

**Attachment B**

**Form of Amended and Restated Charter**

**AMENDED AND RESTATED CHARTER  
OF  
FINANCIAL GUARANTY INSURANCE COMPANY**

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

The undersigned Chief Executive Officer and Secretary of Financial Guaranty Insurance Company (the "Corporation"), pursuant to Section 1206 of the Insurance Law of New York and Section 807 of the Business Corporation Law of New York, do hereby restate, certify, and set forth:

1. The name of the Corporation is Financial Guaranty Insurance Company. The Corporation was originally formed under the name of Switzerland General Insurance Corporation of New York.

2. The original Charter of the Corporation was filed with the Superintendent of Insurance of the State of New York on March 24, 1972 and an Amended and Restated Charter was filed with the Superintendent of Insurance of the State of New York on December 14, 1990 and July 6, 2004. The Amended and Restated Charter was subsequently amended by the filing of Certificates of Amendment with the Superintendent of Insurance of the State of New York on October 7, 2008 and August 2, 2010.

3. On June 28, 2012, the Supreme Court of the State of New York issued an order placing the Corporation into a rehabilitation proceeding pursuant to Article 74 of the Insurance Law of New York styled as *In the Matter of the Rehabilitation of Financial Guaranty Insurance Company*, Index No. 401265/2012. The Superintendent of Financial Services of the State of New York, in his capacity at the court-appointed rehabilitator of the Corporation (in such capacity, the "Rehabilitator"), filed with the Court a Plan of Rehabilitation for the Corporation dated September 27, 2012, as the same may be amended, modified or waived (the "Plan") and the Court approved the Plan on [\_\_\_\_\_] [\_\_\_], 2012. In conjunction with the Plan, the Rehabilitator has made certain amendments to the Corporation's Charter, which amendments are reflected below.

4. The Corporation's Amended and Restated Charter, as now in effect, is hereby further amended and restated in its entirety to read in full as follows:

**AMENDED AND RESTATED CHARTER  
OF  
FINANCIAL GUARANTY INSURANCE COMPANY**

Article I. The name of the Corporation is FINANCIAL GUARANTY INSURANCE COMPANY (the "Corporation").

Article II. The principal office of this 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. The Corporation shall be authorized to transact the kinds of insurance described in paragraphs 16(C), (D), (E) and (F), 17(A) and 25 of Section 1113(a) of the Insurance Law of the State of New York, as presently enacted or as hereafter may be in effect including the corresponding provisions of any successor law (the "Insurance Law").

Section 1113(a)(16) "Fidelity and surety insurance," which includes:

(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 section six thousand five hundred one of this chapter [Chapter 28], (ii) financial guaranty insurance as set forth in paragraph one of subsection (a) of section six thousand nine hundred one of this chapter [Chapter 28], (iii) any insurance contract except as authorized pursuant to subsection (c) of section one thousand one hundred fourteen of this article [Article 11]; or (iv) service contract reimbursement insurance as specified in paragraph twenty-eight of this subsection [§1113(a)];

(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; . . .

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

(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 [Chapter 28];

Section 1113(a)(25) "Financial guaranty insurance," meaning the kind of insurance defined in paragraph one of subsection (a) of section six thousand nine hundred one of this chapter [Chapter 28].

In addition, without limiting the generality of the foregoing, the Corporation shall be authorized to assume or reinsure the kinds of insurance that the Corporation is authorized to transact. The Corporation shall also be authorized to conduct other kinds of business, and to take any and all actions, that are necessary, suitable, convenient, proper or incidental to the kinds of insurance that the Corporation is authorized to transact. Notwithstanding anything to the contrary in this Article III, the Board of Directors of the Corporation shall at all times comply with the terms of the Plan of Rehabilitation for the Corporation dated September 27, 2012, as the same may be amended, modified or waived (the "Plan").

Article IV. To the fullest extent permitted by applicable law, the Corporation shall be authorized to engage in any act or activity which may promote the interests of the Corporation or enhance the value of its property or business, and the Corporation shall also have and may exercise all rights, powers and privileges now or hereafter granted or permitted by law, including those provisions of the Business Corporation Law of New York (the "Business Corporation Law") that apply to insurance corporations; provided, however, that the Board of Directors of the Corporation shall at all times comply with the terms of the Plan.

Article V.

(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 seven (7) (except for vacancies temporarily unfilled), each of whom shall have one vote for all purposes.

(3) At all times (except while there are vacancies temporarily unfilled), 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 residents 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 upon it by law, the Board of Directors of the Corporation is expressly authorized to adopt, amend or repeal the By-laws of the Corporation, in whole or in part, by the vote of a majority of the entire Board of Directors; provided, however that the Board of Directors of the Corporation may not amend repeal or adopt any provisions in any manner that would conflict with, Sections 1 through 4 of Article II or Section 3 of Article III of the By-laws, unless such amendment is expressly recommended by the Nominating Committee (defined below) and is approved by the New York State Department of Financial Services (the "NYSDFS").

(6) Except as otherwise provided in this Amended and Restated Charter or as required by law, all decisions of the Board of Directors shall be made by a majority vote of the directors present at a meeting of the Board of Directors at which a Quorum is present.

(7) “Quorum” means a majority of the directors serving on the Board of Directors.

Article VI.

(1) Upon the effective date of the Plan (the “Effective Date”) the Board of Directors shall consist of the directors listed on the list of initial directors and officers, which list the Superintendent of Financial Services of the State of New York in his capacity at the court-appointed rehabilitator of the Corporation (in such capacity, the “Rehabilitator”) shall provide to the NYSDFS. The list of initial directors and officers shall include the name and class assignment for each director.

(2) The directors shall be divided into three classes designated as Class I, Class II and Class III, respectively, and each class shall consist of at least two members. Directors shall be assigned to each class in accordance with the list of initial directors and officers provided to the NYSDFS pursuant to Section (1) of this Article VI. At the first annual meeting of stockholders following the adoption of this Amended and Restated Charter, the term of office of the Class I directors shall expire and Class I directors shall be elected for a full term of three years. At the second annual meeting of stockholders following the adoption of this Amended and Restated Charter, the term of office of the Class II directors shall expire and Class II directors shall be elected for a full term of three years. At the third annual meeting of stockholders following the adoption of this Amended and Restated Charter, the term of office of the Class III directors shall expire and Class III directors shall be elected for a full term of three years. At each succeeding annual meeting of stockholders, directors shall be elected for a full term of three years to succeed the directors of the class whose term expires at such annual meeting. Each director shall hold office until his or her term of office expires and until his or her successor shall have been elected or until his or her earlier resignation or removal.

(3) The annual meeting of the shareholders of the Corporation shall be held on the second Thursday in May of each year.

(4) The Corporation’s Chief Executive Officer shall be a director (by virtue of his or her office).

(5) Additional directors shall be elected at the annual meeting of shareholders of the Corporation. All elections shall be determined by a plurality of the votes cast.

(6) The Board of Directors shall consist of no less than five (5) Independent Directors. “Independent Director” means a person that (i) is not, and has not been at any time during the past three (3) years, an officer or employee of the Corporation and (ii) does not have a relationship which, in the opinion of the Board of Directors, would interfere with such person’s exercise of independent judgment in carrying out the responsibilities of a director.

(7) The candidates to serve on the Board of Directors will be nominated by a nominating committee (the “Nominating Committee”), and all such nominated candidates must be expressly approved by the NYSDFS. The Nominating Committee shall consist solely of Independent Directors. The number of members of the Nominating Committee shall be at least two (2). Prior to the first election of directors following the Effective Date, the Board of

Directors shall form the Nominating Committee and approve a Nominating Committee charter setting forth the Nominating Committee's duties, functions, authority and operating procedures and requiring the Nominating Committee to act by majority vote. At the first meeting of the Board of Directors following each annual meeting of shareholders, the Board of Directors will, by majority vote, reconstitute the Nominating Committee.

(8) Other than the Corporation's Chief Executive Officer, only those candidates nominated by the Nominating Committee pursuant to paragraph (7) of this Article V shall be eligible to serve on the Board of Directors.

(9) The Nominating Committee shall nominate at least two (2) candidates for each director whose term has expired.

(10) After determination by the Nominating Committee that one or more persons should be selected and nominated as a member of the Board of Directors, the Nominating Committee shall (i) obtain the express approval of the NYSDFS for any such nomination and (ii) present its recommendations to the full Board of Directors and the shareholders for their consideration.

(11) The Board of Directors, by majority vote, may remove any member of the Nominating Committee with or without cause, may increase or decrease (but not to below two (2) members) the size of the Nominating Committee and shall fill any vacancy on the Nominating Committee as soon as practicable but within thirty (30) days after the creation of such vacancy.

(12) If the office of any director becomes vacant by reason of death, resignation, disqualification, removal or other cause, a majority of the directors remaining in office, although less than a quorum, may elect a successor solely from the candidates nominated by the Nominating Committee, to serve until the next annual meeting of shareholders at which directors are elected. The Nominating Committee shall nominate at least two (2) candidates to fill any vacancy on the Board of Directors, and all such nominations must be expressly approved by the NYSDFS. Notwithstanding the foregoing two sentences, in the case of any vacancy relating to the Corporation's Chief Executive Officer, the new Chief Executive Officer, upon his or her election to such office, will also be elected to replace the former Chief Executive Officer as a director.

(13) A director may not be removed except for cause (as determined by the Board of Directors). Any such removal shall require the majority vote of the entire Board of Directors (other than the director being removed). In addition, if the Board of Directors, by majority vote, terminates the employment of the Corporation's Chief Executive Officer for any reason, the terminated Chief Executive Officer will, by such action, also be removed as a director.

Article VII. Any provision contained in this Amended and Restated Charter may be amended or repealed, in the manner now or hereafter prescribed by law (including any required approvals of the Superintendent of Financial Services of the State of New York), and all rights conferred upon shareholders herein are subject to any such amendment or repeal;

provided, however that the Board of Directors or shareholders, as applicable, may not amend or repeal, or adopt any provisions in any manner that would conflict with, Sections (2) and (6) of Article V or Sections (1), (2), and (4)-(13) of Article VI of this Amended and Restated Charter, unless such amendment is expressly recommended by the Nominating Committee for approval by the Board of Directors or shareholders, as applicable, and is expressly approved by the NYSDFS.

Article VIII. No director of the Corporation shall be personally liable to the Corporation or any of its shareholders for damages for any breach of duty as a director; provided, however, that the forgoing provision shall not eliminate or limit (i) the liability of a 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 any violation of the Insurance Law or a knowing violation of any other 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 Business Corporation Law or (ii) the liability of a director for any act or omission prior to the adoption of this provision. No amendment to or repeal of this Article VIII shall apply to or have any effect on the liability or alleged liability of any director of the Corporation for or with respect to any acts or omissions of such director occurring at any time prior to such amendment or repeal.

Article IX. The fiscal year of the Corporation shall begin on the first day of January and shall terminate on the 31<sup>st</sup> day of December in each year.

Article X. The amount of the capital of the Corporation shall be \$21,000,120.00 to consist of (a) 10,000 shares of common stock having a par value of \$1500.00 each (hereinafter called the "Common Stock") and (b) 6,000.12 shares of Preferred Stock, each whole share having a par value of \$1,000.00 (hereinafter called the "Preferred Stock"). No authorized but unissued Common Stock or Preferred Stock may be issued by the Corporation without the approval of the Superintendent of Financial Services of the State of New York.

Article XI. The Preferred Stock shall have the following express terms:

(1) Authorization. The Preferred Stock may be issued from time to time in one or more series; provided, however, that any newly-issued Preferred Stock shall not have a dividend yield in excess of the maximum rate of interest provided in Section 5-501 of the General Obligations Law and dividends shall not be cumulative for more than three years as per the requirements of Section 1201(a)(7)(B) and (C). All shares of Preferred Stock shall be of equal rank and shall be identical, except in respect of the matters that may be fixed by the Board of Directors as hereinafter provided, and each share of each series shall be identical with all other shares of such series. The Board of Directors (other than with respect to the series of Preferred Stock designated in Article XI(2)(a) except with respect to the establishment of an Initial Dividend Payment Date, an Initial Dividend Period, a Reference Rate, a Reference Date and a Subsequent Dividend Period) hereby is authorized to cause such shares to be issued in one or more series and with respect to each such series prior to the issuance thereof to fix:

(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 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;
- (d) The establishment of an Initial Dividend Payment Date, an Initial Dividend Period, a Reference Rate, a Reference Date and a Subsequent Dividend Period;
- (e) The relative preference of the Preferred Stock vis-à-vis the Common Stock and other classes of shares of the Corporation;
- (f) Whether or not the Preferred Stock shall be perpetual or have a fixed term;
- (g) Whether Dividends shall be cumulative or non-cumulative; and
- (h) Whether Dividends shall accrue at (i) a fixed or floating rate or (ii) an Auction Rate.

The Board of Directors is authorized (other than with respect to the series of Preferred Stock designated in Article XI(2)(a) except with respect to the establishment of an Initial Dividend Payment Date, an Initial Dividend Period, a Reference Rate, a Reference Date and a Subsequent Dividend Period) to adopt from time to time amendments to this Amended and Restated Charter fixing, with respect to each such series, the matters described in clauses (a) to (h), both inclusive, of this Article XI(1). A certificate representing each series of Preferred Stock shall be in such form as may be approved by an authorized officer of the Corporation as evidenced by such officer's execution thereof.

(2)

(a) Initial Series Designations. There shall be six initial series of Preferred Stock established by this Article XI(2)(a). The number of shares constituting each such series shall be 500.01. Each series designated pursuant to this Article XI(2)(a) shall be perpetual. The series shall be designated as follows: "Series A Perpetual Preferred Shares," "Series B Perpetual Preferred Shares," "Series C Perpetual Preferred Shares," "Series D Perpetual Preferred Shares," "Series E Perpetual Preferred Shares," and "Series F Perpetual Preferred Shares." Pursuant to its authority granted in Article XI(1), the Board of Directors has determined that the Initial Dividend Payment Date shall be (i) with respect to the Series A Perpetual Preferred Shares, November 28, 2008, (ii) with respect to the Series B Perpetual Preferred Shares, December 4, 2008, (iii) with respect to the Series D Perpetual Preferred Shares, November 20, 2008, (v) with respect to the Series F Perpetual Preferred Shares, November 18, 2008.

(b) Additional Series Designations. There shall be six additional series designated under this Amended and Restated Charter. The number of shares constituting each such series shall be 500.01. The additional series designated by this Article XI(2)(b) shall be designated as follows: "Series G Preferred Shares," "Series H Preferred Shares,"



“Series I Preferred Shares,” “Series J Preferred Shares,” “Series K Preferred Shares” and “Series L Preferred Shares.” Prior to the issuance of such additional series designated by this Article XI(2)(b) the Board of Directors shall comply with the provisions of Section 502 of the Business Corporation Law.

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

“Affiliate” as to any Person, shall mean 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.

“Amended and Restated Charter” shall mean this Amended and Restated Charter of the Corporation.

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

“Auction Agent” shall mean The Bank of New York (Delaware) 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 US\$15,000,000, or (ii) a member of the National Association of Securities Dealers, Inc., having a capitalization of at least 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 Preferred Stock.

“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, which provides, among other things, that the Auction Agent will follow the Auction Procedures for the purpose of determining the Auction Rate.

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

“Auction Procedures” means the procedures set forth in the Auction Agent Agreement for conducting Auctions, substantially as described in Article XI(14) through XI(21), inclusive.

“Auction Rate” means 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.

“Auction Rate CPS Securities” shall mean the initial series of Preferred Stock designated in Article XI(2)(a) and each other series of CPS Securities issued by a Custodial Trust whose Preferred Stock has been designated as Auction Rate Shares by the Board of Directors.

“Auction Rate Shares” shall mean the initial series of Preferred Stock designated in Article XI(2)(a) and each other series of Preferred Stock designated by the Board of Directors as accruing dividends at an Auction Rate.

“Broker-Dealer” shall mean any broker-dealer or other entity permitted by law (i) 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 and (iii) that has been selected by the Corporation and has entered into a Broker-Dealer Agreement with the Auction Agent that remains effective.

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

“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.

“By-Laws” shall mean the By-Laws of the Corporation.

“CPS Securities” shall mean each of the committed preferred securities issued as Money Market Committed Preferred Custodial Trust Securities issued by CPS Custodial Trust I, CPS Custodial Trust II, CPS Custodial Trust III, CPS Custodial Trust IV, CPS Custodial Trust V, CPS Custodial Trust VI, CPS Custodial Trust VII, CPS Custodial Trust VIII, CPS Custodial Trust IX, CPS Custodial Trust X, CPS Custodial Trust XI and CPS Custodial Trust XII or all such series, as the context requires.

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

“Date of Original Issue” means, for each series of Preferred Stock, the first Business Day after the Initial Reset Date for the respective series of Preferred Stock.

“Delayed Auction” shall mean that following any allocation of any loss of principal or interest with respect to eligible assets held by a Custodial Trust realized on or after the third Business Day preceding an Auction Date or on an Auction Date, the then outstanding aggregate Liquidation Preference of that Custodial Trust’s CPS Securities will be reduced in integral increments of \$100,000 to reflect such loss and the Auction Date for such CPS Securities will be delayed by three (3) business days.

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

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

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

“Dividend Rate” shall mean, as to each share of Preferred Stock of a series, the rate per annum at which a Dividend shall be payable on such share of Preferred Stock 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, the Auction Rate or the Non-Auction Dividend Rate, or (iii) for each Subsequent Dividend Period following a Fixed Rate Distribution, a rate equal to the fixed-rate equivalent of one-month 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 Bridge Telerate Service at 11:00 A.M. New York time on the LIBOR Determination Date. 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 Preferred Stock on the records of the Auction Agent at the close of business on the Business Day prior to such Auction.

“Fixed Rate Distribution” shall have the meaning given to such term in Article XI(4)(b).

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

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

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

“Initial Dividend Rate” for each series of Preferred Stock, shall equal the rate determined with respect to the corresponding CPS Securities on the Initial Reset Date of the Preferred Stock.

“Initial Reset Date” for the Initial Dividend Period of each series of Preferred Stock, shall mean the first Business Day following the Initial Dividend Period.

“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 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 highest rates and the four lowest rates, averaging the eight

remaining rates, carrying the result (expressed as a percentage) out to six decimal places, and rounding to five decimal places. As used herein “Telerate page 3750” means the display designated as page 3750 on the Bridge 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 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” means the second London business day prior to the commencement of the first Dividend Period following the Fixed Rate Distribution.

“Liquidation Preference” shall have the meaning given to such term in Article XI(6)(a).

“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 the insurer financial strength of the Corporation is rated at or above “Aaa” and “AAA” by Moody’s and Standard & Poor’s, respectively, then 1.50%; or (2) if the insurer financial strength of the Corporation is rated below “Aaa” and “AAA” by Moody’s and Standard & Poor’s, respectively, then 2.00%; provided, however, that if Moody’s and Standard & Poor’s issue “split ratings” (e.g., “Aaa” by Moody’s and “AA” by Standard & Poor’s), then the lower rating shall be used to determine the Maximum Rate. 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 (XI)(14)(d)), 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 Services, Inc. and its successors.

“Non-Auction Dividend Rate” shall mean the rate designated by the Board of Directors with respect to each series of Preferred Stock with a fixed or floating (i.e., non-auction) rate.

“Outstanding” shall mean, as of any date and for any series of Preferred Stock, Preferred Stock theretofore issued by the Corporation except, without duplication, (i) any Preferred Stock theretofore cancelled or delivered to the Auction Agent or the Corporation’s

registrar or transfer agent, as applicable, for cancellation, (ii) any Preferred Stock as to which the Corporation or any Affiliate thereof (including any Affiliate that is a Broker-Dealer shall be the owner, (iii) any Preferred Stock represented by any certificate in lieu of which a new certificate has been executed and delivered by the Corporation or (iv) any Preferred Stock 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 Preferred Stock (or, in the case of an Existing Holder, additional Preferred Stock).

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

“Preferred Stock Directors” shall have the meaning given to such term in Article XI(7)(c).

“Purchaser’s Letter” shall mean a letter addressed to the Broker-Dealer in which a Person agrees, among other things, to offer to purchase, purchase, offer to sell and/or sell any Preferred Stock in accordance with the terms hereof.

“Put Agreement” shall mean each put option agreement between the Corporation and each of CPS Custodial Trust I, CPS Custodial Trust II, CPS Custodial Trust III, CPS Custodial Trust IV, CPS Custodial Trust V, CPS Custodial Trust VI, CPS Custodial Trust VII, CPS Custodial Trust VIII, CPS Custodial Trust IX, CPS Custodial Trust X, CPS Custodial Trust XI or CPS Custodial Trust XII.

“Redemption Date” shall have the meaning given to such term in Article XI(5)(a).

“Redemption Price” shall mean the price paid by the Corporation for shares of Preferred Stock redeemed on any Redemption Date, as determined in accordance with Article XI(5)(a).

“Reference Date” shall have the meaning given to such term in Article XI(3) within the definition of “Subsequent Dividend Period.”

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

“Register” means 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 Preferred Stock.

“Securities Depository” means The Depository Trust Company or any successor company or other entity selected by the Corporation as securities depository for the Preferred

Stock that agrees to follow the procedures required to be followed by such securities depository in connection with the Preferred Stock.

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

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

(4) Dividends.

(a) General. Subject to a Maximum Rate for each Subsequent Dividend Period, Holders of the outstanding Preferred Stock of any series, in preference to the holders of Common Stock and of any other class of shares ranking junior to the Preferred Stock, 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 Preferred Stock for the respective Dividend Period. Dividends on the Preferred Stock will accrue from the Date of Original Issue. Auctions for each Dividend Period prior to a Fixed Rate Distribution will be held on each Auction Date. With respect to any Auction Rate Shares, 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), the Dividend Rate for the next succeeding Dividend Period shall equal the Maximum Rate on such Auction Date. So long as any Preferred Stock shall be outstanding, no dividends, except dividends payable in Common Stock or other shares ranking junior to the Preferred Stock, shall be paid or declared and no distribution shall be made on the Common Stock or any other shares ranking junior to the Preferred Stock, nor shall any Common Stock be purchased, retired or otherwise acquired by the Corporation, unless all accrued and unpaid Dividends on the Preferred Stock 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 FGIC Corporation 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 FGIC

Corporation unless all accrued and unpaid Dividends on the Preferred Stock shall have been declared and paid or a sum sufficient for payment thereof shall have been set apart.

(i) 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 Preferred Stock 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 Preferred Stock then issued and outstanding and entitled to receive such dividends.

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

(iii) Dividends (or amounts equal to accrued and unpaid Dividends) due and payable on a series of Preferred Stock 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 360 and multiplying the amount so obtained by \$100,000.

(iv) Dividends shall be non-cumulative if so designated by the Board of Directors; provided that Dividends so designated 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 XI(4)(a) above while all accrued and unpaid Dividends on the Preferred Stock 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).

(v) Each Dividend shall be payable to the Holder or Holders of a series of Preferred Stock as of the opening of business on each Dividend Payment Date for each series; provided that so long as the series of Preferred Stock is held of record by the nominee of the Securities Depository, Dividends will be paid to the nominee of a Securities Depository for each respective series. The Securities Depository will credit the accounts of the Agent Members of Existing Holders of the Preferred Stock 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.

(b) Fixed Rate Distribution. On any Dividend Payment Date following the exercise by the Corporation of its put option rights under the Put Agreement for a series of Preferred Stock, Preferred Stock 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 Preferred Stock 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").

(c) Fractional Shares. Each series may issue one fractional share of Preferred Stock in amount equal to one one-hundredth (0.01) of a whole share.

(5) Redemption.

(a) The Corporation shall have the right to redeem all or any part of any series of Preferred Stock outstanding in whole or in part beginning 49 days after issuance of Preferred Stock Securities and every 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 Preferred Stock if after giving effect to a partial redemption, the aggregate Liquidation Preference of Preferred Stock of such series outstanding immediately after such partial redemption would be less than \$20,000,000. Notwithstanding the foregoing, following a Fixed Rate Distribution, the Corporation shall not be permitted to redeem that series of Preferred Stock until after the second anniversary of such Fixed Rate Distribution. In the case of any redemption pursuant to this Article XI(5), the Redemption Price shall be an amount equal to the aggregate Liquidation Preference of the Preferred Stock redeemed plus all Dividends accrued but unpaid on such Preferred Stock as of the Redemption Date for the then current Dividend Period and any previously accumulated dividends payable under Article XI(4)(a). In the event of a partial redemption of a series of Preferred Stock, the Redemption Price shall be allocated pro rata among the Holders of the Preferred Stock 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 Preferred Stock.

(b) Notice of every such redemption shall be mailed, postage prepaid, to the Holders of the Preferred Stock to be redeemed at their respective addresses then appearing on the Register, not less than ten (10) days nor more than fifteen (15) days prior to 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 Preferred Stock to be redeemed with any bank or trust company in New York, New York, having



capital and surplus of more than \$5,000,000, named in such notice, directed to be paid to the respective Holders of the Preferred Stock to be redeemed, in amounts equal to the Redemption Price of all shares of Preferred Stock 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.

(c) If the Holders of the shares of Preferred Stock which shall have been called for redemption shall not, within ten (10) years 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 and the Corporation shall be relieved of all responsibility in respect thereof and to such Holders.

(d) Any Preferred Stock which is redeemed by the Corporation pursuant to this Article XI(5) shall be canceled and resume the status of authorized and unissued Preferred Stock without serial designation.

(6) Liquidation Preference.

(a) 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 Preferred Stock shall have a Liquidation Preference per Preferred Stock of \$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.

(b) 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 Preferred Stock, then to the extent allowed by applicable law, the Holders shall share in any such distribution of assets on a *pro rata* basis. Unless and until payment in full has been made to the Holders of the Preferred Stock and to holders of all shares of other classes or series ranking on a parity with the Preferred Stock 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 Preferred Stock upon liquidation and no purchase, redemption or other acquisition for any consideration by the Corporation may be made in respect of such stock or any such parity shares. After any payment of the full amount of the liquidating distributions to which they are entitled, the Holders of Preferred Stock will have no right or claim to any of the remaining assets of the Corporation.

(c) 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 XI(6).

(d) 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 XI(6).

(7) Voting Rights.

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

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

(i) any amendment, alteration or repeal of any of the provisions of this Amended and Restated Charter or the By-Laws that would adversely affect the rights or preferences of the Holders of Preferred Stock (including without limitation the issuance of any equity securities of the Corporation senior to the Preferred Stock 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 XI(7), neither an amendment to this Amended and Restated Charter or the By-Laws so as to authorize or create, or to increase the authorized or outstanding amount of, Preferred Stock or of any shares of any class ranking on a parity with or junior to the Preferred Stock, nor an amendment to this Amended and Restated Charter or the By-Laws 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 Preferred Stock; provided, further, that if such amendment, alteration or repeal affects adversely the rights or preferences of one or more but not all of the series of Preferred Stock 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

(ii) 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 Preferred Stock and the Preferred Stock is exchanged for preferred stock or securities of the surviving entity having the same rights and preferences

with respect to such entity as the Preferred Stock have with respect to the Corporation.

(c) If the Corporation has failed to pay Dividends in full on the Preferred Stock for eighteen consecutive months or funds sufficient to pay such dividends in full shall not have been deposited with the Auction Agent, subject to the Insurance Law of New York and the Business Corporation Law of New York, and notwithstanding Article V(2), the authorized number of members of the Board of Directors shall automatically be increased by two and the Holders of the Preferred Stock, voting as a single class, will be entitled to fill the vacancies so created by electing two additional directors (the “Preferred Stock Directors”), subject to New York regulatory approval. The meeting to elect the Preferred Stock Directors shall be held no more than 60 days after the last day of an eighteen consecutive month period during which the Corporation failed to pay Dividends on the Preferred Stock. The terms of the Preferred Stock Directors shall cease upon the Corporation paying dividends in full or the redemption of the Preferred Stock and, at such time, such 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 Preferred Stock and the number of members of the Board of Directors shall automatically be restored to such number of members of the Board of Directors as is then authorized without regard to the addition of such Preferred Stock Directors.

(8) Conversion. The Preferred Stock may not be converted into Common Stock.

(9) Notice. All notices or communications, unless otherwise specified in this Amended and Restated Charter, shall be sufficiently given if in writing and delivered in person, mailed by first-class mail, postage prepaid, or transmitted by facsimile, email or any other standard form of written telecommunication to a Holder of Preferred Stock 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 seven days after which such notice is mailed.

(10) Transfer Restrictions. The Preferred Stock 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 GUARANTY INSURANCE COMPANY (“FGIC”) OR ANY AFFILIATE OF FGIC 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, (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 FGIC, CPS CUSTODIAL TRUST 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 Preferred Stock.

(11) Other Rights of Holders of Preferred Stock. Unless otherwise required by law, the Holders of Preferred Stock shall not have any rights other than as set forth in this Amended and Restated Charter.

(12) General.

For the purpose of this Article XI:

Whenever reference is made to shares “ranking on a parity with the Preferred Stock,” 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 Preferred Stock; and whenever reference is made to shares “ranking junior to the Preferred Stock,” 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 Preferred Stock.

(13) Act of God, Natural Disaster, etc.

(a) With respect to Auction Rate Shares, notwithstanding anything else set forth herein, if an Auction 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 Auction Agent is not able to conduct an Auction in accordance with the Auction Procedures for any such reason, then the Dividend Rate for the next Dividend Period shall be the Dividend Rate determined on the previous Auction Date.

(b) 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 reason, then:

(i) 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;

(ii) 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;

(iii) 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

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

(14) Certain Definitions for Articles XI and XII. The following definitions and procedures included in Article XI(14)–(21) below shall apply equally and separately to each series of Auction Rate CPS Securities and not to CPS Securities which are not Auction Rate CPS Securities. Capitalized terms used but not defined shall have the meanings given in Articles XI and XII. As used in this Article XI and XII, the following terms shall have the following meanings, unless the context otherwise requires:

(a) “Available CPS Securities” shall have the meaning specified in Article XI(19)(a) below.

(b) “Bid” shall have the meaning specified in Article XI(15)(a).

- (c) “Bidder” shall have the meaning specified in Article XI(15)(a).
- (d) “Hold Order” shall have the meaning specified in Article XI(15)(a).
- (e) “Order” shall have the meaning specified in Article XI(15)(a).
- (f) “Remaining Amount” shall have the meaning specified in Article XI(20)(b)(iv).
- (g) “Sell Order” shall have the meaning specified in Article XI(15)(a).
- (h) “Submission Deadline” shall have the meaning set forth in Article XI(15)(a).
- (i) “Submitted Bid” shall have the meaning set forth in Article XI(18)(a).
- (j) “Submitted Hold Order” shall have the meaning specified in Article XI(18)(a).
- (k) “Submitted Order” means any Submitted Bid, any Submitted Hold Order or any Submitted Sell Order.
- (l) “Submitted Sell Order” shall have the meaning specified in Article XI(18)(a).
- (m) “Sufficient Clearing Bids” shall have the meaning specified in Article XI(19)(a).
- (n) “Winning Bid Rate” shall have the meaning specified in Article XI(19)(b).
- (15) Orders by Existing Holders and Potential Holders.
  - (a) 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”):
    - (i) each Existing Holder of CPS Securities may submit to the Broker-Dealers an order, by telephone or otherwise, consisting of information as to:
      - (A) the Liquidation Preference of outstanding CPS Securities, if any, held by such Existing Holder which such Existing Holder desires to continue to hold without regard to the Dividend Rate for the next succeeding Dividend Period (a “Hold Order”);
      - (B) the Liquidation Preference of outstanding CPS Securities, if any, held by such Existing Holder which 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

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

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

(A) 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);

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

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

(iii) 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 the purposes hereof, the communication to a Broker-Dealer of information referred to in clause (i) or (ii) of this Article XI(15)(a) 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.”

(b) (i) Subject to the provisions described in Article XI(17) “Validity of Orders” below, a Bid by an Existing Holder will constitute an irrevocable offer to sell:

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

(B) such Liquidation Preference or a lesser Liquidation Preference of CPS Securities to be determined as set forth in Article XI(20)(b)(iv), if the Dividend Rate is equal to the rate specified in such Bid.

Subject to the provisions described in Article XI(17) “Validity of Orders” below, 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.

(ii) Subject to the provisions described in Article XI(17) “Validity of Orders” below, a Bid by a Potential Holder will constitute an irrevocable offer to purchase:

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

(B) such Liquidation Preference or a lesser Liquidation Preference of CPS Securities as set forth in Article XI(20)(b)(v) if the Dividend Rate is equal to the rate specified in such Bid.

If any rate specified in any Bid contains more than three 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.

(16) 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.



(17) Validity of Orders.

(a) If any Existing Holder submits through a Broker-Dealer to the Auction Agent one 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:

(i) 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 pro rata to cover the aggregate Liquidation Preference of CPS Securities actually held by such Existing Holder;

(ii) (A) 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 (i) above;

(B) subject to subparagraph (A) above, if more than one 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 pro rata to cover the Liquidation Preference of CPS Securities equal to such excess;

(C) subject to subparagraphs (A) and (B) above, if more than one 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

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

(iii) 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 (i) above and valid Bids referred to in paragraph (ii) 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 *pro rata* to cover the aggregate Liquidation Preference of CPS Securities held by such Existing Holder.

If more than one 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, except in the case of a Delayed Auction, in which the new Orders will be submitted on the date of such Delayed Auction.

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

(a) 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:

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

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

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

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

(B) 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

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

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

(b) If any rate specified in any Bid contains more than three 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%.

(c) 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 and not subject to Orders submitted to the Auction Agent.

(d) If one 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:

(i) 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 pro rata to cover the Liquidation Preference of the CPS Securities actually held by such Existing Holder:

(ii) (A) 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 (i) above;

(B) subject to Article XI(18)(d)(ii)(A), if more than one 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 pro rata to cover the Liquidation Preference of the CPS Securities equal to such excess;

(C) subject to Article XI(18)(d)(ii)(A) and (B), if more than one 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

(D) in any such event, the number, if any, of such CPS Securities subject to Bids not valid under Article XI(18)(d)(ii) shall be treated as the subject of a Bid by a Potential Holder; and

(iii) 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 XI(18)(d)(i) and valid Bids referred to in Article XI(18)(d)(ii).

(e) If more than one 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.

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

(a) 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).

(b) 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.

(c) 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. In such case, Existing Holders delivering Submitted Sell Orders may not be able to sell in the Auction all or any of their CPS Securities subject to such Sell Orders. Thus, under certain circumstances, Existing Holders may not be able to liquidate their investment.

(d) 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.

(20) Acceptance and Rejection of Orders.

(a) 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 XI(18), Submitted Bids and Submitted Sell Orders will be accepted or rejected and the Auction Agent will take such other action as set forth below.

(b) 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:

(i) Existing Holders' Submitted Bids 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;

(ii) 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;

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

(iv) 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 (ii) and (iii) 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

(v) 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 (ii), (iii) and (iv) 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.

(c) 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:

(i) 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;

(ii) 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

(iii) 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 (ii) 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 all CPS Securities are subject to Submitted Hold Orders, all Submitted Bids will be rejected.

If as a result of the procedures described in subparagraph (ii) or (iii) 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 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.

(21) Maximum Number of Holders.

(a) Unless and until the Broker-Dealer approves a different number and the Auction Agent is notified thereof, the “maximum number of Holders” for a Custodial Trust’s CPS Securities shall be 100. If 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 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:

(i) if one or more Bids of Existing Holders specifying the Winning Bid Rate would have been accepted in part, or one 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 or more Bids of Existing Holders specifying the Winning Bid Rate or the rejection in whole or in part of one 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; and if necessary;

(ii) if the Auction Agent determines (in consultation with the Broker-Dealer) that (1) the rejection in whole or in part of one 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 or more Bids of Potential Holders specifying such a rate or rates

and (2) the rejection in whole or in part of one 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

(b) 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.

(22) Dividend Procedures with Respect to CPS Securities not Designated as Auction Rate CPS Securities. The following procedures contained in this Article XI(22) shall apply only to each series of CPS Securities not designated as Auction Rate CPS Securities. Such procedures shall apply equally and separately to each such series.

(a) The Dividend Rate shall be as specified in the Board of Directors resolution authorizing the issuance of a series of CPS Securities not designated as Auction Rate CPS Securities.

(b) Unless the Corporation otherwise provides, the “maximum number of holders” for a Custodial Trust’s CPS Securities shall be 100. Any transfer or sale which results in the number of holders of a Custodial Trust’s CPS Securities being greater than 100 shall be void *ab initio*.

Article XII. The rights of the Common Stock are qualified by the express terms of the Preferred Stock 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 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 XIII. The duration of this Corporation shall be perpetual.

This Amended and Restated Charter was authorized by order of the Honorable Doris Ling-Cohan of the Supreme Court of the State of New York, County of New York, dated [\_\_\_\_\_] [\_\_\_], 2012.

IN WITNESS WHEREOF, the undersigned have subscribed this Amended and Restated Charter and affirmed it as true under penalties of perjury this \_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Chief Executive Officer

(SEAL)

\_\_\_\_\_  
Secretary

Dated at \_\_\_\_\_, New York  
This \_\_\_ day of \_\_\_\_\_, 2012