

Certification

STATE OF NEW YORK, COUNTY OF NEW YORK, SS:

I, Milton Adair Tingling, County Clerk and Clerk of Supreme Court New York County,

do hereby certify that on April 1, 2021 I have compared

the document attached hereto,

**CERTIFICATE OF MERGER FOR: ASSURED GUARANTY MUNICIPAL CORP.
page(s) 12**

with the originals filed in my office and the same is a correct transcript

therefrom and of the whole of such original in witness

whereto I have affixed my signature and seal.



**MILTON ADAIR TINGLING
NEW YORK COUNTY CLERK**

AGREEMENT AND PLAN OF MERGER

AGREEMENT AND PLAN OF MERGER (this “Agreement”), dated as of the 1st day of April, 2021, by and between Assured Guaranty Municipal Corp., a New York financial guaranty insurance corporation (“AGM”), and Municipal Assurance Corp., a New York financial guaranty insurance corporation (“MAC”).

W I T N E S S E T H:

WHEREAS AGM owns all of the outstanding shares of capital stock of MAC;

WHEREAS Assured Guaranty Municipal Holdings Inc., a New York corporation (“AGMH”), owns all of the outstanding shares of capital stock of AGM;

WHEREAS each of AGM and MAC is authorized to transact a financial guaranty insurance business in the State of New York; and,

WHEREAS the directors of each of AGM and MAC, and AGM as the sole shareholder of MAC, and AGMH as the sole shareholder of AGM, have determined to merge MAC with and into AGM (the “Merger”) on the terms and subject to the conditions of this Agreement and in accordance with Article 71 of the New York Insurance Law (the “NYIL”).

NOW, THEREFORE, in consideration of the mutual premises contained herein, the parties hereto hereby agree as follows:

1. The Merger.

1.1 Constituent Companies; Surviving Company. The names of the constituent companies are “Assured Guaranty Municipal Corp.”, a New York financial guaranty insurance corporation, and “Municipal Assurance Corp.”, a New York financial guaranty insurance corporation (the “Constituent Companies”). MAC will be merged into AGM, which shall be the surviving company of the Merger (sometimes referred to hereinafter as the “Surviving Company”) and shall continue to be known by the name of “Assured Guaranty Municipal Corp.”

1.2 Shares of Constituent Companies. The designation and number of outstanding shares of the securities of the Constituent Companies and the voting rights attendant thereto immediately prior to the Merger are as follows:

Corporation	Number of Shares Outstanding	Designation	Voting Rights
AGM	163	Common Stock, \$92,024.54 par value per share	One vote per share

MAC	35,678	Common Stock, \$420.43 par value per share	One vote per share
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1.3 Merger.

1.3.1 Effective Time. Subject to the receipt of all necessary regulatory approvals, including the approval of the Superintendent of Financial Services of the State of New York (the "Superintendent"), the Merger shall become effective upon the filing of a duplicate or certified copy of this Agreement, with the approval of the Superintendent endorsed thereon, in the office of the Clerk of the County of New York in the State of New York (the time of such filing hereinafter referred to as the "Effective Time").

1.3.2 Effect of the Merger. At the Effective Time, MAC shall be merged into AGM in accordance with the provisions of this Agreement and the NYIL, and the separate corporate existence of MAC (except as may be continued by operation of law) shall cease. The Surviving Company shall possess all the rights, privileges, immunities, powers and franchises of the Constituent Companies; all certificates of authority, surplus lines approvals; all assets and property, real, personal and mixed, and all debts due on whatever account, and all choses in action and all and every other interest, of or belonging to or due each of the Constituent Companies shall be taken and deemed to be transferred to and vested in the Surviving Company without further act or deed. Neither the rights of creditors nor any liens upon property of either AGM or AGMIC shall be impaired by the Merger.

1.4 Charter and Bylaws. The current Amended and Restated Charter of AGM, as heretofore amended, shall be the Amended and Restated Charter of the Surviving Company. The current Amended and Restated Bylaws of AGM, as heretofore amended, shall be the Amended and Restated Bylaws of the Surviving Company.

1.5 Directors and Officers. The directors and the officers of AGM immediately prior to the Effective Time shall be the directors and the officers of the Surviving Company until their successors shall have been elected and shall have qualified or until otherwise provided in the bylaws of the Surviving Company.

2. Treatment of Capital Stock.

2.1 The shares of common stock of AGM issued and outstanding immediately prior to the Effective Time shall not be converted or otherwise affected by the Merger, but each said share shall continue to represent one issued and outstanding share of the common stock of the Surviving Company.

2.2 The shares of common stock of MAC issued and outstanding immediately prior to the Effective Time shall, at the Effective Time, by virtue of the Merger and without any action on the part of the Constituent Companies or any shareholder thereof, be cancelled and retired, and cease to exist, and shall not be converted into any shares of capital stock of the Surviving Company or the right to receive cash or other property. The certificates representing such shares shall be surrendered and cancelled.

3. Representations and Warranties of AGM. AGM represents and warrants to MAC as follows:

3.1 Organization and Qualification. AGM is a corporation duly organized, validly existing and in good standing under the laws of the State of New York and has the requisite corporate power and authority to carry on its business as it is now being conducted.

3.2 Authority Relative to this Agreement. AGM has the requisite corporate power and authority to enter into this Agreement and to perform its obligations hereunder and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement by AGM and the consummation by AGM of the transactions contemplated hereby have been duly authorized by the directors of AGM and by the sole shareholder of AGM, and no other corporate proceeding on the part of AGM is necessary to authorize the execution, delivery and performance of this Agreement and the Merger and the transactions contemplated hereby and thereby.

3.3 Binding Obligation. This Agreement has been duly executed and delivered by AGM and constitutes a valid and binding obligation of such corporation, enforceable against it in accordance with its terms except as enforceability may be limited by bankruptcy, insolvency, or other laws providing for limitations on creditors' rights generally and by other principles of equity relating to the right of specific performance.

4. Representations and Warranties of MAC. MAC represents and warrants to AGM as follows:

4.1 Organization and Qualification. MAC is a corporation duly organized, validly existing and in good standing under the laws of the State of New York and has the requisite corporate power and authority to carry on its business as it is now being conducted.

4.2 Authority Relative to this Agreement. MAC has the requisite corporate power and authority to enter into this Agreement, to perform its obligations hereunder, and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement by MAC and the consummation by MAC of the transactions contemplated hereby have been duly authorized by the directors of MAC and by the sole shareholder of MAC and no other corporate proceeding on the part of MAC is necessary to authorize the execution, delivery and performance of this Agreement and the Merger and the transactions contemplated hereby and thereby.

4.3 Binding Obligation. This Agreement has been duly executed and delivered by MAC and constitutes the valid and binding obligation of such corporation, enforceable against it in accordance with its terms except as enforceability may be limited by bankruptcy, insolvency, or other laws providing for limitations on creditors' rights generally and by other principles of equity relating to the right of specific performance.

5. Miscellaneous.

5.1 Further Assurances. Each of the parties hereby covenants and agrees that it shall hereafter make, execute and deliver any and all such further and other instruments, documents and agreements, and do such other and further acts and things as may be necessary or expedient to carry out and give full force and effect to the intents and purposes of this Agreement and to the

provisions hereof and to assure that each of the parties hereto enjoys the benefits contemplated by this Agreement.

5.2 Termination and Abandonment. This Agreement and the Merger may be terminated and abandoned by mutual agreement between the directors of each of the parties hereto at any time prior to the Effective Time.

5.3 Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, administrators, executors, successors and assigns.

5.4 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute a single agreement.

5.5 Headings. The headings appearing in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope and intent of this Agreement or any of the provisions hereof.

5.6 Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of New York without reference to its principles of conflict laws.

5.7 Entire Understanding; Amendment, Waiver, etc. This Agreement constitutes the entire understanding between the parties hereto with respect to the subject matter hereof and no amendment, waiver or modification of the terms or provisions hereof shall be valid unless in writing signed by the party to be charged and only to the extent therein set forth. All prior or contemporaneous agreements, contracts, promises, representations and statements, if any, between the parties hereto or their representatives with respect to the subject matter hereof are merged into this Agreement and this Agreement shall constitute the entire agreement between them.


6. Service of Process. The Surviving Company hereby agrees that it may be served with process in any proceeding for enforcement of any obligation of the Surviving Company or MAC, as well as for the enforcement of any obligation of the Surviving Company arising from the Merger, and does hereby appoint the Superintendent as its agent to accept services of process in any such suit or proceeding.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement and Plan of Merger to be signed in their respective names and on their respective behalf, as of the 1st day of April, 2021.

ASSURED GUARANTY MUNICIPAL CORP.,
a New York financial guaranty insurance corporation

By: 
Dominic J. Frederico:
President and Chief Executive Officer

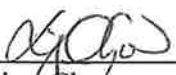
ATTEST:

By: 
Ling Chow
General Counsel and Secretary

MUNICIPAL ASSURANCE CORP., a New York financial
guaranty insurance corporation


By: 
Dominic J. Frederico
President and Chief Executive Officer

ATTEST:

By: 
Ling Chow
General Counsel and Secretary

CERTIFICATION

THE UNDERSIGNED, Dominic J. Frederico, President and Chief Executive Officer of Assured Guaranty Municipal Corp., a New York financial guaranty insurance corporation, who executed on behalf of said corporation the foregoing Agreement and Plan of Merger, hereby acknowledges, in the name and on behalf of said corporation, the foregoing Agreement and Plan of Merger of which this Certificate is made a part, to be the corporate act of said corporation and further certifies that, to the best of his knowledge, information and belief, the matters and facts set forth therein are true in all material respects, under the penalties of perjury.



Dominic J. Frederico
President and Chief Executive Officer

ATTEST:



Ling Chow, General Counsel and Secretary

THE UNDERSIGNED, Dominic J. Frederico, President and Chief Executive Officer of Municipal Assurance Corp., a New York financial guaranty insurance corporation, who executed on behalf of said corporation the foregoing Agreement and Plan of Merger, hereby acknowledges, in the name and on behalf of said corporation, the foregoing Agreement and Plan of Merger of which this Certificate is made a part, to be the corporate act of said corporation and further certifies that, to the best of his knowledge, information and belief, the matters and facts set forth therein are true in all material respects, under the penalties of perjury.



Dominic J. Frederico
President and Chief Executive Officer

ATTEST:




Ling Chow, General Counsel and Secretary

CERTIFICATE OF ADOPTION

We, the undersigned duly elected, qualified and presently acting President and Secretary, respectively, of Assured Guaranty Municipal Corp. (the "Company"), a financial guaranty insurance corporation organized under the laws of the State of New York, do hereby certify that the Agreement and Plan of Merger dated the 1st day of April, 2021, by and between the Company and Municipal Assurance Corp. has been duly authorized, adopted and approved by the Board of Directors and the sole shareholder of the Company.

IN WITNESS WHEREOF, we have hereunto subscribed our names under the penalties of perjury and caused the Corporate Seal of the Company to be affixed hereto this the 1st day of April, 2021.



Dominic J. Frederico
President and Chief Executive Officer

(Corporate Seal)

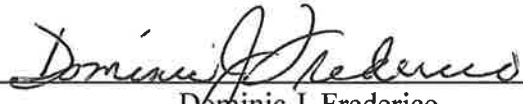


Ling Chow
General Counsel and Secretary

CERTIFICATE OF ADOPTION


We, the undersigned duly elected, qualified and presently acting President and Secretary, respectively, of Municipal Assurance Corp. (the "Company"), a financial guaranty insurance corporation organized under the laws of the State of New York, do hereby certify that the Agreement and Plan of Merger dated the 1st day of April, 2021, by and between the Company and Assured Guaranty Municipal Corp. has been duly authorized, adopted and approved by the Board of Directors and the sole shareholder of the Company.

IN WITNESS WHEREOF, we have hereunto subscribed our names under the penalties of perjury and caused the Corporate Seal of the Company to be affixed hereto this the 1st day of April, 2021.



Dominic J. Frederico
President and Chief Executive Officer

(Corporate Seal)



Ling Chow
General Counsel and Secretary

CERTIFICATE AS RELATES TO FEES

We, the undersigned duly elected, qualified and presently acting President and Secretary, respectively, of Assured Guaranty Municipal Corp. (the "Company"), a financial guaranty insurance corporation organized under the laws of the State of New York, do hereby certify that with regard to the Agreement and Plan of Merger dated the 1st day of April, 2021, by and between the Company and Municipal Assurance Corp., except as set forth below, no fees, commissions or other compensations or valuable considerations have been paid or are to be paid, directly or indirectly, to any person, firm or corporation, for in any manner securing, aiding, promoting or assisting in the transactions contemplated thereunder. Further, no director, officer or member of the Company, except as fully expressed in the Agreement and Plan of Merger, will receive any fee, commission, other compensation or valuable consideration, directly or indirectly, for in any manner aiding, promoting or assisting in the transactions contemplated thereunder.


<u>Payee</u>	<u>Amount of Payment</u>	<u>Purpose of Payment</u>
Mayer Brown LLP	\$30,000	Fee for legal services
PricewaterhouseCoopers LLP	\$40,000	Fees for accounting services

IN WITNESS WHEREOF, we have hereunto subscribed our names under the penalties of perjury and caused the Corporate Seal of the Company to be affixed hereto this the 1st day of April, 2021.



Dominic J. Frederico
President and Chief Executive Officer

(Corporate Seal)




Ling Chow
General Counsel and Secretary

CERTIFICATE AS RELATES TO FEES

We, the undersigned duly elected, qualified and presently acting President and Secretary, respectively, of Municipal Assurance Corp. (the "Company"), a financial guaranty insurance corporation organized under the laws of the State of New York, do hereby certify that with regard to the Agreement and Plan of Merger dated the 1st day of April, 2021, by and between the Company and Assured Guaranty Municipal Corp., except as set forth below, no fees, commissions or other compensations or valuable considerations have been paid or are to be paid, directly or indirectly, to any person, firm or corporation, for in any manner securing, aiding, promoting or assisting in the transactions contemplated thereunder. Further, no director, officer or member of the Company, except as fully expressed in the Agreement and Plan of Merger, will receive any fee, commission, other compensation or valuable consideration, directly or indirectly, for in any manner aiding, promoting or assisting in the transactions contemplated thereunder.


<u>Payee</u>	<u>Amount of Payment</u>	<u>Purpose of Payment</u>
Mayer Brown LLP	\$30,000	Fee for legal services
PricewaterhouseCoopers LLP	\$40,000	Fees for accounting services

IN WITNESS WHEREOF, we have hereunto subscribed our names under the penalties of perjury and caused the Corporate Seal of the Company to be affixed hereto this the 1st day of April, 2021.



Dominic J. Frederico
President and Chief Executive Officer

(Corporate Seal)



Ling Chow
General Counsel and Secretary

SHORT CERTIFICATE

STATE OF NEW YORK
DEPARTMENT OF FINANCIAL SERVICES

It is hereby certified that the attached Agreement and Plan of Merger of Municipal Assurance Corp., a New York corporation, with and into Assured Guaranty Municipal Corp., also a New York corporation, as approved by this Department, March 24, 2021, pursuant to Section 1206 of the New York Insurance Law,

has been compared with the original on file in this Department and that it is a correct transcript therefrom and of the whole of said original.



In Witness Whereof, I have here-
unto set my hand and affixed
the official seal of this Department
at the City of Albany, this 25th
day of March 2021.

A handwritten signature in cursive script, reading "Colleen M. Draper".

Colleen M. Draper
Special Deputy Superintendent

REC'D
COUNTY CLERK
N.Y. COUNTY

21 APR -1 AM 9:36

14403/85C

CERTIFICATE OF MERGER

OF

\$100

THIS RECORD NOT TO BE REMOVED FROM THE COUNTY CLERK'S OFFICE	
FILED BY	BBM
INDEXED BY	

Municipal Assurance Corp.

N/A

merging with and into

Assured Guaranty Municipal Corp.

MERGER

14403/85C

AMENDED AND RESTATED CHARTER
OF
ASSURED GUARANTY MUNICIPAL CORP.

Under Sections 1206 and 7103 of the New York Insurance Law and
Section 807 of the New York Business Corporation Law

Pursuant to the provisions of Sections 1206 and 7103 of the New York Insurance Law and Section 807 of the New York Business Corporation Law, the undersigned, being the President and Secretary of Assured Guaranty Municipal Corp., a corporation organized and existing under the laws of the State of New York (hereinafter referred to as the "Corporation"), DO HEREBY CERTIFY AS FOLLOWS:

FIRST: The name of the Corporation is Assured Guaranty Municipal Corp. The Corporation was formed under the name American Financial Assurance Corporation and the Corporation's name was subsequently changed to Financial Security Assurance Inc.

SECOND: The charter of the Corporation was originally filed with the New York State Insurance Department (predecessor of the New York State Department of Financial Services) on March 16, 1984, and has been amended and restated, and further amended, at various times thereafter (as so amended and restated, and further amended, the "Amended and Restated Charter").

THIRD: That the Amended and Restated Charter shall be further amended as set forth in subparagraphs (a), (b) and (c) of this THIRD paragraph and, as so amended shall be restated as set forth in the FIFTH paragraph hereof, and shall be the charter of the surviving corporation of

the merger (the “Merger”), whereby Assured Guaranty Municipal Insurance Company, a corporation organized and existing under the laws of the State of New York, shall merge with and into the Corporation, with the Corporation as the surviving corporation.

(a) All references in the Amended and Restated Charter to “Superintendent of Insurance” shall be revised and replaced by the term “Superintendent of Financial Services.”

(b) Article VIII of the Amended and Restated Charter shall be amended to reflect changes to the authorized share capital of the Corporation that have occurred (by operation of said Article VIII in connection with repurchases of shares of the Corporation) since the last restatement of the Amended and Restated Charter. As so amended, said Article VIII shall read in its entirety as follows:

ARTICLE VIII CAPITALIZATION

The amount of the authorized capital of the Corporation shall be \$20,000,100 and shall consist of (a) 330 shares of common stock having a par value of \$45,454.55 per share (hereinafter called the “Common Stock”) and (b) 5,000.1 shares of Perpetual Preferred Stock having a par value of \$1,000 per share (hereinafter called the “PPS”). No authorized but unissued Common Stock or PPS may be issued by the Corporation without the approval of the Superintendent of Financial Services of the State of New York.

If the Corporation shall repurchase any of the issued and outstanding shares of Common Stock, then such shares shall be retired upon repurchase and shall cease to be authorized shares. If the number of shares of Common Stock issued and outstanding shall be decreased from 330 (or such amounts as are then outstanding prior to any subsequent repurchase), then the par value of the

remaining shares of Common Stock shall be automatically increased by the amount necessary to maintain the authorized capital of the Corporation at \$20,000,100.

(c) The definition of “Restated Charter” in Article IX(c) of the Amended and Restated Charter shall be amended to refer to this Amended and Restated Charter, as it may be amended and restated from time to time, rather than to a prior version of the Corporation’s charter that was called the “Restated Charter.” As so amended, said definition shall read in its entirety as follows:

“Restated Charter” shall mean this Amended and Restated Charter, as the same may be amended and restated from time to time in accordance with the provisions hereof and applicable law.

FOURTH: That the foregoing amendments to and the restatement of the Amended and Restated Charter were authorized by the board of directors of the Corporation, followed by the consent of the sole shareholder of the Corporation, in each case in connection with the approval and authorization of the Merger and the approval and adoption of the Agreement and Plan of Merger relating to the Merger in accordance with Article 71 of the New York Insurance Law.

FIFTH: That the text of the Amended and Restated Charter, amended as set forth above, is hereby restated to read as set forth below in full, and such Amended and Restated Charter shall be effective as of the effective time of the Merger:

ARTICLE I
NAME

The name of the Corporation shall be ASSURED GUARANTY MUNICIPAL CORP.

ARTICLE II
PRINCIPAL OFFICE

The principal office of the Corporation shall be located in the City of New York, County of New York, State of New York. The Corporation shall have the power to establish other offices in this state and elsewhere in the United States and in any part of the world and to conduct its business wherever authorized by law.

ARTICLE III
PURPOSES

(1) The Corporation shall be authorized to transact the kinds of insurance specified and defined in paragraphs 16(C), (D), (E), (F) and (G), 17(A), 25 and 30 of section 1113 and paragraph (1) of subsection (a) of section 6901 of the New York Insurance Law or the corresponding provisions of a successor law.

Section 1113(a)(16) "Fidelity and surety insurance," means

(C) Any contract bond; including a bid, payment or maintenance bond or a performance bond where the bond is guaranteeing the execution of any contract other than a contract of indebtedness or other monetary obligation;

(D) An indemnity bond for the benefit of a public body, railroad or charitable organization; a lost security or utility payment bond;

(E) Becoming surety on, or guaranteeing the performance of, any lawful contract, not specifically provided for in this paragraph, except (i) mortgage guaranty insurance, which may only be written by an insurer authorized to write such insurance pursuant to article sixty-five of this chapter, (ii) a contract that falls within the definition of financial guaranty insurance as set forth in paragraph one of subsection (a) of section six thousand nine hundred one of this chapter, (iii) any insurance contract unless such guaranty is authorized pursuant to subsection (c) of section one thousand one hundred fourteen of

this article or (iv) service contract reimbursement insurance as specified in paragraph twenty-eight of this subsection;

(F) Becoming surety on, or guaranteeing the performance of, bonds and undertakings required or permitted in all judicial proceedings or otherwise by law allowed, including surety bonds accepted by states and municipal authorities in lieu of deposits as security for the performance of insurance contracts; and

(G) Becoming surety on, or guaranteeing the performance of, a bond, which shall not exceed a period greater than five (5) years, that guarantees the payment of a premium, deductible, or self-insured retention to an insurer issuing a workers' compensation or liability policy.

Section 1113(a)(17) "Credit insurance," means:

(A) Indemnifying merchants or other persons extending credit against loss or damage resulting from non-payment of debts owed to them, for goods and services provided in the normal course of their business, including the incidental power to acquire and dispose of debts so insured, and to collect any debts owed to such insurer or to the insured, but no insurance may be written as credit insurance if it falls within the definition of financial guaranty insurance as set forth in paragraph one of subsection (a) of section six thousand nine hundred one of this chapter.

Section 1113(25) "Financial guaranty insurance," means the kind of insurance defined in paragraph one of subsection (a) of section six thousand nine hundred one of this chapter.

Section 6901(a)(1) "Financial guaranty insurance," means a surety bond, insurance policy or, when issued by an insurer or any person doing an insurance business as defined in paragraph one of subsection (b) of section one thousand one hundred one of this chapter, an

indemnity contract, and any guaranty similar to the foregoing types, under which loss is payable, upon proof of occurrence of financial loss, to an insured claimant, obligee or indemnitee as a result of any of the following events:

(A) failure of any obligor on or issuer of any debt instrument or other monetary obligation (including equity securities guaranteed under a surety bond, insurance policy or indemnity contract) to pay when due to be paid by the obligor or scheduled at the time insured to be received by the holder of the obligation, principal, interest, premium, dividend or purchase price of or on, or other amounts due or payable with respect to, such instrument or obligation, when such failure is the result of a financial default or insolvency or, provided that such payment source is investment grade, any other failure to make payment, regardless of whether such obligation is incurred directly or as guarantor by or on behalf of another obligor that has also defaulted;

(B) changes in the levels of interest rates, whether short or long term or the differential in interest rates between various markets or products;

(C) changes in the rate of exchange of currency;

(D) changes in the value of specific assets or commodities, financial or commodity indices, or price levels in general; or

(E) other events which the superintendent determines are substantially similar to any of the foregoing.

Section 1113(a)(30) "Substantially similar kind of insurance," means such insurance which in the opinion of the superintendent is determined to be substantially similar to one of the foregoing kinds of insurance and thereupon for the purposes of this chapter shall be deemed to be included in that kind of insurance.

(2) To such extent as a Corporation organized under the New York Insurance Law or the New York Business Corporation Law now or hereafter lawfully may do, to do each and every thing necessary, suitable, convenient or proper for, or in connection with, or incidental to, the accomplishment of any one or more of the purposes or the exercise of any one or more of the powers herein enumerated, or designed directly or indirectly to promote the interests of the Corporation or to enhance the value of its properties; and in general to do any and all things and exercise any and all powers, rights and privileges for which a Corporation may now or hereafter be organized under the New York Insurance Law or the New York Business Corporation Law or under any statute amendatory thereof, supplemental thereto or substituted therefor.

(3) The Corporation shall have full power and authority to reinsure risks of every kind or description taken by it, and in accordance with paragraph (2) of subsection (a) of section 6902 of the New York Insurance Law, to assume by way of reinsurance risks, including risks outside the United States, taken by other insurers or reinsurers.

ARTICLE IV BOARD OF DIRECTORS

(1) The mode and manner in which the corporate powers of the Corporation shall be exercised are through a Board of Directors and through such officers and agents as said Board shall empower.

(2) The number of directors of the Corporation shall be fixed in accordance with the Bylaws, but at no time shall the number of directors be less than seven (7), nor more than thirteen (13).

(3) At all times a majority of the directors shall be citizens and residents of the United States, and not less than one (1) of such directors shall be a resident of the State of New York. Each director shall be at least eighteen (18) years of age.

(4) The directors shall not be required to own any shares of stock in the Corporation.

(5) In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized and empowered to make, alter or repeal the Bylaws of the Corporation, subject to the reserved power of the shareholders to adopt, amend or repeal Bylaws, which may include the power to restrict in any manner power granted to the Board of Directors by this paragraph (5) of Article IV.

(6) All directors elected at the annual meeting of the Corporation shall take office immediately upon election and shall hold office until the next annual meeting of the shareholders of the Corporation and until their successors shall have been duly elected and qualified. The holders of common shares by a majority vote at any meeting may remove any director with, or without, cause.

(7) Whenever any vacancy or vacancies shall occur in the Board of Directors, whether by reason of death, resignation, removal or otherwise, the remaining members of the Board, at a meeting called for that purpose, or at any regular meeting, shall elect a director or directors to fill the vacancy or vacancies thus created and each director so elected shall hold office for the unexpired term of the director whose place he has taken. If because of such vacancy or vacancies in the Board of Directors the number of directors is less than thirteen (13), the Corporation shall not for that reason be dissolved, but the vacancy or vacancies shall be filled as herein provided.

ARTICLE V SHAREHOLDERS

(1) The annual meeting of the shareholders of the Corporation shall be held at the principal office of the Corporation or at such other place, within or without New York State, on

such date and at such time as fixed in the Bylaws, for the purpose of electing directors and for the transaction of such other business as may properly be brought before the meeting.

(2) At each annual meeting of shareholders of the Corporation, each holder of record of common shares on the books of the Corporation shall be entitled to one (1) vote, in person or by proxy, for each share of stock so held by him.

(3) The directors shall be chosen and elected at the annual meeting of shareholders of the Corporation by plurality of the whole number of votes cast at such meeting.

ARTICLE VI **OFFICERS**

The officers of the Corporation shall be elected at the annual meeting of the Board of Directors following the annual meeting of shareholders, at any recessed or adjourned annual meeting of such Board of Directors or at any regular or special meeting of the Board of Directors. One (1) person may be elected to any two (2) offices, except the offices of President and Secretary. The Corporation may provide in its Bylaws for the creation of offices, the method of election thereto and the filling of vacancies therein.

ARTICLE VII **FISCAL YEAR**

The fiscal year of the Corporation shall begin on the first day of January and shall terminate on the 31st day of December in each year.

ARTICLE VIII **CAPITALIZATION**

The amount of the authorized capital of the Corporation shall be \$20,000,100 and shall consist of (a) 330 shares of common stock having a par value of \$45,454.55 per share (hereinafter called the "Common Stock") and (b) 5,000.1 shares of Perpetual Preferred Stock having a par value of \$1,000 per share (hereinafter called the "PPS"). No authorized but

unissued Common Stock or PPS may be issued by the Corporation without the approval of the Superintendent of Financial Services of the State of New York.

If the Corporation shall repurchase any of the issued and outstanding shares of Common Stock, then such shares shall be retired upon repurchase and shall cease to be authorized shares. If the number of shares of Common Stock issued and outstanding shall be decreased from 330 (or such amounts as are then outstanding prior to any subsequent repurchase), then the par value of the remaining shares of Common Stock shall be automatically increased by the amount necessary to maintain the authorized capital of the Corporation at \$20,000,100.

ARTICLE IX TERMS OF THE PPS

The PPS shall have the following express terms:

(a) Authorization. The PPS may be issued from time to time in one (1) or more series. All shares of PPS shall be of equal rank and shall be identical, except in respect of the matters that may be fixed by the Board of Directors (or a designated committee thereof) as hereinafter provided, and each share of each series shall be identical with all other shares of such series. Subject to the provisions of subsections (c) to (l), both inclusive, of this Article IX, which provisions shall apply to all PPS, the Board of Directors (or a designated committee thereof) hereby is authorized to cause such shares to be issued in one (1) or more series and with respect to each such series prior to the issuance thereof to fix:

(1) The establishment of an Initial Dividend Payment Date, an Initial Dividend Period, a Reference Rate, a Reference Date and a Subsequent Dividend Period; and

(2) Other than with respect to the series of PPS designated in Article IX(b):

(A) The designation of the series, which may be by distinguishing number, letter or title;

(B) The number of shares of the series, which number the Board of Directors (or a designated committee thereof) may (except where otherwise provided in the creation of the series) increase or decrease (but not below the number of shares thereof then outstanding);

(C) Restrictions on the issuance of shares of the same series or of any other class or series; and

(D) The relative preference of the PPS vis-a-vis the Common Stock and other classes of shares of the Corporation.

The Board of Directors is authorized to adopt from time to time amendments to the Restated Charter fixing, with respect to each such series, the matters described in clauses (1) and (2) of this Article IX(a). A certificate representing each series of PPS shall be in such form as may be approved by an authorized officer of the Corporation.

(b) Initial Series Designations. There shall be four (4) series of PPS. The number of shares constituting each such series shall be 500.01. The series shall be designated as follows: “Series A Perpetual Preferred Shares”, “Series B Perpetual Preferred Shares”, “Series C Perpetual Preferred Shares” and “Series D Perpetual Preferred Shares”.

(c) Definitions. Unless the context or use indicates another or different meaning or intent, the following terms shall have the following meanings within Articles IX and X of this Restated Charter, whether used in the singular or plural:

“Affiliate” shall mean, as to any Person, any Person controlled by, in control of or under common control with such Person.

“Agent Member” shall mean a member of the Securities Depository that will act on behalf of an Existing Holder or a Potential Holder that is identified as such in a Holder’s Purchaser’s Letter.

“Auction” shall mean a periodic implementation of the Auction Procedures.

“Auction Agent” shall mean The Bank of New York unless and until (i) another commercial bank or trust company duly organized under the laws of the United States of America and/or any state or territory thereof, having its principal place of business in New York, New York, and having a combined capital stock surplus and undivided profits of at least fifteen million dollars (US\$15,000,000), or (ii) a member of the National Association of Securities Dealers, Inc., having a capitalization of at least fifteen million dollars (US\$15,000,000), and, in either case, authorized by law to perform all the duties imposed on it under the Auction Agent Agreement and appointed by the Corporation, enters into an agreement with the Corporation to follow the Auction Procedures for the purpose of determining the Auction Rate and to act as transfer agent, registrar or dividend disbursing agent for the PPS.

“Auction Agent Agreement” shall mean the agreement entered into between the Corporation and the Auction Agent and any similar agreement with a successor Auction Agent providing, among other things, that the Auction Agent will follow the Auction Procedures for the purpose of determining the Auction Rate.

“Auction Date” shall mean, for each Subsequent Dividend Period of a series of PPS, the last Business Day of the immediately preceding Dividend Period for the respective series of PPS.

“Auction Procedures” shall mean the procedures set forth in the Auction Agent Agreement for conducting Auctions, substantially as described in Articles IX(n) through IX(u), inclusive.

“Auction Rate” shall mean a rate per annum equal to the lesser of (i) the rate provided to the Corporation by the Auction Agent, as determined by the Auction Agent pursuant to the Auction Procedures and (ii) the Maximum Rate.

“Broker-Dealer” shall mean any broker-dealer or other entity (i) that is permitted by law to perform the functions required of a broker-dealer in the Auction Procedures, (ii) that is a member of, or a participant in, the Securities Depository, (iii) that has been selected by the Corporation, and (iv) that has entered into a Broker-Dealer Agreement with the Auction Agent that remains in effect.

“Broker-Dealer Agreement” shall mean any agreement among the Corporation, the Auction Agent and a Broker-Dealer pursuant to which such Broker-Dealer agrees to follow the Auction Procedures.

“Business Day” shall mean a day on which the New York Stock Exchange is open for trading and which is not a Saturday, Sunday or any other day on which the banks in the City of New York, New York are authorized or obligated by law to close.

“Bylaws” shall mean the Bylaws of the Corporation.

“CPS Securities” shall mean each of the Committed Preferred Securities issued as Money Market Committed Preferred Trust Securities issued by Sutton Capital Trust I, Sutton Capital Trust II, Sutton Capital Trust III and Sutton Capital Trust IV or all such series, as the context requires.

“Custodial Trust” shall mean any issuer of the CPS Securities.

“Date of Original Issue” shall mean, for each series of PPS, the first Business Day after the Initial Auction Date for the respective series of PPS.

“Dividend” shall mean a payment in cash declared by the Corporation payable to a Holder of PPS.

“Dividend Payment Date” shall mean the first Business Day following the last day of each Dividend Period applicable to a series of PPS.

“Dividend Period” shall mean the Initial Dividend Period and each Subsequent Dividend Period for each series of PPS.

“Dividend Rate” shall mean, as to each share of PPS of a series, the rate per annum at which a Dividend shall be payable on such share of PPS for any Dividend Period, which rate shall equal (i) for the Initial Dividend Period, the Initial Dividend Rate, (ii) for each Subsequent Dividend Period prior to a Fixed Rate Distribution Event, the Auction Rate, or (iii) for each Subsequent Dividend Period following a Fixed Rate Distribution Event, a rate equal to the fixed rate equivalent of LIBOR plus 2.00%. The fixed rate equivalent shall be determined by using the “bid” 30-year U.S. dollar swap rate quoted on page 19901 on the Moneyline Telerate Service at 11:00 A.M. New York time on the LIBOR Determination Date; provided, however, that if the 30-year U.S. dollar swap rate is not available, the fixed rate equivalent will be determined by using the “bid” 10-year U.S. dollar swap rate.

“Existing Holder” shall mean any Person who is listed as the owner of any PPS on the records of the Auction Agent at the close of business on the Business Day prior to such Auction.

“Fixed Rate Distribution Event” shall have the meaning given to such term in Article IX(d)(ii).

“FSAH” shall mean Financial Security Assurance Holdings Ltd., a New York corporation that is the owner of all of the issued and outstanding Common Stock of the Corporation, and its successors.

“Holder” shall mean a Person identified as a holder of record of shares of PPS in the Register.

“Initial Auction Date” shall mean, for the Initial Dividend Period of each series of PPS, the first Business Day following the Initial Dividend Period for the respective series of PPS.

“Initial Dividend Payment Date” shall mean, for each series of PPS, such date as shall be determined by the Board of Directors or a duly appointed committee thereof prior to the issuance of such PPS; provided that (i) such date is a standard date for the PPS market and (ii) such day is a Business Day.

“Initial Dividend Period” shall mean, for each series of PPS, the period from and including such series’ Date of Original Issue to and excluding its Initial Dividend Payment Date.

“Initial Dividend Rate” shall mean, for each series of PPS, the rate determined with respect to the corresponding CPS Securities on the Initial Auction Date of the PPS.

“LIBOR” shall mean, on the LIBOR Determination Date, the interest rate for the applicable Dividend Period determined by the Auction Agent on the basis of the British Bankers’ Association “Interest Settlement Rate” for three-month deposits in U.S. dollars as found on Telerate page 3750 as of 11:00 a.m. London time on such LIBOR Determination Date. Such Interest Settlement Rates currently are based on rates quoted by sixteen (16) British Bankers’ Association designated banks as being in the view of such banks, the offered rate at which deposits are being quoted to prime banks in the London interbank market. Such Interest Settlement Rates are calculated by eliminating the four (4) highest rates and the four (4) lowest rates, averaging the eight (8) remaining rates, carrying the result (expressed as a percentage) out to six (6) decimal places and rounding to five (5) decimal places. As used herein “Telerate page 3750” means the display designated as page 3750 on the Moneyline Telerate Service. If on any

LIBOR Determination Date the Auction Agent cannot determine LIBOR on the basis of the method set forth above, LIBOR shall be the rate per annum the Auction Agent determines to be either (a) the arithmetic mean (rounding such arithmetic mean upwards if necessary to the nearest whole multiple of 1/16%) of the three-month U.S. Dollar lending rate that New York City banks selected by the Auction Agent are quoting on the relevant LIBOR Determination Date to the principal London offices of at least two (2) leading banks in the London interbank market or (b) in the event such arithmetic mean cannot be determined by the Auction Agent, the lowest three-month U.S. Dollar lending rate that the New York City banks selected by the Auction Agent quoting on such LIBOR Determination Date to leading European banks.

The establishment of LIBOR on each LIBOR Determination Date by the Auction Agent shall (in the absence of manifest error) be final and binding.

“LIBOR Determination Date” shall mean the second London business day prior to the commencement of the first Dividend Period following the Fixed Rate Distribution Event.

“Liquidation Preference” shall have the meaning given to such term in Article IX(f)(i).

“Maximum Rate” shall mean the maximum dividend rate that can result from an Auction. The Maximum Rate on any Auction Date shall mean the rate (expressed as a percentage rounded to the nearest one one-thousandth (.001) of 1.000%) that is equal to the sum of (A) the Reference Rate in effect as of the end of the Business Day prior to the Auction Date for the applicable Dividend Period, plus (B)(1) if, as of the end of the Business Day prior to the Auction Date for the applicable Dividend Period, the financial strength of the Corporation is rated “Aaa” and “AAA” by Moody’s and Standard & Poor’s, respectively, then 1.50%; or (2) if, as of the end of the Business Day prior to the Auction Date for the applicable Dividend Period, the financial strength of the Corporation is rated below “Aaa” or “AAA” by Moody’s or Standard & Poor’s,

respectively, then 2.00%. In no event shall the Maximum Rate on any date of determination exceed the maximum rate permitted under applicable law. If all outstanding CPS Securities of a Custodial Trust are subject to Hold Orders (as defined in Article IX(o)(i)), the Dividend Rate for the next Dividend Period will be the Dividend Rate per annum equal to 95% of the Reference Rate on the Auction Date for such Dividend Period.

“Moody’s” shall mean Moody’s Investors Service, Inc. and its successors.

“Outstanding” shall mean, as of any date and for any series of PPS, PPS theretofore issued by the Corporation except, without duplication, (i) any PPS theretofore cancelled or delivered to the Auction Agent for cancellation, (ii) any PPS as to which the Corporation or any Affiliate thereof (including any Affiliate that is a Broker-Dealer) shall be the owner, (iii) any PPS represented by any certificate in lieu of which a new certificate has been executed and delivered by the Corporation or (iv) any PPS previously redeemed by the Corporation.

“Person” shall mean and shall include an individual, a partnership, a limited liability company, a corporation, a trust, an unincorporated association, a joint venture or other entity or a government or any agency or political subdivision thereof.

“Potential Holder” shall mean any Person, including any Existing Holder, who may be interested in acquiring any PPS (or, in the case of an Existing Holder, additional PPS).

“PPS” shall mean any series, or all series, as the context requires, of the Perpetual Preferred Shares created by Article VIII.

“Preferred Stock Directors” shall have the meaning given to such term in Article IX(g)(iii).

“Purchaser’s Letter” shall mean a letter addressed to the related Custodial Trust and the Broker-Dealer in which a Person agrees, among other things, to offer to purchase, purchase, offer to sell and/or sell any CPS Securities of the related series as set forth in the Auction Procedures.

“Put Agreement” shall mean each put option agreement between the Corporation and each of Sutton Capital Trust I, Sutton Capital Trust II, Sutton Capital Trust III and Sutton Capital Trust IV.

“Redemption Date” shall have the meaning given to such term in Article IX(e)(i).

“Redemption Price” shall mean the price paid by the Corporation for shares of PPS redeemed on any Redemption Date, as determined in accordance with Article IX(e).

“Reference Date” shall have the meaning given to such term in Article IX(c) within the definition of “Subsequent Dividend Period.”

“Reference Rate” shall mean, on any date, the 30-day LIBOR rate as published by the British Bankers Association as of 11:00 a.m., London time, on such date.

“Register” shall mean the register of Holders maintained on behalf of the Corporation by the Auction Agent or any other Person in its capacity as transfer agent and registrar for the PPS.

“Restated Charter” shall mean this Amended and Restated Charter, as the same may be amended and restated from time to time in accordance with the provisions hereof and applicable law.

“Securities Depository” shall mean The Depository Trust Company or any successor company or other entity selected by the Corporation as securities depository for the PPS that agrees to follow the procedures required to be followed by such securities depository in connection with the PPS.

“Standard & Poor’s” shall mean Standard & Poor’s Ratings Services, a division of The McGraw-Hill Companies, Inc. and its successors.

“Subsequent Dividend Period” shall mean, for each series of PPS, (i) prior to a Fixed Rate Distribution Event, the period commencing on and including the Dividend Payment Date for a series of PPS for the preceding Dividend Period and ending on and including the date which is forty-nine (49) days thereafter, or (ii) following a Fixed Rate Distribution Event, the period commencing on and including the Dividend Payment Date for such series of PPS for the preceding Dividend Period for such series of PPS and ending on and including the date which is ninety (90) days thereafter (in each case, such ending date the “Reference Date”); provided that, if the Reference Date is not a Business Day, the Subsequent Dividend Period for such series of PPS will continue to but not include the next Business Day, in which case the next Subsequent Dividend Period for such series of PPS will end on and include the next Reference Date following the date on which the preceding Dividend Period for such series of PPS would have ended if such normally scheduled date had been a Business Day.

(d) Dividends.

(i) General. Subject to a Maximum Rate for each Subsequent Dividend Period, Holders of the outstanding PPS of any series, in preference to the holders of Common Stock and of any other class of shares ranking junior to the PPS, shall be entitled to receive out of any funds legally available therefor when, as and if declared by the Board of Directors of the Corporation or a duly authorized committee thereof, cash Dividends at a rate per share equal to the Dividend Rate determined for such series of PPS for the respective Dividend Period. Dividends on the PPS will accrue from the Date of Original Issue. Auctions for each Dividend Period prior to a Fixed Rate Distribution Event will be

held on each Auction Date. If on any Auction Date an auction is not held for any reason (other than because such date is not determined to be an Auction Date until after it has passed or as otherwise provided in Article IX(m)(i)), the Dividend Rate for the next succeeding Dividend Period shall equal the Maximum Rate on such Auction Date. So long as any PPS shall be outstanding, no dividends, except dividends payable in Common Stock or other shares ranking junior to the PPS, shall be paid or declared and no distribution shall be made on the Common Stock or any other shares ranking junior to the PPS, nor shall any Common Stock be purchased, retired or otherwise acquired by the Corporation, unless all accrued and unpaid Dividends on the PPS for the then current Dividend Period shall have been declared and paid or a sum sufficient for payment thereof set apart; provided that dividends on the Common Stock may be made at all times for the purpose of, and only in such amounts as are necessary for, enabling FSAH or any successor thereto (1) to service its indebtedness for borrowed money as such payments become due or (2) to pay its operating expenses; provided that no such dividends may be applied towards the payment of, or setting apart a sum sufficient for the payment of, any accrued and unpaid dividends on the Common Stock of FSAH unless all accrued and unpaid Dividends on the PPS shall have been declared and paid or a sum sufficient for payment thereof shall have been set apart.

(A) No dividends may be paid upon or declared or set apart for any series of the Corporation's preferred stock ranking on parity as to Dividends with the PPS for any Dividend Period unless at the same time a like proportionate dividend for the same Dividend Period, ratable in proportion to the respective Dividend Rates fixed therefor, shall be paid upon or declared and set apart for all of the series of the Corporation's

preferred stock ranking on parity as to Dividends with the PPS then issued and outstanding and entitled to receive such dividends.

(B) If Dividends are not paid in full upon the PPS or dividends on any other capital stock of the Corporation ranking on a parity as to Dividends with the PPS, Dividends may be declared upon shares of the PPS and any other such parity shares, but only if such Dividends are declared pro rata so that the amount of Dividends declared per share on the PPS and such other shares shall in all cases bear to each other the same ratio that the amount of accrued but unpaid Dividends per share on the shares of the PPS and such other parity shares bear to each other.

(C) Dividends (or amounts equal to accrued and unpaid Dividends) due and payable on a series of PPS with respect to a Dividend Period will be computed by multiplying the applicable Dividend Rate by a fraction, the numerator of which shall be the number of days in the Dividend Period and the denominator of which shall be three-hundred sixty (360) and multiplying the amount so obtained by the product of one hundred thousand dollars (\$100,000) times the number of such shares of such series outstanding.

(D) Dividends shall be non-cumulative; provided that Dividends shall be cumulative during such period of time commencing on the first day of any Dividend Period in which dividends on the Common Stock have been paid pursuant to Article IX(d)(i)(A) above while all accrued and unpaid Dividends on the PPS for the then current Dividend Period shall not be declared and paid on the respective Dividend Payment Date and a sum sufficient for payment thereof shall not have been set apart and ending on the date that all accumulated and unpaid Dividends have been declared and

paid or a sum sufficient for payment thereof shall have been set apart (provided that the period during which Dividends shall be cumulative shall not exceed the maximum period permitted under applicable law).

(E) Each Dividend shall be payable to the Holder or Holders of a series of PPS as of the opening of business on each Dividend Payment Date for each series; provided that so long as the PPS are held of record by a nominee of the Securities Depository, Dividends will be paid to the nominee of the Securities Depository for each respective series. The Securities Depository will credit the accounts of the Agent Members of Existing Holders of the PPS in accordance with the Securities Depository's normal procedures, which provide for payment in same-day funds. The Agent Member of an Existing Holder will be responsible for holding or disbursing such payments to such Existing Holder in accordance with the instructions of such Existing Holder.

(ii) Fixed Rate Distribution Event. On any Dividend Payment Date following the exercise by the Corporation of its put option rights under the Put Agreement for a series of PPS, PPS will be distributed by the related Custodial Trust to the holders of the related Custodial Trust's CPS Securities with a dividend rate described in clause (iii) of the definition of Dividend Rate upon the occurrence of any of the following: (A) the Corporation elects to have the PPS bear the fixed rate dividend described in clause (iii) of the definition of Dividend Rate; (B) the Corporation fails to pay the Dividend Rate described in clauses (i) or (ii) of the definition of Dividend Rate to the related Custodial Trust for the related Dividend Period; or (C) the Corporation fails to pay the fees and expenses of the Custodial Trust for the related Dividend Period (in each case, a "Fixed Rate Distribution Event").

(iii) Fractional Shares. The Corporation may issue, with respect to each series of PPS, one (1) fractional share of PPS in an amount equal to one one-hundredth (0.01) of a whole share.

(e) Redemption.

(i) The Corporation shall have the right to redeem all or any part of any series of PPS outstanding in whole or in part beginning forty-nine (49) days after issuance of PPS Securities and every forty-nine (49) days thereafter consistent with the timing of Auction Dates (each a “Redemption Date”); provided that the Corporation shall redeem all of a series of PPS if after giving effect to a partial redemption, the aggregate Liquidation Preference of PPS of such series outstanding immediately after such partial redemption would be less than twenty million dollars (\$20,000,000). Notwithstanding the foregoing, following a Fixed Rate Distribution Event, the Corporation shall not be permitted to redeem that series of PPS until after the second anniversary of such Fixed Rate Distribution Event. In the case of any redemption pursuant to this Article IX(e), the Redemption Price shall be an amount equal to the aggregate Liquidation Preference of the PPS redeemed plus all Dividends accrued but unpaid on such PPS as of the Redemption Date for the then current Dividend Period and any previously accumulated dividends payable under Article IX(d)(i). In the event of a partial redemption of a series of PPS, the Redemption Price shall be allocated pro rata among the Holders of the PPS of such series. Payment of the Redemption Price will be made on the first Dividend Payment Date after the Corporation elects to redeem shares of PPS.

(ii) Notice of every such redemption shall be mailed, postage prepaid, or transmitted by facsimile, e-mail or any other standard form of written telecommunication,

to the Holders of the PPS to be redeemed at their respective addresses then appearing on the Register (which shall mean the Securities Depository if the PPS is held of record by a nominee of the Securities Depository), not less than ten (10) days nor more than fifteen (15) days prior to the Redemption Date. At any time before or after a notice of redemption has been given, the Corporation may deposit the aggregate Redemption Price of the PPS to be redeemed with any bank or trust company in New York, New York, having capital and surplus of more than five million dollars (\$5,000,000), named in such notice, directed to be paid to the respective Holders of the PPS to be redeemed, in amounts equal to the Redemption Price of all shares of PPS to be redeemed, on surrender of the stock certificate or certificates held by such Holders, and upon the making of such deposit such Holders shall cease to be shareholders with respect to such shares, and after such notice shall have been given and such deposit shall have been made, such Holders shall have no interest in or claim against the Corporation with respect to such shares except only to receive such money from such bank or trust company without interest.

(iii) If the Holders of the shares of PPS which shall have been called for redemption shall not, within one (1) year after such deposit, claim the amount deposited for the redemption thereof, any such bank or trust company shall, upon demand, pay over to the Corporation such unclaimed amounts and thereupon such bank or trust company shall be relieved of all responsibility in respect thereof and to such Holders; if the Holders of the shares of PPS which shall have been called for redemption shall not, within ten (10) years after such deposit, claim the amount deposited for the redemption thereof, the Corporation shall be relieved of all responsibility in respect thereof and to such Holders.

(iv) Any PPS that are redeemed by the Corporation pursuant to this Article IX(e) shall be canceled and resume the status of authorized and unissued PPS without serial designation.

(f) Liquidation Preference.

(i) In the event of a voluntary or involuntary liquidation, dissolution or winding up of the Corporation, to the extent allowed by applicable law, Holders will be entitled to receive an amount (the "Liquidation Preference") per share plus declared and unpaid Dividends thereon to and including the date such Liquidation Preference is paid. The PPS shall have a Liquidation Preference per PPS of one hundred thousand dollars (\$100,000) per share. Payment of the Liquidation Preference will be made on the first Dividend Payment Date after the Board of Directors approves the liquidation of the Corporation.

(ii) In the event that, upon any such voluntary or involuntary dissolution, liquidation or winding up, the available assets of the Corporation are insufficient to pay the amount of the liquidating distributions on all outstanding PPS, then, to the extent allowed by applicable law, the Holders shall share in any such distribution of assets on a pro rata basis based on aggregate Liquidation Preference. Unless and until payment in full has been made to the Holders of the PPS and to holders of all shares of other classes or series ranking on a parity with the PPS upon liquidation of the liquidating distributions to which they are entitled, upon liquidation, dissolution or winding up of the Corporation, no dividends or distributions may be made to the holders of the Common Stock or on any other class or series of capital stock ranking junior to the PPS upon liquidation and no purchase, redemption or other acquisition for any consideration by the Corporation may be made in respect of such Common Stock or on any other class or series of capital stock

ranking junior to the PPS upon liquidation. After any payment of the full amount of the liquidating distributions to which they are entitled, the Holders of PPS will have no right or claim to any of the remaining assets of the Corporation.

(iii) The merger or consolidation of the Corporation into or with any other corporation, or the merger of any other corporation into it, or the sale, lease or conveyance of all or substantially all the property or business of the Corporation, shall not be deemed to be a dissolution, liquidation or winding up, voluntary or involuntary, for the purposes of this Article IX(f).

(iv) A dividend or distribution of all or substantially all of the assets of the Corporation to the holders of the Corporation's Common Stock or a repurchase or redemption of all or substantially all of the Common Stock of the Corporation shall be deemed to be a dissolution, liquidation or winding up of the Corporation for purposes of this Article IX(f).

(g) Voting Rights.

(i) Except as set forth herein or otherwise required by applicable law, the Holders of PPS shall have no special voting rights and their consent shall not be required for taking any corporate action.

(ii) The affirmative vote of the Holders of at least a majority of the PPS at the time outstanding, given in person or by proxy at a meeting called for the purpose at which the Holders of PPS shall vote separately as a class, shall be necessary to effect any one (1) or more of the following:

(A) any amendment, alteration or repeal of any of the provisions of this Restated Charter or the Bylaws that would adversely affect the rights or preferences of the Holders

of PPS (including without limitation the issuance of any equity securities of the Corporation senior to the PPS with respect to the right to receive dividends or distribution upon a voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation); provided, however, that for purposes of this Article IX(g), neither an amendment to this Restated Charter or the Bylaws so as to authorize or create, or to increase the authorized or outstanding amount of, PPS or of any shares of any class ranking on a parity with or junior to the PPS, nor an amendment to this Restated Charter or the Bylaws so as to increase the number of Directors of the Corporation shall be deemed to adversely affect the rights or preferences of the Holders of PPS; provided, further, that if such amendment, alteration or repeal affects adversely the rights or preferences of one (1) or more but not all of the series of PPS at the time outstanding, only the affirmative vote of the holders of at least a majority of the number of the shares at the time outstanding of the series so affected shall be required; and

(B) if the Corporation seeks to merge, sell its assets or agrees to a voluntary liquidation, except if following such merger, sale of assets or voluntary liquidation, there would be no other preferred stock outstanding senior in right of payment to the PPS and the PPS is exchanged for or converted into preferred stock or securities of the surviving entity having the same rights and preferences with respect to such entity as the PPS have with respect to the Corporation.

(iii) If the Corporation has failed to pay Dividends in full on the PPS for eighteen (18) consecutive months or funds sufficient to pay such dividends in full shall not have been deposited with the Auction Agent, subject to the New York Insurance Law and the New York Business Corporation Law, the number of members of the Board of Directors

shall automatically be increased by two (2) and the Holders of the PPS, voting as a single class, shall be entitled to fill the vacancies so created by electing two (2) additional directors (the “Preferred Stock Directors”), subject to approval by the Superintendent of Financial Services of the State of New York. The meeting to elect the Preferred Stock Directors shall be held no more than sixty (60) days after the last day of an eighteen (18) consecutive month period during which the Corporation failed to pay Dividends on the PPS. The terms of the Preferred Stock Directors shall cease upon the Corporation paying dividends in full on, or the redemption in full of, the PPS and, at such time, the Preferred Stock Directors will cease to serve on the Corporation’s Board of Directors without any further action on the part of the Board of Directors or the Holders of the PPS.

(h) Conversion. The PPS may not be converted into Common Stock.

(i) Notice. All notices or communications, unless otherwise specified in this Restated Charter, shall be sufficiently given if in writing and delivered in person, mailed by first-class mail, postage prepaid, or transmitted by facsimile, e-mail or any other standard form of written telecommunication to a Holder of PPS at the address of such Holder set forth in the Register. Notice shall be deemed given on the earlier of the date received or the date five (5) days after which such notice is mailed or transmitted.

(j) Transfer Restrictions. The PPS may only be sold or otherwise transferred in accordance with the restrictions set forth in the legend below.

“THE SECURITIES EVIDENCED HEREBY HAVE NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), OR ANY STATE OR OTHER SECURITIES LAW. NEITHER THIS SECURITY NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE REOFFERED, SOLD, ASSIGNED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS THE TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, THE REGISTRATION

REQUIREMENTS OF THE SECURITIES ACT. THE HOLDER OF THIS SECURITY BY ITS ACCEPTANCE HEREOF (1) REPRESENTS THAT IT IS A QUALIFIED INSTITUTIONAL BUYER WITHIN THE MEANING OF RULE 144A OF THE SECURITIES ACT AND (2) AGREES THAT IT WILL NOT PRIOR TO (X) THE DATE WHICH IS TWO YEARS (OR SUCH SHORTER PERIOD OF TIME AS PERMITTED BY RULE 144(k) UNDER THE SECURITIES ACT OR ANY SUCCESSOR PROVISION THEREUNDER) AFTER THE LATER OF THE ORIGINAL ISSUE DATE HEREOF (OR OF ANY PREDECESSOR OF THIS SECURITY) OR THE LAST DAY ON WHICH FINANCIAL SECURITY ASSURANCE INC. ("FSA") OR ANY AFFILIATE OF FSA WAS THE OWNER OF THIS SECURITY (OR ANY PREDECESSOR OF THIS SECURITY) AND (Y) SUCH LATER DATE, IF ANY, AS MAY BE REQUIRED BY APPLICABLE LAWS (THE "RESALE RESTRICTION TERMINATION DATE"), OFFER, SELL OR OTHERWISE TRANSFER THIS SECURITY EXCEPT (A) PURSUANT TO A REGISTRATION STATEMENT WHICH HAS BEEN DECLARED EFFECTIVE UNDER THE SECURITIES ACT, OR (B) FOR SO LONG AS THE SECURITIES ARE ELIGIBLE FOR RESALE PURSUANT TO RULE 144A, TO A PERSON IT REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, OR (C) PURSUANT TO ANOTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND (3) AGREES THAT IT WILL GIVE TO EACH PERSON TO WHOM THIS SECURITY IS TRANSFERRED A NOTICE SUBSTANTIALLY TO THE EFFECT OF THIS LEGEND; PROVIDED THAT FSA AND THE TRUSTEE SHALL HAVE THE RIGHT PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER PURSUANT TO CLAUSE (B) OR (C) TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATION AND/OR OTHER INFORMATION SATISFACTORY TO EACH OF THEM. THIS LEGEND WILL BE REMOVED UPON THE REQUEST OF THE HOLDER AFTER THE RESALE RESTRICTION TERMINATION DATE. AS USED HEREIN, THE TERMS "UNITED STATES" AND "U.S. PERSON" HAVE THE MEANINGS GIVEN TO THEM BY REGULATIONS UNDER THE SECURITIES ACT."

Such restrictive legend shall be placed on the certificates representing the PPS issued prior to the Resale Restriction Termination Date.

(k) Other Rights of Holders of PPS. Unless otherwise required by law, the Holders of PPS shall not have any rights other than as set forth in this Article IX.

(l) Ranking. For the purpose of this Article IX, whenever reference is made to shares “ranking on a parity with the PPS,” such reference shall mean and include all shares of the Corporation in respect of which the rights of the holders thereof as to the payment of dividends or as to distributions in the event of a voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation rank equally with the rights of the holders of PPS; and whenever reference is made to shares “ranking junior to the PPS,” such reference shall mean and include all shares of the Corporation in respect of which the rights of the holders thereof as to the payment of dividends and as to distributions in the event of a voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation are junior and subordinate to the rights of the holders of the PPS.

(m) Act of God, Natural Disaster, Etc.

(i) Notwithstanding anything else set forth herein, if an Auction Date is not a Business Date because the New York Stock Exchange is closed for business due to an act of God, natural disaster, act of war, civil or military disturbance, act of terrorism, sabotage, riots or a loss or malfunction of utilities or communications services or the Auction Agent is not able to conduct an Auction in accordance with the Auction Procedures for any reason, then the Dividend Rate for the next Dividend Period shall be the Dividend Rate determined on the previous Auction Date.

(ii) Notwithstanding anything else set forth herein, if a Dividend Payment Date is not a Business Day because the New York Stock Exchange is closed for business due to an act of God, natural disaster, act of war, civil or military disturbance, act of terrorism, sabotage, riots or a loss or malfunction of utilities or communications services or the Dividend payable on such date can not be paid for any such or similar reason, then:

(A) the Dividend Payment Date for the affected Dividend Period shall be the next Business Day on which the Corporation and its paying agent, if any, are able to cause the Dividend to be paid using their reasonable best efforts;

(B) the affected Dividend Period shall end on the day it would have ended had such event not occurred and the Dividend Payment Date had remained the scheduled date;

(C) the next Dividend Period will begin and end on the dates on which it would have begun and ended had such event not occurred and the Dividend Payment Date remained the scheduled date; and

(D) no interest shall accrue in respect of such delay in payment of Dividends.

(n) Certain Definitions for Articles IX and X. The following procedures shall apply equally and separately to each series of CPS Securities. Capitalized terms used but not defined shall have the meanings given in Articles IX and X. As used in the Auction Procedures, the following terms shall have the following meanings, unless the context otherwise requires:

(i) "Available CPS Securities" shall have the meaning specified in Article IX(s)(i).

(ii) "Bid" shall have the meaning specified in Article IX(o)(i).

(iii) "Bidder" shall have the meaning specified in Article IX(o)(i).

(iv) "Hold Order" shall have the meaning specified in Article IX(o)(i).

(v) "Order" shall have the meaning specified in Article IX(o)(i).

(vi) "Remaining Amount" shall have the meaning specified in Article IX(t)(ii)(D).

(vii) "Sell Order" shall have the meaning specified in Article IX(o)(i).

(viii) "Submission Deadline" shall have the meaning set forth in Article IX(o)(i).
(ix) "Submitted Bid" shall have the meaning set forth in Article IX(r)(i).
(x) "Submitted Hold Order" shall have the meaning specified in Article IX(r)(i).
(xi) "Submitted Order" shall mean any Submitted Bid, any Submitted Hold Order or any Submitted Sell Order.

(xii) "Submitted Sell Order" shall have the meaning specified in Article IX(r)(i).
(xiii) "Sufficient Clearing Bids" shall have the meaning specified in Article IX(s)(i).

(xiv) "Winning Bid Rate" shall have the meaning specified in Article IX(s)(ii).

(o) Orders by Existing Holders and Potential Holders.

(i) Prior to 1:00 p.m. New York City time on each Auction Date or such other time on any Auction Date by which the Broker-Dealers are required to submit Orders to the Auction Agent as specified by the Auction Agent from time to time (the "Submission Deadline");

(A) each Existing Holder of CPS Securities may submit to the Broker-Dealers an order, by telephone or otherwise, consisting of information as to:

(1) the Liquidation Preference of outstanding CPS Securities, if any, held by such Existing Holder that such Existing Holder desires to continue to hold without regard to the Dividend Rate for the next succeeding Dividend Period (a "Hold Order");

(2) the Liquidation Preference of outstanding CPS Securities, if any, held by such Existing Holder that such Existing Holder offers to sell if the Dividend

Rate for the next succeeding Dividend Period shall be less than the rate per annum specified by such Existing Holder (a "Bid"); or

(3) the Liquidation Preference of outstanding CPS Securities, if any, held by such Existing Holder that such Existing Holder offers to sell without regard to the Dividend Rate for the next succeeding Dividend Period (a "Sell Order"); and

(B) In addition to the information specified in (A) above, each Existing Holder that is an investment manager, fiduciary or a Person that is submitting Orders to a Broker-Dealer on behalf of more than one (1) beneficial owner of the CPS Securities must submit to the Broker-Dealer an Order, by telephone or otherwise, consisting of information as to:

(1) the number of accounts for which the Order is being submitted (including accounts which are not submitting Orders in the Auction, which would be deemed Hold Orders);

(2) the face amount of outstanding CPS Securities held by such accounts; and

(3) the nature of the Order for each account (i.e., Hold, Bid or Sell Orders), and if there is more than one (1) Order per account, the number of shares of CPS Securities per Order; and

(C) the Broker-Dealers may contact Potential Holders by telephone or otherwise to determine the Liquidation Preference of CPS Securities which each such Potential Holder offers to purchase if the Dividend Rate for the next succeeding Dividend Period is not less than the Bid specified by such Potential Holder.

For purposes hereof, the communication to a Broker-Dealer of information referred to in clause (A) or (B) of this Article IX(o)(i) is hereinafter referred to as an “Order” and collectively as “Orders.” Each Existing Holder and each Potential Holder placing an Order is hereinafter referred to as a “Bidder” and collectively as “Bidders.”

(ii)(A) Subject to the provisions described in Article IX(q) under “Validity of Orders,” a Bid by an Existing Holder will constitute an irrevocable offer to sell:

(1) the Liquidation Preference of CPS Securities specified in such Bid if the Dividend Rate is less than the rate specified in such Bid; or

(2) such Liquidation Preference or a lesser Liquidation Preference of CPS Securities to be determined as set forth in Article IX(t)(ii)(D) under “Acceptance and Rejection of Orders,” if the Dividend Rate is equal to the rate specified in such Bid.

Subject to the provisions described in Article IX(q) under “Validity of Orders,” a Sell Order by an Existing Holder will constitute an irrevocable offer to sell the Liquidation Preference of outstanding CPS Securities specified in such Sell Order.

(B) Subject to the provisions described in Article IX(q) under “Validity of Orders,” a Bid by a Potential Holder will constitute an irrevocable offer to purchase:

(1) the Liquidation Preference of CPS Securities specified in such Bid if the Dividend Rate is higher than the rate specified in such Bid; or

(2) such Liquidation Preference or a lesser Liquidation Preference of CPS Securities as set forth in Article IX(t)(ii)(E) under “Acceptance and Rejection of Orders,” if the Dividend Rate is equal to the rate specified in such Bid.

If any rate specified in any Bid contains more than three (3) figures to the right of the decimal point, the Auction Agent will round such rate down to the next highest one-thousandth (0.001) of 1.000%.

If an Order or Orders covering all outstanding CPS Securities held by any Existing Holder is not submitted to the Auction Agent prior to the Submission Deadline for any reason, including the failure of a Broker-Dealer to submit such Existing Holder's Order to the Auction Agent prior to the Submission Deadline, the Auction Agent will deem a Hold Order to have been submitted on behalf of such Existing Holder covering the Liquidation Preference of outstanding CPS Securities held by such Existing Holder and not subject to an Order submitted to the Auction Agent.

Neither a Custodial Trust nor the Auction Agent will be responsible for any failure of the Broker-Dealer to submit an Order to the Auction Agent on behalf of any Existing Holder or Potential Holder, nor will any such party be responsible for failure by the Securities Depository, to effect any transfer or to provide the Auction Agent with current information regarding registration of transfers.

Neither the Corporation nor any Affiliate thereof, nor any Holder of a fractional share, may submit an Order in any Auction.

An Existing Holder may submit different types of Orders in an Auction with respect to the CPS Securities then held by such Existing Holder. An Existing Holder that offers to purchase additional CPS Securities is, for purposes of such offer, treated as a Potential Holder with respect to such securities.

(p) Maximum Rate. Any Bid specifying a rate higher than the Maximum Rate will (i) be treated as a Sell Order if submitted by an Existing Holder and (ii) not be accepted if submitted by a Potential Holder.

(q) Validity of Orders.

(i) If any Existing Holder submits through a Broker-Dealer to the Auction Agent one (1) or more Orders covering in the aggregate more than the Liquidation Preference of outstanding CPS Securities actually held by such Existing Holder, such Orders will be considered valid as follows and in the order of priority set forth below:

(A) all Hold Orders will be considered valid, but only up to and including, in the aggregate, the Liquidation Preference of CPS Securities actually held by such Existing Holder, and if the aggregate Liquidation Preference of CPS Securities subject to such Hold Orders exceeds the aggregate Liquidation Preference of CPS Securities actually held by such Existing Holder, the aggregate Liquidation Preference of CPS Securities subject to each such Hold Order will be reduced to the aggregate Liquidation Preference of CPS Securities actually held by such Existing Holder;

(B)(1) any Bid will be considered valid up to and including the excess of the Liquidation Preference of CPS Securities actually held by such Existing Holder over the aggregate Liquidation Preference of CPS Securities subject to any Hold Orders referred to in paragraph (A) above;

(2) subject to subparagraph (1) above, if more than one (1) Bid with the same rate is submitted on behalf of such Existing Holder and the aggregate Liquidation Preference of CPS Securities subject to such Bids is greater than such excess, such Bids will be considered valid up to and including the amount of such

excess and the Liquidation Preference of CPS Securities subject to each Bid with the same rate will be reduced to the Liquidation Preference of CPS Securities equal to such excess;

(3) subject to subparagraphs (1) and (2) above, if more than one (1) Bid with different rates is submitted on behalf of such Existing Holder, such Bids will be considered valid first in the ascending order of their respective rates until the highest rate is reached at which such excess exists and then at such rate up to and including the Liquidation Preference of such excess; and

(4) in any event, the aggregate Liquidation Preference of CPS Securities, if any, subject to Bids not valid under this paragraph (B) will be treated as the subject of a Bid by a Potential Holder at the rate therein specified; and

(C) all Sell Orders will be considered valid up to and including the excess of the aggregate Liquidation Preference of CPS Securities actually held by such Existing Holder over the aggregate Liquidation Preference of CPS Securities subject to Hold Orders referred to in paragraph (A) above and valid Bids referred to in paragraph (B) above; provided, that if the aggregate Liquidation Preference of CPS Securities subject to such Sell Orders exceeds the aggregate Liquidation Preference of CPS Securities held by such Existing Holder, the aggregate Liquidation Preference of CPS Securities subject to each such Sell Order will be reduced to the aggregate Liquidation Preference of CPS Securities held by such Existing Holder.

If more than one (1) Bid for CPS Securities is submitted on behalf of any Potential Holder, each Bid submitted will be a separate Bid with the rate and amount therein specified. Any Bid or Sell Order submitted by an Existing Holder not equal to an integral multiple of the

Liquidation Preference of each share of CPS Securities will be rejected and be deemed a Hold Order. Any Bid submitted by a Potential Holder not equal to an integral multiple of the Liquidation Preference of CPS Securities will be rejected. Any Order submitted in an Auction by a Broker-Dealer to the Auction Agent prior to the Submission Deadline on any Auction Date shall be irrevocable.

(r) Submission of Orders by Broker-Dealers to Auction Agent.

(i) Each Broker-Dealer shall submit in writing or through the Auction Agent's auction processing system to the Auction Agent, prior to the Submission Deadline on each Auction Date, all Orders obtained by such Broker-Dealer and specifying with respect to each Order:

(A) the name of the Bidder placing such Order;

(B) the aggregate Liquidation Preference of CPS Securities that are the subject of such Order;

(C) to the extent that such Bidder is an Existing Holder:

(1) the aggregate Liquidation Preference of CPS Securities subject to any Hold Order placed by such Existing Holder (each, a "Submitted Hold Order");

(2) the aggregate Liquidation Preference of CPS Securities subject to any Bid placed by such Existing Holder and the rate specified in such Bid (each, a "Submitted Bid"); and

(3) the aggregate Liquidation Preference of CPS Securities subject to any Sell Order placed by such Existing Holder (each, a "Submitted Sell Order"); and

(D) to the extent such Bidder is a Potential Holder, the rate specified in such Potential Holder's Bid.

(ii) If any rate specified in any Bid contains more than three (3) figures to the right of the decimal point, the Auction Agent shall round such rate down to the next one-thousandth (.001) of 1.000%.

(iii) If an Order or Orders covering the aggregate Liquidation Preference of CPS Securities held by an Existing Holder are not submitted to the Auction Agent prior to the Submission Deadline for any reason, including the failure of a Broker-Dealer to contact such Existing Holder or to submit such Existing Holder's Order to the Auction Agent, the Auction Agent shall deem a Hold Order to have been submitted on behalf of such Existing Holder covering the Liquidation Preference of the CPS Securities held by such Existing Holder which are not subject to Orders submitted to the Auction Agent.

(iv) If one (1) or more Orders on behalf of an Existing Holder covering in the aggregate more than the Liquidation Preference of the CPS Securities actually held by such Existing Holder are submitted to the Auction Agent, such Orders shall be considered valid as follows and in the following order of priority:

(A) all Hold Orders submitted on behalf of such Existing Holder shall be considered valid, but only up to and including in the aggregate the Liquidation Preference of the CPS Securities actually held by such Existing Holder, and, if the Liquidation Preference of CPS Securities subject to such Hold Orders exceeds the Liquidation Preference of CPS Securities actually held by such Existing Holder, the Liquidation Preference of CPS Securities subject to each such Hold Order shall be reduced to the Liquidation Preference of the CPS Securities actually held by such Existing Holder;

(B)(1) any Bid submitted on behalf of such Existing Holder shall be considered valid up to and including the excess of the Liquidation Preference of the CPS

Securities actually held by such Existing Holder over the Liquidation Preference of the CPS Securities subject to any Hold Order referred to in subparagraph (A) above,

(2) subject to Article IX(r)(iv)(B)(1), if more than one (1) Bid with the same rate is submitted on behalf of such Existing Holder and the aggregate Liquidation Preference of the CPS Securities subject to such Bids is greater than such excess, such Bids shall be considered valid up to the amount of such excess, and the Liquidation Preference of the CPS Securities subject to each Bid with the same rate shall be reduced to the Liquidation Preference of the CPS Securities equal to such excess,

(3) subject to Article IX(r)(iv)(B)(1) and (2), if more than one (1) Bid with different rates is submitted on behalf of such Existing Holder, such Bids shall be considered valid first in the ascending order of their respective rates until the highest rate is reached at which such excess exists and then at such rate up to and including the Liquidation Preference of such excess, and

(4) in any such event, the number, if any, of such CPS Securities subject to Bids not valid under Article IX(r)(iv)(B) shall be treated as the subject of a Bid by a Potential Holder; and

(C) all Sell Orders shall be considered valid but only up to and including in the aggregate the excess of the Liquidation Preference of the CPS Securities actually held by such Existing Holder over the Liquidation Preference of the CPS Securities subject to Hold Orders referred to in Article IX(r)(iv)(A) and valid Bids referred to in Article IX(r)(iv)(B).

(v) If more than one (1) Bid is submitted on behalf of any Potential Holder, each Bid submitted shall be a separate Bid with the rate and Liquidation Preference of the CPS Securities therein specified.

(s) Determination of Sufficient Clearing Bids, Winning Bid Rate and Dividend Rate.

(i) Not earlier than the Submission Deadline on each Auction Date, the Auction Agent will assemble all valid Submitted Orders and will determine the excess of the total Liquidation Preference of CPS Securities on such Auction Date over the sum of the aggregate Liquidation Preference of CPS Securities subject to Submitted Hold Orders (such excess being hereinafter referred to as the “Available CPS Securities”), and whether Sufficient Clearing Bids have been made in the Auction. “Sufficient Clearing Bids” will have been made if the number of CPS Securities that are the subject of Submitted Bids by Potential Holders specifying rates not higher than the applicable Maximum Rate equals or exceeds the number of CPS Securities that are the subject of Submitted Sell Orders (including the number of CPS Securities subject to Bids by Existing Holders specifying rates higher than the applicable Maximum Rate).

(ii) If Sufficient Clearing Bids have been made, the Auction Agent will determine the lowest rate specified in the Submitted Bids (the “Winning Bid Rate”) which, taking into account the rates in the Submitted Bids of Existing Holders, would result in Existing Holders continuing to hold an aggregate amount of CPS Securities which, when added to the amount of CPS Securities to be purchased by Potential Holders, based on the rates in their Submitted Bids, would equal not less than the Liquidation Preference of Available CPS Securities. In such event, the Winning Bid Rate will be the Dividend Rate for the next succeeding Dividend Period.

(iii) If Sufficient Clearing Bids have not been made (other than because all of the outstanding CPS Securities are subject to Submitted Hold Orders), the Dividend Rate will be the Maximum Rate for the next succeeding Dividend Period.

(iv) If all of the Existing Holders indicate a desire to hold all of the CPS Securities of a Series without regard to the Dividend Rate, the Dividend Rate payable on such CPS Securities for the next Dividend Period will be a percentage (as selected by the Board of Directors prior to the issuance of the CPS Securities) of the Reference Rate in effect as of the end of the Auction Date.

(t) Acceptance and Rejection of Orders.

(i) Existing Holders will continue to hold the Liquidation Preference of CPS Securities that are subject to Submitted Hold Orders and, based on the determination made as described under Article IX(r), Submitted Bids and Submitted Sell Orders will be accepted or rejected and the Auction Agent will take such other action as set forth below.

(ii) If Sufficient Clearing Bids have been made, all Submitted Sell Orders will be accepted and, subject to the discretion of the Auction Agent to round and allocate certain CPS Securities as described below, Submitted Bids will be accepted or rejected as follows in the following order of priority and all other Submitted Bids shall be rejected:

(A) Each Existing Holder's Submitted Bid specifying any rate that is higher than the Winning Bid Rate will be accepted, thus requiring each such Existing Holder to sell the aggregate Liquidation Preference of CPS Securities subject to such Submitted Bids;

(B) Each Existing Holder's Submitted Bid specifying any rate that is lower than the Winning Bid Rate will be rejected, thus entitling each such Existing Holder to

continue to hold the aggregate Liquidation Preference of CPS Securities subject to such Submitted Bids;

(C) Potential Holders' Submitted Bids specifying any rate that is lower than the Winning Bid Rate will be accepted;

(D) Each Existing Holder's Submitted Bids specifying a rate that is equal to the Winning Bid Rate will be rejected, thus entitling each such Existing Holder to continue to hold the aggregate Liquidation Preference of CPS Securities subject to such Submitted Bid, unless the aggregate Liquidation Preference of CPS Securities subject to all such Submitted Bids is greater than the Liquidation Preference of CPS Securities (the "Remaining Amount") equal to the excess of the Available CPS Securities over the aggregate Liquidation Preference of CPS Securities subject to Submitted Bids described in subparagraphs (B) and (C) above, in which event such Submitted Bid of such Existing Holder will be rejected in part, and such Existing Holder will be entitled to continue to hold the Liquidation Preference of CPS Securities subject to such Submitted Bid, but only in a Liquidation Preference equal to the aggregate Liquidation Preference of CPS Securities obtained by multiplying the Remaining Amount by a fraction, the numerator of which is the Liquidation Preference of CPS Securities held by such Existing Holder subject to such Submitted Bid and the denominator of which is the sum of the Liquidation Preference of outstanding CPS Securities subject to such Submitted Bids made by all such Existing Holders that specified a rate equal to the Winning Bid Rate; and

(E) Each Potential Holder's Submitted Bid specifying a rate that is equal to the Winning Bid Rate will be accepted but only in a Liquidation Preference equal to the

Liquidation Preference of CPS Securities obtained by multiplying the excess of the aggregate Liquidation Preference of Available CPS Securities over the aggregate Liquidation Preference of CPS Securities subject to Submitted Bids described in subparagraphs (B), (C) and (D) above by a fraction, the numerator of which is the aggregate Liquidation Preference of CPS Securities subject to such Submitted Bid and the denominator of which is the sum of the Liquidation Preference of CPS Securities subject to Submitted Bids made by all such Potential Holders that specified a rate equal to the Winning Bid Rate.

(iii) If Sufficient Clearing Bids have not been made (other than because all of the CPS Securities are subject to Submitted Hold Orders), subject to the discretion of the Auction Agent to round and allocate certain CPS Securities as described below, Submitted Orders will be accepted or rejected as follows in the following order of priority and all other Submitted Bids shall be rejected:

(A) Existing Holders' Submitted Bids specifying any rate that is equal to or lower than the applicable Maximum Rate will be rejected, thus entitling each such Existing Holder to continue to hold the aggregate Liquidation Preference of CPS Securities subject to such Submitted Bids;

(B) Potential Holders' Submitted Bids specifying any rate that is equal to or lower than the applicable Maximum Rate will be accepted, thus requiring such Potential Holders to purchase the aggregate Liquidation Preference of CPS Securities subject to such Submitted Bids; and

(C) Each Existing Holder's Submitted Bids specifying any rate that is higher than the applicable Maximum Rate and the Submitted Sell Order of each Existing Holder will

be accepted, thus entitling each Existing Holder that submitted any such Submitted Bid or Submitted Sell Order to sell the CPS Securities subject to such Submitted Bid or Submitted Sell Order, but in both cases only in a Liquidation Preference equal to the aggregate Liquidation Preference of CPS Securities obtained by multiplying the aggregate Liquidation Preference of CPS Securities subject to Submitted Bids described in clause (B) above by a fraction, the numerator of which is the aggregate Liquidation Preference of CPS Securities held by such Existing Holder subject to such Submitted Bid or Submitted Sell Order and the denominator of which is the aggregate Liquidation Preference of CPS Securities subject to all such Submitted Bids and Submitted Sell Orders.

If as a result of the procedures described in subparagraph (B) or (C) above, any Existing Holder would be entitled or required to sell, or any Potential Holder would be entitled or required to purchase, a fraction of a security of CPS Securities, the Auction Agent will, in such manner as it will, in its sole discretion, determine, round up or down the number of CPS Securities to be purchased or sold by any Existing Holder or Potential Holder so that only whole securities will be entitled to be purchased or sold by each Potential Holder or Existing Holder even if such allocation results in one (1) or more of such Potential Holders not purchasing any CPS Securities.

Based on the results of each Auction, the Auction Agent will determine the aggregate Liquidation Preference of CPS Securities to be purchased and the aggregate Liquidation Preference of CPS Securities to be sold by Potential Holders and Existing Holders on whose behalf the Broker-Dealer submitted Bids or Sell Orders.

(u) Maximum Number of Holders.

(i) Unless and until the Corporation obtains the approval of the Broker-Dealer and notifies the Auction Agent of a different number, the “maximum number of Holders” for a Custodial Trust’s CPS Securities shall be one hundred (100). If the Corporation or the Broker-Dealer determines (and provides written notice thereof to the Auction Agent prior to 10:00 a.m., New York City time, on any Auction Date) or if the Auction Agent determines, that as a result of allocations of CPS Securities made by the Auction Agent in an Auction in accordance with the Auction Procedures, there is a significant possibility that the number of Holders of a Custodial Trust’s CPS Securities would be greater than the maximum number of Holders, the Auction Agent shall (1) in consultation with the Corporation and the Broker-Dealer, review the ownership of the CPS Securities to determine whether any Person has been counted more than once in determining the number of Holders and (2) in consultation with the Broker-Dealer and with any other Persons that the Auction Agent determines would become Existing Holders of CPS Securities on behalf of more than one (1) Holder, determine the number of beneficial Holders of CPS Securities on behalf of which such Broker-Dealer and other Persons would hold CPS Securities, and if, after completing such determination and eliminating all Persons that have been counted more than once, the number of Holders of CPS Securities would nonetheless be greater than the maximum number of Holders, then the Auction Agent shall make a new determination of the results of such Auction as follows, in the following order of priority:

(A) if one (1) or more Bids of Existing Holders specifying the Winning Bid Rate would have been accepted in part, or one (1) or more Bids of Potential Holders specifying the Winning Bid Rate would have been rejected in part, and the Auction Agent

determines (in consultation with the Broker-Dealer) that the acceptance in whole or in part of one (1) or more Bids of Existing Holders specifying the Winning Bid Rate or the rejection in whole or in part of one (1) or more Bids of Potential Holders specifying the Winning Bid Rate would cause the number of Holders to be less than or equal to the maximum number of Holders, to that extent such Bids shall be accepted or rejected, as the case may be;

(B) if the Auction Agent determines (in consultation with the Broker-Dealer) that (1) the rejection in whole or in part of one (1) or more Bids of Existing Holders specifying a rate or rates lower than the maximum rate but higher than the rate which would have been the Winning Bid Rate, or the acceptance in whole or in part of one (1) or more Bids of Potential Holders specifying such a rate or rates and (2) the rejection in whole or in part of one (1) or more Bids of Potential Holders specifying a rate or rates equal to or lower than the rate which would have been the Winning Bid Rate, would cause the number of Holders to be less than or equal to the maximum number of Holders, to that extent such Bid of any Existing Holder that is so rejected or any such Bid of any Potential Holder that is so accepted and the highest rate specified in any such Bid of any Existing Holder that is so rejected or any such Bid of any Potential Holder that is so accepted shall be the Winning Bid Rate; provided that, to the extent practicable, Bids of Existing Holders which would have been accepted specifying a lower rate shall be rejected, and Bids of Potential Holders specifying a lower rate shall be accepted, before such Bids specifying a higher distribution rate; and provided, further, that subject to the foregoing proviso, to the extent practicable, Bids of Potential Holders which would have been accepted specifying a higher rate shall be rejected before such Bids specifying a

lower rate, and Bids of Existing Holders specifying a rate shall be rejected before Bids of Potential Holders specifying the same rate are accepted; or

(ii) If the Auction Agent determines, in its sole discretion, that the application of the foregoing procedures could not result in the number of Holders being less than or equal to the maximum number of Holders, then Sufficient Clearing Bids shall be deemed not to exist for such Auction and the "Maximum Rate" shall be the rate for the next succeeding distribution period for the CPS Securities held by the Custodial Trust and sell orders shall be accepted, in the sole discretion of the Auction Agent, only to the extent that their acceptance would not cause the number of Holders to exceed the maximum number of Holders for such Custodial Trust; provided that to the extent practicable, Bids of Potential Holders specifying a lower rate shall be accepted before Bids of Potential Holders specifying a higher rate.

ARTICLE X EXPRESS TERMS OF COMMON STOCK

The Common Stock shall be subject to the express terms of the PPS and any series thereof. Each share of Common Stock shall be equal to every other share of Common Stock. The holders of shares of Common Stock shall be entitled to one (1) vote for each share of such stock upon all matters presented to the shareholders.

The holders of shares of Common Stock now or hereafter outstanding shall have no preemptive right to purchase or have offered to them for purchase any shares of other securities of the Corporation, whether now or hereafter authorized.

ARTICLE XI EXISTENCE

The duration of the Corporation shall be perpetual.

ARTICLE XII
INDEMNIFICATION

Any person made or threatened to be made a party to an action or proceeding, whether civil or criminal, by reason of the fact that he, his testator or intestate then is or was a director, officer or employee of the Corporation, or then serves or has served any other corporation in any capacity at the request of the Corporation shall be indemnified by the Corporation against expenses, judgments, fines and amounts paid in settlement to the full extent that officers and directors are permitted to be indemnified by the laws of the State of New York. The provisions of this paragraph shall not adversely affect any right to indemnification which any person may have apart from the provisions of this paragraph.

ARTICLE XIII
LIMITATION ON LIABILITY OF DIRECTORS

No director will have any personal liability to the Corporation or its shareholders for damages for any breach of duty in the director's capacity as such, except that this provision will not eliminate or limit (i) the liability of any director if a judgment or other final adjudication adverse to him or her establishes that his or her acts or omissions were in bad faith or involved intentional misconduct or a knowing violation of law or that he or she personally gained in fact a financial profit or other advantage to which he or she was not legally entitled or that his or her acts violated Section 719 of the New York Business Corporation Law or (ii) the liability of any director for any act or omission prior to the adoption of this provision of the Charter.

ARTICLE XIV
LIMITATIONS ON THE RIGHT TO PURCHASE SHARES

No holder of any of the shares of this Corporation shall be entitled as of right as such holder to subscribe for or purchase any share(s) of stock of the Corporation of any class, or any warrant(s), right(s) or option(s) to purchase any share(s) of stock of the Corporation of any class,

or any bond(s), certificate(s) of indebtedness, debenture(s) or other security(ies) convertible into any share(s) of stock or into any warrant(s), right(s), or option(s) to purchase any share(s) of stock or carrying any right to purchase any share(s) of stock of the Corporation of any class (including any bond, certificate of indebtedness, debenture or other security to which is attached or with which is issued any warrant or other right to purchase any share(s) of stock of the Corporation of any class), whether now or hereafter authorized, and any of such securities may be issued and disposed of to such Persons and upon such terms and for such lawful consideration as may be deemed advisable by the Board of Directors.