

EXCESS FUNDS AGENCY AGREEMENT

THIS AGREEMENT, made this	day of	, 20	by and between	the undersigned	bank ("Seller")
and Atlantic Community Bankers	Bank ("ACBB").					

WHEREAS, ACBB is engaged in the business of buying and selling excess funds on behalf of others; and

WHEREAS, Seller desires to appoint ACBB as its agent for the purpose of selling excess funds held by the Seller ("Funds").

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

- 1. Agency. The Seller hereby appoints ACBB as its agent to sell Funds on behalf of the Seller in the unsecured federal funds market upon the terms set forth in this Agreement. ACBB shall sell Funds as directed from time to time by written, telephonic or electronic instructions from the Seller. ACBB's appointment as agent hereunder is to sell Funds maintained by Seller at ACBB as determined by ACBB on a daily basis ("Agency Funds"). Funds maintained by Seller at ACBB may be purchased by ACBB as principal from the Seller ("Purchased Funds") pursuant to a separate agreement between ACBB and the Seller. The Seller shall at all times retain title to all Agency Funds until sold by ACBB under this Agreement or purchased by ACBB under a separate agreement. The Seller hereby assumes all risk of loss resulting from the failure or the inability of purchasers of the Agency Funds to pay for them.
- 2. <u>Services</u>. The services performed by ACBB under this Agreement shall be subject to the following provisions:
 - a. ACBB may sell Seller's Agency Funds to any one or more of the purchasers identified on the list of purchasers attached to this Agreement as Exhibit A ("Authorized Purchasers"); provided, however, that Seller may instruct ACBB in writing at any time that Agency Funds shall not be sold to certain Authorized Purchasers. ACBB may amend Exhibit A at any time by adding or deleting Authorized Purchasers upon prior verbal orwritten notice to the Seller, and ACBB may sell Agency Funds to such additional Authorized Purchasers, unless the Seller shall have directed ACBB prior to the sale not to sell Agency Funds to such additional Authorized Purchasers. ACBB shall from time to time provide to Seller a current or revised list of Authorized Purchasers. Any instruction from the Seller to ACBB to sell Agency Funds shall be subject to the availability of an Authorized Purchaser willing to purchase the Agency Funds at a price acceptable to ACBB.
 - b. Subject to any specific written, telephonic or electronic instructions from the Seller, ACBB may at its option select an Authorized Purchaser from the list of Authorized Purchasers and sell the Agency Funds at a price acceptable to ACBB and the selected Authorized Purchaser. ACBB shall not sell more than 50% of all Agency Funds placed with ACBB on any one day to any one Authorized Purchaser or as otherwise directed in writing by Seller.
 - c. ACBB does not make any representation or warranty whatsoever to Seller regarding the Authorized Purchasers. Seller hereby represents and warrants that the Seller has made or will make its own determination regarding the credit-worthiness of all Authorized Purchasers.



- d. Seller's Agency Funds may be commingled with other excess funds sold or to be sold by ACBB on the same day, including, but not limited to, ACBB's own excess funds, and Seller shall be deemed to be a Seller on a pro-rata basis in each sale of Agency Funds made by ACBB out of such commingled excess funds.
- e. Seller authorizes but does not require ACBB to cause all documents pertaining to the sale of Agency Funds to be issued to ACBB in ACBB's name. ACBB shall disclose to Authorized Purchasers of the Agency Funds that it is acting in an agency capacity.
- f. The sole responsibility of ACBB under this Agreement shall be to act in good faith with respect to sales of Agency Funds, and to conduct such transactions with the same degree of care as ACBB exercises in the sale of its own funds in the unsecured federal funds market.
- g. ACBB shall periodically (not less often than once each week during which a sale occurs) mail written advice of each sale of Agency Funds to the Seller, setting forth the date of the sale, the dollar amount of the sale, amount of interest paid by ACBB, the identity of the Authorized Purchasers, and the term of the sale and maturity date.
- h. Seller hereby agrees that ACBB's records concerning each Agency Funds transaction conducted by ACBB on behalf of the Seller pursuant to this Agreement will be deemed correct, unless the Seller objects to those records within fifteen (15) business days after the transaction.
- 3. Servicing Fee. ACBB shall pay to the Seller following the sale of Agency Funds an interest rate determined by ACBB, based on market conditions, on a transaction by transaction basis. The fee to be retained by ACBB for services performed shall not exceed on average .36 per \$100,000 per day and will be netted out of the daily interest proceeds.
- 4. <u>Hold Harmless</u>. Seller holds harmless and indemnifies ACBB from any and all damages, claims, costs, expenses and fees(including attorney's fees), suits, actions, causes of action or the like arising out of this Agreement or any exhibit hereto or activities related to it, provided ACBB acts in good faith and exercises the degree of care required by this Agreement.
- 5. <u>Term</u>. This Agreement may be terminated by Seller or ACBB at any time upon prior written notice to the other party; provided, however, that such notice shall not be effective until received by the party to whom directed.

6. Miscellaneous.

- a. **Construction**. This Agreement will be governed by the laws of Pennsylvania.
- b. **Notices**. Except as otherwise provided in this Agreement, all communications required or permitted to be given or to be made under this Agreement will be in writing and will be deemed to have been properly given if sent by U.S. Mail, postage prepaid, addressed to the other party at its principal office or by telefax or by other electronic means acceptable to both parties hereto. ACBB's and the Seller's principal office addresses and telefax numbers, are as follows:



ACBB Principal Office: Address: 1400 Market Street P.O. Box 1109 Camp Hill, PA 17001-1109 Telefax Number: 717-975-0176 Seller Principal Office: Address: Telefax Number: _____ Either party to this Agreement may change their principal office address, or telefax number by providing written or telefax notice to the other party of each such change. c. Binding Effect. This Agreement will bind and inure to the benefit of the parties and their respective successors, transferees and assigns. d. Amendment. Except as otherwise provided in this Agreement, the parties to this Agreement, by mutual consent may amend, modify and supplement this Agreement in such manner as may be agreed upon in writing. IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers on the date first above written. Atlantic Community Bankers Bank (Name of Seller) By:_____ Title **Certification by the Seller** I certify that I am the duly elected, qualified and acting Cashier or Secretary of the Seller Bank and that the foregoing Agreement has been duly authorized at a meeting of the Bank's Board of Directors held on _____, 20___, at which a quorum was present and voted. (Insert Name of Bank)

(Print Name & Title)