to strengthen the management of the Bank's investment portfolio, including but not limited to:

(a) A requirement that a pre-purchase analysis be performed before purchasing investments;

(b) periodic analysis of the investment portfolio; and

(c) procedures to assess for impairments and to ensure that the Bank's valuation processes and impairment analyses, including recognition of Other Than Temporary Impairment, are in accordance with generally accepted accounting principles, including FASB Staff Position (FSP) FAS 115-2 and FAS 124-2, *Recognition and Presentation of Other Than Temporary Impairments*, and regulatory reporting instructions.

## **Earnings Plan and Budget**

16. (a) Within 90 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFR a written business plan for 2010 to improve the Bank's earnings and overall condition. The plan, at a minimum, shall provide for or describe:

(i) a realistic and comprehensive budget for calendar year 2010, including income statement and balance sheet projections; and

(ii) a description of the operating assumptions that form the basis for, and adequately support, major projected income, expense, and balance sheet components.

(b) During the term of this Agreement, a business plan and budget for each calendar year subsequent to 2010 shall be submitted to the Reserve Bank and the OFR at least 60 days prior to the beginning of that calendar year.

## **Dividends and Distributions**

17. (a) The Bank shall not declare or pay any dividends without the prior written approval of the Reserve Bank, the Director of the Division of Banking Supervision and Regulation of the Board of Governors, and the OFR.

(b) All requests for prior approval shall be received at least 30 days prior to the proposed dividend declaration date. All requests shall contain, at a minimum, current and projected information on the Bank's capital, asset quality, earnings and ALLL needs. The Bank must also demonstrate that the requested declaration or payment of dividends is consistent with the Board of Governors' Policy Statement on the Payment of Cash Dividends by State Member Banks and Bank Holding Companies, dated November 14, 1985 (Federal Reserve Regulatory Service, 4-877 at page 4-323) and Section 658.37, Florida Statutes.

## **Compliance with Laws and Regulations**

18. In appointing any new director or senior executive officer, or changing the responsibilities of any senior executive officer so that the officer would assume a different senior executive officer position, the Bank shall comply with the notice provisions of Section 32 of the FDI Act (12 U.S.C. § 1831i) and Subpart H of Regulation Y of the Board of Governors (12 C.F.R. §§ 225.71 *et seq.*) and the notice provisions of Section 655.0385, Florida Statutes, and Rule 69U-100.03852, Florida Administrative Code, for directors and executive officers as defined in Section 655.005(1)(f), Florida Statutes.

19. The Bank shall comply with the restrictions on indemnification and severance payments of Section 18(k) of the FDI Act (12 U.S.C. § 1828(k)) and Part 359 of the Federal Deposit Insurance Corporation's regulations (12 C.F.R. Part 359).

## **Compliance with the Agreement**

20. (a) Within 10 days of this Agreement, the board of directors shall appoint a committee (the "Compliance Committee") to monitor and coordinate the Bank's compliance with the provisions of this Agreement. The Compliance Committee shall include a majority of outside directors who are not executive officers or principal shareholders of the Bank as defined in Sections 215.2(e)(1) and 215.2(m)(1) of Regulation O of the Board of Governors (12 C.F.R. §§ 215.2(e)(1) and 215.2(m)(1)) and Section 655.005(1)(f), Florida Statutes. The Compliance Committee shall meet at least monthly, keep detailed written minutes of each meeting, and report its findings to the board of directors.

(b) Within 30 days after the end of each calendar quarter following the date of this Agreement, the Bank shall submit to the Reserve Bank and the OFR written progress reports

detailing the form and manner of all actions taken to secure compliance with this Agreement and the results thereof.

### **Approval and Implementation of Plans, Programs, Policies, and Procedures**

21. (a) The Bank shall submit written plans, programs, policies, and procedures that are acceptable to the Reserve Bank and the OFR within the applicable time periods set forth in paragraphs 2, 3, 4, 6, 8, 9(c), 10, 11, 12, 13, 14, and 15 of this Agreement. An independent firm acceptable to the Reserve Bank and the OFR shall be retained by the Bank within the period set forth in paragraph 5(a).

(b) Within 10 days of approval by the Reserve Bank and the OFR, the Bank shall adopt the approved plans, programs, policies, and procedures. Upon adoption, the Bank shall promptly implement the approved plans, programs, policies, and procedures, and thereafter fully comply with them.

(c) During the term of this Agreement, the approved plans, programs, policies, and procedures shall not be amended or rescinded without the prior written approval of the Reserve Bank and the OFR.

### **Communications**

22. All communications regarding this Agreement shall be sent to:

- (a) Mr. Steve Wise  
Assistant Vice President  
Federal Reserve Bank of Atlanta  
1000 Peachtree Street, N.E.  
Atlanta, Georgia 30309-4470
- (b) Ms. Linda B. Charity  
Director, Division of Financial Institutions  
State of Florida  
Office of Financial Regulation  
200 E. Gaines Street  
Tallahassee, Florida 32399-0371

- (c) Ms. Mary Ann Turner  
Chairman of the Board  
Horizon Bank  
900 53<sup>rd</sup> Avenue East  
Bradenton, Florida 34203

**Miscellaneous**

23. Notwithstanding any provision of this Agreement, the Reserve Bank and the OFR may, in their sole discretion, grant written extensions of time to the Bank to comply with any provision of this Agreement.

24. The provisions of this Agreement shall be binding upon the Bank and its institution-affiliated parties, in their capacities as such, and their successors and assigns.

25. Each provision of this Agreement shall remain effective and enforceable until stayed, modified, terminated, or suspended in writing by the Reserve Bank and the OFR.

26. The provisions of this Agreement shall not bar, estop, or otherwise prevent the Board of Governors, the Reserve Bank, the OFR or any other federal or state agency from taking any other action affecting the Bank, or any of its current or former institution-affiliated parties and their successors and assigns.

27. Pursuant to Section 50 of the FDI Act (12 U.S.C. § 1831aa), this Agreement is enforceable by the Board of Governors under Section 8 of the FDI Act (12 U.S.C. § 1818) and by the OFR pursuant to Sections 655.033 and 655.041, Florida Statutes, and Chapters 120 and 658, Florida Statutes.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the 10th day of November, 2009.

HORIZON BANK

By: /s/ Mary Ann Turner  
Mary Ann Turner  
Chairman of the Board

FEDERAL RESERVE BANK  
OF ATLANTA

By: /s/ Steve Wise  
Steve Wise  
Assistant Vice President

STATE OF FLORIDA  
OFFICE OF FINANCIAL REGULATION  
DIVISION OF FINANCIAL  
INSTITUTIONS

By: /s/ Linda B. Charity  
Linda B. Charity  
Director