

## SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement (“Agreement”) is made by, between, and among the following undersigned parties:

The Plaintiff Federal Deposit Insurance Corporation as Receiver for Palos Bank and Trust Company (“FDIC-R”), and Gregory J. Paetow, Rodney D. Stickle, Donald H. Jeanes, James M. Mandros, Dennis C. O’Rourke, Howard J. Rynberk, Jr., Richard S. Schmaedeke, and Paul J. Walk (collectively the “Settling Parties”), and Illinois National Insurance Company (“Illinois National” or the “Insurer”) (individually, the FDIC-R, the Settling Parties and Illinois National may be referred to herein as “Party” and collectively as the “Parties”).

### RECITALS

WHEREAS:

Prior to August 13, 2010, Palos Bank and Trust Company (“Bank”) was a depository institution organized and existing under the laws of Illinois;

On August 13, 2010, the Illinois Department of Financial & Professional Regulation closed the Bank and pursuant to 12 U.S.C. § 1821(c), the Federal Deposit Insurance Corporation was appointed Receiver. In accordance with 12 U.S.C. § 1821(d), the FDIC-R succeeded to all rights, titles, powers and privileges of the Bank, including those with respect to its assets;

Among the assets to which the FDIC-R succeeded were all of the Bank’s claims, demands, and causes of action against its former directors, officers, and employees arising from the performance, nonperformance, and manner of performance of their respective functions, duties and acts as directors, officers, and employees of the Bank;

The FDIC-R has asserted claims against the Settling Parties, each of whom served at various times as a director and/or officer of the Bank. The Settling Parties deny liability for the claims;

Illinois National issued Financial Institutions Risk Protector Policy Number   (b)(4) effective December 11, 2008 to December 11, 2009, with run off coverage pursuant to

Endorsement #13, which insured the directors and officers of the Bank according to the terms, provisions, and conditions of the Policy (“the Policy”). The Settling Parties asserted claims for coverage under the Policy. Illinois National has reserved its rights to deny coverage under the Policy for claims asserted by FDIC-R against the Settling Parties; and

The undersigned Parties deem it in their best interests to enter into this Agreement to avoid the uncertainty and expense of litigation.

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

**SECTION I: Payment to FDIC-R**

A. As an essential covenant and condition to this Agreement, the Settling Parties and the Insurer, jointly and severally, agree to pay the FDIC-R the sum of Three Million Five Hundred Fifty Thousand Dollars and 00/100 (\$3,550,000) (“the Settlement Payment”).

B. Upon execution of an original, or originals in counterpart, of this Agreement by each of the Parties to this Agreement, within seven business days after this Agreement is fully executed, the Insurer, on behalf of the Settling Parties, shall deliver the Settlement Payment to the FDIC-R by check payable to the “FDIC as receiver for Palos Bank and Trust Company” pursuant to the following delivery instructions:

(b)(4) JPMorgan Chase   
Attn: FDIC Receivership Lock Box  (b)(4)  
14800 Frye Road 2<sup>nd</sup> Floor  
Fort Worth, TX 76155

C. In the event that the Settlement Payment is not delivered to the FDIC-R (or its counsel) by the Settlement Payment Date, interest shall accrue on all unpaid amounts at the rate of 5% per annum from the Settlement Payment Date until the date of payment.

D. If the FDIC-R does not receive the Settlement Payment in full on or before the date determined by subsection I.B. above, then the FDIC-R, in its sole discretion, shall have the

right at any time prior to receipt of the Settlement Payment in full (including all accrued interest) to:

1. Extend the period of time for the Settlement Payment, including interest accruing from the date determined by subsection I.B. above, through the date of payment at a rate calculated in accordance with 26 U.S.C. § 6621(a)(2); or
2. Enforce this Agreement, in which the Settling Parties agree to jurisdiction in the United States District Court in Illinois, and to recover all of the amounts owed under this Agreement, as well as the FDIC-R's reasonable attorney's fees and costs expended in enforcing the terms of this Agreement; or
3. Terminate the Agreement, move to vacate any dismissal order, to which the Settling Parties agree to consent, and institute an action on the FDIC-R's claims. The Settling Parties further agree to waive any defense based on any statute of limitations that would bar any of the FDIC-R's claims and waive all objections, defenses, claims or counterclaims, and covenant and agree not to assert any objections, defenses, claims or counterclaims that did not exist or were otherwise unavailable as of the date this Agreement was fully executed; and/or
4. Seek any other relief available to it in law or equity.

Any extension of time under Section I.D.1 for delivery of the Settlement Payment or acceptance of a portion of the Settlement Payment shall not prejudice the FDIC-R's rights to take any of the actions set forth in Section I.D.2 through I.D.4 at any time prior to receipt of Settlement Payment (including all accrued interest) in full.

## **SECTION II: Releases**

### **A. The FDIC-R's Releases.**

Upon receipt of the Settlement Payment in full and except as provided in Section II.D., the FDIC-R, for itself and its successors and assigns, hereby releases and discharges:

1. The Settling Parties and their respective heirs, executors, trustees, administrators, representatives, successors, and assigns, from any and all claims, demands, obligations, damages, actions, and causes of action, direct or indirect, in law or in equity,

belonging to the FDIC-R, that arise from or relate to, the performance, nonperformance, or manner of performance of the Settling Parties' respective functions, duties and actions as officers and/or directors of the Bank.

2. The Insurer, its parents, subsidiaries, affiliates and reinsurers, and their respective employees, officers, directors, agents, representatives, successors and assigns, 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 Policy. As part of this release of the Insurer, the FDIC-R agrees that any interest it may have under the Policy is extinguished.

3. All other former directors, officers, and employees of the Bank as described in the Policy (collectively, the "Covered Persons") and their respective heirs, executors, trustees, administrators, representatives, successors, and assigned, from any and all claims, demands, obligations, damages, actions, and causes of action, direct or indirect, in law or in equity, belonging to the FDIC-R, that arise from or related to, the performance, nonperformance, or manner of performance of Covered Persons' respective functions, duties and actions as directors, officers and/or employees of the Bank. This release shall be null and void as to any Covered Person if such Covered Person asserts any claim against the FDIC-R.

B. The Settling Parties' Release.

1. Effective simultaneously with the release granted in Section II.A. above, the Settling Parties, on behalf of themselves individually, and their respective heirs, executors, trustees, administrators, agents, representatives, attorneys, successors, and assigns, hereby release and discharge the FDIC-R, and its employees, officers, directors, representatives, attorneys, successors and assigns, 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 Bank or to the performance, nonperformance, or manner of performance of the Settling Parties' respective functions, duties and actions as officers and/or directors of the Bank.

2. Effective simultaneously with the release granted in Section II.C.2. below, the Settling Parties on behalf of themselves individually, and their respective heirs, executors,

trustees, administrators, agents, representatives, attorneys, successors, and assigns, hereby release and discharge the Insurer, its parents, subsidiaries, affiliates and reinsurers, and their respective employees, officers, directors, agents, representatives, successors and assigns, from any all claims, demands, obligations, damages, actions and causes of action, direct or indirect, in law or in equity, known or unknown, including claims for bad faith or unfair claims handling practices, that arise from or relate to the FDIC-R's claims.

C. The Insurer's Release.

1. Effective simultaneously with the releases granted in Section II.A. above, the Insurer, for itself and its successors and assigns, and on behalf of its parents, subsidiaries, affiliates and reinsurers, and their successors and assigns, hereby releases and discharges the FDIC-R, and its employees, officers, directors, agents, representatives, attorneys, successors, and assigns, 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 Policy.

2. Effective simultaneously with the release granted in Section II.B.2. above, the Insurer, for itself and its successors and assigns, and on behalf of its parents, subsidiaries, affiliates, and reinsurers, and their successors and assigns, hereby releases and discharges each of the Settling Individuals under the Policy, and their respective heirs, executors, administrators, agents, representatives, successors and assigns, 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 FDIC-R's claims.

D. Exceptions from Releases by FDIC-R.

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

a. Against the Settling Parties 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 them to FDIC-R, the Bank, other financial institutions, or any

other person or entity, including without limitation any such claims acquired by FDIC-R as successor in interest to the Bank or any person or entity other than Bank; and

b. Against any person or entity not expressly released by the FDIC-R in this Agreement, including but not limited to the attorneys for the Settling Parties.

2. Notwithstanding any other provision of this Agreement, 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 or other proceedings seeking removal, prohibition, or any other relief it is authorized to seek pursuant to its supervisory or regulatory authority against any person.

3. Notwithstanding any other provision of this Agreement, this Agreement does not purport to waive, or intend to waive, any claims that could be brought by the United States through the Department of Justice, the United States Attorney's Office for any federal judicial district, or any other department or agency of the United States as defined by 18 U.S.C. § 6. In addition, the FDIC-R specifically reserves the right to seek court-ordered restitution pursuant to the relevant provisions of the Mandatory Victims Restitution Act, 18 U.S.C. §§ 3322 and 3663 *et. seq.*, if appropriate.

### **SECTION III: Waiver of Dividends and Proceeds from Litigation**

To the extent, if any, that Settling Parties are or were shareholders of the Bank or its holding company and by virtue thereof are or may be entitled to a dividend, payment, or other distribution upon resolution of the receivership of the Bank or proceeds in any litigation that has been or could be brought against the Federal Deposit Insurance Corporation in any capacity or against the United States based on or arising out of, in whole or in part, the closing of the Bank, or any alleged acts or omissions by the Federal Deposit Insurance Corporation in any capacity, the United States government, or any agency or department of the United States government in connection with the Bank, its conservatorship, or receivership, Settling Parties hereby knowingly

assign to the FDIC-R any and all rights, titles, and interest in and to any and all such dividends, payments, or other distributions, or proceeds.

#### **SECTION IV: Representations and Acknowledgements**

A. Authorized Signatories. All of the undersigned persons represent and warrant that they are Parties hereto or are authorized to sign this Agreement on behalf of the respective Party, and that they have the full power and authority to bind such Party to each and every provision of this Agreement. This Agreement shall be binding upon and inure to the benefit of the undersigned Parties and their respective heirs, executors, trustees, administrators, representatives, successors and assigns.

B. Advice of Counsel. The Settling Parties and the FDIC-R hereby acknowledges that he, she, or it has consulted with and obtained the advice of counsel prior to executing this Agreement, and that this Agreement has been explained to that Party by his or her counsel.

C. Financial Disclosure Representation. Each Settling Party has submitted financial information to the FDIC-R, including financial statements, and herein affirms that his/her financial information is true and accurate as of the date of this agreement. Each Settling Party expressly acknowledges that, in determining to settle the claims released herein, the FDIC-R has reasonably and justifiably relied upon the accuracy of the financial information submitted by the Settling Parties. The FDIC-R has no obligation to independently verify the completeness or accuracy of that financial information. If the FDIC-R establishes via a final adjudication in an appropriate judicial forum that a Settling Party failed to disclose any material interest, legal, equitable, or beneficial, in any asset, that Settling Party agrees to cooperate fully with the FDIC-R to provide updated financial information and to pay to the FDIC-R the lesser of (1) the value of the Settling Party's undisclosed material interest in such asset(s); or (2) the amount of unpaid damages alleged against that Settling Party.

#### **SECTION V: Reasonable Cooperation**

A. The 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 necessary to perform the terms of this Agreement.

B. The Settling Parties agree to cooperate fully with the FDIC-R in connection with any action required under this Agreement. Such cooperation shall consist of:

1. Producing all documents requested by the FDIC-R, without the necessity of subpoena, as determined by the FDIC-R, in its sole discretion, to be relevant to the Bank;

2. Appearing as requested by the FDIC-R at reasonable times and places for interviews regarding facts, as determined by the FDIC-R in its sole discretion, to be relevant to the Bank;

3. Testifying as requested by the FDIC-R, without the necessity of a subpoena, in any matter relevant to the Bank, as determined by the FDIC-R;

4. Signing truthful affidavits, regarding any matter, as determined by the FDIC-R in its sole discretion, to be relevant to the Bank.

#### **SECTION VI: Other Matters**

A. No Admission of Liability. The undersigned Parties each acknowledge and agree that the matters set forth in this Agreement constitute the settlement and compromise of disputed claims and defenses, that this Agreement is not an admission or evidence of liability or infirmity by any of them regarding any claim or defense, and that the Agreement shall not be offered or received in evidence by or against any Party except to enforce its terms.

B. Execution in Counterparts. This Agreement may be executed in counterparts by one or more of the Parties and all such counterparts when so executed shall together constitute the final Agreement, as if one document had been signed by all Parties; and each such counterpart, upon execution and delivery, shall be deemed a complete original, binding the Parties subscribed thereto upon the execution by all Parties to this Agreement. The Parties agree that delivery by email of Portable Document Format (PDF) copies of executed signature pages shall be deemed a binding delivery.

C. 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.

D. Notices. Any notices required hereunder shall be sent by registered mail, first class, return receipt requested, and by email, to the following:

If to the FDIC-R:

Christine P. Hsu  
FDIC Legal Division, PLU  
3502 Fairfax Drive, Room VS-B-7054  
Arlington, VA 22226-3500  
(703) 516-5243

(b)(6) [redacted]

with a copy to:  
Randall Lehner  
Ulmer & Berne LLP  
500 West Madison, Suite 3600  
Chicago, IL 60641  
(312) 658-6518

(b)(6) [redacted]

If to the Settling Parties:

Robert J. Ambrose, Esq.  
Howard & Howard  
200 S. Michigan Avenue  
Suite 1100  
Chicago, IL 60604  
(312) 456-3401

(b)(6) [redacted]

*Attorney for Gregory J. Paetow and Rodney D. Stickle*

Eugene J. Schiltz, Esq.  
The Coleman Law Firm  
77 West Wacker Drive  
Suite 4800  
Chicago, IL 60601  
(312) 444-1000

(b)(6) [redacted]

*Attorney for Donald H. Jeanes, James M. Mandros, Dennis C. O'Rourke, Howard J. Rynberk, Jr., Richard S. Schmaedeke, and Paul J. Walk*

If to Illinois National:

Edward Drummond  
Vice President, Financial Institutions  
AIG Claims, Inc.  
175 Water Street  
4<sup>th</sup> Floor  
New York, New York 10038

*Claims Administrator for the Illinois National Insurance Company*

E. Entire Agreement and Amendments. This Agreement constitutes the entire agreement and understanding between and among the undersigned Parties concerning the matters set forth herein and supersedes any prior agreements or understandings. This Agreement may not be amended or modified, nor may any of its provisions be waived, except in writing signed by the Parties bound thereby, or by their respective authorized attorney(s), or other representative(s).

F. Titles and Captions. All section titles and captions contained in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.

G. No Confidentiality. The undersigned Parties acknowledge that this Agreement shall not be confidential and will be disclosed pursuant to the Federal Deposit Insurance Corporation's applicable policies, procedures, and other legal requirements.

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 PALOS BANK AND TRUST  
COMPANY**

(b)(6)

Date: February 9, 2015

BY:

[Redacted Signature Box]

TITLE:

Counsel

PRINT NAME:

Christine P. Hsu

Date: \_\_\_\_\_

**GREGORY J. PAETOW**

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

Date: \_\_\_\_\_

**RODNEY D. STICKLE**

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

Date: \_\_\_\_\_

**DONALD H. JEANES**

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

Date: \_\_\_\_\_

**JAMES M. MANDROS**

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

**COMPANY**

Date: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

PRINT NAME: Gregory J. Paetow

Date: \_\_\_\_\_

**GREGORY J. PAETOW**



TITLE: \_\_\_\_\_

PRINT NAME: Gregory J. Paetow

Date: \_\_\_\_\_

**RODNEY D. STICKLE**

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

Date: \_\_\_\_\_

**DONALD H. JEANES**

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

Date: \_\_\_\_\_

**JAMES M. MANDROS**

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

Date: \_\_\_\_\_

**DENNIS C. O'ROURKE**

(b)(6)

**COMPANY**

Date: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

Date: \_\_\_\_\_

**GREGORY J. PAETOW**

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

Date: \_\_\_\_\_

**RODNEY D. STICKLE**

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

Date: 2-3-15

**DONALD H. JEANES**

(b)(6)

TITLE:  \_\_\_\_\_

PRINT NAME: DONALD H JEANES

Date: \_\_\_\_\_

**JAMES M. MANDROS**

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

*PKAC email - 1*

(b)(6)

**COMPANY**

Date: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

Date: \_\_\_\_\_

**GREGORY J. PAETOW**

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

Date: \_\_\_\_\_

**RODNEY D. STICKLE**

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

Date: \_\_\_\_\_

**DONALD H. JEANES**

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

Date: *1-30-15*

**JAMES M. MANDROS** - *Director*

(b)(6)

(b)(6)

TITLE: \_\_\_\_\_

PRINT NAME: *James M. Mandros*

Date: \_\_\_\_\_

**DENNIS C. O'ROURKE**

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

Date: \_\_\_\_\_

**HOWARD J. RYNBERK, JR.**

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

Date: \_\_\_\_\_

**RICHARD S. SCHMAEDEKE**

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

Date: \_\_\_\_\_

**PAUL J. WALK**



(b)(6)

TITLE: Director

PRINT NAME: PAUL J WALK



Date: \_\_\_\_\_

**DENNIS C. O'ROURKE**

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

Date: \_\_\_\_\_

**HOWARD J. RYNBERK, JR.**

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

Date: 1/29/15

**RICHARD S. SCHMAEDEKE**

(b)(6)



TITLE: \_\_\_\_\_

PRINT NAME: *R. Schmaedeke*

Date: \_\_\_\_\_

**PAUL J. WALK**

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

Date: \_\_\_\_\_

**DENNIS C. O'ROURKE**

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

Date: 1/28/15

**HOWARD J. RYNBERK, JR.**

(b)(6)



TITLE: \_\_\_\_\_

PRINT NAME: HOWARD J. RYNBERK JR

Date: \_\_\_\_\_

**RICHARD S. SCHMAEDEKE**

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

Date: \_\_\_\_\_

**PAUL J. WALK**

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

Date: 02-04-2015

**DENNIS C. O'ROURKE**

(b)(6)

TITLE:



PRINT NAME: DENNIS C. O'ROURKE

Date: \_\_\_\_\_

**HOWARD J. RYNBERK, JR.**

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

Date: \_\_\_\_\_

**RICHARD S. SCHMAEDEKE**

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

Date: \_\_\_\_\_

**PAUL J. WALK**

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

(b)(6)

**ILLINOIS NATIONAL INSURANCE COMPANY**

Date: \_\_\_\_\_

BY: \_\_\_\_\_



TITLE: VP FF CLAIMS

PRINT NAME: Edward Drummond