

AGREEMENT BY AND BETWEEN
Fieldpoint Private Bank & Trust
Greenwich, Connecticut
and
The Comptroller of the Currency

Fieldpoint Private Bank & Trust, Greenwich, Connecticut (“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 earnings, contingency funding planning, liquidity risk management and monitoring, and interest rate risk 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. § 163.555. 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) 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:

Melissa F. Scofield
Assistant Deputy Comptroller
New York Metro Field Office
343 Thornall Street, Suite 610
Edison, New Jersey 08837

ARTICLE II

COMPLIANCE COMMITTEE

(1) Within thirty (30) days of the date of this Agreement, the Board shall appoint a Compliance Committee of at least three (3) directors, of which no more than one (1) shall be an employee or controlling shareholder of the Bank or any of its affiliates (as the term “affiliate” is defined in 12 U.S.C. § 371c(b)(1)), or a family member of any such person. Upon appointment, the names of the members of the Compliance Committee and, in the event of a change of the membership, the name of any new member shall be submitted in writing to the Assistant Deputy Comptroller. The Compliance Committee shall be responsible for monitoring and coordinating the Bank’s adherence to the provisions of this Agreement.

(2) The Compliance Committee shall meet at least monthly.

(3) Within sixty (60) days of the date of this Agreement and quarterly thereafter, the Compliance Committee shall submit a written progress report to the Board setting forth in detail:

- (a) a description of the action needed to achieve full compliance with each Article of this Agreement;
 - (b) actions taken to comply with each Article of this Agreement; and
 - (c) the results and status of those actions.
- (4) The Board shall forward a copy of the Compliance Committee's report, with any additional comments by the Board, to the Assistant Deputy Comptroller within ten (10) days of receiving such report.

ARTICLE III

BOARD AND MANAGEMENT OVERSIGHT

- (1) Within ninety (90) days, the Compliance Committee shall assess whether the Bank has competent and effective Board and management in place to carry out the Board's policies; manage the day-to-day operations of the Bank in a safe and sound manner; and ensure compliance with this Agreement and applicable laws, rules, and regulations. The findings and recommendations of the Compliance Committee shall be set forth in a written report to the Board. At a minimum, the report shall consider:
- (a) an assessment of the Board committees to ensure members are knowledgeable of areas delegated to the respective committees;
 - (b) an assessment of whether Board members are receiving timely and adequate information on the condition, risks and operations of the Bank to enable them to fulfill their fiduciary responsibilities and other responsibilities under law;
 - (c) an assessment of Board processes in place to respond to the findings of control functions, such as internal audit, loan review and compliance, and

to determine appropriate corrective actions, assignment of management responsibilities, tracking progress, and enforcing accountability;

- (d) an assessment of the capabilities of the Bank's management to perform present and anticipated duties, including a determination of whether any management changes will be made (additions or deletions from current management); and
- (e) recommendations to correct or eliminate any other deficiencies in the supervision or organizational structure of the Bank.

(2) If the Board determines that an officer will continue in his/her position but that the officer's depth of skills needs improvement, the Board will within sixty (60) days develop and implement a written program, with specific time frames, to improve the officer's supervision and management of the Bank. At a minimum the written program shall include:

- (a) an education program designed to ensure that the officer has the skills and abilities necessary to supervise effectively;
- (b) a program to improve the effectiveness of the officer;
- (c) objectives by which the officer's effectiveness will be measured; and
- (d) a performance appraisal program for evaluating performance according to the position's description and responsibilities and for measuring performance against the Bank's goals and objectives.

(3) Within sixty (60) days after completion of the review required by paragraph (1) of this Article, the Board shall develop, adopt and thereafter ensure Bank implementation and adherence to a written plan, with specific time frames, that will correct any deficiencies identified in the review.

(4) Copies of the Board's written plan shall be forwarded to the Assistant Deputy Comptroller. The Assistant Deputy Comptroller shall retain the right to determine the adequacy of the report and its compliance with the terms of this Agreement. In the event the written plan, or any portion thereof, is not implemented, the Board shall promptly advise the Assistant Deputy Comptroller, in writing, of specific reasons for deviating from the plan.

(5) The Board shall ensure that competent and effective Board and management remains in place at all times to perform present and anticipated duties; ensure compliance with this Agreement; ensure safe and sound operations of the Bank; and ensure compliance with all applicable laws, rules, and regulations.

(6) If an officer position is vacant now or in the future, including if the Board realigns an existing officer's responsibilities and a position becomes vacant, the Board shall, subject to 12 C.F.R. Part 163, Subpart H—Notice of Change of Director or Senior Executive Officer, within ninety (90) days of such vacancy appoint a capable person to the vacant position who shall be vested with sufficient executive authority to ensure the Bank's compliance with this Agreement and the safe and sound operation of functions within the scope of that position's responsibility.

ARTICLE IV

STAFFING PLAN

(1) Within ninety (90) days, the Board shall develop a staffing plan that is consistent with the goals and objectives established in the Bank's strategic plan and that accomplishes the overall risk profile established for the Bank. At a minimum, the plan will consist of the following:

- (a) identification of the skills and expertise needed to develop, market, and administer the products identified in the strategic plan;
- (b) identification of the skills and expertise of the Bank's current staff; and
- (c) comparison of the current staff's skills and expertise identified in Paragraph (1)(b) of this Article to the skills and expertise identified in Paragraph (1)(a) of this Article as necessary to develop, market, and administer the products that will be utilized in accomplishing the Bank's goals and objectives.

(2) Within sixty (60) days of the development of the staffing plan, the Board will implement the plan and direct any changes necessary to provide the Bank with a staff that possesses the skills and expertise identified in Paragraph (1)(a) of this Article. Thereafter the Board will ensure that the Bank adheres to the staffing plan.

(3) Upon completion of the actions required by Paragraphs (1) of this Article, the Board will provide a copy of its staffing plan to the Assistant Deputy Comptroller for review.

ARTICLE V

STRATEGIC PLAN

(1) Within sixty (60) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to a written strategic plan for the Bank covering at least a three-year period. The strategic plan shall establish objectives for the Bank's overall risk profile, earnings performance, growth, balance sheet mix, off-balance sheet activities, liability structure, capital adequacy, product line development and market segments that the Bank intends to promote or develop, together with strategies to achieve those objectives and, at a minimum, include:

- (a) a mission statement that forms the framework for the establishment of strategic goals and objectives;
- (b) an assessment of the Bank's present and future operating environment;
- (c) the development of strategic goals and objectives to be accomplished over the short and long term;
- (d) an identification of the Bank's present and future product lines (assets and liabilities) and market segments that will be utilized to accomplish the strategic goals and objectives established in Paragraph (1)(c) of this Article;
- (e) identification and implementation of risk management practices such as staffing, policies, procedures, controls and monitoring that are needed to meet strategic objectives while operating the Bank in a safe and sound condition;
- (f) an evaluation of the Bank's internal operations, staffing requirements, board and management information systems and policies and procedures for their adequacy and contribution to the accomplishment of the goals and objectives developed under Paragraph (1)(c) of this Article;
- (g) a management employment and succession program to promote the retention and continuity of capable management;
- (h) goals and strategies to improve the Bank's earnings as required by Article VII of this Agreement, including individual responsibilities, accountability and specific time frames;

- (i) a financial forecast to include projections for major balance sheet and income statement accounts and desired financial ratios, including brokered deposit reliance, growth projections, and wealth management-related activities, over the period covered by the strategic plan;
- (j) control systems to mitigate risks associated with planned new products, growth, or any proposed changes in the Bank's operating environment;
- (k) specific plans to establish responsibilities and accountability for the strategic planning process, new products, growth goals, or proposed changes in the Bank's operating environment;
- (l) specific plans to effectively limit, manage, monitor, and control funding concentrations;
- (m) systems to monitor the Bank's progress in meeting the plan's goals and objectives; and
- (n) provide for review and approval by the Board, at least annually, to ensure that practices and performance are reasonable and within established goals and risk tolerances.

(2) Upon adoption, a copy of the plan shall be forwarded to the Assistant Deputy Comptroller for review and prior written determination of no supervisory objection. Upon receiving a determination of no supervisory objection from the Assistant Deputy Comptroller, the Bank shall implement and adhere to the strategic plan.

ARTICLE VI

LIQUIDITY RISK MANAGEMENT AND CONTINGENCY FUNDING PLAN

- (1) Within thirty (30) days, the Board shall revise and adopt a comprehensive liquidity risk management policy (“Liquidity Policy”) that:
- (a) assesses, on an ongoing basis, the Bank’s current and projected funding needs;
 - (b) ensures that sufficient funds or access to funds exist to meet those needs;
 - (c) includes Board-established liquidity limits, and requirements for the regular monitoring of compliance with Board-approved limits;
 - (d) makes use of reliable and credible management information systems to manage and monitor liquidity;
 - (e) incorporates prudent risk management standards as set forth in the “Liquidity” booklet of the Comptroller’s Handbook (June 2012)¹ and OCC Bulletin 2010-13 (dated March 22, 2010); and
 - (f) includes effective methods to achieve and maintain sufficient liquidity and measure and monitor liquidity risk.
- (2) In addition to the general requirements set forth above, the Liquidity Policy shall specifically address and shall:
- (a) include limitations on wholesale funding, designed to ensure that the Bank prudently manages the Bank’s concentration risk related to wholesale funding sources, including Brokered Deposits (as defined in 12 C.F.R. § 337.6(a)(2));

¹ See OCC Bulletin 2012-17, “Liquidity: Comptroller’s Handbook Revisions and Rescissions” (June 8, 2012) (rescinding prior OTS guidance and applying this OCC guidance to Federal savings associations).

- (b) provide that Brokered Deposits, inclusive of Certificate of Deposit Account Registry Service (“CDARS”) and Insured Cash Sweep (“ICS”) deposits, as measured by the Bank’s ratio of total brokered deposits to total assets, shall not exceed fifty percent (50%), without first obtaining the prior written determination of no supervisory objection from the Assistant Deputy Comptroller;
- (c) include a Contingency Funding Plan that incorporates, at a minimum:
 - (i) a statement of the Board’s strategy for maintaining adequate sources of stable funding given the Bank’s anticipated liquidity and funding needs;
 - (ii) a definition of a liquidity crisis for the Bank;
 - (iii) an identification of early warning liquidity triggers;
 - (iv) an explicit quantification of the sources and uses of liquidity in stressed scenarios that correspond to the early warning liquidity triggers;
 - (v) detailed action plans to identify and obtain sources of liquidity to meet projected shortfalls;
 - (vi) an identification of responsible bank personnel to declare, manage, and resolve a liquidity crisis;
 - (vii) clearly defined Bank staff’s responsibility to implement the plan, including identifying triggers of stress events that will result in the immediate implementation of the plan;

- (viii) an internal and external communication process, including a process for reporting to the Board, for disseminating relevant information; and
- (ix) a process of regular testing to ensure that the plan is operationally sound, including periodic testing of unused funding sources.

(3) Upon adoption, the Board shall submit a copy of the Liquidity Policy, or any subsequent amendments or changes to that Policy, to the Assistant Deputy Comptroller for determination of no supervisory objection. Upon receiving a determination of no supervisory objection from the Assistant Deputy Comptroller, the Board shall implement and thereafter ensure adherence to the Liquidity Policy.

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

ARTICLE VII

PROFIT PLAN

(1) Within sixty (60) days, the Board shall develop, implement, and thereafter ensure Bank adherence to a written profit plan to improve and sustain the earnings of the Bank. This plan shall include, at minimum, the following elements:

- (a) identification of the major areas in and means by which the Board will seek to improve the Bank's operating performance;
- (b) realistic and comprehensive budgets, including projected balance sheets and year-end income statements;

- (c) a budget review process to monitor both the Bank's income and expenses, and to compare actual figures with budgetary projections; and
- (d) a description of the operating assumptions that form the basis for major projected income and expense components.

(2) The budgets and related documents required in paragraph (1) above for 2013 and beyond shall be submitted to the Assistant Deputy Comptroller upon completion. The Board shall submit to the Assistant Deputy Comptroller annual budgets as described in paragraph (1) above for each year this Agreement remains in effect. The budget for each year shall be submitted on or before December 31, of the preceding year.

(3) The Board shall forward comparisons of its balance sheet and profit and loss statement to the profit plan projections to the Assistant Deputy Comptroller on a quarterly basis.

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

ARTICLE VIII

CAPITAL PLAN

(1) Within sixty (60) days of the date of this Agreement, the Board shall develop and implement an effective internal capital planning process to assess the Bank's capital adequacy in relation to its overall risks and to ensure maintenance of capital levels that are commensurate with its risk profile and 12 C.F.R. Part 167. The capital planning process shall be consistent with OCC Bulletin 2012-16, "Guidance for Evaluating Capital Planning and Adequacy" (June 7, 2012), and shall ensure the integrity, objectivity, and consistency of the process through adequate governance. The Board shall document the initial capital planning process and

thereafter review and document the capital planning process at least annually or more frequently if requested by the Assistant Deputy Comptroller in writing.

(2) Within ninety (90) days of the date of this Agreement, the Board shall forward to the Assistant Deputy Comptroller for her review, pursuant to paragraph four (4) of this Article, a written Capital Plan for the Bank, covering at least a three-year period. The written Capital Plan shall, at a minimum:

- (a) include specific plans for the maintenance of adequate capital in compliance with 12 C.F.R. Part 167;
 - (b) identify and evaluate all material risks, with particular attention to asset quality and earnings;
 - (c) determine the Bank's capital needs in relation to material risks and strategic direction;
 - (d) identify and establish a strategy to strengthen capital if necessary and establish a contingency or back-up capital plan commensurate with the Bank's overall risk and complexity;
 - (e) include detailed quarterly financial projections; and
 - (f) include specific plans detailing how the Bank will comply with restrictions or requirements set forth in this Agreement that will have an impact on the Bank's capital.
- (3) The Bank may declare or pay a dividend or make a capital distribution only:
- (a) when the Bank is in compliance with its approved written Capital Plan and would remain in compliance with its approved written Capital Plan

immediately following the declaration or payment of any dividend or the capital distribution; and

- (b) following the approval of the Assistant Deputy Comptroller pursuant to 12 C.F.R. Part 163, Subpart E.

(4) Prior to adoption by the Board, a copy of the Bank's written Capital Plan shall be submitted to the Assistant Deputy Comptroller for prior written determination of no supervisory objection. The Board shall review and update the Bank's written Capital Plan at least annually and more frequently if required by the Assistant Deputy Comptroller in writing. Revisions to the Bank's written Capital Plan shall be submitted to the Assistant Deputy Comptroller for a prior written determination of no supervisory objection. Within ten (10) days following receipt of the Assistant Deputy Comptroller's written determination of no supervisory objection, the Board shall adopt and the Bank (subject to Board review and ongoing monitoring) shall implement and thereafter ensure adherence to the written Capital Plan and any amendments or revisions thereto.

(5) At least quarterly, the Board shall:

- (a) review financial reports and earnings analyses that evaluate the Bank's performance against the goals and objectives established in the Capital Plan, as well as the Bank's written explanation of significant differences between the actual and projected balance sheet, income statement, and expense accounts, including descriptions of extraordinary and/or nonrecurring items; and
- (b) prepare a written evaluation of the Bank's performance against the written Capital Plan, which shall include a description of the actions the Board will require the Bank to take to address any deficiencies.

(c) The Board's review and preparation of the written evaluation shall be documented in the Board meeting minutes. The Board shall forward a copy of these quarterly written evaluations and Board meeting minutes to the Assistant Deputy Comptroller within ten (10) days of completion of its written evaluation.

(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 IX

INTERNAL AUDIT

(1) Within sixty (60) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to an independent, internal audit program consistent with Subparts A and B of Section II, "Operational and Managerial Standards," of Appendix A to 12 C.F.R. Part 170— Interagency Guidelines Establishing Standards for Safety And Soundness. The internal audit program shall be sufficient to:

- (a) detect irregularities and weak practices in the Bank's operations;
- (b) determine the Bank's level of compliance with all applicable laws, rules and regulations;
- (c) assess and report the effectiveness of policies, procedures, controls, and management oversight relating to accounting and financial reporting;
- (d) evaluate the Bank's adherence to established policies and procedures;
- (e) adequately cover all areas; and

(f) establish an annual audit plan using a risk-based approach sufficient to achieve these objectives.

(2) As part of this audit program, the Board shall evaluate the audit reports of any party providing services to the Bank, and shall assess the impact on the Bank of any audit deficiencies cited in such reports.

(3) The Board shall ensure that the audit function is supported by an adequately staffed department or outside firm, with respect to both the experience level and number of individuals employed.

(4) The Board shall ensure that the audit program is independent. The persons responsible for implementing the internal audit program described above shall report directly to the Board, which shall have the sole power to direct their activities. All reports prepared by the audit staff shall be filed directly with the Board and not through any intervening party, including any individual who is a director.

(5) All audit reports shall be in writing. The Board shall ensure that immediate actions are undertaken to remedy deficiencies cited in audit reports, and that auditors maintain a written record describing those actions.

(6) The audit staff shall have access to any records necessary for the proper conduct of its activities. The Comptroller's Examiners shall have access to all reports and work papers of the audit staff and any other parties working on its behalf.

(7) Upon adoption, a copy of the internal audit program shall be promptly submitted to the Assistant Deputy Comptroller.

ARTICLE X

INVESTMENT PORTFOLIO MANAGEMENT

- (1) Effective immediately, the Bank shall not invest in corporate, municipal, or structured securities without first:
- (a) developing and implementing OCC approved policies and procedures to monitor and control such activity, as required by paragraph (2) of this Article;
 - (b) adopting and implementing an effective pre-purchase analysis process that complies with the Federal Financial Institutions Examination Council (“FFIEC”) statement of policy titled “Supervisory Policy Statement on Investment Securities and End-User Derivatives Activities”, 63 Fed. Reg. 20191 (Apr. 23, 1998), OCC Bulletin 2009-5, “Investment Securities: Risk Management and Lessons Learned,” and—effective January 1, 2012—OCC Bulletin 2012-18, “Alternatives to the Use of External Credit Ratings in the Regulations of the OCC”;
 - (c) employing capable and competent staff to safely and soundly manage the activity; and
 - (d) ensuring that the Board is receiving adequate information to make informed decisions and to ensure compliance with policy and all applicable laws, regulations, rulings, and banking issuances.
- (2) Within sixty (60) days, the Board shall review, revise, implement and thereafter ensure Bank adherence to the Bank’s written investment policies to address, at a minimum, the requirements listed in paragraph (1) of this Article. The policies shall contain the basic elements

of sound investment and trading policies as described in the OTS Examination Handbook Section 540, "Investment Securities" (Jan. 2010) and be consistent with the requirements of the FFIEC's statement of policy titled "Supervisory Policy Statement on Investment Securities and End-User Derivatives Activities", 63 Fed. Reg. 20191, and OCC Bulletins 2009-15 and 2012-18. The policies shall also include the requirements set forth in OCC Bulletin 2009-11, "Other than Temporary Impairment Accounting: OCC Advisory on Financial Accounting Standards Board Changes." Additionally, the policies shall incorporate Board-established limits on investment concentrations, including, but not limited to, geographic concentration limits for municipal securities, and include requirements for regular monitoring for compliance with Board-approved limits.

(3) Upon completion, the Bank's revised investment policy shall be submitted to the Assistant Deputy Comptroller for prior determination of no supervisory objection. Upon receiving a determination of no supervisory objection from the Assistant Deputy Comptroller, the Board shall adopt and the Bank shall immediately implement and adhere to the revised investment policy.

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

ARTICLE XI

INTEREST RATE RISK PROGRAM

(1) Within thirty (30) days, the Board shall develop, implement, and thereafter ensure Bank adherence to a written interest rate risk program that is consistent with the "Interest Rate

Risk” booklet of the Comptroller’s Handbook (June 1997)², OCC Bulletin 2010-1, “Interest Rate Risk: Interagency Advisory on Interest Rate Risk Management” (Jan. 6, 2010)³, and OCC Bulletin 2012-5, “Interest Rate Risk Management: FAQs on 2010 Interagency Advisory on Interest Rate Risk Management” (Jan. 12, 2012). The program shall provide for a coordinated interest rate risk strategy and, at a minimum, address:

- (a) establishment and guidance of the Bank’s strategic direction and tolerance for interest rate risk;
- (b) implementation of effective tools to measure and monitor the Bank’s performance and overall interest rate risk profile;
- (c) employment of competent personnel to manage interest rate risk;
- (d) establish prudent short-term and long-term limits on the nature and amount of interest rate risk the Board is willing to accept in relation to earnings and capital;
- (e) establish adequate management reports on which to base sound interest rate risk management decisions for both short- and long-term risks;
- (f) ensure senior management understands, documents, and periodically reviews and adjusts, as needed, assumptions used in the Bank’s interest rate risk models;
- (g) ensure adequate knowledge of staff managing and monitoring interest rate risk, which may include additional training;

² See OCC Bulletin 2012-5, “Interest Rate Risk Management: FAQs on 2010 Interagency Advisory on Interest Rate Risk Management” (Jan. 12, 2012) (rescinding prior OTS guidance and applying this OCC guidance to Federal savings associations).

³ Id.

- (h) establish policies and procedures to regularly test the validity of interest rate risk model assumptions and the accuracy of information inputs; and
- (i) ensure an independent validation of interest rate risk models on at least an annual basis and an annual review of the Bank's adherence to the policy.

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

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

ARTICLE XII

CALL REPORTS

(1) Within sixty (60) days, the Board shall adopt and cause the Bank to implement policies and procedures, in accordance with the "Instructions for Preparation of Consolidated Reports of Condition and Income", to ensure that all official and regulatory reports filed by the Bank accurately reflect the Bank's condition as of the date that such reports are submitted. Thereafter the Board shall ensure Bank adherence to the policies and procedures adopted pursuant to this Article.

(2) Upon completion of the policies, the Board shall submit a copy of the policies to the Assistant Deputy Comptroller.

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

ARTICLE XIII

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.

(3) Any time limitations imposed by this Agreement shall begin to run from the effective date of this Agreement. Such time requirements may be extended in writing by the Assistant Deputy Comptroller for good cause upon written application by the Board.

(4) 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.

(5) 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.

(6) 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 her hand on behalf of the Comptroller.

/s/
Melissa F. Scofield
Assistant Deputy Comptroller
New York Metro Field Office

11-29-12
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/
Reginald K. Brack

11-29-12
Date

/s/
Daniel J. Donahue

11-29-12
Date

/s/
Sibyl Jacobson

11-29-12
Date

/s/
Kevin O'Hanlon

11-29-12
Date

/s/
Robert S. Matthews

11-29-12
Date

s/
Daniel T. Napoli

11-29-12
Date

/s/
David E. Snediker

11-29-12
Date

/s/

Philip F. Strassler

11-29-12

Date

/s/

Timothy J. Tully

11-29-12

Date