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**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: IAS PART 7**

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Index No. 41294/1986

In the Matter of the Liquidation of
MIDLAND INSURANCE COMPANY

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**LIQUIDATION PLAN FOR
MIDLAND INSURANCE COMPANY**

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ARTICLE 1

INTRODUCTION

Eric R. Dinallo, Superintendent of Insurance of the State of New York in his capacity as Liquidator of the Midland Insurance Company, a New York insurance company in liquidation, proposes the following plan of liquidation (“Plan”) for Midland Insurance Company pursuant to Article 74 of the Insurance Law.

The Plan generally provides that a private entity will purchase substantially all of the assets of the Company, including its cash and equivalents and the right to recover on all of its ceded reinsurance. The Purchaser will pay a purchase price consisting of a fixed percentage dividend on resolved policy claims plus profit sharing pursuant to the terms of the Plan. The Purchaser will be selected through an open and public bidding process, which will be preceded by a due diligence period. The successful bidder will be the one that offers the highest and best recovery for policyholders. In the event that the Liquidator or the Court concludes that the continuation of the Receivership Case would result in a better recovery for policyholders than the highest and best offer, a sale will not be pursued and this Plan will be withdrawn. The Plan includes the following features.

First, policyholders will be offered a choice of either opting into the Plan or opting out of the Plan for each of their claims. A policyholder who opts in for a particular claim (*i.e.*, an Opt-In Holder) and whose claim has already been Allowed in the Receivership Case will receive the fixed percentage distribution payment within seventy days after the Closing Date of the sale. An Opt-In Holder whose claim has not yet been Allowed will have its claims resolved with the Purchaser through a negotiated settlement with the Purchaser or, in the event negotiation is unsuccessful, a binding alternative dispute resolution procedure. Upon resolution of its claim, the Opt-In Holder will promptly receive the guaranteed percentage distribution, which percentage is expected to be higher than the fixed percentage distribution paid on an allowed claim of a policyholder that opts out of the Plan with respect to such claim. The Purchaser or any alternative dispute resolution provider will generally apply the same choice of law rules currently in effect in the Receivership Court. In the event, the Receivership Court’s choice-of-law rules change, the choice of law will be determined by the alternative dispute resolution provider pursuant to the changed rules.

By contrast, policyholders who opt out of the Plan for a particular claim (*i.e.*, an Opt-Out Holder) and whose claim has not yet been Allowed or Disallowed, will continue to have such claim adjusted by the Liquidator and any disputes with respect to such claim will be resolved in the Receivership Court. Opt-Out Holders will receive a fixed distribution on their claims equal to the liquidation value of their claims as determined by the Liquidator and approved by the Receivership Court in connection with the approval of the sale. The Liquidator has employed an actuarial firm to assist in determining the liquidation value of the Company. It is expected that the percentage recovery paid to Opt-Out Holders based on the liquidation value of the Company will be lower than the percentage recovery paid to Opt-In Holders due to advantages enjoyed by private parties that are not available to the Liquidator.

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Third, in addition to receiving from the Purchaser a fixed percentage distribution on all resolved claims, Opt-In Holders will be eligible to receive from the Purchaser an additional profit sharing distribution on a Pro-Rata basis.

Fourth, the Plan provides a mechanism by which assuming reinsurers may likewise either opt in or opt out of the Plan. A reinsurer which opts into the Plan (*i.e.* Opt-In Reinsurer), will agree to amend its reinsurance agreements in order to create direct privity with the Purchaser. Opt-In Reinsurers will have the right to associate with the Purchaser in connection with the Purchaser's defense of claims in the alternative dispute resolution process. In addition, Opt-In Reinsurers will have the right to arbitrate their own disputes with the Purchaser concerning coverage and payment of reinsurance claims subject to the arbitration provisions in their original reinsurance agreements. Further, Opt-In Reinsurers will enjoy the benefit of a Cutoff Date which will bar development of claims after a certain date established by the Receivership Court.

By contrast, reinsurers which opt out of the Plan (*i.e.*, Opt-Out Reinsurers) will continue to have the rights of interposition as determined by the Receivership Court and as may be revised by appellate courts. All claims submitted to Opt-Out Reinsurers will be reviewed and approved by the Liquidator and submitted to the Receivership Court for allowance or disallowance. The Estate may continue to administer collections from Opt-Out Reinsurers. Opt-Out Reinsurers will not enjoy the benefit of the Cutoff Date and will therefore be presented with claims that are submitted after the Cutoff Date.

Fifth, the Liquidator will transfer to the Purchaser substantially all the assets of the Estate. The Liquidator will continue to have access to books and records for the ongoing administration of the Estate.

Sixth, an affiliate of the Purchaser will serve as the Liquidator's claims administrator with respect to claims of Opt-Out Holders and claims covered by Opt-Out Reinsurers. The Liquidator will retain and exercise final authority with respect to all claims that must be presented for allowance or disallowance to the Receivership Court.

Overall, the Plan is structured to maximize the recoveries of Policyholders and to promote the prompt and efficient disposition and payment of claims. It is anticipated that a wide majority of the Policyholders will opt into the Plan, and that the amount of time and resources needed by the Liquidator to manage the estate will decline accordingly. Nevertheless, the Estate may remain open for several years while the Liquidator disposes of the claims of Opt-Out Holders and seeks recovery from Opt-Out Reinsurers. Once these claims and obligations are resolved, the Liquidator may seek the closure of the Receivership Case.

ARTICLE 2

DEFINITIONS

The capitalized terms used in this Plan that are not otherwise defined in this Plan shall have the meanings ascribed to them in Appendix A.

ARTICLE 3

INTERPRETATION; APPLICATION OF DEFINITIONS AND RULES OF CONSTRUCTION

3.1 Intent

The intent of this Plan is to provide for the sale of Midland's assets to a Purchaser for the purpose of maximizing recovery for Policyholder Claims and providing a mechanism for the fair and expeditious resolution of such claims.

3.2 Interpretation

For purposes of this Plan:

(a) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation";

(b) the words "herein," "hereof," "hereto," "hereunder," and other words of similar meaning refer to this Plan as a whole and not to any particular article, section, subsection or clause contained in this Plan; and

(c) the word "day," unless specifically designated as a "Business Day," shall mean an actual calendar day of 24 hours.

3.3 References

Unless the context otherwise requires, references herein:

(a) to Annexes, Articles, Sections, Exhibits and Schedules mean the Articles and Sections of, and the Annexes, Exhibits and Schedules attached to, this Plan;

(b) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof, this Plan and applicable law;

(c) to each term, whether stated in the singular or the plural, shall include both the singular and the plural as necessary to effectuate the intent of the Plan;

(d) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder; and

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(e) to a Person as a Holder of a Claim or Interest includes that Person's legal representatives, successors and assigns.

3.4 Annexes, Schedules and Exhibits

The Annexes, Schedules and Exhibits referred to herein shall be construed with and as an integral part of this Plan to the same extent as if they were set forth verbatim herein. Titles to Articles and headings of Sections are inserted for convenience of reference only and shall not be deemed a part of or to affect the meaning or interpretation of this Plan.

ARTICLE 4

CLASSIFICATION AND PRIORITY OF CLAIMS AND INTERESTS

Pursuant to Insurance Law Section 7434, all Claims and Interests are placed in the Classes set forth below.

4.1 Class One: Administrative Expense Claims

Class One consists of all Administrative Expenses.

4.2 Class Two: Policyholder Claims

Class Two consists of all Policyholder Claims.

4.3 Class Three: Federal Government Claims

Class Three consists of all Claims of the federal government except those under Class Two above.

4.4 Class Four: Employee Benefit Claims

Class Four consists of all Claims for wages owing to employees of the Company for services rendered within one year before commencement of the proceeding, not exceeding one thousand two hundred dollars to each employee, and claims for unemployment insurance contributions required by Article 18 of the New York Labor Law. Such priority shall be in lieu of any other similar priority which may be authorized by law.

4.5 Class Five: State and Local Government Claims

Class Five consists of all Claims of state and local governments except those under Class Two above.

4.6 Class Six: General Creditor Claims

Class Six consists of all Claims of general creditors including claims arising under Assumed Reinsurance Agreements, Reinsurance Agreements and Retrocession Agreements.

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4.7 Class Seven: Late Filed Claims

Class Seven consists of all Late-Filed Claims or any other Claims other than Claims under Class Eight or Class Nine below.

4.8 Class Eight: Surplus Notes Claims

Class Eight consists of all Claims for advanced or borrowed funds made pursuant to section 1307 of the Insurance Law.

4.9 Class Nine: Interests

Class Nine consists of all Interests.

ARTICLE 5

TREATMENT OF CLASSIFIED CLAIMS AND INTERESTS UNDER THE PLAN

5.1 Designation of Treatment

Holders of Claims and Interests shall receive the treatment set forth in this Article 5 in full, final and complete discharge of their Claims and Interests against the Estate. No Claim shall entitle the Holder thereof to any Distribution pursuant to this Plan unless, and only to the extent that: (i) such Claim is an Allowed Claim or a Determined Claim, (ii) is entitled to a Distribution pursuant to the express terms of this Plan, and (iii) has not already been paid, satisfied, released or otherwise settled prior to the date of such Distribution.

5.2 Special Provision Regarding Rights and Defenses with Respect to Claims

Except as otherwise provided in the Plan, the Plan Approval Order, or any other order of the Receivership Court, nothing shall affect the Company's rights and defenses, both legal and equitable, with respect to any Claims, including, but not limited to, all rights with respect to legal and equitable defenses, setoffs or recoupments against Claims. The Purchaser shall succeed to all such rights with respect to Opt-in Claims.

5.3 Equalization of Special Deposit Claims

Any Holder of an Allowed Claim or Determined Claim who, by virtue of being a Holder of a Special Deposit Claim, is entitled to, or receives, a payment with respect to such Claim out of a statutory deposit or the proceeds of any qualifying bond or other asset located in any state or foreign country, shall not be entitled to any further Distribution from the Company, the Liquidator or the Purchaser, until all other Holders of Allowed Claims or Determined Claims of the same class, irrespective of residence or place of the acts or contracts upon which their Claims are based, shall have received an equal Pro Rata Distribution upon their Allowed Claims. After such equalization, such Claimant shall be entitled to share in further Distributions by the Company, the Liquidator or the Purchaser to all other Holders of Allowed Claims or Determined Claims of the same Class.

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5.4 Secured Claims

A Holder of a Secured Claim may elect to surrender the collateral for the Secured Claim and have such Secured Claim treated as an unsecured Claim, the priority of which shall be based on the Claim's otherwise applicable classification under Article 4 hereof. If a Secured Claim is an Allowed Claim and the Holder of the Secured Claim elects to resort to the collateral for the Secured Claim for payment of the Claim, the value of the collateral shall be determined in accordance with the procedures established by the Receivership Court. If the Allowed Amount of such Secured Claim exceeds the value of the collateral, the Holder of the Secured Claim shall receive an Allowed Claim for the amount of the deficiency, the priority of which shall be based on the Claim's otherwise applicable classification under Article 4 hereof.

5.5 Treatment of Claims

5.5.1 Class One: Administrative Expense Claims

- (a) Pre-Effective Date Administrative Expenses. On or before the 10th day after the Effective Date, or as soon thereafter as the actual amount of Pre-Effective Date Administrative Expenses is known to the Liquidator, the Liquidator shall make one or more Distributions in Cash equal to the unpaid Pre-Effective Date Administrative Expenses.
- (b) Post-Effective Date Administrative Expenses. On and after the Effective Date, the Post-Effective Date Administrative Expenses, shall be paid out of the Administrative Expense Reserve as they become due in the ordinary course.

5.5.2 Class Two: Policyholder Claims

- (a) Each Holder of a Class Two Claim may elect to opt into the Plan or opt out of the Plan. Such election shall be made by delivering to the Liquidator an executed election notice substantially in the form of Exhibit A on or before the Option Deadline. In the event that a Holder of a Class Two Claim fails to make a timely election with regard to a Claim, such Holder shall be deemed to have elected to opt into the Plan for that Claim, and will be permitted to opt out at a later date for that Claim only if such Holder can demonstrate, promptly upon first learning of the Option Deadline, that the notice provided pursuant to the order of the Receivership Court did not, and was not reasonably calculated to, give timely actual notice to it. With respect to any Claim, the Purchaser shall have after the Option Deadline the discretion to permit a Holder, upon its request, to opt out of or opt into the Plan. Holders of Opt-In Claims are subject to the continuing jurisdiction of the Receivership Court with respect to their Opt-In Claims. Immediately after the Effective Date, Opt-In Holders shall be deemed to have dismissed, and be required to take all steps necessary to dismiss, any and all legal actions pending between such

Holders and the Company, Estate or the Liquidator pending in the Receivership Court or elsewhere, except as expressly provided in the Plan.

- (b) Pre-Effective Date Allowed Claims.
 - (i) On or before the 70th day after the Effective Date, each Holder of a Pre-Effective Date Allowed Class Two Claim shall receive a Distribution in Cash equal to the Opt-In Guaranteed Percentage multiplied by the Allowed Amount of such Pre-Effective Date Allowed Claim, minus any Prior Distributions. Each Holder of a Pre-Effective Date Allowed Claim shall also receive its Pro Rata share of any Profit Sharing Distribution from time to time, as and when made.
 - (ii) The Holder of a Pre-Effective Date Allowed Claim shall have direct rights against the Purchaser with respect to the Purchaser's obligations under the Purchase Agreement to pay the Opt-In Guaranteed Percentage of such Pre-Effective Date Allowed Claim.
- (c) Post-Effective Date Determined Claims (for Holders of Opt-In Claims) shall receive the following treatment.
 - (i) On or before the 10th day after the date on which any Post-Effective Date Determined Claim shall become Determined, the Holder of such Post-Effective Date Determined Claim shall receive a Distribution in Cash equal to the Opt-In Guaranteed Percentage multiplied by the Determined Amount of such Post-Effective Date Determined Claim. The Holder of a Post-Effective Date Determined Claim shall also receive its Pro Rata share of any Profit Sharing Distribution from time to time, as and when made after such Post-Effective Date Determined Claim shall be Determined. In the event that a Post-Effective Date Determined Claim is Determined after the date of a Profit Sharing Distribution, the Post-Effective Date Determined Claim shall be paid the amount of such Profit Sharing Distribution applicable to such Post-Effective Date Determined Claim simultaneously with the payment of the Opt-In Guaranteed Percentage.
 - (ii) An Opt-In Holder shall have direct rights against the Purchaser with respect to the Purchaser's obligations under the Purchase Agreement to pay the Opt-In Guaranteed Percentage of a Determined Claim.
- (d) Post-Effective Date Allowed Claims (for Holders of Opt-Out Claims) shall receive the following treatment.

- (i) Opt-Out Holders shall receive a Distribution in Cash equal to the Opt-Out Guaranteed Percentage multiplied by the Allowed Amount of such Post-Effective Date Allowed Claim less Prior Distributions, if any, on such Claim.
- (ii) The Purchaser, on behalf of the Liquidator, shall make Distributions to Holders of Opt-Out Claims with Post-Effective Date Allowed Claims not less than twice per calendar year.

5.5.3 Class Three: Federal Government Claims

Holders of Allowed Class Three Claims shall not receive any Distributions from the Company, the Liquidator, the Purchaser or from any Reinsurer of the Company on account of such Class Three Claims.

5.5.4 Class Four: Employee Benefit Claims

Holders of Allowed Class Four Claims shall not receive any Distributions from the Company, the Liquidator, the Purchaser or from any Reinsurer of the Company on account of such Class Four Claims.

5.5.5 Class Five: State and Local Government Claims

Holders of Allowed Class Five Claims shall not receive any Distributions from the Company, the Liquidator, the Purchaser or from any Reinsurer of the Company on account of such Class Five Claims.

5.5.6 Class Six: General Creditor Claims

Holders of Allowed Class Six Claims shall not receive any Distributions from the Company, the Liquidator, the Purchaser or from any Reinsurer of the Company on account of such Class Six Claims.

5.5.7 Class Seven: Late Filed Claims

Holders of Allowed Class Seven Claims shall not receive any Distributions from the Company, the Liquidator, the Purchaser or from any Reinsurer of the Company on account of such Class Seven Claims.

5.5.8 Class Eight: Surplus Notes Claims

Holders of Allowed Class Eight Claims shall not receive any Distributions from the Company, the Liquidator, the Purchaser or from any Reinsurer of the Company on account of such Class Eight Claims.

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5.5.9 Class Nine: Interests

Holders of Allowed Class Nine Interests shall not receive any Distributions from the Company, the Liquidator, the Purchaser or from any Reinsurer of the Company on account of such Interests.

5.5.10 Unclassified Claims

All Holders of Claims that are not classified shall not receive any Distributions from the Company, the Liquidator, the Purchaser or from any Reinsurer of the Company on account of such Claims.

5.6 Interest Payments

No Holder of an Allowed Claim or a Determined Claim shall be entitled to interest on such Claim, provided, however, that a Holder of an Allowed Claim or a Determined Claim shall be entitled to payment of interest at a rate of eight percent (8% per annum) for each day that a Distribution is past due on any Distribution that is not made within 30 days after such payment is required to be made in accordance with this Plan.

ARTICLE 6

PROFIT SHARING

6.1 Payment of Profit Sharing

The Purchaser shall make Distributions of Profit determined in accordance with the Purchase Agreement to Holders of Pre-Effective Date Allowed Policyholder Claims and Determined Opt-In Claims on a Pro Rata basis according to the Allowed Amount or Determined Amount of each Claim. The Purchaser shall not be obligated to make a Distribution of Profit if the amount of such Distribution would, in the Liquidator's judgment, be disproportionately small in relation to the cost of making such Distribution. The Liquidator shall be the sole judge of when such Distribution would be disproportionately small in relation to the cost of making such Distribution.

6.2 Audit of Profit Sharing

The Liquidator shall have the right to audit and inspect the books and records of the Purchaser at any time and from time to time to verify the Purchaser's determination of Profit and the Distributions thereof. The Liquidator shall have the sole and exclusive right to enforce the profit sharing provisions of the Plan and the Purchase Agreement.

ARTICLE 7

RIGHTS AND OBLIGATIONS OF REINSURERS

7.1 Election by Reinsurers

Each Reinsurer may elect to opt into the Plan or opt out of the Plan. Such election shall be made by delivering to the Liquidator an executed election notice in the form of Exhibit B on or before the Option Deadline. In the event that a Reinsurer fails to make a timely election, such Reinsurer shall be deemed to have elected to opt out of the Plan. The Purchaser shall have after the Option Deadline the discretion, upon a Reinsurer's request, to permit a Reinsurer to opt into or opt out of the Plan.

7.2 Opt-In Reinsurers

An Opt-In Reinsurer shall be obligated to pay its obligations under all of its Reinsurance Agreements on the basis of the Determined Amount of Determined Opt-In Claims, the Allowed Amount of Pre-Effective Date Allowed Claims and the Allowed Amount of Post-Effective Date Allowed Claims (all without diminution due to the Company's insolvency or the Plan) notwithstanding that the Holder of the Claim will only receive a percentage of such amount from the Purchaser. With respect to any particular Reinsurance Agreement, an Opt-In Reinsurer shall have, if so provided by such Reinsurance Agreement, the right to associate in the Purchaser's investigation and disposition of Claims as provided by Article 8 hereof. Such right shall include the right to review the Purchaser's files with respect to covered Claims and consult with the Purchaser in connection with such Claims. In the event of a dispute between the Purchaser and the Reinsurer with respect to the rights and obligations set forth in a Reinsurance Agreement, such dispute shall be resolved under the provisions of the applicable Reinsurance Agreement, including any arbitration provisions of such Reinsurance Agreement. The Reinsurer and the Purchaser shall execute an Opt-In Reinsurance Certificate (in the form of Exhibit C attached hereto) which shall be delivered to the Purchaser, together with the Opt-In Reinsurer's election to opt into the Plan. Opt-In Reinsurers will not be bound by the Interposition Ruling.

7.3 Opt-Out Reinsurers

A Reinsurer that opts out of the Plan shall continue to have such rights and obligations as it may have pursuant to Insurance Law Section 1308, and shall continue to be bound by the Interposition Ruling.

7.4 Full Force and Effect

All Reinsurance Agreements entered by the Company prior to the entry of the Liquidation Order shall remain in full force and effect after the Effective Date subject to the provisions of the Insurance Law and the provisions of this Plan. The Company shall, after the Effective Date, remain insolvent within the meaning of Insurance Law Section 1309 and the Reinsurers shall have the same obligations to the Company that they had to the Company prior to the Effective Date pursuant to Insurance Law Section 1308(a). Except as otherwise expressly provided herein: (a) no term of this Plan shall be construed, be effective or operate to release, diminish or

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otherwise compromise or discharge any claim or right of recovery that the Liquidator may have against any Reinsurer for the full amount of reinsurance recoverables due in respect of any Claim, whether or not the Company has paid the Claim, in whole or in part, and (b) the amount recoverable by the Company from Reinsurers shall not be reduced as a result of the Receivership Case or the approval, consummation or implementation of the Plan, regardless of any provision in, or custom or course of dealing under, the applicable Reinsurance Agreement or other related contract. All rights and defenses of the Reinsurers under the Reinsurance Agreements shall be preserved, including any right of setoff.

7.5 Retrocession Agreements

All Retrocession Agreements entered into by the Company prior to the entry of the Liquidation Order shall remain in full force and effect after the Effective Date. The Company shall, after the Effective Date, remain insolvent within the meaning of Insurance Law Section 1309, and the Retrocessionaires shall have the same obligations to the Company that they had to the Company prior to the Effective Date pursuant to Insurance Law Section 1308(a). Except as otherwise expressly provided herein: (a) no term of this Plan shall be construed, be effective or operate to release, diminish or otherwise compromise or discharge any claim or right of recovery that the Liquidator may have against Retrocessionaires for the full amount of reinsurance recoverables due in respect of any Claim, whether or not the Company has paid the Claim, in whole or in part, and (b) the amount recoverable by the Company from Retrocessionaires shall not be reduced as a result of the Receivership Case or the approval, consummation or implementation of the Plan, regardless of any provision in, or custom or course of dealing under, the applicable Retrocession Agreement or other related contract. All rights and defenses of the Retrocessionaires under the Retrocession Agreements shall be preserved, including any right of setoff. A Retrocessionaire shall, if its Retrocession Agreement so provides, have the right to associate with the Company in the handling or defense of any claim with respect to an underlying reinsurance agreement covered by a Retrocession Agreement.

7.6 No Cut-Throughs

Except as provided explicitly in a Reinsurance Agreement or Retrocession Agreement, the commencement or continuation of direct actions against Reinsurers and Retrocessionaires of the Company by Holders of Claims shall be prohibited and liability of the Reinsurer or Retrocessionaire (as applicable) to the Company shall not diminish as a result of payments made directly to a Holder of a Claim against the Company by a Reinsurer or Retrocessionaire on account of such Claim.

7.7 Assumed Reinsurance

Neither the Liquidator nor the Purchaser shall be obligated to make any payments under Assumed Reinsurance Agreements. Cedants shall have Class Six Claims which shall be treated as provided herein. Notwithstanding the foregoing, Cedants shall retain any right of setoff which they may have had under their Assumed Reinsurance Agreement. Except as provided explicitly in an Assumed Reinsurance Agreement, the commencement or continuation of direct actions under Retrocession Agreements by Cedants shall be enjoined and the Reinsurer's obligation to

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the Company under the Retrocession Agreement shall not diminish as a result of payments made directly to a Cedant on account of such Claim.

7.8 Collection of Opt-Out Reinsurance and Retrocessions

Upon request of the Purchaser, the Liquidator shall present any Allowed Claims to Opt-Out Reinsurers or Retrocessionaires and take such action as may be necessary and appropriate to collect amounts owing under Reinsurance Agreements and Retrocession Agreements. The Purchaser shall timely reimburse and indemnify the Liquidator for any costs, expenses or other liabilities incurred by the Liquidator in connection with the presentation of Allowed Claims and collection of amounts owing under Reinsurance Agreements and Retrocession Agreements. The Liquidator shall not be obligated to pay such costs or expenses from the Administrative Expense Reserve. The Liquidator may delegate the Liquidator's obligations under this Section to the Administrator under the Claim Service Agreement. The Liquidator shall not be obligated to take any action in connection with the presentation of an Allowed Claim to a Reinsurer or Retrocessionaire or collection of amounts that may be owing under a Reinsurance Agreement or a Retrocession Agreement if the Liquidator determines that such action would not be in good faith or would be contrary to applicable law, the Plan, the Purchase Agreement, the Ancillary Agreements, or otherwise inconsistent with the Liquidator's duties under Article 74 of the Insurance Law.

ARTICLE 8

DISPOSITION OF CLAIMS

8.1 Disposition of Opt-Out Claims

After the Effective Date, the Liquidator shall continue to investigate and obtain the Allowance or Disallowance of each Opt-Out Claim consistent with the procedures approved by the Receivership Court.

8.2 Disposition of Opt-In Claims

8.2.1 After the Effective Date, the Purchaser shall perform an appropriate investigation of the nature and amount of each Disputed Opt-In Claim. Such investigation shall include a review of the Books and Records, including work performed by the Liquidator's consultants on such Claim and may entail, among other things, the solicitation of additional information from the Holder of such Claim. The Purchaser shall make a good faith settlement offer to each Holder of a Disputed Opt-In Claim within 180 days after the Effective Date whether or not it receives information requested from the Holder of the Disputed Opt-In Claim.

8.2.2 The Purchaser shall provide not less than 30 days prior written notice to affected Opt-In Reinsurers of any offer to settle a Disputed Opt-In Claim. The Purchaser shall provide such Opt-in Reinsurers access to records with respect to such Disputed Claim. The Company may require multiple Opt-In Reinsurers to review books and records as a group together with Opt-Out Reinsurers rather than individually. Any Opt-In Reinsurer that objects to such settlement proposal shall

notify the Purchaser within 25 days of receiving the proposal or be bound by the settlement. The Purchaser shall consult in good faith with such objecting Opt-In Reinsurer prior to delivering such proposal to the Holder of the Disputed Opt-In Claim.

8.2.3 The Holder of a Disputed Opt-In Claim shall have 30 days from the date that the Purchaser issues its settlement proposal to indicate whether such Holder accepts or rejects the proposal.

- (i) In the event that the Holder of an Opt-In Claim cannot reach agreement on such Claim with the Purchaser within 45 days after receiving an offer of settlement, the Holder or the Purchaser shall have the right to obtain a Determination of the Opt-In Claim pursuant to the ADR Procedures. The choice of law governing the ADR Procedures shall be as specified in the ADR Procedures.
- (ii) In the event that the Reinsurance Agreement of an Opt-In Reinsurer shall provide for rights of association, such Reinsurer shall have the right to associate in an ADR Proceeding, which shall include the right to appear and be heard in such proceeding through counsel of its choosing in support of the Purchaser, but shall not include the right to raise defenses or counterclaims not raised by the Purchaser, or the right to settle the ADR Procedure. In the event that more than one Opt-in Reinsurer desires to associate in the defenses of a Disputed Claim, such Reinsurers shall act jointly as one party in the ADR Procedure. In exercising its right to associate in the defense of any Claim, each Reinsurer shall cooperate with counsel for the Purchaser.
- (iii) In the event that a Determined Opt-In Claim is covered by a Reinsurance Agreement of an Opt-Out Reinsurer, the Purchaser shall become subrogated to the rights of the Holder of such Claim upon payment by the Purchaser of the Distribution then owing with respect to such Claim. Thereafter, the Determined Opt-In Claim shall be reviewed by the Liquidator, and if the Liquidator determines that the amount of the Opt-In Claim so Determined would be a fair and reasonable settlement of such Opt-In Claim, the Liquidator shall present such Determined Opt-In Claim to the Receivership Court for Allowance on the basis that such Determined Opt-In Claim constitutes a settlement between the Liquidator and the Claimant. If the Liquidator determines, after review and consultation with the Purchaser, that the Determined Opt-In Claim is not a fair and reasonable settlement of such Opt-In Claim, then the Liquidator shall issue a notice of determination with respect to such Opt-In Claim in an amount which the Liquidator considers to be appropriate, and thereafter shall seek allowance of that amount by the Receivership Court. The

Purchaser may object to the notice of determination pursuant to procedures established by the Receivership Court. Opt-Out Reinsurers shall have the right to interpose defenses in such proceeding before the Receivership Court to the extent provided under their Reinsurance Agreements subject to the Interposition Ruling. The outcome of any such proceeding shall not affect the payment made to the Holder of the Determined Opt-In Claim.

- (iv) If the Purchaser shall make the good faith settlement offer to the Holder of a Disputed Opt-In Claim as described in Section 8.2.1 and the Holder of such Disputed Opt-In Claim fails to respond within 180 days after the making of the settlement offer (either because such Holder's current address can not be determined after reasonable efforts by the Purchaser or for any other reason), then the Purchaser shall submit the settlement offer to the Liquidator. If the Liquidator determines that the settlement offer is a fair and reasonable settlement of the Disputed Opt-In Claim, the Liquidator shall request from the Receivership Court an order Allowing such Disputed Opt-In Claim in the amount of the settlement offer. If the Liquidator determines, after review and consultation with the Purchaser, that the settlement offer is not a fair and reasonable settlement of such Disputed Opt-In Claim, then the Liquidator shall issue a notice of determination with respect to such Claim in an amount which the Liquidator considers to be appropriate, and thereafter shall seek an order of the Receivership Court allowing such Claim in such amount. The Purchaser may object to the notice of determination pursuant to procedures established by the Receivership Court. Reinsurers shall have the right to interpose defenses in such proceeding before the Receivership Court to the extent provided under their Reinsurance Agreements subject to the Interposition Ruling. The Purchaser shall be liable for the Allowed Amount of such Claim as though it had been a Determined Opt-In Claim pursuant to the terms of the Purchaser Reinsurance Agreement. If the Purchaser cannot determine a current address for the Holder of a Claim described in this subsection 8.2.3(iv), then all Distributions with respect to such Claim shall be treated in accordance with Section 13.2 hereof.

- 8.2.4 The provisions of Section 5.5.6 notwithstanding, in the event that the Purchaser wishes to pursue recoveries under Retrocession Agreements, the Liquidator shall, upon request by the Purchaser, investigate and adjust Claims of Cedants. The Liquidator shall, where appropriate, issue notices of determination with respect to such Claims and seek the Allowance or Disallowance thereof by the Receivership Court. The Liquidator shall not be obligated to take any action in connection with the investigation, adjustment or Allowance or Disallowance of a Claim by a Cedent if the Liquidator determines that such action would not be in good faith or

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would be contrary to applicable law, the Plan, the Purchase Agreement, the Ancillary Agreements, or otherwise inconsistent with the Liquidator's duties under Article 74 of the Insurance Law. The Purchaser shall timely reimburse and indemnify the Liquidator for any costs or expenses associated with the adjustment and Allowance of such Claims. The Liquidator shall not be obligated to pay such costs or expenses from the Administrative Expense Reserve. The Liquidator may delegate the Liquidator's obligations under this Section to the Administrator under the Claim Service Agreement.

ARTICLE 9

GUARANTY ASSOCIATIONS

The Liquidation Order, which contains a finding that the Company is insolvent, shall remain in full force and effect and the Company shall remain insolvent within the meaning of Insurance Law Section 1309 from and after the Effective Date. The approval and consummation of this Plan shall constitute the continued implementation of the Receivership Case with respect to the Company under Insurance Law Article 74 and shall not affect the rights and obligations of the Guaranty Associations with respect to the Company and Holders of Claims against the Company, all of which are preserved, except as expressly provided herein.

ARTICLE 10

CUTOFF DATE AND POST CUTOFF DATE CLAIMS

10.1 Cutoff Date

The Liquidator shall request the Court to establish a Cutoff Date with respect to all Claims including the Claims of Guaranty Associations. Pursuant to the terms of the Receivership Court order establishing the Cutoff Date, and except as provided in Section 10.2 below, any Losses or other obligations of the Company which are not included in a timely filed proof of claim or in an amendment to a timely filed proof of claim filed before the Cutoff Date shall not be included in the Allowed Amount or Determined Amount of any Claim for purposes of determining the amount of a Distribution under Article 5 hereof.

10.2 Post-Cutoff Date Losses

Notwithstanding the Cutoff Order, Holders of Policyholder Claims that have timely filed a proof of claim against the Company may supplement such proof of claim from time to time after the Effective Date to include Claims based on Post-Cutoff Date Losses. Such Claims may be disposed of under the procedures set forth in Article 8 depending on whether such Claims are held by Opt-In Holders or Opt-Out Holders. Allowed Claims and Determined Claims for Post-Cutoff Date Losses shall be entitled to participate in distributions from the Opt-Out Reinsurance Pool from time to time as set forth below, but shall not otherwise be entitled to any distribution under the Plan or any payment from the Liquidator, the Purchaser or the Estate.

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10.3 Opt-Out Reinsurance Pool

The Liquidator shall establish a fund known as the Opt-Out Reinsurance Pool. The Liquidator shall present Allowed and Determined Claims arising out of Losses after the Cutoff Date to the appropriate Opt-Out Reinsurers from time to time for collection under the applicable Reinsurance Agreements. All proceeds collected by the Liquidator with respect to Claims arising out of Losses after the Cutoff Date shall be deposited in the Opt-Out Reinsurance Pool and maintained by the Liquidator pursuant to Insurance Law Section 7424. Any income on such proceeds shall remain in and become a part of the Opt-Out Reinsurance Pool. The Purchaser shall reimburse the Liquidator for all costs and expenses incurred in connection with seeking payment from Opt-Out Reinsurers with respect to Post-Cutoff Date Losses. On the third anniversary of the Effective Date and again in connection with the final closure of the Receivership Case and thereafter in the Liquidator's discretion, the Liquidator shall make distributions from the Opt-Out Reinsurance Pool as follows:

- 10.3.1 First, the Purchaser shall receive an amount equal to the amount that the Purchaser has reimbursed the Liquidator for the costs and expenses of collecting and administering proceeds from Opt-Out Reinsurers related to Post-Cutoff Date Losses;
- 10.3.2 Second, of the remaining amount in the Opt-Out Reinsurance Pool, the Policyholder's Opt-Out Reinsurance Pool Percentage multiplied by such remaining amount shall be distributed Pro Rata to Allowed Claims and Determined Claims for Post-Cutoff Date Losses, and the remainder shall be distributed to the Purchaser. Distributions shall be made on the basis of such Allowed and Determined Claims that exist as of each Pool Date of Determination and shall not be adjusted retroactively for increases in the Allowed Amount or Determined Amount of such Post-Cutoff Date Losses.

The Liquidator shall have the right to terminate, transfer and/or distribute the Opt-Out Reinsurance Pool in connection with the final closure of the Receivership Case or earlier if he determines that it is no longer in the best interests of policyholders

ARTICLE 11

IMPLEMENTATION OF THE PLAN

11.1 Purchase Agreement

The Plan shall be implemented by entering into the Purchase Agreement and the Ancillary Agreements in forms approved by the Receivership Court. The Purchase Agreement shall provide, among other things, that the Purchaser shall at all times be an insurance company or reinsurance company domiciled in New York. Under the Purchase Agreement, the Liquidator shall transfer all Investment Assets, Cash, Reinsurance Recoverables from Opt-In Reinsurers, the proceeds from the Liquidator's collections from Opt-out Reinsurers and other assets of the Company (except the Administrative Claim Reserve).

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11.2 Approval of Sale Transaction

The Liquidator shall solicit offers to enter into a Purchase Agreement pursuant to a Request for Proposals and Bidding Procedures approved by the Receivership Court as part of the Plan Approval Order. The Liquidator will proceed with the Purchase Agreement if the Liquidator receives bona fide offers for the purchase of the assets of the Company that would in his sole judgment result in a recovery for Policyholder Claims that would exceed the recovery for such Claims if the Receivership Case were to continue to conclusion. If such offers are received, the Liquidator shall in his discretion select the highest and best such offer and seek approval from the Receivership Court for the transaction. The Liquidator will be authorized by the Receivership Court to disclose the Books and Records of the Company to interested parties according to the Request for Proposals and Bidding Procedures.

11.3 Claim Service Agreements

The Purchase Agreement shall provide for the adjustment and defense of Opt-Out Claims as part of the purchase price and without additional compensation by the Liquidator other than payment of Amortized LAE and reimbursement of Allocated Loss Adjustment Expense.

11.4 Continued Receivership Case

After the Effective Date, the Company shall continue to be subject to the Receivership Case. Upon the Allowance or Disallowance of all Policyholder Claims and the disposition of all rights under Reinsurance Agreements of Opt-Out Reinsurers, the Liquidator may seek the termination of the Receivership Case and, in the Liquidator's discretion, the winding up of the Opt-Out Reinsurance Pool.

11.5 Regulation of the Purchaser

The Purchaser shall be regulated as an insurer domiciled in the State of New York and shall operate under the authority of the Insurance Department. Notwithstanding the foregoing, the Liquidator shall have the right to enforce the Purchase Agreement and the Plan in proceedings before the Receivership Court in the Receivership Case.

11.6 Administrative Expense Reserve

After the Effective Date, in the event that the amount of the Administrative Expense Reserve at any time does not exceed the monthly Administrative Expenses for the preceding six months, the Purchaser shall deposit up to an additional \$ _____ in the Administrative Expense Reserve upon request of the Liquidator. Upon the conclusion of the Receivership Case, any remaining funds in the Administrative Expense Reserve shall be distributed to the Purchaser unless the Purchaser has breached its obligations under this Plan, the Purchase Agreement or the Ancillary Agreements.

11.7 Report to Receivership Court

On or before the Anniversary Date each year until the Termination Date, the Liquidator shall file a Report with the Court which shall be posted to the Web Site. The Report shall describe the

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progress in the implementation of the Plan, including the number and amount of Claims that have been resolved, the status of any major litigation and the amount, if any, of Profit Sharing that has been distributed. The Report shall also provide the then-most-current SAP financial statements of the Purchaser. The Purchaser shall provide all information requested by the Liquidator to complete such Report in a timely manner. In connection with the closure of the Receivership Case, the Liquidator shall file a final Report that, among other things, provides information concerning the results of the implementation of this Plan.

11.8 Ongoing Role of the Liquidator

After the Effective Date, the Liquidator shall continue to perform obligations contemplated by the Plan, the Purchase Agreement, the Ancillary Agreements, and applicable law which obligations shall include the: (a) adjustment of Opt-Out Claims; (b) Allowance and Disallowance of Opt-In Claims covered by Opt-Out Reinsurers, (c) collection of reinsurance from Opt-Out Reinsurers, (d) monitoring of the Purchaser's financial condition and compliance with the Plan, Purchase Agreement and the Ancillary Agreements and applicable law; (e) filing of Reports with the Receivership Court; (f) preparation and submission of financial statements concerning the Company pursuant to Insurance Law § 7405(g); (g) enforcement of the provisions of the Plan and the Purchase Agreement; (h) administration of the Opt-Out Reinsurance Pool; and (i) performance of such other obligations and exercising such other rights as required or permitted by Insurance Law Article 74.

ARTICLE 12

TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

12.1 Pre- Receivership Contracts

As of the Effective Date, all Pre- Receivership Contracts other than those listed on an exhibit to be filed with the Receivership Court hereafter ("Listed Pre- Receivership Contracts") shall be deemed abandoned without further action of the Receivership Court. Abandonment pursuant to this Article shall not constitute an admission by the Company that any such contract or lease is in fact an executory contract or unexpired lease or that the Company had any liability thereunder. The Listed Pre- Receivership Contracts shall continue in full force and effect on and after the Effective Date.

12.2 Post- Receivership Contracts

All Post- Receivership Contracts other than those listed on an exhibit to be filed with the Receivership Court ("Listed Post- Receivership Contracts") hereafter shall be terminated as of the Effective Date. Administrative Claims, if any, arising out of the termination of such contracts and leases shall be paid by the Liquidator out of the Administrative Expense Reserve. Listed Post- Receivership Contracts shall continue in full force and effect on and after the Effective Date.

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12.3 Deadline for Asserting Claims Arising from Abandonment of Executory Contracts and Unexpired Leases

If the abandonment of any executory contract or unexpired lease under this Plan or pursuant to a motion results in damages to the other party or parties to such contract or lease, a Claim for such damages, if not heretofore evidenced by a filed proof of claim, shall be forever barred unless a proof of claim (with supporting documentation) is filed with the Liquidator on or before the date which is 30 days after notice of the Effective Date is served pursuant to an order of the Receivership Court.

ARTICLE 13

GENERAL RULES REGARDING DISTRIBUTIONS UNDER THE PLAN

13.1 Delivery of Distributions

Except as otherwise provided herein, Distributions to Holders of Allowed Claims shall be made at the address of each of such Holders set forth on proofs of claim or amendments thereto filed by such Holders with the Liquidator. If any Distribution to any Holder is returned as undeliverable, the Purchaser shall use reasonable efforts to determine the current address of such Holder, but no Distribution to any such Holder shall be made unless and until the Liquidator and the Purchaser have determined the then-current address of such Holder, at which time such Distribution shall be made to such Holder without interest. At the end of each calendar quarter, the Purchaser shall report to the Liquidator any funds remaining unclaimed for 90 days after a Distribution. The Purchaser shall then cancel any outstanding checks with respect to any such unclaimed Distribution and transfer the unclaimed funds to the Liquidator who shall retain them pursuant to Insurance Law Section 7424, until such Distributions are claimed, subject to Section 13.2.

13.2 Unclaimed Distributions

If a Distribution is not claimed within after the actual date of the making of such Distribution, such Distribution shall be deemed unclaimed property under the Abandoned Property Law. The Liquidator and the Purchaser shall dispose of Distributions that are unclaimed under this Article in accordance with the Abandoned Property Law, and the claim of any Holder to such unclaimed property shall be discharged and forever barred.

13.3 Manner of Payment Under the Plan

Any Distribution of Cash to be made pursuant to this Plan may be made by a check or wire transfer or as otherwise required or provided in applicable agreements.

13.4 Withholding and Reporting Requirements

In connection with the Plan and all Distributions thereunder, the Liquidator and the Purchaser shall take commercially reasonable steps to comply with all withholding and reporting requirements imposed by any federal, state or local taxing authority.

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13.5 Allocation of Plan Distributions Between Principal and Interest

To the extent that any Claim entitled to a Distribution under the Plan is comprised of indebtedness and accrued but unpaid interest thereon, such Distribution shall, for federal income tax purposes, be allocated to the principal amount of the Claim first and then, to the extent the consideration exceeds the principal amount of the Claim, to the portion of such Claim representing accrued but unpaid interest.

ARTICLE 14

CONDITIONS PRECEDENT TO THE EFFECTIVE DATE

The Effective Date for this Plan may not occur unless each of the conditions set forth below is satisfied first:

- (a) The Receivership Court shall have entered a Plan Approval Order and such order shall have become a Final Order;
- (b) The Court shall have entered a Sale Approval Order and such order shall have become a Final Order;
- (c) The Purchaser and the Liquidator shall have closed the Sale Transaction; and
- (d) All actions and documents necessary to implement the provisions of this Plan shall have been effected or executed and delivered.

ARTICLE 15

EFFECT OF PLAN APPROVAL

15.1 Limitation of Remedies

No Person, including any Holder of a Claim against, or Interest in, the Company may, on account of such Claim or Interest, seek or receive any payment from, or seek recourse against, the Company, the Liquidator, the Insurance Department, the Liquidation Bureau and their respective property, officers, directors, shareholders, members, partners, parents, subsidiaries, affiliates, legal representatives, agents, attorneys or other professionals, employees, assigns, predecessors and successors in interest, except as expressly provided in this Plan.

15.2 Binding Effect

On and after the Effective Date, the provisions of this Plan shall bind all present and former Holders of Claims against, or Interests in, the Company and their officers, directors, shareholders, members, partners, parents, subsidiaries, affiliates, legal representatives, agents, attorneys or other professionals, employees, assigns, predecessors and successors in interest, whether the Claim or Interest of such Holder is impaired under the Plan and whether or not such Holder has filed a proof of claim or interest. The Plan Approval Order shall provide that the

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terms and provisions of this Plan and the Plan Approval Order shall survive and remain effective in this or any superseding case under Insurance Law Article 74.

ARTICLE 16

EXCULPATION AND INJUNCTIONS

16.1 Exculpation and Discharge

As of the Effective Date, the Company, the Liquidator, the Estate, the Insurance Department, the Liquidation Bureau and their respective officers, directors, shareholders, members, partners, parents, subsidiaries, affiliates, legal representatives, agents, attorneys, actuaries or other professionals, employees, assigns, predecessors and successors in interest (collectively, the “Released Parties”) shall have no liability to any Person who is a Holder of a Claim against, or Interest in, the Company (regardless of whether such Person has filed, or is deemed to have filed proofs of claim), or the Purchaser or any Person that has made an offer or considered making an offer to purchase the assets of the Company, or any Person who has entered into a contract with the Company or any other Person who has or should have notice of this Receivership Case, or any of their respective officers, directors, shareholders, members, partners, parents, subsidiaries, affiliates, legal representatives, agents, attorneys or other professionals, employees, assigns, predecessors and successors in interest, for any actions taken or not taken in connection with or related to: (a) the Receivership Case; (b) the Plan; (c) Distributions, payments or transfers made under the Plan; (d) acts performed pursuant to the Plan; (e) any contract, release, or other agreement or document created or entered into, or any other action taken or omitted to be taken, in connection with the Plan; or (f) any Claim or Interest settled or released under or pursuant to the Plan; provided, however, that the foregoing release shall not release the Liquidator, the Estate, or the Purchaser from their obligations under the Plan, the Purchase Agreement or any Ancillary Agreement.

16.2 Injunctions

The Plan Approval Order shall provide for an injunction to permanently enjoin and restrain all Persons from taking any actions against the Company, the Liquidator, the Insurance Department, the Liquidation Bureau, the Purchaser or their respective property, assets, or interests in property that may interfere with the implementation or consummation of the Plan.

The Plan Approval Order shall provide, among other things, for an injunction to permanently enjoin and restrain all Persons from doing any of the following, except in accordance with the Plan, the Purchase Agreement or any Ancillary Agreement:

- (a) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the Company or the Purchaser to determine the nature and amount of any Claim against the Company that arose before the commencement of the Receivership Case;

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- (b) the enforcement, against the Company or the Purchaser or against their property, of a judgment obtained before the commencement of the Receivership Case;
- (c) any act to obtain possession of property of the Company or the Purchaser or of property from the Company or the Purchaser or to exercise control over property of the Company or the Purchaser on account of a Claim that arose before the commencement of the Receivership Case;
- (d) any act to create, perfect, or enforce any lien against property of the Company or the Purchaser on account of a Claim that arose before the commencement of the Receivership Case;
- (e) any act to create, perfect, or enforce against property of the Company or the Purchaser or any lien to the extent that such lien secures a Claim that arose before the commencement of the Receivership Case;
- (f) any act to collect, assess, or recover a Claim against the Company or the Purchaser that arose before the commencement of the Receivership Case;
- (g) the setoff of any debt owing to the Company that arose before the commencement of the Receivership Case against any claim against the Company except as provided by the Plan; and
- (h) the commencement or continuation of direct actions by holders of Claims against Reinsurers and reinsurers under Retrocession Agreements of the Company arising out of such Claims.

16.3 Term of Injunctions

All injunctions or stays provided for in Insurance Law Article 74, or by order of the Receivership Court, including the Liquidation Order and the Plan Approval Order, or otherwise, shall remain in full force and effect until all property of the Company has been distributed, the Company has been dissolved and this Receivership Case has been closed.

16.4 Discharge of Claims

All Claims Determined or Allowed according to the procedures of the Plan shall be forever discharged pursuant to this Plan and shall have no right to receive payment of the Determined Amount or Allowed Amount and no Holder of any Claim against the Company shall have any cause of action against the Company, the Liquidator or the Purchaser in relation to such Claim except to the extent provided for under the Plan, the Purchase Agreement and the Ancillary Agreements. As of the Effective Date, all Claims against the Company, other than Claims classified as Class One or Class Two pursuant to Section 7434 of the Insurance Law, shall be Disallowed, discharged and be of no further effect.

ARTICLE 17

JURISDICTION OF RECEIVERSHIP COURT

17.1 Jurisdiction of Receivership Court

As of the Effective Date, the Receivership Court shall have exclusive jurisdiction of all matters arising out of or relating to the Receivership Case and/or this Plan, the Purchase Agreement or any Ancillary Agreement, including, the jurisdiction to:

- (a) Hear and determine whether each Disputed Opt-Out Claim and certain Disputed Opt-In Claims should be Allowed or Disallowed, in whole or in part;
- (b) Ensure that Distributions are made as provided herein;
- (c) Issue orders in aid of execution of this Plan;
- (d) Consider any modifications of this Plan, if applicable, for example to cure any defect or omission or to reconcile any inconsistency in any order of the Receivership Court, including the Plan Approval Order;
- (e) Hear and determine all applications for awards of compensation for services rendered and reimbursement of expenses relating to implementation and effectuation of this Plan;
- (f) Hear and determine disputes arising in connection with the interpretation, implementation or enforcement of this Plan, the Plan Approval Order, and/or the Claims Servicing Agreement;
- (g) Hear and determine matters concerning state, local and federal taxes;
- (h) Compel the performance of all actions contemplated under this Plan the Purchase Agreement and any Ancillary Agreement;
- (i) Enforce remedies upon any default under the Plan, the Purchase Agreement or any Ancillary Agreement;
- (j) Enforce all orders, judgments and rulings entered in connection with the Receivership Case;
- (k) Issue injunctions, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Person with the operation or enforcement of this Plan;
- (l) Appoint masters, referees, arbitrators and mediators as necessary or appropriate to submit proposed findings of fact and conclusions of law; and

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(m) Grant such other and further relief as to the Court shall seem just.

17.2 Submission to Jurisdiction by the Purchaser

The Purchaser irrevocably submits to the *in personam* jurisdiction and venue of the Receivership Court in connection with all matters arising out of or relating to the Plan, the Purchase Agreement and the Ancillary Agreements.

ARTICLE 18

MISCELLANEOUS PROVISIONS

18.1 Reservation of Rights

Neither the filing of this Plan nor the existence of any statement or provision contained herein, nor the taking or withholding of any action by the Liquidator or the Company with respect hereto, shall be an admission as to, or a waiver of, any rights, claims or defenses of the Company or the Liquidator unless and until the Plan Approval Order has become a Final Order, the Effective Date has occurred and the Plan has been substantially consummated. In the event the Plan is withdrawn, or is not confirmed by the Receivership Court or any other court of competent jurisdiction for any reason, or if confirmed and if the Effective Date does not occur, the rights of all parties in interest in the Receivership Case are and will be reserved in full.

18.2 Withdrawal or Modification of Plan

The Liquidator reserves the right to withdraw, amend or modify the Plan prior to the entry of the Plan Approval Order. At any time prior to substantial consummation of the Plan, the Liquidator may modify the Plan, subject only to Receivership Court approval after notice to parties in interest in a manner approved by order of the Receivership Court; provided, however, non-material modifications, including modifications that do not adversely change the treatment of Claims and Interests under the Plan, shall not require Receivership Court approval.

18.3 Severability of Plan Provisions

If any term or provision of this Plan is held by a court of competent jurisdiction to be invalid, void or unenforceable, the Receivership Court, with the consent of the Liquidator and the Purchaser, shall have the power to interpret, modify or delete such term or provision (or portions thereof) to make it valid, enforceable or confirmable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as interpreted, modified or deleted. Notwithstanding any such interpretation, modification or deletion, the remainder of the terms and provisions of this Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such interpretation, modification or deletion. The Plan Approval Order shall constitute a judicial determination and shall provide that each term and provision, as it may have been interpreted, modified or deleted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

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18.4 Governing Law

The rights, duties and obligations arising under this Plan, and the instruments, agreements and other documents executed in connection with the Plan, shall be governed by, and construed and enforced in accordance with, the laws of the State of New York without giving effect to the conflict of laws provisions thereof.

18.5 Schedules and Exhibits

All schedules and exhibits to the Plan are incorporated into the Plan and are a part of the Plan as if set forth in full herein.

18.6 Entire Plan

This Plan, the Purchase Agreement and the Ancillary Agreements constitute the entire and only agreement between the Liquidator and the Purchaser, and all prior negotiations, representations, warranties, agreements, statements, promises and understandings between the Parties are suspended, merged into, and extinguished by or completely expressed by this Plan and the Purchase Agreement and the Ancillary Agreements.

18.7 Reversion to Liquidation

In the event that the Liquidator terminates the Purchaser's rights under the Purchase Agreement and the Ancillary Agreements due to the Purchaser's default, the Liquidator may resume administration of both Opt-In Claims and Opt-Out Claims in the Receivership Case under procedures established by the Receivership Court. The Liquidator may satisfy such Claims through distributions from the Estate to the extent available, and the Liquidator shall not be under any obligation to recover any prior payments made by the Purchaser to the Holders of Claims pursuant to the Purchase Agreement. The Liquidator's rights under this paragraph shall be in addition to any rights that the Liquidator may have under this Plan, the Purchase Agreement and the Ancillary Agreements.

ARTICLE 19

TERMINATION OF PROCEEDINGS

The Liquidator will continue to perform his obligations under Insurance Law Article 74 until, in the sole judgment of the Liquidator, the Estate has been fully administered and all of the Company's obligations under the Plan have been performed. Thereafter, the Liquidator may apply to the Receivership Court for an order closing the Estate, dissolving the Company, discharging the Superintendent from his duties as Liquidator and terminating the Receivership Case.

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Exhibit A
**Liquidation Plan for Midland Insurance Company
Policyholder Claim Election Form**

Name of Policyholder:

Address of Policyholder:

Policy Numbers:

Proof of Claim Numbers:

On behalf of the above-named Policyholder, I have read and understand the terms of the Liquidation Plan for Midland Insurance Company (the "Plan") and agree to (check only one box):

Elect to Opt Into the terms of the Plan (as described and defined in the Plan)
For the following claims identified by:
x)
y)
z)

Elect to Opt Out of the terms of the Plan (as described and defined in the Plan)
For the following claims, identified by:
x)
y)
z)

I represent that I am duly authorized by the Policyholder to bind it to the terms of the Plan.

This election shall be irrevocable if not withdrawn prior to the Option Date.

Name:

Date:

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Exhibit B
**Liquidation Plan for Midland Insurance Company
Reinsurer Election Form**

Name of Reinsurer:

Address of Reinsurer:

Contract Identification (for all reinsurance agreements)

On behalf of the above-named Reinsurer, I have read and understand the terms of the Liquidation Plan for Midland Insurance Company (the “Plan”) and agree to (check only one box):

Elect to Opt Into the terms of the Plan for all Reinsurance Agreements (as described and defined in the Plan, including executing an amendment to all applicable Reinsurance Agreements between the above-named Reinsurer and Midland Insurance Company, conforming to the terms of the Plan and substituting the Purchaser for Midland Insurance Company).

Elect to Opt Out of the terms of the Plan (as described and defined in the Plan)

I represent that I am duly authorized by the Reinsurer to bind it to the terms of the Plan.

This election shall be irrevocable if not withdrawn prior to the Option Date.

Name:

Date:

Exhibit C
**Liquidation Plan for Midland Insurance Company
Opt-In Reinsurance Certificate**

Amendment No. ____ (this “Amendment”)

to

Name of Agreement: _____ (the “Reinsurance Agreement”)

Between

Midland Insurance Company
(hereinafter referred to as the “Company”)

and

**The Subscribing Reinsurer executing this
Amendment** (hereinafter referred to as the
“Reinsurer”)