

# SECURITIES AND EXCHANGE COMMISSION

## FORM 10-Q

Quarterly report pursuant to sections 13 or 15(d)

Filing Date: **1996-08-14** | Period of Report: **1996-06-30**  
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### FILER

#### HEARTLAND FINANCIAL USA INC

CIK: **920112** | IRS No.: **421405748** | State of Incorporation: **DE** | Fiscal Year End: **1231**  
Type: **10-Q** | Act: **34** | File No.: **000-24724** | Film No.: **96612623**  
SIC: **6035** Savings institution, federally chartered

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3195892000

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 10-Q

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934

For quarterly period ended June 30, 1996

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934

For transition period \_\_\_\_\_ to \_\_\_\_\_  
Commission File Number: 0-24724

HEARTLAND FINANCIAL USA, INC.

(Exact name of Registrant as specified in its charter)

Delaware

(State or other jurisdiction of incorporation or organization)

42-1405748

(I.R.S. Employer identification number)

1398 Central Avenue, Dubuque, Iowa 52001  
(Address of principal executive offices Zip Code)

319) 589-2100

(Registrant's telephone number, including area code)

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes X No

Indicate the number of shares outstanding of each of the Registrant's common stock as of the latest practicable date: As of August 12, 1996, the Registrant had outstanding 4,709,970 shares of common stock, \$1.00 par value per share.

HEARTLAND FINANCIAL USA, INC.

Form 10-Q Quarterly Report

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Form 10-Q Signature Page

HEARTLAND FINANCIAL USA, INC. CONSOLIDATED BALANCE SHEETS  
(Unaudited)

(In thousands, except per share data)

<TABLE>

<CAPTION>

|  | 6/30/96   | 12/31/95  |
|--|-----------|-----------|
|  | -----     | -----     |
| <S>  | <C>       | <C>       |
| ASSETS   |           |           |
| Cash and due from banks  | \$ 23,791 | \$ 31,305 |
| Federal funds sold   | 32,800    | 23,500    |
|  | -----     | -----     |
| Cash and cash equivalents  | 56,591    | 54,805    |
| Time deposits in other financial institutions  | 151       | 145       |
| Securities:  |           |           |
| Available for sale-at market<br>(cost of \$166,902 for 1996 and \$141,680 for 1995)          | 166,678   | 145,857   |
| Held to maturity-at cost (approximate market value of \$1,950 for 1996 and \$2,503 for 1995) | 1,870     | 2,369     |
| Loans and leases:  |           |           |
| Held for sale  | 1,128     | 790       |
| Held to maturity   | 460,570   | 454,115   |
| Allowance for possible loan and lease losses   | (6,089)   | (5,580)   |

|  |           |           |
|--|-----------|-----------|
| Loans and leases, net  | 455,609   | 449,325   |
| Premises, furniture and equipment, net   | 13,284    | 12,519    |
| Other real estate, net   | 527       | 640       |
| Other assets   | 15,374    | 11,653    |
|  | -----     | -----     |
| TOTAL ASSETS   | \$710,084 | \$677,313 |
|  | =====     | =====     |
| LIABILITIES AND STOCKHOLDERS' EQUITY   |           |           |
| LIABILITIES:   |           |           |
| Deposits:  |           |           |
| Demand   | \$ 43,278 | \$ 49,283 |
| Savings  | 230,121   | 210,853   |
| Time   | 279,143   | 274,451   |
|  | -----     | -----     |
| Total deposits   | 552,542   | 534,587   |
| Short-term borrowings  | 44,307    | 23,241    |
| Accrued expenses and other liabilities   | 7,485     | 9,579     |
| Other borrowings   | 40,400    | 45,400    |
|  | -----     | -----     |
| TOTAL LIABILITIES  | 644,734   | 612,807   |
|  | -----     | -----     |
| STOCKHOLDERS' EQUITY:  |           |           |
| Common stock (par value \$1 per share;<br>authorized, 7,000,000 shares;<br>issued, 4,853,626 and 2,426,813<br>shares at June 30, 1996, and<br>December 31, 1995, respectively) | 4,854     | 2,427     |
| Capital surplus  | 13,123    | 13,090    |
| Retained earnings  | 49,948    | 49,171    |
| Net unrealized gain (loss) on<br>securities available for sale   | (141)     | 2,620     |
| Treasury stock at cost<br>(140,060 and 166,652 shares<br>at June 30, 1996, and<br>December 31, 1995, respectively)   | (2,434)   | (2,802)   |
|  | -----     | -----     |
| TOTAL STOCKHOLDERS' EQUITY   | 65,350    | 64,506    |
|  | -----     | -----     |
| TOTAL LIABILITIES AND<br>STOCKHOLDERS' EQUITY  | \$710,084 | \$677,313 |
|  | =====     | =====     |

</TABLE>

See accompanying notes to consolidated financial statements.

HEARTLAND FINANCIAL USA, INC.  
CONSOLIDATED STATEMENTS OF INCOME (Unaudited)  
(In thousands, except per share data)

<TABLE>

<CAPTION>

|                        | Three Months Ended |          | Six Months Ended |           |
|------------------------|--------------------|----------|------------------|-----------|
|                        | 6/30/96            | 6/30/95  | 6/30/96          | 6/30/95   |
|                        | -----              | -----    | -----            | -----     |
| <S>                    | <C>                | <C>      | <C>              | <C>       |
| INTEREST INCOME:       |                    |          |                  |           |
| Interest and fees      |                    |          |                  |           |
| on loans and leases    | \$ 10,048          | \$ 9,771 | \$ 19,934        | \$ 18,772 |
| Interest on investment |                    |          |                  |           |
| securities:            |                    |          |                  |           |
| Taxable                | 2,260              | 2,047    | 4,348            | 4,071     |
| Nontaxable             | 334                | 473      | 689              | 950       |
| Interest on trading    |                    |          |                  |           |
| account securities     | 0                  | 0        | 0                | 10        |
| Interest on federal    |                    |          |                  |           |
| funds sold             | 199                | 92       | 412              | 123       |
| Interest on interest-  |                    |          |                  |           |
| bearing deposits in    |                    |          |                  |           |
| other financial        |                    |          |                  |           |
| institutions           | 36                 | 33       | 111              | 43        |
|                        | -----              | -----    | -----            | -----     |
| TOTAL INTEREST INCOME  | 12,877             | 12,416   | 25,494           | 23,969    |
|                        | -----              | -----    | -----            | -----     |
| INTEREST EXPENSE:      |                    |          |                  |           |
| Interest on deposits   | 5,765              | 5,532    | 11,482           | 10,613    |
| Interest on short-     |                    |          |                  |           |
| term borrowings        | 494                | 308      | 910              | 654       |
| Interest on other      |                    |          |                  |           |
| borrowings             | 597                | 588      | 1,271            | 942       |
|                        | -----              | -----    | -----            | -----     |
| TOTAL INTEREST EXPENSE | 6,856              | 6,428    | 13,663           | 12,209    |
|                        | -----              | -----    | -----            | -----     |
| NET INTEREST INCOME    | 6,021              | 5,988    | 11,831           | 11,760    |
| Provision for possible |                    |          |                  |           |
| loan and lease losses  | 228                | 217      | 975              | 435       |
|                        | -----              | -----    | -----            | -----     |
| NET INTEREST INCOME    |                    |          |                  |           |
| AFTER PROVISION FOR    |                    |          |                  |           |
| POSSIBLE LOAN AND      |                    |          |                  |           |
| LEASE LOSSES           | 5,793              | 5,771    | 10,856           | 11,325    |
|                        | -----              | -----    | -----            | -----     |
| OTHER INCOME:          |                    |          |                  |           |
| Service charges        | 588                | 508      | 1,154            | 997       |
| Trust fees             | 465                | 383      | 895              | 768       |
| Brokerage commissions  | 59                 | 34       | 94               | 71        |
| Insurance commissions  | 165                | 180      | 319              | 339       |
| Investment securities  |                    |          |                  |           |
| gains, net             | 76                 | 8        | 1,398            | 84        |

|  |           |           |           |           |
|--|-----------|-----------|-----------|-----------|
| Gain on sale of loans                      | 16        | 9         | 44        | 14        |
| Other                                      | 111       | 38        | 222       | 113       |
|  | -----     | -----     | -----     | -----     |
| TOTAL OTHER INCOME                         | 1,480     | 1,160     | 4,126     | 2,386     |
|  | -----     | -----     | -----     | -----     |
| OTHER EXPENSES:                            |           |           |           |           |
| Salaries and employee benefits             | 2,762     | 2,470     | 5,556     | 5,004     |
| Occupancy                                  | 297       | 226       | 580       | 498       |
| Equipment                                  | 335       | 351       | 652       | 697       |
| Outside services                           | 319       | 349       | 574       | 600       |
| FDIC assessment                            | 52        | 288       | 102       | 575       |
| Advertising                                | 206       | 165       | 556       | 339       |
| Other operating expense                    | 720       | 672       | 1,416     | 1,301     |
|  | -----     | -----     | -----     | -----     |
| TOTAL OTHER EXPENSES                       | 4,691     | 4,521     | 9,436     | 9,014     |
|  | -----     | -----     | -----     | -----     |
| INCOME BEFORE TAXES                        | 2,582     | 2,410     | 5,546     | 4,697     |
| Income taxes                               | 712       | 691       | 1,398     | 1,288     |
|  | -----     | -----     | -----     | -----     |
| NET INCOME                                 | \$ 1,870  | \$ 1,719  | \$ 4,148  | \$ 3,409  |
|  | =====     | =====     | =====     | =====     |
| NET INCOME AVAILABLE FOR COMMON STOCK      |           |           |           |           |
|  | \$ 1,870  | \$ 1,719  | \$ 4,148  | \$ 3,409  |
|  | =====     | =====     | =====     | =====     |
| NET INCOME PER COMMON SHARE                |           |           |           |           |
|  | \$ .40    | \$ .36    | \$ .88    | \$ .71    |
| DIVIDENDS DECLARED PER COMMON SHARE        |           |           |           |           |
|  | \$ .10    | \$ .08    | \$ .20    | \$ .15    |
| WEIGHTED AVERAGE COMMON SHARES OUTSTANDING |           |           |           |           |
|  | 4,718,887 | 4,824,100 | 4,713,667 | 4,832,146 |

</TABLE>

See accompanying notes to consolidated financial statements.

HEARTLAND FINANCIAL USA, INC.  
CONSOLIDATED STATEMENTS OF CASH FLOWS (Unaudited)  
(Dollars in thousands)

<TABLE>

<CAPTION>

|   | Six Months Ended |          |
|---|------------------|----------|
|   | 6/30/96          | 6/30/95  |
|   | -----            | -----    |
| <S>                                       | <C>              | <C>      |
| NET CASH PROVIDED BY OPERATING ACTIVITIES | \$ 4,272         | \$ 7,340 |

CASH FLOWS FROM INVESTING ACTIVITIES:

|                                      |     |   |
|--------------------------------------|-----|---|
| Purchase of time deposits            | (6) | - |
| Proceeds from the sale of investment |     |   |

|   |           |           |
|---|-----------|-----------|
| securities available for sale   | 5,987     | 25,979    |
| Proceeds from the sale of mortgage-backed securities available for sale                               | -         | 8,352     |
| Proceeds from the maturity of and principal paydowns on investment securities held to maturity        | 498       | 5,651     |
| Proceeds from the maturity of and principal paydowns on investment securities available for sale      | 23,203    | 13,397    |
| Proceeds from the maturity of and principal paydowns on mortgage-backed securities held to maturity   | -         | 389       |
| Proceeds from the maturity of and principal paydowns on mortgage-backed securities available for sale | 6,254     | 3,050     |
| Purchase of investment securities available for sale  | (32,766)  | (35,689)  |
| Purchase of mortgage-backed securities available for sale   | (26,156)  | 0         |
| Purchase of interest in low-income housing project  | (2,865)   | (2,892)   |
| Net increase in loans and leases  | (8,760)   | (33,008)  |
| Capital expenditures  | (1,552)   | (354)     |
| Proceeds on sale of fixed assets  | 2         | 51        |
| Proceeds on sale of repossessed assets  | 197       | 110       |
|   | -----     | -----     |
| NET CASH USED BY INVESTING ACTIVITIES   | (35,964)  | (14,964)  |
|   | -----     | -----     |
| CASH FLOWS FROM FINANCING ACTIVITIES:   |           |           |
| Net increase (decrease) in demand deposits and savings accounts                                       | 13,263    | (11,977)  |
| Net increase in time deposit accounts   | 4,692     | 5,596     |
| Net increase in other borrowings  | -         | 19,838    |
| Net increase (decrease) in short-term borrowings  | 16,066    | (7,636)   |
| Purchase of treasury stock  | (330)     | (567)     |
| Proceeds from sale of treasury stock  | 731       | 233       |
| Dividends   | (944)     | (1,646)   |
|   | -----     | -----     |
| NET CASH PROVIDED BY FINANCING ACTIVITIES   | 33,478    | 3,841     |
|   | -----     | -----     |
| Net increase (decrease) in cash and cash equivalents  | 1,786     | (3,783)   |
| Cash and cash equivalents at beginning of year  | 54,805    | 35,656    |
|   | -----     | -----     |
| CASH AND CASH EQUIVALENTS AT END OF PERIOD  | \$ 56,591 | \$ 31,873 |
|   | =====     | =====     |

Supplemental disclosures:

|  |           |           |
|--|-----------|-----------|
| Cash paid for income/franchise taxes   | \$ 1,723  | \$ 513    |
| Cash paid for interest   | \$ 13,758 | \$ 11,882 |
| Investment securities transferred<br>from available for sale to public<br>charitable trust | \$ 220    | \$ -      |
| Other borrowings transferred to<br>short-term borrowings                                   | \$ 5,000  | \$ -      |

See accompanying notes to consolidated financial statements.

HEARTLAND FINANCIAL USA, INC.  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
(Dollars in thousands)

NOTE 1: BASIS OF PRESENTATION

The interim unaudited consolidated financial statements contained herein should be read in conjunction with the audited consolidated financial statements and accompanying notes to the financial statements for the fiscal year ended December 31, 1995, included in the Company's Form 10-K filed with the Securities and Exchange Commission on March 29, 1996. Accordingly, footnote disclosure which would substantially duplicate the disclosure contained in the audited consolidated financial statements has been omitted.

The financial information of Heartland Financial USA, Inc. (the "Company") included herein is prepared pursuant to the rules and regulations for reporting on Form 10-Q. Such information reflects all adjustments (consisting of normal recurring adjustments) which are, in the opinion of management, necessary for a fair presentation of results for the interim periods. The results of the interim period ended June 30, 1996, are not necessarily indicative of the results expected for the year ending December 31, 1996.

On March 4, 1996, the Company's Board of Directors declared a two-for-one stock split in the form of a 100% stock dividend to stockholders of record on March 14, 1996, payable on March 29, 1996. Accordingly, all per share data have been restated to reflect the stock split.

MANAGEMENT'S DISCUSSION AND ANALYSIS  
OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

General

The Company's results of operations depend primarily on net



interest income, which is the difference between interest income from interest earning assets and interest expense on interest bearing liabilities. Noninterest income, which includes service charges, fees and gains on loans and trust income, also affects the Company's results of operations. The Company's principal operating expenses, aside from interest expense, consist of compensation and employee benefits, occupancy and equipment costs and provision for loan and lease losses.

Net income totaled \$1,870,000 or \$.40 per common share for the quarter ended June 30, 1996, an increase of \$151,000 (8.78%) from the June 30, 1995, total of \$1,719,000 or \$.36 per common share. Income for the six months ended June 30, 1996, was \$4,148,000 or \$.88 per common share as compared to \$3,409,000 or \$.71 for the same period in 1995. Net income recorded during the first quarter of 1996 included a gain of \$1,174,000 on the sale of stock held in the investment portfolio at First Community Bank, FSB ("FCB"), one of the Company's bank subsidiaries. This gain impacted per common share earnings by \$.16 for the six month period ended June 30, 1996. The writedown of a \$469,000 loan at FCB was also recorded during the first quarter of 1996 and impacted per common share earnings by \$.10 for the six month period ended June 30, 1996.

#### Net Interest Income

Net interest income remained stable at \$6,021,000 and \$5,988,000 for the three month periods ended June 30, 1996 and 1995, respectively. Net interest income increased slightly to \$11,831,000 for the six month period ended June 30, 1996, and \$11,760,000 for the same period in 1995. Net interest income to average earning assets on a fully tax equivalent basis was 3.92% for the three month and 3.89% for the six month periods ended June 30, 1996, as compared to 4.21% for the three month and 4.24% for the six month periods ended June 30, 1995. This reduction was primarily attributable to a shift from higher yielding loans to lower yielding securities as a result of decreased loan demand.

#### Noninterest Income

Noninterest income was \$1,480,000 for the three months ended June 30, 1996, and \$1,160,000 for the same period in 1995, an increase of \$320,000 (27.59%). Total noninterest income for the six months ended June 30, 1996, was \$4,126,000 compared to \$2,386,000 for the same period ended June 30, 1995, a 72.93% increase. The largest component of this \$1,740,000 increase was the \$1,314,000 change in investment security gains from \$84,000 during the first six months of 1995 to \$1,398,000 during the same period in 1996. Of these gains, \$1,174,000 resulted from the sale of Federal Home Loan Mortgage Corporation Common Stock held in the investment

portfolio at FCB. As interest rates declined during 1994, this stock experienced substantial appreciation and, in anticipation of rising interest rates in 1996, management decided to sell the stock to reduce the interest rate risk within the investment portfolio.

Service charges increased \$80,000 (15.75%) from \$508,000 for the three month period ended June 30, 1995, to \$588,000 for the same period in 1996. Service charges totaled \$1,154,000 and \$997,000 for the six month periods ended June 30, 1996 and June 30, 1995, respectively, an increase of \$157,000 (15.75%). The addition of new merchants in the credit card processing area was primarily responsible for these increases.

Trust fees totaled \$465,000 and \$383,000 for the three months ended June 30, 1996 and June 30, 1995, respectively, an increase of \$82,000 (21.41%). Trust fees increased \$127,000 (16.54%) for the six months ended June 30, 1996, compared to the same period in 1995. These increases were primarily attributable to growth in assets under management due to investment performance and the development of new trust relationships through continued marketing efforts. Total trust assets under management grew \$76,696,000 (26.50%) from \$289,391,000 at December 31, 1995, to \$366,087,000 at June 30, 1996. Trust assets under management as of June 30, 1996, included temporary investments of \$15,000,000.

Brokerage commissions grew \$25,000 (73.53%) for the three month and \$23,000 (32.39%) for the six month periods ended June 30, 1996 when compared to the same periods in 1995. These increases reflect personnel changes in the brokerage area. For the three month period ended June 30, 1996 and 1995, brokerage commissions totaled \$59,000 and \$34,000, respectively. For the six month period ended June 30, 1996, brokerage commissions were \$94,000 compared to \$71,000 for the same period in 1995.

During the three month period ended June 30, 1996, insurance commissions decreased \$15,000 (8.33%) to \$165,000 as compared to \$180,000 for the same period in 1995. For the six month periods ending June 30, 1996 and 1995, insurance commissions decreased \$20,000 (5.90%) from \$339,000 to \$319,000.

Gains on sales of loans totaled \$16,000 and \$9,000 for the three month periods ended June 30, 1996 and 1995, respectively, an increase of \$7,000 (77.78%). Gains on sales of loans increased \$30,000 (214.29%) from \$14,000 for the six months ended June 30, 1995, to \$44,000 for the same period ended June 30, 1996. These increases were due to consumers' renewed interest in fixed rate fifteen- and thirty-year real estate loans which the Company sells into the secondary market while retaining servicing of the loans.

Other income increased \$73,000 (192.11%) from \$38,000 for the three month period ended June 30, 1995, to \$111,000 for the same period in 1996. For the six month periods ended June 30, 1996 and 1995, other income was \$222,000 and \$113,000, respectively, an increase of \$109,000 (96.46%). The majority of these increases in other income were attributable to increases in the cash surrender value of life insurance policies on officers of the Company.

#### Noninterest Expense

Noninterest expense increased from \$4,521,000 for the three months ended June 30, 1995, to \$4,691,000 for the same period in 1996, an increase of \$170,000 (3.76%). For the six month period ended June 30, 1996, noninterest expense was \$9,436,000 compared to \$9,014,000 for the same period in 1995, an increase of \$422,000 (4.68%). Salaries and employee benefits, the largest component of noninterest expense, increased \$292,000 (11.82%) for the three month and \$552,000 (11.03%) for the six month periods under comparison. These increases were primarily the result of the opening of the Company's de novo bank operation, Riverside Community Bank ("RCB"), in Rockford, Illinois.

Occupancy expense increased \$71,000 (31.42%) from \$226,000 during the three month period ended June 30, 1995 to \$297,000 for the same period in 1996. For the six month period ended June 30, 1996, occupancy expense was \$580,000 compared to \$498,000 for the same period in 1995, an increase of \$82,000 (16.47%). The majority of these increases resulted from the rental of temporary facilities for RCB. Furniture and equipment expense decreased \$16,000 (4.56%) and \$45,000 (6.46%) for the three and six month periods, respectively, ending June 30, 1996 when compared to the same periods in 1995.

Fees paid for outside services also decreased slightly during the three and six month periods ended on June 30, 1996 as compared with the same periods in 1995 at \$30,000 (8.60%) and \$26,000 (4.33%), respectively.

FDIC insurance premium expense decreased \$236,000 (81.94%) to \$52,000 for the three month period ended June 30, 1996, compared to \$288,000 for the same period in 1995. For the six month period ended June 30, 1996, FDIC insurance premium expense decreased \$473,000 (82.26%) to \$102,000 from \$575,000 for the same period in 1995. These decreases were the result of a change in the premium on deposits charged to members of the Bank Insurance Fund from .23% to .04% of deposits and subsequently to \$2,000 per year for well-capitalized banks. Three of the Company's four banks were affected by this reduction. FCB, a federal savings bank, is a member of the Savings Association Insurance Fund which did not have a reduction in the premium on

deposits.

For the three month period ended June 30, 1996, advertising and public relations expense increased \$41,000 (24.85%) from \$165,000 in 1995 to \$206,000 in 1996. This increase was the result of marketing efforts in Rockford, Illinois to promote the opening of RCB. Advertising and public relations expense experienced the largest single percentage increase within the noninterest expense category during the six month period ended June 30, 1996, rising \$217,000 (64.01%) to \$556,000 from \$339,000. The primary component of this increase was the contribution of stock from FCB's investment portfolio to a public charitable trust at a cost basis of \$220,000 with an associated market value of \$820,000.

Other operating expenses increased \$48,000 (7.14%) from \$672,000 for the three month period ended June 30, 1995, to \$720,000 for the same period in 1996. For the six month periods ended June 30, 1996 and 1995, other operating expenses were \$1,416,000 and \$1,301,000, respectively, an increase of \$115,000 (8.84%). These increases were attributable to expenses incurred due to growth within the merchant credit card processing area and the opening of RCB.

#### Income Tax Expense

Income tax expense for the first six months of 1996 increased 8.54% over the same period in 1995, primarily as a result of corresponding increases in pre-tax earnings. The Company's effective tax rate declined from 27.42% for the six month period ended June 30, 1995, to 25.21% for same period in 1996. This change was the result of additional tax credits associated with the investment in low-income housing projects and the previously discussed contribution of appreciated property to a public charitable trust.

#### FINANCIAL CONDITION

##### Loans and Provision for Loan and Lease Losses

Net loans and leases remained stable at \$455,609,000 at June 30, 1996, when compared to the December 31, 1995, total of \$449,325,000. Commercial loans experienced modest growth of \$2,910,000 (1.52%) during the first six months of 1996, with outstanding loans of \$191,866,000 at December 31, 1995, increasing to \$194,776,000 at June 30, 1996. Real estate loans were \$159,357,000 at June 30, 1996, a slight increase of \$1,033,000 (.65%) over the December 31, 1995, balance of \$158,324,000. Agricultural loans remained relatively constant at \$58,970,000 at June 30, 1996, as compared to the December 31, 1995 increasing balance of \$59,089,000. Consumer loans experienced the most significant growth of \$4,194,000 (10.76%)

with outstanding loans increasing to \$43,182,000 at June 30, 1996, from \$38,988,000 at December 31, 1995. Due to reduced demand for lease financing during the first six months and to scheduled paydowns, the Company's lease financing balances declined \$1,134,000 (13.29%) to a total of \$7,396,000 at June 30, 1996.

The adequacy of the allowance for loan and lease losses is determined by management using factors that include the overall composition of the loan portfolio, types of loans, past loss experience, loan delinquencies, and potential losses on substandard and doubtful credits. The adequacy of the allowance for loan and lease losses is monitored by the loan review staff, senior management and the Board of Directors. The maintenance of the allowance for loan and lease losses at an amount in excess of four and one-half times nonperforming loans and leases is due to a number of factors including the following: i) the economies of the Company's primary market areas have been stable since 1989 and the growth of the allowance is intended to anticipate the cyclical nature of most economies; ii) an increase in the amount of nonperforming loans; and iii) an increase in the amount of charge-offs for the first time since 1992.

The Company's provision for loan and lease losses was \$228,000 for the three months ended June 30, 1996, compared to \$217,000 for the same period in 1995, an increase of \$11,000 (5.07%). For the six months ended June 30, 1996, the provision for loan and lease losses was \$975,000 compared to \$435,000 for the same period in 1995, an increase of \$540,000 (124.14%). Net charge-offs were \$466,000 and \$108,000 during the first six months of 1996 and 1995, respectively. Included in the first six months of 1996 chargeoffs was the \$469,000 writedown on a loan at FCB. The allowance for loan and lease losses as a percentage of total loans was 1.32% as of June 30, 1996, 1.23% as of December 31, 1995, and 1.20% as of June 30, 1995.

Nonperforming loans, defined as nonaccrual loans and loans past due ninety days or more, increased from \$1,203,000 at December 31, 1995, to \$1,350,000 at June 30, 1996, an increase of \$147,000 (12.22%).

Other real estate owned totaled \$527,000 at June 30, 1996, a decrease of \$113,000 (17.66%), from the December 31, 1995, total of \$640,000.

## Securities

The dual objectives of the investment portfolio are to provide the Company with sources of both liquidity and earnings. Investment securities represented \$168,548,000 or 23.74% of total assets at June 30, 1996, as compared to \$148,226,000 or 21.88% at

December 31, 1995. This \$20,322,000 (13.71%) change resulted from the decreased demand for loans.

The available for sale securities portfolio of \$145,857,000 at December 31, 1995, increased \$20,821,000 (14.27%) to \$166,678,000 at June 30, 1996. Specifically, U.S. treasury and agency securities increased \$8,980,000 (15.22%) to \$67,986,000 at June 30, 1996, from the December 31, 1995, total of \$59,006,000. Mortgage-backed securities increased \$19,085,000 (48.37%) to \$58,538,000 at June 30, 1996 from \$39,453,000 at December 31, 1995. Municipal obligation securities decreased \$2,134,000 (10.45%) to \$18,279,000 at June 30, 1996, due to maturities and scheduled calls. Other securities totaled \$14,610,000 at June 30, 1996, a decrease of \$5,251,000 (26.44%), from the December 31, 1995, total of \$19,861,000 and included equity securities, corporate bonds and bankers acceptances.

Amortized cost of securities held to maturity was \$1,870,000 at June 30, 1996, a decrease of \$499,000 (21.06%) from the December 31, 1995, total of \$2,369,000. This decrease was due to scheduled maturities and calls.

#### Deposits and Borrowed Funds

Total deposits were \$552,542,000 at June 30, 1996, an increase of \$17,955,000 (3.36%) from the December 31, 1995, total of \$534,587,000. Demand deposits experienced a decrease of \$6,005,000 (12.18%), ending the period at \$43,278,000. Much of this reduction was due to normal seasonal fluctuations in demand deposit accounts. Savings accounts increased \$19,268,000 (9.14%) to \$230,121,000 at June 30, 1996. The majority of this increase was related to isolated accounts. Certificates of deposit were \$279,143,000 at June 30, 1996, reflecting a modest \$4,692,000 (1.71%) increase over the December 31, 1995, total of \$274,451,000.

Short-term borrowings generally include federal funds purchased, securities sold under agreement to repurchase and short-term Federal Home Loan Bank ("FHLB") advances. These funding alternatives are utilized in varying degrees depending on their pricing and availability. As of June 30, 1996, the balance in this account had increased to \$44,307,000 from the December 31, 1995, total of \$23,241,000. This \$21,066,000 (90.64%) increase was primarily attributable to growth in securities sold under agreement to repurchase and the transfer of \$5,000,000 in FHLB borrowings from other borrowings to short-term borrowings due to approaching maturities.

Other borrowings includes the Company's long-term FHLB funding which decreased to \$40,400,000 at June 30, 1996, from the December 31, 1995, total of \$45,400,000 due to the transfer of

\$5,000,000 to short-term borrowings. Total long-term FHLB advances had a melded remaining term of 3.53 years at an average rate of 5.85% as of June 30, 1996.

## Capital Resources

Bank regulatory bodies have adopted capital standards by which all bank holding companies will be evaluated. Under the risk-based method of measurement, the resulting ratio is dependent upon not only the level of capital and assets, but the composition of assets and capital and the amount of off-balance sheet commitments. The Company's capital ratios were as follows for the dates indicated:

</TABLE>

<TABLE>

### CAPITAL RATIOS (Dollars in thousands)

<CAPTION>

|                                       | June 30, 1996 |        | December 31, 1995 |        |
|---------------------------------------|---------------|--------|-------------------|--------|
|                                       | Amount        | Ratio  | Amount            | Ratio  |
| <b>Risk-Based Capital Ratios: (1)</b> |               |        |                   |        |
| <S>                                   | <C>           | <C>    | <C>               | <C>    |
| Tier 1 capital                        | \$ 64,499     | 13.41% | \$ 60,780         | 13.28% |
| Tier 1 capital minimum requirement    | 19,243        | 4.00%  | 18,302            | 9.00%  |
| Excess                                | \$ 45,256     | 9.41   | 42,478            | 9.28%  |
| <br>                                  |               |        |                   |        |
| Total capital                         | \$ 70,312     | 14.62% | \$ 66,165         | 4.46%  |
| Total capital minimum requirement     | 38,487        | 8.00%  | 36,603            | 8.00%  |
| Excess                                | \$ 31,825     | 6.62%  | \$ 29,562         | 6.46%  |
| <br>                                  |               |        |                   |        |
| Total risk adjusted assets            | \$481,085     |        | \$457,539         |        |

### Leverage Capital Ratios: (2)

|  |           |       |           |       |
|--|-----------|-------|-----------|-------|
| Tier 1 capital                         | \$ 64,499 | 9.38% | \$ 60,780 | 9.47% |
| Tier 1 capital minimum requirement (3) | \$ 34,379 | 5.00% | \$ 32,083 | 5.00% |
| Excess                                 | \$ 30,120 | 4.38% | \$ 28,697 | 4.47% |

|  |           |           |
|--|-----------|-----------|
| Average adjusted assets<br>(less goodwill) | \$687,580 | \$641,650 |
|--|-----------|-----------|

</TABLE>

(1)Based on the risk-based capital guidelines of the Federal Reserve, a bank holding company is required to maintain a Tier 1 capital to risk-adjusted assets ratio of 4.00% and total capital to risk-adjusted assets ratio of 8.00%.



(2)The leverage ratio is defined as the ratio of Tier 1 capital to average adjusted assets.

(3)Management of the Company has established a minimum target leverage ratio of 5.00%. Based on Federal Reserve guidelines, a bank holding company generally is required to maintain a leverage ratio of 3.00% plus an additional cushion of at least 100 to 200 basis points.

Commitments for capital expenditures are an important factor in evaluating capital adequacy. Construction of the \$1,800,000 permanent facility for RCB is near completion. Bank staff will begin occupying the facility in August and grand opening celebrations are scheduled during September.

An \$800,000 branch facility is nearing completion on Keokuk's northwest side in direct response to potential growth opportunities. FCB is scheduled to occupy this facility in late August.

Construction of a \$2,200,000 bank facility in Galena, Illinois began during the third quarter of 1995 with anticipated completion by the end of this year. This project will allow Galena State Bank and Trust Company to consolidate operations into one bank building and provide better accessibility and parking for bank customers.

Heartland entered into a license and service agreement for the installation of Fiserv's Comprehensive Banking Systems software with an approximate project cost of \$730,000. Conversion is scheduled for the fall of 1996 and spring of 1997 and will provide Heartland the technology to remain competitive.

Heartland continues to explore opportunities to expand its umbrella of independent community banks through mergers and acquisitions as well as de novo and branching opportunities. Future expenditures relating to these efforts are not estimable at this time.

## Liquidity

Liquidity measures the ability of the Company to meet maturing obligations and its existing commitments, to withstand fluctuations in deposit levels, to fund its operations and to provide for customers' credit needs. The liquidity of the Company principally depends on cash flows from operating activities, investment in and maturity of assets, changes in balances of deposits and borrowings and its ability to borrow funds in the money or capital markets.



Net cash outflows from investing activities were \$35,964,000 and \$14,964,000 during the first six months of 1996 and 1995, respectively. Net principal disbursed on loans totaled \$8,760,000 during the first quarter of 1996 compared to \$33,008,000 for the same period in 1995. Proceeds from the maturity and paydowns on securities totaled \$29,955,000 and \$22,487,000 for the six month periods ended June 30, 1996 and 1995, respectively. Cash provided from the sales of securities decreased from \$34,331,000 for the first six months of 1995 to \$5,987,000 for the same period in 1996. Cash used for the purchases of securities was \$58,922,000 for the first six months of 1996 compared to \$35,689,000 for the same period in 1995. Additional purchases of interests in low-income housing projects totaled \$2,865,000 during the first six months of 1996 compared to \$2,892,000 during the first six months of 1995.

Cash inflows from financing activities increased from \$3,841,000 for the six month period ended June 30, 1995, to \$33,478,000 for the same period in 1996. The net change in demand deposits and savings accounts used cash of \$11,977,000 during the first six months of 1995 and provided cash of \$13,263,000 during the same period in 1996. For the six month period ended June 30, 1996, cash provided by a net increase in time deposit accounts was \$4,692,000 compared with \$5,596,000 for the same period in 1995. Short-term borrowings experienced a net decrease of \$7,636,000 during the six month period ended June 30, 1995, compared to a net increase of \$16,066,000 during the same six month period in 1996. Other borrowings experienced a net increase of \$19,838,000 during the first six months of 1995 and no change during the same period in 1996.

In the event of short term liquidity needs, the Company may purchase federal funds from correspondent banks. The Company may also borrow funds from the Federal Reserve Bank of Chicago, but has not done so during the period covered in this report. The Company sells securities under agreements to repurchase. These agreements, which are principally to local businesses, have been utilized by Dubuque Bank and Trust Company as a funding mechanism for several years. Finally, the Company's subsidiary banks' memberships in the FHLB System has given them the ability to borrow funds from the FHLB of Des Moines and Chicago for short- and long-term purposes.

Total cash inflows from operating activities exceeded outflows during the first six months of 1996 by \$4,272,000 and \$7,340,000 during the first six months of 1995. Management of investing and financing activities, and market conditions, determine the level and the stability of net interest cash flows. Management attempts to mitigate the impact of changes in market interest rates to the extent possible, so that balance sheet growth is the principal determinant of growth in net interest cash flows.

PART II

ITEM 1. LEGAL PROCEEDINGS

There are no material pending legal proceedings to which the Company or its subsidiaries is a party other than ordinary routine litigation incidental to their respective businesses.

ITEM 2. CHANGES IN SECURITIES

None

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

The Company's annual meeting of stockholders was held on April 22, 1996. At the meeting, Lynn S. Fuller and Evangeline K. Jansen were elected to serve as Class III directors (term expires in 1999). Continuing as Class I directors (term expires in 1997) are Lynn B. Fuller and Gregory R. Miller. Continuing as Class II directors (term expires in 1998) are Mark C. Falb, James A. Schmid and Robert Woodward. The stockholders approved an amendment to the Heartland Financial USA, Inc. 1993 Stock Option Plan to authorize the allocation of an additional 200,000 shares of the Company's common stock for distribution under the plan. Also approved by the stockholders was the adoption of the Heartland Financial USA, Inc. Employee Stock Purchase Plan and the appointment of KPMG Peat Marwick LLP as the Company's independent public auditors for the year ending December 31, 1996.

There were 4,719,152 issued and outstanding shares of Common Stock at the time of the annual meeting. The voting on the above described items were as follows:

<TABLE>

<CAPTION>

|                       | For<br>--- | Withheld<br>----- |
|-----------------------|------------|-------------------|
| Election of Directors |            |                   |
| <S>                   | <C>        | <C>               |
| Lynn S. Fuller        | 4,123,998  | 41,704            |
| Evangeline K. Jansen  | 4,121,850  | 43,852            |

</TABLE>

<TABLE>

<CAPTION>

|  | For<br><C> | Against<br><C> | Abstain<br><C> | Broker<br>Non-Votes<br><C> | Total<br><C> |
|--|------------|----------------|----------------|----------------------------|--------------|
| <S><br>Amendment of<br>Stock Option<br>Plan    | 3,868,622  | 93,664         | 1,160          | 202,256                    | 4,165,702    |
| Adoption of<br>Employee Stock<br>Purchase Plan | 3,873,052  | 89,610         | 784            | 202,256                    | 4,165,702    |
| Appointment of<br>KPMG Peat<br>Marwick LLP     | 4,150,488  | 2,400          | 12,814         | 0                          | 4,165,702    |

</TABLE>

ITEM 5. OTHER INFORMATION

None

ITEM 6. EXHIBITS AND REPORTS ON FORM 8-K

Exhibits

- 10.38 Contract for Purchase between Galena State Bank and Trust Company as "Seller" and Charles Schnepf and Daniel O'Keefe as "Buyers" dated December 4, 1995.
- 10.39 Purchase Agreement between Galena State Bank and Trust Company as "Seller" and Hoskins Lumber Company as "Buyer" dated September 12, 1995.
- 10.40 Employment Agreement between Heartland Financial USA, Inc. and James E. Lukas dated April 1, 1996.
- 10.41 Purchase Agreement between Hoskins Lumber Company as "Seller" and Galena State Bank and Trust Company as "Buyer" dated May 17, 1996.
- 10.42 Exchange Agreement/Exchange Escrow No. 960265 between Galena State Bank and Trust Company as "Exchangor" and Attorneys' Title Guaranty Fund, Inc. as "Qualified Intermediary" dated May 17, 1996.
- 10.43 License and Service Agreement, Software License Agreement, and Professional Services Agreement between Fiserv and Heartland Financial USA, Inc. dated June 21, 1996.
- 27.1 Financial Data Schedule

None

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned there unto duly authorized.

HEARTLAND FINANCIAL USA, INC.  
(Registrant)

By: /s/ Lynn B. Fuller  
-----  
Lynn B. Fuller

By: /s/ John K. Schmidt  
-----  
John K. Schmidt

Dated: August 14, 1996

CONTRACT FOR PURCHASE

1. TO: GALENA STATE BANK AND TRUST CO., an Illinois Banking Corp. of 216 S. Commerce St., Galena, IL 61036, hereinafter referred to as "Seller".

2. CHARLES SCHNEPF and DANIEL O'KEEFE of 125 South Main Street, Galena, Illinois 61036, hereinafter referred to as "Buyers", offers to purchase the following described real estate situated in the City of Galena, Jo Daviess County, Illinois, commonly known as 400 South Main Street, Galena, Illinois, and further described as follows:

Lots Numbered Five (5), Six (6), the North Twenty-two (22) feet of Lot Number Nine (9) and the North Fourteen and Seven-twelfths (14 7/12) feet of the South Twenty-four and Six-Twelfths (24 6/12) feet of Lot Number Eight (8) all in Block B on the West side of the Galena River, in the City of Galena, Jo Daviess County, Illinois. ALSO, the South Twenty-seven (27) feet of Lot Number Nine (9) in Block B extending from Water Street to the rear of said Lot Nine (9) and the North Twenty-four and Six-Twelfths (24 6/12) feet of Lot Number Eight in Block B extending from Water Street to the rear of said Lot Eight (8) and on the West side of the Galena River, in the City of Galena, situated in the County of Jo Daviess, in the State of Illinois. EXCEPT that part of Lot 5 in Block B on the West side of the Galena River, in the City of Galena, Jo Daviess County, Illinois, bounded by a line described as follows: Commencing at the Northwest corner of said Block B; thence South 12 degrees 07 minutes 05 seconds West 35.77' along the West line of said Block B to the point of beginning, thence South 76 degrees 25 minutes 28 seconds East 58.52' along the North line of a four story brick building, thence South 12 degrees 04 minutes 58 seconds West 20.21' along the East line of a four story brick building, thence South 12 degrees 35 minutes 45 seconds West 25.95' along the East line of a four story brick building to a point on the South line of said Lot 5; thence North 76 degrees 38 minutes 48 seconds West 58.32' along the South line of said Lot 5 to the Southwest corner of said Lot 5; thence North 12 degrees 07 minutes 05 seconds East 46.40' along the West line of said Lot 5 to the point of beginning. Subject to easement recorded in the Jo Daviess County, Illinois Recorder's Office as Document No. 234205.

3. And to pay you for the premises the sum of \$262,275.00, in the manner following: \$10,000.00 upon the signing of this Contract the same to be refunded to Buyer if this offer is not accepted. The earnest money deposit of \$10,000.00 shall be held in an interest bearing amount with interest credited to Buyers at

closing. The balance of \$252,275.00 shall be paid in cash at the time of closing coincident with the delivery of Deed. The closing shall be conducted by a representative of Attorneys' Title Guaranty Fund, Inc., through an Escrow Exchange Agreement No.96026S, at the office of Vincent & Roth, P.C., 122 1/2 N. Main Street, Galena, Illinois 61036.

4. THIS CONTRACT IS CONTINGENT UPON THE ABILITY OF SELLERS TO QUALIFY THIS TRANSACTION AS AN EXCHANGE PURSUANT TO IRS RULES AND REGULATIONS.

THIS CONTRACT IS ALSO CONTINGENT UPON THE ABILITY OF BUYER TO RECEIVE FROM SELLERS WITHIN ONE MONTH OF THE ACCEPTANCE OF THE CONTRACT, THE FOLLOWING:

- 1) List of personal property located on the premises to be transferred to Buyer;
- 2) Evidence that the premises are presently zoned general business.
- 3) Inspection of premises within seven days by Buyers.

5. IF ANY CONTINGENCY IN PARAGRAPH 4 CANNOT BE CARRIED OUT, THIS CONTRACT SHALL BECOME VOID AND BUYER AND SELLER SHALL SIGN AN AGREEMENT TERMINATING THE CONTRACT FOR PURCHASE AND RELEASING THE EARNEST MONEY DEPOSIT TO BUYER.

6. Seller agrees to pay a real estate commission in the amount of \$6,725.00.

7. The time of closing shall be on or before June 15, 1996, and Seller shall deliver possession at time of closing, and all documents relative to the transaction shall be signed and delivered.

8. Parties agree that Seller shall lease the improvements on the premises being conveyed herein until its new bank building is constructed and ready for possession or until January 1, 1997, whichever shall first occur. During said time, Seller shall pay all utility costs involved in operating this bank facility on said premises, pay all real estate taxes assessed against said premises, pay for the cost of building insurance in the minimum amount of \$260,000.00 and liability insurance insuring the interests of both Seller and Buyers and pay all repair costs to the premises. Seller shall also pay rent for said period of time based upon a formula yielding 8.00% of the net purchase price of the premises, computed on a 365 day basis. (Example:  
\$262,275.00 less commission of \$6,725.00 = \$255,550 x 8% =  
\$20,444/365 = \$56.011 per day)

9. Seller warrant that it sells all fixtures attached to the premises and that there are no rented fixtures or equipment.

10. Buyers agree that the real estate being conveyed herein may not be used as a bank building, a savings & loan office or a financial institution that would compete with Galena State Bank & Trust Co., until after June 1, 2006.

11. Except as otherwise stated in this Contract, Seller warrants that all mechanical equipment, heating and air conditioning equipment, water softener, water heater, plumbing and electrical systems are in normal operating condition as of date of possession.

12. All prorations, including rents, general taxes, utilities and fuel oil shall be made as of closing with tax prorations based upon latest available information. Tax prorations shall be made on a 365 day basis if the tax proration used at closing differs from the tax proration using the actual tax bill by more than \$25.00, the parties agree to adjust the difference when the tax bill is issued.

13. Risk of loss from all causes except fault of Buyer shall remain upon Seller until transfer of title or possession. Seller shall keep improvements on the premises insured to their full insurable value with respect at least to those hazards covered by the usual fire and extended coverage insurance. If, while risk of loss remains on Seller, the property is damaged, except through fault of Buyer, in an amount less than 25% of the purchase price, Seller shall restore the same forthwith and the parties shall remain bound to perform this Contract. In all other respects the Illinois Uniform Vendor and Purchaser Risk Act applies. Damage in an amount equal to 25% or more of the purchase price is "material". (If damage is material the Act entitles the Buyer to recover any portion of the purchase price paid.)

14. Conveyance of the property shall be by stamped Corporate Warranty Deed releasing homestead, or such other appropriate deed as may be required by this Contract. Said conveyance shall be subject only to the following: All taxes and special assessments levied or confirmed after the date of closing; building and building line, use and occupancy restrictions, conditions and covenants of record, provided the same are not violated by the existing improvements or the present use thereof and do not contain a reverter or right of re-entry; zoning laws and ordinances of which there are no violations; easements for the use of public utilities, if any, roads and highways, drainage ditches, feeders and laterals, if any, existing leases and tenancies and any mortgage or agreement for deed to be assumed pursuant to this Contract.

15. Seller shall, at seller's expense, before closing, furnish a current title insurance commitment in the amount of the purchase price, and a final policy thereafter or mutually acceptable evidence of title. Liens or encumbrances with a total balance due of an amount not more than the balance due at the time of closing under this Contract shall not constitute material defects if said liens or encumbrances are paid and released at the time of closing.

16. If Seller cannot deliver merchantable title to Buyer at closing, subject only to the permitted exceptions, this Contract, at Buyers option shall be void and earnest money shall be returned to Buyer or Buyer may elect to close and deduct from the purchase price a definite and ascertainable amount required to satisfy and release any non-permitted exceptions, and in such case, Seller shall convey the premises to Buyer.

17. Should the Buyer fail to perform this contract at the time and in the manner herein specified, the earnest money shall, at the option of the Seller, be forfeited by Buyer as liquidated damages, and this Contract shall become null and void, and the Seller shall then have right to possession of the premises. Time is of the essence of this Contract, and of all of the terms and conditions hereof. In the event the Seller does not elect to accept forfeiture of the earnest money, Seller shall be entitled to exercise all other remedies available to Seller under Illinois law.

18. In the event of legal action to construe or enforce the provisions of this Contract, the prevailing party shall be entitled to collect his reasonable attorney's fees court costs and related expenses from the losing party and the court having jurisdiction of the dispute shall be authorized to determine the amount of such fees, costs and expenses and enter judgment therefor.

19. Should Buyer fail to perform this contract promptly on his part at the time and in the manner specified, and Seller exercises the options of forfeiture contained hereinabove, the total earnest money deposit shall be retained by the Seller as liquidated damages.

20. Seller shall not be required to furnish a survey.

21. All refuse and Personal Property which is not being conveyed to Buyer shall be removed from the Real Estate at Seller's expense before the date of possession, unless otherwise agreed upon. Seller shall surrender possession of the premises in a broom-clean condition.

22. Buyer shall have the right to inspect the premises within 48

m



hours prior to closing to determine that the premises are in the same condition as date of acceptance of Contract; ordinary wear and tear excepted.

23. Neither Seller nor any authorized agent or representative of Seller has received, prior to the date of seller's execution of this Contract, any notice from any governmental body describing or relating to any alleged violation at the premises of any applicable zoning, building, dwelling, fire, electrical, health and safety, environmental protection or similar laws, statutes, ordinances, codes, rules or regulations which are uncured or uncorrected as of the date of Seller's execution of this Contract.

24. Parties agree to comply with the provisions of the Real Estate Settlement Procedures Act of 1974 (RESPA).

25. Each party agrees to provide the information necessary to complete the portions of the Illinois Department of Revenue Real Estate Transfer Declaration that are applicable to him, and to execute such declaration pursuant to the Real Estate Transfer Act, 35 ILCS 305/3.

26. Buyer and Seller agree that signatures on faxed copies of the Contract for Purchase will be binding on both parties. Buyer/Seller agrees to deliver an originally signed copy of this agreement to Listing broker and Selling broker within 10 days after receipt of faxed copy.

27. THIS DOCUMENT REPRESENTS THE ENTIRETY OF THE AGREEMENT BETWEEN THE PARTIES AND SHALL BE BINDING UPON THE PARTIES, THEIR HEIRS, SUCCESSORS AND ASSIGNS.

Dated this 04th day of December, 1995, at Galena, Illinois.

BUYERS

SELLERS

GALENA STATE BANK & TRUST CO.

\s\ Charles Schnepf

BY: \s\ Jerry L. Murdock

\s\ Daniel O'Keefe

Attest: \s\ Libby Miller

## PURCHASE AGREEMENT

1. GALENA STATE BANK & TRUST CO., as Trustee under Trust Agreement dated July 16, 1976, known as Trust No. 167 whose address is 216 S. Commerce St., Galena, IL 61036, hereinafter referred to as "Seller".
2. HOSKINS LUMBER COMPANY, an Illinois Corporation of 107 East Myrtle Street, Elizabeth, Illinois 61028, hereinafter referred to as "BUYER" offers to purchase the following described real estate situated in the City of Galena, Jo Daviess County, Illinois, legally described as Lot 1 of the Plat of Subdivision of Galena State Bank Commercial Center, a subdivision located in the Southwest Quarter of Section 13, Township 28 North, Range 1 West of the Fourth Principal Meridian, West Galena Township, in the City of Galena, West side of Galena River, Jo Daviess County, Illinois, subject to easements, right of ways and building setback lines all as shown on the plat thereof recorded in the Jo Daviess County, Illinois Recorder's office as Document No. 240146 in Planhold D of Plats, at No 431.
3. And to pay you for the premises the sum of \$200,000.00, TOGETHER WITH INTEREST AT THE RATE OF EIGHT AND THREE-FOURTHS PERCENT (8.75%) from the date hereof until the date of closing, said sum to be paid in cash at the time of closing coincident with the delivery of Deed.
4. THIS CONTRACT IS CONTINGENT UPON THE ABILITY OF SELLER TO QUALIFY THIS TRANSACTION AS AN EXCHANGE PURSUANT TO IRS RULES AND REGULATIONS.
5. IF ANY CONTINGENCY IN PARAGRAPH 4 CANNOT BE CARRIED OUT, THIS CONTRACT SHALL BECOME VOID AND BUYER AND SELLER SHALL SIGN AN AGREEMENT TERMINATING THE CONTRACT FOR PURCHASE AND RELEASING THE EARNEST MONEY DEPOSIT TO BUYER.
6. The time of closing shall be on or before February 15, 1996 and all documents relative to the transaction shall be signed and delivered.
7. Seller warrants as of closing:
  - a) Sewer/water is/will be available at the lot line.
  - b) A building permit is obtainable for the construction of a bank building on said lot.

C) The premises are presently zoned general business.

8. Seller warrants that natural gas and electric service is available to the lot lines subject to normal connection charges only. Seller further warrants that NO supplemental pumping or gravity assist equipment is needed to utilize sewer service to each lot.

9. Seller shall be responsible for payment of all real estate taxes up to the date of closing. All real estate tax prorations shall be made as of closing with tax prorations based upon latest available information. Tax prorations shall be made on a 365 day basis if the tax proration used at closing differs from the tax proration using the actual tax bill by more than \$25.00, the parties agree to adjust the difference when the tax bill is issued.

10. Conveyance of the property shall be by Corporate Deed or such other appropriate deed as may be required by this Contract. Said conveyance shall be subject only to the following: All taxes and special assessments levied or confirmed after the date of closing; building and building line, use and occupancy restrictions, conditions and covenants of record, provided the same are not violated by the existing improvements or the present use thereof and do not contain a reverter or right of re-entry; zoning laws and ordinances of which there are no violations; easements for the use of public utilities, if any, roads and highways, drainage ditches, feeders and laterals, if any, existing leases and tenancies and any mortgage or agreement for deed to be assumed pursuant to this Contract.

11. Seller shall, at seller's expense, before closing, furnish a current title insurance commitment in the amount of the purchase price, and a final policy thereafter or mutually acceptable evidence of title. Liens or encumbrances with a total balance due of an amount not more than the balance due at the time of closing under this Contract shall not constitute material defects if said liens or encumbrances are paid and released at the time of closing.

12. If Seller cannot deliver merchantable title to Buyer at closing, subject only to the permitted exceptions, this Contract, at Buyer's option shall be void and earnest money shall be returned to Buyer or Buyer may elect to close and deduct from the purchase price a definite and ascertainable amount required to satisfy and release any non-permitted exceptions, and in such case, Seller shall convey the premises to Buyer.

13. Should the Buyer fail to perform this contract at the time and in the manner herein specified, the earnest money shall, at

the option of the Seller, be forfeited by Buyer as liquidated damages, and this Contract shall become null and void, and the Seller shall then have right to possession of the premises. Time is of the essence of this Contract, and of all or the terms and conditions hereof. In the event the Seller does not elect to accept forfeiture of the earnest money, Seller shall be entitled to exercise all other remedies available to Seller under Illinois law.

14. In the event of legal action to construe or enforce the provisions of this Contract, the prevailing party shall be entitled to collect his reasonable attorney's fees court costs and related expenses from the losing party and the court having jurisdiction of the dispute shall be authorized to determine the amount of such fees, costs and expenses and enter judgment therefor.

15. Should Buyer fail to perform this contract promptly on his part at the time and in the manner specified, and Seller exercises the options of forfeiture contained hereinabove, the total earnest money deposit shall be retained by the Seller as liquidated damages.

16. Seller shall be required to furnish a survey.

17. Neither Seller nor any authorized agent or representative of seller has received, prior to the date of seller's execution of this contract, any notice from any governmental body describing or relating to any alleged violation at the premises of any applicable zoning, building, dwelling, fire, electrical, health and safety, environmental protection or similar laws, statutes, ordinances, codes, rules or regulations which are uncured or uncorrected as of the date of Seller's execution of this Contract.

18. Parties agree to comply with the provisions of the Real Estate Settlement Procedures Act of 1974 (RESPA).

19. Each party agrees to provide the information necessary to complete the portions of the Illinois Department of Revenue Real Estate Transfer Declaration that are applicable to him, and to execute such declaration pursuant to the Real Estate Transfer Act, 35 ILCS 305/3.

20. THIS DOCUMENT REPRESENTS THE ENTIRETY OF THE AGREEMENT BETWEEN THE PARTIES AND SHALL BE BINDING UPON THE PARTIES, THEIR HEIRS, SUCCESSORS AND ASSIGNS.

Dated this 12th day of September, 1995.

BUYER

SELLER

HOSKINS LUMBER COMPANY

GALENA STATE BANK & TRUST CO.

BY: \s\ Vincent E. Toepfer  
-----

BY: \s\ Jerry L. Murdock  
-----

\s\ Cheryl Toepfer  
-----

\s\ Libby Miller  
-----

STATE OF ILLINOIS )

ss.

COUNTY OF JO DAVIESS)

I, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that Jerry L. Murdock, President of Galena State Bank & Trust Co. and Libby Miller, Vice President of said corporation, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such officers, respectively, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act of said respective officers for the uses and purposes therein set forth.

Given under my hand and notarial seal this 12th day of September, A.D. 1995.

\s\ Robert R. Roth  
Notary Public

STATE OF ILLINOIS )

ss.

COUNTY OF JO DAVIESS)

I, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that Vincent E. Toepfer, President of Hoskins Lumber Company and Cheryl Toepfer, Secretary of said corporation, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such officers, respectively, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act of said respective officers for the uses and purposes therein set forth.

Given under my hand and notarial seal this 12th day of September, A.D. 1995.

\s\ Robert R. Roth  
Notary Public



## EMPLOYMENT AGREEMENT

This Employment Agreement (this "Agreement"), is made and entered into as of the 1st day of April, 1996 (the "Effective Date"), by and between HEARTLAND FINANCIAL USA, INC., a Delaware corporation (the "Employer"), and JAMES E. LUKAS (the "Executive").

### RECITALS

A. The Employer will own all of the issued and outstanding stock of the Riverside Community Bank (in formation), Rockford, Illinois (the "Bank").

B. The Employer desires to employ the Executive as an officer of the Bank for a specified term.

C. The Executive is willing to accept such employment upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and of the covenants and agreements hereinafter contained, it is covenanted and agreed by and between the parties hereto as follows:

### AGREEMENTS

**Position and Duties.** The Employer hereby employs the Executive as the President of the Bank, or in such other senior executive capacity as shall be mutually agreed between the Employer and the Executive. During the period of the Executive's employment hereunder, the Executive shall devote his best efforts and full business time, energy, skills and attention to the business and affairs of the Employer. The Executive's duties and authority shall consist of and include all duties and authority customarily performed and held by persons holding equivalent positions with business organizations similar in nature and size to the Employer, as such duties and authority are reasonably defined, modified and delegated from time to time by the board of directors of the Employer (the "Board"), or the board of directors of the Bank, provided, however, that in the case of conflicting directives, those of the board of directors of the Employer shall control. The Executive shall have the powers necessary to perform the duties assigned to him and shall be provided such supporting services, staff, secretarial and other assistance, office space and accoutrements as shall be reasonably necessary and appropriate in the light of such assigned duties.

**Compensation.** As compensation for the services to be provided by the Executive hereunder, the Executive shall receive

the following compensation, expense reimbursement and other benefits:

(a) Base Compensation. The Executive shall receive an aggregate annual minimum base salary at the rate of ninety thousand dollars (\$90,000) payable in installments in accordance with the regular payroll schedule of the Bank. Such base compensation shall be subject to review annually commencing in 1996 and shall be maintained or increased during the term hereof in accordance with the Bank's established management compensation policies and plans.

(b) Reimbursement of Expenses. The Executive shall be reimbursed, upon submission of appropriate vouchers and supporting documentation, for all travel, entertainment and other out-of-pocket expenses reasonably and necessarily incurred by the Executive in the performance of his duties hereunder and shall be entitled to attend seminars, conferences and meetings relating to the business of the Bank consistent with the Bank's established policies in that regard.

(c) Other Benefits. The Executive shall be entitled to all benefits specifically established for him and, when and to the extent he is eligible therefor, to participate in all plans and benefits generally accorded to senior executives of the Bank, including, but not limited to, pension, profit-sharing, supplemental retirement, incentive compensation, stock option program, stock purchase plan, disability income, split-dollar life insurance, group life, medical and hospitalization insurance, and similar or comparable plans, and also to perquisites extended to similarly situated senior executives, provided, however, that such plans, benefits and perquisites shall be no less than those made available to all other employees of the Bank.

(d) Withholding. The Bank shall be entitled to withhold from amounts payable to the Executive hereunder, any federal, state or local withholding or other taxes or charges which it is from time to time required to withhold. The Bank shall be entitled to rely upon the opinion of its legal counsel with regard to any question concerning the amount or requirement of any such withholding.

(e) Vacations. The Executive shall be entitled to an annual vacation in accordance with the vacation policy of the Bank which vacation shall be taken at a time or times mutually agreeable to the Bank and the Executive.

(f) Allocations. The Executive and the Employer intend that the Executive will be an employee of the Bank, and that the Executive will be devoting his full time and attention



to the affairs of the Bank in his capacity as the Bank's President. The Employer may allocate to the Bank any portion of the Executive's salary, cash bonus and other compensation and benefits that the Employer and the Bank deem to be a lawful and appropriate allocation, but no such allocation will relieve the Employer of any of its obligations to the Executive under this Agreement.

Confidentiality and Loyalty. The Executive acknowledges that heretofore or hereafter during the course of his employment he has produced and may hereafter produce and have access to material, records, data, trade secrets and information not generally available to the public (collectively, "Confidential Information") regarding the Employer and its subsidiaries and affiliates. Accordingly, during and subsequent to termination of this Agreement, the Executive shall hold in confidence and not directly or indirectly disclose, use, copy or make lists of any such Confidential Information, except to the extent that such information is or thereafter becomes lawfully available from public sources, or such disclosure is authorized in writing by the Employer, required by a law or any competent administrative agency or judicial authority, or otherwise as reasonably necessary or appropriate in connection with performance by the Executive of his duties hereunder. All records, files, documents and other materials or copies thereof relating to the Employer's business which the Executive shall prepare or use, shall be and remain the sole property of the Employer, shall not be removed from the Employer's premises without its written consent, and shall be promptly returned to the Employer upon termination of the Executive's employment hereunder. The Executive agrees to abide by the Employer's reasonable policies, as in effect from time to time, respecting avoidance of interests conflicting with those of the Employer.

#### Term and Termination.

(a) Basic Term. The Executive's employment hereunder shall be for a term of three (3) years commencing as of the Effective Date.

(b) Premature Termination. In the event of the termination of this Agreement by the Employer for any reason prior to the receipt by the Employer of regulatory approval to commence operations of the Bank in Rockford, Illinois, the Employer shall pay the Executive one year's base salary and shall continue to provide coverage for the Executive under the health and life insurance programs maintained by the Employer for one year following the date of such termination. Payments shall not be reduced in the event the Executive obtains other employment following the termination of employment by the Employer.

(c) Constructive Termination. If at any time during the term of this Agreement, except in connection with a termination pursuant to paragraph (d) of this Section 4, the Executive is Constructively Discharged (as hereinafter defined) then the Executive shall have the right, by written notice to the Employer within sixty (60) days of such Constructive Discharge, to terminate his services hereunder, effective as of thirty (30) days after such notice, and the Executive shall have no rights or obligations under this Agreement other than as provided in this Section 4 and Section 5 hereof. The Executive shall in such event be entitled to a lump sum payment of compensation and benefits and continuation of the health, life and disability insurance as if such termination of his employment was pursuant to paragraph (b) of this Section 4.

For purposes of this Agreement, the Executive shall be "Constructively Discharged" upon the occurrence of any one of the following events:

(i) The Executive is not re-elected or is removed from the positions with the Employer set forth in Section 1 hereof, other than as a result of the Executive's election or appointment to positions of equal or superior scope and responsibility; or

(ii) The Executive shall fail to be vested by the Employer with the powers, authority and support services of any of said offices; or

(iii) The Employer otherwise commits a material breach of its obligations under this Agreement.

(d) Termination for Cause. This Agreement may be terminated for cause as hereinafter defined. "Cause" shall mean: (i) the Executive's death or his permanent disability, which shall mean the Executive's inability, as a result of physical or mental incapacity, substantially to perform his duties hereunder for a period of six (6) consecutive months; (ii) a material violation by the Executive of any applicable material law or regulation respecting the business of the Employer; (iii) the Executive being found guilty of a felony, an act of dishonesty in connection with the performance of his duties as an officer of the Employer, or which disqualifies the Executive from serving as an officer or director of the Employer; or (iv) the willful or negligent failure of the Executive to perform his duties hereunder in any material respect. The Executive shall be entitled to at least thirty (30) days' prior written notice of the Employer's intention to terminate his employment for any cause (except the Executive's death) specifying the grounds for such termination, a reasonable opportunity to cure any conduct or act, if curable, alleged as grounds for such termination, and a

reasonable opportunity to present to the Board his position regarding any dispute relating to the existence of such cause.

(e) Termination upon Death. In the event payments are due and owing under this Agreement at the death of the Executive, payment shall be made to such beneficiary as Executive may designate in writing, or failing such designation, to the executor of his estate, in full settlement and satisfaction of all claims and demands on behalf of the Executive. Such payments shall be in addition to any other death benefits of the Employer for the benefit of the Executive and in full settlement and satisfaction of all payments provided for in this Agreement.

(f) Termination upon Disability. The Employer may terminate the Executive's employment after having established the Executive's Disability. For purposes of this Agreement, "Disability" means a physical or mental infirmity which impairs the Executive's ability to substantially perform his duties under this Agreement which continues for a period of at least one hundred eighty (180) consecutive days. The Executive shall be entitled to the compensation and benefits provided for under this Agreement for any period during the term of this Agreement and prior to the establishment of the Executive's Disability during which the Executive is unable to work due to a physical or mental infirmity. Notwithstanding anything contained in this Agreement to the contrary, until the date specified in a notice of termination relating to the Executive's Disability, the Executive shall be entitled to return to his position with the Employer as set forth in this Agreement in which event no Disability of the Executive will be deemed to have occurred.

(g) Termination upon Change of Control.

(i) In the event of a Change in Control (as defined below) of the Employer and the termination of the Executive's employment under either A or B below, the Executive shall be entitled to a lump sum payment equal to two (2) times the sum of his base salary then payable and an amount equal to the most recent bonus paid to the Executive. The Employer shall also continue to provide coverage for the Executive under the health and life insurance programs for two (2) years following such termination unless and until the Executive becomes eligible for coverage under the terms of any other health or life insurance program of a subsequent employer. The following shall constitute termination under this paragraph:

A. The Executive terminates his employment under this Agreement by a written notice to that effect delivered to the Board within six (6) months after the Change in Control.

B. The Agreement is terminated by the

Employer or its successor either in contemplation of or after the Change in Control.

(ii) For purposes of this paragraph, the term "Change in Control" shall mean the following:

A. The consummation of the acquisition by any person (as such term is defined in Section 13(d) or 14(d) of the Securities Exchange Act of 1934, as amended (the "1934 Act")) of beneficial ownership (within the meaning of Rule 13d-3 promulgated under the 1934 Act) of fifty-one percent (51%) or more of the combined voting power of the then outstanding voting securities of the Employer; or

B. The individuals who, as of the date hereof, are members of the Board cease for any reason to constitute a majority of the Board, unless the election, or nomination for election by the stockholders, of any new director was approved by a vote of a majority of the Board, and such new director shall, for purposes of this Agreement, be considered as a member of the Board; or

C. Approval by stockholders of the Employer of: (1) a merger or consolidation if the stockholders, immediately before such merger or consolidation, do not, as a result of such merger or consolidation, own, directly or indirectly, more than forty-nine percent (49%) of the combined voting power of the then outstanding voting securities of the entity resulting from such merger or consolidation in substantially the same proportion as their ownership of the combined voting power of the voting securities of the Employer outstanding immediately before such merger or consolidation; or (2) a complete liquidation or dissolution or an agreement for the sale or other disposition of all or substantially all of the assets of the Employer.

Notwithstanding the foregoing, a Change in Control shall not be deemed to occur solely because fifty-one percent (51%) or more of the combined voting power of the then outstanding securities of the Employer are acquired by: (1) a trustee or other fiduciary holding securities under one or more employee benefit plans maintained for employees of the entity; or (2) any corporation which, immediately prior to such acquisition, is owned directly or indirectly by the stockholders in the same proportion as their ownership of stock immediately prior to such acquisition.

(e) Regulatory Suspension and Termination.

(i) If the Executive is suspended from office and/or temporarily prohibited from participating in the conduct

of the Employer's affairs by a notice served under Section 8(e) (3) (12 U.S.C. 1818(e) (3)) or 8(g) (12 U.S.C. 1818(g)) of the Federal Deposit Insurance Act, as amended, the Employer's obligations under this contract shall be suspended as of the date of service, unless stayed by appropriate proceedings. If the charges in the notice are dismissed, the Employer may in its discretion (A) pay the Executive all or part of the compensation withheld while their contract obligations were suspended and (B) reinstate (in whole or in part) any of the obligations which were suspended.

(ii) If the Executive is removed and/or permanently prohibited from participating in the conduct of the Employer's affairs by an order issued under Section 8(e) (12 U.S.C. 1818(e)) or 8(g) (12 U.S.C. 1818(g)) of the Federal Deposit Insurance Act, as amended, all obligations of the Employer under this contract shall terminate as of the effective date of the order, but vested rights of the contracting parties shall not be affected.

(iii) If the Employer is in default as defined in Section 3(x) (12 U.S.C. 1813(x) (1)) of the Federal Deposit Insurance Act, as amended, all obligations of the Employer under this contract shall terminate as of the date of default, but this paragraph shall not affect any vested rights of the contracting parties.

(iv) All obligations of the Employer under this contract shall be terminated, except to the extent determined that continuation of the contract is necessary for the continued operation of the institution by the Federal Deposit Insurance Corporation (the "FDIC"), at the time the FDIC enters into an agreement to provide assistance to or on behalf of the Employer under the authority contained in Section 13(c) (12 U.S.C. 1823(c)) of the Federal Deposit Insurance Act, as amended, or when the Employer is determined by the FDIC to be in an unsafe or unsound condition. Any rights of the parties that have already vested, however, shall not be affected by such action.

## 5. Non-Competition Covenant.

(a) Restrictive Covenant. The Employer and the Executive have jointly reviewed the customer lists and operations of the Employer and have agreed that the primary service area of the Employer's lending and deposit taking functions in which the Executive will actively participate extends to an area encompassing a fifty (50) mile radius from the main office of the Bank in Rockford, Illinois. Therefore, as an essential ingredient of and in consideration of this Agreement and the payment of the amounts described in Section 2, the Executive hereby agrees that if his employment under this Agreement is

terminated under any of the circumstances described in either Section 4(g)(i)A. or Section 4(g)(i)B. of this Agreement, for a period of one (1) year after such termination (the "Restrictive Period"), he will not directly or indirectly compete with the business of the Employer or any of its subsidiaries, including, but not by way of limitation, by directly or indirectly owning, managing, operating, controlling, financing, or by directly or indirectly serving as an employee, officer or director of or consultant to, or by soliciting or inducing, or attempting to solicit or induce, any employee or agent of Employer or any of its subsidiaries to terminate employment with Employer or any of its subsidiaries and become employed by any person, firm, partnership, corporation, trust or other entity which owns or operates, a bank, savings and loan association, credit union or similar financial institution (a "Financial Institution") within a fifty (50) mile radius of the Bank's main office in Rockford, Illinois (the "Restrictive Covenant"). If the Executive violates the Restrictive Covenant and the Employer brings legal action for injunctive or other relief, the Employer shall not, as a result of the time involved in obtaining such relief, be deprived of the benefit of the full period of the Restrictive Covenant. Accordingly, the Restrictive Covenant shall be deemed to have the duration specified in this Section 5(a) computed from the date the relief is granted but reduced by the time between the period when the Restrictive Period began to run and the date of the first violation of the Restrictive Covenant by the Executive. In the event of a premature termination under Section 4(b), the Executive will have no continuing obligations to the Employer under this Section. The foregoing Restrictive Covenant shall not prohibit the Executive from owning directly or indirectly capital stock or similar securities which are listed on a securities exchange or quoted on the National Association of Securities Dealers Automated Quotation System which do not represent more than one percent (1%) of the outstanding capital stock of any Financial Institution.

(b) Remedies for Breach of Restrictive Covenant. The Executive acknowledges that the restrictions contained in Sections 3 and 5(a) of this Agreement are reasonable and necessary for the protection of the legitimate business interests of the Employer, that any violation of these restrictions would cause substantial injury to the Employer and such interests, that the Employer would not have entered into this Agreement with the Executive without receiving the additional consideration offered by the Executive in binding himself to these restrictions and that such restrictions were a material inducement to the Employer to enter into this Agreement. In the event of any violation or threatened violation of these restrictions, the Employer, in addition to and not in limitation of, any other rights, remedies or damages available to the Employer under this Agreement or otherwise at law or in equity, shall be entitled to preliminary

and permanent injunctive relief to prevent or restrain any such violation by the Executive and any and all persons directly or indirectly acting for or with him, as the case may be.

6. Intercorporate Transfers. If the Executive shall be voluntarily transferred to an affiliate of the Employer, such transfer shall not be deemed to terminate or modify this Agreement and the employing corporation to which the Executive shall have been transferred shall, for all purposes of this Agreement, be construed as standing in the same place and stead as the Employer as of the date of such transfer. For purposes hereof, an affiliate of the Employer shall mean any corporation directly or indirectly controlling, controlled by, or under common control with the Employer.

7. Interest in Assets. Neither the Executive nor his estate shall acquire hereunder any rights in funds or assets of the Employer, otherwise than by and through the actual payment of amounts payable hereunder; nor shall the Executive or his estate have any power to transfer, assign, anticipate, hypothecate or otherwise encumber in advance any of said payments; nor shall any of such payments be subject to seizure for the payment of any debt, judgment, alimony, separate maintenance or be transferable by operation of law in the event of bankruptcy, insolvency or otherwise of the Executive.

8. Indemnification.

(a) The Employer shall hold harmless and indemnify the Executive (and his heirs, executors and administrators) to the fullest extent permitted under applicable law against all expenses and liabilities reasonably incurred by him in connection with or arising out of any action, suit or proceeding in which he may be involved by reason of his having been an officer of the Employer or any of its subsidiaries (whether or not he continues to be an officer at the time of incurring such expenses or liabilities), such expenses and liabilities to include, but not be limited to, judgments, court costs and attorneys' fees and the cost of reasonable settlements.

(b) In the event the Executive becomes a party, or is threatened to be made a party, to any action, suit or proceeding for which the Employer has agreed to provide indemnification under this Section 8, the Employer shall, to the full extent permitted under applicable law, advance all expenses (including reasonable attorneys' fees), judgments, fines and amounts paid in settlement (collectively "Expenses") incurred by the Executive in connection with the investigation, defense, settlement, or appeal of any threatened, pending or completed action, suit or proceeding, subject to receipt by the Employer of a written undertaking from the Executive to reimburse the Employer for all



Expenses actually paid by the Employer to or on behalf of the Executive in the event it shall be ultimately determined that the Executive is not entitled to indemnification by the Employer for such Expenses.

## 9. General Provisions.

(a) Successors; Assignment. This Agreement shall be binding upon and inure to the benefit of the Executive, the Employer and his and its respective personal representatives, successors and assigns, and any successor or assign of the Employer shall be deemed the "Employer" hereunder. The Employer shall require any successor to all or substantially all of the business and/or assets of the Employer, whether directly or indirectly, by purchase, merger, consolidation, acquisition of stock, or otherwise, by an agreement in form and substance satisfactory to the Executive, expressly to assume and agree to perform this Agreement in the same manner and to the same extent as the Employer would be required to perform if no such succession had taken place.

(b) Entire Agreement; Modifications. This Agreement constitutes the entire agreement between the parties respecting the subject matter hereof, and supersedes all prior negotiations, undertakings, agreements and arrangements with respect thereto, whether written or oral. Except as otherwise explicitly provided herein, this Agreement may not be amended or modified except by written agreement signed by the Executive and the Employer.

(c) Enforcement and Governing Law. The provisions of this Agreement shall be regarded as divisible and separate; if any of said provisions should be declared invalid or unenforceable by a court of competent jurisdiction, the validity and enforceability of the remaining provisions shall not be affected thereby. This Agreement shall be construed and the legal relations of the parties hereto shall be determined in accordance with the laws of the state of Illinois without reference to the law regarding conflicts of law.

(d) Arbitration. Any dispute or controversy arising under or in connection with this Agreement shall be settled exclusively by arbitration, conducted before a panel of three arbitrators sitting in a location selected by the Executive within fifty (50) miles from the main office of the Employer, in accordance with the rules of the American Arbitration Association then in effect. Judgment may be entered on the arbitrator's award in any court having jurisdiction; provided, however, that the Executive shall be entitled to seek specific performance of his right to be paid through the date of termination during the pendency of any dispute or controversy arising under or in connection with this Agreement.



(e) Legal Fees. All reasonable legal fees paid or incurred by the Executive pursuant to any dispute or question of interpretation relating to this Agreement shall be paid or reimbursed by the Employer if the Executive is successful on the merits pursuant to a legal judgment, arbitration or settlement.

(f) Waiver. No waiver by either party at any time of any breach by the other party of, or compliance with, any condition or provision of this Agreement to be performed by the other party, shall be deemed a waiver of any similar or dissimilar provisions or conditions at the same time or any prior or subsequent time.

(g) Notices. Notices pursuant to this Agreement shall be in writing and shall be deemed given when received; and, if mailed, shall be mailed by United States registered or certified mail, return receipt requested, postage prepaid; and if to the Employer, addressed to the principal headquarters of the Employer, attention: President; or, if to the Executive, to the address set forth below the Executive's signature on this Agreement, or to such other address as the party to be notified shall have given to the other.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

HEARTLAND FINANCIAL USA, INC.

By: \s\ Lynn B. Fuller

\s\ James E. Lukas

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PURCHASE AGREEMENT

1. HOSKINS LUMBER COMPANY, an Illinois Corporation of 107 East Myrtle Street, Elizabeth, Illinois 61028, hereinafter referred to as "SELLER".

2. GALENA STATE BANK & TRUST CO., as Trustee under Trust Agreement dated July 16, 1976, known as Trust No. 167 whose address is 216 S. Commerce St., Galena, IL 61036, hereinafter referred to as "BUYER", offers to purchase the following described real estate situated in the City of Galena, Jo Daviess County, Illinois, legally described as Lot 1 of the Plat of Subdivision of Galena State Bank Commercial Center, a subdivision located in the Southwest Quarter of Section 13, Township 28 North, Range 1 West of the Fourth Principal Meridian, West Galena Township, in the City of Galena, West side of Galena River, Jo Daviess County, Illinois, subject to easements, right of ways and building setback lines all as shown on the plat thereof recorded in the Jo Daviess County, Illinois Recorder's Office as Document No. 240146 in Planhold D of Plats, at No. 431, together with improvements located thereon, at the time said improvements have reached the amount of \$515,000.00.

3. And to pay you for the premises the sum of \$715,000.00; said sum to be paid in cash at the time of closing, coincident with the delivery of Deed.

4. The time of closing shall be on or before June 21, 1996, or as the parties agree, and all documents relative to the transaction shall be signed and delivered.

5. Seller warrants as of closing:

- a) Sewer/water is/will be available at the lot line.
- b) The premises are presently zoned general business.

6. Seller warrants that natural gas and electric service is available to the lot lines subject to normal connection charges only. Seller further warrants that NO supplemental pumping or gravity assist equipment is needed to utilize sewer service to each lot.

7. Buyer shall be responsible for payment of all real estate taxes for the year 1995 and thereafter.

8. Conveyance of the property shall be by Corporate Deed or such other appropriate deed as may be required by this Contract. Said conveyance shall be subject only to the following: All taxes and

special assessments levied or confirmed after the date of closing; building and building line, use and occupancy restrictions, conditions and covenants of record, provided the same are not violated by the existing improvements or the present use thereof and do not contain a reverter or right of re-entry; zoning laws and ordinances of which there are no violations; easements for the use of public utilities, if any, roads and highways, drainage ditches, feeders and laterals, if any, existing leases and tenancies and any mortgage or agreement for deed to be assumed pursuant to this Contract.

9. Seller shall, at Seller's expense, before closing, furnish a current title insurance commitment in the amount of the purchase price, and a final policy thereafter or mutually acceptable evidence of title. Liens or encumbrances with a total balance due of an amount not more than the balance due at the time of closing under this Contract shall not constitute material defects if said liens or encumbrances are paid and released at the time of closing.

10. If Seller cannot deliver merchantable title to Buyer at closing, subject only to the permitted exceptions, this Contract, at Buyer's option shall be void and earnest money shall be returned to Buyer or Buyer may elect to close and deduct from the purchase price a definite and ascertainable amount required to satisfy and release any non-permitted exceptions, and in such case, Seller shall convey the premises to Buyer.

11. Should the Buyer fail to perform this contract at the time and in the manner herein specified, the earnest money shall, at the option of the Seller, be forfeited by Buyer as liquidated damages, and this Contract shall become null and void, and the Seller shall then have right to possession of the premises. Time is of the essence of this Contract, and of all of the terms and conditions hereof. In the event the Seller does not elect to accept forfeiture of the earnest money, Seller shall be entitled to exercise all other remedies available to Seller under Illinois law.

12. In the event of legal action to construe or enforce the provisions of this Contract, the prevailing party shall be entitled to collect his reasonable attorney's fees court costs and related expenses from the losing party and the court having jurisdiction of the dispute shall be authorized to determine the amount of such fees, costs and expenses and enter judgment therefor.

13. Should Buyer fail to perform this contract promptly on his part at the time and in the manner specified, and Seller exercises the options of forfeiture contained hereinabove, the total earnest money deposit shall be retained by the Seller as

liquidated damages.

14. Seller shall not be required to furnish a survey.

17. Neither Seller nor any authorized agent or representative of Seller has received, prior to the date of seller's execution of this Contract, any notice from any governmental body describing or relating to any alleged violation at the premises of any applicable zoning, building, dwelling, fire, electrical, health and safety, environmental protection or similar laws, statutes, ordinances, codes, rules or regulations which are uncured or uncorrected as of the date of Seller's execution of this Contract.

18. Parties agree to comply with the provisions of the Real Estate Settlement Procedures Act of 1974 (RESPA).

19. Each party agrees to provide the information necessary to complete the portions of the Illinois Department of Revenue Real Estate Transfer Declaration that are applicable to him, and to execute such declaration pursuant to the Real Estate Transfer Act, 35 ILCS 305/3.

20. This Contract will be assigned to Attorneys' Title Guaranty Fund, Inc. as Qualified Intermediary pursuant to an Exchange Agreement.

21. THIS DOCUMENT REPRESENTS THE ENTIRETY OF THE AGREEMENT BETWEEN THE PARTIES AND SHALL BE BINDING UPON THE PARTIES, THEIR HEIRS, SUCCESSORS AND ASSIGNS.

Dated this 17th day of May, 1996.

SELLER BUYER  
HOSKINS/INS LUMBER COMPANY GALENA STATE BANK & TRUST CO.

BY: /s/ Vincent E. Toepfer BY: /s/ Jerry L. Murdock  
/s/ Cheryl A. Toepfer /s/ Lois Jean Wienen

STATE OF ILLINOIS )  
 ) ss:  
COUNTY OF JO DAVIESS)

I, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that Jerry L. Murdock, President of Galena State Bank & Trust Company and Lois Jean Wienen, Senior Vice President of said corporation, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such officers, respectively, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument as their free and

voluntary act of said respective officers for the uses and purposes therein set forth.

Given under my hand and notarial seal this 17th day of May, A.D. 1996.

/s/ Ann Silaggi  
Notary Public

STATE OF ILLINOIS     )  
                                  )     ss:  
COUNTY OF JO DAVIESS)

I, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that Vincent E. Toepfer, President of Hoskins Lumber Company and Cheryl A. Toepfer, Secretary of said corporation, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such officers, respectively, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act of said respective officers for the uses and purposes therein set forth. Given under my hand and notarial seal this ,17th day of May, A.D. 1996.

/s/ Jeanette B. Podnar  
Notary Public

RIDER TO REAL ESTATE SALES CONTRACT

In connection with any tax-free exchange pursuant to Section 1031 of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, involving the Premises and other property owned or to be acquired by [Purchaser/Seller] (the "Exchangor"), Exchangor may, without the consent of [Seller/Purchaser] (the "Other Party"), assign this Agreement and Exchangor's rights hereunder to any Qualified Intermediary ("Intermediary") participating with Exchangor in such exchange [as contemplated by Treasury Regulation Section 1.1031(k)-1 (g) (4) and related regulations]. In the event of any such assignment to an Intermediary: (i) Exchangor shall give written notice of the assignment and the identity of the Intermediary to the Other Party at least ten (10) days prior to the date of dosing; (ii) except to the extent of any liabilities expressly assumed by the Intermediary in writing in connection with such assignment, the Intermediary shall have no personal liability to the Other Party or any other person or entity under this Agreement, or under any other document or instrument at any time executed by Exchangor or the Intermediary in connection with or pursuant to, this Agreement (each such document or instrument being referred to herein as a "Related Document"), and neither

the Other Party nor any other person or entity shall have any recourse against the Intermediary or any of its assets on account of any breach or default hereunder or under any Related Document; (iii) the Intermediary shall have all of the rights and remedies of Exchangor provided for herein or in any Related Documents; (iv) there shall be no diminution of the Other Party's rights or remedies, and no increase of the Other Party's liabilities or obligations, hereunder or under any Related Document on account of such assignment; (v) notwithstanding anything to the contrary contained herein, Exchangor shall continue to be liable to the Other Party for all obligations imposed upon Exchangor under this Agreement and under any Related Document executed by Exchangor.

ATTORNEYS' TITLE GUARANTY FUND, INC.

EXCHANGE AGREEMENT  
EXCHANGE ESCROW NO. 96026S

THIS EXCHANGE AGREEMENT is made as of the 17th day of May, 1996, by and between Galena State Bank & Trust Co. & Galena State Bank & Trust Co., as Trustee \* ("Exchangor") and ATTORNEYS' TITLE GUARANTY FUND, INC. ("Qualified Intermediary"). \*under Trust Agreement dated July 16, 1976, known as TRUST NO. 167

WITNESSETH:

WHEREAS, Exchangor is the holder of an interest in certain property or properties commonly known as (1) 216 S. Commerce St., Galena, IL (2) 400 S. Main St., Galena, IL (3) Gear St., Galena, IL and more fully described in Exhibit A attached hereto (individually and collectively referred to herein as the "Relinquished Property"); and

WHEREAS, Exchangor desires to exchange the Relinquished Property for other property or properties of a like-kind (individually and collectively referred to herein as the "Replacement Property") in accordance with Section 1031 of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations promulgated thereunder (the "Regulations"); and

WHEREAS, Exchangor has entered into or is about to enter into a contract or contracts to sell the Relinquished Property (individually and collectively referred to herein as the "Relinquished Property Contract"); and

WHEREAS, the Relinquished Property Contract does or will permit Exchangor to effect a like-kind exchange of the Relinquished Property for Replacement Property in accordance with Section 1031 of the Code and the Regulations; and

WHEREAS, in accordance with paragraph (g)(4) of Section 1.1031(k)-1 of the Regulations, Exchangor desires Qualified Intermediary to acquire the Relinquished Property from Exchangor, to transfer the Relinquished Property to the purchaser or purchasers under the Relinquished Property Contract (individually and collectively referred to herein as the "Relinquished Property Purchaser"), to acquire the Replacement Property from the owner or owners thereof (individually and collectively referred to herein as the "Replacement Property Seller"), and to transfer the Replacement Property to Exchangor; and

WHEREAS, Qualified Intermediary desires to act as

Exchangor's "qualified intermediary" as such term is defined in paragraph (g) (4) of Section 1.1031(k)-1 of the Regulations and, except for purposes of Section 1031(a) of the Code, as Exchangor's agent.

NOW, THEREFORE, for and in consideration of the mutual covenants, conditions and agreements set forth herein, Exchangor and Qualified Intermediary hereby agree as follows:

ARTICLE 1  
AGREEMENT TO EXCHANGE

1.1 Upon the terms and conditions set forth in this Exchange Agreement, Qualified Intermediary agrees to acquire the Relinquished Property from Exchangor, to transfer the Relinquished Property to the Relinquished Property Purchaser, to acquire the Replacement Property from the Replacement Property Seller and to transfer the Replacement Property to Exchangor.

1.2 For purposes of the satisfaction of Qualified Intermediary's obligation to acquire and transfer the Relinquished Property and to acquire and transfer the Replacement Property as set forth above in Section 1.1, in accordance with paragraphs (g) (4) (iv) and (g) (4) (v) of Section 1.1031(k)-1 of the Regulations, Exchangor shall assign to Qualified Intermediary all of Exchangor's rights in and to (a) the Relinquished Property Contract and (b) the contract or contracts to be entered into between Exchangor and the Replacement Property Seller for the sale of the Replacement Property (individually and collectively referred to herein as the "Replacement Property Contract").

ARTICLE 2  
QUALIFIED INTERMEDIARY'S ACQUISITION AND TRANSFER  
OF THE RELINQUISHED PROPERTY

2.1 On or before the date on which the transfer of the Relinquished Property is consummated pursuant to the Relinquished Property Contract (the "Relinquished Property Closing Date"), but in any event prior to such transfer:

(a) Exchangor (i) shall assign to Qualified Intermediary all of Exchangor's rights in and to the Relinquished Property Contract by executing and delivering to Qualified Intermediary an Assignment in the form attached hereto as Exhibit B and (ii) shall deliver all earnest money deposited under the Relinquished Property Contract to Qualified Intermediary to be held by Qualified Intermediary in accordance with Article 5 below;

(b) Qualified Intermediary shall accept from Exchangor the assignment of all of Exchangor's rights in and to the Relinquished Property Contract by executing and delivering to



Exchangor an Acceptance in the form attached hereto as Exhibit B;

(c) Exchangor shall, in accordance with the Regulations, notify in writing the Relinquished Property Purchaser that all of Exchangor's rights in and to the Relinquished Property Contract have been assigned to Qualified Intermediary, which written notification shall be in the form of Exhibit B attached hereto; and

(d) Exchangor shall obtain the Relinquished Property Purchaser's consent to the assignment described in this Section 2.1, which consent (i) shall include the Relinquished Property Purchaser's acknowledgment that neither Qualified Intermediary nor its officers, directors, agents or employees shall be personally liable for a breach of any representations or warranties or any obligations of Exchangor as seller under the Relinquished Property Contract, and (ii) shall be in the form of Exhibit B attached hereto.

For purposes of this Section 2.1, in the case of Relinquished Property consisting of multiple properties, with regard to each such property the Relinquished Property Closing Date shall mean the date of transfer of that property.

2.2 To effectuate the transfer of the Relinquished Property to the Relinquished Property Purchaser, Qualified Intermediary hereby authorizes and directs Exchangor to convey the Relinquished Property directly to the Relinquished Property Purchaser in satisfaction of Qualified Intermediary's obligations as assignee of Exchangor's rights under the Relinquished Property Contract.

2.3 In the event the Relinquished Property consists of multiple properties, then, for purposes of determining the commencement of the "Identification Period" (defined in Section 3.2 below) and the commencement of the "Exchange Period" (defined in Section 4.5 below) and for purposes of Section 4.4 below, the Relinquished Property Closing Date shall mean the earliest date on which any of such properties are transferred.

ARTICLE 3  
IDENTIFICATION OF THE  
REPLACEMENT PROPERTY

3.1 At any time prior to the Relinquished Property Closing Date, Exchangor may identify one or more properties as the Replacement Property in accordance with paragraph (c) of Section 1.1031(k)-1 of the Regulations.

3.2 If Exchangor has not identified the Replacement Property prior to the Relinquished Property Closing Date (as such term is

described in Section 2.3 above), then at any time during the period commencing on the Relinquished Property Closing Date and ending at midnight on the 45th day thereafter (the Identification Period") Exchangor may identify one or more properties as the Replacement Property in accordance with paragraphs (b) and (c) of Section 1.1031(k)-1 of the Regulations.

3.3 Such identification (and, if applicable, the revocation thereof in accordance with paragraph (c)(6) of Section 1.1031(k)-1 of the Regulations) shall be made in a written document signed by Exchangor and given before the end of the Identification Period, in accordance with paragraph (c)(2) of Section 1.1031(k)-1 of the Regulations, and to the Qualified Intermediary, pursuant to the notice provisions set forth in Section 9.1 below.

3.4 Any identification of the Replacement Property shall be made in the form of Exhibit C attached hereto.

ARTICLE 4  
QUALIFIED INTERMEDIARY'S ACQUISITION AND  
TRANSFER OF THE REPLACEMENT PROPERTY

4.1 Following the identification of the Replacement Property, Exchangor shall enter into the Replacement Property Contract with the Replacement Property Seller.

4.2 On or before the date on which the transfer of the Replacement Property is consummated pursuant to the Replacement Property Contract (the "Replacement Property Closing Date"), but in any event prior to such transfer:

(a) Exchangor shall assign to Qualified Intermediary all of Exchangor's rights in and to the Replacement Property Contract by executing and delivering to Qualified Intermediary an Assignment in the form attached hereto as Exhibit D;

(b) Qualified Intermediary shall accept from Exchangor the assignment of all of Exchangor's rights in and to the Replacement Property Contract by executing and delivering to Exchangor an Acceptance in the form attached hereto as Exhibit D;

(c) Exchangor shall, in accordance with the Regulations, notify in writing the Replacement Property Seller that all of Exchangor's rights in and to the Replacement Property Contract have been assigned to Qualified Intermediary, which written notification shall be in the form of Exhibit D attached hereto; and

(d) Exchangor shall obtain the Replacement Property Seller's consent to the assignment described in this Section 4.2,

which consent (i) shall include the Replacement Property Seller's acknowledgment limiting the liability of Qualified Intermediary (and its officers, directors, agents and employees) as assignee of Exchangor's rights under the Replacement Property Contract to the forfeiture of the earnest money deposit provided for in the Replacement Property Contract, and (ii) shall be in the form of Exhibit D attached hereto.

For purposes of this Section 4.2, in the case of Replacement Property consisting of multiple properties, with regard to each such property the Replacement Property Closing Date shall mean the date of transfer of that property.

4.3 To effectuate the transfer of the Replacement Property to Exchangor, Qualified Intermediary, as assignee of Exchangor's rights under the Replacement Property Contract, shall direct the Replacement Property Seller to convey the Replacement Property directly to Exchangor pursuant to a Direction in the form attached hereto as Exhibit E.

4.4 The Replacement Property Closing Date, which for purposes of this Section 4.4 in the case of Replacement Property consisting of multiple properties shall mean the earliest date on which any of such properties are transferred, shall occur not earlier than the Relinquished Property Closing Date (as such term is described in Section 2.3 above).

4.5 The Replacement Property Closing Date, which for purpose of this Section 4.5 in the case of Replacement Property consisting of multiple properties shall mean the latest date on which any of such properties are transferred, shall occur not later than the end of the "Exchange Period" (as such term is hereinafter defined). The "Exchange Period" means the period which begins on the Relinquished Property Closing Date (as such term is described in Section 2.3 above) and ends at midnight on the earlier of (a) the 180th day thereafter or (b) the due date (including extensions) for Exchangor's return of the tax imposed by chapter 1 of subtitle A of the Code for the taxable year in which the Relinquished Property Closing Date (as such term is described in Section 2.3 above) occurs.

## ARTICLE 5 THE EXCHANGE FUNDS

5.1 The cash proceeds realized by Qualified Intermediary from the transfer of the Relinquished Property to the Relinquished Property Purchaser, net of amounts paid in respect of encumbrances on the Relinquished Property, commissions, prorated taxes, recording fees, transfer taxes and title and escrow closing fees (the "Exchange Funds"), shall be held by Qualified Intermediary in accordance with the provisions of this Exchange

Agreement.

5.2 Qualified Intermediary shall deposit the Exchange Funds (other than such portion of the Exchange Funds which is immediately required in connection with the acquisition of the Replacement Property) in a financial institution, the accounts of which are federally insured, or shall invest the Exchange Funds in securities of the United States Government.

5.3 All earnings realized from the deposit or investment of the Exchange Funds shall become a part of the Exchange Funds. All such earnings shall be attributed to Exchangor for federal income tax purposes and Qualified Intermediary shall report such earnings to the Internal Revenue Service on the appropriate forms. Exchangor shall complete Internal Revenue Service Form W-9 and shall deliver such Form W-9 to Qualified Intermediary concurrently with the execution of this Exchange Agreement.

5.4 Exchangor shall have no right to receive, pledge, borrow or otherwise obtain the benefits of money or other property constituting the Exchange Funds, including the earnings thereon, until the day following the last day of the Exchange Period, except that:

(a) if Exchangor has not identified the Replacement Property by the end of the Identification Period, then Exchangor shall have the right to receive, pledge, borrow or otherwise obtain the benefits of the Exchange Funds, if any, any time following the end of the Identification Period upon written demand of Exchangor; and

(b) if Exchangor has identified the Replacement Property by the end of the Identification Period, then Exchangor shall have the right to receive, pledge, borrow or otherwise obtain the benefits of the Exchange Funds, if any, any time following Exchangor's receipt of all of the Replacement Property to which Exchangor is entitled under this Exchange Agreement upon written demand of Exchangor.

5.5 If the balance of the Exchange Funds has not previously been delivered to Exchangor pursuant to Section 5.4 above, then following the last day of the Exchange Period, upon written demand of Exchangor, Qualified Intermediary shall pay to Exchangor the then current balance of the Exchange Funds including accrued interest or other earnings thereon, less (a) the then unpaid balance of "Qualified Intermediary's Fees" (as such term is hereinafter defined) and (b) such other amounts as Qualified Intermediary may retain pursuant to Article 8 below.

ARTICLE 6  
USE OF EXCHANGE FUNDS TO

## ACQUIRE THE REPLACEMENT PROPERTY

6.1 Qualified Intermediary shall use the Exchange Funds in order to make earnest money deposits and to pay the balance of the purchase price due on the purchase of the Replacement Property in accordance with the Replacement Property Contract.

6.2 If the sum of the aggregate cash consideration to be paid by Qualified Intermediary for the purchase of the Replacement Property plus acquisition costs in connection therewith, including but not limited to recording fees, transfer taxes, title and escrow closing charges and closing adjustments, exceed the then available Exchange Funds, Exchangor shall provide the excess amount required to consummate the acquisition of the Replacement Property to Qualified Intermediary on or before the Replacement Property Closing Date by certified or cashier's check or by wire transfer of immediately available funds.

### ARTICLE 7

#### QUALIFIED INTERMEDIARY'S FEES

7.1 As compensation for its services under this Exchange Agreement, Qualified Intermediary shall receive a fee of \$975.00. In the event that the Exchange Funds exceed \$750,000 or if multiple Relinquished and/or Replacement properties are involved, additional fees shall be due, as agreed upon by the Exchangor and the Qualified Intermediary. Such amounts shall be deemed to have been earned upon the execution of this Exchange Agreement by Exchangor and Qualified Intermediary. Qualified Intermediary shall also receive reasonable compensation for any special services that it may render in connection with this Exchange Agreement. All such compensation is herein referred to as "Qualified Intermediary's Fee."

7.2 Qualified Intermediary's Fee, if not sooner paid directly by Exchangor, shall be paid from the Exchange Funds. Qualified Intermediary shall have the right to withdraw from the Exchange Funds an amount sufficient to pay Qualified Intermediary's Fee immediately upon its receipt of any Exchange Funds. If the Exchange Funds are insufficient for the payment of the then unpaid balance of Qualified Intermediary's Fee, Exchangor shall pay the difference to Qualified Intermediary immediately upon demand therefor.

### ARTICLE 8

#### INDEMNITY BY EXCHANGOR; EXCULPATION OF QUALIFIED INTERMEDIARY

8.1 Exchangor hereby agrees to indemnify and hold harmless Qualified Intermediary, its officers, directors, employees and agents (collectively the "Indemnified Parties") from and against

all claims, liabilities, demands and expenses, including reasonable attorneys' fees, of any kind which may be asserted against any of the Indemnified Parties by any person or entity other than Exchangor which arise out of any acts or omissions related to the carrying out of the terms of this Exchange Agreement, the Relinquished Property Contract or the Replacement Property Contract, including taxes, claims for breach of contract or injury to person or property, and fines or penalties under any law, including without limitation under any federal, state or local law with respect to environmental matters or hazardous wastes, except for any of the foregoing which arise from the gross negligence or willful misconduct of any of the Indemnified Parties.

8.2 Qualified Intermediary shall not be required to accept, convey, transfer or otherwise deal with the Relinquished Property, the Replacement Property, the Exchange Funds or any part thereof until all of the payments, advances and expenses made or incurred by it (including Qualified Intermediary's Fee) shall have been paid or until adequate provision has been made therefor, in the sole discretion of Qualified Intermediary.

8.3 Exchangor and Qualified Intermediary agree that, except for purposes of Section 1031(a) of the Code and the Regulations, Qualified Intermediary shall act as Exchangor's agent in performing Qualified Intermediary's obligations under this Exchange Agreement. Qualified Intermediary shall not assume or bear any personal liability in connection with the Relinquished Property Contract or the Replacement Property Contract. Notwithstanding anything to the contrary in this Exchange Agreement, Qualified Intermediary shall be under no obligation to disburse any portion of the Exchange Funds if Qualified Intermediary reasonably believes it may be held accountable to any person or entity either for money or other damages or claims unless it is provided with funds which it deems to be sufficient or is indemnified to its satisfaction.

8.4 Qualified Intermediary shall not be liable for any loss of the principal amount of the Exchange Funds or the earnings thereon resulting from the investment thereof except in the case of Qualified Intermediary's willful misconduct or gross negligence.

8.5 Qualified Intermediary makes no representation or warranty regarding, nor shall Qualified Intermediary be liable for, the tax consequences to Exchangor of the transaction contemplated by this Exchange Agreement, including, without limitation, the status of the Replacement Property as like-kind property or the qualification of the transaction as a like-kind exchange pursuant to Section 1031 of the Code.

ARTICLE 9  
NOTICES

9.1 Any notice or other communication required or permitted to be given pursuant to this Exchange Agreement shall be given in writing and shall be deemed properly given or made when hand delivered, or mailed by first class United States certified or registered mail return receipt requested, or telecopied (faxed), addressed to the other party hereto as follows:

If to Exchangor: Galena State Bank & Trust Co.  
216 S. Commerce Street  
Galena, IL 61036  
Telecopier (Fax) Number: 815/777-8944

If to Qualified  
Intermediary: ATTORNEYS' TITLE GUARANTY FUND, INC.  
29 South LaSalle Street  
Fifth Floor  
Chicago, Illinois 60603-1503  
Attention: Hugh E. Pollard  
Telecopier (Fax) Number: (312)372-9509

9.2 Either party hereto may change its address by giving notice of the new address to the other party in the manner provided for in Section 9.1 above.

ARTICLE 10  
SECTION 1445 CERTIFICATION

10.1 Exchangor hereby certifies under penalties of perjury that Exchangor is not a "foreign person" as such term is defined in Section 1445 of the Code and the regulations promulgated thereunder.

10.2 Exchangor's United States taxpayer identification number is 36-2597424

10.3 Exchangor's address is 216 S. Commerce Street, Galena, Illinois 61036

ARTICLE 11  
MISCELLANEOUS

11.1 This Exchange Agreement shall be governed by and shall be construed in accordance with the laws of the State of Illinois.

11.2 This Exchange Agreement and the rights, obligations and duties hereunder shall not be assigned or transferred by either

party hereto without the prior written consent of the other party.

11.3 This Exchange Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns.

11.4 Each of the terms and provisions of this Exchange Agreement is severable and if any term or provision or the application thereof in any circumstance should become invalid, illegal or unenforceable, the remaining terms and provisions or the application thereof to other circumstances shall not be affected thereby and shall remain in full force and effect.

11.5 The Exhibits attached hereto and the recitals set forth above shall all constitute a part of this Exchange Agreement.

11.6 The covenants and agreements contained in this Exchange Agreement, including, without limitation, any indemnities contained herein, shall survive the termination of this Exchange Agreement and the consummation of the transactions contemplated hereby.

11.7 All terms used herein in the singular shall include the plural and all terms used herein in the plural shall include the singular.

11.8 This Exchange Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

11.9 Time is of the essence of this Exchange Agreement.

11.10 This Exchange Agreement may be amended only by an instrument in writing executed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Exchange Agreement as of the date first above written.

EXCHANGOR: GALENA STATE BANK & TRUST CO.

BY: /s/ Jerry L. Murdock  
Attest: /s/ Lois Jean Wienen

QUALIFIED INTERMEDIARY:

ATTORNEYS' TITLE GUARANTY FUND, INC.  
By: /s/ Hugh E. Pollard  
Its ESCROW ADMINISTRATOR



EXHIBIT A  
to Exchange Agreement

DESCRIPTION OF THE THREE RELINQUISHED PROPERTIES

PARCEL I: (216 S. Commerce Street Property)

Lot Number Sixty-eight (68) on the Easterly side of Commerce Street and Lot Number Seventy-six (76) on Water Street both lots being in the block between Green Street and Washington Street on the West side of Galena River and the South Twenty-two (22) feet of Lot Sixty-seven (67) on Commerce Street, in the City of Galena, on the West side of Galena River, situated in the County of Jo Daviess and State of Illinois.

PARCEL II: (400 South Main St. Property)

Lots Numbered Five (5), Six (6), the North Twenty-two (22) feet of Lot Number Nine (9) and the North Fourteen and Seven-twelfths (14  $\frac{7}{12}$ ) feet of the South Twenty-four and Six-Twelfths (24  $\frac{6}{12}$ ) feet of Lot Number Eight (8) all in Block B on the West side of the Galena River, in the City of Galena, Jo Daviess County, Illinois. ALSO, the South Twenty-seven (27) feet of Lot Number Nine (9) in Block B extending from Water Street to the rear of said Lot Nine (9) and the North Twenty-four and Six-Twelfths (24  $\frac{6}{12}$ ) feet of Lot Number Eight in Block B extending from Water Street to the rear of said Lot Eight (8) and on the West side of the Galena River, in the City of Galena, situated in the County of Jo Daviess, in the State of Illinois. EXCEPT that part of Lot 5 in Block B on the West side of the Galena River, in the City of Galena, Jo Daviess County, Illinois, bounded by a line described as follows: Commencing at the Northwest corner of said Block B; thence South 12 degrees 07 minutes 05 seconds West 35.77' along the West line of said Block B to the point of beginning, thence South 76 degrees 25 minutes 28 seconds East 58.52' along the North line of a four story brick building, thence South 12 degrees 04 minutes 58 seconds West 20.21' along the East line of a four story brick building, thence South 12 degrees 35 minutes 45 seconds West 25.95' along the East line of a four story brick building to a point on the South line of said Lot 5; thence North 76 degrees 38 minutes 48 seconds West 58.32' along the South line of said Lot 5 to the Southwest corner of said Lot 5; thence North 12 degrees 07 minutes 05 seconds East 46.40' along the West line of said Lot 5 to the point of beginning.

PARCEL III: (Gear Street Property)

Lots 3, 4, 6 & 7 of the Plat of Subdivision Galena State Bank Commercial Center, a subdivision located in the Southwest Quarter of Section 13, Township 28 North, Range 1 West of the Fourth

Principal Meridian, West Galena Township, in the City of Galena, West side of Galena River, Jo Daviess County, Illinois, subject to easements, right of ways and building setback lines all as shown on the plat thereof recorded in the Jo Daviess County, Illinois Recorder's Office as Document No. 240146 in Planhold D of Plats, at No. 431.

EXHIBIT B  
to Exchange Agreement

ASSIGNMENT, ACCEPTANCE, NOTICE OF ASSIGNMENT  
AND CONSENT TO ASSIGNMENT OF  
THE RELINQUISHED PROPERTY CONTRACT

ASSIGNMENT  
(FOR PARCEL I PROPERTY)

FOR VALUE RECEIVED, Galena State Bank & Trust Co. ("Exchangor") hereby assigns all of Exchangor's right in and to a certain Contract for Purchase November 29, 1995, by and between Exchangor and Labatyd, Inc. for the property located at 216 S. Commerce St., Galena, IL (the "Relinquished Property Contract"), a copy of which is attached hereto, including all of Exchangor's rights in and to the earnest money deposited thereunder, to ATTORNEYS' TITLE GUARANTY FUND, INC. ("Qualified Intermediary"), pursuant to an Exchange Agreement dated May 17, 1996 by and between Exchangor and Qualified Intermediary, this 14th day of June , 1996.

Exchangor: GALENA STATE BANK & TRUST CO.

BY: /s/ Jerry L. Murdock  
Attest: /s/ Michele M. Berning

ACCEPTANCE

ATTORNEYS' TITLE GUARANTY FUND, INC. ("Qualified Intermediary") hereby accepts the foregoing assignment of the Relinquished Property Contract as of the \_\_\_\_\_ day of, 199 ; provided, however, that such acceptance is upon the express condition that Labatyd. Inc. the Purchaser under the Relinquished Purchase Contract, acknowledges in writing that neither Qualified Intermediary nor its officers, directors, agents or employees shall be personally liable for a breach of any representations or warranties or any obligations of Exchangor as seller under the Relinquished Property Contract.

ATTORNEYS' TITLE GUARANTY FUND, INC.

By: /s/ Hugh E. Pollard  
Its ESCROW ADMINISTRATOR

NOTICE  
RE PARCEL I PROPERTY

To: Labatyd, Inc.  
Address: 1205 Bussan  
Galena, IL 61036

Date: June 14, 1996

You are hereby notified that all of the rights of Galena State Bank & Trust Co. ("Exchangor") under that certain Contract for Purchase dated November 29, 1995, by and between Exchangor and you for the property located at 216 S. Commerce Street, Galena, IL 61036, the "Relinquished Property Contract") have been assigned to ATTORNEYS' TITLE GUARANTY FUND, INC. ("Qualified Intermediary"), pursuant to an Exchange Agreement dated May 17, 1996, by and between Exchangor and Qualified Intermediary.

Exchangor: GALENA STATE BANK & TRUST CO.

BY: /s/ Jerry L. Murdock  
Attest: /s/ Michele M. Berning

CONSENT

Labatyd. Inc. (the "Relinquished Property Purchaser") hereby consents to the foregoing assignment of the Relinquished Property Contract and acknowledges that neither qualified Intermediary nor its officer, directors, agents or employees shall be personally liable for a breach of any representations or warranties or any obligations of Exchangor as seller under the Relinquished Property Contract; provided, however, that this consent shall in no way be deemed to release Exchangor from any of Exchangor's agreements, representations, warranties and indemnifications set forth in the Relinquished Property Contract.

Date: June 14, 1996

RELINQUISHED PROPERTY PURCHASER:

/s/ David H. Thiltgen

EXHIBIT B  
to Exchange Agreement

ASSIGNMENT, ACCEPTANCE, NOTICE OF ASSIGNMENT  
AND CONSENT TO ASSIGNMENT OF  
THE RELINQUISHED PROPERTY CONTRACT

ASSIGNMENT  
RE PARCEL II

FOR VALUE RECEIVED, Galena State Bank & Trust Co. ("Exchangor") hereby assigns all of Exchangor's right in and to a certain Contract for Purchase dated December 04, 1995, by and between Exchangor and Charles Schnepf & Daniel O'Keefe for the property located at 400 S. Main St., Galena, IL 61036 (the "Relinquished Property Contract"), a copy of which is attached hereto, including all of Exchangor's rights in and to the earnest money deposited thereunder, to ATTORNEYS' TITLE GUARANTY FUND, INC. ("Qualified Intermediary"), pursuant to an Exchange Agreement dated May 17, 1996, by and between Exchangor and Qualified Intermediary, this 04th day of June, 1996.

Exchangor: GALENA STATE BANK & TRUST CO.

BY: /s/ Jerry L. Murdock  
Attest: /s/ Michele M. Berning

ACCEPTANCE

ATTORNEYS' TITLE GUARANTY FUND, INC. ("Qualified Intermediary") hereby accepts the foregoing assignment of the Relinquished Property Contract as of the 04th day of June, 1996 provided, however, that such acceptance is upon the express condition that Charles Schnepf & Daniel O'Keefe, the Purchaser under the Relinquished Property Contract, acknowledges in writing that neither Qualified Intermediary nor its officers, directors, agents or employees shall be personally liable for a breach of any representations or warranties or any obligations of Exchangor as seller under the Relinquished Property Contract.

ATTORNEYS' TITLE GUARANTY FUND, INC.

By: /s/ Hugh E. Pollard  
Its: ESCROW ADMINISTRATOR

NOTICE  
RE PARCEL II

To: Charles Schnepf & Daniel O'Keefe  
Address: 125 South Main Street  
Galena, IL. 61036

Date: June 04, 1996

You are hereby notified that all of the rights of Galena State Bank & Trust Co. ("Exchangor") under that Certain Contract for Purchase dated December 04, 1995, by and between Exchangor and you for the property located at 400 S. Main Street. Galena. IL 61036 (the "Relinquished Property Contract") have been assigned to ATTORNEYS' TITLE GUARANTY FUND, INC. ("Qualified

Intermediary"), pursuant to an Exchange Agreement dated May 17, 1996 by and between Exchangor and Qualified Intermediary.

Exchangor: GALENA STATE BANK & TRUST CO.

BY: /s/ Jerry L. Murdock  
Attest: /s/ Michele M. Berning

CONSENT

Charles Schnepf & Daniel O'Keefe (the "Relinquished Property Purchaser") hereby consents to the foregoing assignment of the Relinquished Property Contract and acknowledges that neither Qualified Intermediary nor its officer, directors, agents or employees shall be personally liable for a breach of any representations or warranties or any obligations of Exchangor as seller under the Relinquished Property Contract; provided, however, that this consent shall in no way be deemed to release Exchangor from any of Exchangor's agreements, representations, warranties and indemnification's set forth in the Relinquished Property Contract.

Date: June 04, 1996

RELINQUISHED PROPERTY PURCHASER:

/s/ Charles A. Schnepf  
/s/ Daniel O'Keefe

Beneficiaries of Galena State Bank  
& Trust Co. Trust No. 478  
(uta 2/15/96)

EXHIBIT B  
to Exchange Agreement

ASSIGNMENT, ACCEPTANCE, NOTICE OF ASSIGNMENT  
AND CONSENT TO ASSIGNMENT OF  
THE RELINQUISHED PROPERTY CONTRACT

ASSIGNMENT  
RE PARCEL III

FOR VALUE RECEIVED, Galena State Bank & Trust Co., as Trustee under trust agt. dated 7/16/1976, known as ("Exchangor") hereby assigns all of Exchangor's right in and to a certain Contract for Purchase dated October 19, 1995, by and between Exchangor and Merkle Engineers, Inc. for the property located at Gear Street, Galena, IL 61036 (the "Relinquished Property Contract"), a copy of which is attached hereto, including all of Exchangor's rights in and to the earnest money deposited thereunder, to ATTORNEYS'

TITLE GUARANTY FUND, INC. ("Qualified Intermediary"), pursuant to an Exchange Agreement dated May 17, 1996, by and between Exchangor and Qualified Intermediary, this 17th day of May, 1996

Exchangor: GALENA STATE BANK & TRUST CO.

BY: /s/ Jerry L. Murdock  
Attest: /s/ Michele M. Berning

ACCEPTANCE

ATTORNEYS' TITLE GUARANTY FUND, INC. ("Qualified Intermediary") hereby accepts the foregoing assignment of the Relinquished Property Contract as of the \_\_\_\_ day of \_\_\_\_\_, 199\_\_\_\_ provided, however, that such acceptance is upon the express condition that Merkle Engineers, Inc., the Purchaser under the Relinquished Property Contract, acknowledges in writing that neither Qualified Intermediary nor its officers, directors, agents or employees shall be personally liable for a breach of any representations or warranties or any obligations of Exchangor as seller under the Relinquished Property Contract.

ATTORNEYS' TITLE GUARANTY FUND, INC.

By: /s/ Hugh E. Pollard  
Its: ESCROW ADMINISTRATOR

NOTICE  
RE PARCEL III

To: Merkle Engineers, Inc.  
Address: 100 Perry Street  
Galena, IL. 61036

Date: May 17, 1996

You are hereby notified that all of the rights of Galena State Bank & Trust Co., as Trustee under Trust Agreement dated July 16, 1976 ("Exchangor") under that Certain Contract for Purchase dated October 19, 1995, by and between Exchangor and you for the property located at Gear Street, Galena, IL 61036 (the "Relinquished Property Contract") have been assigned to ATTORNEYS' TITLE GUARANTY FUND, INC. ("Qualified Intermediary"), pursuant to an Exchange Agreement dated May 17, 1996, by and between Exchangor and Qualified Intermediary.

Exchangor: GALENA STATE BANK & TRUST CO.

BY: /s/ Jerry L. Murdock  
Attest: /s/ Michele M. Berning

CONSENT

Merkle Engineers, Inc. (the "Relinquished Property Purchaser") hereby consents to the foregoing assignment of the Relinquished Property Contract and acknowledges that neither Qualified Intermediary nor its officer, directors, agents or employees shall be personally liable for a breach of any representations or warranties or any obligations of Exchangor as seller under the Relinquished Property Contract; provided, however, that this consent shall in no way be deemed to release Exchangor from any of Exchangor's agreements, representations, warranties and indemnification's set forth in the Relinquished Property Contract.

Date: May 17, 1996

RELINQUISHED PROPERTY PURCHASER:

/s/ William R. Matoms  
President

EXHIBIT C  
to Exchange Agreement

IDENTIFICATION OF REPLACEMENT PROPERTY

Date: May 17, 1996

To: Attorneys' Title Guaranty Fund, Inc.  
("Qualified Intermediary")  
29 South LaSalle Street  
Fifth Floor  
Chicago, Illinois 60603-1503  
Attention: Hugh E. Pollard

From: Galena State Bank & Trust Co. ("Exchangor")  
& Galena State Bank & Trust Co., Trustee of Trust No. 167  
216 S. Commerce St. - Galena, IL 61036

Pursuant to that certain Exchange Agreement dated May 17, 1996, by and between Qualified Intermediary and Exchangor (the "Exchange Agreement"), Exchangor hereby identifies the following property(ies) as Replacement Property (as defined in the Exchange Agreement):

1. Street Address: Gear Street  
Galena, IL 61036

P.I.N.

Common Name:

Legal Description: See Attached Continuation  
(Lot 1 of Plat of Subdv. of Galena  
State Bank Commercial Center  
Galena, IL

2. Street Address:

P.I.N.

Common Name:

Legal Description:

EXHIBIT C TO EXCHANGE AGREEMENT  
REPLACEMENT PROPERTY

Lot 1 of the Plat of Subdivision Galena State Bank Commercial Center, a subdivision located in the Southwest Quarter of Section 13, Township 28 North, Range 1 West of the Fourth Principal Meridian, West Galena Township, in the City of Galena, West side of Galena River, Jo Daviess County, Illinois, subject to easements, right of ways and building setback lines all as shown on the plat thereof recorded in the Jo Daviess County, Illinois Recorder's Office as Document No. 240146 in Planhold D of Plats, at No. 431.

3. Street Address:

P.I.N.

Common Name:

Legal Description:

Exchangor may identify up to three properties as Replacement Property without regard to their fair market value. In the event Exchangor identifies more than three properties as Replacement Property during the Identification Period (as defined in the Exchange Agreement), Exchangor acknowledges that it is familiar with the "200-percent rule" and the "95-percent rule" of paragraph (c)(4) of Section 1.1031(k)-1 of the Regulations (as defined in the Exchange Agreement).

EXCHANGOR: GALENA STATE BANK & TRUST CO.

BY: /s/ Jerry L. Murdock  
Attest: /s/ Michele M. Berning

Receipt acknowledged this \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_\_\_

ATTORNEYS' TITLE GUARANTY FUND, INC.

By:  
Its:



EXHIBIT D  
to Exchange Agreement

ASSIGNMENT, ACCEPTANCE, NOTICE OF ASSIGNMENT  
AND CONSENT TO ASSIGNMENT OF  
THE REPLACEMENT PROPERTY CONTRACT

ASSIGNMENT

\*u/t/a dated 7/16/1976, known  
as Trust No. 167

FOR VALUE RECEIVED, Galena State Bank & Trust Co. as Trustee\* ("Exchangor") hereby assigns all of Exchangor's right in and to a certain Purchase Agreement dated May 17, 1996, by and between Exchangor and Hoskins Lumber Company for the property located at Gear St., Galena, IL 61036 (the "Replacement Property Contract"), a copy of which is attached hereto, to ATTORNEYS' TITLE GUARANTY FUND, INC. ("Qualified Intermediary"), pursuant to an Exchange Agreement dated May 17, 1996, by and between Exchangor and Qualified Intermediary, this 17th day of May, 1996.

EXCHANGOR: GALENA STATE BANK & TRUST CO.

BY: /s/ Jerry L. Murdock  
ATTEST: /s/ Michele M. Berning

ACCEPTANCE

ATTORNEYS' TITLE GUARANTY FUND, INC. ("Qualified Intermediary") hereby accepts the foregoing assignment of the Replacement Property Contract as of the \_\_\_\_\_ day of, 1996; provided, however, that such acceptance is upon the express condition that Hoskins Lumber Company, the Seller under the Replacement Property Contract, acknowledges in writing that the liability of Qualified Intermediary (and its officers, directors, agents and employees) as assignee of Exchangor's rights under the Replacement Property Contract is limited to forfeiture of the earnest money deposit provided for in the Replacement Property Contract.  
ATTORNEYS' TITLE GUARANTY FUND, INC.

By: Hugh E. Pollard  
Its: ESCROW ADMINISTRATOR

NOTICE

To: Hoskins Lumber Company  
Address: 107 E. Myrtle St.  
Elizabeth, IL 61028

Date: May 17, 1996

You are hereby notified that all of the rights of Galena State Bank & Trust Co. ("Exchangor") under that certain Purchase Agreement dated May 17, 1996 by and between Exchangor and you for the property located at Gear Street, Galena, IL 61036 (the "Replacement Property Contract") have been assigned to ATTORNEYS' TITLE GUARANTY FUND, INC. ("Qualified Intermediary"), pursuant to an Exchange Agreement dated May 17, 1996 by and between Exchangor and Qualified Intermediary.

EXCHANGOR: GALENA STATE BANK & TRUST CO.  
BY: /s/ Jerry L. Murdock  
Attest: /s/ Michele M. Berning

CONSENT

Hoskins Lumber Company (the "Replacement Property Seller") hereby consents to the foregoing assignment of the Replacement Property Contract and acknowledges that the liability of Qualified Intermediary (and its officers, directors, agents and employees) as assignee of Exchangor's rights under the Replacement Property Contract is limited to forfeiture of the earnest money deposit provided for in the Replacement Property Contract; provided, however, that this consent shall in no way be deemed to release Exchangor from any of Exchangor's agreements, representations IL:, warranties and indemnifications set forth in the Replacement Property Contract.

Date: May 21, 1996.

REPLACEMENT PROPERTY SELLER:

HOSKINS LUMBER COMPANY  
By: /s/ Vincent E. Toepfer  
/s/ Cheryl A. Toepfer

EXHIBIT E  
to Exchange Agreement

DIRECTION

ATTORNEYS' TITLE GUARANTY FUND, INC., as assignee of the rights of Galena State Bank & Trust Co. ("Purchaser") under a certain Purchase Agreement dated May 17, 1996, (the "Contract") with Hoskins Lumber Company ("Seller"), hereby directs Seller to convey or cause to be conveyed to Purchaser the property commonly known as Gear Street, Galena, IL 61036 which property is the subject of the Contract.

Dated: June 18, 1996

ATTORNEYS' TITLE GUARANTY FUND, INC.

BY: /s/ Hugh E. Pollard  
Its: ESCROW ADMINISTRATOR

FISERV

License and Service Agreement

This LICENSE AND SERVICE AGREEMENT numbered 3810163 is entered into as of the Effective Date below by and between

Fiserv

a Corporation whose registered office is located at

2601 Technology Drive  
Orlando, FL 32804

(hereinafter called 'Company') and

Heartland Financial USA, Inc.

whose registered office is located at

1398 Central Avenue  
Dubuque, Iowa 52001

(hereinafter called 'Client')

This Agreement shall be construed and enforced under the laws of the State of Florida.

Effective Date: June 21, 1996

Witnesseth:

WHEREAS, Company is the licensor of the Software System (as

hereinafter defined), and

WHEREAS, Client wishes to install and Use (as hereinafter defined), the Software System in Client's premises.

NOW, THEREFORE, the parties hereto agree from the Effective Date as follows:

1. Definitions

The following are the definitions of various terms used in this Agreement:

- 1.1 'Accounts' means the total number of individually designated accounts processed by the Transaction, Time, and Loan subsystem of the Software System.
- 1.2 'Basic Maintenance Services' means services to correct a Nonconformity or Major Nonconformity in the original, unmodified Software System. Basic Maintenance Services are available only with respect to the current and last prior release of the Software System.
- 1.3 'Business Requirements' means the description of the Client's business needs and the functionality required.
- 1.4 'Client Confidential Information' means any confidential information concerning Client's business, that is labeled as such and all data pertaining to Client's customers.
- 1.5 'Computer System' means that dedicated computer machinery and manufacturer-supplied software identified on Schedule 2. Client shall have sole responsibility to own or lease, unpack, plan, install, test, and maintain the equipment according to any and all applicable building or electrical codes, regulations or requirements, as well as the manufacturer and Company recommendations.
- 1.6 'Effective Date' means the date identified as such in this Agreement as the date upon which this Agreement shall commence.
- 1.7 'Enhancements' means modifications made to the Software System which add program features or functions not originally within the Software System and which are generally provided upon payment of additional License Fees. Company reserves the right to define which changes are upgrades or separately priced enhancements.
- 1.8 'Functional Specifications' means the description of the detailed functionality changes to product, account and customer level processing.

1.9 'Location' means only those premises identified on Schedule 1.

1.10 'Maintenance Fee' means that fee for the time being in effect for the provision of the Maintenance Services hereunder.

1.11 'Nonconformity' means a failure of the Software System to accurately process Client's data or to perform functions described in Company's documentation.

(i) Level One: A Major Nonconformity which renders the Software System inoperative.

(ii) Level Two: Any nonconformity which significantly degrades the performance of the Software System or which affects regulatory compliance, including, but not limited to, the calculation of interest, fees and balances, and errors affecting the accuracy of customer statements.

(iii) Level Three: A nonconformity which has a significant impact on the Client's ability to perform its normal business functions and for which no circumvent procedure is available.

(iv) Level Four: A nonconformity which negatively impacts the ability of the Client to perform its normal business functions but for which there is a relative cost effective circumvent procedure available.

(v) Level Five: A nonconformity which does not fit into any of the above categories.

1.12 'Professional Service Fees' means the greater of the sums of amounts derived by multiplying either the minimum number of days specified on Schedule(s) 1 or the number of days or fractions of days worked within each grade by the daily fee rate as defined on the Schedule(s) 1. Additional fees may be raised in respect of hours worked outside these at the request of Client at the rates previously agreed in writing by Client.

1.13 'Software System' means the standard, unmodified computer programs in object code, unless otherwise specified on Schedule 1, and procedure statements in machine readable form, together with one set of Company standard documentation as listed on Schedule 1. The Software System does not include separate, independent, and stand-alone modules or subsystems which Client has developed and maintained without Company's assistance.

- 1.14 'Special Maintenance Services' means any other services as specified on Schedule 1.
- 1.15 'Specification Nonconformity' means a failure of the modified Software System to operate in accordance with the Functional Specifications.
- 1.16 'Taxes' means all sales, use, excise, value added, and other taxes and duties however designated which are levied by any taxing authority having jurisdiction over the Location. Taxes shall not include any levies by any taxing authority which are based upon the net income of Company.
- 1.17 'Third Party' means any party other than Company's employees or subcontractors and Client.
- 1.18 'Total License Fee' means the total sum specified as such on Schedule 1 for standard, unmodified modules of the Software System. Any fees for modifications, enhancements, upgrades, or additions to the Software System are excluded from this Agreement unless otherwise specified.
- 1.19 'Upgrades' means changes made to maintain compatibility with new system software releases or to improve upon previously existing features and operations with the Software System. This primarily includes program fixes to the existing Software System.
- 1.20 'Use' means copying or loading any portion of the Software System from storage units or media into any equipment for the processing of data by the Software System once so loaded, or the operation of any procedure or machine instruction utilizing any portion of either the computer program or instructional material supplied with the Software System. Use is deemed to occur at the location where any of the above processes happen. Use is limited to type of operations described in Company documentation solely to process Client's own work and that of majority-owned financial institutions. Use specifically excludes any service bureau or time-share services to minority-owned or unaffiliated third parties without prior written consent by Company and payment by Client of additional fees in accordance with mutually agreed terms.
- 1.21 'Workday' means Company's working day for the purposes of this Agreement, as specified on Schedule 1.

## 2. License to Use the Software System

- 2.1 Company agrees to furnish the Software System to Client and

does hereby grant to Client a non-exclusive, nontransferable License to Use the Software System at the Location to process the designated institutions, corporations or any other legal entity, as specified on Schedule 1.

- 2.2 Client may change the Location, without cost to Client, in the event Client transfers its data processing department to a new location within the same country as the Location. Client will provide Company with fifteen (15) days advance notice of any proposed transfer of operations.
- 2.3 The Company, prohibits the copying of any portions of the Software System except that Client may copy reasonable quantities of any standard end user documentation; and may copy machine language code, in whole or in part, in reasonable quantities, in printed or electronic form, for use by Client at the Location for archive, back-up or emergency restart purposes, or to replace copy made on defective media. The original, and any copies of the Software System, or any part thereof, shall be the property of Company.
- 2.4 Client shall maintain any such copies and the original at the Location and one Client archive site in the same country as the Location, which site is specified on Schedule 1. Client may transport or transmit a copy of the Software System from the Location or the Archive Site to another location in the same country as the Location for back-up use when required by Computer System malfunction, provided that the copy or original is destroyed or returned to the Location or Archive Site when the malfunction is corrected. Client shall reproduce and include Company's copyright and other proprietary notices on all copies, in whole or in part, in any form, of the Software System made in accordance with this Section.
- 2.5 Company grants to Client the right to Use any modifications furnished or authorized by Company pursuant to a separate written agreement.

### 3. Professional Services Terms

- 3.1 In consideration of the payment to Company by Client of the Fees and the cost of all items and services provided and any other expenses incurred by Company in connection with this Agreement, as defined on Schedule(s) 1, Company hereby agrees to provide personnel of the grades, and between the dates specified on Schedule(s) 1 to work on behalf of Client in accordance with the terms and conditions set out below.
- 3.2 All work which is to be performed by Company hereunder shall



be based upon the preliminary Business Requirements listed on Schedule 3. Client shall utilize Schedule 3 to provide Company with all necessary information concerning its requirements for modifications to the Software System or other information requested by Company related to Company's performance of its obligations under this Agreement. Any estimates of costs and completion dates listed on the Schedules are referenced solely for the purpose of allowing Client to plan its budgets and schedules based upon the then available information.

- 3.3 Company shall provide a Preliminary Project Plan based upon the Business Requirements which shall be incorporated as Schedule 4 when appropriate. Schedule 4 shall contain a preliminary listing of the nature and timing of tasks for the project, some of which are to be performed by Company and some by Client. Company shall utilize reasonable efforts to meet the dates set forth in the Project Plan or any replacement thereof.
- 3.4 In the event that Company is to provide installation, conversion or training to Client for the Software System, the fees therefore shall be as specified on Schedule 1. The nature and timing of any installation, conversion and training shall be as specified in the Project Plan mutually agreed upon by the parties.
- 3.5 In the event that Company is to provide modifications to the Software System, the modifications shall be based upon specifications created by Company and approved by Client as provided below:

(i) During the phase referred to on the Project Plan as "Functional Specifications", Company may develop Functional Specifications based upon the descriptions contained on Schedule 3 for Client's written approval. Company shall not be obligated to perform any further development work until Specifications have been accepted in writing by Client which acceptance shall not be unreasonably withheld or unduly delayed.

(ii) Modifications, changes, enhancements, conversions, upgrades or additions to the Software System beyond those stated in the Functional Specifications shall be added only upon mutual written agreement. In the event the parties agree to add any such items, the Project Plan shall automatically be modified to the extent necessary to allow for the implementation or provision of the items.

(iii) The Project Plan shall also set forth the time

period after the acceptance of the Functional Specifications within which Company shall prepare "Functional Specifications" including an acceptance test script for the adaptations described therein. After Client's written acceptance of the Functional Specifications, which acceptance shall not be unreasonably withheld or delayed, Company shall commence activities to modify the Software System for use by Client in accordance with the Project Plan.

(iv) The Software System adaptations shall be deemed to have been accepted by Client either upon the completion of a formal Acceptance Test (as set forth in the test scripts) or 30 days after delivery of the modified Software System, whichever occurs first. Acceptance by Client will not be unreasonably withheld or unduly delayed. Client agrees promptly to notify Company in writing (and with reasonable particularity) upon conclusion of the Acceptance Test or earlier upon discovery of any Specification Nonconformities disclosed by such testing or use. Company shall correct any Specification Nonconformities disclosed by such testing without further charge to Client within a reasonable time of Client's notice.

- 3.6 The Professional Services Fees are based on a workday as defined on Schedule(s) 1. Additional Professional Services Fees may be raised in respect of hours worked outside these at the request of Client at the rates previously agreed in writing by Client.
- 3.7 If support is primarily required in part days, Company may notify Client that an hourly fee rate shall apply. The hourly rate will be calculated pro-rata of the stated daily rate unless otherwise agreed.
- 3.8 The daily rates quoted in the table will be valid for three months from the effective date listed on the relevant Schedule 1. Thereafter, they will be subject to change by Company on one-month's notice.
- 3.9 A higher Professional Services Fee may be applied for an individual whose support to Client has advanced to a new job grade or after one month's notice if his general development warrants a job upgrade by Company.
4. Maintenance Services Terms
- 4.1 In consideration of the payment to Company by Client of the Maintenance Fee, Company agrees to furnish to Client Maintenance Services as described and subject to the terms

and conditions contained in this Agreement.

- 4.2 Client may elect to receive Basic Maintenance Services and/or Special Maintenance Services by designating the services selected on Schedule 1.
- 4.3 Company shall maintain the Software System in compliance with applicable Federal regulations.
- 4.4 Client agrees to train current and future employed staff members on the technical and user operations of the Software System. If the Client chooses, training can be provided at the Company's location or at the Client's location at the then current training rates. Phone training will also be invoiced at the said rate.
- 4.5 As part of Basic Maintenance Services, Company shall provide telephone support for reporting of Level One, Two, and Three Nonconformities twenty-four hours per day, seven days per week. Company shall provide services to correct or resolve any other Nonconformity of the Software System only on Workdays. Telephone cost for remote dial-up is Client's expense. Company may utilize remote diagnostic software and dial-up telephone lines in providing these services.
- 4.6 Company and Client shall promptly assign such technical personnel as are necessary to identify, isolate, and reconstruct any reported Level One Nonconformity and, provided that such Nonconformity is capable of reconstruction and is due to a defect in the Software System, Company and Client shall utilize its best efforts to correct or utilize a circumvent procedure to restore system operation within twenty-four hours of Company's receipt of the call or before the next occurrence of the nonconformity. Company shall provide such services to Client free of any additional fees and charges, including but not limited to any reimbursement for travel of Company technical personnel incurred during the resolution of the Major Nonconformity.
- 4.7 Company and Client shall use its best efforts to correct or adopt a circumvent procedure with respect to a Level Two Nonconformity within forty-eight hours of its receipt of the Level Two Nonconformity report.
- 4.8 Company and Client shall use its commercially reasonable best efforts to correct a Level Three Nonconformity within five business days of its receipt of the Level Three Nonconformity report by providing a circumvent procedure or code, whichever is most reasonable.
- 4.9 Company shall use its commercially best efforts to adopt a

circumvent procedure with respect to a Level Four Nonconformity within five (5) business days of its receipt of the Nonconformity or the next occurrence of the issue. If a circumvent procedure has been adopted, Company may deliver a software coded correction to the Level Four Nonconformity with the next scheduled base release of the Software System that is still open for development changes at the time of the notice of the Level Four Nonconformity.

4.10 Company shall use its commercially reasonable best efforts to correct a Level Five Nonconformity with the next Software System Release open for development at the time of the notice of the Level Five Nonconformity.

4.11 Should Company's review of the Level One, Two or Three Nonconformity indicate, in Company's reasonable opinion, that the reported problem is not in the Software System but is due to Client's abuse or misuse of the Software System, or by a modification or addition to the Software System not performed by Company (inclusive of the integration of Third Party products with the software system), or by Client's failure to properly maintain the Computer System or to install the required system software release as instructed by Company, then:

(i) Client agrees, if required by Company, to reimburse Company the related costs of work performed by Company in investigating the problem including related system calculated on a time-and-materials basis at Company's then standard professional service rates, and

(ii) Company, on request of Client, shall advise Client whether Company can correct or assist in resolving such problem, and the terms under which Company shall undertake the same, and on written acceptance by Client shall correct or assist in resolving the problem in accordance with such terms.

4.12 Maintenance Fees cover an average of ten (10) hours of support per month. If the average for the month is greater than fifty percent (50%) of the ten (10) hours, the Client will be contacted and invoiced for hourly support at the Company's current rates.

4.13 The initial Maintenance Fee and adjustment terms are specified on Schedule 1. Maintenance Fees shall be subject to annual increases and shall also be subject to increase following delivery of new versions of, or modifications or additions to the Software System or changes in the number of accounts processed as specified in the License and Service

Agreement.

- 4.14 All such increases to the Maintenance Fee shall be incorporated by amending Schedule 1.
- 4.15 Invoicing of the Maintenance Fee will commence as specified on Schedule 1.

## 5. Use Of And Rights To Company's Work Product

All information, reports, studies, object or source code, flow charts, diagrams and other tangible or intangible material of any nature whatsoever produced by or as a result of any of the services performed hereunder shall be the sole and exclusive property of Company or its corporate parent. Client shall be entitled to Use all such work product produced by Company in accordance with the terms and conditions of the License and Service Agreement. Nothing contained in this Agreement shall be deemed to provide greater rights with respect to the Software System, as modified for Client's use herein, than those provided in the License and Service Agreement.

## 6. Term

- 6.1 The term of the License grant shall begin on the Effective Date and continue in perpetuity unless terminated earlier as provided herein.
- 6.2 The provision of the Maintenance Services by Company shall commence on the Effective Date specified on Page 1 hereto and shall continue for a period of five years.
- 6.3 A Maintenance Services agreement may be renewed for successive one year terms at Company's then current fees for all modules then under License.

## 7. Delivery

The Company agrees to deliver the Software System to the Location.

## 8. Payment

- 8.1 Company shall add to each invoice for reimbursement by Client an amount equal to any applicable Taxes. Company shall remit such Taxes to the appropriate taxing authorities.
- 8.2 Each payment to be made to Company under this Agreement shall be paid by Client, in funds as specified on Schedule

1, within fifteen (15) days of the date of an invoice in respect thereof and the time of payment shall be of the essence of this Agreement.

- 8.3 If the whole or any part of any invoice remains outstanding for thirty (30) days or more, Client shall pay an agreed financial charge calculated at the rate of one and one half percent (1-1/2%) per part or complete month on the overdue balance. Company shall pay the same financial charge on the amount of any credit due to Client for sums previously paid by Client which were the subject of a dispute resolved in Client's favor.
- 8.4 Except as expressly provided in this Agreement to the contrary, Client agrees to pay the reasonable travel and living expenses of any employees of Company and its authorized contractors who render services at either the Location or any other Client site in connection with the activities described in this Agreement. All expenses shall be itemised on invoices submitted by Company and shall be due and payable upon presentation of each invoice as provided herein.

## 9. Performance

- 9.1 Client shall give Company full access to the Location, the Software System, and the Computer System to enable Company to provide Services and shall make available information, facilities, and services reasonably required by Company for the performance of its obligations under this Agreement.
- 9.2 Work in determining the nature of any problem or in making corrections, amendments, or additions to the Software System may be carried out at Company's site or at the Location at the discretion of Company.
- 9.3 Client agrees to maintain the Computer System and Software System according to Company recommendations during the term of this Agreement.

## 10. Rescheduling

If Client is unable to provide access to required facilities or personnel or is unable to meet its tasks assigned on Schedules 3 and 4 in a timely manner, Company will endeavor to reschedule tasks to minimize the non-productive time arising. All such non-productive time is chargeable to Client. If such non-productive time is expected to be significant, Company will endeavor to reassign its personnel to other suitable work. In this event, Client will not be charged for the time personnel were reassigned.

## 11. Schedules

The attached Schedules form part of and are included in this Agreement.

## 12. Warranties

12.1 The Company warrants that the Software System will perform the functions specified in the Documentation identified on Schedule 1. For a period of ninety (90) days after delivery, Company will promptly provide replacements or corrections to any part of the Software System which does not so perform where such failure is material and is notified in writing to Company within such period. This warranty shall not apply if the problem has been caused by unauthorized amendment to the Software System, or by incorrect Use. Company acknowledges that the Software System is designed to operate on the Computer System specified on Schedule 2 and both parties acknowledge that the warranties given by Company are conditional upon the procurement and maintenance by Client of the Computer System in accordance with such configuration.

12.2 The Company's obligation under the warranty stated in the foregoing paragraph shall be to repair or replace defective or non-conforming parts of the Software System at its own expense and within a reasonable time.

12.3 The Company warrants that it has the right to License the Use of the Software System.

12.4 Company warrants that the Services described in this Agreement shall be performed in a workmanlike manner and in accordance with standards applicable to the financial software services industry.

12.5 THE WARRANTIES STATED ABOVE ARE LIMITED WARRANTIES AND ARE THE ONLY WARRANTIES MADE BY COMPANY. COMPANY DOES NOT MAKE, AND CLIENT HEREBY EXPRESSLY WAIVES, ALL OTHER WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE STATED EXPRESS WARRANTIES ARE IN LIEU OF ALL LIABILITIES OR OBLIGATIONS OF COMPANY FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE DELIVERY, USE OR PERFORMANCE OF THE SOFTWARE SYSTEM.

## 13. Indemnity

13.1 Company shall indemnify Client and hold it harmless against any claim or action which alleges that the use of the Software System infringes a patent, copyright or other

proprietary right of a third person enforceable in the Location. Client agrees that it will notify Company promptly in writing of any such claim and grants Company sole right to control the defense and disposition of such claim.

13.2 If as a result of any such claim Company or Client is permanently enjoined from using the Software System by a final, nonappealable decree, Company at its sole option and expense may procure for Client the right to continue to use the Software System or at its sole option and expense, may provide a replacement or modification for the Software System so as to settle such claim. If modification of the Software System is not reasonably practical in the sole opinion of Company (reasonably given), Company shall discontinue and terminate this License upon written notice to Client and shall refund to Client all License Fees paid to Company under this Agreement. In making this determination, Company will give due consideration to all factors including financial expense.

13.3 The foregoing states the entire liability of Company for the infringement of any copyrights, patents or other proprietary rights of a third person by the Software System or any parts thereof, and Client hereby expressly waives any other liabilities on the part of Company arising therefrom.

13.4 The Company shall have no liability for any claim which is based upon

(a) the Use of any part of the Software System in combination with Materials or software not provided by Company; or

(b) modifications made by Client or any Third Party.

14. Limitation of Liability of the Parties

14.1 Each party shall indemnify and hold the other harmless against any

(a) loss of or any damage to any tangible property or

(b) injury to or death of any person;

caused by the negligence of, breach of statutory duty by, or willful misconduct of the indemnifying party's employees, agents, or sub-contractors.

14.2 COMPANY SHALL HAVE NO LIABILITY WITH RESPECT TO ITS OBLIGATIONS UNDER THIS AGREEMENT OR OTHERWISE FOR LOSS OF



GOODWILL, OR FOR SPECIAL, INDIRECT, CONSEQUENTIAL, OR INCIDENTAL DAMAGES, WHETHER IN TORT OR IN CONTRACT, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY EVENT, THE LIABILITY OF COMPANY TO CLIENT FOR ANY REASON AND UPON ANY CAUSE OF ACTION WHATSOEVER SHALL BE LIMITED TO THE AMOUNT OF ANY LICENSE FEE WHICH CLIENT HAS PAID TO COMPANY AS OF THE DATE ON WHICH SUCH CAUSE OF ACTION ACCRUES.

15. Title

15.1 Nothing in this agreement shall convey to Client any title to or any rights in the Software System including but not limited to all proprietary rights or ownership of any modifications. The Client's sole right in relation to the Software System or any modifications is to Use the same for the duration of this Agreement under the terms and conditions herein contained.

15.2 The Software System and all modifications, enhancements, or upgrades made to the Software System and all patents, copyrights, or other proprietary rights related to each of the above are the sole and exclusive property of Company, whether made by Company, Client, or any of their employees or agents.

16. Non-Disclosure

16.1 Company has granted Client the limited right to use the Software System as provided in this Agreement. Client acknowledges that

(a) the Software System, including all specifications, work product, translations and other materials developed by Company, and

(b) the terms and conditions of this Agreement

contain highly confidential, unique, secret and valuable information of Company. Client agrees that it shall not decompile, disassemble or reverse engineer the Software System and that it shall not sell, transfer, publish, disclose, display or otherwise make available to others the Software System, any materials relating to or forming a part of the Software System or any other proprietary information of Company without the prior written consent of Company. Client agrees to secure and protect the Software System and proprietary information and to take appropriate action by written agreement with its employees who are permitted access to such materials to satisfy its obligations hereunder. Client further agrees that it shall use its best

efforts to assist Company in identifying and preventing any use or disclosure of any portion of the Software System or proprietary information. As a precondition of Client's request to Company for consent to disclose the Software System, in whole or in part, to a Third Party, Client shall obtain from such party an executed Schedule 5. All obligations and undertakings of Client relating to confidentiality and nondisclosure, whether contained in this Section or elsewhere in this Agreement, shall survive the termination of this Agreement for any reason.

16.2 Company shall protect any Client Confidential Information from disclosure with the same degree of care afforded by Company to its own confidential information. All obligations and undertakings of Company specified herein with respect to Client Confidential Information shall survive the termination of this Agreement for whatever reason.

16.3 Client shall permit Company's authorized representatives at all reasonable times during Client's normal hours of operation to audit Client's Use at the Location to determine that the provisions of this Agreement are being faithfully performed. For that purpose, Company shall be entitled to enter into any of Client's premises and Client hereby irrevocably grants authority to Company and authorized representative to enter such premises for such purpose. Any such audit shall be conducted in such a manner as to minimize the disruption to Client's business and/or the Use of the Software System.

16.4 Client shall promptly notify Company if it becomes aware of any breach of confidence relating to the Software System or other Company proprietary information and give Company all reasonable assistance in connection with Company's investigation of same.

## 17. Termination

17.1 The termination of this Agreement shall automatically, and without further action by Company, terminate and extinguish the License, and all rights in and to the Software System shall automatically revert irrevocably to Company. Company shall have the right to take immediate possession of the Software System and all copies thereof wherever located without further notice or demand.

17.2 Client may terminate the Agreement in the event of a material default by Company that is not cured within the applicable cure period specified in this Agreement, or a reasonable cure period (with the minimum being thirty (30)

days if no other cure period is stated) from receipt by Company of written notice specifying the nature of the default with reasonable particularity.

- 17.3 If Client violates any of the Non-Disclosure, Non-Assignment, or License to Use provisions of this Agreement and fails to remedy any such breach within five (5) days of notice thereof from Company, Company may terminate this Agreement without further notice.
- 17.4 If Client violates or fails to perform any of the terms or conditions other than those specifically expressed in Sub-clause (17.3) and fails to remedy any such breach within thirty (30) days of notice thereof from Company, or if Client shall become insolvent or ceases to do business, then Company may give a written notice declaring this Agreement is terminated at the expiration of such notice period.
- 17.5 Exercise of the right of termination afforded to either party shall not prejudice legal rights or remedies either party may have against the other in respect of any breach of the terms of this Agreement.
- 17.6 Client's failure to pay on a timely basis is cause for termination of this agreement and the License.

18. Force Majeure

Neither party shall be responsible for delays or failures in performance resulting from acts reasonably beyond the control of that party.

19. Non-Assignment

- 19.1 In the event of the sale of fifty percent (50%) or more of Client's common stock, or the sale of all or substantially all of Client's assets, or in the event of any merger in which Client is not the surviving organization, Client may transfer this Agreement and the License upon the prior written consent of Company, which consent shall not be unreasonably withheld or delayed.
- 19.2 If the organization acquiring Client's common stock, assets or surviving a merger is an organization deriving more than five percent (5%) of its gross revenues from providing service bureau, time share, computer software consulting services, computer software licensing or computer hardware sales, Company shall be under no obligation to consent to such transfer.
- 19.3 Except as expressly provided above, neither party may assign

or transfer its rights, duties or obligations under this Agreement to any person or entity, in whole or in part, without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed.

## 20. Entire Agreement

20.1 This instrument constitutes the complete and exclusive statement of the Agreement between the parties as to the subject matter hereof and supersedes all previous agreements with respect thereto.

20.2 Each party hereby acknowledges that it has not entered into this Agreement in reliance upon any representation made by the other party but not embodied herein.

20.3 This Agreement may not be modified or altered except by a written instrument executed by both parties.

## 21. Variation

No variation of this Agreement shall be binding on either party unless such variation is incorporated in a revised Schedule to this Agreement and signed by the duly authorized representatives of both parties.

## 22. Notices

Any notice required to be given hereunder shall be given by sending the same

(a) by air courier to the addresses as first set out above or to any subsequent address designated by either party for the purpose of receiving notices pursuant to this Agreement, and any notice so sent shall be deemed to have been given three (3) business days after the same was mailed; or

(b) by confirmed facsimile.

## 23. Action

No action, regardless of form, arising out of this agreement shall be brought by Client more than two (2) years after such cause of action shall have accrued.

## 24. General Terms

24.1 In the event that a dispute arises concerning the terms of this Agreement the aggrieved party shall refer such dispute to arbitration as specified herein. Such arbitration shall

be held in the City or suburbs of Orlando, Florida, in accordance with the rules of the American Arbitration Association pertaining to the Resolution of Computer Disputes ("AAA Rules") then in effect. Judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction over the parties. The arbitrators shall have the authority to grant any legal remedies that would be available in any judicial proceeding instituted to resolve a disputed matter.

24.2 The prevailing party in an action brought against the other to enforce the terms of this Agreement or any rights or obligations hereunder, shall be entitled to receive its reasonable costs and expenses of bringing such action including its reasonable attorneys fees.

24.3 Company and Client agree that each provision in this Agreement is deemed equally essential to each party.

24.4 The section headings used herein are inserted only as a matter of convenience and for reference and shall not affect the construction or interpretation of this Agreement.

24.5 If any provision of this Agreement is held to be unenforceable, the other provisions shall nevertheless continue in full force and effect.

24.6 The failure of either of the parties to insist upon strict performance of any of the provisions of this Agreement shall not be construed as the waiver of any subsequent default of a similar nature.

IN WITNESS whereof this Agreement has been executed as of the Effective Date set forth on Page 1 by the following duly authorized representatives:

For and on behalf of Client

By: \s\ Ed Everts  
Title: Senior Vice President

For and on behalf of Company

By: \s\ Rosemary K. Hartman  
Title: President, CBS USA

FISERV

License and Service Agreement No. 3810163

SCHEDULE 1

Company: Fiserv

Client: Heartland Financial USA, Inc.

Effective Date: June 21, 1996

License Section

- A. Software System Based on Number of Accounts Processed No Limitations.
1. Software System based on the processing of Heartland Financial USA, Inc. and subsidiary's in which Heartland Financial USA, Inc. owns fifty-one percent (51%) or more of the preferred and/or common stock, herein released to as additional subsidiary/subsidiaries.
  2. The following modules of the FIServ Comprehensive Banking Systems software to function on the Computer System listed on Schedule 2.

CBS License Fees include:

Common File Subsystem  
CIF Subsystem  
General Ledger Subsystem  
Universal Loan Subsystem  
FTMS Subsystem  
Time Subsystem  
Transaction Subsystem  
ACH Subsystem  
Account Reconciliation Subsystem  
CBS Chargeback Subsystem  
Safe Deposit Subsystem  
Item Processing Interface  
InterVoice Interface (if Purchase Option exercised)  
ATM Positive Balance File  
DPSC Call Reporter II Interface  
Asset Liability Extract  
FAST Account Sales (22 workstations) (if Purchase Option exercised)

3. System Documentation which are Instruction Manuals for use of the Software System and for the completion of documents for the Software System, including one set of hard copy documentation.

B. Location:

1398 Central Avenue  
Dubuque, IA 52001

Archive Site: TBD

C. Total License Fee

| Modules   | License Fee |
|---|-------------|
| 1.: License Fee for the following subsidiaries: |             |

Dubuque Bank & Trust Company, Dubuque, IA  
First Community Bank, FSB - Keokuk, IA  
Galena State Bank, Galena, IL  
Riverside Community Bank, Rockford, IL

a: CBS License Fees include:

CBS Core  
Common File Subsystem  
CIF Subsystem  
General Ledger Subsystem  
Universal Loan Subsystem  
FTMS Subsystem  
Time Subsystem  
Transaction Subsystem  
ACH Subsystem  
Account Reconciliation Subsystem  
CBS Chargeback Subsystem

|                |           |
|----------------|-----------|
| CBS Core Total | \$225,000 |
|----------------|-----------|

|                                 |           |
|---------------------------------|-----------|
| b: Additional Products          | \$ 10,000 |
| Safe Deposit Subsystem          | \$ 10,000 |
| Item Processing Interface       | \$ 20,000 |
| ATM Positive Balance File       | \$ 5,000  |
| DPSC Call Reporter II Interface | \$ 10,000 |
| Asset Liability Extract         |           |

|   |                   |
|---|-------------------|
| c.  | Optional Products |
| (Pricing good for ten (10) business days from contract signing) |                   |
| Interinvoice Interface  | \$ 20,000         |
| FAST Account Sales  |                   |

|                               |           |
|-------------------------------|-----------|
| (22 license object code only) | \$ 31,900 |
| Total Additional Products     | \$106,900 |
| Total License Fee             | \$331,900 |

2.: Additional subsidiaries (as defined in Schedule 1.a.1:  
\$2,800 per month for each additional subsidiary.

D. License Fee Payment Timetable

The Amount Payable is due according to the following timetable:

D.1 For CBS Products listed in C.1.a and C.1.b

| Date | Event  | Amount Payable |
|------|--|----------------|
|      | Contract signing of products listed in C.1.a and C.1.b | 50%            |
|      | Upon delivery of CBS Core products listed in C.1.a     | 50%            |

D.2 For Optional Products in C.1.c

| Date | Event  | Amount Payable |
|------|--|----------------|
|      | Contract signing of products listed in C.1.c       | 50%            |
|      | Upon delivery of Optional Products listed in C.1.c | 50%            |

Professional Services Section

Workday 8 hours.

A. Professional Services Fees

Actual cost for professional Services Fees (excluding reasonable travel and living expenses) associated with the implementation and conversion for Heartland Financial USA, Inc.'s subsidiaries listed in Schedule 1.C.1 will not exceed \$276,000.

A flat daily equivalent rate for Professional Services during implementation and conversion: \$900 per FTE (full-time employee).



B. Professional Services Fees Payment Timetable

The Amount Payable is due according to the following timetable:

| Date | Event   | Amount Payable |
|------|---|----------------|
|      | Monthly invoicing for actual Professional Services rendered and reasonable travel and living expenses incurred. |                |

Maintenance Services Section

A. Maintenance Services

Effective Date for Maintenance Services only:

The term of Maintenance Services is seventy-two (72) months commencing at conversion of the first subsidiary in to a production environment.

Modules: (Same as Section A.1.)  
CBS Core Modules listed in Section C.1.a

Basic Maintenance:  
\$6,000

Special Maintenance:  
Additional license fees listed in C.1.b \$1,580

Annual Increase Amount:  
Shall be limited to the lesser of ten percent (10%) or the change in the U.S. Department of Labor, Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers, All Cities, (1982 = 100) for the twelve (12) month period preceding the anniversary date.

B. Maintenance Fee Payment Timetable

\$7,580 payable on the Effective Date above and monthly thereafter.

This Schedule 1 replaces all previous Schedule 1 forms for the Agreement as of the Execution Date noted below.

For and on behalf of Client

By: \s\ Ed Everts  
Title: Senior Vice President

For and on behalf of Company

By: \s\ Rosemary K. Hartman  
Title: President, CBS USA

Execution Date: June 30, 1996

FISERV

License and Service Agreement No. 3810163

Schedule 2 Third Party Hardware and  
Operating System Software

FISERV

License and Service Agreement No. 3810163

SCHEDULE 3 Business Requirements  
(To Be Agreed Upon Findings of the  
Operations Audit. This should  
include each party's  
responsibilities and a formal sign-  
off procedure.)

Company: Fiserv

Client: Heartland Financial USA, Inc.

Effective Date:

Description: Lundy Telleration Interface  
Responsibility: FISERV  
Estimated Man Days: 23 days  
Personnel Grades: Analyst/Programmer  
Estimated Cost: \$20,240  
Estimated Completion Date: 02/15/97

For and on Behalf of Client

By: \s\ Ed Everts  
Title: Sr. Vice President

For and on Behalf of Company  
By: \s\ Rosemary K. Hartman  
Title: President, CBS USA

FISERV  
License and Service Agreement No. 3810163

SCHEDULE 4 Preliminary Project Plan

Company FISERV  
Client Heartland Financial USA, Inc.

Effective Date: June 21, 1996

For and on Behalf of Client

By: \s\ Ed Everts  
Title: Senior Vice President

For and on Behalf of Company

By: \s\ John E. O'Malley  
Title: President, CBS USA

FISERV  
License and Service Agreement No. 3810163

SCHEDULE 5

#### CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

Witnesseth:

WHEREAS FIServ CIR, Inc. (hereinafter called the Company), is the owner and licensor of certain computer software, and WHEREAS, the Client has entered into a License Agreement for the use of the Company's Software System (as such items are defined therein), and

WHEREAS, the undersigned party (hereinafter called the "Consultant") desires access to certain confidential information of Company in order to fulfill its obligations to Client:

NOW THEREFORE, in consideration of Consultant's original and continuing access to Company's confidential information, Consultant agrees as follows:

For purposes of this Agreement, "Confidential Information" shall

mean information or material proprietary to the Company, which the Consultant develops or obtains knowledge or access through or as a result of the Consultant's relationship with the Company or its Client (including information conceived, originated, discovered or developed in whole or in part by the Consultant). The Confidential Information includes, but is not limited to, the following types of information (whether or not reduced to writing): discoveries, ideas, concepts, software in various stages of development, designs, drawings, specifications, techniques, models, data, source code, object code, documentation, diagrams, flow charts, research, development, processes, procedures, "know-how," marketing techniques and materials, marketing and development plans, customer names and other information related to customers, price lists, pricing policies and financial information. Confidential Information also includes any information described above which the Company obtains from another party and which it treats as proprietary or designates as Confidential Information. INFORMATION PUBLICLY KNOWN THAT IS GENERALLY EMPLOYED BY THE TRADE AT OR AFTER THE TIME THE CONSULTANT FIRST LEARNS OF SUCH INFORMATION, OR GENERIC INFORMATION OR KNOWLEDGE WHICH THE CONSULTANT WOULD HAVE LEARNED IN THE COURSE OF SIMILAR EMPLOYMENT OR WORK ELSEWHERE IN THE TRADE, SHALL NOT BE DEEMED PART OF THE CONFIDENTIAL INFORMATION.

All notes, materials or records, of any kind, in any way incorporating or reflecting any of the Confidential Information shall belong exclusively to the Company and the Consultant agrees to turn over all copies of such materials in its control to the Company upon request or upon termination of its assignment to the Company.

The Consultant agrees during its assignment to the Company's Client and thereafter to hold in confidence and not to directly or indirectly reveal, report, publish, disclose or transfer any of the Confidential Information to any person or utilize any of the Confidential Information for any purpose, except in the course of its work for the Company's Client.

The Consultant agrees that any inventions, ideas or original works of authorship in whole or in part conceived or made by the Consultant during or after the term of the Company's assignment to the Company's Client which are made through the use of any of the Confidential Information shall belong exclusively to the Company and shall be considered part of the Confidential Information for purposes of this Agreement whether or not fixed in a tangible medium of expression. Without limiting the foregoing, the Consultant agrees that any such original works of authorship shall be deemed to be "works made for hire" of which the Company shall be deemed the author, provided that in the event and to the extent such works are determined not to constitute "works made for hire" as a matter of law, the

Consultant hereby irrevocably assigns and transfers to the Company all rights, title, and interest in such works, including but not limited to Copyrights, patent rights, trade secrets industrial property rights, and moral rights and shall execute all documents reasonably requested by the Company for the purpose of registering such rights.

This Agreement shall be governed by and construed in accordance with the laws of Florida.

The Consultant agrees to the above terms, which terms constitute the entire agreement between the parties, and acknowledges receipt of a copy of this Agreement.

Consultant:

By: \s\ Ed Everts  
Name: Ed Everts  
Title: Senior Vice President  
Date: June 21, 1996

#### Software License Agreement

This LICENSE AGREEMENT numbered 3810163.01 is entered into as of the Effective Date below by and between Fiserv CIR, Inc., a Delaware corporation with offices located at 2601 Technology Drive, Orlando, FL 32804 ("Fiserv") and Heartland Financial USA, Inc., with offices located at 1398 Central Avenue, Dubuque, IA 52001 ("you").

Effective Date: June 21, 1996

Witnesseth:

WHEREAS, Fiserv is the licensor of the FAST software and associated documentation ("Software"), and  
WHEREAS, you wish to install and use the Software in your premises.

NOW, THEREFORE, the parties hereto agree from the Effective Date as follows:

#### 1. License to Use the Software

1.1 Fiserv hereby grants you the non-exclusive, perpetual right to use the number of copies of the Software as specified in Schedule 1. Each such copy may be used only on a single computer. The Software is in 'use' on a computer when loaded into temporary memory or installed into permanent memory of that computer. However, installation on a network server for the sole purpose of internal distribution shall

not constitute 'use' for which a separate license is required, provided you have a separate license for each computer to which the Software is distributed. You agree that access to the Software shall be given only to your employees on a need to know basis, and only after informing them of the terms and conditions relative to the use and disclosure of the Software and cause them to adhere to all such terms and conditions.

1.2 The Software is owned by Fiserv or its suppliers and is protected by United States copyright laws and international treaty provisions and other applicable national laws. You shall have no rights to the Software or any copies thereof, except for the right to use the Software as described in this Agreement.

1.3 You agree you will not:

(a) make additional copies of the Software except for one 1) archival or back-up copy;

(b) use the Software in a computer service business, network, timesharing, multiple CPU or multiple user arrangement, or otherwise disclose or allow the Software to be used by or for the benefit of any third party;

(c) alter, decompile, disassemble, reverse engineer, or otherwise modify the Software, and/or merge the Software with another software product or program;

(d) convey any rights of use or otherwise in or to the Software to any third party;

(e) make any translations of the Software;

(f) make telecommunications or data transmissions of the Software; or

(g) remove any copyright or proprietary rights notices placed upon or within the Software.

2. Payment

2.1 Any taxes applicable to the subject matter of this Agreement shall be your responsibility.

2.2 Payments of license fees, annual maintenance fees, or other fees as specified in Schedule 1 are due upon receipt of the invoice.

2.3 If the whole or any part of any invoice remains outstanding for thirty (30) days or more, you agree to pay a financial charge calculated at the rate of one and one half percent (1-1/2%) per part or complete month on the overdue balance.

### 3. Warranties

3.1 Fiserv warrants that the Software will perform in substantial accordance with its functional specifications when operated in the specified operating environment as described in the documentation. Fiserv will provide replacements or corrections to any part of the Software that does not so perform where such failure is material, provided Fiserv is notified in writing. This warranty shall not apply if the problem is caused by unauthorized modification to the Software or by incorrect use.

3.2 Fiserv's obligation under the warranty stated in the foregoing paragraph shall be to repair or replace defective or non-conforming parts of the Software at its own expense and within a reasonable time.

3.3 Fiserv warrants that it has the right to license the use of the Software.

3.4 THE WARRANTY STATED ABOVE IS A LIMITED WARRANTY AND IT IS THE ONLY WARRANTY MADE BY FISERV. FISERV DOES NOT MAKE, AND YOU HEREBY EXPRESSLY WAIVE, ALL OTHER WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE STATED EXPRESS WARRANTY IS IN LIEU OF ALL LIABILITIES OR OBLIGATIONS OF FISERV FOR DAMAGES ARISING OUT OF THE USE OR PERFORMANCE OF THE SOFTWARE.

### 4. Indemnity

4.1 Fiserv shall indemnify you and hold you harmless against any claim or action that alleges use of the Software infringes a patent, copyright, or other proprietary right of a third person. Such indemnity is conditioned on you providing prompt written notification to Fiserv of any such claim and granting Fiserv sole right to control the defense and disposition of such claim.

4.2 If as a result of any such claim you or Fiserv is permanently enjoined from using the Software by a final, nonappealable decree, Fiserv at its sole option and expense, may procure for you the right to continue to use the Software, or at its sole option and expense, may provide a replacement or modification for the Software so as to settle such claim. If modification of the Software is not reasonably practical in Fiserv's sole opinion, Fiserv shall

discontinue and terminate this license upon notice to you and shall refund to you all license fees paid to Fiserv under this Agreement. In making this determination, Fiserv will give due consideration to all factors including financial expense.

4.3 The foregoing states the entire liability of Fiserv for the infringement of any copyrights, patents, or other proprietary rights of a third person by the Software or any parts thereof. You hereby expressly waive any other liabilities on the part of Fiserv arising therefrom.

4.4 Fiserv shall have no liability for any claim that is based upon:

(a) the use of any part of the Software in combination with materials, software, or equipment not provided by Fiserv; or

(b) modifications made by you or any third party.

5. Limitation of Liability of the Parties

5.1 Each party shall indemnify and hold the other harmless against any: (a) loss of or damage to any tangible property; or (b) injury to or death of any person; caused by the negligence of, breach of statutory duty by, or willful misconduct of the indemnifying party's employees, agents, or sub-contractors.

5.2 FISERV SHALL HAVE NO LIABILITY WITH RESPECT TO ITS OBLIGATIONS UNDER THIS AGREEMENT OR OTHERWISE FOR LOSS OF GOODWILL, OR FOR SPECIAL, INDIRECT, CONSEQUENTIAL, OR INCIDENTAL DAMAGES, WHETHER IN TORT OR IN CONTRACT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY EVENT, FISERV'S LIABILITY FOR ANY REASON AND UPON ANY CAUSE OF ACTION WHATSOEVER SHALL BE LIMITED TO THE AMOUNT OF ANY LICENSE FEE PAID TO FISERV AS OF THE DATE ON WHICH SUCH CAUSE OF ACTION ACCRUES.

6. Non-Disclosure

6.1 Fiserv has granted you the limited right to use the Software as provided in this Agreement. You acknowledge that the Software, including all specifications, work product, translations, and other materials developed by Fiserv contains highly confidential, unique, secret, and valuable information of Fiserv. You agree not to make available to others the Software, any materials relating to or forming a part of the Software, or any other proprietary information of Fiserv. You agree to secure and protect the Software and



proprietary information and to take appropriate action by written agreement with your employees permitted access to such materials to satisfy your obligations hereunder. You further agree to use your best efforts to assist Fiserv in identifying and preventing any use or disclosure of any portion of the Software or proprietary information. Your obligations relating to confidentiality and nondisclosure shall survive the termination of this Agreement for any reason.

- 6.2 You will permit Fiserv's authorized representatives at all reasonable times during your normal hours of operation to audit your use of the Software to determine that the provisions of this Agreement are being faithfully performed. Any such audit shall be conducted in such a manner as to minimize the disruption to your business.
- 6.3 You shall promptly notify Fiserv if you become aware of any breach of confidence relating to the Software or other Fiserv proprietary information and give Fiserv all reasonable assistance in connection with Fiserv's investigation of same.

## 7. Termination

- 7.1 This Agreement shall remain in effect until terminated. Upon termination, without further action by Fiserv, all rights in and to the Software by you shall terminate and shall automatically revert irrevocably to Fiserv. Fiserv shall have the right to take immediate possession of the Software and all copies thereof wherever located without further notice or demand.
- 7.2 You may terminate this Agreement in the event of a material default by Fiserv not cured within a reasonable cure period (with the minimum being thirty (30) days if no other cure period is stated) after notice to Fiserv specifying the nature of the default with reasonable particularity.
- 7.3 If you violate any of the non-disclosure, non-assignment, or license to use provisions of this Agreement and fail to remedy any such breach within five (5) days of notice thereof from Fiserv, Fiserv may terminate this Agreement without further notice.
- 7.4 If you violate or fail to perform any of your obligations other than those specifically expressed in Sub-section 7.3 and fail to remedy any such breach within thirty (30) days of notice thereof by Fiserv, or if you become insolvent or cease to do business, then Fiserv may give notice declaring this Agreement is terminated at the expiration of such

notice period.

7.5 Exercise of either party's right of termination shall not prejudice legal rights or remedies either party may have against the other in respect of any breach of this Agreement.

7.6 Your failure to pay any fees due on a timely basis is cause for termination of this Agreement.

## 8. Maintenance

8.1 Annual Maintenance fees shall be based upon Fiserv's then current single copy license fee and will be invoiced thirty (30) days following the Effective Date. The following maintenance services will be provided:

(a) Telephone support during normal business hours (8:30 a.m. to 5:00 p.m. EST) for reasonable operator support.

(b) On-site support and training when requested at Fiserv's then current hourly rate.

(c) Program fixes to correct Software non-conformities with the functional specifications within a reasonable period of time upon notice.

(d) Software updates as released by Fiserv. If you so request, Fiserv shall install such updates at Fiserv's then current hourly rate.

Maintenance services selected by you shall be described on Schedule 1.

8.2 Fiserv shall not be required to provide maintenance services occasioned by improper use or unauthorized modifications of the Software. When you so request, Fiserv will attempt to restore the Software to proper working order at Fiserv's then current hourly rate.

8.3 You will reimburse Fiserv for reasonable travel and living expenses when maintenance and other services rendered herein so requires.

8.4 Fiserv shall give you thirty (30) days notice of Maintenance Fee increases unless provided otherwise.

## 9. Non-Assignment

9.1 Neither party may assign or transfer its rights, duties, or

obligations under this Agreement to any person or entity, in whole or in part, without the prior written consent of the other party, except that Fiserv may assign this Agreement to an affiliate.

## 10. Entire Agreement

10.1 This Agreement constitutes the complete and exclusive statement of the agreement between the parties as to the subject matter hereof and supersedes all previous agreements with respect thereto. This Agreement may not be amended or modified except by a written instrument executed by both parties.

10.2 Each party hereby acknowledges that it has not entered into this Agreement in reliance upon any representation made by the other party but not embodied herein.

## 11. Notices

11.1 Any notice required or permitted to be given hereunder shall be given in writing by (a) air courier to the addresses set out above (or to any subsequent address designated by either party for the purpose of receiving notices); or (b) confirmed facsimile.

## 12. Action

12.1 No action, regardless of form, arising out of this Agreement may be brought more than two (2) years after such cause of action has accrued.

## 13. General Terms

13.1 Except for disputes relating to intellectual property rights or confidential information, both parties agree to arbitrate disputes arising under this Agreement using the services of the American Arbitration Association in Florida, with all decisions by the arbitrator final. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction.

13.2 The prevailing party in an action brought against the other to enforce the terms of this Agreement or any rights or obligations hereunder, shall be entitled to receive its reasonable costs, expenses, and attorneys' fees of bringing such action.

13.3 The section headings used herein are inserted only as a matter of convenience and for reference and shall not affect the construction or interpretation of this Agreement.

- 13.4 Neither party shall be responsible for delays or failures in performance resulting from acts reasonably beyond the control of that party.
- 13.5 This Agreement shall be governed by and construed in accordance with the laws of the State of Florida without regard to principles of conflicts of law.
- 13.6 If any provision of this Agreement is held to be unenforceable or invalid, the other provisions shall nevertheless continue in full force and effect.
- 13.7 The failure of either of the parties to insist upon strict performance of any of the provisions of this Agreement shall not be construed as the waiver of any subsequent default of a similar nature.
- 13.8 The attached Schedules form part of and are included in this Agreement:

Schedule 1 - Licensed Module(s), Term, Amount/ Maintenance and Professional Services

Schedule 2 - Implementation Summary

IN WITNESS whereof this Agreement has been executed as of the Effective Date by the following duly authorized representatives:

For and on behalf of Financial Institution

By: \s\ Ed Everts  
Title: Senior Vice President

For and on behalf of Fiserv

By: \s\ Rosemary K. Hartman  
Title: President, CBS USA

#### PROFESSIONAL SERVICES AGREEMENT

This PROFESSIONAL SERVICES AGREEMENT numbered 3810163 is entered into as of the Effective Date set forth below by and between

Fiserv

a Corporation whose registered office is located at

2601 Technology Drive  
Orlando, FL 32804

(hereinafter called 'Company') and

Heartland Financial USA, Inc.

whose registered office is located at

1398 Central Avenue  
Dubuque, Iowa 52001

(hereinafter called 'Client')

This Agreement shall be construed and enforced under the laws of Florida

Effective Date: June 21, 1996

## 1. Definitions

In this Agreement, the following terms shall have the following meanings:

- 1.1 'Business Requirements' means the description of the Client's business needs and the functionality required.
- 1.2 "Client Confidential Information" means any confidential information concerning Client's business, that is labeled as such and all data pertaining to Client's customers.
- 1.3 'Computer System' means that dedicated computer machinery and manufacturer-supplied software identified in the License Agreement.
- 1.4 'Effective Date' means the date identified as such in this Agreement as the date upon which this Agreement shall commence.
- 1.5 'Fees' means the greater of the sums of amounts derived by multiplying either the minimum number of days specified on Schedule(s) 1 or the number of days or fractions of days worked within each grade by the daily fee rate as defined on the Schedule(s) 1.
- 1.6 'Functional Specifications' means the description of the detailed functionality changes to product, account and customer level processing.
- 1.7 'License Agreement' means that Agreement between Client and Company governing use of the Software System and as

identified on Schedule 1.

1.8 'Location' means those premises specified on Schedule 1.

1.9 'Software System' means that Software System identified in the License Agreement.

1.10 'Specification Nonconformity' means a failure of the modified Software System to operate in accordance with the Functional Specifications.

1.11 'Taxes' means all sales, use, excise, value added, and other taxes and duties however designated which are levied by any taxing authority having jurisdiction over the Location. Taxes shall not include any levies by any taxing authority which are based upon the net income of Company.

1.12 'Third Party' means any party other than Company's employees or subcontractors and Client.

1.13 'Use' means copying or loading any portion of the Software System from storage units or media into any equipment for the processing of data by the Software System once so loaded, or the operation of any procedure or machine instruction utilizing any portion of either the computer program or instructional material supplied with the Software System. Use is deemed to occur at the location where any of the above processes happen. Use is limited to type of operations described in Company documentation solely to process Client's own work and that of majority-owned financial institutions. Use specifically excludes any service bureau or time-share services to minority-owned or unaffiliated third parties without prior written consent by Company and payment by Client of additional fees in accordance with mutually agreed terms.

## 2. Agreement to Provide Professional Services

2.1 In consideration of the payment to Company by Client of the Fees and the cost of all items and services provided and any other expenses incurred by Company in connection with this Agreement, as defined on Schedule(s) 1, Company hereby agrees to provide personnel of the grades, and between the dates specified on Schedule(s) 1 to work on behalf of Client in accordance with the terms and conditions set out below.

2.2 All work which is to be performed by Company hereunder shall be based upon the preliminary Business Requirements listed on Schedule 2. Client shall utilize Schedule 2 to provide Company with all necessary information concerning its requirements for modifications to the Software System or

other information requested by Company related to Company's performance of its obligations under this Agreement. Any estimates of costs and completion dates listed on the Schedules are referenced solely for the purpose of allowing Client to plan its budgets and schedules based upon the then available information.

- 2.3 Company shall provide a Preliminary Project Plan based upon the Business Requirements which shall be incorporated as Schedule 3 when appropriate. Schedule 3 shall contain a preliminary listing of the nature and timing of tasks for the project, some of which are to be performed by Company and some by Client. Company shall utilize reasonable efforts to meet the dates set forth in the Project Plan or any replacement thereof.
- 2.4 In the event that Company is to provide installation, conversion or training to Client for the Software System, the fees therefore shall be as specified on Schedule 1. The nature and timing of any installation, conversion and training shall be as specified in the Project Plan mutually agreed upon by the parties.
- 2.5 In the event that Company is to provide modifications to the Software System, the modifications shall be based upon specifications created by Company and approved by Client as provided below:

(i) During the phase referred to on the Project Plan as "Functional Specifications," Company may develop Functional Specifications based upon the descriptions contained on Schedule 2 for Client's written approval. Company shall not be obligated to perform any further development work until Specifications have been accepted in writing by Client which acceptance shall not be unreasonably withheld or unduly delayed.

(ii) Modifications, changes, enhancements, conversions, upgrades or additions to the Software System beyond those stated in the Functional Specifications shall be added only upon mutual written agreement. In the event the parties agree to add any such items, the Project Plan shall automatically be modified to the extent necessary to allow for the implementation or provision of the items.

(iii) The Project Plan shall also set forth the time period after the acceptance of the Functional Specifications within which Company shall prepare "Functional Specifications" including an acceptance test script for the adaptations described therein.

After Client's written acceptance of the Functional Specifications, which acceptance shall not be unreasonably withheld or delayed, Company shall commence activities to modify the Software System for use by Client in accordance with the Project Plan.

(iv) The Software System adaptations shall be deemed to have been accepted by Client either upon the completion of a formal Acceptance Test (as set forth in the test scripts) or 30 days after delivery of the modified Software System, whichever occurs first. Acceptance by Client will not be unreasonably withheld or unduly delayed. Client agrees promptly to notify Company in writing (and with reasonable particularity) upon conclusion of the Acceptance Test or earlier upon discovery of any Specification Nonconformities disclosed by such testing or use. Company shall correct any Specification Nonconformities disclosed by such testing without further charge to Client within a reasonable time of Client's notice.

### 3. Use Of And Rights To Company's Work Product

All information, reports, studies, object or source code, flow charts, diagrams and other tangible or intangible material of any nature whatsoever produced by or as a result of any of the services performed hereunder shall be the sole and exclusive property of Company or its corporate parent. Client shall be entitled to Use all such work product produced by Company in accordance with the terms and conditions of the License Agreement. Nothing contained in this Agreement shall be deemed to provide greater rights with respect to the Software System, as modified for Client's use herein, than those provided in the License Agreement.

### 4. Warranties

4.1 Company warrants that the Services described in this Agreement shall be performed in a workmanlike manner and in accordance with standards applicable to the financial software services industry.

4.2 No warranty, condition, undertaking or term, statutory or otherwise, is given or to be implied as to the suitability, condition, quality, performance, or merchantability of goods supplied for any particular purpose or for use under any specific conditions, notwithstanding that such purpose or condition may be known or made known to Company and all such warranties, condition, undertakings, or terms are hereby nullified and excluded.



## 5. Rescheduling

If Client is unable to provide access to required facilities or personnel or is unable to meet its tasks assigned on Schedules 2 and 3 in a timely manner, Company will endeavor to reschedule tasks to minimize the non-productive time arising. All such non-productive time is chargeable to Client. If such non-productive time is expected to be significant, Company will endeavor to reassign its personnel to other suitable work. In this event, Client will not be charged for the time personnel were reassigned.

## 6. Fees

6.1 The fees are based on a workday as defined on Schedule(s) 1. Additional fees may be raised in respect of hours worked outside these at the request of Client at the rates previously agreed in writing by Client.

6.2 If support is primarily required in part days, Company may notify Client that an hourly fee rate shall apply. The hourly rate will be calculated pro-rata of the stated daily rate unless otherwise agreed.

6.3 The daily rates quoted in the table will be valid for three months from the effective date listed on the relevant Schedule 1. Thereafter, they will be subject to change by Company on one-month's notice.

6.4 A higher fee may be applied for an individual whose support to Client has advanced to a new job grade or after one month's notice if his general development warrants a job upgrade by Company.

## 7. Payment of Fees and Expenses

7.1 Company shall add to each invoice and Client shall pay any Taxes applicable to the Services.

7.2 Except as expressly provided in this Agreement to the contrary, Client agrees to pay the reasonable travel and living expenses (including any duties or tariffs but excluding any employment taxes imposed by the country governing the Location) of any employees of Company and its authorized contractors who render services at either the Location or any other Client site in connection with the activities described in this Agreement. All expenses shall be itemised on invoices submitted by Company and shall be due and payable upon presentation of each invoice as provided herein.

- 7.3 Each payment to be made to Company under this Agreement shall be paid by Client, in funds as specified on Schedule 1, within fifteen (15) days of the date of an invoice in respect thereof and the time of payment shall be of the essence of this Agreement.
- 7.4 Invoices will be raised monthly by Company or at such less frequent intervals as it decides in its discretion.
- 7.5 If the whole or any part of any invoice remains outstanding for 30 days or more, Client agrees to pay an agreed financial charge calculated at the rate of one and one-half percent (1-1/2%) per part or complete month on the overdue balance, and in addition, Company may at its sole option terminate this Agreement. Company shall pay the same financial charge on the amount of any credit due to Client for sums previously paid by Client which were the subject of a dispute resolved in Client's favor.

## 8. Limitation of Liability of the Parties

- 8.1 Each party shall indemnify and hold the other harmless against any

(a) loss of or any damage to any tangible property or

(b) injury to or death of any person; caused by the negligence of, breach of statutory duty by, or willful misconduct of the indemnifying party's employees, agents, or sub-contractors.

- 8.2 Company shall have no liability with respect to its obligations under this agreement or otherwise for loss of goodwill, or for special, indirect, consequential, or incidental damages, whether in tort or in contract, even if it has been advised of the possibility of such damages. In any event, the liability of Company to Client upon any cause of action, not including an infringement action, shall be limited to the amount of any Professional Services Fee which Client has paid to company in the twelve-month period prior to the date on which such cause of action accrued. Notwithstanding the above, the Company's liability with respect to infringement actions is set forth in Section 18.

## 9. Termination

- 9.1 Client may terminate this Agreement after payment of the fees in full by giving one month prior notice in writing to Company provided always that termination under this sub-clause shall not prevent Company from recovering any

outstanding fees and expenses.

- 9.2 Client may within one month of receipt of a notice by Company of a fee increase elect to terminate the Agreement as of the date upon which the fee increase takes effect.
- 9.3 Client may terminate the Agreement in the event of a material default by Company that is not cured within the applicable cure period specified in this Agreement, or a reasonable cure period (with the minimum being thirty (30) days if no other cure period is stated) from receipt by Company of written notice specifying the nature of the default with reasonable particularity.
- 9.4 If Client violates or fails to perform any of the terms or conditions of this Agreement and fails to remedy any such breach within thirty (30) days of notice thereof from Company, or if Client shall become insolvent, then Company may give a written notice declaring this Agreement is terminated at the expiration of such notice period.
- 9.5 Exercise of the right of termination afforded to either party by this Agreement shall not prejudice legal rights or remedies either party may have against the other in respect of any breach of the terms of this Agreement.

## 10. Non-Disclosure

### 10.1 Client acknowledges that

(a) the Software System, including all specifications, work product, translations and other materials developed by Company under this Agreement, and

(b) the terms and conditions of this Agreement

contain highly confidential, unique, secret and valuable information of Company. Client agrees that it shall not decompile, disassemble or reverse engineer the Software System and that it shall not sell, transfer, publish, disclose, display or otherwise make available to others the Software System, any materials relating to or forming a part of the Software System or any other proprietary information of Company without the prior written consent of Company. Client agrees to secure and protect the Software System and proprietary information and to take appropriate action by written agreement with its employees who are permitted access to such materials to satisfy its obligations hereunder. Client further agrees that it shall use its best efforts to assist Company in identifying and preventing any use or disclosure of any portion of the Software

System or proprietary information. As a precondition of Client's request to Company for consent to disclose the Software System, in whole or in part, to a Third Party, Client shall obtain from such party an executed Schedule 4. All obligations and undertakings of Client relating to confidentiality and nondisclosure, whether contained in this Section or elsewhere in this Agreement, shall survive the termination of this Agreement for any reason.

10.2 Company shall protect any Client Confidential Information from disclosure with the same degree of care afforded by Company to its own confidential information. All obligations and undertakings of Company specified herein with respect to Client Confidential Information shall survive the termination of this Agreement for whatever reason.

10.3 Client shall permit Company's authorized representatives at all reasonable times during Client's normal hours of operation to audit Client's Use at the Location to determine that the provisions of this Agreement are being faithfully performed. For that purpose, Company shall be entitled to enter into any of Client's premises and Client hereby irrevocably grants authority to Company and authorized representative to enter such premises for such purpose. Any such audit shall be conducted in such a manner as to minimize the disruption to Client's business and/or the Use of the Software System.

10.4 Client shall promptly notify Company if it becomes aware of any breach of confidence relating to the Software System or other Company proprietary information and give Company all reasonable assistance in connection with Company's investigation of same.

## 11. Non Recruitment

For the duration of this Agreement and for one (1) year thereafter, neither party shall recruit nor employ any personnel employed by the other party and introduced in connection with the performance of this Agreement or otherwise discourage such personnel from continuing their employment with the other party without the prior written consent of the other party.

## 12. Force Majeure

Neither party shall be responsible for delays or failures in performance resulting from acts reasonably beyond the control of that party.

### 13. Variation

No variation of this Agreement shall be binding on either party unless such variation is in writing and signed by the duly authorized representatives of both parties.

### 14. Notices

Any notice required to be given hereunder shall be given by sending the same

(a) by air courier to the addresses as first set out above, or to any subsequent address designated by either party for the purpose of receiving notices pursuant to this Agreement, and any notice so sent shall be deemed to have been given three (3) business days after the same was mailed; or

(b) by confirmed facsimile.

### 15. Entire Agreement

15.1 No action, regardless of form, arising out of this agreement, shall be brought by Client more than two (2) years after such cause of action shall have accrued.

15.2 This instrument constitutes the entire Agreement between the parties on the subject matter hereof and supersedes all previous agreements, arrangements and undertakings with respect thereto.

15.3 Each party hereby acknowledges that it has not entered into this Agreement in reliance upon any representation made by the other party and not embodied herein.

### 16. Schedules

The attached Schedules form part of and are included in this Agreement.

### 17. General Terms

17.1 In the event that a dispute arises concerning the terms of this Agreement the aggrieved party shall refer such dispute to arbitration as specified herein. Such arbitration shall be held in the City or suburbs of Orlando, Florida, in accordance with the rules of the American Arbitration Association pertaining to the Resolution of Computer Disputes ("AAA Rules") then in effect. Judgment upon the

award rendered by the arbitrators may be entered in any court having jurisdiction over the parties. The arbitrators shall have the authority to grant any legal remedies that would be available in any judicial proceeding instituted to resolve a disputed matter.

- 17.2 The prevailing party in an action brought against the other to enforce the terms of this Agreement or any rights or obligations hereunder, shall be entitled to receive its reasonable costs and expenses of bringing such action including its reasonable attorneys fees.
- 17.3 Company and Client agree that each provision in this Agreement is deemed equally essential to each party.
- 17.4 The section headings used herein are inserted only as a matter of convenience and for reference and shall not affect the construction or interpretation of this Agreement.
- 17.5 If any provision of this Agreement is held to be unenforceable, all other provisions will nevertheless continue in full force and effect.
- 17.6 The failure of either of the parties to insist upon strict performance of any of the provisions of this Agreement shall not be construed as the waiver of any subsequent default of a similar nature.

## 18. Indemnity

- 18.1 Company shall indemnify Client and hold it harmless against any claim or action which alleges that the use of the modifications to the Software System supplied hereunder infringes a patent, copyright or other proprietary right of a third person enforceable in the Location. Client agrees that it will notify Company promptly in writing of any such claim and grants Company sole right to control the defense and disposition of such claim.
- 18.2 If as a result of any such claim Company or Client is permanently enjoined from using the modifications to the Software System by a final non-appealable decree, Company at its sole option and expense may procure for Client the right to continue to use the modifications or at its sole option and expense, may replace or change the modifications so as to settle such claim. If replacement or change of the modifications is not reasonably practical in the sole opinion of Company (reasonably applied), after giving due consideration to all factors including financial expense, Company shall discontinue Client's license to use such modifications upon written notice to Client and shall refund

to Client all professional services fees related to such infringing modifications paid to Company under this Agreement. The foregoing states the entire liability of Company with respect to infringement of any copyrights, patents or other proprietary rights of a third party by the modifications to the Software System, and Client hereby expressly waives any other such liabilities. This indemnity shall not apply to any modifications made to the Software System by or on behalf of Client, unless the modifications are made or approved by Company personnel nor shall the indemnity apply to an infringement which arises out of the use by Company of Client supplied proprietary information.

IN WITNESS whereof this Agreement has been executed as of the Effective Date set forth on Page 1 by the following duly authorized representatives:

Signed for and on Behalf of Company

By: \s\ Ed Everts  
Title: Senior Vice President

Signed for and on Behalf of Client

By: \s\ Rosemary K. Hartman  
Title: President, CBS USA

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