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Simple Tools to Assist in the Resolution of Troubled Banks

by **Claire L. McGuire**



The World Bank

SIMPLE TOOLS TO ASSIST IN THE RESOLUTION OF TROUBLED BANKS

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Acronyms

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| AMC | Asset Management Company |
| ATM | automatic teller machine |
| CPA | certified public accountant |
| DDA | demand deposit account |
| DIS | Deposit Insurance Scheme |
| EDP | electronic data processing |
| FAQs | frequently asked questions |
| FDIC | Federal Deposit Insurance Corporation (United States) |
| FPM | Financial Projection Model |
| GCC | General Conditions of Contract |
| LCTM | Least Cost Test Model |
| LTV | loan-to-value (ratio) |
| MOU | Memorandum of Understanding |
| OBA | Open Bank Assistance |
| ORE | other real estate owned |
| P&A | purchase and assumption |
| PCA | Prompt Corrective Action |
| S&L's | savings and loan institutions |
| SCC | Special Conditions of Contract |
| SRR | Special Resolution Regime |

Introduction

This Toolkit is designed to assist authorities in resolving troubled banks. It provides generic forms that can be adapted for use in planning supervisory actions or implementing resolution processes.

Resolution mechanisms can be defined differently depending on the jurisdiction and legal framework in place, but for the purposes of this Toolkit the following definitions will be used:¹

1. **Liquidation/Closing:** When an institution is liquidated, it is closed, its license is withdrawn, and its assets are sold over time to pay its liabilities to depositors or other creditors. In countries with deposit insurance schemes, the deposit insurer may pay depositor claims up to an agreed amount, and those payments may be substituted for those claims in the recovery process. Bank owners usually recover only for the loss of their ownership interests after all other bank creditors have been paid. Liquidation can take place under a country's bankruptcy or company laws or pursuant to a Special Resolution Regime (SRR) for banks.
2. **Conservatorship/Temporary Administration:** An institution can be placed in Conservatorship by the appointment of a manager who substitutes for the bank's own senior executive. Depending on the legal framework in place, the bank's owners can be removed from ownership of the bank or their rights can be temporarily constrained. The usual goal of such Temporary Administration is not to close the bank permanently but rather to reform its operations to improve its financial health or prepare it for a sale or merger with another institution.
3. **Purchase and Assumption (P&A):** This is a resolution tool that allows for the transfer of a troubled bank's operations to another, healthy bank. The process usually involves the withdrawal or cancellation of the license of the troubled bank, the termination of the owners' rights in the bank, the assumption of the troubled bank's deposits and good assets, and the take-over of the bank's problem assets by the resolution authority. A form of a P&A is a **Bridge Bank**, where the government forms a bank into which all or parts of a failing bank can be transferred, with the goal of effecting a sale to a private party at some future date.
4. **Nationalization:** Nationalization occurs when the government assumes ownership of an institution.²

In some circumstances, the decision will be made to liquidate a bank at the end of a long period of utilizing other supervisory tools to try to rehabilitate the bank, thereby providing the authorities with adequate time to gather information about the problem bank and prepare a plan for its closure.³ In other circumstances, the authorities will have little time to plan for a bank's closing and will have to rely on their general crisis preparedness tools to handle the resolution process as efficiently as possible. Whichever circumstances are present, planning for bank resolution should be part of a country's overall strategy for its financial sector.

This Toolkit contains forms (see **Forms and Model in the Resolution Toolkit** in the annex) that are generic and will need to be tailored to the particular country laws and circumstances. The Toolkit also contains a **Least Cost or Lesser Cost Model and Explanatory Guide (Form 6)** that provides diagnostic

¹ These terms and definitions are adapted from Scott (2002).

² "Temporary government ownership" is another term commonly used in this context.

³ For a general overview of the management of a problem bank, see Parker (2011).

tools to assist authorities in estimating the costs of various resolution methods. The Least Cost or Lesser Cost Model can also be used to value various assets that may be offered for sale as part of the resolution process (see **Loan Valuation Worksheet, Form 5**).⁴

Issues to be Addressed in Resolving Troubled Banks

Prepare a Resolution Plan

There can be many different reasons why a bank becomes troubled and in need of some type of resolution, but no matter what the situation, there is always the need for a clear understanding of who must be informed and who will be making decisions on how to address the problem. If many banks are troubled, it is even more important that a formal decision-making structure be in place and operational and that whatever decisions are taken be supported by analytical tools that facilitate the decision-making process, such as a systemic risk assessment and Least Cost or Lesser Cost Model and Explanatory Guide.

It is critical that all necessary agencies within the government be identified in advance of the need for a bank resolution and that a Resolution Team and Plan be put in place, with detailed descriptions of the various government institutions' (such as the Minister of Finance or the deposit insurer) responsibilities. It may be necessary for such agencies to enter into Memoranda of Understanding outlining their respective roles and terms for sharing of information. Team members should be named by position as opposed to name (for example, Director of Bank Supervision) so that as personnel rotate out of a position or organization the Team stays in place. To the extent that outside organizations may be needed to assist with a resolution (for example, private law or appraisal firms), those organizations should be identified and draft agreements for such services should be ready (see **Agreement for Services, Form 3**).

A Resolution Plan should contain a list of key contacts, both internal and external, with all required information on how to reach the contacts in an emergency. This list should be updated regularly. It may be necessary to include contact information for foreign supervisors if the banking system includes branches or subsidiaries of foreign banks, as well as copies of any agreements with foreign regulators to share information. As part of this overall Resolution Plan, the powers provided under the law and regulations to intervene in banks should be considered, and the appropriate government representative should be prepared to exercise those powers, making use of all necessary tools. These tools may differ depending on whether the supervisor, deposit insurer, or court appointed individual takes over as Receiver or Conservator for a failed bank. This Toolkit is designed to provide forms for use of the

⁴ The forms and model are numbered according to their suggested order of use, depicted in Figure 3: Use of Bank Resolution Toolkit Forms.

authorities in resolving and managing a troubled bank,⁵ whether the bank is put into Conservatorship, is liquidated, is nationalized, or some or all of its operations are assumed by another bank.

Understand the Legal Framework

Each country's legal framework is different, and resolution methods that work in one country may not be appropriate in another.⁶ It is necessary to look not only at the laws on bank resolution but also other parts of the legal structure to be certain that there is an understanding before a crisis strikes of exactly what steps would be needed to close a failing bank (figure 1).⁷ The legal framework should define the necessary organizations within the government that must be involved, exactly what role each of those organizations will play in the resolution of a financial institution, and the powers of the government to implement any needed action.

Least Cost Resolution. It is increasingly accepted that resolution of a bank should be done in a manner that considers the cost of the resolution to the resolution authority or government. In some countries, most notably the United States⁸ and Canada, the resolution authority is required, in many circumstances, to adopt such a least cost resolution by pursuing the resolution method that costs the least to the deposit insurance fund regardless of other objectives.⁹ To determine the least cost resolution, the intervening authority must look at the cost of liquidation and compare it to other alternatives available to it under its legal structure, such as purchase and assumption. If there is a purchase and assumption option under the applicable law, the cost of resolution by closing must be compared to the amount in bids received (if any) on the failing bank. The bids may be whole bank bids, all deposit bids, or insured deposit only bids, or some hybrid that includes some assets in addition to the deposit liabilities.

To complete a least cost comparison, the cost to liquidate must be compared to the cost of each type of bid received, with the additional costs of completing an insured deposit only transfer factored in to the equation. The least costly resolution is valued on a present value basis using a realistic discount rate. If it is necessary to make a determination of least cost, this would have to be done before the appointment of a Receiver (see **Least Cost or Lesser Cost Model and Explanatory Guide, Form 6**).¹⁰

⁵ This Toolkit is primarily designed for the resolution of private banks. Nevertheless, some of the resolution methods and processes could be used in resolving state-owned banks.

⁶ For a summary of the varied legal issues associated with bank insolvency generally see IMF and World Bank (2009) and IMF (2010).

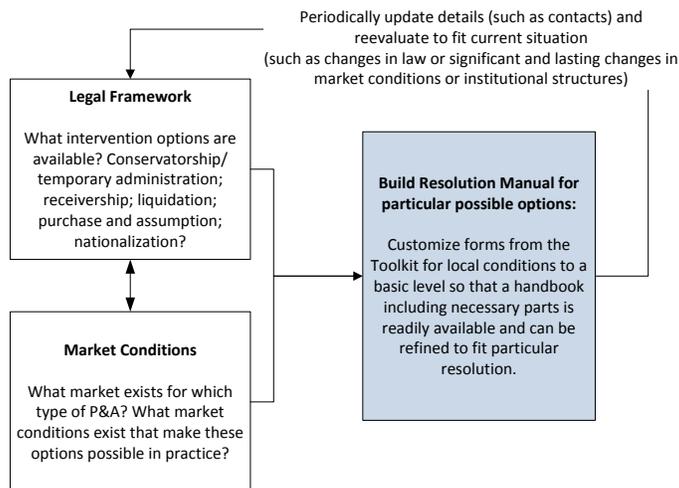
⁷ For example, in some countries a depositor's consent is required before an account can be transferred to an acquiring bank, which could delay or otherwise interfere with the execution of a purchase and assumption strategy in resolving a troubled financial institution. Kazakhstan recently addressed this issue by amending its banking law to provide for published notice to depositors of proposed bank reorganization. Depositors then have a set number of days within which to file written objections to the transfer of their deposits after which consent is deemed granted. Article 61-2 of the Law on Banks and Banking Activity in the Republic of Kazakhstan; see White & Case (2009).

⁸ In the United States, a resolution using a deposit insurance payout is not subject to the least cost test because it does not involve the use of financial assistance; it is simply an insured deposit only payment to depositors. See 12 U.S.C. §1823(c).

⁹ See Brierly (2009, p. 6).

¹⁰ The establishment of a Receivership will allow for the disposition of assets of a failed financial institution in an orderly manner and the equitable distribution of available funds to allowed creditors of the Receivership according to a prescribed priority of payment.

Figure 1. Evaluating Resolution Readiness: Taking into Account the Legal Framework and Market Conditions



Source: Authors.

Legal Bases for Bank Intervention. The legal bases for intervening in a troubled bank should be well understood by all decision makers. In several countries, including the United States, there is a Prompt Corrective Action regime that requires the government to take action against a bank when capital falls below a certain level (see **Prompt Corrective Action Directive, Form 1**).¹¹ Such actions are increasingly intrusive as the bank’s capital falls below the established triggers, ultimately requiring that a bank be closed (placed in receivership). Other common bases for intervention include when a bank is no longer able to meet its obligations as they become due (liquidity), when its liabilities exceed its assets (insolvency), when there has been a fraud or defalcation, or when the bank for whatever reason is in an unsafe or unsound condition to conduct business (for example, the Board of Directors has resigned and no alternate Board members have been appointed).

Resolution Techniques. A variety of techniques can be utilized for dealing with problem banks, including several supervisory actions short of closure. If a bank closure is required, there are a number of resolution strategies that can be adopted, depending on the legal framework in place for bank resolution. The market conditions in a country must be appropriate for the use of the chosen resolution method. For example, there may not be a deep enough private market for the use of a traditional purchase and assumption transaction that does not require the use of public resources. With these constraints in mind, some examples of various resolution techniques follow.¹²

Liquidation

When a bank is no longer viable and a P&A cannot be arranged or is not permitted under the applicable legal framework, the bank may have to be liquidated either under the general insolvency framework in place in the country or under a SRR for banks. Depending on individual country circumstances,

¹¹ Section 38 of the Federal Deposit Insurance Act, 12 U.S.C. §1831(o), requires regulators to classify depository institutions into one of five capital categories based on their level of capital —well-capitalized, adequately capitalized, undercapitalized, significantly undercapitalized, and critically undercapitalized—and take increasingly severe actions as an institution’s capital deteriorates. Regulators are generally required to close critically undercapitalized institutions within a 90-day period.

¹² This discussion is based in part on various manuals prepared by the U.S. Federal Deposit Insurance Corporation (FDIC) for the resolution of troubled banks, including the *Bridge Bank Manual* and the *Resolutions Policy Manual*.

depositors will need to be paid off to the extent that their deposits are insured, and general creditors may have to file claims to share in the recovery of assets from the failed bank estate. The priority of claims is usually established by the bankruptcy, banking, or SRR law. As part of liquidation, the supervisory authority may be able to transfer insured deposits to another bank that can act as a paying agent. **Disadvantage:** The resolution authority must dispose of all the failed bank's assets, which can be a time-consuming, labor-intensive process. The failed bank estate must also be monitored for the benefit of creditors.

Resolving a Troubled Bank through a Purchase and Assumption

P&A Agreements Generally. One of the most efficient methods for resolving a troubled bank can be a P&A, which involves a healthy financial institution "purchasing" some or all of a failed institution's assets and "assuming" some or all of the institution's liabilities, usually insured deposits (where there is explicit deposit insurance) and potentially all deposits and even other liabilities. This is an efficient transaction for regulators because it provides for a closure of a bank without the need for an administrative process to pay out depositors; the deposits are transferred to a healthy institution and depositors have access to their accounts with either no or only a short delay. A P&A most often needs to be undertaken after a transaction that allows the resolution authority to take over the rights of the bank owners, or to write down the bank owner's shares to zero or a de minimis amount. There must also be the presence in the country of a healthy bank or the ability and financial wherewithal for investors to form a new bank that will allow for the use of this technique.

There are many types of P&A transactions:

1. **The Basic P&A.** In this transaction, the assuming institution or acquirer generally takes on only limited assets, usually cash and cash equivalents. Bank premises, including furniture and fixtures, can be offered on an optional basis, with a purchase price to be agreed upon by the acquirer and the resolution authority. The liabilities are then matched to the assets taken and consist of either all or some of the deposits. To the extent that the resolution authority wants the acquirer to take on more liabilities than there are assets to be acquired, there will have to be some "truing up" by having the resolution authority make a cash payment to the acquirer or providing a note that will equalize the asset and liability sides of the balance sheet.
2. **Whole Bank P&A.** The acquirer purchases the entire portfolio of the failed bank on an "as-is" basis with no guarantees. **Advantage:** This type of sale minimizes the outlay of cash and reduces the assets held for future liquidation.
3. **Loan Purchase P&A/Modified P&A.** In these transactions, the acquiring institution will also acquire the performing loan portfolio of the failed bank in addition to the cash and cash equivalents, or the performing loan portfolio and the mortgage loan portfolio. **Advantage:** Installment loans and mortgage loans usually provide the acquirer with a base of performing loans that are connected to the same bank customers as those with deposit accounts.
4. **P&A with "Put" Option.** To create a greater incentive for acquirers to bid on a failed bank's assets, the resolution authority can provide a "put" option on some of the transferred assets. This would allow the acquirer to have a certain period of time, such as 60 or 90 days, to put back to the

resolution authority assets it determines it does not want to keep.¹³ **Disadvantages:** By giving the acquirer up to 90 days to look over assets while it decides what assets to assume, the assets that are not chosen can deteriorate from lack of attention, thereby making them harder for the resolution authority to market or collect on later. By allowing the acquirer to take only some of the assets offered, it essentially allows for the best assets to be picked off, thereby leaving the remaining asset pool largely consisting of the least attractive assets (see **Purchase and Assumption Agreement with “Put” Option, Form 12**).

5. **P&A with Asset Pools.** A P&A can also be offered with asset pools, with the loans from the failed bank’s portfolio divided into separate pools of like loans, such as loans within the same geographic location or with the same payment terms. The pools can also be divided into performing and nonperforming loans. The pools can be marketed separately from the deposit base of the failed institution. Bidders are thus able to bid on the parts of a failed bank’s business that fit best with their own business model. **Advantage:** This arrangement allows for marketing to a greater number of potential acquirers, which can lead to a greater number of assets being transferred from the failed bank. **Disadvantage:** Assets may have to be heavily discounted to sell (even more than might otherwise be required to sell performing assets from a failed institution) if nonperforming assets are included in the asset pools.
6. **Loss Share P&As.** In this type of P&A, the acquirer and the resolution authority enter into an agreement to share any future losses on a defined set of assets. By limiting the risk for the acquirer, the resolution authority may be able to attract more bidders for the purchase of the failed bank’s assets. The acquirer is usually reimbursed for a percentage of the expenses associated with managing the assets. The acquirer also assumes a percentage of the losses, which is designed to incentivize the acquirer to engage in good credit management. **Advantage:** Limiting the risk to the acquirer to a fixed amount may attract more bidders for assets. **Disadvantage:** The acquirer must work with the resolution authority throughout the term of the loss share agreement and take on administrative duties, which may not be attractive to potential acquirers

Variations on Purchase and Assumption Transactions through Bank Combinations

Mergers and Acquisitions. A supervisory authority can be involved in two types of mergers and acquisitions: unassisted and assisted. There are similarities between this approach to resolution and that of a P&A. The difference is that there is no failure of a bank, but rather a change in the troubled bank’s organization and/or ownership. Often this approach is taken at a time when a bank is troubled but not yet insolvent or beyond repair.

1. **Unassisted Mergers.** The bank supervisory authority encourages mergers between a troubled institution and a healthier institution without providing any financial assistance. There may be nonfinancial incentives that can be provided to assist in creating favorable conditions for a merger, such as a period of forbearance or the allowance of certain preferential accounting treatments for acquired assets. **Advantage:** There is no cost to the resolution authority, and the troubled bank customers continue to receive banking services with no interruption. **Disadvantage:** It is important that the healthy institution not be overly burdened with problems from the

¹³ Another alternative is to transfer the cash and cash equivalent assets and deposit liabilities and provide the acquirer with a 60- or 90-day period to choose other assets it wants to accept from the pool of assets of the failed bank.

troubled institution so that its health is not adversely affected by the merger. This can be a difficult determination for the supervisory authority to make.

- 2. Assisted Mergers.** When an unassisted merger cannot be arranged, the government may be able to market the institution to an acquirer with an offer of direct financial assistance. The financial assistance can take the form of a purchase of preferred stock by the resolution authority or government to provide the acquirer with the capital required to allow it to absorb any losses in the portfolio of acquired assets. The provision of direct financial assistance needs to be carefully structured so as not to benefit stockholders of the acquired institution (see discussion under Open Bank Assistance). If there is a need to limit the immediate outlay of cash, the government can consider structuring an Assistance Agreement, which will provide for periodic payments to cover the costs of holding and disposing of the assets. One way to structure the assistance would be for the government to enter into an Income Maintenance Agreement, which works where an institution has assets that are paying a below-market rate of return. The government can guarantee a certain rate of return to a merger partner on such assets, thereby guaranteeing a market rate of return on such assets for a set period of time. This approach should be undertaken only after determining that the merged institution would meet all regulatory requirements and be able to properly manage the assumed assets. **Advantage:** The merger partner takes over the entire book of business of the bank, with no break in service for the customers of the failing bank. **Disadvantage:** The government must carefully monitor the operations of the bank and properly design the transaction to make sure the acquirer is managing the acquired operations effectively and that the incentives of the acquirer in dealing with the assets acquired are aligned with the government's interests in making an investment in the merged institution.

Bridge Bank/Conservatorship (Temporary Administration)

- 1. Bridge Bank.** In this transaction, the resolution authority acts as the acquirer by creating a new, temporary, full-service bank that is designed to bridge the "gap" between the failure of a bank and the time when the resolution authority can implement a satisfactory acquisition by a third party. This is a variation of a traditional P&A transaction. This resolution option can be used when the failure of a bank happens without significant advance notice, such as in the case of the discovery of a fraud or the onset of a liquidity crisis. The Bridge Bank is usually operational for a limited period of time (perhaps one or two years). Because it is designed to operate as an open deposit-taking institution, it is normally subject to all prudential requirements (although its capital can consist partly of a government note). The country's legal framework must be able to accommodate the necessary steps for a Bridge Bank, such as the elimination of shareholder interests in the failed bank and the ability to charter a new organization that is run by government appointed individuals, some of whom may be employees of the resolution authority. A Bridge Bank is designed to operate in a conservative manner, with the goal of preserving the franchise value of the failed bank and preparing the bank (or parts of the bank) for ultimate sale to a private acquirer. Preparing the bank for sale may require restructuring loans and managing other bank assets in such a way as to increase their value, thereby making the franchise more attractive to a purchaser. **Advantage:** This arrangement allows the supervisory authority to move quickly when required to maintain the value of a bank that has serious but not fatal problems in its operations. This type of transaction is not designed to save a bank that has no real franchise value; the better option for such a bank would be liquidation. In some jurisdictions the Bridge Bank option is reserved for systemically important banks. **Disadvantage:** Operating a Bridge Bank is a very labor-intensive process and may require ongoing liquidity support from the government. If the

calculation of the franchise value of the troubled bank is incorrect and a subsequent sale is not made or cannot be made at an acceptable price, the cost of operating the Bridge Bank may exceed the cost of liquidation (see **Bridge Bank Agreement, Form 10**).

- 2. Conservatorship (Temporary Administration).** In this transaction, the supervisory authority appoints a Conservator to operate a bank without making significant changes in the ownership structure of the institution. The Conservator will usually replace senior management of the bank and take on responsibility for day-to-day business in order to stabilize the bank's operation. The legal framework commonly requires the Conservator to prepare a report on the bank's operation within a certain period of time after appointment, making recommendations on changes that can improve the bank's operations and restore it to normal operation. The Conservator can also recommend liquidation of the bank if, after a thorough review, it is determined that the bank is not viable. The difference between this option and the Bridge Bank is related to the ultimate goal of the operation. The Bridge Bank is designed to provide an immediate change in ownership in an operating bank by replacing it with a newly chartered bank, with an eye toward its ultimate sale. The Conservator is placed at a bank to improve its operations and, if possible, return it to the original owners as an operating bank. The other distinction between the two relates to the role of the bank's owners. In the Bridge Bank option, the former owners' interests are eliminated before the creation of the new institution. **Disadvantage:** The original owners remain in place and can create significant problems for the Conservator if the legal framework does not limit their rights during the period of the Conservatorship.

Maintaining the Operations of a Troubled Bank without Intervening through a Resolution

Open Bank Assistance (OBA). Under certain very limited circumstances, it may be useful to provide financial assistance to an operating bank determined to be in danger of failing. The government authority can make loans to, purchase the assets of, or place deposits in a troubled institution. However, it should be established that this assistance is the least costly of all possible methods of resolving an institution, and government funds should not be used to benefit any shareholder of the institution or its management.¹⁴ Shareholders must agree to restrictions that allow the government to receive repayment of any assistance on a priority basis. For example, controls can be imposed on the bank such as restriction of dividends, restrictions on repurchasing shares except for those owned by the government, and restrictions on acquisitions. Culpable managers should be forced to leave the bank, and limits on executive compensation and bonuses should be adopted. Depending on the legal framework in place, the government may be able to obtain preferred shares in exchange for its investment or warrants to purchase shares at a set price in the future; this would allow the government to share in any "upside" if the bank's value increases over time. There are a number of ways to provide Open Bank Assistance, all of which depend on the legal framework in place:

- 1. Capital or Other Debt Instruments.** In this type of OBA, the government "purchases" an instrument representing some form of capital from banks in need of additional capital in exchange for promissory notes with set terms (interest rates, amounts, and maturity). The instruments are a temporary form of capital considered as such for regulatory purposes, and are replaced as the institution becomes more profitable. Institutions are required to pay down a certain percentage

¹⁴ An exception to the least costly requirement may be appropriate where the troubled bank is systemic and its failure would create the possibility of failure of other banks and spill over into a chain of institutions or markets that comprise a system. See Kaufman (1996, p. 5). In some jurisdictions, Open Bank Assistance may be provided only to systemic banks.

each year and have restrictions on their operations until they exit the program (for example, no payment of dividends, no opening of branches, no acquisitions). Full repayment is usually required within a set period of time (for example, within five years). Of course, the institution can consider other opportunities for increasing capital during the period of involvement in the program to exit the program early, such as increased capital contributions from shareholders or a merger with another institution.

2. **Capital Forbearance.**¹⁵ In some circumstances, a well-managed bank may be experiencing local economic conditions that are temporarily affecting its loan portfolio, particularly where the bank has heavy loan concentrations in affected sectors, such as real estate. If the bank's weakened capital position can be traced to an external problem such as the weakness in the economic sector, as opposed to mismanagement or the payment of excessive dividends, then the supervisory authority may be able to temporarily exempt the bank from certain capital requirements. The process should be tightly controlled and limited to those institutions that are considered viable and that are in compliance with all other prudential regulations.

When a Bank Must be Closed: Tools for Effecting a Closing

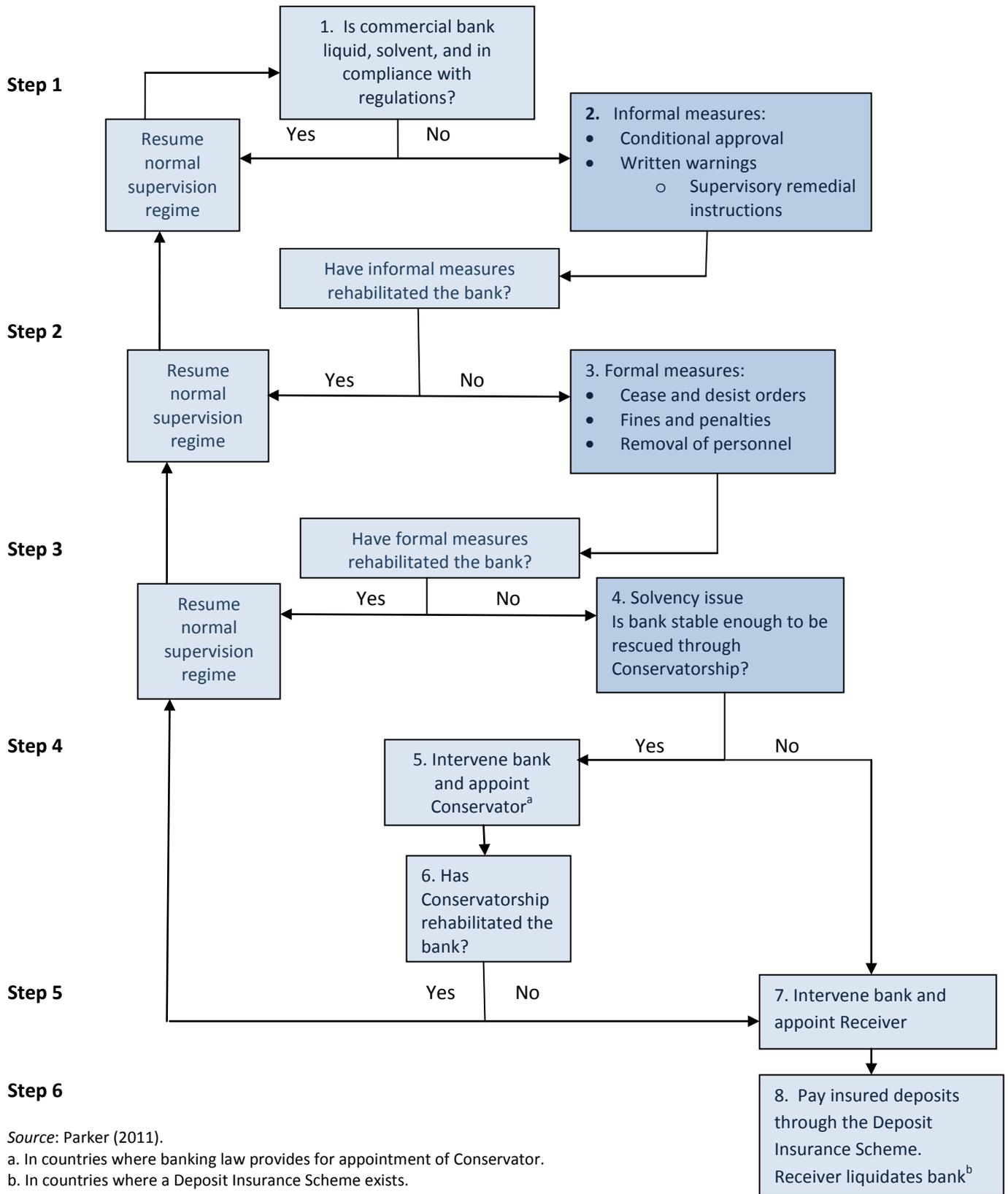
The schematic set forth in figure 2 presents a generic decision-making process for resolving a troubled bank.¹⁶ The process will differ depending on the legal framework in place and the supervisory practices followed in a particular country. In some countries, it is necessary for a Conservator or Temporary Administrator to be appointed before the imposition of a Receivership or liquidation. In other countries, the authorities can choose the type of intervention based on the situation at hand. Generally speaking, a Conservator or Temporary Administrator is appointed for a viable bank that is troubled when there is a possibility that the bank may be able to be rehabilitated or the authorities want to replace management to see if there is a chance that liquidation can be avoided. Where a bank is clearly no longer viable, a Receiver or Liquidator should be appointed and the business of the bank should be wound down in an orderly fashion. Liquidation requires the establishment of a process for handling claims of creditors, based on a priority for payments that is established by the bankruptcy, banking, or a SRR.

A plan should be in place that includes all necessary steps that would have to be taken if a bank needs to be closed. It is always better if there is timely and appropriate access to a failing institution's information before the institution's closing. Information on the condition of the failing bank, including its deposits and other liabilities, assets, nonperforming loans, owned real estate, and other relevant facts, including organizational charts, should be gathered (see **Request for Information on Failing Bank, Form 2**). To the extent that there are foreign-owned local subsidiaries, consideration needs to be given to the unique issues their presence creates, such as ring fencing, the ability of the parent bank to inject capital, the effect of conditions in the home country, and whether those conditions are contributing to or mitigating the distress at the subsidiary and whether the business at the subsidiary can be transferred. There may be a need for outside services of various types, including accountants, lawyers, asset marketing professionals, and restructuring experts. Form contracts should be prepared for retention of such experts (see **Agreement for Services, Form 3**).

¹⁵ Although discussed here as part of Open Bank Assistance, capital forbearance is a tool that can be used generally in supervision and is not necessarily limited to the situation where a bank is facing the possibility of closure.

¹⁶ See Parker (2011, p. 8).

Figure 2. Decision Tree for Problem Bank Resolution



Be Prepared Before the Bank Closes

A communications strategy must be in place before a bank fails, with references to the bank by code name before the actual closing takes place. Someone should be an on-site information manager at the closing to respond to general inquiries and facilitate the resolution of problems and complaints from the general public or other affected parties. It should always be clear when developing a strategy who is in control of communications, with the message scripted as much as possible. No matter how many subordinate spokespersons are assigned, the message they deliver should be consistent with that of the leading spokesperson. Press releases should be prepared (see **Press Release Form 19**) and plans for dedicated telephone lines should be made along with the creation, where feasible, of a Web site where people can go for information about the bank. Scripts for addressing the employees of the bank (see **Script for Initial Meeting with Employees at a Closed Bank, Form 21**) and for answering telephone calls from bank customers should be ready. The necessary forms for appointment of a Receiver should be prepared and all necessary legal forms should be ready for whatever structure will be put in place for the resolution (see **Bridge Bank Agreement, Paying Agent Agreement, and Purchase and Assumption Agreement, Forms 10, 11, and 12**). If creditors will not be paid in full, a claims process should be established, and the forms for filing a claim should be available at the time of intervention (see **Proof of Claim Form, Form 23**). It is important to be sure that notice of the bank closing is promptly sent to any other financial institution that might be lending overnight funds to the bank or other counterparty that may need to take action based on the bank's failure. Wire transfer operations must be secured immediately upon failure so that no unauthorized funds are wired from the bank after it closes.

Managing the Closing

A Resolution Team should be in place to manage the work that results from the closing. If there is a Temporary Administration or Conservatorship established, the Resolution Team will have to support the management team operating the bank in adopting and executing a business plan, which may include shrinking the bank's balance sheet and taking other actions to prepare the bank for sale. The management team may be an outside firm (see **Agreement for Management Contract, Form 9**) or be formed by employees from the supervisory or resolution authorities. In other types of resolutions, the Team may be responsible for the marketing and sale of assets, the termination of leases, the completion of a claims process, and the payment of dividends to creditors. Depending on the nature of the resolution, the Team may also be responsible for making payments to depositors. Inevitably in such a situation, some depositors will not be found. Thus a system for holding unclaimed deposits should be in place, with adequate notice made available through press releases or the closed bank Web site, if one has been established, as to what someone can do to establish a claim to a deposit held at the bank.

Make Use of a Resolutions Manual

Legal agreements for all types of authorized actions, such as Purchase and Assumptions, Receiverships, Conservatorships, and Bridge Banks, should be drafted, along with tools for the actual closing of a bank, such as appointment papers, press releases, and anticipated Frequently Asked Questions with proposed answers (FAQs) (see **FAQs, Form 20**). Authorities should also have a Resolutions Manual as part of their Toolkit that will guide the person in charge of the resolved institution in performing the job of managing the assets, establishing a claims process, and finalizing the termination of a Receivership. The Resolutions Manual should outline all the steps needed for a bank closing or the appointment of a Receiver. These steps should correspond to the process for bank closing established by an individual country's legal framework. Some of these steps may also be needed for the appointment of a Temporary Administrator or Conservator. The outline here is designed to be generic and covers the steps that would most likely have to be undertaken to effectively close an operating bank.

Before the Bank Closes

1. Retrieve information about the failed institution (see **Request for Information on Failing Bank, Form 2**), including a copy of the bank's latest organization chart and an employee listing with locations and telephone numbers.
2. Prepare a list of key contacts, including contact information.
3. Complete asset valuation by dividing assets by category (for example, commercial real estate, individual mortgages, installment loans) and further dividing the loans into performing and nonperforming, setting values for each category) (see **Post Closing Strategic Resolution Plan, Form 22**).
4. Determine the appropriate structure for the resolution based on the information gathered. This might require making use of the **Least Cost or Lesser Cost Model (Form 6)**. Valuable assets or branches may make either a whole bank transaction possible or be attractive to other financial institutions in parts (see **Sample Print Advertisement for Seeking Bids on Failed/Failing Bank, Form 13**). The transaction can be structured with options for put backs or future loss-sharing (see example of **Purchase and Assumption Agreement with "Put" Option, Form 12**). If there is no franchise value, it may be necessary to plan for a straight liquidation.
5. If a bidding process is envisioned, prepare an information package and determine how the information will be provided to potential bidders. All potential bidders should sign a confidentiality agreement (see **Bidder Confidentiality Agreement, Form 14**). There should be some process in place to prequalify bidders based on the nature of the transaction envisioned. For example, for a whole bank bid, the bidders should be fit and proper to operate a bank; all bidders should have the financial capacity to complete a transaction. The package should include information on the failed institution's assets, including the interest rates and terms of the loans, as well as the number of performing and nonperforming loans in the portfolio (see **Estimated Loss in Assets form, Form 4**). The material could be made available in a virtual "data room" or in hard copy.

As the Bank Closes

6. A team should be assembled with assigned roles for at least the following functions:
 - a. Closing Manager (this person can remain as Receiver in Charge or be assigned only for the closing)
 - b. Accounting. Responsible parties must produce a balance sheet that reflects a reasonably accurate financial statement of the bank through the date of closing (see **Inputs for Simple Pro Forma for Closed Bank, Form 17**). This report serves as the opening entries if there is an assuming institution and for the Receiver. Determine the cut-off time for the day's processing of the bank's work.
 - c. Cash, teller, and vault operations (see **Cash Count Sheets, Form 15, and Schedule of Cash and Due From's, Form 16**). Determine if there are any unusual circumstances associated with the bank's operation, such as remote branches operating in different time zones or using manual systems.

- d. Branch operations (someone will need to go to each branch as a Closing Manager for that branch) (see **Door Notice of Appointment of Receiver, Form 18, and Letter to Institution Informing It of Appointment of Receiver, Form 8**).
 - e. Deposit operations (depending on the nature of transactions, this may require paying agents to handle deposit payout or individuals to answer questions about how depositors can obtain their funds from an acquiring institution).
 - f. Facilities and security to safeguard the assets of the bank (locks will need to be changed and security guards may need to be hired) (see **Agreement for Services, Form 3**).
 - g. Information technology (obtain manuals, software agreements, samples of standard reports, and any file layouts).
 - h. Legal (including setting up a claims process).
 - i. Personnel (which employees need to be terminated immediately, and which ones will be asked to stay on for the short and longer term, along with other personnel issues, such as severance and vacation pay).
 - j. Communications (including setting up and updating external and internal Web sites).
 - k. Other asset management.
7. Plan for the logistics of the closing. What are the locations of the different offices of the bank to be closed? Will there be a need for communications in multiple languages? Are the offices small, so that depositors should be directed to a larger site to complete paperwork or to get answers to questions, to avoid lines outside of bank offices? How many people will be needed for each function?

Managing the Receivership

- 8. Appoint a Receiver in Charge to manage the day-to-day operations of the Receivership. Prepare a strategic plan for managing the Receivership.
- 9. Establish a decision-making process (individual or committee), including delegations of authority for what level of decision maker is needed for different levels of expense (to take actions such as the signing of contracts for services, compromise claims of the Receiver, sell assets, or spend money to maintain assets such as repairing damaged property) (see **Sample Case Memorandum, Form 24**).
- 10. Manage the claims process and determine when and in what amount dividends can be paid to claimants in accordance with the priority system in place for claims. Determine the existence of any offsets and the effect on claims against the Receivership (see **Proof of Claim Form, Form 23**).
- 11. Authorities should prepare after-action reports promptly after each resolution to capture what worked well and what issues were dealt with at the closing itself to assist with future closings (see **Suggested Outline for After Action Report, Form 26**).

Plan for the Sale of Assets

If the intervention requires the resolution authority to take assets to manage and/or sell, a plan for how that will be accomplished should be in place. Asset management can be handled by public or private entities, but must be based on the correct incentives so that borrowers will repay their debts and assets will be sold for the highest obtainable prices. Successful asset recovery will reduce the cost of dealing with a banking crisis.

There are different methods that can be adopted for asset management.¹⁷ Banks can manage them directly or impaired assets can be transferred to Asset Management Companies (AMCs), either public or private. As a general matter, a bank should be in a better position to manage problem assets than a centralized AMC because of the bank's knowledge of the borrower and the ownership of loan files and collateral. However, successful workout of loans requires specialized skills and resources that may not be present at an individual bank, so in some circumstances AMCs may be better at disposing of troubled assets. Empirical studies indicate that AMCs are most successful when they have narrow mandates.¹⁸ It may be necessary for the resolution authority to enter into loss-sharing agreements or partnerships with private entities to take on the sale of failed bank assets if there is no ready market to absorb troubled or nonperforming assets.¹⁹

One of the most important issues affecting the success or failure of dealing with troubled assets is the pricing regime for the assets.²⁰ Where there is a deep private market, it may be possible to set up a bidding process for the assets by establishing a virtual or actual data room to allow due diligence by potential buyers before bidding on individual assets or asset pools begins.²¹

In the United States, the Federal Deposit Insurance Corporation (FDIC) has a timeline of between one and two months for the resolution of most of the banks it closes, with interested acquirers registering with the FDIC for approval to bid (bidders must have adequate capital, meet all prudential ratios, and have appropriate examination rating). Once the FDIC gets notice that a bank is likely to fail, it assembles information on the bank and the possible structure of a transaction. FDIC then e-mails potential bidders, asking for signed confidentiality agreements before granting access to a virtual data room to an information package on the target bank. This access can last for a few days and usually takes place several weeks before the scheduled closing. Bids are due the week of the scheduled closing, with the winning bidder signing documents before the scheduled closing, which is usually a Friday. The documents follow standard formats (for example, a straight P&A with no loss sharing, or a P&A with loss sharing), so that there is generally no negotiation over key terms.²² In addition, the assets are usually offered without representations and warranties as to condition, marketability, or title.

¹⁷ For a discussion of various asset management methods, see IMF (2006, p. 15) and Parker (2011, chapter 7).

¹⁸ Klingebiel (2000); Rose (2005).

¹⁹ Another possibility for the handling of troubled assets is to set up a so-called good bank–bad bank model, with the troubled assets being held in a separate vehicle from the good assets of a bank. This model can be utilized without closing a bank deemed otherwise viable through the provision of some form of government assistance or backstop for the bad bank assets. See Scott (2002, pp. 49–50).

²⁰ “While it is difficult to price nonperforming assets (especially in the midst of financial crises), an approximation of their value, based on estimated recovery, cash flow projection, and an appraisal of collateral, should be used for the purpose of the transfer” (Hoelscher 2006, pp. 16–17). Authorities’ expectations concerning recovery rates for troubled assets must be managed so as to avoid the setting of unrealistic goals for recoveries. Also see **Loan Valuation Worksheet, Form 5**.

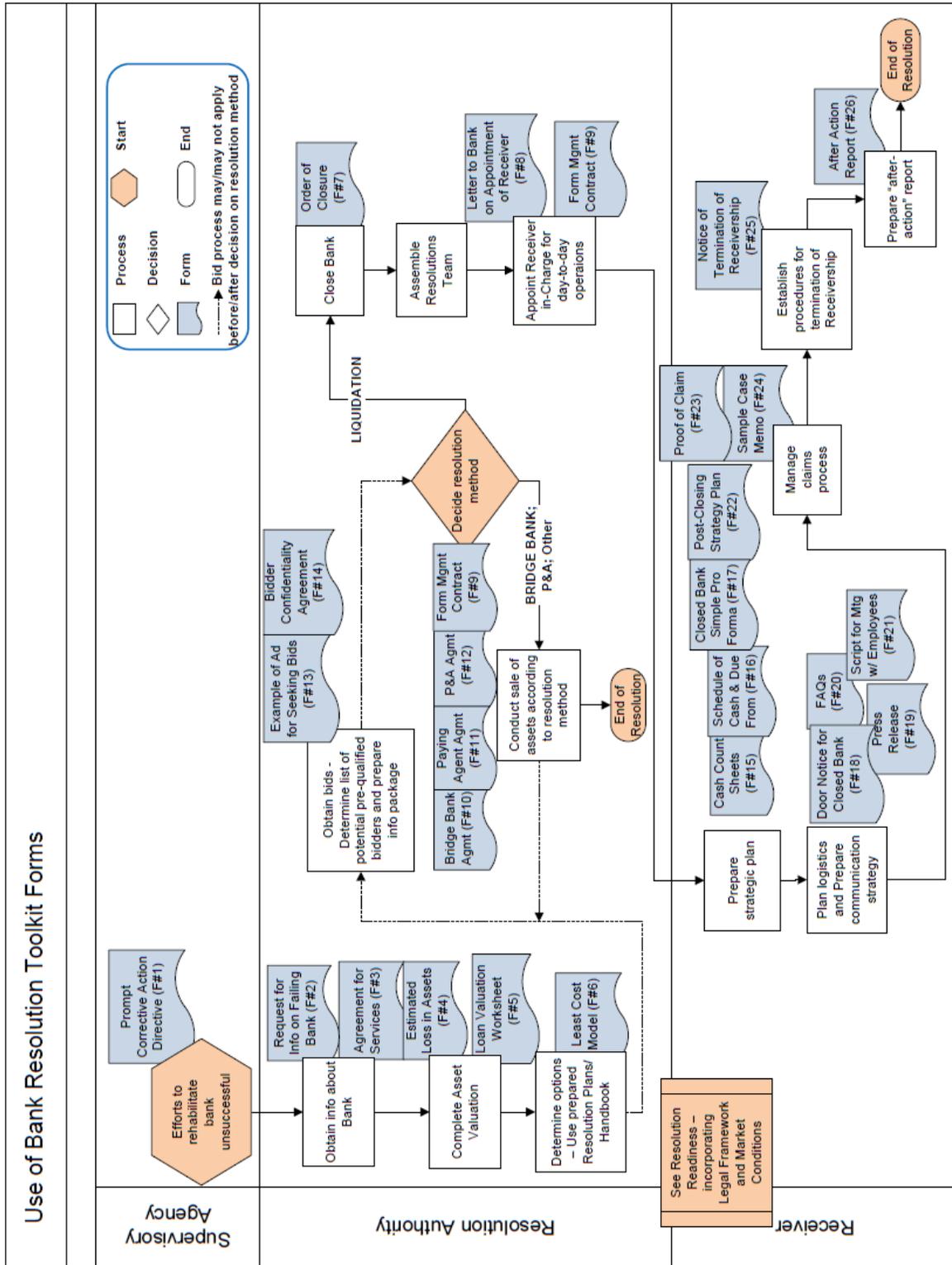
²¹ For a description of the data room process, see Lord and Mergelina (2004).

²² For a description of the overall acquisition process, see Austin Associates (2010).

Terminating the Receivership

The length of time that a Receivership exists varies depending on the type of transaction used to resolve the institution, the existing legal framework, and the number and complexity of assets and liabilities involved. Termination is a process by which the operations of a Receivership are concluded and the entity ceases to exist. This process requires providing notice of the termination (see **Notice of Termination, Form 25**), converting any remaining assets to cash (usually through government purchase), and declaring and paying a final dividend if funds are available (any final dividend should be declared only after consideration of necessary reserves for any remaining liabilities). If there are any guarantees that have been given to purchasers of liabilities from the Receivership, these would have to be considered in the setting of reserves.

Use of Bank Resolution Toolkit Forms



Forms and Model in the Resolution Toolkit

The toolkit contains 25 forms and 1 model. A suggested order to use the forms and model is displayed in figure 3.

| Form/Model number | Form name | Note |
|-------------------|--|--|
| 1. | Sample Prompt Corrective Action Directive | Used in countries where there is a Prompt Corrective Action regime to direct a bank that has fallen below the trigger capital level to raise capital and take other necessary actions. |
| 2. | Request for Information on Failing Bank | Used to gather information on the bank before failure to assist the resolution authority in determining the nature of the closing transaction. |
| 3. | Agreement for Services | Used where there is a need for outside services of various types, including accountants, lawyers, asset marketing professionals, and restructuring experts. |
| 4. | Estimated Loss in Assets | Completed to assist in valuing the bank. |
| 5. | Loan Valuation Worksheet | Used to set up a valuation process for bank assets to be sold by the liquidator; can also make use of the asset valuation function in the Least Cost Test Model. |
| 6. | Least Cost or Lesser Cost Model and Explanatory Guide | This model can be used to examine various resolution options to compare costs. |
| 7. | Order of Closure | Used for the administrative or judicial finding that the bank needs to be closed. |
| 8. | Letter to Institution Informing It of Appointment of Receiver | Can be sent as formal notification to bank of its closure. |
| 9. | Agreement for Management Contract | Used when hiring a management team to operate a bank that is being restructured for resale, such as a Bridge Bank or in some countries a bank in Temporary Administration of Conservatorship |
| 10. | Bridge Bank Agreement to establish new bank and transfer assets from old bank | Various sample forms for resolution transactions (all must be reviewed by lawyers familiar with local law) |
| 11. | Paying Agent Agreement to provide for the transfer of insured deposits to another | |

| | | |
|------------|---|---|
| | bank for payout | |
| 12. | Purchase and Assumption Agreement with “Put” Option | |
| 13. | Sample Print Advertisement for Seeking Bids on Failing/Failed Bank | Can be used either before or after the closing of a bank to advertise opportunities to purchase assets from a failing or failed bank. |
| 14. | Bidder Confidentiality Agreement | To be signed by potential bidders to be granted access to a virtual data room or information package on the bank. |
| 15. | Cash Count Sheets | Can be used at closing to record cash at each branch of the closed bank. |
| 16. | Schedule of Cash and Due From’s | |
| 17. | Inputs for Simple Pro Forma for a Closed Bank | To establish the opening accounting statement for a Receivership. |
| 18. | Door Notice of Appointment of Receiver | Can be posted on each bank branch to notify customers that the bank has been closed. |
| 19. | Press Release | Used to inform the public about the closing and how to get additional information. It can be used in conjunction with the establishment of a Web site with information on the bank closing. |
| 20. | Frequently Asked Questions (FAQs) | Used as part of the communications strategy for the Receivership and can be updated as new information becomes available. |
| 21. | Script for Initial Meeting with Employees Immediately after a Bank Has Been Closed | Can be used to insure that the message given to the employees is the same at all the branches of a bank that is closed. |
| 22. | Post Closing Strategic Resolution Plan | Can be used by a Temporary Administrator or a Receiver to plan for the management and disposition of assets. |
| 23. | Proof of Claim Form | Used by creditors of the failed bank to file claims on the assets of the Receivership estate to be considered for allowance or disallowance. |
| 24. | Sample Case Memorandum | Used to record sale or expenditures during Receivership. |
| 25. | Notice to All Parties of the Termination of the | Used to give the public notice that the Receivership will be terminated and to provide information on |

| | | |
|------------|---|---|
| | Receivership | how to contact the Receiver with any questions |
| 26. | Suggested Outline for an After Action Report | Used to prepare a report on what went well and what could have been improved in managing the entire process of closing a bank to inform future similar decisions. |

FORM 1

SAMPLE PROMPT CORRECTIVE ACTION DIRECTIVE

(Must be reviewed by lawyers familiar with local law)

WHEREAS the [name of bank] is an undercapitalized bank, as that term is defined in [statutory reference], based upon the [report of examination] [special examination][report of condition] as of [date], based on its reported [risk-based] capital of [level]; and

WHEREAS the [name of supervisory authority] is required under the provisions of the [banking] law to issue a Prompt Corrective Action Directive when a bank's [risk-based] capital falls below [whatever threshold is established in the law];

THEREFORE the [name of supervisory authority] hereby issues this directive pursuant to the [provisions of the banking or other law containing the Prompt Corrective Action requirement].

SUPERVISORY PROMPT CORRECTIVE ACTION DIRECTIVE

1. The Bank shall comply in all respects with the Prompt Corrective Action provisions provided in [name and section of law containing PCA provisions] by:
 - a. Submitting a capital restoration plan within 30 days of the date of this Directive;
 - b. [Any other provisions relating to limitations on total assets that might be provided in the law];
 - c. Refraining from acquiring directly or indirectly any interest in a company or institution or opening any offices or branches until and after acceptance of the capital restoration plan and approval of the supervisory authority.
2. Within 30 days of the date of this Directive, the Bank shall increase its capital to a level sufficient to restore the Bank to [appropriate capital level as described in legislation].
 - a. Any increase in capital can be accomplished through [list methods that would be acceptable for raising capital, such as the sale of common or preferred stock, contributions from shareholders , or any other acceptable means].
 - b. Any increase in capital may not be accomplished by deductions for the loan loss reserve account of the Bank.
3. In the event that the Bank does not increase its [Tier 1] [risk-based] capital as required by this Directive, the Bank shall take immediate steps to be acquired by another financial institution with the approval of [the supervisory authority] or be merged with another financial institution with the approval of [the supervisory authority].
4. This Directive is effective as of [date].

5. The provisions of the Directive are binding on the Bank, its directors, officers, employees, agents, and successors in interest, and shall remain effective for a period of one year from the date the Bank is deemed [adequately capitalized][fully capitalized] in accordance with [statutory provisions].

Signatures and date

FORM 2

REQUEST FOR INFORMATION ON FAILING BANK

AS OF DATE: _____

Loan Information

1. List of loans guaranteed by government agencies, containing the following:
 - a. Loan number
 - b. Customer name
 - c. Percentage of guaranty
 - d. Agencies (guarantors...)
 - e. Sample of each agency agreement
2. List of performing loans and loans in nonaccrual status, containing the following:
 - a. Loan number
 - b. Customer name
3. List of loans to facilitate troubled debt restructuring and reverse mortgages, if any
4. Listing of CD- and savings-secured loans with deposit account numbers, names of account holders, and balances
5. List of classified assets
6. Copies of signed agreements of participations sold and purchased, and trials for participations sold and purchased, if available. If trials are not available, a list of the following information will suffice:
 - a. Loan number/account number
 - b. Name of borrower
 - c. Name of lead bank/participant
 - d. Original loan amount
 - e. Original amount purchased or sold
 - f. Current gross loan balance
 - g. Institution's current percentage of ownership
7. Sample loan commitment agreement, and a list of open loan commitments sorted by collateral: installment loans/home equity, real estate loans, commercial loans, construction loans, and overdraft protection. The list should provide the following information:
 - a. Commitment amount
 - b. Amount funded
 - c. Amount unfunded
 - d. Maturity
 - e. Name of borrower
8. Copies of letters of credit and amounts, including:
 - a. Reconciliation to the general ledger
 - b. Issue date
 - c. Letter of credit number

- d. Name
 - e. Expiration date
 - f. Collateral, if applicable
 - g. Beneficiary
9. Lease financing information:
- a. Current balance
 - b. Origination date and with whom originated
 - c. Purpose
 - d. Payment amount
 - e. Payment due (any delinquent payments?)
 - f. Interest rate
 - g. Narrative explanation
 - h. Name of borrower
 - i. Signed copy of the agreements (sample of typical agreement)
10. List of other real estate and in substance foreclosures, containing the following:
- a. Borrower name
 - b. Balance
 - c. Location of property
 - d. Kind of property
 - e. Disposition
 - f. Annual income, if applicable
 - g. Prior liens
 - h. Participations
 - i. Listing/marketing information (current appraised value)
11. List of loans pledged (if any) and copies of pledge agreements, containing the following:
- a. Loan/account number
 - b. Customer name
 - c. Original amount of loan
 - d. Current balance
 - e. Interest rate
 - f. Maturity date

Deposit Information

1. List of **due from** financial institutions (banks, S&L's, and credit unions), containing the following:
- a. Name and address (city and state) of institution
 - b. Name of contact, phone number, and fax number
 - c. Account number
 - d. Balance as of examination date
 - e. Type of account (demand or time balance)
 - f. Accrued interest on deposits
 - g. Clearing bank
 - h. Incoming/outgoing cash letters
 - i. Copy of latest reconciliation
2. List of **due to** financial institutions (banks, S&L's, and credit unions), containing the following:

- a. Name and address (city and state) of institution
 - b. Name of contact, phone number, and fax number
 - c. Account number
 - d. Balance as of examination date
 - e. Interest rate
 - f. Type of account (demand or time balance)
 - g. Maturity date
3. List of overnight funds purchased, containing the following:
 - a. Name and address of lender
 - b. Name of contact and phone number
 - c. Amount of borrowings
 - d. Book value
 - e. Date purchased/ borrowed
 - f. Maturity date
 - g. Rate
 - h. Collateral description
 4. Copy of depository contracts with public entities
 5. Schedule that shows current rates being paid on all types of deposit accounts
 6. List of brokered deposits, containing the following:
 - a. Certificate number
 - b. Customer name
 - c. Amount
 - d. Rate
 - e. Maturity date
 - f. Broker name and address
 - g. Contact name and telephone number
 7. List of public funds, containing the following:
 - a. Account number
 - b. Amount
 - c. Type (demand deposit account-DDA, savings, or time deposit)
 - d. Name of entity
 - e. Maturity date
 - f. Interest rate
 - g. Assets pledged
 8. Summary of deposits by branch, containing the following:
 - a. Branch name
 - b. Account type (demand, time, etc.)
 - c. Amount of each account type
 - d. Number of accounts
 - e. Accrued interest on deposits
 9. List of overnight funds sold and/or repurchase agreements, containing the following:
 - a. Name and location of purchaser

- b. Name of contact and phone number
- c. Amount sold
- d. Rate
- e. Maturity date
- f. Collateral description (include book value)
- g. Copy of last reconciliation of each correspondent account

Other Information

1. Daily statement of condition
2. General ledger (unconsolidated)
3. Reconciliations for general ledger accounts that correlate to trial balances
4. Income/expense statement:
 - a. As of last examination date
 - b. For prior full calendar year
5. Copies of call reports for the last three (3) year-ends and most recent quarter
6. Copy of securities (either printouts, if on computer, or typed or written, if generated manually)
 - a. Inventory
 - b. Yield
 - c. Book value
 - d. Par value
 - e. Coupon rate
 - f. Rating
 - g. Maturity report
 - h. Copies of stock certificates, if any stock is owned
 - i. Safekeeping receipts
 - j. Pledge report, including amount pledged and entity to which pledged
 - k. Confirmation statement
7. Overdraft report
8. List of loans serviced by the bank for other entities. If applicable, note investor's number, the name of the investor, the number of loans per investor, and the annual fee paid or earned.
9. List of loans serviced for the bank by another entity. If applicable, note investor's number, the name of the investor, the number of loans per investor, and the annual fee paid or earned.
10. Summary of credit card operations, which discusses:
 - a. Type of operation
 - b. Income and fees generated
 - c. The agent's name
 - d. The licensee status
 - e. Merchant card agreements

For each credit card program offered, please indicate:

- a. Date program began
- b. Interest rate charged
- c. Number of accounts
- d. Dollar amount outstanding
- e. Delinquency status
- f. Unfunded portion of total commitments

11. List of subsidiaries and key personnel:

- a. Capital structure
 - i. Shares authorized
 - ii. Shares outstanding
- b. Directors and officers
- c. Nature of business
- d. Date of incorporation
- e. Principal place of business

12. List of affiliates and key personnel:

- a. Ownership (who owns and what percentage)
- b. Directors and officers
- c. Nature of business
- d. Date of incorporation
- e. Principal place of business

13. Inventory of safe deposit boxes (by location), containing the following:

- a. Sizes of boxes available
- b. Yearly rental cost by size
- c. Number of boxes rented by size
- d. Number of boxes not rented by size
- e. Number of boxes used by bank by size
- f. Number of broken boxes

14. Fixed asset trial balance by branch. Listing of branch locations and business hours for each location. Indicate if leased or owned and number of ATMs.

15. Copy of most recent appraisal of the bank building(s), if applicable

16. Copies of most recent tax statements for bank-owned property (not other real estate owned, ORE)

17. Copies of the deed of trust and title policies, if fixed assets are owned

18. List of other assets (including repossessed assets), prepaid expenses prepaid insurance, other accrued expenses, and other liabilities, containing the following:

- a. Account
- b. Description and/or analysis
- c. Balance

19. Copy of depreciation schedule of fixed assets (most recent)

20. List of income earned not collected and amounts
21. List of other borrowings (example: central bank, repurchase agreements), containing the following:
 - a. Name and address of lender
 - b. Name of contact and phone number
 - c. Amount of borrowings
 - d. Book value
 - e. Date purchased/borrowed
 - f. Maturity date
 - g. Rate
 - h. Collateral description
22. List of loans collateralized by any institution stock, containing the following:
 - a. Loan number
 - b. Customer name
 - c. Current balance
 - d. Description of collateral
 - e. Maturity date
 - f. Lender
 - g. Interest rate
23. Complete product code listing to identify all codes (branch/type) used in deposit and loan systems
24. Copy of electronic data processing (EDP) contracts if services are provided by outside servicers, and copies of bills for past three months
25. If EDP is an in-house system, provide list of applications processed
26. Summary regarding the institution's EDP capabilities
27. List of hardware and software
28. Name and phone number of EDP contact
29. List of officer and employee salaries, containing the following:
 - a. Name
 - b. Title or job duty
 - c. Annual salary
 - d. Bonus
 - e. Car
 - f. Part-time or full-time
 - g. Department
30. Copies of employment contracts
31. If the institution has trust powers, please provide a brief description of the trust department, including the following information:
 - a. Number of accounts
 - b. Total dollar value of assets in department

- c. Balance sheet
 - d. Date trust powers issued
 - e. Whether trust powers are exercised (include a description of the trust powers exercised)
 - f. Types of contracts
 - g. Details regarding contingent liabilities related to trust activities
32. Does the institution have an international department or any international activities? Provide a description/summary of international activities, if applicable.
33. Detailed list of non-book assets/nonbook liabilities/off balance sheet items
34. List of bank debentures and other debt instruments issued and outstanding and list of holders, containing the following:
- a. Name
 - b. Number
 - c. Current balance
35. List of stockholders containing the following:
- a. Name
 - b. Number of shares
- Please note those stockholders owning or controlling more than 5 percent of the bank and the holding company, if applicable.
36. Copies of most recent annual report and any other public filings, such as 10-Ks and 10-Qs
37. Copies of all insurance policies that are in effect. Include directors and officers liability policies and riders and a brief description, if applicable, of:
- a. Claims filed
 - b. Proof of loss
 - c. Insurer's response
 - d. Application
38. List of criminal referrals/suspicious activity reports
39. Copies of last two CPA audit reports and management letters
40. Two copies of all contracts, leases, and maintenance contracts, and the annual cost for each. Please include prepaid or monthly paid items.
41. Information concerning holding company
42. List of joint ventures/limited partnerships in which the institution is a participant, including copies of agreements
43. Detail on banker's acceptances, if any
44. List of law firms and collection agencies used by the bank and any related cases or agreements, including:
- a. Name and address of counsel
 - b. Telephone number and fax number

- c. Name of contact person
45. Information regarding all pending lawsuits
 46. Copies of qualified financial contracts if applicable
 47. Copies of regulators' exams for previous two years, including copies of regulatory action documents (e.g., MOUs and correspondence)
 48. List of assets sold with recourse
 49. List of all employee benefits plans (example listed below). Please provide copies of any of the plans, with the amounts paid by the bank both year-to-date and the prior calendar year.
 - a. Medical program
 - b. Dental program
 - c. Supplemental accident expense
 - d. Life insurance
 - e. Accidental death and dismemberment insurance
 - f. Profit sharing plan
 - g. Retirement plan (include 401K plan)
 50. List of all environmental problems

FORM 3

AGREEMENT FOR SERVICES

(Must be reviewed by lawyers familiar with local laws)

1. This Agreement for Services between [you/your firm] and the [appropriate government authority] governs all services rendered to [the appropriate government authority].
2. [Describe services to be performed under the agreement]
3. [You/your firm] represent(s) that [you/your] firm currently has no conflict of interest that would prevent [you/it] from undertaking the obligations agreed to under this contract and that you will advise the [appropriate government authority] immediately of any conflicts that develop in the future.
4. [You/your firm] agree(s) to provide services in accordance with the fee or hourly rate schedule set forth on the attached rate schedule. Such schedule may only be amended by written agreement of the parties. [Attach a rate schedule]
5. [You/your firm] agree(s) to maintain the confidentiality of any information received in the course of performing your obligations under this agreement and [you/your firm] further agree(s) that any work product or deliverables completed by [you/your firm] under this agreement remain the property of the [appropriate government authority].
6. [The appropriate government authority] agrees to process for payment all undisputed invoices promptly upon receipt. Invoices should be submitted in a format to be provided by [the appropriate government authority].
7. This Agreement shall remain in effect for two (2) years from the effective date set forth below, subject to earlier termination by [the appropriate government authority] without cause or advance notice. Upon termination, [[you/your firm] agree to forward upon demand all files and documents concerning the engagement.
8. All notices to [[you/your firm] pursuant to this agreement shall be sent to the address listed below and all notices to the [appropriate government authority] shall be sent to [provide contact name and address].

ACCEPTED AND AGREED:

EFFECTIVE DATE:

Name of individual or firm

Authorized signature/Title

Address

FORM 4

| | |
|---------------------------------|-------------|
| ESTIMATED LOSS IN ASSETS | |
| Bank name: _____ | Date: _____ |

| Account | Book value | Estimated value | Loss | Note |
|--------------------|------------|-----------------|------|------|
| Cash | | | | |
| Borrowings | | | | |
| Securities | | | | |
| Loans | | | | |
| Fixed assets | | | | |
| Other real estate | | | | |
| Other assets: | | | | |
| • Accrued interest | | | | |
| • Prepaid expenses | | | | |
| • Other | | | | |
| • Other | | | | |
| • Other | | | | |
| Total | | | | |

Accompanying notes should include detailed schedules of asset breakdowns, as well as general background information and any other pertinent facts.

Comments:

FORM 5

LOAN VALUATION WORKSHEET

(Determining disposition values for performing, subperforming, and nonperforming loans)

1. Determine the loan status as performing, subperforming, or nonperforming for valuation purposes only, including loans that are being considered for restructuring.
 - **Performing loans:** Loans that are paying as agreed and are not past due (usually a past due loan is defined as a loan that is more than 60 days past due, although this can vary from country to country). Documentation defects that can be corrected do not disqualify a loan as performing.
 - **Subperforming loans:** Loans where the borrower is making reduced payments or is currently performing but is projected to default in the future because of a pending severe negative event (for example, the loss of a major tenant in a commercial building).
 - **Nonperforming loans:** A loan that is more than 60 days past due or is past the note or modification maturity date. A loan in this status is considered nonperforming even if payments are sometimes received from the borrower.

2. Look at the collateral and determine the loan-to-value ratios (LTVs) on each loan. Set target ranges for LTVs for various asset classes based on past experience in dealing with distressed assets or other available data. For example, LTVs for single family homes might be set at 95 percent, commercial properties at 80 percent, and vacant land at 70 percent. LTVs lower than the target ratios may indicate that a loan should be classified as subperforming unless the borrower has the financial capacity to fund the debt without regard to the LTV of the collateral.

3. Value the **performing loans** either by using book values for the loans or through a mark-to-market process by discounting the remaining payments to present value by using market rates for similar loans.
 - Determine the market rate by using a current market yield for similar types and quality of loans. The market yield is comprised of a base rate, which is the rate for good quality, market-standard loans, with an adjustment (if necessary) for the characteristics of the specific loan to be valued. The base rate can be determined through recognized publications that quote rates or through surveys of local lending institutions. The determination of the base rate should be documented for the file.
 - Adjust the base rate to reflect the actual loan characteristics of the loan to be valued, such as for missing documentation or past delinquencies. There should be a worksheet setting out the standard adjustments. For example, the worksheet could require the subtraction of 100 basis points from the base rate for missing original or subsequent financial statements, or 200 basis points for missing original notes or if more than 30 days delinquent two or more times in the past year.

- Documentation problems that can be corrected, such as a missing current appraisal, should not be included in the standard adjustments because those deficiencies can either be cured or the loans can be marketed as loans with curable deficiencies at some discount.
 - The net present value is determined by estimating cash recoveries, direct expenses, and the payment of any prior liens over time on the loan discounted by the appropriate market rate.
4. Value **subperforming** and **nonperforming loans** by using a liquidation valuation. Such a valuation consists of the cash flows identified with foreclosure or repossession of the property, the costs associated with holding and sale of the property or collateral, and the collection of other assets from the borrowers or guarantors through legal action or other means. For **subperforming loans**, the valuation may also include projected payments from the borrower until default occurs. Present value analysis can assist the decision maker in determining the most advantageous course of action for dealing with the asset.
- Projecting cash flows requires the consideration of potential sources of recovery (collateral, other pledged assets of the borrower, income from operating properties during the holding period).
Collateral can be valued by using appraisals or recognized valuation publications such as those for automobiles. Older appraisals should be appropriately updated.
 - Recoveries other than collateral from borrowers should be based on the review of financial statements, credit reports or asset searches, and an analysis of whether there is a right of recovery from the borrower other than through the realization of collateral for the loan (that is, is there a personal guarantee?).
 - Estimate direct expenses. Direct cash collection expenses include items such as legal fees, advances, payment of prior liens, foreclosure costs, selling expenses, appraisal fees, operating expenses, management fees, and other direct costs associated with obtaining recoveries on a loan. Expenses for the projected recoveries should be placed in the timeframe in which they are estimated to occur (for example, the first quarter of the year).
 - If an estimated recovery is based on the outcome of a court decision, that should be noted and a legal assessment should be made of the probability of success in the court action.
 - The discount rate used to obtain a net present value for an asset measures the risk associated with sources of recovery and the timing of projected cash flows plus an appropriate rate of return on the asset. The discount rate is used for valuing both subperforming and nonperforming loans and should be a factor in addition to the prime rate, with a higher factor for those loans with collateral that is more difficult to liquidate. For example, for a loan where 50 percent or more of the collateral consists of real estate that is readily saleable, the discount rate could be prime plus 5 percent, with increasing amounts as the estimated collateral recovery values decrease.

Least Cost or Lesser Cost Model & Explanatory Guide

The World Bank



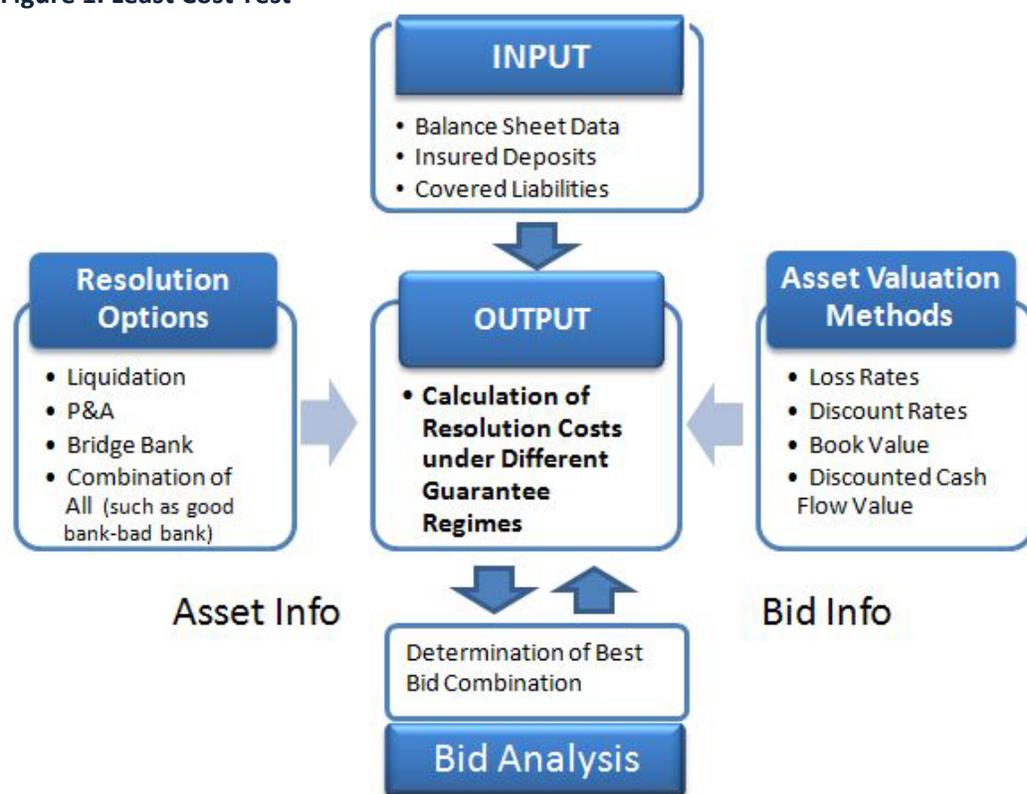
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The Least Cost Test Model

As outlined in the Toolkit, supervisory authorities should be empowered with appropriate resolution regime and analytical tools to intervene when a bank becomes troubled.¹ [The Least Cost Test Model \(LCTM\)](#),² developed by the World Bank, can be used by the supervisory authorities to determine the relative cost of various resolution options, such as liquidation, purchase and assumption, Bridge Bank (including recapitalization), or any combination of such options. The cost associated with these options can be calculated using different asset valuation methods and under different guarantee arrangements, such as a limited Deposit Insurance Scheme and blanket guarantee to all liabilities (figure 1).

Figure 1. Least Cost Test



¹ Care has been taken to ensure that the Model is consistent with this Guide. If you detect any issues with the Model, please let us know so this Guide and the Model can be updated and clarified, as needed. You can contact us about the Model at marslaner@worldbank.org.

² Supervisory authorities might need more comprehensive tools, like the World Bank's Financial Projection Model (FPM), to assess the viability of banks and develop Prompt Corrective Actions and resolution options for troubled banks, such as restructuring, Open Bank Assistance, nationalization, merger, liquidation, purchase and assumption, Bridge Bank, and good bank-bad bank arrangements in a dynamic manner. For more information about the Financial Projection Model, visit www.worldbank.org/fpd/fpm.

Bank resolution and guarantee regimes vary country to country, and the LCTM can be tailored to the specific conditions in each country. The LCTM can also be linked to a bid information system by resolution authorities to take into account information about market demand for assets in determining various resolution options.

Least Cost Test and Simulation of Resolution Options

The LCTM simulates liquidation, purchase and assumption, Bridge Bank, and combinations of these options with the calculation of their associated cost. Users can take a liquidation option as a benchmark—since it is the only option that the resolution authority can implement on its own if no third party is interested in other options—and do a comparison among all appropriate options. When users enter necessary data and assumptions into the model, the cost for basic options, such as liquidation, purchase and assumptions, and Bridge Bank options will be calculated separately. Users need to enter additional assumptions to simulate various combinations of the basic options.

The rest of the section explains the cost calculation for a liquidation option under different guarantee regimes, but the same methodology applies to a purchase and assumption transaction as well (table 1). The cost of a Bridge Bank is simulated in terms of the required recapitalization amount from the resolution authority. The least cost option would be the one in which the cost to the taxpayer is the least of all resolution options.

Table 1. Cost Calculation under Different Guarantee Systems

| Variations of deposit guarantee systems | Receivables | Payables |
|--|--|---|
| Deposit insurance system ^a | a. Present value of net assets b. Valuation of tangible assets c. Valuation of intangible assets | d. Resolution cost e. Covered liabilities f. Insured deposits g. Loss/profit sharing (+/-) |
| Blanket guarantee to depositors | " | " + h. Uninsured deposits |
| Blanket guarantee to all liabilities | " | " + i. Other liabilities |
| Blanket guarantee to all on- and off-balance sheet liabilities | " | " + j. Off-balance sheet liabilities |

a. In countries where the resolution authority shares pro rata with uninsured depositors (that is, pays the loss of uninsured depositors in proportion to insured depositors' share in total deposits), the payables should also include this cost which is equal to $\{[(a+b+c)-(d+e+f+g)] \times (\text{Insured deposits}/\text{total deposits})\}_2$

In the model, net asset value and resolution cost is calculated on a net present value basis. Users need to enter assumptions on appropriate discount rates and the number of years to complete the liquidation in the [Output] tab.

Resolution Options and Required Data

The model can simulate the cost of the resolution options on a stand-alone and combined basis.³ The cost calculation for liquidation, purchase and assumption, and Bridge Bank options will be done on a stand-alone basis when basic data and required assumptions are entered with regard to these options. The model will also calculate the cost for various combinations of stand-alone options, such as basic or modified liquidation and purchase and assumption transactions, as well as good bank–bad bank transactions.

To run the model to simulate all options, users need to enter the latest available on- and off-balance sheet data, including covered liabilities and insured liabilities, as well as loss rates in liquidation transactions, discount rates in purchase and assumption transactions, risk weights in Bridge Bank transactions, resolution options for balance sheet lines, valuation techniques for resolution options, and maturity structure for the cash flow valuation method (table 2).

The model consists of two worksheets: Input and Output. Data and most of the assumptions would be input in the [Input] tab. Simulation results on all options can be seen in the [Output] tab.

Table 2. Required Data for Cost Calculation

| Data and options | Description | Cell reference in the input tab |
|---|--|--|
| A. Basic data | On- and off-balance sheet data Covered liabilities Insured liabilities | F5 to J140 V84 to W110 R84 to S110 |
| B. Specific data for liquidation | Expected loss rates | S5 to T140 |
| Purchase and assumption | Expected discount rates | W5 to X140 |
| Bridge Bank | Risk weights for capital adequacy calculation Other components of the capital adequacy ratio | AD5 to AD140 L57 to L61 ^a |
| Combination of all | Assignment of resolution options to each on- and off-balance sheet line Assignment of valuation method for resolution options | Z5 to AA140 Z4 AB4 |

³ Please see the main Toolkit for a detailed discussion of the various resolution options.

| | | |
|--|---|-------------------------|
| C. Optional data for cash flow valuation method | Residual amounts of assets over the maturity band | AI5 to BH78 |
| | Interest rates on assets | AH100 to BH125 |
| | Floating rate portion of assets | AH129 to BH154 |
| Loss/profit share agreement | The components of the agreement | F6 to L9 ^a |
| Resolution cost | The detail of the resolution cost | F11 to L14 ^a |
| Valuation of tangible assets | The list of tangible assets | F16 to L20 ^a |
| Valuation of intangible assets | The list of intangible assets | F22 to L27 ^a |
| Case by case additional cost | The list of additional cost items | H63 to L72 ^a |

a. These cells are in the Output Tab.

In order to simulate stand-alone resolution options, regardless of the option to be simulated, users need to input at least the latest available balance sheet data and the amount of insured deposits (and other liabilities if appropriate) and covered liabilities, such as covered bonds and repo transactions that are collateralized by securities or other liquid assets.

If the complete balance sheet is not available or a quick simulation is needed on simple data, users can enter only aggregated loans and deposits into corresponding cells. The rest of the assets and liabilities need to be put in other assets and liabilities cells on the balance sheet.

Users are expected to enter the balance sheet data (regardless of original currency units) in terms of local currency. The model allows users to enter the balance sheets for local and foreign currency activities separately to simulate a resolution option with differentiated assumptions for the separated balance sheets. Instead, using the same areas in the model, users can simulate good assets separately from bad assets or bank activities separately from subsidiary activities. In the [Input] tab, users can also reclassify the balance sheet lines to reflect the information gathered as a result of the review of the bank.

For simulation-specific resolution option, users need to enter appropriate assumptions. The rest of this discussion explains these options and required assumptions.

1. Liquidation

In the model, a liquidation option means a “**full liquidation**”, in which all on- and off-balance sheet lines will be liquidated. In a “**basic liquidation**”, some assets, usually nonperforming loans, will be liquidated and all other assets and liabilities will be resolved with P&A or Bridge Bank techniques. In the model, a basic liquidation option can be developed as part of a combined resolution option.

To develop a liquidation option, users need to input expected loss rates on assets and off-balance sheet exposures in the [Input] tab, in addition to the latest available balance sheet data. Developing loss rates might be difficult in countries with no liquidation experience or no available historical data. In this case, loss rates can be developed based on due diligence or review of asset quality. Otherwise, users may be able to use the loss rates of other countries with a similar level of financial development.

2. Purchase and Assumption

There are various ways to structure a P&A, ranging from a **“basic P&A”** that passes on limited assets, such as cash and cash equivalents and some liabilities, usually deposits; a **“whole bank P&A”** that passes on all assets and liabilities; or a **“modified P&A”** that passes on cash and cash equivalent assets, investments, pass and special mention loans, and insured or all deposits, but leaves classified assets, other assets, uninsured deposits, and other liabilities with the resolution authority. In the model, a purchase and assumption transaction will mean a “whole bank P&A. “Modified P&A” and “basic P&A” options can be developed as part of combined resolution option.

In a purchase and assumption option, users, as well as inputting basic data, need to develop expected discount rates on assets in a similar way explained for expected loss rates as is in a liquidation option.

Examples of types of assets that might not pass to the acquirer in a P&A transaction are tax receivables and liabilities, provision for employee benefits, generic provisions, and provision against off-balance sheet liabilities. If allowable by law and in the resolution authority’s discretion, very risky assets, such as substandard and nonperforming loans, might be passed on to buyers with a loss-sharing agreement to facilitate the sales.

3. Bridge Bank

In a Bridge Bank option, users need to enter risk weights for assets in order to calculate required capital for the bank. Since the assets would be passed at their book values, this option does not require users to select a valuation methodology.

In a Bridge Bank option, the resolution authority can pass on the whole balance sheet or some balance sheet items to the Bridge Bank. A Bridge Bank option will mean the former in the model. The latter can be developed as part of a combined resolution option.

A Bridge Bank can be a viable option if the failed bank is considered systemically important, or the value of the bank is expected to be preserved better with this option, or the authority wants to gain some time to evaluate resolution options or to prepare the bank for privatization.

If no ultimate option is found, the Bridge Bank can eventually be liquidated or its assets and liabilities can be transferred to another bank under a P&A transaction.

4. Combinations of All Stand-alone Options

The model allows supervisory authorities to develop a combined resolution option that includes specific features of stand-alone resolution options. Users can combine two or all of the three stand-alone options to minimize the cost of a resolution, taking advantage of different options in resolving different balance sheet lines. The combinations can include basic or modified liquidation and purchase and assumption transactions. The most common combination that supervisory authorities develop in practice is a “good bank–bad bank” transaction. Users can simulate a “good bank–bad bank” option by putting the good assets under a Bridge Bank and liquidating bad assets.

In a combined option, users can assign appropriate resolution option/s for each balance sheet line by setting percentages in the [Input Tab]. Once resolution options are assigned, balance sheet lines will be resolved in accordance with the percentages set. The model is designed in a way that users can assign P&A and Bridge Bank (good bank) options by setting percentages for each line and the rest (100% minus % P&A minus % Bridge Bank) will be liquidated (bad bank) automatically. For example, if users assign 20% P&A and 30% liquidation for a line, the rest of the line (50 percent) will be liquidated.

If the license of a bank was revoked and a Bridge Bank is not an option anymore, some assets and liabilities will become worthless, such as deferred tax assets and liabilities and generic reserves. In this case, the resolution method must be set as liquidation at 100 percent for the worthless assets and liabilities, and the loss rates for them must be defined as 100 percent. Instead, users might be able to reclassify assets and liabilities as profit or loss in cells I5 to I140 in the [Input] tab.

Under a combined option, users have flexibility to differentiate asset valuation methodologies for options that were involved in the combined option. Users can assign a valuation method for each resolution option by entering a corresponding number (book value-0; liquidation value-1; purchase and assumption value-2; and discounted cash flow value-3) in the [Input] tab (table 3).

After combining resolution options for all balance sheet lines and valuation methodology for each option, the model would calculate required additional capital for the combined option automatically.

Table 3. Resolution Rules for Combined Options

| | | Valuation methodology | | | |
|-----------------------|-------------|-----------------------|-------------------|-----------|----------------------|
| | | Book value | Liquidation value | P&A value | Discounted cash flow |
| Resolution techniques | Liquidation | | | | |
| | P&A | | | | |
| | Bridge Bank | | | | |

Book value is the value of assets on the books. Users might reclassify balance sheet lines in the [Input] tab; this will change the book value of the assets. The book value might be a more appropriate valuation approach for a Bridge Bank transaction until the assessment of the asset quality could be made. No assumption is needed in order to calculate book values in the LCTM.

Liquidation value shows the value after expected loss rates are applied to the book values of the assets. If historical loss rates are not available in a country, the loss rates of the other countries with a similar financial development level can be used. The assumptions on loss rates must be entered in the [Input] tab. The LCTM has indicative loss ranges as a guide that might be adjusted for use in a specific country.

P&A value is the value of the assets after applying expected discount rates to the book values of the assets. The loss rates on previous P&A transactions might be used as an indicator for the discount rates. If the resolution authority did not execute a P&A transaction before, the discount rates on P&A transactions in other countries can be used. The assumptions on discount rates must be entered in the [Input] tab. The LCTM has indicative discount rates as a guide that might be adjusted for use in a specific country.

Discounted cash flow value shows the present value of the future cash flows of the assets and are calculated based on the maturity and interest rate structure of the assets. The end of period residual balance of all assets, the interest rate of the assets, and the floating rate portion of interest earning assets must be entered in the [Input] tab. The future cash flows that consist of principal payments and interest incomes will be discounted by the rates of average cost of capital. Users can input the components of discount rates in the [Input] tab

Summary of the Resolutions/Output

Based on user selected resolution techniques with associated valuation methodologies, the LCTM will produce the summary of the resolution in the [Output] tab in cells F2 to M40 (table 4).

Basically, the output table consists of sections on stand-alone resolution options and a combined resolution option.

Table 4. Summary of the Resolutions/Output

| Resolution scenarios/Guarantee regime in the country | Liquidation | Purchase and assumption | Combination of all options | | | |
|---|-------------|-------------------------|----------------------------------|-----|---------------------------------|-------------------------|
| | | | Liquida- tion/ Bad bank | P&A | Bridge Bank/ Good bank | Combina- tion of all |
| 1. Net asset value (NAV) | 0 | 0 | 0 | 0 | 0 | 0 |
| Adjustments to net asset value | 0 | 0 | 0 | 0 | 0 | 0 |
| Loss/profit sharing agreement | 0 | 0 | 0 | 0 | 0 | 0 |
| Resolution costs | 0 | 0 | 0 | 0 | 0 | 0 |
| Valuation of tangible assets | 0 | 0 | 0 | 0 | 0 | 0 |
| Valuation of intangible assets | 0 | 0 | 0 | 0 | 0 | 0 |
| 2. Net asset value after adjustments | 0 | 0 | 0 | 0 | 0 | 0 |
| Covered liabilities | 0 | 0 | 0 | 0 | 0 | 0 |
| NAV less covered liabilities | 0 | 0 | 0 | 0 | 0 | 0 |
| 3. Cost under no guarantee regime | 0 | 0 | 0 | 0 | 0 | 0 |
| Insured deposits | 0 | 0 | 0 | 0 | 0 | 0 |
| Other insured/guaranteed liabilities | 0 | 0 | 0 | 0 | 0 | 0 |
| 4. Cost under deposit insurance system (with pro rata) | 0 | 0 | 0 | 0 | 0 | 0 |
| 5. Cost under deposit insurance system | 0 | 0 | 0 | 0 | 0 | 0 |
| Uninsured deposits | 0 | 0 | 0 | 0 | 0 | 0 |
| 6. Cost under blanket guarantee to all depositors | 0 | 0 | 0 | 0 | 0 | 0 |
| Remaining uninsured liabilities | 0 | 0 | 0 | 0 | 0 | 0 |
| 7. Cost under blanket guarantee to all depositors and investors | 0 | 0 | 0 | 0 | 0 | 0 |
| Loss estimated on OBS positions | 0 | 0 | 0 | 0 | | 0 |
| 8. Cost under blanket guarantee to all off- and on-balance sheet liabilities | 0 | 0 | 0 | 0 | 0 | 0 |
| <i>Recapitalization for Bridge Bank</i> | | | | | 0 | 0 |
| 9. Total cost: Blanket guarantee plus recapitalization for Bridge Bank | 0 | 0 | 0 | 0 | 0 | 0 |

1. Net Asset Value (“NAV”)

The net asset value depends on the balance sheet information and assumptions on the asset quality and pricing methodology.

2. Net Asset Value after Adjustments

The net asset value after adjustments takes into consideration the loss/profit sharing agreement, the resolution cost, and the valuation effect of tangible and intangible assets.

a) Loss/Profit Sharing

Loss/profit sharing agreement is a transaction in which the resolution authority shares a portion of the losses/profits on the assets purchased by the acquiring institution. The reason behind loss/profit sharing agreements is to increase the attractiveness of the assets, specifically nonperforming loans, to potential purchasers. Usually, the loss/profit share depends on the quality of and the appetite of the market for the assets. To calculate the losses to be incurred by the resolution authority on a loss-share agreement, the loss-share ratio would be applied to the price of the assets. The average maturity shows the number of years in which the losses or profits are expected to be incurred by the resolution authority and discount rates are needed to discount the losses or profits to the resolution day. All assumptions related to the loss/profit sharing agreement will be entered in hidden cells in the [Output] tab.

b) Resolution Cost

Resolution expenses include all expenditures to implement the resolution, such as salaries, the rent of premises, and fees for legal and professional services. Users must enter the expense ratio over the net asset values, the number of years to complete the transaction, and the opportunity cost of resolution expenses in hidden cells in the [Output] tab. Users have flexibility to give additional discounts over the expected value of the assets given that potential risks might hinder the realization of the expected value of the assets.

c) Valuation of Tangible and Intangible Assets

Users can enter the valuation impact of tangible and intangible assets in hidden cells in the [Output] tab. A failed bank can have very profitable subsidiaries or affiliates, which should be included in the valuation of the assets. The bank can also have profitable business units, such as credit card and consultant services, that can be sold separately to interested investors. The resolution authority can also ask for premiums in return for the bank's deposit and loan accounts.

3. Cost under No Guarantee (NAV less Covered Liabilities)

Covered liabilities have priority to be paid over insured liabilities and all other claims and are comprised of liabilities supported by collateral, such as repo transactions, covered bonds, and

judgments in lawsuits. Users must input the amounts of secured liabilities up to their collateral value (or covered value) in the model.

4. Cost under Deposit Insurance System (with Pro Rata)

This amount shows the net asset value after the resolution authority pays insured deposits with sharing pro rata with uninsured depositors. The resolution authority would share the losses with uninsured depositors in proportion to insured depositors' share in total deposits, unless the net asset value is positive. In this scenario and following ones, if the net asset value is negative— meaning that the recoveries from assets are not enough to satisfy the liabilities according to the guarantee regime in place—the resolution authority would pay the gap.

5. Cost under Deposit Insurance System

This amount is equal to the net asset value after the resolution authority pays insured deposits without sharing pro rata with uninsured depositors.

6. Cost under Blanket Guarantee to All Depositors (NAV after All Deposits Payoff)

This shows the net asset value after the resolution authority satisfies all depositors.

7. Cost under Blanket Guarantee to All Depositors and Investors (NAV less All Liabilities)

This amounts to the net asset value after all liabilities, including uninsured and uncovered liabilities, are paid.

8. Cost under Blanket Guarantee to All On- and Off- Balance Sheet Liabilities

This amount is equal to the net asset value after the resolution authority pays all on- and off-balance sheet liabilities.

9. Cost under Blanket Guarantee to All On- and Off- Balance Sheet Liabilities Plus Recapitalization for Bridge Bank

Final cost of a resolution includes the payment of on- and off-balance sheet liabilities under liquidation and P&A and injecting capital into the Bridge Bank if necessary. The model calculates the capital requirement only if the failed bank as a whole or partially was put under the Bridge Bank option.

A Bridge Bank is normally subject to all prudential requirements (although its capital can consist partly of a government note). Since book value would not be the right representation of the

asset of the failed bank, users might select P&A or liquidation method for valuing the Bridge Bank's assets as appropriate. To calculate the level of required capital, users must enter assumptions on risk weights in the [Input] tab and the other components of the regulatory capital adequacy ratio in the [Output] tab.

Other than previously explained components of the resolution options, users can enter additional costs in hidden cells in [Output] tab.

FORM 7

ORDER OF CLOSURE

(Depending on the legal structure, this may need to be a court order or an administrative finding)

In the Matter of [name and location of bank to be closed]

[Name of supervisory authority] has determined through an examination of the condition of [name of the bank to be closed] that the bank is [in an unsafe or unsound condition because of its severe liquidity strain, deteriorating asset quality, inability to raise capital] [is insolvent] [is unable to meet its obligations].

The [appointing authority] has determined that the appointment of [a Temporary Administrator/Receiver] is required pursuant to [legal authority] because of the condition of the [name of bank] and that it is in the best interests of the depositors of [name of bank to be closed] that the bank be closed.

Therefore, the [name of Temporary Administrator/Receiver] is hereby appointed pursuant to [cite legal authority] and closes the [name of bank] as of [date of closing].

The [supervisory authority] tenders the entire name of closed bank]'s assets, liabilities, and business to the [Temporary Administrator/Receiver] in accordance with [cite to statutory authority].

Signed this _____ day of _____, 20__.

Name and title of appointing authority

orm 8

Letter to Institution Informing It of Appointment of Receiver

Name of Bank

Address of Bank

Subject: Appointment of Receiver

Dear Sir/Madam:

This is to notify you that [the appointing authority] has appointed a Receiver for [name and address of bank] and authorized the undersigned to deliver notice of such appointment.

The Receiver is now taking possession of the bank pursuant to the terms of its appointment as set forth in [the order appointing the Receiver], a copy of which is attached hereto. You are required to cooperate with the Receiver's requests for possession of the property, business, and assets of the association in Receivership.

Please acknowledge receipt of this notice by signing a copy of this letter, indicating the time and date of your receipt.

Sincerely,

[Authorized official]

Acknowledged and received:

Date and Time:

FORM 9

AGREEMENT FOR MANAGEMENT CONTRACT

CONTRACT BETWEEN [Name of Bank]
and
[Name of Management Firm]

This CONTRACT (hereinafter called the "Contract") is made on the [date] [name of bank] (hereinafter called the "Bank") and [name of management firm] (hereinafter called the "Firm") for the management of the Bank and has been made effective from [effective date].

WHEREAS

- (a) the Bank has requested the Firm to provide certain consulting services as defined in the General Conditions of Contract attached to this Contract (hereinafter called the "Services");
- (b) the Firm, having represented to the Bank that it has the required professional skills and personnel and technical resources, has agreed to provide the Services on the terms and conditions set forth in this Contract;
- (c) the Bank has received a loan from [name of agency providing loan, if applicable] (hereinafter called the "Agency") toward the cost of the Services and intends to apply a portion of the proceeds of this loan to eligible payments under this Contract, it being understood (i) that payments will be made only at the request of the Bank and upon approval by the Agency, (ii) that such payments will be subject, in all respects, to the terms and conditions of the agreement providing for the loan, and (iii) that no party other than the Bank shall derive any rights from the agreement providing for the loan or have any claim to the loan proceeds.

NOW THEREFORE the parties hereto hereby agree as follows:

- 1. The following documents attached hereto shall be deemed to form an integral part of this Contract:
 - (a) The General Conditions of Contract (GCC);
 - (b) The Special Conditions of Contract (SCC);
 - (c) Appendix A: Description of the Services (Terms of Reference)
[documents establishing project deliverables, performance indicators, reporting requirements, and any necessary work rules regarding hours of work or other duties should also be prepared]
- 2. The mutual rights and obligations of the Bank and the Firm shall be as set forth in the Contract, in particular:

- (a) The Firm shall carry out the Services in accordance with the provisions of the Contract; and
- (b) The Bank shall make payments to the Firm in accordance with the provisions of the Contract.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written.

For and on behalf of

For and on behalf of

.....
(Name)
Title
Department
The Bank
City, Country

.....
(Name)
Title
Department
The Bank
City, Country

In Witness of,

In Witness of,

.....
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General Conditions of Contract

1. General Provisions

1.1 Definitions

Unless the context otherwise requires, whenever used in this Contract, the following terms have the following meanings:

- (a) "Applicable Law" means the laws and any other instruments having the force of law in the government's country (or in such other country as may be specified in the Special Conditions of Contract [SCC]), as they may be issued and in force from time to time;
- (b) "Agency" means the [Name of agency providing loan, if applicable];
- (c) "Contract" means the Contract signed by the Parties, to which these General Conditions of Contract (GCC) are attached, together with all the documents listed in Clause 1 of such signed Contract;
- (d) "Effective Date" means the date on which this Contract comes into force and effect pursuant to Clause GC 2.1;
- (e) "Foreign Currency" means any currency other than the currency of the Government;
- (f) "GCC" mean these General Conditions of Contract;
- (g) "Government" means the Government of the Bank's country;
- (h) "Local Currency" means the currency of the Government;
- (i) "Member," in case the Firm consists of a joint venture of more than one entity, means any of these entities; and "Members" means all these entities;
- (j) "Party" means the Bank or the Firm, as the case may be, and "Parties" means both of them;
- (k) "Personnel" means persons hired by the Firm or by any Subcontractor to the Firm as employees and assigned to the performance of the Services or any part thereof; "Foreign Personnel" means such persons who at the time of being so hired had their domicile outside the Government's country; "Local Personnel" means such persons who at the time of being so hired had their domicile inside the Government's country; and "Key Personnel" means the Personnel referred to in Clause GCC 4.2(a);
- (l) "SCC" means the Special Conditions of Contract by which the GCC may be amended or supplemented;
- (m) "Services" means the work to be performed by the Firm pursuant to this Contract, as described in Appendix A hereto;
- (n) "Subcontractor" means any person or entity to whom/which the Firm subcontracts any part of the Services in accordance with the provisions of Clause GCC 3.7;
- (o) "Third Party" means any person or entity other than the Government, the Bank, the Firm, or a Subcontractor.

1.2 Relationship between the Parties

Nothing contained herein shall be construed as establishing a relation of master and servant or of principal and agent as between the Bank and the Firm. The Firm, subject to this Contract, has complete charge of Personnel and Subcontractors, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

1.3 Law Governing Contract

This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.

1.4 Language

This Contract has been executed in the English [or specify other] language, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.

1.5 Headings

The headings shall not limit, alter, or affect the meaning of this Contract.

1.6 Notices

1.6.1 Any notice, request, or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request, or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, telex, telegram, or facsimile to such Party at the address specified in the SCC.

1.6.2 Notice will be deemed to be effective as specified in the SCC.

1.6.3 A Party may change its address for notice hereunder by giving the other Party notice of such change pursuant to the provisions listed in the SCC with respect to Clause GCC 1.6.2.

1.7 Location

The Services shall be performed at such locations as are specified in Appendix A hereto and, where the location of a particular task is not so specified, at such locations, whether in the Government's country or elsewhere, as the Bank may approve.

1.8 Authority of Member in Charge

In case the Firm consists of a joint venture of more than one entity, the Members hereby authorize the entity specified in the SCC to act on their behalf in exercising all the Firms' rights and obligations toward the Bank under this Contract, including without limitation the receiving of instructions and payments from the Bank.

1.9 *Authorized Representatives*

Any action required or permitted to be taken, and any document required or permitted to be executed, under this Contract by the Bank or the Firm may be taken or executed by the officials specified in the SCC.

1.10 *Taxes and Duties*

Unless otherwise specified in the SCC, the Firms, Subcontractors, and Personnel shall pay such taxes, duties, fees, and other impositions as may be levied under the Applicable Law.

2. *Modification and Termination of Contract*

2.1 *Effectiveness of Contract*

This Contract shall come into force and effect on the date (the "Effective Date") of the Bank's notice to the Firm instructing the Firm to begin carrying out the Services. This notice shall confirm that the effectiveness conditions, if any, listed in the SCC have been met.

2.2 *Termination of Contract for Failure to Become Effective*

If this Contract has not become effective within such time period after the date of the Contract signed by the Parties as shall be specified in the SCC, either Party may, by not less than four (4) weeks' written notice to the other Party, declare this Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.

2.3 *Commencement of Services*

The Firm shall begin carrying out the Services at the end of such time period after the Effective Date as shall be specified in the SCC.

2.4 *Expiration of Contract*

Unless terminated earlier pursuant to Clause GCC 2.9 hereof, this Contract shall terminate at the end of such time period after the Effective Date as shall be specified in the SCC.

2.5 *Entire Agreement*

This Contract contains all covenants, stipulations, and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise, or agreement not set forth herein.

2.6 *Modification*

Modification of the terms and conditions of this Contract, including any modification of the scope of the Services, may only be made by written agreement between the Parties and shall not be effective until the consent of the Bank or of the Firm, as the case may be, has been

obtained. Pursuant to Clause GCC 7.2 hereof, however, each Party shall give due consideration to any proposals for modification made by the other Party.

2.7 Force Majeure

2.7.1 Definition

- (a) For the purposes of this Contract, "Force Majeure" means an event that is beyond the reasonable control of a Party, and which makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood, or other adverse weather conditions, strikes, lockouts, or other industrial action (except where such strikes, lockouts, or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation, or any other action by Government agencies.
- (b) Force Majeure shall not include (i) any event that is caused by the negligence or intentional action of a Party or such Party's Subcontractors or agents or employees, or (ii) any event that a diligent Party could reasonably have been expected to both take into account at the time of the conclusion of this Contract and avoid or overcome in the carrying out of its obligations hereunder.
- (c) Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

2.7.2 No Breach of Contract

The failure of a Party to fulfill any of its obligations hereunder shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care, and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

2.7.3 Measures to be Taken

- (a) A Party affected by an event of Force Majeure shall take all reasonable measures to remove such Party's inability to fulfill its obligations hereunder with a minimum of delay.
- (b) A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any event not later than fourteen (14) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give notice of the restoration of normal conditions as soon as possible.
- (c) The Parties shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

2.7.4 Extension of Time

Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

2.7.5 Payments

During the period of their inability to perform the Services as a result of an event of Force Majeure, the Firm shall be entitled to continue to be paid under the terms of this Contract as well as to be reimbursed for additional costs reasonably and necessarily incurred by them during such period for the purposes of the Services and in reactivating the Services after the end of such period.

2.7.6 Consultation

Not later than thirty (30) days after the Firm, as the result of an event of Force Majeure, has become unable to perform a material portion of the Services, the Parties shall consult with each other with a view to agreeing on appropriate measures to be taken in the circumstances.

2.8 *Suspension*

The Bank may, by written notice of suspension to the Firm, suspend all payments to the Firm hereunder if the Firm fails to perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall request the Firm to remedy such failure within a period not exceeding thirty (30) days after receipt by the Firm of such notice of suspension.

2.9 *Termination*

2.9.1 By the Client

The Bank may, by not less than thirty (30) days' written notice of termination to the Firm (except in the event listed in paragraph (f) below, for which there shall be a written notice of not less than sixty (60) days), such notice to be given after the occurrence of any of the events specified in paragraphs (a) through (g) of this Clause GCC 2.9.1, terminate this Contract:

- (a) if the Firm fails to remedy a failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause 2.8 hereinabove, within thirty (30) days of receipt of such notice of suspension or within such further period as the Bank may have subsequently approved in writing;
- (b) if the Firm becomes (or, if the Firm consists of more than one entity, if any of its Members becomes) insolvent or bankrupt or enters into any agreements with their creditors for relief of debt or takes advantage of any law for the benefit of debtors or goes into liquidation or Receivership, whether compulsory or voluntary;

- (c) if the Firm fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GCC 8 hereof;
- (d) if the Firm submits to the Bank a statement that has a material effect on the rights, obligations, or interests of the Bank and that the Firm knows to be false;
- (e) if, as the result of Force Majeure, the Firm is unable to perform a material portion of the Services for a period of not less than sixty (60) days; or
- (f) if the Bank, in its sole discretion and for any reason whatsoever, decides to terminate this Contract;
- (g) if the Firm, in the judgment of the Bank, has engaged in corrupt or fraudulent practices in competing for or in executing the Contract. For the purpose of this clause, "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the selection process or in contract execution, and "fraudulent practice" means a misrepresentation of facts in order to influence a selection process or the execution of a contract to the detriment of the Bank, and includes collusive practice among contractors (prior to or after submission of proposals) designed to establish prices at artificial noncompetitive levels and to deprive the Bank of the benefits of free and open competition.

2.9.2 By the Firm

The Firm may, by not less than thirty (30) days' written notice to the Bank, such notice to be given after the occurrence of any of the events specified in paragraphs (a) through (d) of this Clause GCC 2.9.2, terminate this Contract:

- (a) if the Bank fails to pay any money due to the Firm pursuant to this Contract and not subject to dispute pursuant to Clause GCC 8 hereof within forty-five (45) days after receiving written notice from the Firm that such payment is overdue;
- (b) if the Bank is in material breach of its obligations pursuant to this Contract and has not remedied the same within forty-five (45) days (or such longer period as the Firm may have subsequently approved in writing) following the receipt by the Bank of the Firm's notice specifying such breach;
- (c) if, as the result of Force Majeure, the Firm is unable to perform a material portion of the Services for a period of not less than sixty (60) days; or
- (d) if the Bank fails to comply with any final decision reached as a result of arbitration pursuant to Clause GCC 8 hereof.

2.9.3 Cessation of Rights and Obligations

Upon termination of this Contract pursuant to Clauses GCC 2.2 or GCC 2.9 hereof, or upon expiration of this Contract pursuant to Clause GCC 2.4 hereof, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, (ii) the obligation of

confidentiality set forth in Clause GCC 3.3 hereof, (iii) the Firms' obligation to permit inspection, copying, and auditing of their accounts and records set forth in Clause GCC 3.6(ii) hereof, and (iv) any right that a Party may have under the Applicable Law.

2.9.4 Cessation of Services

Upon termination of this Contract by notice of either Party to the other pursuant to Clauses GCC 2.9.1 or GCC 2.9.2 hereof, the Firm shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Firm and equipment and materials furnished by the Bank, the Firm shall proceed as provided, respectively, by Clauses GCC 3.9 or GCC 3.10 hereof.

2.9.5 Payment upon Termination

Upon termination of this Contract pursuant to Clauses GCC 2.9.1 or GCC 2.9.2 hereof, the Bank shall make the following payments to the Firm:

- (a) remuneration pursuant to Clause GCC 6 hereof for Services satisfactorily performed prior to the effective date of termination;
- (b) reimbursable expenditures pursuant to Clause GCC 6 hereof for expenditures actually incurred prior to the effective date of termination; and
- (c) except in the case of termination pursuant to paragraphs (a) through (d) of Clause GCC 2.9.1 hereof, reimbursement of any reasonable cost incident to the prompt and orderly termination of the Contract, including the cost of the return travel of the Personnel and their eligible dependents.

2.9.6 Disputes about Events of Termination

If either Party disputes whether an event specified in paragraphs (a) through (e) of Clause GCC 2.9.1 or in Clause GCC 2.9.2 hereof has occurred, such Party may, within forty-five (45) days after receipt of notice of termination from the other Party, refer the matter to arbitration pursuant to Clause GCC 8 hereof, and this Contract shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

3. Obligations of the Firm

3.1 General

3.1.1 Standard of Performance

The Firm shall perform the Services and carry out its obligations hereunder with all due diligence, efficiency, and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ

appropriate advanced technology and safe and effective equipment, machinery, materials, and methods. The Firm shall always act, in respect of any matter relating to this Contract or to the Services, as faithful advisers to the Bank, and shall at all times support and safeguard the Bank's legitimate interests in any dealings with Subcontractors or Third Parties

3.1.2 Law Governing Services

The Firm shall perform the Services in accordance with the Applicable Law and shall take all practicable steps to ensure that any Subcontractors, as well as the Personnel of the Firm and any Subcontractors, comply with the Applicable Law. The Bank shall notify the Firm in writing of relevant local customs, and the Firm shall, after such notification, respect such customs.

3.2 *Conflict of Interest*

3.2.1 Firm Not to Benefit from Commissions, Discounts, etc.

The remuneration of the Firm pursuant to Clause GCC 6 hereof shall constitute the Firms' sole remuneration in connection with this Contract or the Services and, subject to Clause GCC 3.2.2 hereof, the Firm shall not accept for its own benefit any trade commission, discount, or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of their obligations hereunder, and the Firm shall use its best efforts to ensure that any Subcontractors, as well as the Personnel and agents of either of them, similarly shall not receive any such additional remuneration.

3.2.2 Procurement Rules of Funding Agencies

If the Firm, as part of the Services, has the responsibility of advising the Bank on the procurement of goods, works, or services, the Firm shall comply with any applicable procurement guidelines of the Agency and shall at all times exercise such responsibility in the best interest of the Bank. Any discounts or commissions obtained by the Firm in the exercise of such procurement responsibility shall be for the account of the Bank.

3.2.3 Consultants and Affiliates Not to Engage in Certain Activities

The Firm agrees that, during the term of this Contract and after its termination, the Firm and any entity affiliated with it, as well as any Subcontractor and any entity affiliated with such Subcontractor, shall be disqualified from providing goods, works, or services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services.

3.2.4 Prohibition of Conflicting Activities

The Firm shall not engage, and shall cause its Personnel as well as its Subcontractors and their Personnel not to engage, either directly or indirectly, in any of the following activities:

- (a) during the term of this Contract, any business or professional activities in the Government's country that would conflict with the activities assigned to them under this Contract; and
- (b) after the termination of this Contract, such other activities as may be specified in the SCC.

3.3 Confidentiality

The Firm, its Subcontractors, and the Personnel of either of them shall not, either during the term or within two (2) years after the expiration of this Contract, disclose any proprietary or confidential information relating to the Services, this Contract, or the Bank's business or operations without the prior written consent of the Bank.

3.4 Liability of the Consultants

Subject to additional provisions, if any, set forth in the SCC, the Firms' liability under this Contract shall be as provided by the Applicable Law.

3.5 Insurance to be Taken Out by the Consultants

The Firm (i) shall take out and maintain, and shall cause any Subcontractors to take out and maintain, at their (or the Subcontractors', as the case may be) own cost but on terms and conditions approved by the Bank, insurance against the risks, and for the coverages, as shall be specified in the SCC, and (ii) at the Bank's request, shall provide evidence to the Bank showing that such insurance has been taken out and maintained and that the current premiums therefore have been paid.

3.6 Accounting, Inspection, and Auditing

The Firm (i) shall keep accurate and systematic accounts and records in respect of the Services hereunder, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time changes and costs, and the bases thereof (including such bases as may be specifically referred to in the SCC), and (ii) shall permit the Bank or its designated representative periodically, and up to one (1) year from the expiration or termination of this Contract, to inspect the same and make copies thereof as well as to have them audited by auditors appointed by the Bank, and (iii) shall permit the Agency to inspect the Firms' accounts and records relating to the performance of the Firm and to have them audited by auditors approved by the Agency, if so required by the Agency.

3.7 Firms' Actions Requiring Bank's Prior Approval

The Firm shall obtain the Bank's prior approval in writing before taking any of the following actions:

- (a) appointing such members of the Personnel as are listed in [identify where listed] merely by title but not by name;
- (b) entering into a subcontract for the performance of any part of the Services, it being

understood (i) that the selection of the Subcontractor and the terms and conditions of the subcontract shall have been approved in writing by the Bank prior to the execution of the subcontract, and (ii) that the Firm shall remain fully liable for the performance of the Services by the Subcontractor and its Personnel pursuant to this Contract;

- (c) any other action that may be specified in the SCC.

3.8 Reporting Obligations

The Firm shall submit to the Bank the reports and documents specified in [specify where necessary reports are identified] hereto, in the form, in the numbers and within the time periods set forth in the said [document].

3.9 Documents Prepared by the Firm to be the Property of the Bank

All plans, drawings, specifications, designs, reports, other documents and software prepared by the Firm for the Bank under this Contract shall become and remain the property of the Bank, and the Firm shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Bank, together with a detailed inventory thereof. The Firm may retain a copy of such documents and software. Restrictions about the future use of these documents and software, if any, shall be specified in the SCC.

3.10 Equipment and Materials Furnished by the Bank

Equipment and materials made available to the Firm by the Bank, or purchased by the Firm with funds provided by the Bank, shall be the property of the Bank and shall be marked accordingly. Upon termination or expiration of this Contract, the Firm shall make available to the Bank an inventory of such equipment and materials and shall dispose of such equipment and materials in accordance with the Bank's instructions. While in possession of such equipment and materials, the Firm, unless otherwise instructed by the Bank in writing, shall insure them at the expense of the Bank in an amount equal to their full replacement value.

4. Firms' Personnel and Subcontractors

4.1 General

The Firm shall employ and provide such qualified and experienced Personnel and Subcontractors as are required to carry out the Services.

4.2 Description of Personnel

- (a) The title, agreed job description, minimum qualification and estimated period of engagement in the carrying out of the Services of each of the Firms' Key Personnel are described in [document describing personnel]. If any of the Key Personnel has already been approved by the Bank, his/her name is listed as well.
- (b) If required to comply with the provisions of Clause GCC 3.1.1 hereof, adjustments with respect to the estimated periods of engagement of Key Personnel set forth in

- [document describing personnel] may be made by the Firm by written notice to the Bank, provided (i) that such adjustments shall not alter the originally estimated period of engagement of any individual by more than 10 percent or one (1) week, whichever is larger, and (ii) that the aggregate of such adjustments shall not cause payments under this Contract to exceed the ceilings set forth in Clause GCC 6.1(b) of this Contract. Any other such adjustments shall only be made with the Bank's written approval.
- (c) If additional work is required beyond the scope of the Services specified in Appendix A, the estimated periods of engagement of Key Personnel set forth in [document describing personnel] may be increased by agreement in writing between the Bank and the Firm, provided that any such increase shall not, except as otherwise agreed in writing, cause payments under this Contract to exceed the ceilings set forth in Clause GCC 6.1(b) of this Contract.

4.3 Approval of Personnel

The Key Personnel and Subcontractors listed by title as well as by name in [document describing personnel] are hereby approved by the Bank. In respect of other Key Personnel that the Firm proposes to use in the carrying out of the Services, the Firm shall submit to the Bank for review and approval a copy of their biographical data and (in the case of Key Personnel to be used within the country of the Government) a copy of a satisfactory medical certificate in the form attached hereto as [description of medical certificate form]. If the Bank does not object in writing (stating the reasons for the objection) within twenty-one (21) calendar days from the date of receipt of such biographical data and (if applicable) such certificate, such Key Personnel shall be deemed to have been approved by the Bank.

4.4 Working Hours, Overtime, Leave, etc.

- (a) Working hours and holidays for Key Personnel are set forth in [document describing work rules]. To account for travel time, Foreign Personnel carrying out Services inside the Government's country shall be deemed to have commenced (or finished) work in respect of the Services such number of days before their arrival in (or after their departure from) the Government's country as is specified in [document describing work rules] hereto.
- (b) The Key Personnel shall not be entitled to be paid for overtime or to take paid sick leave or vacation leave except as specified in [document describing work rules] hereto, and except as specified in such document, the Firms' remuneration shall be deemed to cover these items. All leave to be allowed to the Personnel is included in the staff-months of service set forth in [document describing work rules]. Any taking of leave by Personnel shall be subject to the prior approval by the Firm who shall ensure that absence for leave purposes will not delay the progress and adequate supervision of the Services.

4.5 Removal and/or Replacement of Personnel

- (a) Except as the Bank may otherwise agree, no changes shall be made in the Key Personnel. If, for any reason beyond the reasonable control of the Firm, it becomes necessary to replace any of the Personnel, the Firm shall forthwith provide as a replacement a person of equivalent or better qualifications.
- (b) If the Bank (i) finds that any of the Personnel has committed serious misconduct or has been charged with having committed a criminal action, or (ii) has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Firm shall, at the Bank's written request specifying the grounds therefore, forthwith provide as a replacement a person with qualifications and experience acceptable to the Bank.
- (c) Any of the Personnel provided as a replacement under Clauses (a) and (b) above, the rate of remuneration applicable to such person as well as any reimbursable expenditures (including expenditures due to the number of eligible dependents) the Firm may wish to claim as a result of such replacement, shall be Subject to the prior written approval by the Bank. Except as the Bank may otherwise agree, (i) the Firm shall bear all additional travel and other costs arising out of or incidental to any removal and/or replacement, and (ii) the remuneration to be paid for any of the Personnel provided as a replacement shall not exceed the remuneration that would have been payable to the Personnel replaced.

4.6 Resident Project Manager

If required by the SCC, the Firm shall ensure that at all times during the Firms' performance of the Services in the Government's country a resident project manager, acceptable to the Bank, shall take charge of the performance of such Services.

5. Obligations of the Client

5.1 Assistance and Exemptions

Unless otherwise specified in the SCC, the Bank shall use its best efforts to ensure that the Government shall:

- (a) provide the Firm, Subcontractors, and Personnel with work permits and such other documents as shall be necessary to enable the Firm, Subcontractors, or Personnel to perform the Services;
- (b) arrange for the Personnel and, if appropriate, their eligible dependents to be provided promptly with all necessary entry and exit visas, residence permits, exchange permits, and any other documents required for their stay in the Government's country;
- (c) facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Personnel and their eligible dependents;
- (d) issue to officials, agents, and representatives of the Government all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services;

- (e) exempt the Firm and the Personnel and any Subcontractors employed by the Firm for the Services from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity according to the Applicable Law;
- (f) grant to the Firm, any Subcontractor, and the Personnel of either of them the privilege, pursuant to the Applicable Law, of bringing into the Government's country reasonable amounts of foreign currency for the purposes of the Services or for the personal use of the Personnel and their dependents and of withdrawing any such amounts as may be earned therein by the Personnel in the execution of the Services;
- (g) provide the Firm autonomy in carrying out commercial decisions subject to accountability to the Bank's supervisory authority in a manner consistent with the banking regulations of [name of country]; and
- (h) provide to the Firm, Subcontractors, and Personnel any such other assistance as may be specified in the SCC.

5.2 Access to Land

The Bank warrants that the Firm shall have, free of charge, unimpeded access to all land in the Government's country in respect of which access is required for the performance of the Services. The Bank will be responsible for any damage to such land or any property thereon resulting from such access and will indemnify the Firm and each of the Personnel in respect of liability for any such damage, unless such damage is caused by the default or negligence of the Firm or any Subcontractor or the Personnel of either of them.

5.3 Taxes and Duties

If, after the date of this Contract, there is any change in the Applicable Law with respect to taxes and duties that increases or decreases the cost incurred by the Firm in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Firm under this Contract shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the ceiling amounts specified in Clause GCC 6.1(b).

5.4 Services, Facilities, and Property of the Client

The Bank shall make available to the Firm and the Personnel, for the purposes of the Services and free of any charge, the services, facilities, and property described in [document describing facilities made available] at the times and in the manner specified in said [document], provided that if such services, facilities and property shall not be made available to the Firm as and when so specified, the Parties shall agree on (i) any time extension that it may be appropriate to grant to the Firm for the performance of the Services, (ii) the manner in which the Firm shall procure any such services, facilities, and property from other sources, and (iii) the additional payments, if any, to be made to the Firm as a result thereof pursuant to Clause GCC 6.1(c) hereinafter.

5.5 Payment

In consideration of the Services performed by the Firm under this Contract, the Bank shall make to the Firm such payments and in such manner as is provided by Clause GCC 6 of this Contract.

5.6 Counterpart Personnel

- (a) If so provided in [document describing property made available] hereto, the Bank shall make available to the Firm, as and when provided in such [document], and free of charge, such counterpart personnel to be selected by the Bank, with the Firms' advice, as shall be specified in such [document]. Counterpart personnel shall work under the exclusive direction of the Firm. If any member of the counterpart personnel fails to perform adequately any work assigned to such member by the Firm, which is consistent with the position occupied by such member, the Firm may request the replacement of such member, and the Bank shall not unreasonably refuse to act upon such request.
- (b) If counterpart personnel are not provided by the Bank to the Firm as and when specified in [document describing property made available], the Bank and the Firm shall agree on (i) how the affected part of the Services shall be carried out, and (ii) the additional payments, if any, to be made by the Bank to the Firm as a result thereof pursuant to Clause 6.1(c) hereof.

6. Payments to the Consultants

6.1 Cost Estimates and Ceiling Amount

- (a) An estimate of the cost of the Services payable in foreign currency is set forth in [document setting forth cost estimate]. An estimate of the cost of the Services payable in local currency is set forth in [document setting forth cost estimate in local currency].
- (b) Except as may be otherwise agreed under Clause GCC 2.6 and subject to Clause GCC 6.1(c), payments under this Contract shall not exceed the ceilings in foreign currency and in local currency specified in the SCC. The Consultants shall notify the Client as soon as cumulative charges incurred for the Services have reached 80% of either of these ceilings.
- (c) Notwithstanding Clause GCC 6.1(b) hereof, if pursuant to any of the Clauses GCC 5.3, 5.4 or 5.6 hereof, the Parties shall agree that additional payments in local and/or foreign currency, as the case may be, shall be made to the Consultants in order to cover any necessary additional expenditures not envisaged in the cost estimates referred to in Clause GCC 6.1(a) above, the ceiling or ceilings, as the case may be, set forth in Clause GCC 6.1(b) above shall be increased by the amount or amounts, as the case may be, of any such additional payments.

6.2 Remuneration and Reimbursable Expenditures

- (a) Subject to the ceilings specified in Clause GCC 6.1(b) hereof, the Bank shall pay to the

- Firm (i) remuneration as set forth in Clause GCC 6.2(b), and (ii) reimbursable expenditures as set forth in Clause GCC 6.2(c). If specified in the SCC, said remuneration shall be subject to price adjustment as specified in the SCC.
- (b) Remuneration for the Personnel shall be determined on the basis of time actually spent by such Personnel in the performance of the Services after the date determined in accordance with Clause GCC 2.3 and Clause SCC 2.3 (or such other date as the Parties shall agree in writing) (including time for necessary travel via the most direct route) at the rates referred to, and subject to such additional provisions as are set forth in the SCC.
 - (c) Reimbursable expenditures actually and reasonably incurred by the Firm in the performance of the Services, as specified in Clause SCC 6.3(b).

6.3 *Currency of Payment*

- (a) Foreign currency payments shall be made in the currency or currencies specified as foreign currency or currencies in the SCC, and local currency payments shall be made in the currency of the Government.
- (b) The SCC shall specify which items of remuneration and reimbursable expenditures shall be paid, respectively, in foreign and in local currency.

6.4 *Mode of Billing and Payment*

Billings and payments in respect of the Services shall be made as follows:

- (a) The Bank shall cause to be paid to the Firm an advance payment as specified in the SCC, and as otherwise set forth below. The advance payment will be due after provision by the Firm to the Bank of a bank guarantee by a bank acceptable to the Bank in an amount (or amounts) and in a currency (or currencies) specified in the SCC, such bank guarantee (i) to remain effective until the advance payment has been fully set off as provided in the SCC, and (ii) to be in the form set forth in Appendix A hereto or in such other form as the Bank shall have approved in writing.
- (b) As soon as practicable and not later than fifteen (15) days after the end of each calendar month during the period of the Services, the Firm shall submit to the Bank, in duplicate, itemized statements, accompanied by copies of receipted invoices, vouchers, and other appropriate supporting materials, of the amounts payable pursuant to Clauses GCC 6.3 and 6.4 for such month. Separate monthly statements shall be submitted in respect of amounts payable in foreign currency and in local currency. Each such separate monthly statement shall distinguish that portion of the total eligible costs that pertains to remuneration from that portion that pertains to reimbursable expenditures.
- (c) The Bank shall cause the payment of the Firm's monthly statements within sixty (60) days after the receipt by the Bank of such statements with supporting documents. Only such portion of a monthly statement that is not satisfactorily supported may be withheld from payment. Should any discrepancy be found to exist between actual

- payment and costs authorized to be incurred by the Firm, the Bank may add or subtract the difference from any subsequent payments. Interest at the annual rate specified in the SCC shall become payable as from the above due date on any amount due by, but not paid on, such due date.
- (d) The final payment under this Clause shall be made only after the final report and a final statement, identified as such, shall have been submitted by the Firm and approved as satisfactory by the Bank. The Services shall be deemed completed and finally accepted by the Bank and the final report and final statement shall be deemed approved by the Bank as satisfactory ninety (90) calendar days after receipt of the final report and final statement by the Bank unless the Bank, within such ninety (90)-day period, gives written notice to the Firm specifying in detail deficiencies in the Services, the final report, or final statement. The Firm shall thereupon promptly make any necessary corrections, and upon completion of such corrections, the foregoing process shall be repeated. Any amount that the Bank has paid or caused to be paid in accordance with this Clause in excess of the amounts actually payable in accordance with the provisions of this Contract shall be reimbursed by the Firm to the Bank within thirty (30) days after receipt by the Firm of notice thereof. Any such claim by the Bank for reimbursement must be made within twelve (12) calendar months after receipt by the Bank of a final report and a final statement approved by the Bank in accordance with the above.
 - (e) All payments under this Contract shall be made to the accounts of the Firm as specified in the SCC.

7. Fairness and Good Faith

7.1 Good Faith

The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

7.2 Operation of the Contract

The Parties recognize that it is impractical in this Contract to provide for every contingency that may arise during the life of the Contract, and the Parties hereby agree that it is their intention that this Contract shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Contract either Party believes that this Contract is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but no failure to agree on any action pursuant to this Clause shall give rise to a dispute subject to arbitration in accordance with Clause GCC 8 hereof.

8. Settlement of Disputes

8.1 *Amicable Settlement*

The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or the interpretation thereof.

8.2 *Dispute Settlement*

Any dispute between the Parties as to matters arising pursuant to this Contract that cannot be settled amicably within thirty (30) days after receipt by one Party of the other Party's request for such amicable settlement may be submitted by either Party for settlement in accordance with the provisions specified in the SCC.

Special Conditions of Contract

| Number of GCC Clause | Amendments of, and Supplements to, Clauses in the General Conditions of Contract |
|-----------------------------|---|
|-----------------------------|---|

1.6.1

The addresses are:

Bank: [Name of Bank]

Attention: [Name of appropriate person]

Cable address:

Telex:

Facsimile:

e-mail:

Web Site:

Firm: [Name of Firm]

Attention: [Name of appropriate person]

Cable address:

Tel:

Facsimile:

e-mail:

Web Site:

1.6.2

Notice will be deemed to be effective as follows:

- (a) in the case of personal delivery or registered mail, on delivery;
- (b) in the case of telexes, e-mail after 12 hours on working days and 48 hours on weekends, following confirmed transmission;
- (c) in the case of telegrams, after 12 hours on working days and 48 hours on weekends, following confirmed transmission; and
- (d) in the case of facsimiles, after 12 hours on working days and 48 hours on weekends, following confirmed transmission.

1.8

The Member in charge of the Firm is
[Name and Title]

1.9

The Authorized Representatives are:

For the Bank: [Name and Title]

For the Firm: [Name and Title]

- 1.10 The Firm shall be liable for all applicable taxes.
- 2.1 The effectiveness conditions are the following:
Immediately, after signing the contract.
- 2.2 The contract will be effective from [date].
- 2.3 The consultant shall begin carrying out the services on [date].
- 2.4 The contract shall terminate at the end of [date].
- 3.2.4(b) "For a period of two years after the expiration of this Contract, the Firm shall not engage, and shall cause their Personnel, as well as their Subcontractors and their Personnel, not to engage in the activity of a purchaser (directly or indirectly) of the assets on which they advised the Bank under this Contract or in the activity of an adviser (directly or indirectly) of potential purchasers of such assets. The Firm also agrees that its affiliates shall be disqualified for the same period of time from engaging in the said activities."
- 3.4 Limitation of the Firm's Liability toward the Bank
- (a) Except in case of gross negligence or willful misconduct on the part of the Firm or on the part of any person or firm acting on behalf of the Firm in carrying out the Services, the Firm, with respect to damage caused by the Firm to the Bank's property, shall not be liable:
- (i) for any indirect or consequential loss or damage; and
- (ii) any direct loss or damage that exceeds (A) the total payments for professional fees and reimbursable expenditures made or expected to be made to the Firm hereunder, or (B) the proceeds the Firm may be entitled to receive from any insurance maintained by the Firm to cover such a liability, whichever of (A) or (B) is higher.
- (b) This limitation of liability shall not affect the Firms' liability, if any, for damage to Third Parties caused by the Firm or any person acting on behalf of the Firm in carrying out the Services.
- 3.5 The risks and the coverage shall be as follows:
- (a) Third Party motor vehicle liability insurance in respect to motor vehicles operated in the Bank's country by the Firm or its Personnel or any Subcontractors or their Personnel, with a minimum coverage of US\$100,000 per occurrence, for any number of occurrences;
- (b) Third Party liability insurance, with a minimum coverage of US\$100,000 for any number of occurrences;
- (c) Professional liability insurance, with a minimum coverage equivalent to US\$10 million.
- (d) Employer's liability and workers' compensation insurance in respect to the Personnel of the Firm and of any Subcontractor, in accordance with the

relevant provisions of the Applicable Law, as well as with respect to such Personnel, any such life, health, accident, travel, or other insurance as may be appropriate; and

- (e) Insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this Contract, (ii) the Firm's property used in the performance of the Services, and (iii) any documents prepared by the Firm in the performance of the Services.
- 3.6 The bases for time charges and cost referred to in Clause GCC 3.6 shall include the bases of the Firm's representations referred to in Clause SCC 6.2.(b).
- 3.7 (c) The Subcontractor or any member of the personnel subcontracted or appointed under this clause shall meet the minimum required qualification and competence and experience, with specific experience and a demonstrated track record of successful bank turnaround operation, experience in troubled or problematic commercial banks, and bank restructuring.
- 3.9 The Firm shall not use these documents for purposes unrelated to this Contract without the prior written approval of the Bank for the period of five (5) years.
- 4.6 The person designated as resident project manager in [document] shall serve in that capacity, as specified in Clause GCC 4.6.
- 5.1 Not applicable.
- 6.1 (b) The ceiling in foreign currency or currencies is: Limited to [state ceiling amount] with all applicable taxes.
The ceiling in local currency is:
- 6.2 (a) Not Applicable.
- (1) It is understood (i) that the remuneration rates shall cover (A) such salaries and allowances as the Firm shall have agreed to pay to the Personnel, as well as factors for social charges and overhead, (B) the cost of payments to home office staff not included in the Personnel listed in [document], and (C) the Firm's fee, (ii) that bonuses or other means of profit-sharing shall not be allowed as an element of overhead, and (iii) that any rates specified for persons not yet appointed shall be provisional and shall be subject to revision, with the written approval of the Bank, once the applicable salaries and allowances are known.
 - (2) Remuneration for periods of less than one (1) month shall be calculated on an hourly basis for actual time spent in the Firm's home office and directly attributable to the Services (one hour being equivalent to 1/240th of a month) and on a calendar-day basis for time spent away from home office (one day being equivalent to 1/30th of a month).
- 6.2 (b) The rates for Foreign Personnel and Local Personnel are set forth in [Document], and the rates for Local Personnel in [Document].

- 6.3 (a) The foreign currencies shall be the following (limited to three currencies):
[name currency/currencies]
- 6.3 (b)(i) Remuneration for Foreign Personnel shall be paid in foreign currency and remuneration for Local Personnel shall be paid in local currency equivalent of US dollars quoted in [Document] per prevailing exchange rates at the time of payment.
- 6.3 (b)(ii) The reimbursable expenditures in foreign currency shall be the following:
remaining within the threshold of [specify amount] specified in foreign currency in [Document].
- (1) the following transportation costs:
Each contractor shall be entitled to claim international flights to the value of the total International Travel Amount mentioned for each consultant in the foreign currency reimbursable expenses listed in [Document];
- 6.3(b)(iii) The reimbursable expenditures in local currency shall be the following:
- (1) the cost of the following locally procured items: local transportation, office accommodations, supplies, utilities, and communication charges arising in the Bank's country, all if and to the extent required for the purpose of the Services, at rates specified in [Document];
- (2) the cost of equipment, materials, and supplies to be procured locally in the Bank's country, as specified in [Document];
- 6.4(c) The interest rate is prevailing average Interest rate on savings accounts as paid by [banks within the country].
- 8.2 Disputes shall be settled by arbitration in accordance with the following provisions:
- (1) Selection of Arbitrators. Each dispute submitted by a Party to arbitration shall be heard by a sole arbitrator or an arbitration panel composed of three arbitrators, in accordance with the following provisions:
- (a) Where the Parties agree that the dispute concerns a technical matter, they may agree to appoint a sole arbitrator or, failing agreement on the identity of such sole arbitrator within thirty (30) days after receipt by the other Party of the proposal of a name for such an appointment by the Party who initiated the proceedings, either Party may apply to the UNCITRAL for a list of not fewer than five (5) nominees and, on receipt of such list, the Parties shall alternately strike names therefrom, and the last remaining nominee on the list shall be the sole arbitrator for the matter in dispute. If the last remaining nominee has not been determined in this manner within sixty (60) days of the date of the list, the United Nations Commission on International Trade Law (UNCITRAL) shall appoint, upon the request of either Party and from such list or otherwise, a sole arbitrator for the matter in dispute.
- (b) Where the Parties do not agree that the dispute concerns a technical matter,

the Bank and the Firm shall each appoint one (1) arbitrator, and these two (2) arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration panel. If the arbitrators named by the Parties do not succeed in appointing a third arbitrator within thirty (30) days after the latter of the two arbitrators named by the Parties has been appointed, the third arbitrator shall, at the request of either Party, be appointed by the UNCITRAL.

- (c) If, in a dispute subject to Clause SCC 8.2 1.(b), one Party fails to appoint its arbitrator within thirty (30) days after the other Party has appointed its arbitrator, the Party which has named an arbitrator may apply to the UNCITRAL to appoint a sole arbitrator for the matter in dispute, and the arbitrator appointed pursuant to such application shall be the sole arbitrator for that dispute.
- (2) Rules of Procedure. Except as stated herein, arbitration proceedings shall be conducted in accordance with the rules of procedure for arbitration of the UNCITRAL as in force on the date of this Contract.
- (3) Substitute Arbitrators. If for any reason an arbitrator is unable to perform his/her function, a substitute shall be appointed in the same manner as the original arbitrator.
- (4) Nationality and Qualifications of Arbitrators. The sole arbitrator or the third arbitrator appointed pursuant to paragraphs (a) through (c) of Clause SCC 8.2 1 hereof shall be an internationally recognized legal or technical expert with extensive experience in relation to the matter in dispute and shall not be a national of the Firms' home country or of the home country of any of their Members or of the Government. For the purposes of this Clause, "home country" means any of the following:
 - (a) the country of incorporation of the Firm or of any of its Members; or
 - (b) the country in which the Firm's or any of its Members' principal place of business is located; or
 - (c) the country of nationality of a majority of the Firm's or of any its Members or shareholders; or
 - (d) the country of nationality of the Subcontractor concerned, where the dispute involves a subcontract.

(5) Miscellaneous. In any arbitration proceeding hereunder:

- (a) proceedings shall, unless otherwise agreed by the Parties, be held in [city and country];
- (b) the [specify language] shall be the official language for all purposes; and
- (c) the decision of the sole arbitrator or of a majority of the arbitrators (or of the third arbitrator if there is no such majority) shall be final and binding and shall be enforceable in any court of competent jurisdiction, and the Parties hereby waive any objections to or claims of immunity in respect of such enforcement.

Appendix A

Description of the Services (Terms of Reference)

Objectives of the Management Team in the Bank

1. The management team will have the following main tasks:
 - To stabilize the Bank and restore its financial health to an acceptable level.
 - To assert financial control over the Bank in an effort to stem existing losses and to make every effort to recover on the existing, nonperforming loan portfolio;
 - To work in close cooperation with a locally recruited consultancy team to strengthen the accounting capacity of the Bank so that reliable and timely externally audited accounts can be produced for public consumption. To produce [state applicable year] accounts within five (5) months of commencing the assignment and produce audited accounts from [state year] onward within a maximum of four (4) months after the end of the fiscal year; produce quarterly provisional statements within one (1) month of each quarter end.
 - Recommend those loans that should be written off by the Bank after due recovery efforts. Update the list of bad assets and good assets at each quarter end.
 - Restructure and recover the problem loans as far as possible before complete write off.
 - Continue to implement the approved comprehensive human resources policy for the Bank that would involve, *inter alia*, (a) separating nonperforming staff from employment; (b) determining the appropriate number of staff so as to "right-size" the Bank; (c) implementing a human resources Master Plan that covers all aspects of training and skills development; (d) developing an appropriate remuneration package for the remaining staff of the Bank; and (e) developing a performance-based recruitment and promotions policy.
 - Implement the approved Information Technology Plan for the Bank and complete computerization and automation of the branches by [give date]. Submit a plan for the extension of the computer capability to all branches within the branch network as appropriate.
 - Make recommendations and develop an action plan for dealing with the existing private shareholders of the Bank in conjunction with the Government. Prepare and submit a plan for the capitalization of the Bank within [number of days].
 - Evaluate the set of negotiated performance indicators on a quarterly basis.
2. Continuing Financial Control

Until the process of "State divestiture/entry of strategic partner" is completed, the Management Team's objectives will be to:

- Continue control and oversight of the Bank, managing it in terms of sound banking practices and in accordance with national monetary policy and central banking regulations;
- Manage the Bank's condition, identify losses, and recommend viable alternatives for cost-effective operation;
- Develop and revise as needed a Strategic Plan incorporating goals and objectives for the

- management of the Bank until reprivatization or contract conclusion;
- Continue to ensure that the institution is operated in a safe and sound manner by:
 - delivering results of profitability;
 - Initiating a management approach intended to reestablish a sustainable income stream and Bank profitability;
 - ensuring that the gross deposits of the Bank do not exceed the amount to be agreed with [the regulatory authority] for any extended period of time, this amount to be periodically reviewed concurrent with the semiannual evaluation of performance indicators;
 - eliminating any speculative activities; and
 - terminating waste, fraud, and politically motivated or insider abuse;
 - Continue to develop and implement revised policies and procedures, as necessary, for credit and expenditure approval and administration, to ensure effective management control;
 - Extend new or renewed lending to borrowers with an acceptable credit rating and adequate, accurately valued collateral within [supervisor's] Credit Policy and [supervisor's] rules and regulations. The recovered amount from loans or excess liquidity will be utilized properly to capture the potential income.
 - Continue implementation of a Master Human Resource Plan.
 - Continue close cooperation with the locally recruited accountancy firm to help develop timely monthly accounts and, eventually, audited annual accounts;
 - Continue restructuring and rationalization of the bank administration and branch network.
 - Ensure that all the areas of the bank are operated in a safe and sound manner.
 - Complete the computerization of all branches as scheduled [by stated date].

Key Operating Policies for the Management Team

3. The primary goal of the Management Team is to stabilize the operations of the Bank, and develop an operating plan consistent with a cost-effective approach to managing the Bank's operations prior to the termination of the Government's investment. The Bank's operations should continue to be thoroughly reviewed to identify abuses, inefficiencies, and activities that increase the Bank's risk profile. Problem areas should be dealt with as soon as practicable. Equally important will be the role of the Management Team in continuing to identify nonperforming staff, ghost workers, and staff/positions that can be declared redundant in the fairest possible manner for the workers. Progress made on the implementation of the Human Resources Plan should be covered in the normal quarterly reports of the Management Team.

4. Establishing Management Control.

The management team will continue the necessary actions to establish effective control of the Bank (particularly credit approval and accounting procedures), and determine all the necessary day-to-day activities and management procedures required to minimize operational costs and enhance revenues within the framework of a provisional administration. This will include but it is not limited to:

- (a) strengthening internal inspection, ensuring that this service reports directly to the Management Committee, and respects any revisions to operating policies and procedures;
- (b) charging the Credit Department, and especially the Risk Management Division, with maintaining and modifying (where necessary) the credit procedures (particularly authorization) identifying any insider lending and taking appropriate action and reporting outcomes to the [supervisory authority];
- (c) continuing to review internal management information systems, to ensure that adequate mechanisms exist, or are developed to secure management control;
- (d) refining and implementing procedures for loan portfolio management, with a particular focus on loan recovery;
- (e) refining and extending procedures for asset/liquidity management;
- (f) further developing the computerization and automation of the branch networks to coverage of 85 percent of the deposit base.

5. Immediate Review and Action

- The Management Team is expected to revise the existing strategic plan within forty-five (45) days covering all the functional areas for further improvements. This plan will establish the programs and program completion dates.

6. Entry of Strategic Private Partner/State Divestiture

The Management Team is expected to financially restructure and resize the Bank so as to sufficiently restore its financial condition to the point where a sale to a suitable acquirer would be possible with a minimum injection of financial resources from the Government. The ultimate goal of the Management Team will be to make the Bank profitable for the implementation of the divestiture process in line with the current [government policy].

Reporting Requirements

7. The Management Team will report directly to the [supervisory authority]. Apart from standard monetary, financial, and bank supervisory reporting, the Management Team will revise its Strategic Plan for review and approval of the [supervisory authority] within forty-five (45) days of the effective date of the management contract, and thereafter submit quarterly reports to the Bank and the [supervisory authority or government authority such as the Ministry of Finance] following a mutually agreed-upon format as follows:

- Strategic Plan within 45 days of commencement of the assignment;
- Capital plan within 90 days.
- Quarterly reports (beginning from [state beginning date] within one (1) month of each quarter end) should include, at a minimum, the following (after each of the main reports have been completed):
 - financial situation of the Bank, including quarterly balance sheet and profit and loss information

- update on the loan portfolio and recoveries made
- implementation of the separation of employees plan
- implementation of other aspects of the Human Resources Master Plan
- implementation of the MIS/Computerization Plan as established in the strategic plan
- Progress in ALM, Audit, Account, and branch operations
- Progress made in agreed performance targets
- Other relevant information.

Duration of Assignment and Types of Expertise Required

8. The Contract of the Firm has been entered into for a period of [state period of contract]. The Management Team will be led by a Chief Executive Officer, who will assume overall responsibility to oversee all its day-to-day operations. This team will comprise [specify who will be on the team, such as expatriates and long-term local team members]. They are expected head up departments responsible for (a) Credit; (b) Loan Administration; (c) Human Resources; (d) Management Information Systems (MIS); (e) Accounting; (f) Internal Audit; and (g) Asset/Liability (Treasury) Management, Bank Administration, and Operations. The contract should also include a team of accountants to work with the Firm to assist in the reconstruction of the accounts and the development of adequate systems for accounting, reconciliation, and financial reporting and any other assignments that may from time to time be delegated by the CEO.

Remuneration

9. The Management Team's remuneration will be time-based and will be [describe financing of management contract].

FORM 10

BRIDGE BANK AGREEMENT

(Must be reviewed by lawyers familiar with local laws)

This Agreement is made and entered into as of the ___ day of _____, 20__, by and among the [appropriate government agency] as Receiver for [name of failed] Bank ("the Receiver") of [location of failed bank], and X Bank, organized under the laws of [name of appropriate country], and having its principal place of business in [location of X Bank]("the Bridge Bank").

Whereas, on [date of closing], the [appropriate government agency] as the chartering authority of [name of failed bank] ("the Failed Bank") closed the Failed Bank pursuant to applicable law and the [appropriate government agency] was appointed as Receiver; and

Whereas, the [appropriate government agency] has determined pursuant to [section and name of appropriate law] to effect a restructuring of [name of failed] Bank by transferring some of the assets and certain deposit and other liabilities to the Bridge Bank, a newly chartered bank fully owned by the [appropriate government agency];

Now therefore, in consideration of the mutual promises herein set forth and other valuable consideration, the parties hereby agree as follows:

- 1. Liabilities Assumed by the Bridge Bank.** The Bridge Bank expressly assumes and agrees to pay all deposit liabilities of [name of failed] Bank as those deposits are defined under the [name of appropriate law]. The Bridge Bank expressly does not assume any on- and off-balance sheet liabilities except as stated above.
- 2. Assets Purchased by the Bridge Bank.** The Bridge Bank hereby assumes from the Receiver and the Receiver hereby assigns, transfers, conveys, and delivers to the Bridge Bank, all right, title, and interest of the Receiver in and to all of the performing assets and buildings, branches, and operating systems as reflected on the books of [name of failed] Bank as of bank closing at book value.
- 3. Assets Not Purchased by the Bridge Bank.** The Bridge Bank does not purchase, acquire, or assume under this Agreement any of the remaining assets of [name of failed] Bank.
- 4. Continuation of Banking Business.** For the period commencing the first banking Business Day after Bank closing, the Bridge Bank will take over the operations of [name of failed] Bank subject to the limitations in this Agreement. The Bridge Bank will perform all duties and obligations with respect to the [specify operations taken over, such as credit card operation, safe deposit business, safekeeping business, or trust business] of [name of failed bank].
- 5. Agreement with Respect to Bank Premises.** The Receiver hereby grants to the Bridge Bank the exclusive right to occupy the premises of the former [name of failed] Bank, whether owned or leased. The Bridge Bank agrees to pay to any appropriate third party during and for the period of occupancy by it of any leased premises the market rental value for such premises.

6. **Agreement with Respect to Leased Data Processing or Other Equipment.** The Bridge Bank, during its period of use of any property subject to a Data Processing Lease, shall pay to the appropriate third parties all operating costs with respect thereto and to comply with all relevant terms of the applicable Data Processing Leases.
7. **Office Space for the Receiver.** For the period commencing on the day following the Bank Closing until such time as the Receiver determines, the Bridge Bank agrees to provide to the Receiver without charge adequate and suitable office space at the Bank premises occupied by the Bridge Bank for its use in discharge of its functions as Receiver.
8. **Consider whether there needs to be provisions to continue employment contracts or benefits of failed bank employees’.**
9. **Transfer of Records.** The Receiver assigns, transfers, and conveys to the Bridge Bank all records pertaining to the deposit liabilities of [name of failed] Bank and all records relating to any assumed assets.
10. **Corrections of Errors and Omissions.** In the event any bookkeeping omissions or errors are discovered in preparing any accounting statements or in completing the transfers and assumptions contemplated hereby, the parties hereto agree to correct such errors and omissions.
11. **Condition Precedent.** The obligations of the parties to this Agreement are subject to the Receiver having received at or before Bank Closing evidence reasonably satisfactory to each of any necessary approval, waiver, or other action by any governmental authority with respect to this Agreement and the transactions contemplated hereby, the closing of the Failed Bank and the appointment of the Receiver, the chartering of the Bridge Bank and any other agreements or documents contemplated under this Agreement.
12. **Representations and Warranties.** The Bridge Bank is duly organized, validly existing and in good standing under the laws of its Chartering Authority and has full power and authority to own and operate its properties and conduct its business and has full power and authority to execute this Agreement and to perform its obligations hereunder. Neither the execution and delivery nor the performance by the Bridge Bank of this Agreement will result in any violation by the Bridge Bank of, or be in conflict with, any provision of any applicable law or regulation or any order of any court or governmental authority.
13. **Successors.** All terms and conditions of this Agreement shall be binding on the successors and assigns of the Receiver and the Bridge Bank. No amendment or other modification, rescission, release, or assignment of any part of this Agreement shall be effective except pursuant to a written agreement signed by the duly authorized representatives of the parties hereto.

14. Entire Agreement. This Agreement embodies the entire agreement of the parties hereto in relation to the subject matter herein and supersedes all prior understandings or agreements, oral or written, between the parties.

In Witness Whereof, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the _____ day of ____, 20__.

SIGNATURES

FORM 11

PAYING AGENT AGREEMENT

BETWEEN

THE [APPROPRIATE AGENCY]

ON BEHALF OF DEPOSITORS OF [NAME OF FORMER BANK]
[LOCATION OF FORMER BANK]

and

[NAME AND LOCATION OF PAYING AGENT BANK]

DATED AS OF
[DATE]

INSURED DEPOSIT TRANSFER AGREEMENT

(Must be reviewed by lawyers familiar with local laws)

THIS AGREEMENT is made and entered into as of the ___ day of _____, 20__, between the [APPROPRIATE AGENCY] on behalf of the [INSURED DEPOSITORS] [DEPOSITORS] of [NAME AND LOCATION OF BANK] (the "Fund"), and [NAME AND LOCATION OF PAYING AGENT BANK] (the "Agent Bank").

WHEREAS, the [name of failed bank] was declared insolvent and was placed into bankruptcy proceedings; and

WHEREAS, pursuant to [statutory citation], payment of the deposits in such institution may be made by the Fund by making available to each depositor a transferred deposit in another insured depository institution (hereinafter the "Agent Bank") in an amount equal to the Insured Deposit of each such depositor, as determined by the Fund; and

WHEREAS, pursuant to this Agreement, the Agent Bank (i) accepts certain limited duties, responsibilities , and obligations as the agent of the Fund, (ii) accepts the transfer of the Received Deposits of the Failed Bank made available by the Fund, and (iii) will commence payment of or otherwise make available to the depositors of the Failed Bank such transferred Received Deposits to the Failed Bank's depositors; and

WHEREAS, pursuant to [statutory citation], the Fund may provide assistance to the Agent Bank that may include [define assistance that may be provided] to facilitate the transaction contemplated by this Agreement; and

WHEREAS, the Fund has determined that such transfer of Received Deposits to the Agent Bank and provision of indemnification to the Indemnitees is necessary to discharge the obligation of the Fund to provide insurance coverage for the Received Deposits of the Failed Bank under [statutory citation];

NOW THEREFORE, in consideration of the mutual promises herein set forth and other valuable considerations, the parties hereto agree as follows:

**ARTICLE I
DEFINITIONS**

1.1 The following definitions shall apply:

| Term | Definition |
|------------------------|--|
| "Agreement" | means this Insured Deposit Transfer Agreement by and among the Agent Bank and the Fund, as amended or otherwise modified from time to time. |
| "Bank Closing" | means the [define this term in accordance with statutory provisions]. |
| "Business Day" | means a day other than a Saturday, Sunday, or legal holiday. |
| "Deposit" | means a deposit as defined in [cite statutory section defining deposit], including, without limitation, outstanding checks and all uncollected items included in the depositors' balances and credited on the books and records of the Failed Bank as of [define date for determining deposit amounts or by reference to defined term "Payment Date" below]; <u>provided that</u> the term "Deposit" shall not include all or any portion of those deposit balances [define any exceptions from deposits such as deposits of shareholders or deposits resulting from unlawful activity]. |
| "Indemnitees" | means (i) the Agent Bank and (ii) the directors, officers, employees, and agents of the Agent Bank who are <i>not</i> also current or former directors, officers, employees, or agents of the Failed Bank. |
| "Insured Deposits" | means the net amount due to any depositor with respect to its Deposits as determined by the Fund pursuant to [statutory citation]. |
| "Payment Date" | means the first Business Day after [define when the Payment Date will occur]. |
| "Person" | means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof, excluding the Fund. |
| "Received Deposits" | means [define what deposits will be included in the deposits received by the Agent Bank]. In the event that a depositor's aggregate Deposits in the Failed Bank are in excess of its Insured Deposit, the Fund, in accordance with its standard policies and procedures, shall determine which Deposits are assumed. |
| "Record" | means any document, microfiche, microfilm, and computer records (including but not limited to magnetic tape, disc storage, card forms, and printed copy) of the Failed Bank generated or maintained by the Failed Bank that is owned by or in the possession of the Fund [define the point in time to be referenced here]. |
| "Settlement Date" | means the first Business Day immediately prior to the day that is [define the effective date for settlement purposes]. The Fund, in its discretion, may extend the Settlement Date. |
| "Transferred Deposits" | means the Received Deposits made available at the Agent Bank to the depositors of the Failed Bank and which are transferred to the Agent Bank pursuant to Section 2.1. |

ARTICLE II
TRANSFER OF RECEIVED DEPOSITS

2.1 Transfer of Received Deposits. The Fund transfers to the Agent Bank and the Agent Bank accepts the transfer of the Received Deposits as stated on the books of the [name the bank] as of Bank Closing as set forth in Schedule 2.1 attached hereto and incorporated herein. The Agent Bank agrees to commence payment of or otherwise make available such Transferred Deposit upon demand to each such depositor (or to such other Person who can establish to the Agent Bank's satisfaction that such Person is the owner thereof), subject to the provisions of Section 2.5. Schedule 2.1 is based upon the best information available to the Fund and may be adjusted as provided in Article ____.

2.2 Interest on Transferred Deposits. The Agent Bank agrees that, from and after the Payment Date, it will accrue and pay interest on Transferred Deposits transferred pursuant to Section 2.1 at a rate(s) it shall determine; provided, that for nontransaction Transferred Deposits such rate(s) shall not be less than the lowest rate offered by the Agent Bank to its depositors for nontransaction deposit accounts. The Agent Bank shall permit each depositor to withdraw, without penalty for early withdrawal, all or any portion of such depositor's Transferred Deposit, whether or not the Agent Bank elects to pay interest in accordance with any deposit agreement formerly existing between the Failed Bank and such depositor; and further provided, that if such Transferred Deposit has been pledged to secure an obligation of the depositor to the Failed Bank, any withdrawal thereof shall be subject to the terms of the agreement governing such pledge. The Agent Bank shall give notice to such depositors as provided in Section ____ of the rate(s) of interest that it has determined to pay and of such withdrawal rights.

2.3 Schedule of Discharged Deposit Liabilities. The Agent Bank shall provide to the Fund a "Schedule of Discharged Deposit Liabilities" at intervals of ninety (90) days from Bank Closing setting forth those Transferred Deposits with respect to which the Fund's liability for an Insured Deposit of the Failed Bank has been discharged by either (i) payment by the Agent Bank of a Transferred Deposit to the depositor, or (ii) confirmation of a new deposit agreement between each such depositor and the Agent Bank during such ninety (90)-day period and thereafter until the Fund's liability for Received Deposits has been discharged or until unclaimed Received Deposits have been paid to the Fund pursuant to Section 2.4. Each such Schedule shall set forth such information as the Fund may request, including the number and names of the Transferred Deposit accounts paid or assumed by the Agent Bank, the manner of settlement, and efforts of the Agent Bank to contact depositors.

2.4 Unclaimed Deposits. If, within eighteen (18) months after Bank Closing, any depositor of the Failed Bank does not claim or arrange to continue such depositor's Transferred Deposit at the Agent Bank, the Agent Bank shall, within fifteen (15) Business Days after the end of such eighteen (18)-month period, (i) refund to the Fund the full amount of each such Transferred Deposit (without reduction for service charges), (ii) provide to the Fund a schedule of all such refunded Transferred Deposits in such form as may be prescribed by the Fund, and (iii) assign, transfer, convey, and deliver to the Fund all rights, titles, and interest of the Agent Bank in and to Records previously transferred to the Agent Bank and other records generated or maintained by the Agent Bank pertaining to such Transferred Deposits. During such eighteen

(18)-month period, at the request of the Fund, the Agent Bank promptly shall provide to the Fund schedules of unclaimed Transferred Deposits in such form as may be prescribed by the Fund.

2.5 Withheld Payments. At any time, the Fund may, in its discretion, determine that all or any portion of any deposit balance transferred to the Agent Bank pursuant to this Agreement does not constitute a "Deposit" (or otherwise, in its discretion, determine that it is in the best interest of the Fund to withhold all or any portion of any deposit), and may direct the Agent Bank to withhold payment of all or any portion of any such deposit balance. Upon such direction, the Agent Bank agrees to hold such deposit and not to make any payment of such deposit balance to or on behalf of the depositor, or to itself, whether by way of transfer, set-off, or otherwise. The Agent Bank agrees to maintain the "withheld payment" status of any such deposit balance until directed in writing by the Fund as to its disposition. At the direction of the Fund, the Agent Bank shall return all or any portion of such deposit balance to the Fund, as appropriate, and thereupon the Agent Bank shall be discharged from any further liability to such depositor with respect to such returned deposit balance. If such deposit balance has been paid to the depositor prior to a demand for return by the Fund, and payment of such deposit balance had not been previously withheld pursuant to this Section, the Agent Bank shall not be obligated to return such deposit balance to the Fund. The Agent Bank shall be obligated to reimburse the Fund for the amount of any deposit balance or portion thereof paid by the Agent Bank in contravention of any previous direction to withhold payment of such deposit balance or return such deposit balance, the payment of which was withheld pursuant to this Section.

2.6 Payment of Deposits. In the event any depositor does not accept the obligation of the Agent Bank to pay any Transferred Deposit transferred to the Agent Bank pursuant to this Agreement and asserts a claim against the Fund for all or any portion of any such Deposit liability, the Agent Bank agrees on demand to provide to the Fund monies sufficient to pay such claim in an amount not in excess of the Deposit liability reflected on the books of the Agent Bank at the time such claim is made. Upon payment by the Agent Bank to the Fund of such amount, the Agent Bank shall be discharged from any further obligation under this Agreement to pay to any such depositor the amount of such Transferred Deposit paid to the Fund.

ARTICLE III

ASSUMPTION OF CERTAIN DUTIES AND OBLIGATIONS

The Agent Bank agrees with the Fund as follows:

3.1 Continuation of Banking Business. The Agent Bank agrees to provide such banking services as it chooses in the trade area of the Failed Bank.

3.2 Agreement with Respect to Safe Deposit Business. (This provision may be outside the scope of authority given to the Fund under its operating law. This must be checked with a local lawyer.) The Agent Bank agrees to discharge, in the usual course of conducting a banking business, the duties and obligations of the Failed Bank with respect to all Safe Deposit Boxes, if any, of the Failed Bank and to maintain all the necessary facilities for the use of such boxes by the renters thereof, subject to the provisions of the rental agreements between the Failed Bank and the respective renters of such boxes; provided, that the Agent

Bank may relocate the Safe Deposit Boxes of the Failed Bank to any office of the Agent Bank located in the trade area of the Failed Bank. At the end of such thirty (30)-day period, the Agent Bank shall treat any unclaimed Safe Deposit Box in accordance with its normal and customary procedures. **(Not sure this is necessary – depends on whether such services were offered by the failed bank).**

3.3 Agreement with Respect to Safekeeping Business. (This provision may be outside the scope of authority given to Fund under its operating law. This must be checked with a local lawyer.) The Agent Bank accepts all securities and other items, if any, held by the Failed Bank in safekeeping for its customers as of the Bank Closing Date. For a period of thirty (30) days following Bank Closing, the Agent Bank assumes and agrees to honor and discharge the duties and obligations of the Failed Bank with respect to such securities and items held in safekeeping. At the end of such thirty (30)- day period, the Agent Bank shall treat any unclaimed safekeeping items in accordance with its normal and customary procedures. **(Not sure this is necessary – depends on the services of the failed bank).**

3.4 Agreement with Respect to Certain Existing Agreements. (This provision may be outside scope of authority given to Fund under its operating law. This must be checked with a local lawyer.) With respect to agreements existing as of the Bank Closing Date that provide for the rendering of services by or to the Failed Bank, within thirty (30) days after the Bank Closing Date, the Agent Bank shall give the Fund written notice specifying whether it elects to assume or not to assume each such agreement. If no such notice is given, the Agent Bank shall be deemed to have not elected to assume such agreement. The Fund agrees to assign, transfer, convey, and deliver to the Agent Bank all rights, titles, and interest of the Fund, if any, in and to agreements the Agent Bank assumes hereunder.

3.5 Office Space for the Fund. The Agent Bank agrees to provide to the Fund, without charge, adequate and suitable office space (including parking facilities and vault space), furniture, equipment (including photocopying and telecopying machines), and utilities (including local telephone service) at the Agent Bank's premises for their use in the discharge of their respective functions with respect to the Failed Bank.

3.6 Agreement with Respect to Expenses. Notwithstanding anything to the contrary in this Agreement, for the period of one hundred twenty (120) days commencing the day after the Payment Date, the Fund agrees to pay all expenses, up to a maximum reimbursement of _____, incurred by the Agent Bank in the performance of its duties and obligations under this Agreement, including, but not limited to, costs associated with obtaining data processing, travel, compensation, and all other expenses related to the personnel of the Agent Bank, postage, overnight delivery, drilling of safe deposit boxes, waived wire transfer fees, legal fees, and interest paid on Transferred Deposits in excess of market rates prior to the time new rates can be set on the data processing system of the Failed Bank by the Agent Bank. Agent Bank shall submit such expenses in accordance with the procedures set forth in Article _____. Any extraordinary expenses incurred by the Agent Bank shall be considered on a case by case basis. (This provision should be adjusted to consider any costs not reflected or to delete types of costs that might not be incurred).

3.7 Continuing Cooperation. The parties hereto agree that they will, in good faith and with their best efforts, cooperate with one another to carry out the transactions contemplated by this Agreement and to effect the purposes hereof.

ARTICLE IV

DUTIES WITH RESPECT TO DEPOSITORS OF THE FAILED BANK

4.1 Payment of Checks, Drafts, and Orders. Subject to Section 2.5, the Agent Bank agrees to pay all properly drawn checks, drafts, and withdrawal orders of depositors of the Failed Bank presented for payment, whether drawn on the check or draft forms provided by the Failed Bank or by the Agent Bank, to the extent that the Transferred Deposit balances to the credit of the respective makers or drawers transferred to the Agent Bank under this Agreement are sufficient to permit the payment thereof, and in all other respects to discharge, in the usual course of conducting a banking business, the duties and obligations of the Failed Bank with respect to the Transferred Deposit balances due and owing to the depositors of the Failed Bank transferred to the Agent Bank under this Agreement. (This provision may need to be adjusted to reflect actual conditions present in the failed bank, including the types of accounts).

4.2 Notice to Depositors.

(a) Within seven (7) days after the Payment Date, the Agent Bank shall give (i) notice to depositors of the Failed Bank of the transfer to it of the Transferred Deposits, and (ii) any notice required under Section 2.2, by mailing to each such depositor a notice with respect to such transfer and by advertising in a newspaper of general circulation where the Failed Bank was located. **(Is this the most effective way to give notice or should there be a posting or some other method of notice?)** The Agent Bank agrees that it will obtain prior approval of all such notices and advertisements from the Fund and that such notices and advertisements shall not be mailed or published until such approval is received.

(b) The Agent Bank shall give notice by mail to depositors of the Failed Bank concerning the procedures to claim their deposits, which notice shall be provided to the Agent Bank by the Fund. **(Notice needs to be drafted reflecting process for claiming deposits).** Such notice shall be included with the notice to depositors to be mailed by the Agent Bank pursuant to Section 4.2(a). Notices required by Sections 4.3(a) and (b) shall be mailed by the Agent Bank not later than seven (7) days after Bank Closing.

(c) If the Agent Bank proposes to charge fees different from those charged by the Failed Bank before it establishes new deposit account relationships with the depositors of the Failed Bank, the Agent Bank shall give notice by mail of such changed fees to such depositors.

4.3 Deposits not Claimed within 30 Days.

(a) For Transferred Deposit accounts that were not paid out or converted to a new account within thirty (30) days of the Payment Date, the Agent Bank shall either (i) mail a check to each such depositor to the last known address as reflected on the books and records of the Failed Bank; (ii) hold such Transferred Deposit until such time as the Agent Bank must comply with Section 2.4 of this Agreement; or (iii) establish an account with the Agent Bank, to the extent the Agent Bank may legally do so, on behalf of such depositor and transfer the unclaimed Transferred Deposit into such account. In connection with this Section 4.3(a)(iii), the Agent Bank may rely on the accuracy of the records of the Failed Bank in establishing the accounts and to the extent such records are not accurate, the indemnification provisions of Article ____ shall apply.

(b) The Agent Bank shall not be responsible for performing any informational reporting, or maintaining account records or histories (such as check images, statement images, or records of debits or credits) **(needs to reflect situation of Failed Bank on recordkeeping)** or providing any such account information to depositors, with respect to the Transferred Deposit accounts that were originated by the Failed Bank. The Agent Bank shall perform such obligations only with respect to those deposit accounts established with the Agent Bank pursuant to Section 4.3(a) above and only on and after the time such deposit accounts are established.

(c) If any amount deposited and credited to a Transferred Deposit Account and paid out to a depositor by the Agent Bank under Section 4.3(a) is later returned, rejected, or otherwise not paid to the Agent Bank, the Fund shall reimburse the Agent Bank for such unpaid amount within ten (10) business days after the Agent Bank provides the Fund notice thereof together with reasonable documentation of the unpaid amount.

ARTICLE V

INITIAL PAYMENT

5.1 **Initial Payment.** On the Payment Date, the Fund will pay to the Agent Bank an amount equal to the Transferred Deposits, together with interest on such amount (if the Payment Date is not the day following the day of Bank Closing) from and including the day following Bank Closing to and including the day preceding the Payment Date at the rate per annum provided in this agreement.

ARTICLE VI

ADJUSTMENTS

6.1 **New Schedule.** It is understood that the descriptions of the Transferred Deposits may not be accurately reflected on one or more schedules provided to the Agent Bank as of Bank Closing. The Fund, as soon as practicable after Bank Closing and before the Payment Date, in accordance with the best information then available, shall provide to the Agent Bank an updated schedule reflecting any adjustments of such Transferred Deposits as may be necessary, taking into account differences in accounts, suspense items, unposted debits and credits, and similar adjustments or corrections.

6.2 Correction of Errors and Omissions; Expenses.

(a) In the event any bookkeeping omissions or errors are discovered in preparing any schedules or in completing the transfers contemplated hereby, the parties hereto agree to correct such errors and omissions.

(b) If the Fund or the Agent Bank discovers at any time subsequent to the Settlement Date that any errors or omissions exist of the type contemplated in Section 6.2(a), or any error with respect to the payment made on Settlement Date, the Fund and the Agent Bank agree to promptly correct any such errors or omissions, make any payments, and effect any transfers as may be necessary to reflect such correction; provided, that interest shall not be paid with respect to any such payments.

(c) The Agent Bank shall submit its claim for reimbursement of all expenses to which the Agent Bank is entitled to pursuant to Section 3.6, with appropriate supporting documentation, in accordance with the provisions of this Article VI.

6.3 Payments. The Fund agrees to cause to be paid to the Agent Bank, or the Agent Bank agrees to pay to the Fund, as the case may be, on the Settlement Date, a payment in an amount which reflects net adjustments made on or before the Settlement Date pursuant to Section 6.1 or Section 6.2, plus interest as provided in Section 6.4. The Fund and the Agent Bank agree to effect on the Settlement Date any additional transfers as may be necessary in accordance with Section 6.1 or Section 6.2.

6.4 Interest. Any amounts paid under Section 6.3 shall bear interest for the period from and including the day following Bank Closing to and including the day preceding the payment. The interest rate per annum for the first calendar quarter or portion thereof during which interest accrues shall be the rate determined by the Fund [specify formula for determining interest rate].

ARTICLE VII

CONDITION PRECEDENT

7.1 Condition Precedent. The obligations of the parties to this Agreement are subject to the Fund having received at or before Bank Closing evidence reasonably satisfactory of any necessary approval, waiver, or other action by any governmental authority, the Board of Directors of the Agent Bank, or other third party, with respect to this Agreement and the transactions contemplated hereby.

ARTICLE VIII

REPRESENTATIONS AND WARRANTIES OF THE AGENT BANK

8.1. Representations and Warranties. The Agent Bank represents and warrants to the Fund as follows:

(a) **Corporate Existence and Authority.** The Agent Bank (i) is duly organized, validly existing, and in good standing under the law and has full power and authority to own and operate its properties and to conduct its business as now conducted by it, and (ii) has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder. The Agent Bank has taken all necessary corporate action to authorize the execution, delivery, and performance of this Agreement and the performance of the transactions contemplated hereby.

(b) **Third Party Consents.** No governmental authority or other third party consents (including but not limited to approvals, licenses, registrations, or declarations) are required in connection with the execution, delivery, or performance by the Agent Bank of this Agreement, other than such consents as have been duly obtained and are in full force and effect.

(c) **Execution and Enforceability.** This Agreement has been duly executed and delivered by the Agent Bank and when this Agreement has been duly authorized, executed, and delivered by the Fund, this Agreement will constitute the legal, valid, and binding obligation of the Agent Bank, enforceable in accordance with its terms.

(d) **Compliance with Law.**

(i) The Agent Bank is not in violation of any law or regulation or any restriction imposed upon it by any agency or any court or other tribunal having jurisdiction over the Agent Bank, or any foreign government or agency thereof having such jurisdiction, with respect to the conduct of the business of the Agent Bank, or the ownership of the properties of the Agent Bank, which, either individually or in the aggregate with all other such violations, would materially and adversely affect the business, operations, or condition (financial or otherwise) of the Agent Bank or the ability of the Agent Bank to perform, satisfy, or observe any obligation or condition under this Agreement.

(ii) Neither the execution and delivery nor the performance by the Agent Bank of this Agreement will result in any violation by the Agent Bank of, or cause the Agent Bank to be in conflict with, any provision of any applicable law or regulation, or any order, writ, or decree of any court or governmental authority.

ARTICLE IX

INDEMNIFICATION

9.1 Indemnification of Indemnitees. From and after Bank Closing and subject to the limitations set forth in this agreement, the Fund agrees to indemnify and hold harmless the Indemnitees against any and all costs, losses, liabilities, expenses, judgments, fines, and amounts paid in settlement actually and reasonably incurred in connection with claims against any Indemnitee based on liabilities of the Failed Bank that are not assumed by the Agent Bank pursuant to this Agreement or subsequent to the execution hereof by the Agent Bank, whose unassumed liabilities remain with the Fund.

Provided, that, with respect to this Agreement, no indemnification will be provided under this Agreement for any:

- (a) claims with respect to any liability or obligation of the Failed Bank that is expressly assumed by the Agent Bank pursuant to this Agreement or subsequent to the execution hereof by the Agent Bank or any Subsidiary or Affiliate of the Agent Bank;
- (b) claims with respect to any liability of the Failed Bank to any current or former employee of the Failed Bank or of any Subsidiary or Affiliate of the Failed Bank, which liability is expressly assumed by the Agent Bank pursuant to this Agreement or subsequent to the execution hereof by the Agent Bank or any Subsidiary or Affiliate of the Agent Bank;
- (c) claims based on the failure of any Indemnitee to seek recovery of damages from the Fund for any claims based upon any action or inaction of the Failed Bank, its directors, officers, employees, or agents as fiduciary, agent, or custodian prior to Bank Closing;
- (d) claims based on the rights of any current or former creditor, customer, or supplier as such of the Agent Bank or any Subsidiary or Affiliate of the Agent Bank;
- (e) claims based on any liability for taxes or fees assessed with respect to the consummation of the transactions contemplated by this Agreement, including without limitation any subsequent transfer of any Transferred Deposit to any Subsidiary or Affiliate of the Agent Bank;
- (f) claims or actions that constitute a breach by the Agent Bank of the representations and warranties contained in this agreement.

9.2 Conditions Precedent to Indemnification. It shall be a condition precedent to the obligation of the Fund to indemnify any Person pursuant to this Article IX that such Person shall, with respect to any claim made or threatened against such Person for which such Person is or may be entitled to indemnification hereunder.

- (a) give written notice to the [**specify who is the proper party to receive notice of a claim under the agreement**] of such claim as soon as practicable after such claim is made or threatened;
- (b) provide to the Fund such information and cooperation with respect to such claim as the Fund may reasonably require;
- (c) cooperate and take all steps, as the Fund may reasonably require, to preserve and protect any defense to such claim;
- (d) in the event suit is brought with respect to such claim, upon reasonable prior notice, afford to the Fund the right, which the Fund may exercise in its sole discretion, to conduct the investigation, control the defense, and effect settlement of such claim, including without limitation the right to designate counsel and to control all negotiations, litigation, arbitration, settlements, compromises, and appeals of any such claim, all of which shall be at the expense of the Fund, provided that such

claim is a claim with respect to which the Person claiming indemnification is entitled to indemnification under this agreement;

- (e) not incur any costs or expenses in connection with any response or suit with respect to such claim after the Fund has assumed the defense thereof, unless such costs or expenses were incurred upon the direction of the Fund; provided, that the Fund shall not be obligated to reimburse the amount of any such costs or expenses unless such costs or expenses were incurred upon the direction of the Fund;
- (f) not release or settle such claim or make any payment or admission with respect thereto, unless the Fund consents in writing thereto, which consent shall not be unreasonably withheld; provided, that the Fund shall not be obligated to reimburse the amount of any such settlement or payment unless such settlement or payment was effected upon the written direction of the Fund; and
- (g) take reasonable action as the Fund may request in writing as necessary to preserve, protect or enforce the rights of the indemnified Person against any Primary Indemnitor.

9.3 Indemnification of Fund. From and after the date of Bank Closing, the Agent Bank agrees to indemnify and hold harmless the Fund and their respective directors, officers, employees, and agents from and against any and all costs, losses, liabilities, expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred in connection with any of the following:

- (a) claims based on any and all liabilities or obligations of the Failed Bank expressly assumed by the Agent Bank in this Agreement or subsequent to the execution hereof in writing by the Agent Bank or any Subsidiary or Affiliate of the Agent Bank; and
- (b) claims based on any act or omission of any Indemnitee.

9.4 Criminal Claims. Notwithstanding any provision of this agreement to the contrary, in the event that any Person being indemnified under this agreement shall become involved in any criminal action, suit, or proceeding, whether judicial, administrative or investigative, the Fund shall have no obligation hereunder to indemnify such Person for liability with respect to any criminal act or to the extent any costs or expenses are attributable to the defense against the allegation of any criminal act, unless (i) the Person is successful on the merits or otherwise in the defense against any such action, suit, or proceeding, or (ii) such action, suit, or proceeding is terminated without the imposition of liability on such Person.

9.5 Subrogation. Upon payment by the Fund as guarantor to any Indemnitee for any claims indemnified by the Fund under this Article IX, the Fund shall become subrogated to all rights of the Indemnitee against any other Person to the extent of such payment.

ARTICLE X

MISCELLANEOUS

10.1 Entire Agreement. This Agreement embodies the entire agreement of the parties hereto in relation to the subject matter herein and supersedes all prior understandings or agreements, oral or written, between the parties.

10.2 No Other Assets Purchased or Liabilities Assumed. Except as specifically provided for in this Agreement, the Agent Bank does not assume any liability, or purchase any assets, of the Failed Bank

10.3 Successors. All terms and conditions of this Agreement shall be binding on the successors and assigns of the Fund and the Agent Bank. Except as otherwise specifically provided in this Agreement, nothing expressed or referred to in this Agreement is intended or shall be construed to give any Person other than the Fund and the Agent Bank any legal or equitable right, remedy, or claim under or with respect to this Agreement or any provisions contained herein, it being the intention of the parties hereto that this Agreement, the obligations and statements of responsibilities hereunder, and all other conditions and provisions hereof are for the sole and exclusive benefit of the Fund and the Agent Bank and for the benefit of no other Person.

10.4 Notice. Any notice, request, demand, consent, approval, or other communication to any party hereto shall be effective when received and shall be given in writing, and delivered in person against receipt therefore, or sent by certified mail, postage prepaid, courier service, telex, or facsimile transmission to such party (with copies as indicated below) at its address set forth below or at such other address as it shall hereafter furnish in writing to the other parties. All such notices and other communications shall be deemed given on the date received by the addressee.

[Agent Bank]

(Name and address of Agent Bank)

Attention:

[Appropriate government agency]

(Name and address of Fund)

Attention:

10.5 Manner of Payment. All payments due under this Agreement shall be in lawful money of [name country] in immediately available funds as each party hereto may specify to the other parties.

10.6 Costs, Fees, and Expenses. Except as otherwise specifically provided herein, each party hereto agrees to pay all costs, fees, and expenses that it has incurred in connection with or incidental to the

matters contained in this Agreement, including without limitation any fees and disbursements to its accountants and counsel.

10.7 Term of Agreement. This Agreement shall continue in full force and effect until the sixth (6th) anniversary of Bank Closing. Expiration of the term of this Agreement shall not affect any claim or liability of any party with respect to any (i) amount that is owed at the time of such expiration, regardless of when such amount becomes payable, (ii) breach of this Agreement occurring prior to such expiration, regardless of when such breach is discovered, or (iii) claim for indemnification made on or prior to the sixth anniversary of Bank Closing.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.

[Appropriate government agency]

By: _____

Title:

Attest:

[Agent Bank]

By: _____

Title:

Attest:

SCHEDULE 2.1 RECEIVED DEPOSITS TRANSFERRED

FORM 12

PURCHASE AND ASSUMPTION AGREEMENT

WITH "PUT" OPTION

(Must be reviewed by lawyers familiar with local laws)

PARTIES TO THE AGREEMENT:

The Bank under Receivership (known as "the Receiver") [name]

The Selected Bidder (known as "the Assuming Bank") [name]

[Name of appropriate government agency] as guarantor of obligations of the Receiver.

DEFINITIONS

"**Adjusted Value**" means with respect to any asset acquired, the [local currency] amount resulting by multiplying the Book Value of such asset by the percentage of Book Value applied to that asset tranche according to the Assuming Bank bid.

"**Bank Closing**" means the day that the [appropriate government authority] revokes [name] Bank's license and initiates the compulsory liquidation of the bank according to article [number] of the [appropriate] Law.

"**Book Value**" means, with respect to any Asset and any Liability Assumed, the [local currency] amount stated on the Accounting Records of [name of failed] Bank. (i) The Book Value of a Liability Assumed shall include all accrued and unpaid interest thereon, and (ii) the Book Value of a Loan shall reflect adjustments for earned interest if any as determined for financial reporting purposes according to [appropriate government agency] regulations. The Book Value of an Asset shall not include any adjustment for loan premiums, discounts, or any related deferred income or fees, or general or specific reserves or provisions on the Accounting Records of the [name of failed] Bank.

"**Business Day**" to be defined in accordance with conditions on site.

"**Business Premises**" to be defined in accordance with conditions on site.

"**Capitalization Bonds**" means the bonds in [local currency] issued by the [appropriate government agency] under the terms and conditions specified in the Appendix.

"**Equity Adjustment**" means the [local currency] amount resulting by subtracting the Book Value, as of Bank Closing, of all Liabilities Assumed under this Agreement by the Assuming Bank from the

Adjusted Value, as of Bank Closing, of all Assets acquired under this Agreement by the Assuming Bank, which may be a positive or a negative number.

"**Record**" means any document and computer record of [name of failed] Bank generated or maintained by [name of failed] Bank that is owned by or in the possession of the Receiver at Bank Closing.

"**Settlement Date**" means the first Business Day immediately after the day which is sixty-five (65) days after signing of the Agreement. The Receiver, in its discretion, may extend the Settlement Date one time for an additional fifteen (15) days.

ASSUMPTION OF LIABILITIES

The Assuming Bank expressly assumes at Book Value and agrees to pay, perform, and discharge all the following liabilities of [name of failed bank] as of Bank Closing:

(a) Assumed Deposits, as specifically listed in Schedule A

(b) Other Liabilities, as specifically listed in Schedule B. The Assuming Bank agrees that, from and after Bank Closing, it will accrue and pay interest on:

- i. Savings Term Deposits Liabilities assumed at the same rate agreed between [name of failed] Bank and the Depositor
- ii. Savings on Demand Deposits at the same rate paid by [name of failed] Bank on the Assuming Date for a period of five (5) business days from the Assuming Date. The assuming bank will thereafter accrue and pay interest on savings on demand deposits according to its policies and guidelines.

DUTIES WITH RESPECT TO DEPOSITORS OF THE [NAME OF FAILED] BANK

Payment of Checks, Drafts, and Orders. The Assuming Bank agrees to pay all properly drawn checks, drafts, and withdrawal orders of depositors of [name of failed] Bank included in the list provided in Schedule A presented for payment, whether drawn on the check or draft forms provided by the [name of failed] Bank or by the Assuming Bank, to the extent that the Deposit balances to the credit of the respective makers or drawers assumed by the Assuming Bank under this Agreement are sufficient to permit the payment thereof, and in all other respects to discharge, in the usual course of conducting a banking business, the duties and obligations of [name of failed] Bank with respect to the Deposit balances due and owing to the depositors of the [name of failed] Bank assumed by the Assuming Bank under this Agreement.

Payment of Deposits. In the event any depositor does not accept the obligation of the Assuming Bank to pay any Deposit liability of [name of failed] Bank assumed by the Assuming Bank pursuant to this Agreement and asserts a claim against the Receiver for all or any portion of any such Deposit

liability, the Assuming Bank agrees on demand to provide to the Receiver funds sufficient to pay such claim in an amount not in excess of the Deposit liability reflected on the books of the Assuming Bank at the time such claim is made. Upon payment by the Assuming Bank to the Receiver of such amount, the Assuming Bank shall be discharged from any further obligation under this Agreement to pay to any such depositor the amount of such Deposit liability paid to the Receiver.

Notice to Depositors. Within five (5) days after Bank Closing, the Assuming Bank shall make a public notice in at least four (4) newspapers of wide circulation in [location of failed bank] of assumption of the deposits covered by this P&A agreement. The format and content of this public notice should be approved by the Receiver.

PURCHASE OF ASSETS

(a) Loans in Schedule C.

The assuming bank purchases from the Receiver all the loans specified in Schedule C at the equivalent in [local currency] to XX % of book value as of [date of transaction].

(b) Loans in Schedule D.

The assuming bank purchases from the Receiver all the loans specified in Schedule D at the equivalent in [local currency] to YY % of book value as of [date of transaction].

PUTS OF ASSETS TO THE RECEIVER

During the period from the Bank Closing Date to the first business day immediately after sixty (60) days:

- (a) the Assuming Bank shall be entitled to require the Receiver to purchase any loan that the Assuming Bank can establish is evidenced by forged or stolen instruments as of the Bank Closing Date at the respective Adjusted Book Value.
- (b) the Assuming Bank shall be entitled to require the Receiver to purchase any loan specified in Schedule C at the sole discretion of the Assuming Bank at the respective Adjusted Book value minus a 10 % penalty discount.

Notices to the Receiver. In the event that the Assuming Bank elects to require the Receiver to purchase one or more Assets, the Assuming Bank shall deliver to the Receiver:

- (i) a notice (a "**Put Notice**"), which shall include a list of all Assets that the Assuming Bank requires the Receiver to purchase, and

(ii) such documents, credit files, and such additional information relating to the subject matter of the Put Notice as the Receiver may request,

The Assuming Bank shall also provide to the Receiver full access to all other relevant books and records.

OPTIONS TO PURCHASE AND OPTIONS TO LEASE

(a) Option to Purchase. The Receiver grants to the Assuming Bank an exclusive option for the period of sixty (60) days commencing the day after the closing date to purchase any or all other loans in the books of [name of failed] Bank not itemized in Schedules C or D at the percentage of book value contemplated for loans in Schedule D minus a 25% discount on the total aggregate amount of the loans acquired under this option to purchase clause.

(b) Option to Purchase. The Receiver grants to the Assuming Bank an exclusive option for the period of sixty (60) days commencing the day after the closing date to purchase any or all owned Bank premises, including all furniture, fixtures, and equipment located on the Bank premises. The Assuming Bank shall give written notice to the Receiver within the option period of its election to purchase or not to purchase any of the owned Bank premises. Any purchase of such premises shall be consummated as soon as practicable, and in no event later than the Settlement Date.

(c) Option to Lease. The Receiver hereby grants to the Assuming Bank an exclusive option for the period of sixty (60) days commencing the day after Bank Closing to cause the Receiver to assign to the Assuming Bank any or all leases for leased Bank premises, if any, that have been continuously occupied by the Assuming Bank from the Assuming Date to the date it elects to accept an assignment of the leases with respect thereto to the extent such leases can be assigned; provided, that the exercise of this option with respect to any lease must be as to all premises or other property subject to the lease. If an assignment cannot be made of any such leases, the Receiver may, in its discretion, enter into subleases with the Assuming Bank containing the same terms and conditions provided under such existing leases for such leased Bank premises or other property. The Assuming Bank shall give notice to the Receiver within the option period of its election to accept or not to accept an assignment of any or all leases (or enter into subleases or new leases in lieu thereof).

TRANSFER OF RECORDS

The Receiver assigns, transfers, conveys and delivers to the Assuming Bank the following Records pertaining to the Deposit Liabilities of the [name of failed] Bank assumed by the Assuming Bank under this Agreement:

- signature cards, orders, contracts between the [name of failed] Bank and its depositors and Records of similar character;
- passbooks of depositors held by [name of failed] Bank, deposit slips, cancelled checks, and

withdrawal orders representing charges to accounts of depositors;

and the following Records pertaining to the Assets:

- loan and collateral records and credit files and other documents; and deeds, mortgages, abstracts, surveys, and other instruments or records of title pertaining to real estate or real estate mortgages.

Delivery of Assigned Records. The Receiver shall deliver to the Assuming Bank all Records described as soon as practicable on or after the date of this Agreement.

Preservation of Records. The Assuming Bank agrees that it will preserve and maintain for the joint benefit of the Receiver all Records of which it has custody until directed otherwise, in writing, by the Receiver or after 360 days, whichever comes first. The Assuming Bank shall have the primary responsibility to respond to subpoenas, discovery requests, and other similar official inquiries with respect to the Records of which it has custody.

Access to Records and Copies. The Assuming Bank agrees to permit the Receiver access to all Records of which the Assuming Bank has custody, and to use, inspect, make extracts from, or request copies of any such Records in the manner and to the extent requested, and to duplicate, in the discretion of the Receiver any Record for the period established in the preservation of Records clause.

FIRST CONSIDERATION

The First Consideration shall be determined by the Equity Adjustment. If the Equity Adjustment is a positive number, then the Assuming Bank will assume from [the failed] Bank an equivalent amount of loans from [appropriate government agency] on the conditions set on Schedule E. If the Equity Adjustment is a negative number, the [appropriate government agency] shall transfer an equivalent amount of Capitalization Bonds at face value to the Assuming Bank by the end of the first business day following Bank Closing.

ADJUSTMENTS

The Receiver, as soon as practicable after Bank Closing, in accordance with the best information then available, shall provide to the Assuming Bank a pro forma statement reflecting any adjustments of such liabilities and assets as may be necessary. Such pro forma statement shall take into account, to the extent possible, accruals as of Bank Closing for all income related to the assets and business of [name of failed] Bank acquired by the Assuming Bank hereunder, whether or not such accruals were reflected on the Accounting Records of [name of failed] Bank in the normal course of its operations.

SECOND CONSIDERATION

The Receiver and the Assuming Bank agree to settle on the Settlement Date the following amounts resulting from events after the Bank Closing:

- Exercise by the Assuming Bank of the option to acquire other loans not in Schedules C or D.
- Exercise by the Assuming Bank of the put options on Schedules C or D.

ADJUSTMENTS

If the calculation of the second consideration results in an obligation to the Receiver, the Assuming Bank will settle the difference by either transferring to [name of the failed] Bank under Receivership Government Bonds at their nominal value plus accrued interest or by cash at the election of the Assuming Bank.

If the calculation of the second consideration results in an obligation to the Assuming Bank, the Receiver will settle the difference by either Government Bonds at their nominal value plus accrued interest or by cash at the election of the Receiver.

WITHHELD PAYMENTS

At any time, the Receiver may, in its discretion, determine that all or any portion of any deposit balance assumed by the Assuming Bank pursuant to this Agreement does not constitute a "Deposit," or otherwise, in its discretion, determine that it is the best interest of the Receiver to withhold all or any portion of any deposit, and may direct the Assuming Bank to withhold payment of all or any portion of any such deposit balance. Upon such direction, the Assuming Bank agrees to hold such deposit and not to make any payment of such deposit balance to or on behalf of the depositor, or to itself, whether by way of transfer, set-off, or otherwise. The Assuming Bank agrees to maintain the "withheld payment" status of any such deposit balance until directed in writing by the Receiver as to its disposition. At the direction of the Receiver, the Assuming Bank shall return all or any portion of such deposit balance to the Receiver, as appropriate, and thereupon the Assuming Bank shall be discharged from any further liability to such depositor with respect to such returned deposit balance. If such deposit balance has been paid to the depositor prior to a demand for return by the Receiver, and payment of such deposit balance had not been previously withheld pursuant to this Section, the Assuming Bank shall not be obligated to return such deposit balance to the Receiver. The Assuming Bank shall be obligated to reimburse the Receiver, as the case may be, for the amount of any deposit balance or portion thereof paid by the Assuming Bank in contravention of any previous direction to withhold payment of such deposit balance or return such deposit balance the payment of which was withheld pursuant to this Section. The Receiver has the right to withheld deposits for a period of three hundred sixty-five (365) days after the signing of the agreement.

INDEMNIFICATION OF THE ASSUMING BANK

From and after the date of Bank Closing, the Receiver agrees to indemnify and hold harmless the Assuming Bank against any and all costs, losses, liabilities, and expenses (including attorneys' fees) incurred prior to the assumption of defense by the Receiver, as well as judgments, fines, and amounts paid actually and reasonably incurred in connection with claims against the Assuming Bank based on liabilities of the [name of failed] Bank that are not assumed by the Assuming Bank pursuant to this Agreement or subsequent to the execution hereof by the Assuming Bank , such as:

- claims based on the rights of any shareholder or former shareholder of [name of failed] Bank.
- claims based on the rights of any creditor as such of [name of failed] Bank, or any creditor as such of any director, officer, employee, or agent of [name of failed] Bank, with respect to any indebtedness or other obligation of [name of failed] Bank arising prior to Bank Closing;
- claims based on the rights of any present or former director, officer, employee, or agent as such of [name of failed] Bank or of any Subsidiary or Affiliate of [name of failed] Bank;
- claims based on the rights of any depositor of [name of failed] Bank whose deposit has been accorded "withheld payment" status and/or returned to the Receiver.

INDEMNIFICATION OF THE RECEIVER

From and after Bank Closing, the Assuming Bank agrees to indemnify and hold harmless the Receiver and their respective directors, officers, employees, and agents from and against any and all costs, losses, liabilities, expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred in connection with any of the claims based on any and all liabilities or obligations of [name of failed] Bank assumed by the Assuming Bank pursuant to this Agreement or subsequent to the execution hereof by the Assuming Bank, whether or not any such liabilities subsequently are sold and/or transferred.

GUARANTY OF THE GOVERNMENT OF [COUNTRY OF FAILED BANK]

The [appropriate government agency] as agent of the Government of [country of failed bank] guarantees the obligations of the Receiver under this agreement.

Schedule A

Schedule B

Schedule C

Schedule D

Schedule E

SUMMARY OF THE KEY TERMS OF THE PURCHASE AND ASSUMPTION ("P&A AGREEMENT") BETWEEN THE [NAME OF FAILED] BANK UNDER RECEIVERSHIP ("RECEIVER") AND THE ASSUMING BANK

Purchase and Assumption

Purchase of certain loans in two tranches as selected by the Receiver and itemized in the Agreement, and assumption of certain liabilities as selected by the Receiver and itemized in the Agreement.

Consideration

Liabilities assumed at book value.

Assets are purchased at a percentage of book value to be proposed by the Assuming Bank according to each tranche (Schedule B tranche and Schedule C tranche).

Difference between assets and liabilities ("Equity Adjustment") is settled as follows:

If a positive number, by assuming an equivalent [local currency] value of [name of failed] Bank loans received from [appropriate government agency]. If a negative number, the [appropriate government official] shall transfer an equivalent amount of Capitalization Bonds at face value to the Assuming Bank by the end of the first business day following Bank Closing.

Puts of Assets to the Receiver

Sixty (60) days put to cover documentation risk on all loans acquired by the Assuming Bank.

Sixty (60) days put to cover credit risk on all loans on Schedule B (performing as of date of transaction) with a 10% penalty.

Option to Purchase

Sixty (60) days to buy loans not contemplated on Schedules B and C at a 25% discount.

Sixty (60) days to purchase furniture and equipment.

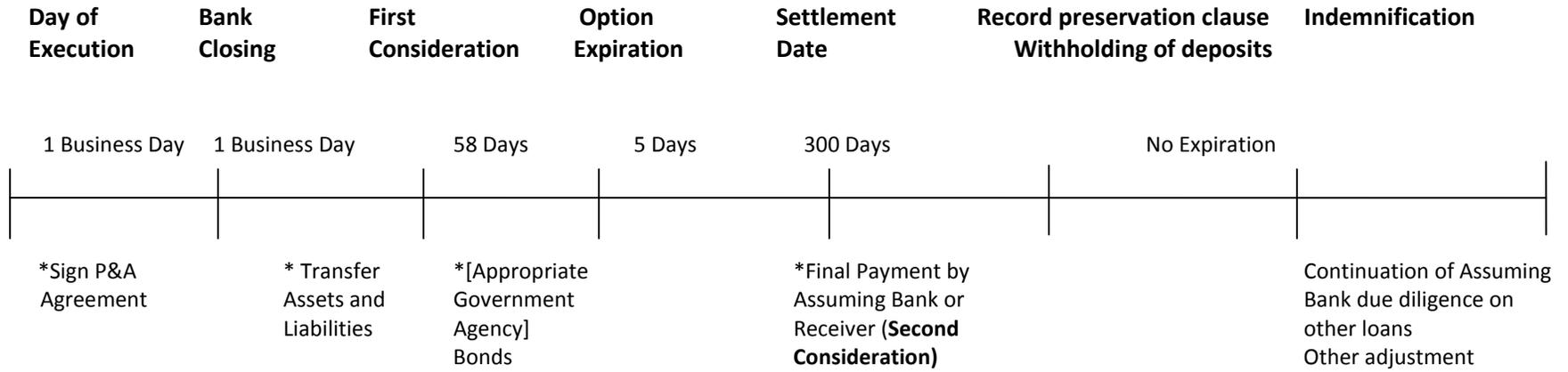
Sixty (60) days to assume leases.

First Consideration. First business day following Bank Closing consideration for the Equity

Adjustment.

Second Consideration. Sixty-five (65) days after Bank Closing consideration for options and other adjustments.

TIMELINE OF TRANSACTION BASED ON FIRST DRAFT P&A AGREEMENT



FORM 13

SAMPLE PRINT ADVERTISEMENT FOR SEEKING BIDS ON FAILED/FAILING BANKS

OPPORTUNITY TO BID ON BANKING ASSETS

The Banking Authority of [Country X] is undergoing bank restructuring, which represents an excellent opportunity for banks or investors to enter or expand in [Country X's] banking market. Banks that participate in this process will be able to acquire a deposit base quickly and inexpensively. Successful bidders will also have an option to continue banking business in existing premises.

Selected banks and bank assets will be sold under purchase and assumption contracts similar to those used by the United States Federal Deposit Insurance Corporation (FDIC). Forms of the agreements will be available for review by potential bidders prior to the time for bidding. Opportunities exist for an acquirer to either purchase liquid and/or performing assets or assume certain liabilities, predominantly deposit liabilities. There may also be opportunities for bidders to enter into loss sharing agreements. It is expected that a potential acquirer will be willing to pay a reasonable premium for this opportunity.

If your bank is interested in entering into or expanding into the banking market of [Country X], an authorized official should contact:

[add contact information]

FORM 14

BIDDER CONFIDENTIALITY AGREEMENT

(Must be reviewed by lawyers familiar with local laws)

This Confidentiality Agreement is executed this _____ day of _____, 20____, by _____

["Bidder", "Contractor"], in connection with [bidding on failed bank assets/work for appropriate government authority/contract for services], agrees as follows:

1. [Bidder/Contractor] may be given access to confidential information during the course of [bidding on/working on] the [bid/contract] with the [appropriate government authority]. Confidential information is defined as all information relating to any financial institution that is the subject of this [bidding process/contract].
2. [Bidder/Contractor] will protect the confidentiality of any information seen by/received by [Bidder/Contractor] from the [appropriate government authority] in connection with [define project].
3. **[If applicable]** [Bidder/Contractor] has been given Guidelines for Protection of Confidential Information and agrees to abide by those guidelines.
4. [Bidder/Contractor] will use confidential information only as authorized by the [appropriate government authority]. [Bidder/Contractor] will not disclose, release, transfer, or disseminate any confidential information to any other person or entity except as required in the performance of its work on the [bid/contract] or with the express written consent of the [appropriate government authority].
5. The provisions of this Confidentiality Agreement apply to all officers, directors, partners, employees, or agents of the [Bidder/Contractor]. [Bidder/Contractor] is responsible for the compliance of these parties with the terms of this Confidentiality Agreement.
6. At the request of the [appropriate government authority], the [Bidder/Contractor] will return or destroy, at the election of the [appropriate government authority], any confidential material or notes containing information from any confidential material upon completion of the [define project].
7. This Confidentiality Agreement is made part of any contract executed between the [Bidder/Contractor] and the [appropriate government authority].

Cash Count Sheet
(Make a recap sheet for each type of currency)

Bank name _____ Date: _____

Bank address _____

Bank number _____

Receiver signature _____

Recap

| Teller/Vault | Bills | | Coins | |
|--------------|--------------------|--------|--------------|--------|
| | Denomination | Amount | Denomination | Amount |
| Teller 1 | | | | |
| Teller 2 | | | | |
| Teller 3 | | | | |
| Teller 4 | | | | |
| Teller 5 | | | | |
| Teller 6 | | | | |
| Teller 7 | | | | |
| | | | | |
| | | | | |
| | | | | |
| Vault | | | | |
| | Total bills | | Total coins | |
| | Total cash | | | |
| | (bills plus coins) | | | |
| | | | | |

FORM 16

SCHEDULE OF CASH AND DUE FROM'S

Bank name: _____

Bank location: _____

Bank number: _____

Close date: _____

| | |
|---------------------------|---------------|
| Cash | 13,364,754.56 |
| C Bank | 165,225.56 |
| C Bank II | 472,801.00 |
| D Bank | 7,091.07 |
| E Bank | 9,789.68 |
| Bankers Bank | 320,441.38 |
| F Bank | 542.42 |
| N Bank | 571.56 |
| First Bank | 227,502.23 |
| State Bank | 732.17 |
| FR Bank | 5,026,610.79 |
| Total cash and due form's | 19,596,062.42 |

FORM 17

INPUTS FOR SIMPLE PRO FORMA FOR A CLOSED BANK

| Assets | Liabilities |
|--|---|
| Cash and due from depository institutions | Demand deposits |
| Currency and coin | Individuals, partnerships, and corporations |
| Cash items in process | Government entities |
| Due From correspondent banks | Other deposits |
| Time and savings balances | Official checks |
| Balances with central bank | Letters of credit sold for cash |
| | |
| Securities and obligations | Savings deposits |
| Government securities | |
| Government bonds | Time deposits |
| Stock in government entities | |
| Other miscellaneous securities | Borrowings |
| | |
| Securities purchased under resale agreements | Other liabilities |
| | |
| Loans | |
| Real estate | |
| Commercial, agricultural, and industrial | |
| To individuals for personal purposes | |
| All other, to include overdrafts | |
| Less: Unearned income or interest | |
| Less: Allowance for possible losses | |
| | |
| Owned real estate assets | |
| Land | |
| Bank buildings | |
| Leasehold improvements | |
| Furniture and fixtures | |
| | |
| Other real estate owned | |
| | |
| Investments in subsidiaries | |
| | |
| Other assets | |

FORM 18

DOOR NOTICE OF APPOINTMENT OF RECEIVER

Notice of Appointment of Receiver

Pursuant to [statutory citation] by order dated [insert date], the [appointing authority] has appointed [name of Receiver] as the Receiver for [name of financial institution] and taken possession of the bank on [date] at ___[hour]___ [minutes]. The Receiver shall assume responsibilities as provided in the law until further notice. For additional information, you may call [provide telephone number] or go to the Web site established by the Receiver at [provide Web site address].

Authorized Government Official

Date

FORM 19

PRESS RELEASE

The government of [name of the country] has closed [name of bank] and appointed a [Temporary Administrator][Receiver] on [date].

Today the [name of bank] was closed by [name of government authority closing bank] and was appointed as [Temporary Administrator][Receiver]. The closing of [name of bank] is in keeping with the [appropriate government authority's] primary objective to ensure the safety and soundness of the banking industry in [name of the country].

In the case of a payout or the use of a bank as paying agent:

Depositors will [receive checks for the amount of their (insured)(entire) deposits] [will be able to access their [insured][entire] deposits for the next 30 days at the offices of [name of paying agent bank] and thereafter by contacting [give information about contact for receiving information after agreement with paying agent expires].

In the case of a purchase and assumption:

To protect depositors, the [government agency responsible for the transaction] entered into a purchase and assumption agreement with [name of assuming bank] to assume [all the] [all the insured] deposits of the former [name of failed bank]. Your transferred deposits will be insured separately from any accounts you may already have at [assuming bank] for a period of [whatever period of time applies, such as six months].

Give depositors information about accessing their funds:

Depositors of [name of failed bank] can access their money by writing checks or using ATM or debit cards. Checks drawn on the bank will continue to be processed. Loan customers should continue to make their payments as usual.

Give bank customers and vendors information about filing a claim against the failed institution:

Claims against failed financial institutions occur when bills sent to the institution remain unpaid at the time of failure. If you or your company provided a service or product, or leased space, furniture, or equipment to the failed bank prior to [date of the bank's closure] and have not been paid, you may be entitled to a claim against the bank. You may file a Proof of Claim Form [provide link to the form] or contact [provide name and address for Temporary Administrator or Receiver] for additional information.

There are time limits for filing a claim against the bank and your claim must be filed before [enter bar date for filing of claims].

Give bank customers information about paying loans with the failed financial institution:

If you had a loan with [name of failed bank], you should continue to make your payments as usual. The terms of your loan will not change and checks should be sent to [the same address until further notice] [a new address].

Provide information on where to go for answers to additional questions:

For additional information about this transaction, interested person may [call the following telephone number][go to the Web site] for additional information. [If updates for the Web site are planned, state that the Web site will be updated as more information becomes available].

FORM 20

FREQUENTLY ASKED QUESTIONS (FAQs)

1. What has been decided by the [government authority]?

The [government authority] has appointed a [Temporary Administrator][Receiver] for [name of failed bank] pursuant to the provisions of the [name and section of authorizing statute]. The [Temporary Administrator][Receiver] will [describe the next steps, such as selling the assets or liquidating the bank and paying depositors].

2. Why has the [government authority] decided to close the bank?

The on-site review of [name of failed bank], conducted by the [government agency], has shown that [the present value of bank's assets no longer adequately covers its liabilities and so the bank is insolvent] [that the bank cannot meet its obligations as they come due and therefore does not meet its liquidity requirements] [that the bank was in an unsafe and unsound condition]. Despite demands that the [failed bank] take remedial action, the Governing Board of [the failed bank] has not been able to [increase the capital to the minimum requirement] [restore liquidity] [return to safe and sound operation]. Consequently, to protect depositors from any additional losses, the [government agency] has decided to appoint a [Temporary Administrator][Receiver] for [the failed bank].

3. Who is the [Temporary Administrator][Receiver]?

[Explain who has been appointed and what his/her role will be in managing the closing process.]

4. What will happen to clients/depositors?

Describe what depositors can expect, given the nature of the transaction.

5. Will any depositors lose their funds?

[Depending on the nature of transaction, explain that all deposits or only insured deposits will be paid. If any depositors will not receive full payment, explain what steps if any they need to take to have a claim on the failed bank's assets.]

6. What will happen to borrowers (loan clients)?

[Depending on the nature of transaction, describe how assets of failed bank will be handled. Reiterate that

loan payments should continue to be made and give specific directions on where payments should be sent.

7. Would it have been possible to find a solution other than appointing a [Temporary Administrator][Receiver] for the [name of failed bank]?

The decision to appoint a [Temporary Administrator][Receiver] for [name of failed bank] was made in the best interests of the general public and economy of [name of country]. The primary objectives of the [name of supervisory authority] in resolving the [name of failed bank] are to insure the safety and soundness of its deposits and to maintain critical banking services for the public.

8. What will be the impact of this action on the economy of [country]?

The resolution of [bank name] will benefit the public and the general economy of [the country]. The primary objectives in resolving the [name of bank] have been met in that [insured] [all] depositors have been protected and additional losses have been halted from the operations of the [name of bank].

FORM 21

SCRIPT FOR INITIAL MEETING WITH EMPLOYEES IMMEDIATELY AFTER A BANK HAS BEEN CLOSED

(Must be reviewed by lawyers familiar with local law)

Context

Immediately after the announcement of the closing of the financial institution, the Receiver should assemble the employees of the failed bank for a meeting. The employees will probably have questions about their salary and benefits and the effect of the closing on the bank on their accrued vacation or sick time. At the meeting, the Receiver should be prepared to address these issues in accordance with the provisions of local employment laws. This is a general outline to follow during this meeting. It should be modified to fit the terms of the transaction and the local situation.

Script

Thank the employees for gathering. Announce that this will be a short meeting.

Make introductions (who will be in charge and who will the employees need to deal with as they assist the Receiver).

Explain the government's decision to close the bank and appoint a Receiver under applicable law. Announce the removal of former management and directors as applicable.

Depending on the situation: State that the government is attempting to find or has found an acquirer to take over the bank's business to avoid disrupting banking services to the community. Note that employees will be notified as soon as possible regarding the outcome of this important issue.

Cover basic rules and conditions, such as no contact with former management, prohibition against destroying documents, and adherence to new lines of authority.

Stress the importance of the work that needs to be done to complete the transfer. Ask for cooperation in working late or over the weekend as required. Make clear that employees will be paid for their work for the Receiver. Identify individuals working for the Receiver who may be authorized to answer questions.

Note that employees will be permitted to contact family regarding the need to work late this evening. Also note that the duration of the call and information disclosed will be limited. Identify the person the

employees should speak with about any scheduling conflict.

Direct employees not to talk to the media. Tell them to refer any contacts and questions from the media to the identified media spokesperson.

Inform employees that final financial statements will be prepared for the bank, similar to year-end. Therefore, instruct them to process all work today as though at month-end or year-end, regardless of the normal procedures. For example, they should make monthly accrual entries.

If any loan information and documentation has been removed from the credit files, direct employees to return it. Explain that all credit files and loan agreements should be in the normal secure storage space.

Inform employees that for the near future, all employees must sign in and out at the bank entrance and record their work hours. Make clear that everyone working at the bank will be required to wear a name tag. Distribute name tags for each employee who agrees to stay.

FORM 22

POST CLOSING STRATEGIC RESOLUTION PLAN

Status Report as of mm/dd/yy

[Institution Name]

[If transaction involves a purchase and assumption, summarize assets assumed and assets remaining with Receiver.]

Selected Pro Forma Information as of [mm/dd/yy]

| | <u>Initial assets</u> | <u>Number</u> |
|-----------------------------------|-----------------------|---------------|
| Initial cash | \$ | |
| Assets in Liquidation | | |
| Consumer loans | \$ | |
| Commercial loans | \$ | |
| Securities | \$ | |
| Real estate mortgages | \$ | |
| Owned assets | \$ | |
| Other assets/judgments | \$ | |
| Total assets in liquidation | \$ _____ | _____ |
| Total assets | \$ _____ | |
| <u>Initial liabilities</u> | | |
| Any deductions from liabilities | \$ _____ | |
| Total liabilities | \$ _____ | |

Strategies

Bank Closing Information

Receiver in Charge: _____ [name] () _____ [telephone number]
Closing Coordinator: _____ [name] () _____ [telephone number]

Initial closing staff assigned: _____
[names]

Total number: _____
Current on-site staff remaining: _____ [names]
Total number: _____
Estimated completion date of field work: _____ [[mm/dd/yy]]
Significant problems or unusual issues:

Asset Marketing

Number of assets targeted for initial sale offering: _____
Book value of assets targeted for initial sale offering: _____
Location of investor due diligence: _____
Projected bid date: _____
Projected sale closing date: _____

Significant problems or unusual issues:

Operations

Criminal activity identified at closing: (Yes/No) _____
No. of employee benefit plans: _____
No. of uninsured depositor claims received to date: No. _____ \$ _____
 Status approved: No. _____ \$ _____
 Status rejected: No. _____ \$ _____
 Status pending: No. _____ \$ _____

Number and amount of General Trade Creditor claims received to date: No. _____
\$ _____
 Status approved: No. _____ \$ _____
 Status rejected: No. _____ \$ _____
 Status pending: No. _____ \$ _____

Other significant problems or unusual issues:

Asset Disposition

Strategy for disposing of remaining assets. Significant problems or unusual issues.

Legal

Total number of active legal issues acquired: _____
Break out of legal issues acquired: _____
 Non-asset- related: _____
 Asset related: _____
Number of letters of credit: _____
Number of unfunded loan commitments: _____
Number of bankruptcies: _____
Environmental issues: (Yes/No) _____

Description of significant legal issues:

Financial

Total assets (estimated): \$ _____ [monetary amount]
Less: Assets assumed: (\$ _____) [monetary amount]
(if there is a purchase & assumption)
Assets remaining with Receiver: \$ _____ [monetary amount]

Total liabilities (estimated): \$ _____ [monetary amount]
Less: Liabilities assumed: (\$ _____) [monetary amount]
(if there is a purchase & assumption)
Liabilities remaining with Receiver: _____

Description of significant issues:

FORM 23

PROOF OF CLAIM

[NAME AND LOCATION OF RECEIVER]

(Each claimant must file a separate Proof of Claim)

Name and address of claimant _____

Amount of claim/s _____

Description of claim/s _____

Name of individual filing claim if other than claimant _____

Relationship to claimant _____

The claimant hereby declares that no part of any said claim has been paid, that the claim has not been assigned to any other person, and that there is no set-off or counterclaim or other legal or equitable defense to such claim or any part thereof.

Signature of claimant: _____

Date: _____

Address: _____

Telephone number: _____

FORM 24

SAMPLE CASE MEMORANDUM

[The form below covers the case of sale of computer equipment.]

Date: _____

Institution (bank) name: _____

Identifying number for asset/s to be sold: _____

From: _____

Authorized official

Proposal

- Dispose of computer equipment owned and formerly used by the bank. The sale of this equipment will be accomplished using the services of _____.
- Retain a small amount of the equipment as needed for the bank's temporary use.
- Write off any remaining values for this equipment after the sale. (The Present Net Book Value of the equipment is _____.)

Description

A list of the equipment is on file at the bank.

Discussion

The bank has ceased operations and has no need for this equipment. Knowledge of the very limited market for used computer equipment in _____ is essential in packaging the equipment for potential buyers. [Name of firm/individual handling sale] through its [work with this institution in the past][familiarity with the market in _____ for used computer equipment] is [familiar with this equipment] [is familiar with the market]. They will prepare the packages most appropriate for the market in _____. They will be compensated through a commission arrangement to be negotiated.

Note: An alternative approach would be hold an auction or offer the equipment in its entirety for sale on an "as is" basis.

Justification

This recommendation is justified because there is no further need for this equipment and the cash from the sale will improve the bank's financial condition.

Action Completed Date

Action will be completed on this case within 60 days of approval.

Approved:

X _____

Date _____

Liquidation Team Manager/Approving
Committee

Action complete:

X _____

Date _____

Liquidation Team Manager

FORM 25

NOTICE TO ALL INTERESTED PARTIES OF THE TERMINATION

OF THE RECEIVERSHIP OF [FINANCIAL INSTITUTION NAME AND LOCATION]

Notice is hereby given that the Receiver for [name of institution] intends to terminate its Receivership for said institution. The Receiver was appointed on [date] and the liquidation of the assets is complete. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors (if final payment will be made).

Based upon the foregoing, the Receiver has determined that the continued existence of the Receivership will serve no useful purpose. This constitutes notice that the Receivership shall be terminated to be effective on the thirtieth day after the date of this notice. To contact the receiver, you may write to the following address [provide name and address for contacts].

Signed: _____

(Receiver)

Date: _____

FORM 26

SUGGESTED OUTLINE FOR AN AFTER ACTION REPORT

[Consider preparing this report in stages, such as within one week, then 30 days, then 60 days of takeover, completing a final report when the receivership is terminated.]

1. Name and address of bank
2. Date of Receivership
3. Date of after action report
4. Executive summary

Describe overall findings and recommendations from the report.

5. Background of the failed bank

Describe the failed bank, noting its history, asset size, market penetration, and any other significant aspects of its operation, such as main lines of business.

6. Reasons for the bank's failure

Describe the reasons for the bank's failure, such as lack of capital, management shortcomings, weaknesses in underwriting, or too high a concentration in certain specific types of loans.

7. Supervisory history of the bank

Describe the number of bank examinations and the findings from those examinations about the bank's operations.

8. Summary of activities at takeover

Give detailed description of actions at takeover, including the time the bank was intervened, whether timing was affected by any outside factors such as a run on the bank, the people on the intervention team, the actions taken by each team member, the reactions of employees, any unusual discoveries upon entering the bank, and any expressed concerns by customers in person or by telephone.

9. Describe ongoing operations of the receivership and any unusual aspects of the Receivership operation.

Give general information on the ongoing operations of the Receivership and any difficulties encountered, such as missing files or computer data or other problems encountered in performing the work of the Receivership.

10. Discuss lessons learned from the Receivership operation, such as how to address missing loan files in the future or ways to minimize any problems encountered in the Receivership operation.

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