SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement ("Agreement") is made as of this 29th day of October, 2013, by, between, and among the following undersigned parties: The Federal Deposit Insurance Corporation as Receiver for Benchmark Bank ("FDIC-R"), on the one hand, and Richard Samuelson, John Medernach, Joseph DePaulo, Richard Guerard, Richard Hansen, Dean Kelley, and Fred T. L. Norris (collectively, the "Defendants") along with Susan Carson (the "Non-Defendant") on the other hand. The FDIC-R, the Defendants and the Non-Defendant may be referred to individually herein as "Party," and, collectively, as the "Parties."

RECITALS

WHEREAS:

Prior to December 4, 2009, Benchmark Bank ("Benchmark" or the "Bank") was a depository institution organized and existing under the laws of the State of Illinois, and with its principal place of business was located at One North Constitution Drive, Aurora, Illinois;

On December 4, 2009, Benchmark was closed by the Illinois Department of Financial and Professional Regulation and, pursuant to 12 U.S.C. § 1821(c), the FDIC-R was appointed Receiver. In accordance with 12 U.S.C. § 1821(d), the FDIC-R, as Receiver, succeeded to all of Benchmark's rights, titles, powers, and privileges, including those with respect to its assets;

Among the assets to which the FDIC-R, as Receiver, succeeded were any and all of Benchmark's claims, demands, and causes of actions against its former directors, officers, and employees arising from the performance, non-performance, and manner of performance of their respective functions, duties, and acts as directors and/or officers of the Bank;

The FDIC-R filed a complaint in the United States District Court for the Northern District of Illinois, entitled, *Federal Deposit Insurance Corporation as Receiver for Benchmark Bank v.*

Richard Samuelson, et al., Case No. 12-cv-7907 (the "Action"), asserting claims against the Defendants, who had each served at various times as directors and/or officers of the Bank. The Defendants deny liability for the FDIC-R's claims;

The FDIC-R did not name the Non-Defendant in the Action;

The undersigned Defendants, without any admission of liability, deem it in their best interests to enter into this Agreement to avoid the uncertainty, trouble, and expense of litigation; and

This Agreement and the settlement underlying it were negotiated based on a particular set of facts and circumstances which may or may not exist in other matters.

NOW, THEREFORE, in consideration of the promises, undertakings, payments, and releases stated herein, the sufficiency and consideration of which is hereby acknowledged, the undersigned parties agree, each with the other, as follows:

SECTION I: Payment to FDIC-R

A. Settlement Funds. As an essential covenant and condition to this Agreement, the Defendants shall cause payment to be made to the FDIC-R in the sum of Four Million Dollars ($4,000,000.00) (the "Settlement Funds") in full and complete settlement of all claims that have been made or could be made by FDIC-R against the Defendants and the Non-Defendant, and the other Benchmark D&Os relating to their positions as directors and/or officers of Benchmark and the performance, non-performance, or manner of performance of their respective functions, duties, and actions as directors and/or officers of Benchmark.

B. Payment of Settlement Funds. Within thirty days of the date counsel for the Defendants receives a fully executed copy of this Agreement (that is, the Agreement has been executed by each and every Party) (the 30th day is referred to hereinafter as the "Payment Date"), the Settlement Funds shall be delivered to the FDIC-R by a check payable to the Federal Deposit Insurance Corporation as Receiver of Benchmark Bank. If the Settlement Funds are not paid in full by the Payment Date, interest shall accrue on all unpaid amounts from the Payment Date until finally paid, at the rate of one-year U. S. Treasury bills as reported in the WALL STREET JOURNAL at the end of the last quarter immediately preceding the date of this Agreement.

C. Remedies for Non-Payment of Settlement Funds. In addition, and without waiving any other rights that the FDIC-R may have, in the event that the Settlement Funds are not received in full by the FDIC-R on or before the Payment Date, then the FDIC-R, in its sole discretion, shall have the right to (i) enforce this Agreement against the Defendants, in which event the Defendants agree to jurisdiction in the United States District Court for the Northern District of Illinois; or (ii) extend this Agreement for any period of time until it receives the Settlement Funds in full (including all accrued interest); or (iii) declare this Agreement null and void and sue on any and all claims the FDIC-R may have as if this Agreement had never been signed, in which case the Settling Parties consent to jurisdiction in the United States District Court for the Northern District of Illinois and agree that any statutes of limitations applicable to any such claims shall be tolled and extended from the date of this Agreement to and including fifteen (15) business days after this Agreement is declared null and void.

SECTION II: Releases

A. Releases by FDIC-R. Effective upon receipt in full of the Settlement Funds, and except as provided in Paragraph II.D below, the FDIC-R, for itself and its employees, officers, directors, administrators, representatives, agents, successors and assigns, hereby fully, finally, and generally releases and discharges each of the Defendants and the Non-Defendant, and all of their respective heirs, executors, administrators, representatives, agents, insurers, successors, and assigns, from any and all claims, demands, obligations, damages, actions, and causes of action, whether known or unknown, whether accrued, inchoate, liquidated, contingent, actual or asserted, direct or indirect, whether in law, equity, or otherwise, including but not limited to any violation of any state or federal statute, rule or regulation, or in equity, belonging to the FDIC-R and/or Benchmark, whether asserted or not, that arise from or relate to the Defendants' and the Non-Defendant's respective positions as directors and/or officers of Benchmark, or the performance, non-performance, or manner of performance of their respective functions, duties, and actions as directors and/or officers of Benchmark.

B. Releases by Defendants and the Non-Defendant of FDIC-R. Effective simultaneously with the release granted in Paragraph II.A above, the Defendants and the Non-Defendant, each on behalf of himself or herself individually and for each of his or her respective heirs, executors, administrators, agents, representatives, insurers, successors, and assigns, hereby fully, finally, and generally release and discharge the FDIC-R and its employees, officers, directors, administrators, representatives, agents, successors, and assigns from any and all claims, demands, obligations, damages, actions, and causes of action, direct or indirect, whether in law, equity, or otherwise, that arise from or relate to the Defendants' and the Non-Defendant's positions as directors and/or officers of Benchmark, or the performance, non-performance, or manner of performance of their respective functions, duties, and actions as directors and/or officers of Benchmark.

C. Mutual Releases by Defendants and Non-Defendant. Effective simultaneously with the releases granted in Paragraphs II.A and II.B above, the Defendants and the Non-Defendant and all of their respective heirs, executors, administrators, agents, representatives, insurers, successors, and assigns hereby fully, finally, and generally release and discharge each other from any and all claims, demands, obligations, damages, actions, and causes of action, direct or indirect, in law or in equity, that arise from or relate to the performance, non-performance, or manner of performance of their respective functions, duties, and actions as directors and/or officers of Benchmark.

D. Express Reservations from Releases by FDIC-R.

1. Notwithstanding any other provision, by this Agreement, the FDIC-R does not release, and expressly preserves fully and to the same extent as if the Agreement had not been executed, any claims or causes of action:

(a) Against the Defendants or the Non-Defendant or any other person or entity for liability, if any, incurred as the maker, endorser, or guarantor of any promissory note or indebtedness payable or owed by any of them (collectively, the "Indebtedness Claims") to the FDIC-R, the Bank, other financial institutions that are insured by the Federal Deposit Insurance Corporation, including, without limitation, any Indebtedness Claims acquired by the FDIC-R, as successor in interest to the Bank or any person or entity other than Bank;

(b) Against any person or entity not expressly released in Paragraph II A of this Agreement; and

(c) Against the Defendants, Non-Defendant or any other person or entity for liability relating to any breach of this Agreement or against the Defendants for any breach of the Confidentiality and Non-Disclosure Agreement relating to the Action.

2. Notwithstanding any other provision, nothing in this Agreement shall be construed or interpreted as limiting, waiving, releasing, or compromising the jurisdiction

and authority of the Federal Deposit Insurance Corporation in the exercise of its supervisory or regulatory authority, or to diminish its ability to institute administrative enforcement proceedings seeking removal, prohibition, or any other administrative enforcement action.

3. Notwithstanding any other provision, this Agreement does not purport to waive, or intend to waive, any claims which could be brought by the United States through either the Department of Justice or the United States Attorney's Office for the Northern District of Illinois or for any other federal judicial district. In addition, the FDIC-R specifically reserves the right to seek court-ordered restitution pursuant to the relevant provisions of the Victim and Witness Protection Act, 18 U.S.C. § 3663, *et seq.*, if appropriate.

4. Notwithstanding any other provision, this Agreement does not release and expressly preserves fully any liability relating to any breach of this Agreement.

SECTION III: Dismissal of Action with Prejudice

With in five days of the issuance of the Settlement Funds as defined in Section I above, the FDIC-R and the Defendants will jointly file a Stipulation of Dismissal with Prejudice in the Action, with all Parties to bear their own costs and fees.

SECTION IV: Waiver of Dividends

To the extent, if any, that any of the Defendants was a shareholder of the Bank, and by virtue thereof, is or may have been entitled to a dividend, payment, or other distribution upon resolution of the receivership of the Bank, such Defendants hereby assign to the FDIC-R any and all right, title, and interest in and to any and all such dividends, payments, or other distributions.

SECTION V: Representations and Covenants

A. No Assignment of Claims. FDIC-R represents that it has not transferred or assigned any claim or cause of action that it has held or may have ever held or owned against any of the Defendants or the Non-Defendant.

B. No Admission of Liability. The Defendants expressly deny the claims asserted by the FDIC-R against the Defendants. Each Party acknowledges and agrees that the matters set forth in this Agreement constitute the settlement and compromise of disputed claims, and that this Agreement is not an admission or evidence of liability by any of them regarding any claim or of the validity of any defense to such claim.

C. Execution in Counterparts. This Agreement may be executed in counterparts by one or more of the Parties hereto, and all such counterparts when so executed shall, together, constitute the final Agreement, as if one document had been signed by all Parties hereto; and each such counterpart, upon execution and delivery, shall be deemed a complete original, binding the Party or Parties subscribed thereto upon the execution by all Parties to this Agreement. Facsimile or e-mailed signatures shall be considered the same as originals.

D. Binding Effect. Each of the undersigned persons represents and warrants that he or she or it is a Party hereto, or is authorized to sign this Agreement on behalf of the respective Party, and that he or she or it has the capacity and the full power and authority to bind such Party to each and every provision of this Agreement. Each Party represents and warrants that he or she or it intends to carry out the obligations of this Agreement. This Agreement shall be binding upon and inure to the benefit of the undersigned Parties and their respective heirs, executors, administrators, representatives, successors, and assigns.

E. Choice of Law. This Agreement shall be interpreted, construed, and enforced according to applicable federal law or, in its absence, the laws of the State of Illinois without regard to the choice of law principles of federal law and/or Illinois law.

F. Entire Agreement and Amendments. This Agreement constitutes the entire agreement and understanding between the FDIC-R and the Defendants and the Non-Defendant concerning the matters set forth herein. This Agreement may not be amended or modified except by another written instrument signed by the Party or Parties to be bound thereby, or by their respective authorized attorney(s) or other representative(s). The Parties agree that if any provision of the Settlement and Release Agreement or any application thereof is held to be invalid, the invalidity shall not affect other provisions or applications of this Settlement and Release Agreement, without prejudice to any Party's rights at law and/or in equity to establish otherwise, unless the absence of the invalid provision(s) would make this Agreement unconscionable.

G. Specific Representations, Warranties and Disclaimer. Defendants Guerard, Hansen, Kelley, Medernach and Norris ("Disclosing Defendants") expressly acknowledge that in determining to settle the claims released herein, the FDIC-R has reasonably and justifiably relied upon the accuracy of the financial information in the sworn financial statements (the "Financial Disclosures"), as provided by Disclosing Defendants to the FDIC-R. Each Disclosing Defendant expressly represents that his own Financial Disclosure as provided to the FDIC-R was materially accurate at the time and in the form provided to the FDIC-R. If, as provided in his Financial Disclosures, any Disclosing Defendant failed to disclose any material interest, legal, equitable, or beneficial, in any material asset, such Disclosing Defendant agrees to cooperate fully with the FDIC-R to transfer his interest in such asset to the FDIC-R and to sign any and all documents necessary to transfer his interest therein to the FDIC-R. In addition, if any Disclosing Defendant's Financial Disclosures did not disclose any material interest, legal, equitable, or beneficial, in any material asset, the FDIC-R, in its sole discretion, may exercise one or more or all of the following additional remedies:

(1) The FDIC-R may declare the release granted to any such Disclosing Defendant as null and void, to which declaration such Disclosing Defendant shall consent;

(2) The FDIC-R may retain the Settlement Funds; and/or

(3) The FDIC-R may sue such Disclosing Defendant for damages, an injunction, and specific performance for the breach of this Agreement.

H. Reasonable Cooperation. The undersigned Parties agree to cooperate in good faith to effectuate all the terms and conditions of this Agreement, including doing or causing their agents and attorneys to do whatever is reasonably necessary to effectuate the signing, delivery, execution, filing, recording, and entry of any documents reasonably necessary to perform the terms of this Agreement.

I. Advice of Counsel. The Parties hereby acknowledge that they have read this Agreement, that they have had the opportunity to consult with and obtain the advice of counsel prior to executing this Agreement, and to have this Agreement explained to them by counsel.

J. Notices. Any notices relating to or arising out of this Agreement shall be in writing sent by email and registered or certified mail, return receipt requested, shall be deemed delivered when received by the Party to whom it is sent, and shall be addressed as follows:

To the FDIC-R:

Susan Valentine
Robinson Curley & Clayton, P.C.

300 South Wacker Drive, Suite 1700
Chicago, IL 60606
(b)(6) [redacted]

and

L. Anthony Lehr
Counsel
Federal Deposit Insurance Corporation
3501 Fairfax Drive
Arlington, VA 22226-3500
(b)(6) [redacted]

To Richard Samuelson:

John M. George, Jr.
Katten & Temple LLP
542 South Dearborn, Suite 14th Floor
Chicago, IL 60605
(b)(6) [redacted]

To John Medernach, Joseph DePaulo, Richard Guerard, Dean Kelly, and Fred T. L. Norris:

Robert Ambrose
Howard and Howard
200 South Michigan, Suite 1100
Chicago, IL 60604
(b)(6) [redacted]

To Richard Hansen:

Morgan Hirst
Jones Day
77 West Wacker Drive
Chicago, Illinois 60601
(b)(6) [redacted]

K. Recitals. The recitals are incorporated herein and made a part of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by each of them or their duly authorized representatives on the dates hereinafter subscribed.

FEDERAL DEPOSIT INSURANCE CORPORATION as Receiver for Benchmark Bank, Aurora, Illinois

(b)(6)

By: [redacted]
Name: C. ANTHONY LEHR
Title: Counsel
Date: 10-29-13

DEFENDANT
RICHARD SAMUELSON

____
Date: ______________

DEFENDANT
JOHN MEDERNACH

____
Date: ______________

DEFENDANT
JOSEPH DEPAULO

____
Date: ______________

DEFENDANT
RICHARD GUERARD

____
Date: ______________

DEFENDANT
RICHARD HANSEN

____
Date: ______________

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by each of them or their duly authorized representatives on the dates hereinafter subscribed.

FEDERAL DEPOSIT INSURANCE CORPORATION as Receiver for Beachmark Bank, Aurora, Illinois

By:______________________________
Name:____________________________
Title:_____________________________
Date:_____________________________

DEFENDANT
RICHARD SAMUELSON

[redacted] (b)(6)

Date: 10/28/13

DEFENDANT
JOHN MEDERNACH

____
Date:_____________________________

DEFENDANT
JOSEPH DEPAULO

____
Date:_____________________________

DEFENDANT
RICHARD GUERARD

____
Date:_____________________________

DEFENDANT
RICHARD HANSEN

____
Date:_____________________________

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by each of them or their duly authorized representatives on the dates hereinafter subscribed.

FEDERAL DEPOSIT INSURANCE CORPORATION as Receiver for Benchmark Bank, Aurora, Illinois

By:____________________
Name:____________________
Title:____________________
Date:____________________

DEFENDANT
RICHARD SAMUELSON

____
Date:____________________

DEFENDANT
JOHN MEDERNACH

[redacted] (b)(6)
Date: 10/30/13

DEFENDANT
JOSEPH DEPAULO

____
Date:____________________

DEFENDANT
RICHARD GUERARD

____
Date:____________________

DEFENDANT
RICHARD HANSEN

____
Date:____________________

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by each of them or their duly authorized representatives on the dates hereinafter subscribed.

FEDERAL DEPOSIT INSURANCE CORPORATION as Receiver for Benchmark Bank, Aurora, Illinois

By:______________________________
Name:____________________________
Title:_____________________________
Date:_____________________________

DEFENDANT
RICHARD SAMUELSON

____
Date:__________________________

DEFENDANT
JOHN MEDERNACH

____
Date:__________________________

DEFENDANT
JOSEPH DEPAULO

(b)(6)
Date: 10-30-2012

DEFENDANT
RICHARD GUERARD

____
Date:__________________________

DEFENDANT
RICHARD HANSEN

____
Date:__________________________

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by each of them or their duly authorized representatives on the dates hereinafter subscribed.

FEDERAL DEPOSIT INSURANCE CORPORATION as Receiver for Benchmark Bank, Aurora, Illinois

By:____________________
Name:____________________
Title:____________________
Date:____________________

DEFENDANT
RICHARD SAMUELSON

____
Date: ____________________

DEFENDANT
JOHN MEDERNACH

____
Date:____________________

DEFENDANT
JOSEPH DEPAULO

____
Date:____________________

DEFENDANT
RICHARD GUERARD

[redacted] (b)(6)
Date: 10/21/13

DEFENDANT
RICHARD HANSEN

____
Date:____________________

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by each of them or their duly authorized representatives on the dates hereinafter subscribed.

FEDERAL DEPOSIT INSURANCE CORPORATION as Receiver for Benchmark Bank, Aurora, Illinois

By:____________________________
Name:__________________________
Title:___________________________
Date:___________________________

DEFENDANT RICHARD SAMUELSON

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Date:___________________________

DEFENDANT JOHN MEDERNACH

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Date:___________________________

DEFENDANT JOSEPH DEPAULO

____
Date:___________________________

DEFENDANT RICHARD GUERARD

____
Date:___________________________

DEFENDANT RICHARD HANSEN

[redacted] (b)(6)

Date: 11-4-13

DEFENDANT
DEAN KELLEY

[redacted] (b)(6)

Date: 10/30/13

DEFENDANT
FRED T.L. NORRIS

____
Date:______________________________

NON-DEFENDANT
SUSAN CARSON

____
Date:______________________________

DEFENDANT
DEAN KELLEY

____
Date: ________________________

DEFENDANT
FRED T.L. NORRIS

[redacted] (b)(6)

Date: Nov 3, 2014

NON-DEFENDANT
SUSAN CARSON

____
Date: ________________________

DEFENDANT
DEAN KELLEY

____
Date:_________________________

DEFENDANT
FRED T.L. NORRIS

____
Date:_________________________

NON-DEFENDANT
SUSAN CARSON

[redacted] (b)(6)
Date: 10/30/13