

## **SETTLEMENT AND RELEASE AGREEMENT**

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

Plaintiff Federal Deposit Insurance Corporation as Receiver (“FDIC-R”) for The National Republic Bank of Chicago (“NRB”) and Defendant Hema Patel as Personal Representative of the Estate of Hiren Patel (“Estate”). FDIC-R and the Estate may be referred to herein individually as a “Party” and collectively as the “Parties.”

### **RECITALS**

WHEREAS:

Prior to October 24, 2014, NRB was a depository institution organized and existing under the laws of the United States;

On October 24, 2014, the Office of the Comptroller of the Currency (“OCC”) closed NRB and, pursuant to 12 U.S.C. § 1821(c), Federal Deposit Insurance Corporation (“FDIC”) was appointed Receiver. In accordance with 12 U.S.C. § 1821(d), FDIC-R succeeded to all rights, titles, powers and privileges of NRB, including those with respect to its assets;

Among the assets to which FDIC-R succeeded were all of NRB’s claims, demands, and causes of action against NRB’s former directors and officers;

On October 21, 2019, FDIC-R filed a complaint for money damages against Hiren Patel, the former Chairman of the Board of Directors and Chief Executive Officer of NRB. Those claims for damages are now pending in the United States District Court for the Northern District of Illinois in *FDIC-R v. Patel*, No. 19-6917 (“Action”). Patel denied liability in the Action;

On May 9, 2022, Patel died, and on September 2, 2022, Hema Patel filed a petition for administration of Patel’s estate in the Probate Division of the Circuit Court of the Eleventh Judicial Circuit, No. 2022-4802-CP-02 (“Probate Court”);

On September 29, 2022, FDIC-R filed a claim (“Claim”) in the Probate Court. On October 10, 2022, the Estate objected to the Claim;

On November 9, 2022, FDIC-R sought to substitute the Estate as defendant in this

Action;

On January 5, 2023, the Probate Court issued Letters of Administration to Hema Patel, as Personal Representative of the Estate (“Personal Representative”), thereby allowing for the substitution of the Estate in this Action;

On June 28, 2023, the Estate filed in the probate proceeding an Amended Inventory of all the property of the estate within the possession, control, or knowledge of the Personal Representative;

On February 25, 2024, the Probate Court approved a settlement (“Stipulation”) between the Estate and Agnate Capital, LLC (“Agnate”) pursuant to which Agnate agreed that it would pay the Estate the first \$4 million it received as payment under a promissory note (“Note”) issued by Naveen Shah and Rajshree Shah; and

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

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

#### **SECTION I: Conditions of Settlement**

A. This Agreement is expressly conditioned on each of the following events:

1. Within 10 calendar days of the execution by both Parties of this Agreement the Estate will file a petition for an order by the Probate Court approving all terms of this Agreement in substantially the form attached hereto as Exhibit A (“Probate Court Order”).

2. The Probate Court approves the Probate Court Order. For the avoidance of doubt, this entire Settlement Agreement is conditioned on the approval of the Probate Court. The date the Probate Court enters the Probate Court Order is the Effective Date of this Agreement.

B. If these conditions are not satisfied on or before February 28, 2025, FDIC-R

may either extend this deadline or terminate this Agreement by declaring it null and void and continuing the Action.

## **SECTION II: Payments to FDIC-R**

### **A. Settlement Payments**

1. As an essential covenant and condition to this Agreement, within 10 calendar days of the Effective Date, the Estate shall file a Petition with the Probate Court for an Order authorizing the restricted depository to pay or cause to be paid FDIC-R Eight Hundred Thousand Dollars (\$800,000.00) (“the Initial Payment”) from the restricted depository account belonging to the Estate. If FDIC-R does not receive the Initial Payment in full within 30 days of Effective Date, then the Estate shall be in default of its payment obligations (“Default”) and FDIC-R, in its sole discretion, shall have the right to:

- a. Waive the Default and, subject to the approval of the Probate Court, extend the period of time for the Initial Payment in writing, including interest at the rate calculated in accordance with 26 U.S.C. § 6621(a)(2) (“Default Interest Rate”);
- b. Enforce this Agreement, including without limitation, by FDIC-R’s motion to summarily enforce the agreed-upon settlement;
- c. Terminate the Agreement by declaring it null and void and re-open the Action; and/or
- d. Seek any other relief available to it in law or equity.

Any decision by FDIC-R to extend the time, and any extension of time for delivery of the Initial Payment or any decision by FDIC-R to accept a portion of the Initial Payment, and any acceptance of a portion of the Initial Payment, shall not prejudice FDIC-R’s rights to take any of the actions set forth in Section II.A.1.b through II.A.1.d at any time prior to receipt of Initial Payment (including all accrued interest) in full; provided, however, that in the event FDIC-R terminates this Agreement by declaring it null and void, FDIC-R

will return to the Estate any and all amounts paid to FDIC-R under this Agreement.

2. In addition to the Initial Payment, the Estate shall pay FDIC-R Two Million, Eight-Hundred-and-Twenty-Five Thousand dollars (\$2,825,000.00) (“Distribution”) from any funds received, if any, from or on behalf of Agnate or otherwise as a result of the Stipulation; provided that, if the FDIC-R receives Two Million, Four-Hundred-Fifty Thousand dollars (\$2,450,000.00) from the Estate on or before 90 days from the Effective Date, the Distribution obligation shall be fully satisfied and paid in full. The Estate shall not waive, release, or otherwise compromise its right to the amounts owed by Agnate to the extent it would compromise any amount owed hereunder to FDIC-R. Within ten (10) days of the Estate depositing any funds it receives from Agnate into the restricted depository, the Estate shall file a petition with the Probate Court for an Order authorizing the restricted depository to issue a check or initiate a wire transfer to FDIC-R until the full amount of the Distribution is paid. No other person shall be entitled to any money received from or on behalf of Agnate or otherwise as a result of the Stipulation until the Distribution is paid in full to FDIC-R.

B. The Estate shall deliver the Initial Payment and the Distribution to FDIC-R by wire transfer if that process is available, and by overnight delivery of check if wire transfer is not available. FDIC-R shall provide written instructions including a tax identification number contemporaneous with signing this Agreement.

C. The Initial Payment and Distribution shall constitute a debt due and owing FDIC-R, an instrumentality, agency and/or other entity of the United States, on the Effective Date. The debt shall be discharged by payment in full to FDIC-R pursuant to paragraphs II.A.1 and II.A.2 above.

### **SECTION III: Stipulation and Dismissal**

A. Subject to the conditions in Section I, within 5 business days after the later of the Effective Date and FDIC-R’s receipt of the Initial Payment, plus any accrued interest, FDIC-R shall file a stipulation of dismissal with prejudice, executed by the attorneys for all Parties

hereto, in the form attached hereto as Exhibit B, in the Action.

B. Subject to the conditions in Section I, within 10 calendar days after the later of the Effective Date and FDIC-R's receipt of the Initial Payment, plus any accrued interest, FDIC-R shall file a satisfaction of its claim in the Probate Court in the form attached hereto as Exhibit C. Such satisfaction is subject to and shall not impair FDIC-R's rights to the Distribution, and the obligations of the Estate and/or its beneficiaries to pay the Distribution to FDIC-R shall survive any such satisfaction or the closing of the Estate.

#### **SECTION IV: Releases**

A. FDIC-R's Releases.

Upon the later of the Effective Date and FDIC-R's receipt of the Initial Payment in full and except as provided in Section IV.C., FDIC-R, for itself and its successors and assigns, hereby releases and discharges the Estate and the Personal Representative, including their respective heirs, executors, trustees, administrators, agents, representatives, successors, and assigns (including but not limited to Hema Patel and Amita Patel), from any and all claims, demands, obligations, damages, actions, and causes of action, direct or indirect, in law or in equity, belonging to FDIC-R, that arise from or relate to the causes of action alleged in the Action.

B. The Estate's Reciprocal Release.

Effective simultaneously with the release granted in Section IV.A. above, the Estate and its representatives, successors, and assigns hereby release and discharge FDIC-R, and its employees, officers, directors, 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 causes of action alleged in the D&O Action.

C. Exceptions from Releases by FDIC-R.

1. Notwithstanding any other provision of this Agreement, FDIC, in any capacity, 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 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, other financial institutions, or any other person or entity, including without limitation any such claims acquired by FDIC-R as successor in interest to any person or entity other than NRB;
- b. by FDIC in any capacity other than as Receiver for NRB; and
- c. Against any person or entity not expressly released by FDIC-R in this Agreement.

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 FDIC 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 or entity.

3. Notwithstanding any other provision of this Agreement, this Agreement shall not be construed or interpreted as waiving, or intending to waive, any claims that could be brought by the United States or any department, agency or instrumentality thereof (other than FDIC-R), including, but not limited to, through the United States Department of Justice or any United States Attorney's Office.

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

To the extent, if any, that Patel or the Estate are or were shareholders of NRB 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 NRB or proceeds in any litigation that has been or could be brought against FDIC in any capacity or against the United States based on or arising out of, in whole or in part, the closing of NRB, or any alleged acts or omissions by FDIC in any capacity, the United States government, or any agency or department of the United States government in connection with NRB, its conservatorship, or receivership, the Estate hereby

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

#### **SECTION VI: 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 Parties and their respective heirs, executors, trustees, administrators, representatives, successors and assigns.

B. Advice of Counsel. Each Party 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. Prior to the filing of the Lawsuit, Hiren Patel submitted financial information to FDIC-R which disclosed the account at the IDBI Bank in India (IDBI Account). The Estate has submitted financial information to FDIC-R including the Amended Inventory and herein affirms that the financial information reflected therein is materially unchanged as of the date of this Agreement, except for expenditure of funds for litigation or estate expenses and the monies owed to the Estate from Agnate pursuant to the agreement with Agnate approved by the probate court, which the FDIC-R is fully aware of. The Estate acknowledges that FDIC-R reasonably relied on the information provided in the Amended Inventory, information produced during the discovery process in the probate proceeding relating to the disputed homestead proceeding, and the Estate's agreement with Agnate related to the monies owed to the Estate by Agnate in entering into this Agreement and reserves any rights and recourse it may have if it establishes via a final adjudication in an appropriate judicial forum that the Estate failed to disclose any material interest, legal, equitable, or beneficial, in any asset ("Material Undisclosed Asset"); provided, however, that notwithstanding the foregoing, FDIC-R acknowledges that Hiren Patel and the Estate disclosed the existence of the IDBI Account. The Estate asserts that the IDBI Account was not a probate asset and contained a pay-on-death

beneficiary designation, and the Parties agree that neither will assert, claim, or attempt to establish in any proceeding that the IDBI Account is a probate asset or a Material Undisclosed Asset.

#### **SECTION VII: Reasonable Cooperation**

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 conclude the Action and to otherwise perform the terms of this Agreement.

#### **SECTION VIII: Other Matters**

A. No Admission of Liability. The 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. Counterparts and Digital Signatures. This Agreement may be executed digitally by DocuSign or similar services which use public key cryptography or by hand, in any number of counterparts, and delivered electronically or physically, each original or electronic copy thereof will be deemed an original, and all of which when taken together constitute one and the same Agreement.

C. Choice of Law/Jurisdiction. This Agreement shall be interpreted, construed and enforced according to applicable federal law, or in its absence, the laws of the State of Florida. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute. Following the dismissal of this Action, all Parties hereto submit to the personal jurisdiction of the Probate Division for the Circuit Court of Miami-Dade County, Florida for purposes of implementing and enforcing the settlement embodied in this



Agreement.

D. Notices. Any notices required hereunder shall be sent by nationally recognized overnight delivery service (e.g. FedEx or UPS), and by email, to the following:

If to FDIC-R:

Stuart Tonkinson  
3501 Fairfax Drive  
Arlington VA 22226  
(214) 673-7549  
[jtonkinson@fdic.gov](mailto:jtonkinson@fdic.gov)

If to the Estate:

Nancy A. Temple  
Katten & Temple, LLP  
209 S. LaSalle St., Suite 950  
Chicago, IL 60604  
[ntemple@kattentemple.com](mailto:ntemple@kattentemple.com)  
(312) 663-4456

Jaime Quick  
Cole Schotz  
One Boca Plaza  
2225 Glades Rd., Suite 300E  
Boca Raton, FL 33431  
[jquick@coleschotz.com](mailto:jquick@coleschotz.com)  
(561) 609-3855

E. Entire Agreement and Amendments. This Agreement, including Exhibits, constitutes the entire agreement and understanding between and among the 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 attorneys, or other representatives.

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 Parties acknowledge that this Agreement shall not be confidential and will be disclosed pursuant to FDIC'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.

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 THE NATIONAL REPUBLIC BANK  
OF CHICAGO

Date: Jan. 8, 2025

BY:

**b6**

TITLE: Counsel

PRINT NAME: Stuart Tonkinson

Date: Jan. 23 - 2025

HEMA PATEL AS PERSONAL REPRESENTATIVE OF  
THE ESTATE OF HIREN PATEL

BY:

**b6**

TITLE: Personal Representative

PRINT NAME: Hema Patel