

**#2010-077**

AGREEMENT BY AND BETWEEN  
The National Republic Bank of Chicago  
Chicago, Illinois  
and  
The Comptroller of the Currency

The National Republic Bank of Chicago, Chicago, Illinois (“Bank”) and the Comptroller of the Currency of the United States of America (“Comptroller”) wish to protect the interests of the depositors, other customers, and shareholders of the Bank, and, toward that end, wish the Bank to operate safely and soundly and in accordance with all applicable laws, rules and regulations.

The Comptroller has found unsafe and unsound banking practices relating to concentrations of credit, liquidity, and wholesale funding maturities at the Bank.

In consideration of the above premises, it is agreed, between the Bank, by and through its duly elected and acting Board of Directors (“Board”), and the Comptroller, through his authorized representative, that the Bank shall operate at all times in compliance with the articles of this Agreement.

ARTICLE I

JURISDICTION

(1) This Agreement shall be construed to be a “written agreement entered into with the agency” within the meaning of 12 U.S.C. § 1818(b)(1).

(2) This Agreement shall be construed to be a “written agreement between such depository institution and such agency” within the meaning of 12 U.S.C. § 1818(e)(1) and 12 U.S.C. § 1818(i)(2).

(3) This Agreement shall be construed to be a “formal written agreement” within the meaning of 12 C.F.R. § 5.51(c)(6)(ii). See 12 U.S.C. § 1831i.

(4) This Agreement shall be construed to be a “written agreement” within the meaning of 12 U.S.C. § 1818(u)(1)(A).

(5) Pursuant to 12 C.F.R. §5.51(c)(6)(ii), the Bank shall be subject to the requirements of 12 C.F.R. § 5.51, unless otherwise informed in writing by the Comptroller. Pursuant to 12 C.F.R. § 5.3(g)(4), the Bank shall not be “eligible” unless otherwise informed in writing by the Comptroller.

(6) All reports or plans which the Bank or Board has agreed to submit to the Assistant Deputy Comptroller pursuant to this Agreement shall be forwarded to the:

Assistant Deputy Comptroller  
Chicago North Field Office  
Two Century Centre--Suite 800  
1700 East Golf Road  
Schaumburg, Illinois 60173

## ARTICLE II

### WHOLESALE FUNDING MATURITIES

(1) By July 31, 2010, the Board shall lengthen, properly ladder, and continuously maintain the weighted average remaining maturity (“WARM”) of the Bank’s brokered deposits at 30 months. For purposes of this Agreement, the term “brokered deposits” is defined in the Instructions for Preparation of Consolidated Reports of Financial Condition (“Call Report Instructions”). WARM is calculated by multiplying the amount of each brokered deposit by the number of months until its maturity, and then summing the total of those calculations and

dividing by the total amount of brokered deposits.<sup>1</sup> Within 10 days, Bank policy shall be amended to reflect the requirements of this Article, including provisions for properly managing the associated interest rate risk. Upon amendment of the policy, the Board shall submit the policy to the Assistant Deputy Comptroller for review.

(2) To ensure that satisfactory progress is made between now and the commitment date, the WARM brokered deposits shall be:

- (a) 27 months by April 1, 2010; and
- (b) 30 months by July 31, 2010.

(3) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the program and procedures developed pursuant to this Article.

### ARTICLE III

#### LIMITATION ON BROKERED DEPOSITS

(1) Within 10 days, the Board will adopt and implement a program to reduce the bank's reliance on brokered deposits, by December 31, 2010, to no more than 60% of the Bank's total liabilities. The limitation of this paragraph shall include the acquisition of brokered deposits through any transfer, purchase, or sale of assets, including Federal funds transactions.

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<sup>1</sup> For example, if the Bank's brokered deposits consisted of two \$10MM CDs, (one maturing in 1 month and 1 maturing in 12 months), the WARM would be 6.5 months calculated as follows:

$$\begin{aligned} & 10\text{MM times 1 month equals } 10\text{MM} \\ + & 10\text{MM times 12 months equals } 120\text{MM} = \\ & 130\text{MM divided by } 20\text{MM (} 10\text{MM} + 10\text{MM)} = 6.5 \text{ months WARM.} \end{aligned}$$

(2) To ensure that satisfactory progress is made between now and the commitment date, brokered deposits shall be:

- (a) no more than 65% of the bank's total liabilities by July 31, 2010, and
- (b) no more than 60% of the bank's total liabilities by December 31, 2010.

(3) If the Bank seeks to acquire brokered deposits above the level in paragraph (1) of this Article, the Board shall apply to the Assistant Deputy Comptroller for written permission.

Such application shall contain, at a minimum, the following:

- (a) the dollar volume, maturities, and cost of the brokered deposits to be acquired;
- (b) the proposed use of the brokered deposits, i.e., short-term liquidity or restructuring of liabilities to reduce cost;
- (c) alternative funding sources available to the Bank; and
- (d) the reasons why the Bank believes that the acceptance of the brokered deposits

does not constitute an unsafe and unsound practice in its particular circumstances.

(4) The Assistant Deputy Comptroller may require the submission of such additional information as necessary to make an informed decision. Upon consideration of the Bank's application, the Assistant Deputy Comptroller will determine whether the proposed acquisition of brokered deposits may be accomplished in a safe and sound manner and may condition the Bank's acquisition as the Assistant Deputy Comptroller shall deem appropriate.

(5) Nothing in this article shall relieve the Bank of its obligation under 12 U.S.C. § 1831f to seek necessary approvals from the Federal Deposit Insurance Corporation before accepting brokered deposits and to comply with all the requirements of 12 U.S.C. § 1831f.

## ARTICLE IV

### ASSET-BASED LIQUIDITY

(1) Within 60 days, the Board shall continuously maintain readily liquid assets at an amount that at least equals 11% of total assets (as defined in the Call Report Instructions). For purposes of this Article, “readily liquid assets” means cash and cash equivalents, deposits at insured depository institutions, and U.S. government securities and securities of U.S. government agencies available for outright sale or sale under agreement to repurchase. “Readily liquid assets” shall not include any assets encumbered or pledged by lien, right of setoff, preference, or otherwise, or any other asset pledged as security in any transaction with any party with the exception of up to 5.5% of total assets that may be pledged to the Federal Reserve Bank or the Federal Home Loan Bank as available lines of credit.

(2) In monitoring compliance with the requirements of paragraph (1), the Bank shall take into consideration possible future losses on depreciated securities.

(3) Within 30 days, Bank policy shall be amended to reflect the requirements of this Article. Upon amendment of the policy, the Board shall submit the policy to the Assistant Deputy Comptroller for review.

(4) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the program and procedures developed pursuant to this Article.

## ARTICLE V

### CONCENTRATIONS OF CREDIT

(1) Within 60 days, the Board shall adopt, implement, and thereafter ensure Bank adherence to a written asset diversification program consistent with the “Loan Portfolio

Management” booklet of the Comptroller's Handbook. The program shall include, but not necessarily be limited to, the following:

- (a) an analysis of the risk of each of the Bank's concentrations of credit, including but not limited to the Bank’s concentration identified in the Report of Examination for the examination that started August 31, 2009 and a determination as to whether the risks of each concentration is imprudent;
- (b) establishment of limits for the concentrations relative to capital; and
- (c) an action plan approved by the Board to reduce the risk of any concentration deemed imprudent in the above analysis.

(2) For purposes of this Article, a concentration of credit is as defined in the “Loan Portfolio Management” booklet of the Comptroller's Handbook, and Commercial Real Estate loans are as defined in the Interagency Guidance on Concentrations in Commercial Real Estate Lending, Sound Risk Management Practices dated December 12, 2006.

(3) A copy of the program, or any subsequent amendments or changes to the program, shall be forwarded to the Assistant Deputy Comptroller for review and determination of no supervisory objection.

(4) Until the Board has established a limit for its concentration in Commercial Real Estate loans and has received a determination of no objection from the Assistant Deputy Comptroller pursuant to paragraph (3) of this Article, the Bank shall not originate any new Commercial Real Estate loans. This restriction shall not apply to:

- (a) the renewal, extension, or restructuring of any loan, provided no new funds are advanced,
- (b) a loan that is in process prior to the date of this Agreement,

- (c) an advance under a legally binding written commitment to lend that was entered into prior to the date of this Agreement,
- (d) a loan to a qualified borrower to finance the sale of any parcel of Other Real Estate Owned,
- (e) a loan guaranteed by the SBA under the 7(a) Loan Program, or by another federal agency, provided the guaranty amount is at least 75% of the loan amount, or
- (f) the extension of additional credit in connection with the workout of a classified asset, provided such extension is consistent with the Interagency Policy Statement on Prudent Commercial Real Estate Loan Workouts dated October 30, 2009 and in compliance with the provisions of Article III and Article VIII of this Agreement.

(5) The Board shall ensure that all concentrations of credit are subjected to the analysis required by subparagraph (a) of paragraph (1) of this Article at least annually, and, if that analysis demonstrates that the concentration subjects the Bank to undue risk, the Board shall take appropriate steps to mitigate such risk.

(6) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the program developed pursuant to this Article.

## ARTICLE VI

### CLOSING

(1) Although the Board has agreed to submit certain programs and reports to the Assistant Deputy Comptroller for review or prior written determination of no supervisory

objection, the Board has the ultimate responsibility for proper and sound management of the Bank.

(2) It is expressly and clearly understood that if, at any time, the Comptroller deems it appropriate in fulfilling the responsibilities placed upon him/her by the several laws of the United States of America to undertake any action affecting the Bank, nothing in this Agreement shall in any way inhibit, estop, bar, or otherwise prevent the Comptroller from so doing. Any time limitations imposed by this Agreement shall begin to run from the effective date of this Agreement. Such time requirements may be extended in writing by the Assistant Deputy Comptroller for good cause upon written application by the Board.

(3) The provisions of this Agreement shall be effective upon execution by the parties hereto and its provisions shall continue in full force and effect unless or until such provisions are amended in writing by mutual consent of the parties to the Agreement or excepted, waived, or terminated in writing by the Comptroller.

(4) In each instance in this Agreement in which the Board is required to ensure adherence to, and undertake to perform certain obligations of the Bank, it is intended to mean that the Board shall:

- (a) authorize and adopt such actions on behalf of the Bank as may be necessary for the Bank to perform its obligations and undertakings under the terms of this Agreement;
- (b) require the timely reporting by Bank management of such actions directed by the Board to be taken under the terms of this Agreement;
- (c) follow-up on any non-compliance with such actions in a timely and appropriate manner; and

(d) require corrective action be taken in a timely manner of any non-compliance with such actions.

(5) This Agreement is intended to be, and shall be construed to be, a supervisory “written agreement entered into with the agency” as contemplated by 12 U.S.C. § 1818(b)(1), and expressly does not form, and may not be construed to form, a contract binding on the Comptroller or the United States. Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the Comptroller may enforce any of the commitments or obligations herein undertaken by the Bank under his supervisory powers, including 12 U.S.C. § 1818(b)(1), and not as a matter of contract law. The Bank expressly acknowledges that neither the Bank nor the Comptroller has any intention to enter into a contract. The Bank also expressly acknowledges that no officer or employee of the Office of the Comptroller of the Currency has statutory or other authority to bind the United States, the U.S. Treasury Department, the Comptroller, or any other federal bank regulatory agency or entity, or any officer or employee of any of those entities to a contract affecting the Comptroller’s exercise of his supervisory responsibilities. The terms of this Agreement, including this paragraph, are not subject to amendment or modification by any extraneous expression, prior agreements or prior arrangements between the parties, whether oral or written.

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

/s/

April 2, 2010

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Thomas C. Munz  
Assistant Deputy Comptroller  
Chicago North Field Office

\_\_\_\_\_  
Date

IN TESTIMONY WHEREOF, the undersigned, as the duly elected and acting Board of Directors of the Bank, have hereunto set their hands on behalf of the Bank.

/s/

\_\_\_\_\_  
Edward Fitzgerald

4/2/10

\_\_\_\_\_  
Date

/s/

\_\_\_\_\_  
Enrico Mirabelli

4/2/2010

\_\_\_\_\_  
Date

/s/

\_\_\_\_\_  
Allan Nathan

4/7/10

\_\_\_\_\_  
Date

/s/

\_\_\_\_\_  
Dr. Upendranath Nimmagadda

4/2/10

\_\_\_\_\_  
Date

/s/

\_\_\_\_\_  
Dr. Usha Nimmagadda

4/2/10

\_\_\_\_\_  
Date

/s/

\_\_\_\_\_  
Hiren Patel

4/2/10

\_\_\_\_\_  
Date