

Judge  
Johnston

STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

In the Matter of the Rehabilitation of:

Segregated Account of Ambac Assurance Corporation

Case No.

**10CV1576**

**VERIFIED PETITION FOR ORDER OF REHABILITATION**

SEAN DILWEG, Commissioner of Insurance of the State of Wisconsin (the "Commissioner"), hereby petitions the Court to enter the proposed Order of Rehabilitation for the segregated account of Ambac Assurance Corporation (the "Segregated Account").

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CARLO ESQUEDA

CLERK OF CIRCUIT COURT

This Petition pertains solely to the recently established Segregated Account and to the policies, contracts, rights, assets, equity ownership interests, and liabilities specifically allocated to the Segregated Account in accordance with Wis. Stat. § 611.24. Pursuant to Wis. Stat. § 611.24(3)(e), the Segregated Account shall be a separate insurer while in this proceeding. The Commissioner is not asking the Court to exercise jurisdiction over Ambac Assurance Corporation ("Ambac" or its "General Account") or the policies, contracts, assets, equity ownership interests, and rights or liabilities remaining in Ambac's General Account.

As grounds for this Petition, the Commissioner states as follows:

1. The Commissioner is the duly appointed and confirmed Commissioner of Insurance of the State of Wisconsin and makes this Verified Petition pursuant to his authority under Wis. Stat. § 645.31.

2. Ambac is a Wisconsin-domiciled insurer authorized to transact surety and financial guaranty insurance. It was incorporated under the laws of Wisconsin as CMI Credit Insurance, Inc. on February 25, 1970.

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3. Ambac is a wholly owned subsidiary of Ambac Financial Group, Inc. (“AFGI”), a holding company headquartered in New York City, the stock of which is publicly traded on the New York Stock Exchange.

4. Ambac and its subsidiaries provide financial guarantee products and other financial services to clients around the world in both the public and private sectors. Until 2008, when it stopped selling new policies because of its deteriorating financial condition and lowered credit ratings, Ambac’s insurance activities were divided into two lines of business: (i) financial guarantees and (ii) financial services.

(a) Ambac offered financial guaranty insurance on investment grade municipal finance and private structured-finance debt obligations, such as municipal bonds and residential mortgage-backed securities (“RMBS”). Financial guaranty insurance provides an unconditional guarantee that protects the holder of a fixed-income obligation against non-payment of principal and interest when due. Ambac guaranteed some structured-finance debt obligations indirectly, whereby a non-insurance, wholly owned Ambac subsidiary would enter into a credit-default swap (“CDS”) with a counterparty that protected the counterparty from defaults of the underlying security issuer, and Ambac would, in turn, guarantee the financial obligations of its subsidiary.

(b) Through its financial services subsidiaries, Ambac provided financial and investment products including investment agreements, funding conduits, interest rate swaps, currency swaps, and total return swaps, principally to clients of its financial guaranty business. Ambac guaranteed its subsidiaries’ performance under those agreements.

Ambac's books of business and history are discussed in more detail in the brief accompanying this Petition.

5. The Commissioner has been closely monitoring Ambac's capital position and financial health since the subprime mortgage crisis began resonating through the economy more than two years ago. The general economic downturn, combined with Ambac's substantial investment in, and insurance of, mortgage-related exposures, damaged Ambac's business and financial position in various respects, including the following:

(a) *First*, its liabilities mounted as an increasing number of policyholders either brought policy claims or were projected to have substantial future policy claims due to the defaults and deterioration of the underlying issuers.

(b) *Second*, Ambac's claims-paying resources dwindled as many of its long-term investments, which included RMBS, lost value and could not be liquidated at fair market value to meet increasing claims.

(c) *Third*, Ambac's credit ratings from the major credit rating agencies like Moody's and Standard and Poor's plummeted from the highest possible "AAA" level in late 2007 to levels indicating "extremely weak" or "very poor" financial security by mid-2009. These rating downgrades triggered provisions in certain of Ambac's agreements requiring it to post substantial additional collateral, thus diminishing its general claims-paying resources even further. In addition, because Ambac had depended on its historically high credit ratings to develop new business, the rating drops caused it to cease writing new policies and begin a functional run-off of its business.

6. These events created a potential financial hazard to policyholders, creditors, and the public. Ambac's combined statutory surplus and contingency reserves fell from a reported \$6.4 billion in the fourth quarter of 2007 to \$1.16 billion by the third quarter of 2009, a drop of more than 80 percent in less than two years. There also has been a steady, significant increase in Ambac's projected loss impairments.

7. Over the past two years, the Commissioner has retained and utilized financial advisors, legal counsel, and other professionals to assist and advise the Commissioner and his staff in their careful, increasingly time-consuming monitoring and evaluation of Ambac's financial condition, and in their discussions and negotiations with the company and various policyholders and policyholder groups regarding restructurings, commutations, Form D requests and Commissioner non-disapprovals, and related matters. The Commissioner, his staff, and their outside professional advisors have been increasingly active in recent months in connection with their duties pertaining to Ambac.

8. To avoid having Ambac's financial condition continue to deteriorate, or possibly decline in the future into statutory insolvency, the Commissioner and his staff and professional advisors have met extensively over many months with Ambac and its advisors, with various policyholders and groups of policyholders, and with insurance industry experts in regard to possible restructuring plans for the company. The Commissioner has evaluated and considered numerous restructuring options. Based upon the foregoing efforts, and with the advice and recommendations of his staff and professional advisors, the Commissioner has determined that the following restructuring and rehabilitation plan is the approach best calculated to fairly and equitably promote the best interests of Ambac's policyholders and creditors, and the public generally. The restructuring underway has the following three main components:

(a) The Segregated Account: Ambac established the Segregated Account pursuant to Wis. Stat. § 611.24, with the approval of the Commissioner and in accordance with the Plan of Operation for the Segregated Account of Ambac Assurance Corporation (the “Plan of Operation”). Pursuant to the Plan of Operation, specified policies, contracts, assets, equity ownership interests and liabilities have been allocated to the Segregated Account, which Wisconsin law treats as a separate “insurer” within the meaning of Wis. Stat. § 645.03(1)(f) for the purposes of an insurance delinquency proceeding such as this rehabilitation case. Wis. Stat. § 611.24(e). A copy of the Plan of Operation with accompanying exhibits is attached to this Petition at **Tab 1**. The following important exhibits are attached to the Plan of Operation:

- Exhibit A: The management services agreement setting forth the terms and conditions by which the Segregated Account will obtain certain management services from the General Account.
- Exhibit B: The cooperation agreement, which addresses, as between the General Account and Segregated Account, specified issues pertaining to decision-making and shared authority, information sharing, tax compliance, allocation of expenses, confidentiality, and other specified topics.
- Exhibit C: The complete list of the policies allocated to the Segregated Account.
- Exhibit D: A list of student loan policies allocated to the Segregated Account.
- Exhibit E: A list of student loan policies presently in the General Account that are subject to the assessment process described below in Paragraph 13.
- Exhibit F: The list of reinsurance agreements under which Ambac has assumed liability as reinsurer, where those liabilities have been allocated to the Segregated Account.

- Exhibit G: The secured note issued to pay the liabilities of the Segregated Account.
- Exhibit H: The aggregate excess-of-loss reinsurance policy issued by Ambac to reinsure the liabilities of the Segregated Account.

In addition, attached at **Tab 2** is a Corporate Organizational Chart for Ambac Financial Group, Inc. depicting the relationships between it, Ambac and their various subsidiaries and affiliates immediately prior to the creation of the Segregated Account (with explanatory notes attached to the Corporate Chart). Note that, in addition to the policies, contracts, assets and liabilities allocated to the Segregated Account, the stock, limited liability member interests or other forms of ownership interest held by Ambac for the following subsidiaries were also allocated to the Segregated Account: Ambac Credit Products, LLC, Ambac Conduit Funding, LLC, Juneau Investments, LLC, and Aleutian Investments, LLC.

(b) Proposed Settlement of Credit Default Swaps: With the direct involvement and support of the Commissioner, Ambac has entered into a non-binding Statement of Intent with a number of financial institutions which are parties to large credit default swap agreements with an Ambac subsidiary named Ambac Credit Products, LLC (including ISDA Master Agreements and related amendments, supplements and confirmations, and voting rights, control or similar agreements) (“CDS Agreements”) and are beneficiaries of the corresponding financial guaranty policies issued by Ambac (“Insurance Policies”). Together, the CDS Agreements and Insurance Policies are sometimes referred to as “CDS Contracts.”

The parties to the Statement of Intent presently are preparing the final form of documentation required to close the settlement transaction contemplated by the Statement of Intent and related documentation. To allow sufficient time for the parties to the Statement of Intent to complete the necessary documentation and close the transaction contemplated therein, the financial institutions that are parties to the Statement of Intent have entered into a forbearance agreement with Ambac and the Commissioner. CDS Contracts for which there is an appropriate form of forbearance agreement in place and in effect have not been allocated to the Segregated Account; those CDS Contracts remain in the General Account. At such time as there is no longer a forbearance agreement in place and in full effect, the parties to the forbearance agreement are free to proceed as specified in that agreement. The Commissioner presently contemplates that, at such time as one of the CDS Contracts is no longer the subject of a forbearance agreement in full force and effect, that CDS Contract will be allocated to the Segregated Account immediately.

(c) The Rehabilitation: The Commissioner is commencing rehabilitation of the Segregated Account through this proceeding. Some of the policies allocated to the Segregated Account contain punitive early termination provisions calling for non-economic “mark-to-market” damages and forfeiture of the insurer’s valuable control rights, provisions that could be triggered if not subjected to the equitable injunctive powers of this Court in rehabilitation. An orderly run-off of the Segregated Account subject to the Commissioner’s supervision and this Court’s injunctive authority will result in a larger and fairer

distribution to claimants and creditors of both the Segregated Account and Ambac than other alternatives. As part of that rehabilitation process, the Commissioner expects to finalize a plan of rehabilitation and bring it before this Court for approval pursuant to Wis. Stat. § 645.33(5).

9. On March 21, 2010, at least two-thirds of Ambac's board of directors voted to consent to: (a) the establishment of the Ambac Segregated Account; (b) the allocation of certain policies, contracts, assets and liabilities to the Segregated Account; (c) the provision of the secured note and reinsurance policy from Ambac to the Segregated Account to pay claims as they arise; and (d) the placement of the Segregated Account into rehabilitation.<sup>1</sup> The Commissioner approved the establishment of the Segregated Account, and he brings the present Petition to commence its formal rehabilitation.

10. The grounds for rehabilitation (each of which is individually sufficient as a matter of Wisconsin law) are as follows:

(a) Two-thirds or more of Ambac's Board of Directors have consented to rehabilitation of the Segregated Account, *see* Wis. Stat. § 645.31(14);

(b) The Segregated Account is in such condition that the further transaction of business without rehabilitation would be hazardous, financially or otherwise, to its policyholders, its creditors or the public, *see* Wis. Stat. § 645.41(4); and

(c) Within the previous twelve months, Ambac has attempted to compromise and commute exposures held by certain counterparties on some of

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<sup>1</sup> It is expected that Ambac's counsel will present a true and correct copy of the signed board resolution to the Court at the first-day hearing on this Petition, and counsel for the Commissioner and counsel for Ambac shall seek permission at that hearing to append the copy of the signed board resolution to this Petition at that time as **Tab 3**. Signed copies of Exhibits A, B, G and H to the attached Plan of Operation (described above) shall also be filed and appended shortly.



the types of policies now in the Segregated Account on the grounds that it might be financially unable to pay all of their claims in full, *see* Wis. Stat. § 645.41(6).

11. The Commissioner believes that the Segregated Account may be successfully rehabilitated without substantial increase in the risk of loss to creditors of the insurer or the public. *See* Wis. Stat. § 645.31(1).

12. The principal terms of the proposed plan of rehabilitation as presently contemplated are as follows:

(a) Injunctive Relief: As more fully described in the brief and proposed order accompanying the Commissioner's Motion for Temporary Injunctive Relief, which were filed today in conjunction with this Petition, the Commissioner seeks to enjoin the institution or prosecution of any actions or proceedings against the Segregated Account or its assets and policies without leave of the rehabilitation court and to enjoin potentially negative consequences of rehabilitation of the Segregated Account, including damages or acceleration of losses based on early termination and the loss of control rights.

(b) Timing: The Commissioner plans to complete and seek approval of a final form of a plan of rehabilitation from this Court within approximately six months. The Commissioner, as Rehabilitator, will temporarily freeze further claim payments under policies allocated to the Segregated Account pending approval of a final plan of rehabilitation.

(c) Payment Plan: The plan of rehabilitation will set forth a payment plan for policies allocated to the Segregated Account. As presently formulated, the plan would call for payment of claims as they arise in the form of a cash/note

split, with a percentage of the claim paid in cash immediately and the remainder paid in interest-bearing surplus notes. The Commissioner will seek a no-action letter from the Securities and Exchange Commission confirming the exemption of the surplus notes from registration under section 3(a)(10) of the Securities Act.

(d) Loss Mitigation Efforts: The Commissioner intends to develop and execute strategies to mitigate losses, including the arrangement, negotiation, effectuation, and execution of (a) commutations and restructurings of insurance policy liabilities allocated to the Segregated Account and other obligations of the Segregated Account, and (b) purchases of insurance policy liabilities allocated to the Segregated Account or the obligations insured thereby.

13. Upon the grant of this Petition and entry of an Order for Rehabilitation of the Segregated Account, there will be no further allocation of policies from the General Account to the Segregated Account, with two specific exceptions. *First*, the CDS Contracts of those financial institutions that are parties to the above-referenced Statement of Intent and have forbearance agreements in place may be moved from the General Account into the Segregated Account in the future if and when their respective CDS Contracts are no longer covered by a forbearance agreement in full force and effect. *Second*, certain specifically identified policies with reference obligations consisting of student loan pools are presently in the General Account pursuant to an agreement under which they will be assessed. Depending on the outcome of that assessment process, they will either be commuted, restructured, left in the General Account, or allocated to the Segregated Account. There are specific timelines governing the further movement of policies in each of the above-described narrow categories to the Segregated

Account. The other policies in the General Account will not be the subject of future allocation to the Segregated Account.<sup>2</sup>

14. The Commissioner hereby seeks authorization from the Court, pursuant to Wis. Stat. § 645.33(1), to appoint Kimberly A. Shaul as his Special Deputy Commissioner for the purposes of overseeing the rehabilitation process. The Commissioner requests that Ms. Shaul be appointed to serve without bond. Ms. Shaul presently is the Deputy Commissioner of the Wisconsin Office of the Commissioner of Insurance, a position she has held since early 2007. As Deputy Commissioner, she exercises and performs the functions of the Commissioner in his absence and has worked extensively with a number of advisory councils and committees of the National Association of Insurance Commissioners, including acting as chair of the Annuity Sales Supervision Advisory Committee. Ms. Shaul has been an active member of the Commissioner's senior team over the last two years in connection with the supervision and analysis of Ambac, discussions with Ambac policyholder groups, and the crafting of the Commissioner's restructuring plan. She is a member of the Wisconsin Bar with extensive legal and business experience in the insurance industry, including sixteen years working at a successful national insurance company domiciled in Wisconsin, where she held legal, compliance, and operations director positions. The Commissioner believes that Ms. Shaul is qualified to be the Special Deputy Commissioner for the Segregated Account. Pending further notice and Court approval, Ms. Shaul will serve as the Special Deputy Commissioner for this rehabilitation proceeding as part of her present employment duties, compensation and benefits at the Office of the Commissioner of Insurance (plus reimbursement as an administrative expense from the

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<sup>2</sup> With the consent of the Commissioner, Ambac may correct clerical errors and oversights in compiling the list of allocated policies. Any corrections will be filed with the Court.

Segregated Account for travel and other out-of-pocket costs directly related to her services as the Special Deputy herein).

15. Pursuant to Wis. Stat. § 645.33(2), the Commissioner hereby also seeks authorization from the Court to coordinate business and administrative activities for the Segregated Account in accordance with the Plan of Operation and the related agreements attached to it, and to grant the Commissioner and his Special Deputy the authority to operate the Segregated Account throughout the pendency of the rehabilitation proceedings.

16. The Commissioner has utilized various professionals in the course of monitoring Ambac's risks to policyholders, creditors and the public over the past two years, and those professionals have gained an in-depth understanding of Ambac, the policies, contracts, assets and liabilities allocated to the Segregated Account, and the Plan of Operation and restructuring plan. The Commissioner has written engagement agreements in place with each of those professionals which Ambac has approved. Pursuant to Wis. Stat. § 645.33(3), the Commissioner, as Rehabilitator, hereby seeks authorization from the Court to continue seamlessly to retain those same professionals as he deems necessary pursuant to the following contracts, on the same terms and conditions as they presently exist immediately prior to the commencement of this proceeding: (i) a contract with Gordian Group, LLC and its subcontractor, Todd Cooper, to provide professional financial advice and assessments; (ii) a contract with Jefferies & Company, Inc. to provide professional advice on restructuring, financial issues, and securities; (iii) a contract with Robert E. Nolan Company to advise on insurance-related information technology, human resources, and other operational aspects of the business; (iv) a contract with Sitrick and Company Inc. to assist in media communications; and (v) a contract with Foley & Lardner LLP to provide legal services for the Rehabilitator in these

proceedings and any other matter arising out of, or pertaining to, the rehabilitation of the Segregated Account. The fees and expenses of these professionals are reasonable and necessary. The Segregated Account and the General Account have reached cost-sharing and cooperation agreements whereby the costs of these services are fairly allocated. The share of such expenses allocated to the Segregated Account shall be a priority administrative expense of the Segregated Account.

17. Pursuant to Wis. Stat. § 645.33(3), the Commissioner hereby seeks authorization from the Court to negotiate and conclude contracts providing for reasonable compensation and expenses for any further professionals, employees, or independent contractors as are deemed necessary to effectuate the rehabilitation of the Segregated Account, provided that any such contracts shall first be disclosed for approval by the Court.

18. Pursuant to Wis. Stat. § 645.33(5), the Commissioner hereby seeks authorization from the Court to conduct the business of the Segregated Account; to pursue finalization, court approval and implementation of a rehabilitation plan in accordance with Wis. Stat. § 645.33(5); and to take such further and other steps as may be necessary for rehabilitating the Segregated Account.

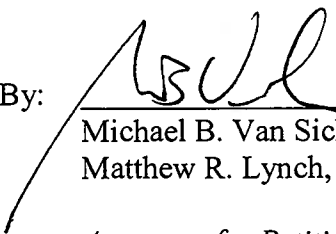
WHEREFORE, for the foregoing reasons, and for those expressed more fully in the brief in support of this Petition, the Commissioner respectfully requests that the Court enter the accompanying Order of Rehabilitation.

Dated this 24th day of March, 2010.

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# **TAB 1**



## **PLAN OF OPERATION FOR THE SEGREGATED ACCOUNT OF AMBAC ASSURANCE CORPORATION**

This Plan of Operation for the Segregated Account of Ambac Assurance Corporation (this “Plan of Operation”) sets forth the manner by which Ambac Assurance Corporation (the “Company”) will establish and operate the Segregated Account of Ambac Assurance Corporation (the “Segregated Account”).

### **I. Establishment of Segregated Account**

Subject to the approval of the Wisconsin Office of the Commissioner of Insurance (“OCI”), the Company will establish and operate the Segregated Account as an optional segregated account pursuant to Wis. Stat. § 611.24(2), effective as of March 24, 2010. This Plan of Operation may be amended from time to time by the Board of Directors of the Company, subject to the approval of the OCI.

### **II. Purpose of Segregated Account**

The Company is establishing the Segregated Account for the purpose of segregating certain segments of its liabilities, and consenting to the subsequent rehabilitation of the Segregated Account under Chapter 645 of the Wisconsin Statutes. Following the execution of an Order for Rehabilitation of the Segregated Account, the rehabilitator will assume control of the management of the Segregated Account for the purpose of conducting an orderly run-off and/or settlement of the policy and other liabilities allocated to the Segregated Account in accordance with a Plan of Rehabilitation to be approved by the rehabilitation court pursuant to Section 645.33(5) of the Wisconsin Statutes (the “Plan of Rehabilitation”).

### **III. Management of the Segregated Account**

Pursuant to the terms of the Management Services Agreement (the “Management Services Agreement”) attached hereto as Exhibit A, the Company will be appointed as the Management Services Provider for the Segregated Account (the “Management Services Provider”) for so long as such agreement is in effect. Nothing in this Section prevents the Segregated Account from retaining additional service providers to provide services in addition to those provided by the Management Services Provider.

In addition, pursuant to the terms of a Cooperation Agreement (the “Cooperation Agreement”), the Company and the Segregated Account will agree to certain matters related to decision-making, information sharing, tax compliance and allocation of expenses, all as set forth in the Cooperation Agreement. The form of the Cooperation Agreement is attached hereto as Exhibit B.

### **IV. Allocations to Segregated Account**

*Financial Guaranty Insurance Policies.* A list of all financial guaranty insurance policies and surety bonds being allocated to the Segregated Account (other than those covering student loans (which are addressed in clause 4 below) and those covering certain residential mortgage backed

securities (which are addressed in the paragraph following clause 4 below)) is attached hereto as Exhibit C. Policies being allocated to the Segregated Account include policies insuring or relating to the following:

1. All credit default swaps with respect to which a forbearance agreement executed by the Company and OCI (among others) to temporarily forbear from collecting or enforcing (or consenting to or directing the collection or enforcement of) claims against the Company or Ambac Credit Products, LLC (“ACP”) arising from termination or acceleration of the obligations of the Company or ACP based upon commencement of the rehabilitation proceedings of the Segregated Account is not in full force and effect.
2. Residential mortgage backed securities.
3. Certain other identified policies expected to suffer material losses, which losses may or may not arise due to the occurrence of an early termination or a loss of control rights arising from the rehabilitation of the Segregated Account.
4. Certain student loan policies, as follows:
  - a. Student loan policies identified on Exhibit D hereto will be allocated to the Segregated Account immediately upon establishment of the Segregated Account.
  - b. Student loan policies identified on Exhibit E hereto shall initially remain in the Company’s general account, but shall be subject to an assessment process. The assessment shall begin following the entry of an Order for Rehabilitation with respect to the Segregated Account and shall continue for 180 days thereafter (the “Assessment Period”). During the Assessment Period and for a period of 90 days thereafter, any such student loan policy may be allocated to the Segregated Account.

Any residential mortgage backed securities not initially allocated to the Segregated Account shall be allocated thereto within 20 days following the establishment of the Segregated Account, subject to any necessary filings or approvals of the rehabilitation court. With the sole exception of the policies described in the immediately preceding sentence and student loan policies described in clause 4b above, none of the Company’s policies shall be subject to an assessment or allocated on an ad hoc or rolling basis into the Segregated Account; provided, however, that clerical errors and oversights may be corrected with the consent of OCI and filed with or approved by the rehabilitation court as required.

*Remediation.* All remediation claims, defenses, offsets, and/or credits (except to the extent described in clause (iv) of Section V - “Collateral Security” below), if any, in respect of policies allocated to the Segregated Account, whether now existing or hereafter arising, are allocated to the Segregated Account together with such policies.

*Lease with One State Street, LLC.* The Company is allocating to the Segregated Account its disputed contingent liability, if any, under the long-term lease with One State Street, LLC, effective January 1, 1992 and amended as of August 1, 1997.

*Liability as Guarantor of Ambac Assurance UK Limited's lease with British Land.* The Company is allocating to the Segregated Account its contingent liability, if any, as guarantor of the obligations of Ambac Assurance UK Limited under its lease with British Land.

*Ownership Interests.* The Company is allocating to the Segregated Account its limited liability interest in ACP, Ambac Conduit Funding LLC, Aleutian Investments LLC and Juneau Investments LLC.

*Reinsurance Agreements.* The Company is allocating to the Segregated Account all liabilities assumed by the Company as reinsurer under the reinsurance agreements listed on Exhibit F attached hereto.

## **V. Provision for Capital and Surplus**

The Segregated Account will support the liabilities allocated to it with the following resources:

*Secured Note.* The Company's general account will issue a secured note to the Segregated Account in the face amount of \$2 billion dollars (the "Secured Note"). Under the terms of the Secured Note, the Segregated Account will be permitted to demand payment of note principal to satisfy liabilities of the Segregated Account due and payable in respect of cash claim payments, payments on other liabilities allocated to the segregated account, administrative and operating expenses, loss settlements, commutation payments, payments under surplus notes or contribution notes, if any, issued by the Segregated Account, and any other amounts directed or ordered to be paid by the rehabilitation court in conjunction with the rehabilitation proceeding, all as more fully set forth in the Secured Note. The demand amount shall be reduced by the amount, as calculated by the Segregated Account, of the Segregated Account's liquid assets available to pay such liabilities at such time. In no case will the Company's general account have any liability to make any payment to the Segregated Account under the Secured Note to the extent that such payment would result in the surplus as regards policyholders of the Company's general account falling below \$100 million (or such higher amount as determined by OCI pursuant to a prescribed accounting practice) and for any period during which the surplus as regards policyholders of the Company's general account is below such amount. The form of the Secured Note is attached hereto as Exhibit G.

*Aggregate Excess of Loss Reinsurance Agreement.* The Company's general account will issue an Aggregate Excess of Loss Reinsurance Agreement to the Segregated Account (the "Reinsurance Agreement"). Under the terms of the Reinsurance Agreement, the Company's general account will provide aggregate excess of loss coverage equal to the liabilities of the Segregated Account due and payable in respect of cash claim payments, loss settlements, commutation payments, payments under surplus notes or contribution notes, if any, issued by the Segregated Account, and any other amounts directed or ordered to be paid by the rehabilitation court in conjunction with the rehabilitation proceeding, all as more fully set forth in the Reinsurance Agreement. The amount of the reinsurance recoverable shall be reduced by the amount, as calculated by the Segregated Account, of the Segregated Account's liquid assets available to pay such liabilities at such time. In no case will the Company's general account have any liability to make any payment to the Segregated Account under the Secured Note to the

extent that such payment would result in the surplus as regards policyholders of the Company's general account falling below \$100 million (or such higher amount as determined by OCI pursuant to a prescribed accounting practice) and for any period during which the surplus as regards policyholders of the Company's general account is below such amount. Coverage under the Reinsurance Agreement will attach after all principal under the Secured Note has been paid by the Company's general account. The form of the Reinsurance Agreement is attached hereto as Exhibit H.

*Surplus Notes.* In accordance with the terms of the Plan of Rehabilitation, the Company's general account may issue surplus or contribution notes ("Surplus Notes") to the holders of policies allocated to the Segregated Account to satisfy that portion of the claim liabilities due and payable under such policies which is not paid directly by the Segregated Account in cash or in surplus notes or contribution notes of the Segregated Account.

*Collateral Security.* As security for the obligations of the Company's general account to the Segregated Account, the Company's general account will grant a security interest to the Segregated Account in the following assets, as more fully set forth in the Secured Note and Reinsurance Agreement:

- (i) installment premiums received in conjunction with policies allocated to the Segregated Account and premiums received under reinsurance agreements;
- (ii) reinsurance premiums received in respect of assumed reinsurance agreements with respect to which the liabilities of the Company have been allocated to the Segregated Account;
- (iii) recoveries under third party reinsurance agreements covering losses on policies allocated to the Segregated Account; and
- (iv) any recoveries arising from remediation efforts or reimbursement or collection rights with respect to policies allocated to the Segregated Account.

All assets within the Segregated Account will be available exclusively for satisfying liabilities attributable to the Segregated Account. The Company will ensure that all assets of the Segregated Account, including any income earned thereon, remain identifiable within the Segregated Account. Pursuant to Wis. Stat. § 611.24(3)(b), any income, gains and losses, whether or not realized, from assets and investments attributable to the Segregated Account, if any, will be credited to or charged against the Segregated Account without regard to other income, gains, or losses of the Company's general account.

In connection with its review and approval of this Plan of Operation, OCI has determined that there is an adequate amount of capital and surplus in the Segregated Account pursuant to Wis. Stat. § 611.24(3)(a) and that the provisions for capital and surplus contemplated herein with respect to the liabilities allocated to the Segregated Account constitute fair consideration within the meaning of Wis. Stat. § 645.03(d).

## **VI. Charges and Expenses**

Pursuant to Wis. Stat. § 611.24(3)(c), assets and investments allocated to the Segregated Account, if any, will be available and used solely to satisfy costs, expenses, charges, and liabilities attributable to the business placed therein. Such assets and investments, if any, will not be charged with any costs, expenses, charges, or liabilities arising out of any other business of the Company, except as otherwise provided in the Secured Note or Reinsurance Agreement. Likewise, assets and investments in the Company's general account will not be charged with any costs, expenses, charges, or liabilities arising out of the direct business allocated to the Segregated Account.

The Company will divide any expenses for which the Company's general account has not been compensated pursuant to the Management Services Agreement, on such reasonable basis as the Rehabilitator and the Company shall mutually agree, between the Company's general account and the Segregated Account.

The Segregated Account may offset and recoup any balance or amount due from the Company to the Segregated Account.

Time is of the essence with respect to all payment obligations from the Company to the Segregated Account. No extension of time for performance of any payment obligation shall be deemed an extension of time for performance of any other payment obligation.

## **VII. Financial Statements**

The Management Services Provider will prepare periodic statutory financial statements for the Segregated Account commencing with the 2010 calendar year.

## **VIII. Dissolution; Merger**

Unless otherwise previously dissolved or merged into the Company's general account, the Company will merge the Segregated Account into the Company's general account upon the final resolution of all liabilities attributable to the business allocated to the Segregated Account, or upon order from the Commissioner.

# **EXHIBIT A**

## MANAGEMENT SERVICES AGREEMENT

MANAGEMENT SERVICES AGREEMENT, dated as of March 24, 2010 (this "Agreement"), between the Segregated Account of Ambac Assurance Corporation (the "Segregated Account") and Ambac Assurance Corporation (the "Management Services Provider").

### ARTICLE I

#### APPOINTMENT AND ACCEPTANCE AS MANAGEMENT SERVICES PROVIDER

SECTION 1.01. Appointment and Acceptance as Management Services Provider. Subject to the terms and conditions of this Agreement, the Segregated Account hereby agrees to retain the Management Services Provider to provide certain administrative and management services as described below, and the Management Services Provider hereby agrees to provide such services.

SECTION 1.02. Authority and Services of Management Services Provider.

(a) By execution of this Agreement, the Management Services Provider accepts its appointment as the provider of certain administrative and management services and assistance and it will provide to the Segregated Account, the Rehabilitator of the Segregated Account (the "Rehabilitator"), the Special Deputy Commissioner employed to rehabilitate the Segregated Account, or their respective designees, such services, assistance and access to staff and employees reasonably acceptable to the Rehabilitator or Special Deputy Commissioner as the Rehabilitator or Special Deputy Commissioner may from time to time request, including but not limited to, the services set forth in Exhibit C attached hereto. The Management Services Provider agrees to exercise due care and good faith in the performance of its obligations hereunder.

(b) The Management Services Provider shall maintain appropriate books of account and records relating to the services performed hereunder. At all reasonable times and upon reasonable notice and as often as the Segregated Account reasonably may request, the Management Services Provider shall permit representatives designated by the Segregated Account to (i) have complete and unrestricted access to such books and records, (ii) make copies of, or excerpts from, those books and records and (iii) discuss such books and records with the officers, directors, employees, accountants, attorneys and agents of the Management Services Provider.

(c) The services to be rendered by the Management Services Provider to the Segregated Account as described in Section 1.02 hereof shall in no manner constitute a relinquishment of the management responsibility of the directors and officers of the Segregated Account (or the Rehabilitator pursuant to Wis. Stat. § 645.33).

SECTION 1.03. Selection of Service Providers. The Segregated Account shall have the authority to choose the persons and entities from whom it shall receive the services performed hereunder.

SECTION 1.04. Fees and Costs. The Management Services Provider shall be entitled to such compensation for its services hereunder as the Management Services Provider and the Segregated Account shall from time to time agree, which compensation shall initially be determined as set forth on Exhibit A hereto. In addition, the Segregated Account agrees to reimburse the Management Services Provider for any direct out-of-pocket costs and expenses incurred and billed by the Management Services Provider in connection with rendering such services.

The Segregated Account shall pay all fees and charges of the Management Services Provider. Fees shall be calculated by the Management Services Provider and paid by the Segregated Account in U.S. Dollars within the time period set forth in the projected cost allocation contemplated by Exhibit A attached hereto, subject to any good faith dispute by the Segregated Account of any fees or charges; provided, however, that any amounts not in dispute shall be paid within the time set forth in the projected cost allocation.

SECTION 1.05. Confidentiality. All information and recommendations furnished by the Management Services Provider to the Segregated Account shall be subject to that certain Joint Interest, Sharing and Confidentiality Agreement (the "Joint Interest Agreement") effective as of September 1, 2009, and the parties hereto shall be bound by their obligations under the Joint Interest Agreement with respect to such information and recommendations.

SECTION 1.06. Contingency Measures. The Management Services Provider is responsible for data backup and recovery of data held by, or on, facilities or hardware under Management Services Provider's control, and shall ensure that processing can be properly resumed in the event of failures, which include but are not limited to power, mechanical, electronic or communication failure.

## ARTICLE II

### TERM AND TERMINATION

SECTION 2.01. Effective Date and Term.

This Agreement shall become effective as of the date first hereinabove written, and, subject to Sections 2.02 through 2.04, shall continue in effect so long as the Segregated Account retains any liability under policies or other obligations allocated to pursuant to the Plan of Operation for the Segregated Account or any interest or principal remains outstanding under any surplus or contribution notes issued by the Segregated Account in partial payment of any such policy liabilities.

SECTION 2.02. Termination for Cause.

Notwithstanding any other provision hereof to the contrary, either Party may terminate this Agreement based on the material breach by the other party (the "Defaulting Party") of any of the Defaulting Party's obligations under this Agreement (which termination shall be a termination for "Cause") on at least 120 days' prior written notice of termination to the



Defaulting Party, or such shorter time as the Rehabilitator may designate in his or her sole and absolute discretion.

SECTION 2.03.      Resignation by Management Services Provider.

Notwithstanding any other provision hereof to the contrary, the Management Services Provider may resign at any time upon one year prior written notice to the Segregated Account.

SECTION 2.04.      Termination by Segregated Account.

Notwithstanding any other provision hereof to the contrary, the Segregated Account may terminate this Agreement without cause, with such termination to be made effective upon the date chosen by the Segregated Account, but in no event shall such termination be made effective upon less than 30 days written notice to the Management Services Provider.

SECTION 2.05.      Effect of Termination or Resignation.

(a) From and after the effective date of termination of this Agreement or the resignation of the Management Services Provider, the Management Services Provider shall not be entitled to payment in accordance with Section 1.04 hereof for further services rendered hereunder but shall be paid pro rata in accordance with Section 1.04 hereof with respect to services rendered to the date of termination.

(b) The Management Services Provider shall forthwith upon termination or resignation:

(i) pay over to the Segregated Account all money collected and held for the account of the Segregated Account pursuant to this Agreement;

(ii) deliver to the Segregated Account a full accounting, including a statement showing all payments collected by it and a statement of all money held by it, covering the period following the date of the last accounting furnished to the Segregated Account; and

(iii) deliver to the Segregated Account all property and documents of the Segregated Account then in the custody of the Management Services Provider except to the extent such documents relate to the books and records of the Management Services Provider.

(c) Upon termination or resignation of the Management Services Provider, the Segregated Account may elect to assume management responsibility itself or designate a replacement service provider. For a period of five years after termination or resignation, the Management Services Provider shall grant the Segregated Account or its designee(s):

(i) to the extent permitted by any relevant license or agreement, a nonexclusive, royalty-free license to utilize the hardware and software systems and any

related assets of the Management Services Provider as reasonably required to manage all in force business after termination;

(ii) access to the books and records of the Management Services Provider to the extent such books and records relate to the Segregated Account (the “Segregated Account Books and Records”);

(iii) the right to make copies of, or excerpts from, the Segregated Account Books and Records; and

(iv) access to the Management Service Provider’s officers, directors, employees, accountants, attorneys and agents for the purpose of discussing the accounts, assets, business, operations, properties or condition, financial or otherwise, of the Segregated Account.

### ARTICLE III

#### MISCELLANEOUS

SECTION 3.01. No Waiver of Immunity. Nothing in this Agreement may be construed as waiving immunity, or as subjecting the Rehabilitator or the Wisconsin Office of the Commissioner of Insurance (“OCI”), or the Rehabilitator’s or OCI’s employees or agents, to liability, including contractual liability, for matters that are otherwise subject to immunity from liability, including immunity under Wis. Stat. § 645.08(2).

SECTION 3.02. Severability. If any one or more of the covenants, agreements, provisions or terms of this Agreement shall be for any reason whatsoever held invalid, then such covenants, agreements, provisions or terms shall be deemed severable from the remaining covenants, agreements, provisions and terms and shall in no way affect the validity or enforceability of the other provisions of this Agreement.

SECTION 3.03. Waiver, Cumulative Remedies. Neither the Segregated Account nor the Management Services Provider shall by any act, delay, omission or otherwise be deemed to have waived any of its rights or remedies hereunder and no waiver shall be valid unless in writing, signed by the Segregated Account or the Management Services Provider, as applicable, and then only to the extent therein set forth. A waiver by the Segregated Account or the Management Services Provider of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which the Segregated Account or the Management Services Provider, as applicable, would otherwise have on any future occasion. No failure to exercise, nor any delay in exercising on the part of the Segregated Account or the Management Services Provider, any right, power or privilege hereunder, shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof of any other right, power, or privilege. The rights and remedies herein provided are cumulative and maybe exercised singly or concurrently, and are not exclusive of any rights or remedies provided by law.

SECTION 3.04. Transfers and Assigns. Neither this Agreement nor any interest or obligation in or under this Agreement may be transferred or assigned by either party without the prior written consent of the other party hereto.

SECTION 3.05. Amendments. This Agreement, including any schedules, appendices and exhibits hereto, may be amended from time to time; provided, however, that any amendment shall not be effective unless it is in writing and signed by both parties.

SECTION 3.06. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Wisconsin (without reference to choice of law doctrine).

SECTION 3.07. Consent to Jurisdiction. The Management Services Provider hereby consents to the jurisdiction of the state court in Wisconsin before which the rehabilitation proceedings with respect to the Segregated Account are pending, and waives any objection based on lack of personal jurisdiction, improper venue or forum non conveniens, with regard to any actions, claims, disputes or proceedings relating to this Agreement or any other document delivered hereunder or in connection herewith, or any transaction arising from or connected to any of the foregoing.

SECTION 3.08. Notices. Any notice or communication in respect of this Agreement shall be sufficiently given to a party if in writing and delivered in person, sent by recorded delivery or registered post or the equivalent (with return receipt requested) or by overnight courier or given by facsimile transmission, at the address or facsimile number set out in Exhibit B attached hereto, or to such other address or facsimile number as shall be notified in writing by one party to the other. A notice or communication shall be deemed to be given:

- (a) if delivered by hand or sent by overnight courier, on the day and at the time it is delivered or, if that day is not a business day, or if delivered after the close of business on a business day, at 9:00 a.m. (local time to the recipient) on the immediately following business day;
- (b) if sent by facsimile transmission or email, on the day and at the time the transmission is received or, if that is not a business day, or if received after the close of business on a business day, at 9:00 a.m. (local time to the recipient) on the immediately following business day; or
- (c) if sent by recorded delivery or registered post or the equivalent (return receipt requested), three business days after being sent.

SECTION 3.09. Counterparts. This Agreement may be executed in more than one counterpart, each of which shall be deemed to be an original and all of which shall, together, constitute one and the same instrument.

SECTION 3.10. Further Assurances and Corrective Instruments. To the extent permitted by law, the parties hereto agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as the other party may reasonably request and

as may be reasonably required in the opinion of such party to effectuate the intentions or facilitate the performance of this Agreement.

[Remainder of page intentionally left blank. Signatures to follow]

IN WITNESS WHEREOF, the Segregated Account and the Management Services Provider have caused this Agreement to be duly executed and delivered as of the day and year first above written.

SEGREGATED ACCOUNT OF  
AMBAC ASSURANCE CORPORATION

By: \_\_\_\_\_

Name:

Title:

AMBAC ASSURANCE CORPORATION

By: \_\_\_\_\_

Name:

Title:

## **EXHIBIT A**

### **FEE SCHEDULE**

In connection with the services to be performed by the Management Services Provider, the Management Services Provider shall prepare on a calendar year basis, in advance, a projected cost allocation, which cost allocation shall be submitted to the Segregated Account for its review and consent (such consent not to be unreasonably withheld) no later than the fifteenth business day of December preceding the commencement of the next calendar year for which such allocation is proposed. Such cost allocation shall be based upon the projected costs to be incurred by the Management Services Provider in providing the services required by and in fulfilling its obligations under this Agreement.

In the event that during the calendar year for which such projected cost allocation has been prepared the Management Services Provider has knowledge that the actual allocation cost will exceed or be less than such projected cost allocation by ten (10) percent or more, the Management Services Provider shall inform the Segregated Account of such fact within fifteen (15) business days after it has knowledge thereof. The Segregated Account shall be liable for the amount which is equal to or greater than ten (10) percent of the projected cost allocation only to the extent that it has received notice thereof from the Management Services Provider and has consented thereto, such consent not to be unreasonably withheld.

**EXHIBIT B**

**NOTICE INFORMATION**

If to Segregated Account of Ambac Assurance Corporation, to:

Rehabilitator of the Segregated Account of Ambac Assurance Corporation  
One State Street Plaza  
New York, New York 10004

with copies to:

Commissioner of Insurance  
Wisconsin Office of the Commissioner of Insurance  
125 South Webster Street  
Madison, Wisconsin 53703

and

Foley & Lardner LLP  
777 E. Wisconsin Ave  
Milwaukee, Wisconsin 53202  
Attn: Kevin G. Fitzgerald

If to Ambac Assurance Corporation, to:

Ambac Assurance Corporation  
One State Street Plaza  
New York, New York 10004  
Attention: General Counsel  
Telephone: (212) 208-3283  
Facsimile: (212) 208-3558

## EXHIBIT C

### SCHEDULE OF MANAGEMENT SERVICES

**Information technology (including in respect of hardware, software and information systems, in each case including provision, support and development thereof on an as needed and agreed basis, collectively "IT Services")**

Provide IT Services as requested by and pursuant to the direction of the Rehabilitator of the Segregated Account in respect of inter alia:

- a. The tracking of exposure in relation to issued policies;
- b. Accounting (both management and financial and ancillary thereto);
- c. Premium (and other income) processing;
- d. Expenses (paying thereof and expense management);
- e. IT Services security; and
- f. Any other IT Services as may be agreed from time to time.

**Credit exposure management**

To provide credit exposure reporting, surveillance and management support as requested by and pursuant to the direction of the Rehabilitator of the Segregated Account.

**Treasury Services (including cash management)**

Maintain, operate, manage and develop systems in relation to the management of cash in all respects (including reconciliations and other reporting) as requested by and pursuant to the direction of the Rehabilitator of the Segregated Account, including but not limited to such systems as are necessary to ensure the prompt and orderly payment of claims, and issuance and management of surplus notes, as applicable.

**Accounting, finance and regulatory services**

Provide systems, support, information, tracking, reporting and required filings in respect of the following accounting and finance services (including any services ancillary thereto) as requested by and pursuant to the direction of the Rehabilitator of the Segregated Account:

- a. Budgeting;
- b. Management accounting;
- c. Financial accounting;
- d. Accounts payable;
- e. Regulatory reporting;
- f. Financial modeling;
- g. Other services as agreed.



### **Taxation**

To identify and manage tax liabilities and make required filings for all relevant jurisdictions.

### **Management information**

To identify and report on qualitative and quantitative performance measures, and assess performance on plans and budgets as requested by and pursuant to the direction of the Rehabilitator of the Segregated Account.

### **Risk management**

Provide the necessary expertise to effectively identify processes to manage, monitor and report risks and internal control mechanisms which are critical to the satisfaction by the Segregated Account of its obligations and liabilities, as requested by the Rehabilitator of the Segregated Account.

### **Loss Management**

Develop and execute strategies to mitigate losses to the extent possible. Arrange, negotiate, effectuate, and execute (a) commutations and restructurings of Covered Policies (as defined in the Secured Note) and other obligations of the Segregated Account and (b) purchases of Covered Policies or the obligations insured thereby. Any payments made as a result of transactions effected pursuant to such loss management services shall require the non-disapproval of the Segregated Account.

### **Internal audit services**

Provide internal audit services as requested by and pursuant to the direction of the Rehabilitator of the Segregated Account.

### **Business Continuity**

To implement and maintain a business continuity plan for disaster recovery and periodic testing of backup facilities as requested by and pursuant to the direction of the Rehabilitator of the Segregated Account.

# **EXHIBIT B**

## COOPERATION AGREEMENT

COOPERATION AGREEMENT, dated as of March 24, 2010 (this "Agreement"), by and between the Segregated Account of Ambac Assurance Corporation (the "Segregated Account"), and Ambac Assurance Corporation ("Ambac").

WHEREAS, Ambac has established the Segregated Account pursuant to Section 611.24(2) of the Wisconsin Statutes with the approval of the Wisconsin Office of the Commissioner of Insurance ("OCI") and in accordance with the Plan of Operation for the Segregated Account of Ambac Assurance Corporation adopted by the Board of Directors of Ambac, as amended from time to time (the "Plan of Operation");

WHEREAS, in conjunction with the establishment of the Segregated Account, Ambac allocated to the Segregated Account certain liabilities, as more fully described in the Plan of Operation;

WHEREAS, in order to support the liabilities allocated to the Segregated Account, Ambac has issued a Secured Note to the Segregated Account, pursuant to which Ambac, as Maker, agrees to pay to the Segregated Account, as Payee the amount of outstanding principal necessary in order for the Segregated Account to satisfy current cash claim payments and other obligations, as more fully set forth therein (as amended, restated, supplemented or otherwise modified from time to time, the "Secured Note");

WHEREAS, in order to continue to support the liabilities associated with insurance policy liabilities upon payment in full of all principal under the Secured Note, Ambac has agreed to reinsure the liability of the Segregated Account pursuant to the terms of an Aggregate Excess of Loss Reinsurance Agreement (as amended, restated, supplemented or otherwise modified from time to time, the "Reinsurance Agreement"); and

WHEREAS, immediately following the establishment of the Segregated Account, the Segregated Account will be the subject of an order for rehabilitation under Chapter 645 of the Wisconsin Statutes (the "Proceeding"), whereupon the rehabilitator of the Segregated Account under the Proceeding (the "Rehabilitator") will assume control of the management of the Segregated Account, and conduct the business of the Segregated Account in accordance with a Plan of Rehabilitation to be approved by the rehabilitation court pursuant to Section 645.33(5) of the Wisconsin Statutes (the "Plan of Rehabilitation"). At all times while the Segregated Account is subject to the Proceeding, the term "Segregated Account" as used herein shall be deemed to include, and the Segregated Account shall act exclusively through, the Rehabilitator or his or her designee.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements set forth herein, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

## ARTICLE I

### DECISION-MAKING AND SHARED AUTHORITY

SECTION 1.01. Cooperation. The parties hereto intend, to the best of their ability, to consult with each other, and cooperate with each other in good faith, to make all determinations or decisions relating to any action, vote, or grant any consent or exercise any right (each, a "Material Decision") that is reasonably likely to have a material effect upon the assets and/or liabilities of Ambac. Prior to making any Material Decision, the parties intend to, to the best of their ability, and to the extent practicable, provide each other with copies of all material reports, analyses, and correspondence relevant to any Material Decision. The parties hereto agree that this Section 1.01 is solely a non-binding expression of intent of the parties, and no party shall have any obligations hereunder.

SECTION 1.02. Transaction Limitations. Ambac shall not directly or indirectly enter into any transaction with, or use any asset or property of, any third party (including any affiliate, but excluding the Segregated Account) involving consideration or other proceeds in excess of \$5,000,000 (or such higher amount as determined by the Segregated Account) without the Segregated Account's prior written consent, which the Segregated Account may withhold or condition in its reasonable discretion; provided, however, that such consent shall in no event be required with respect to (A) the payment of policy claims in the ordinary course of business or (B) any investment made in accordance with Ambac's Investments Policy (as defined in the Secured Note).

SECTION 1.03. No Partnership or Joint Venture. The Segregated Account and Ambac are not partners or joint venturers with each other, and nothing herein shall be construed so as to make them such partners or joint venturers or impose any liability as such on either of them.

SECTION 1.04. Directors, Officers and Employees. Ambac's directors, officers and employees may serve as directors, officers, agents, nominees, employees or signatories for the Segregated Account. When executing documents or otherwise acting in such capacity for the Segregated Account, such persons shall use their respective titles in the Segregated Account and will be acting within the scope of their employment solely for the Segregated Account and not as Ambac employees or agents. Such person shall receive no compensation from the Segregated Account for their services to the Segregated Account in such capacities. Any person employed or formerly employed by Ambac who may be or become an employee of, and paid by, the Segregated Account shall be deemed, when acting within the scope of his or her employment by the Segregated Account, to be acting in such employment solely for the Segregated Account and not as an Ambac employee or agent, except when separate consulting agreements are entered into between Ambac and employees of the Segregated Account.

## ARTICLE II INFORMATION SHARING

SECTION 2.01. Provision of Information. Each of Ambac and the Segregated Account shall provide each other with accurate, timely and complete information with respect to all relevant material business activities, including transactions proposed or undertaken, their respective assets, and their respective liabilities, including but not limited to each of the following:

- (A) Access to and copies of books and records;
- (B) Copies of all material reports, analyses, and correspondence related to any commutation, settlement, restructuring, termination, assignment, modification, release, payment and/or redemption with respect to the policies and other obligations;
- (B) Copies of all material reports, analyses, and correspondence related to any Material Decision;
- (C) Copies of all financial statements;
- (D) Copies of all material reports, analyses, and correspondence related to financial and regulatory reporting, accounts payable and receivable, budgeting, and financial modeling;
- (E) Copies of all material reports, analyses, and correspondence related to any material claim made or threatened against either party, or compulsory process or request or other notice of any loss, claim, damage or liability served upon either party;
- (F) Copies of all material reports, analyses, and correspondence related to any tax liability of, or right to a tax refund or reimbursement held by, such party;
- (G) Information describing any significant development with respect to any actual or potential unscheduled claim payment in excess of \$5,000,000; and
- (H) In the case of the Segregated Account, information necessary or appropriate, as reasonably determined by Ambac and/or its affiliates, to permit Ambac and/or its affiliates to (i) prepare and file their respective annual and quarterly financial statements under statutory accounting principles and generally accepted accounting principles and (ii) fulfill their reporting and disclosure obligations under, and otherwise comply with, applicable laws, including securities laws (including without limitation the provision by the Segregated Account of sub-certifications or information or assurances sufficient to enable Ambac and its officers to make sub-certifications in connection with compliance under the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith).

SECTION 2.02. Budgets. As soon as available, and in any event within thirty (30) days prior to the commencement of each calendar year, Ambac shall provide the Segregated Account with an annual budget and projection for itself and its subsidiaries for the forthcoming fiscal year certified by the chief executive officer and chief financial officer and in

form reasonably satisfactory to the Segregated Account (each, an “Annual Budget”) and, within forty-five (45) days after each March 30, June 30 and September 30, shall provide the Segregated Account with a comparison (in form reasonably satisfactory to the Segregated Account) of (a) actual expenses incurred through such date, and expenses expected to be incurred from such date until the end of the then-current fiscal year, to (b) the projected expenses as set forth on the Annual Budget.

SECTION 2.03      Notice of Material Changes. The parties shall timely notify each other of any relevant material changes in their respective assets, liabilities, business practices and activities, systems or employment of their respective work forces, as applicable.

SECTION 2.04.      Access to Books and Records. The parties shall maintain appropriate books of account and records relating to its business activities, assets, and liabilities, including but, not limited to, any information related to any commutation, settlement, restructuring, termination, assignment, modification, release, payment and/or redemption with respect to their respective insurance policies and other obligations. At all reasonable times and upon reasonable notice and as often as either party reasonably may request, the other party shall permit designated representatives of the requesting party (including auditors) to meet with the officers, directors, employees, accountants, attorneys and agents of the other party.

SECTION 2.05.      Management Services Agreement.

(a) The parties hereto acknowledge and agree that, if the Segregated Account terminates that certain Management Services Agreement, dated the date hereof, by and between Ambac and the Segregated Account (the “Management Services Agreement”) or replaces Ambac as the “Management Services Provider” thereunder (each a “Change of Services Provider Event”), the parties' respective obligations under Section 2.01 and elsewhere set forth in this Agreement (as well as the reporting and other obligations of the Segregated Account as set forth in the Reinsurance Agreement) shall remain in effect without alteration or diminishment. In furtherance of the foregoing, (i) the parties shall consult with each other during the prior notice period contemplated by Article II of the Management Services Agreement and thereafter, in each case as reasonably necessary under the circumstances, in order to facilitate the uninterrupted provision of the information and other benefits required to be provided hereunder by each party to the other party, (ii) the Segregated Account shall ensure that any new provider of services to the Segregated Account as a result of a Change in Services Provider Event (each a “Replacement Services Provider”) has the capacity to perform the services formerly provided under the Management Services Agreement, including without limitation either maintaining an annual Type II SAS 70 internal control letter reasonably acceptable to Ambac Financial Group, Inc. (“AFGI”) or providing AFGI with copies of such Replacement Services Provider's current documentation of control procedures (such as policies and procedures, process models and process flowcharts) which record the design of internal controls, and (iii) the Segregated Account shall at all times following a Change of Services Provider Event maintain appropriate internal controls and systems to ensure that Ambac will be able to meet its financial reporting,

disclosure and legal obligations as described in Section 2.01(H) above and as may be necessary for the Segregated Account to fulfill its obligations under this Agreement. Further, the Segregated Account shall immediately disclose to AFGI any instance of fraud or any significant change to the internal control environment.

(b) In addition to the foregoing, if, after a Change of Services Provider Event, the Segregated Account presents a demand for payment under the Secured Note, Reinsurance Agreement or Section 4.02 of this Agreement (other than demands for payment relating to regularly scheduled claim payments), and if the amount so demanded exceeds \$20,000,000, then Ambac shall be given a reasonable period of time, but not to exceed 10 business days, to remit such payment, and such additional time shall not be considered a breach or default by Ambac of its obligations under the Secured Note, the Reinsurance Agreement or Section 4.02 hereof (as the case may be).

(c) The parties shall allow each other, upon reasonable prior notice and during regular business hours, through their respective employees and representatives (including, for the avoidance of doubt, in the case of Ambac, independent auditors of AFGI), the right to examine and make copies of their respective books and records and shall furnish each other with such financial and reporting data and other information as other party may from time to time request, for any business purpose (including, without limitation, in connection with the preparation of tax returns, regulatory filings and financial statements). In addition, the Segregated Account shall cause each Replacement Services Provider to permit Ambac and its affiliates, through Ambac's employees and representatives (including, for the avoidance of doubt, independent auditors of AFGI), the right to audit the Replacement Services Provider's internal control structure and to examine and make copies of any books and records pertaining the Segregated Account, and to furnish Ambac with such financial and reporting data and other information as Ambac may from time to time request. If a deficiency or control issue is noted, the Segregated Account will work with AFGI's representatives (including, for the avoidance of doubt, independent auditors of AFGI) to develop and implement an effective remediation strategy.

(d) In the event of any breach or threatened by either party of any of its obligations as set forth or described in this Agreement following a Change of Services Provider Event, the parties hereto agree that monetary damages would be an insufficient remedy for any such breach, and in addition to all other remedies available under applicable law, the non-breaching party shall be entitled to specific performance and to injunctive or other equitable relief as a remedy for any such breach.

## ARTICLE III

### TAX COMPLIANCE

SECTION 3.01. Responsibility for Filing of Tax Returns. The Segregated Account acknowledges that AFGI shall be responsible for filing a U.S. consolidated income tax return on behalf of the Ambac affiliated group, and that all members of the affiliated group, including Ambac and the Segregated Account, shall, pursuant to any applicable tax allocation agreement agreed to by the Segregated Account and Ambac, be liable for applicable U.S. Federal income taxes, as well as any applicable penalties and interest due thereon.

SECTION 3.02. Provision of Tax Information. The Segregated Account agrees to provide, to the best of its ability, correct and complete information to Ambac, and to comply with the requirements of federal law, in attempting to secure accurate tax identification numbers and other tax information from its representatives needed to enable Ambac to prepare and timely file consolidated tax returns on behalf of the Ambac affiliated group.

## ARTICLE IV

### ALLOCATION OF EXPENSES

SECTION 4.01. Expenses to Be Borne by Segregated Account. The Segregated Account shall be solely responsible for its own expenses except as otherwise provided.

SECTION 4.02. Administrative and Operating Expenses. Ambac shall reimburse the Segregated Account for administrative and operating expenses of the Segregated Account, including but not limited to, fees, costs and expenses associated with the following:

- (a) management services, including all fees and payments pursuant to the Management Services Agreement;
- (b) financial advisor, consulting and legal services, including services for OCI or the Rehabilitator regarding matters that relate to AFGI or the Segregated Account regardless of whether such matters arose prior to or arise subsequent to the establishment of the Segregated Account;
- (c) indemnification under commercially reasonable indemnification agreements of the Segregated Account with providers of financial, consulting, or legal services; and
- (d) amounts due, including amounts due under indemnification provisions, under agreements executed prior to the establishment of the Segregated Account, by AFGI or the Segregated Account, for financial, consulting or legal services provided to OCI;

provided, however, that, notwithstanding any provision of this Agreement to the contrary, Ambac shall have no obligations under this Section 4.02 (a) unless and until all principal



under the Secured Note has been paid by Ambac or (b) at any time that Ambac's surplus as regards policyholders, as reflected on its statutory financial statements (its "Surplus") is less than \$100,000,000, or such higher amount as determined by the OCI pursuant to a prescribed accounting practice (the "Surplus Amount"), or to the extent that such payment would result in Ambac's Surplus being less than the Surplus Amount, it being understood that any payment deferred as a result of the foregoing in this clause (b) shall be due and payable at such time as the payment thereof would not result in Ambac's Surplus being less than the Surplus Amount.

## ARTICLE V

### CONFIDENTIALITY

SECTION 5.01. Confidentiality. All information and documents exchanged between any of Ambac, OCI, and the Segregated Account shall be subject to that certain Joint Interest, Sharing and Confidentiality Agreement (the "Joint Interest Agreement") effective as of September 1, 2009, and the parties hereto shall be bound by their obligations under the Joint Interest Agreement with respect to such information and documents.

## ARTICLE VI

### MISCELLANEOUS

SECTION 6.01. Severability. If any one or more of the covenants, agreements, provisions or terms of this Agreement shall be for any reason whatsoever held invalid, then such covenants, agreements, provisions or terms shall be deemed severable from the remaining covenants, agreements, provisions and terms and shall in no way affect the validity or enforceability of the other provisions of this Agreement.

SECTION 6.02. Waiver, Cumulative Remedies. None of the parties hereto shall by any act, delay, omission or otherwise be deemed to have waived any of its rights or remedies hereunder and no waiver shall be valid unless in writing, signed by each of the parties, as applicable, and then only to the extent therein set forth. A waiver by a party of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which such party would otherwise have on any future occasion. No failure to exercise, nor any delay in exercising on the part of a party, any right, power or privilege hereunder, shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof of any other right, power, or privilege. The rights and remedies herein provided are cumulative and maybe exercised singly or concurrently, and are not exclusive of any rights or remedies provided by law.

SECTION 6.03. No Waiver of Immunity. Nothing in this Agreement may be construed as waiving immunity, or as subjecting the Rehabilitator or OCI, or the Rehabilitator's or OCI's employees or agents, to liability, including contractual liability, for

matters that are otherwise subject to immunity from liability, including immunity under Wis. Stat. § 645.08(2).

SECTION 6.03. Transfers and Assigns. Neither this Agreement nor any interest or obligation in or under this Agreement may be transferred or assigned by any party without the prior written consent of each of the other parties hereto.

SECTION 6.04. Amendments. This Agreement, including any schedules, appendices and exhibits hereto, may be amended from time to time; provided, however, that any amendment shall not be effective unless it is in writing and signed by all parties hereto.

SECTION 6.05. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Wisconsin (without reference to choice of law doctrine).

SECTION 6.06. Consent to Jurisdiction. Ambac hereby consents to the jurisdiction of the state court in Wisconsin before which the rehabilitation proceedings with respect to the Segregated Account are pending, and waives any objection based on lack of personal jurisdiction, improper venue or forum non conveniens, with regard to any actions, claims, disputes or proceedings relating to this Agreement or any other document delivered hereunder or in connection herewith, or any transaction arising from or connected to any of the foregoing.

SECTION 6.07. Notices. Any notice or communication in respect of this Agreement shall be sufficiently given to a party if in writing and delivered in person, sent by recorded delivery or registered post or the equivalent (with return receipt requested) or by overnight courier or given by facsimile transmission, at the address or facsimile number set out in Exhibit 1 attached hereto, or to such other address or facsimile number as shall be notified in writing by one party to the others. A notice or communication shall be deemed to be given:

- (a) if delivered by hand or sent by overnight courier, on the day and at the time it is delivered or, if that day is not a business day, or if delivered after the close of business on a business day, at 9:00 a.m. (local time to the recipient) on the immediately following business day;
- (b) if sent by facsimile transmission or email, on the day and at the time the transmission is received or, if that is not a business day, or if received after the close of business on a business day, at 9:00 a.m. (local time to the recipient) on the immediately following business day; or
- (c) if sent by recorded delivery or registered post or the equivalent (return receipt requested), three business days after being sent.

SECTION 6.08. Counterparts. This Agreement may be executed in more than one counterpart, each of which shall be deemed to be an original and all of which shall, together, constitute one and the same instrument.

SECTION 6.09. Further Assurances and Corrective Instruments. To the extent permitted by law, the parties hereto agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as another party may reasonably request and as may be reasonably required in the opinion of such party to effectuate the intentions or facilitate the performance of this Agreement

SECTION 6.10. Parties to this Agreement. Nothing herein shall in any manner create any obligations or establish any rights against the Segregated Account or Ambac in favor of any person or entity not a party to this Agreement; provided, however, that AFGI (including its successors and assigns) shall be an express third party beneficiary of this Agreement to the same extent as if a party to this Agreement.

[Remainder of page intentionally left blank. Signatures to follow]

IN WITNESS WHEREOF, Ambac, the Segregated Account and OCI have caused this Agreement to be duly executed and delivered as of the day and year first above written.

AMBAC ASSURANCE CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

SEGREGATED ACCOUNT OF AMBAC  
ASSURANCE CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

**Exhibit 1**

**NOTICE INFORMATION**

If to Segregated Account of Ambac Assurance Corporation, to:

Rehabilitator of the Segregated Account of Ambac Assurance Corporation  
One State Street Plaza  
New York, New York 10004

with copies to:

Commissioner of Insurance  
Wisconsin Office of the Commissioner of Insurance  
125 South Webster Street  
Madison, Wisconsin 53703

and

Foley & Lardner LLP  
777 E. Wisconsin Ave  
Milwaukee, Wisconsin 53202  
Attn: Kevin G. Fitzgerald

If to Ambac Assurance Corporation, to:

Ambac Assurance Corporation  
One State Street Plaza  
New York, New York 10004  
Attention: General Counsel  
Telephone: (212) 208-3283  
Facsimile: (212) 208-3558

# **EXHIBIT C**

<b>Policy Number</b>	<b>Identifier</b>
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# **EXHIBIT D**

**Policy Number**

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24368BE

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# **EXHIBIT E**

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# **EXHIBIT F**

## Exhibit F

Reinsurance Agreements under which Ambac Assurance Corporation has assumed liability as reinsurer:

- 1) Amended and Restated Excess SIPC Surety Bond Excess of Loss Reinsurance Contract, dated as of February 16, 2008 (amending and restating in its entirety the Excess SIPC Surety Bond Excess of Loss Reinsurance Contract, effective as of February 16, 2005), among Customer Asset Protection Company, Ambac Assurance Corporation and Assured Guaranty Corp.
- 2) Financial Guaranty Master Facultative Reinsurance Agreement, dated as of January 1, 2008, between Assured Guaranty Corp. and Ambac Assurance Corporation
- 3) Facultative Reinsurance Agreement, dated as of April 27, 2006, between Financial Guaranty Insurance Company and Ambac Assurance Corporation
- 4) Risk Sharing Agreement Basic Terms and Conditions, dated as of December 8, 1998, among Ambac Assurance Corporation, MBIA Insurance Corporation and Radian Asset Assurance Inc.
- 5) Facultative Reinsurance Agreement, dated December 9, 2002, between Radian Asset Assurance Inc. and Ambac Assurance Corporation
- 6) Facultative Reinsurance Agreement, dated December 19, 2002, between Radian Asset Assurance Inc. and Ambac Assurance Corporation
- 7) Risk Sharing Agreement Basic Terms and Conditions, dated as of May 30, 2001, between Ambac Assurance Corporation and Radian Asset Assurance Inc.
- 8) Amended and Restated 1997 Reinsurance Agreement as of November 17, 2009, between Ambac Assurance UK Limited and Ambac Assurance Corporation

# **EXHIBIT G**

## SECURED NOTE

\$2,000,000,000

March 24, 2010

FOR VALUE RECEIVED, AMBAC ASSURANCE CORPORATION, a Wisconsin domiciled financial guaranty insurance corporation (including successors and assigns, "**Maker**"), hereby promises to pay to the SEGREGATED ACCOUNT OF AMBAC ASSURANCE CORPORATION, a segregated account of Ambac Assurance Corporation established as of March 24, 2010 (including successors and assigns, "**Payee**"), by no later than March 24, 2050, the principal amount of **Two Billion Dollars (\$2,000,000,000)** (which amount shall be reduced to \$0 at such time that the liabilities and obligations of Payee under the Covered Policies have been paid, or otherwise satisfied, in full), and to pay interest on the outstanding principal of this Secured Note (as amended, restated, supplemented or otherwise modified from time to time, this "**Note**"), as provided herein.

### Recitals

A. Maker has established Payee pursuant to Section 611.24(2) of the Wisconsin Statutes with the approval of the Wisconsin Office of the Commissioner of Insurance ("**OCI**") and in accordance with the Plan of Operation for the Segregated Account of Ambac Assurance Corporation adopted by the Board of Directors of Maker, as amended from time to time (the "**Plan of Operation**").

B. In conjunction with the establishment of Payee, Maker allocated to Payee certain insurance policy liabilities (the "**Covered Policies**") and other liabilities, as more fully described in the Plan of Operation. Maker has issued this Note to support such liabilities.

C. In order to continue to support the liabilities associated with the Covered Policies upon payment in full of all principal under this Note, Maker, as reinsurer, has agreed to reinsure the liability of Payee, as ceding company, under the Covered Policies pursuant to the terms of an Aggregate Excess of Loss Reinsurance Agreement dated as of the date hereof between Maker and Payee (as amended, restated, supplemented or otherwise modified from time to time, the "**Reinsurance Agreement**").

D. Immediately following the establishment of Payee and the execution of this Note and the Reinsurance Agreement, Payee will be the subject of an order for rehabilitation under Chapter 645 of the Wisconsin Statutes (the "**Proceeding**"), whereupon the rehabilitator of Payee under the Proceeding (the "**Rehabilitator**") will assume control of the management of Payee and conduct the business of Payee in accordance with a Plan of Rehabilitation to be approved by the rehabilitation court pursuant to Section 645.33(5) of the Wisconsin Statutes (the "**Plan of Rehabilitation**"). At all times while Payee is subject to the Proceeding, the term "Payee" as used herein shall be deemed to include, and Payee shall act exclusively through, the Rehabilitator, or his or her designee.

## 1. PAYMENTS

### 1(a) Principal.

Subject to the first paragraph of this Note and to clause 1(c) below, the outstanding principal under this Note shall be payable in full on March 24, 2050 (the “**Maturity Date**”), subject to mandatory prepayment from time to time on demand of Payee in an amount equal to, at the time of such demand, (A) the cash portion of claim liabilities due and payable by the Payee under Covered Policies, amounts due and payable by the Payee arising from other liabilities allocated to the Payee, cash amounts due and payable under loss settlements, cash amounts due and payable by the Payee for the commutation or purchase of Covered Policies or the obligations insured thereby or other liabilities, and any cash interest payment and cash principal repayment under any surplus or contribution notes issued by the Payee in connection with any of the foregoing, provided that in each case, such amounts due and payable are in accordance with the Plan of Rehabilitation and not otherwise disapproved by the Rehabilitator plus (B) amounts due and payable by the Payee in respect of Administrative Expenses (as defined below) plus (C) any other amounts directed or ordered to be paid by the Rehabilitator in conjunction with the Proceeding minus (D) the amount, as calculated by Payee, of Payee’s liquid assets available to pay such claims or other obligations at such time. Principal amounts repaid under this Note may not be reborrowed.

As used in the above paragraph, the term “**Administrative Expenses**” shall include all administrative and operating expenses of the Payee, including but not limited to, fees, costs and expenses associated with the following:

(i) management services, including all fees and payments pursuant to the Management Services Agreement between Maker and Payee of even date herewith.

(ii) financial advisor, consulting and legal services, including services for OCI or the Rehabilitator regarding matters that relate to Ambac Financial Group, Inc. (“**AFGI**”) or Payee regardless of whether such matters arose prior to or arise subsequent to the establishment of Payee;

(iii) indemnification under commercially reasonable indemnification agreements of the Payee with providers of financial, consulting, or legal services; and

(iv) amounts due, including amounts due under indemnification provisions, under agreements executed prior to the establishment of the Payee, by AFGI or Payee for financial, consulting or legal services provided to OCI.

### 1(b) Interest.

The outstanding principal under this Note shall bear interest at the rate of 4.5% *per annum*, computed on the basis of actual days elapsed in a 365- or 366-day year, as the case may be. Such accrued interest shall be added to the principal balance of this Note on January 1, April 1, July 1 and October 1 of each calendar year with respect to interest accrued and unpaid through the calendar quarter ending on the immediately preceding day, and, in each case, such

interest added to the principal balance of this Note shall bear interest in accordance with the first sentence of this Section 1(b). All amounts of accrued interest added to the principal balance of this Note in accordance with the immediately preceding sentence shall be deemed to no longer constitute accrued and unpaid interest under this Note and shall be deemed to instead constitute principal of this Note. Any accrued and unpaid interest as of the date that payment in full of the principal of this Note is due (or, if earlier, the date upon which Maker pays in full the principal of this Note) shall also be due and payable on such date.

1(c) Limitation on Liability of Maker.

Notwithstanding any other provision of this Note to the contrary, Maker will have no obligation to make any payment under this Note at any time that Maker's surplus as regards policyholders, as reflected on its statutory financial statements (its "Surplus"), is less than \$100,000,000, or such higher amount as determined by the OCI pursuant to a prescribed accounting practice, (the "Surplus Amount"), or to the extent that such payment would result in Maker's Surplus being less than the Surplus Amount, *it being understood that* any principal payment deferred as a result of the foregoing shall, unless otherwise agreed by Payee, be due and payable (together with accrued and unpaid interest thereon at the rate provided in clause 1(b) above, accrued through but excluding the date of payment) at such time as the payment thereof would not result in Maker's Surplus being less than the Surplus Amount.

1(d) Prepayments; Application of Payments.

In addition to the prepayments required pursuant to Section 1(a) hereof, Maker may at its option prepay the principal amount of this Note in whole or in part at any time without premium or penalty. Such optional prepayments shall be applied to such amounts as shall be directed by Maker.

## 2. SECURITY

2(a) Grant of Security Interest.

For value received and as collateral security for the Secured Indebtedness (as defined below), Maker hereby grants to Payee a security interest, lien and mortgage in and to, and agrees and acknowledges that Payee has, and shall continue to have, a security interest, lien and mortgage in and to, Maker's right, title and interest in each of the following assets, wherever located, however arising or created and whether now owned or existing or hereafter arising, created or acquired (collectively, the "Collateral"):

- (i) installment premiums received in respect of the Covered Policies;
- (ii) reinsurance premiums received in respect of assumed reinsurance agreements with respect to which the liabilities of Maker have been allocated to the Payee;
- (iii) recoveries under third party reinsurance agreements in respect of the Covered Policies;



(iv) any recoveries arising from remediation efforts or reimbursement or collection rights with respect to policies allocated to the Segregated Account;

(v) all assets evidencing and rights relating to any of the foregoing, whether in the form of instruments, general intangibles, investment property or otherwise; and

(vi) all identifiable products and proceeds of any of the property described above in any form.

2(b) Indebtedness Secured.

The security interest granted herein is granted to secure the payment and performance of (collectively, the "**Secured Indebtedness**"):

(i) any and all indebtedness, obligations and liabilities of Maker to Payee arising in connection with, or evidenced by, this Note, together with all documents evidencing and/or securing such indebtedness, obligations and/or liabilities, whether now existing or hereafter arising, whether direct or indirect, absolute or contingent, due or not due, liquidated or unliquidated, and together with all interest thereon, including all renewals, extensions and modifications of the foregoing or any part thereof;

(ii) any and all indebtedness, obligations and liabilities of Maker to Payee pursuant to the Reinsurance Agreement, whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising under or in respect of the Reinsurance Agreement, including all renewals, extensions and modifications of the foregoing or any part thereof; and

(iii) all costs and expenses incurred by Payee to obtain, preserve, perfect and enforce the security interest granted hereby and all other liens and security interests securing payment of the Secured Indebtedness and to maintain, preserve and collect the Collateral, including, without limitation, taxes, assessments and reasonable attorneys' fees and legal expenses.

2(c) Collection and Enforcement of Collateral; Power of Attorney.

Payee shall have the right, but not the obligation, in its sole and absolute discretion, to enforce and collect any Collateral (including, without limitation, by the commencement of legal claims or proceedings) if Maker shall not have commenced enforcement or collection efforts acceptable to Payee with respect to the applicable Collateral within ten (10) business days after the applicable obligor's default under the applicable Collateral. In furtherance of the foregoing, Payee may in its sole and absolute discretion, at any time after such failure to act by Maker exercise such enforcement and collection rights of Maker in such Collateral, and Maker hereby irrevocably appoints Payee, with full power of substitution, its attorney-in-fact for such purposes with full irrevocable power and authority in the place and stead of Maker and in the name of Maker or in its own name, from time to time in Payee's sole and absolute discretion, to pursue and exercise such rights in respect of such Collateral. Maker hereby confirms and ratifies all that Payee shall lawfully do or cause to be done by virtue of this

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Section. This power of attorney is a power coupled with an interest and shall be irrevocable. Payee shall not be liable for any act or omission on the part of Payee, its officers, agents or other representatives in connection with exercising the rights granted hereunder. Maker hereby acknowledges and agrees that Payee shall have no fiduciary duties to Maker and Maker hereby waives any claims to the rights of a beneficiary or a fiduciary relationship hereunder. The powers conferred on Payee hereunder are solely to protect the interests of Payee in Collateral and shall not impose any duty upon Payee to exercise any such powers. Notwithstanding the foregoing, any proceeds from Payee's exercise of the enforcement and collection rights of Maker pursuant to this paragraph shall remain the property of Maker, shall be held in trust for the benefit of Maker, and shall be turned over to Maker promptly.

2(d) Collateral Documentation.

Maker agrees to execute and deliver such agreements, instruments and other documents, and take such actions, as are necessary and/or reasonably requested by Payee to protect, perfect and maintain the perfection of Payee's security interest in the Collateral, and hereby authorizes Payee to file any Uniform Commercial Code financing statement or other document in furtherance thereof. Without in any way limiting the right, power or authority of Payee under the Uniform Commercial Code or other Applicable Law (as defined below), Maker hereby irrevocably authorizes Payee in its sole and absolute discretion, at any time and from time to time, to file without the review or approval of Maker any and all financing statements, modifications and continuations in respect of the Collateral and Maker and/or the transactions contemplated by this Note and/or any related agreement, instrument or other document to which Maker is or will be a party, by which it is or will be bound or to which any of its property is or will be subject (collectively, with this Note and the Reinsurance Agreement, the "**Transaction Documents**") in such jurisdictions as Payee deems necessary or desirable.

2(e) Remedies.

In addition to the rights and remedies provided under this Note and/or any other Transaction Document, Payee shall have all of the rights and remedies of a secured party under the Uniform Commercial Code with respect to the Collateral.

**3. REPRESENTATIONS AND WARRANTIES**

Maker hereby represents and warrants to Payee as follows:

3(a) Organization, Powers, etc.

Maker: (i) is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization; (ii) has the power and authority to carry on its business as now conducted; (iii) is duly qualified, licensed or registered to transact its business in every jurisdiction where such qualification, licensure or registration is necessary; and (iv) has the power and authority to execute and deliver this Note and each other Transaction Document and to perform all of its obligations hereunder and thereunder.

3(b) Authorization, Conflicts and Validity.

The execution and delivery by Maker of this Note and each of the other Transaction Documents and the performance by Maker of all of its obligations hereunder and thereunder: (i) have been duly authorized by all requisite entity action; (ii) will not in any material respect violate or be in conflict with any term or provision of (A) any applicable law, including, without limitation, any applicable: (1) federal, state, territorial, county, municipal or other governmental or quasi-governmental law, statute, ordinance, rule, regulation, requirement or restriction; or (2) judicial, administrative, regulatory or other governmental, quasi-governmental or regulatory order, injunction, writ, judgment, decree or ruling binding upon Maker; in each case (x) whether domestic or foreign or (y) whether at law, in equity, in rem or otherwise (collectively, "**Applicable Law**") or (B) any of Maker's organizational documents; and (iii) except as specifically contemplated by this Note or any other Transaction Document, will not result in the creation or imposition of any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge or other security interest or other security agreement or preferential arrangement of any kind or nature whatsoever (each, a "**Lien**") upon any of its assets and properties other than: (a) Liens for taxes, assessments and governmental charges or levies which are not delinquent for more than ninety (90) days or remain payable without penalty; or (b) Liens imposed by law, such as materialmen's, mechanics', carriers', workmens' and repairmen's Liens and other similar Liens arising in the ordinary course of business securing obligations that are not overdue for a period of more than sixty (60) days; or (c) pledges or deposits to secure obligations under workers' compensation laws or similar legislation or to secure public or statutory obligations.

3(c) Consents, etc.

Except as already obtained and in effect, no consent, approval or authorization of, or registration, declaration or filing with, any governmental or regulatory authority or other person is required as a condition to or in connection with the due and valid execution, delivery and performance by Maker of this Note or any other Transaction Document or the legality, validity, binding effect or enforceability of any of their respective representations, warranties, covenants and other terms and provisions.

3(d) Legal and Enforceable Agreements.

This Note is, and each of the other Transaction Documents when executed and delivered will be, legal, valid and binding obligations of Maker, enforceable in accordance with their respective terms and provisions.

3(e) Document Delivery; Absence of Defaults and Certain Agreements.

Except as disclosed in writing to Payee prior to the date hereof, no act or event has occurred and is continuing that violates, is in conflict with, results in a breach of or constitutes a default (with or without the giving of notice or the passage of time or both) under any term or provision of (A) this Note and/or any other Transaction Document, (B) any agreement, contract or instrument to which Maker is a party, by which Maker is bound or to

which any substantial portion of Maker's property is subject, in each case the loss of which would have a material adverse effect on Maker (each a "**Material Agreement**"), or (C) any of Maker's organizational documents.

3(f) Compliance with Applicable Law.

Maker is in compliance in all material respects with and conforms in all material respects to all Applicable Law, the failure to comply with which would have a material adverse effect on Maker.

3(g) Assets and Collateral.

Maker is the holder and legal and beneficial owner of, and has good title to, the Collateral. Maker has full power and authority and the unconditional right to grant to Payee the security interests respecting the Collateral contemplated by this Note and/or the other Transaction Documents. Payee has received legal, valid, binding, enforceable and perfected security interests in and to the Collateral pursuant to this Note and the other Transaction Documents. No part of the Collateral is subject to any Lien or any adverse claim of any kind whatsoever, except those in favor of Payee.

#### 4. **AFFIRMATIVE COVENANTS**

Maker hereby covenants and agrees with Payee as follows at all times until the indefeasible payment in full of all of the Secured Indebtedness:

4(a) Required Notices.

Maker will give, or cause to be given, prompt written notice to Payee of:

- (i) any change in the name or the jurisdiction of organization of Maker;
- (ii) receipt of actual knowledge of the institution or threat of, or any adverse determination in, any action, suit, investigation or proceeding at law, in equity, in arbitration or by or before any other authority involving or affecting Maker which Maker reasonably believes, if adversely determined, is reasonably likely to have a material and adverse effect upon Maker's ability to (A) make payment as and when due of all or any material part of its obligations hereunder, (B) perform in any material respect its obligations under any Material Agreement and/or (C) perform in any material respect any of the transactions contemplated by this Note and/or any of the other Transaction Documents (a "**Material Adverse Effect**");
- (iii) receipt of actual knowledge of the occurrence of any act or event that violates, is in conflict with, results in a breach in any material respect of, or constitutes a material default (with or without the giving of notice or the passage of time or both) under, any of Maker's organizational documents or any Material Agreement;

(iv) receipt of actual knowledge of any attachment, confiscation, detention, levy, requisition, seizure or other taking of any material part of the Collateral, whether through process of law or otherwise, or the filing or other imposition of any Lien against any part of the Collateral (other than any Lien of Payee); or

(v) receipt of actual knowledge of the occurrence of any act or event that Maker reasonably believes has had or is reasonably likely to have a Material Adverse Effect.

4(b) Accounts and Reports.

Maker shall provide to Payee the following:

(i) promptly following execution, copies of all loan, security and other instruments, agreements and documents respecting indebtedness for borrowed money of Maker in excess of \$5,000,000, including commitments, lines of credit and other credit availabilities, and of all guarantees by Maker respecting any indebtedness or other obligation of any other person in excess of \$5,000,000, except those to which Payee also is a party;

(ii) as soon as available, notice of any acceleration and/or foreclosure of any part of its assets and properties as a result of any default under indebtedness for borrowed money of Maker or any of its subsidiaries in excess of \$5,000,000;

(iii) as soon as available, and in any event not more than ten (10) business days after actual receipt, a copy of any summons or complaint, or any other notice of any action, suit, investigation or proceeding, involving or affecting Maker or any of its subsidiaries where the damages sought exceed, or if unspecified are reasonably likely to exceed, \$5,000,000; and

(iv) as soon as available, and in any event not less than five (5) business days prior to adoption, copies of each proposed modification, waiver, amendment or termination of any of the terms and provisions of any of the organizational documents of Maker;

together with such supplements to the aforementioned documents and additional accounts, reports, certificates, statements, documents and information as Payee from time to time may reasonably request, each in such form and substance as may be reasonably acceptable to Payee.

4(c) Access to Premises, Records and Collateral.

At all reasonable times and upon reasonable notice and as often as Payee reasonably may request, Maker shall permit representatives designated by Payee to (i) have complete and unrestricted access to the premises of Maker, the books and records of Maker and the Collateral, (ii) make copies of, or excerpts from, those books and records and (iii) discuss the Collateral or the accounts, assets, business, operations, properties or condition, financial or otherwise, of Maker with its officers, directors, employees, accountants, attorneys and agents.

Payee shall treat as “confidential information” any information or documents provided by Maker to, or obtained by, Payee, pursuant to this paragraph. Payee agrees not to disclose or allow disclosure of confidential information to any person provided that Payee may make such disclosure (i) to its officers, employees, staff members, auditors, attorneys and other professional advisors (collectively, “**Representatives**”), in each case only to the extent such persons need to know the information so disclosed, and provided that such party shall have informed each such Representative of the confidential nature of such information; (ii) to the extent required by applicable law, rule or regulation; (iii) in connection with any action to enforce this Note or any provision of this Note or in connection with any proceeding, including steps leading to a potential proceeding, that might involve this Note or any provision of this Note, and (iv) to the extent such information shall be in the public domain without breach by any party of its obligation hereunder.

4(d) Existence, Powers, etc.

(i) Maker shall do, or cause to be done, all things that may be necessary (A) to maintain its due organization, valid existence and good standing under the laws of its jurisdiction of incorporation, and (B) to preserve and keep in full force and effect all qualifications, licenses and registrations in those jurisdictions in which the failure to do would have a Material Adverse Effect.

(ii) Maker shall not cause, suffer to exist or permit any supplement, modification or amendment to, or any waiver of any term or provision of, any of its organizational documents which would have a Material Adverse Effect.

(iii) Maker shall not, and shall not cause, without Payee’s prior written consent, any action (with respect to itself or otherwise), or offer, commit or enter into any agreement or arrangement, that would in any material respect restrict, limit, make subject to third-party approval or otherwise impair its right, power or authority (A) to carry on its business in all material respects as now conducted or (B) to execute or deliver this Note or any other Transaction Document or any supplement, modification or amendment thereto or restatement or replacement thereof from time to time or (C) to perform any of its obligations hereunder or thereunder.

4(e) Compliance with Applicable Law.

Maker shall comply with any and all Applicable Law now or hereafter in effect in all material respects to the extent the failure to so comply shall have a Material Adverse Effect.

4(f) Preservation and Defense of Collateral, etc.

Maker shall maintain, enforce, preserve and defend on a timely basis all of the right, title and interest of Maker and Payee in and to the Collateral.

## 5. NEGATIVE COVENANTS

Maker hereby covenants and agrees with Payee as follows at all times until the indefeasible payment in full of all of the Secured Indebtedness:

### 5(a) Investments.

Maker shall not, directly or indirectly through one or more subsidiaries, make any investments that do not comply with Maker's investment guidelines and policies in effect from time to time (the "**Investments Policy**"), and shall not amend, restate, revise, supplement or otherwise modify the Investments Policy in any manner that would have a Material Adverse Effect without Payee's prior written consent, such consent not to be unreasonably withheld or delayed.

### 5(b) Distributions to Shareholders.

Maker shall not directly or indirectly, without Rehabilitator and OCI approval:

(i) declare or make any dividend, payment or other distribution of cash, assets or property with respect to any equity securities issued by Maker, whether now or hereafter outstanding;

(ii) redeem, purchase or otherwise acquire any securities issued by Maker or any option or other right to acquire any such securities;

(iii) covenant or otherwise arrange with any person (other than Payee) to directly or indirectly limit or otherwise restrict any dividend, advance or other payment or distribution (whether of cash or otherwise) to or for the benefit of Maker; or

(iv) offer, commit or agree to do any of the foregoing.

### 5(c) Transaction Limitations.

Maker shall not, without Payee's prior written consent (such consent not to be unreasonably withheld or delayed), directly or indirectly, enter into any transaction with, or use any asset or property of, any third party (including any affiliate, but excluding Payee), other than pursuant to the reasonable requirements of the business of Maker and which Maker reasonably believes are fair and reasonable terms and provisions. For the avoidance of doubt, "transaction" as used in this Section shall include, without limitation:

(i) the creation, incurrence, assumption, increase, renewal or extension of any indebtedness for borrowed money, however evidenced;

(ii) the creation, incurrence or assumption of any Lien of any nature in, to or against any asset or property;

(iii) the sale, transfer, exchange, abandonment or other disposition of any asset or property;

(iv) the purchase or acquisition of any equity interest, including any membership interest in a limit liability company or partnership interest in a private company;

(v) any issuance, sale, transfer, pledge or other disposition or encumbrance of any capital stock, partnership or membership interests or other equity interests issued by Maker or any of its subsidiaries, or the issuance of any option, warrant or other right to acquire any such securities;

(vi) any capital reorganization or reclassification of the capital stock, partnership or membership interests or other equity interests issued by Maker or any of its subsidiaries;

(vii) any transaction in which the capital stock, partnership or membership interests or other equity interests issued by Maker or any of its subsidiaries prior to the transaction would be changed into or exchanged for different securities, whether of that or any other person, or for any other assets or properties;

(viii) any sale, lease, assignment, conveyance, spin-off or other transfer or disposition of all or any material part of the business or assets and properties of Maker or any of its subsidiaries;

(ix) any merger, consolidation, dissolution, liquidation or winding up of Maker or any of its subsidiaries;

(x) the acquisition or establishment of any new subsidiary or joint venture by Maker or any of its subsidiaries; and

(xi) the acquisition by Maker or any of its subsidiaries of all or substantially all of the assets and properties of any other person or any discrete division or other business unit thereof.

## 6. REMEDIES

The occurrence and continuation of any of the following shall constitute an **“Event of Default”** under this Note:

(a) Maker shall fail to pay any principal of this Note when the same shall be due and payable or, within five (5) business days after when due and payable, any other amount due and payable hereunder or under any other Transaction Document;

(b) Any representation or warranty made by Maker herein or in any other Transaction Document or which is contained in any certificate furnished by Maker at any



time under or in connection with this Note shall prove to have been incorrect in any material respect when made or deemed made; or

(c) Maker shall fail to perform or observe any term, covenant or agreement contained in Section 5 of this Note on its part to be performed or observed; or Maker shall fail to perform or observe any other term, covenant or agreement contained in this Note or the Reinsurance Agreement on its part to be performed or observed if such failure shall remain unremedied for forty-five days after written notice thereof shall have been received by Maker and, in each case, such failure to perform or observe as contemplated in this subparagraph (c) shall have a Material Adverse Effect.

At any time after an Event of Default shall have occurred and be continuing, Payee shall be entitled to: (i) declare all principal, interest and other amounts outstanding hereunder to be immediately due and payable, and (ii) exercise or enforce any one or more of Payee's rights, powers, privileges, remedies and interests under this Note and/or the other Transaction Documents and Applicable Law (including, without limitation, with respect to the Collateral).

Notwithstanding anything herein to the contrary, no action taken or proposed to be taken under, in connection with or pursuant to the Plan of Operation or Plan of Rehabilitation shall be deemed to be an Event of Default.

## **7. WAIVERS**

Except as herein provided, Maker (a) forever waives presentment, protest and demand, notice of protest, demand and dishonor and non-payment of this Note, and all other notices in connection with the delivery, acceptance, performance, default or enforcement of the payment of this Note; and (b) agrees that time is of the essence with respect to the payment of the obligations hereunder, provided that the time of payment of the obligations hereunder or any part thereof may be extended from time to time without modifying or releasing the liability of Maker, the right of recourse against Maker being hereby reserved by Payee. It is expressly agreed by Maker that no extensions of time for the payment of this Note, nor the failure on the part of Payee to exercise any of its rights hereunder, shall operate to release, discharge, modify, change or affect the original liability under this Note, either in whole or in part.

## **8. NO WAIVER OF IMMUNITY**

Nothing in this Note may be construed as waiving immunity, or as subjecting the Rehabilitator or OCI, or the Rehabilitator's or OCI's employees or agents, to liability, including contractual liability, for matters that are otherwise subject to immunity from liability, including immunity under Wis. Stat. § 645.08(2).

## **9. GOVERNING LAW; SEVERABILITY**

Maker agrees that this instrument and the rights and obligations of all parties hereunder shall be governed by and construed under the internal laws of the State of Wisconsin (without giving effect to conflict of law principles that provide for the application of the laws of

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another jurisdiction). If any provision of this Note shall be illegal or unenforceable, such provision shall be deemed canceled to the same extent as though it had never appeared herein, but the remaining provisions shall not be affected thereby.

## **10. NOTICES**

All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing (including by facsimile or e-mail), and shall be deemed to have been duly given or made when received, addressed as follows (or to such other address, facsimile number or e-mail address) as the applicable party may specify to the other in accordance with this Section from time to time):

With respect to Maker:

Ambac Assurance Corporation  
One State Street Plaza  
New York, New York 10004  
Attention: General Counsel

With respect to Payee:

Rehabilitator of the Segregated Account of Ambac Assurance Corporation  
One State Street Plaza  
New York, New York 10004

with copies to:

Commissioner of Insurance  
Wisconsin Office of the Commissioner of Insurance  
125 South Webster Street  
Madison, Wisconsin 53703

Foley & Lardner LLP  
777 E. Wisconsin Ave  
Milwaukee, Wisconsin 53202  
Attn: Kevin G. Fitzgerald

## **11. SUCCESSORS AND ASSIGNS**

Neither Maker nor Payee shall assign any of its rights or obligations under this Note, and any such assignment (without the other party's prior written consent) shall be null and void. No party shall be a third party beneficiary of this Note.

## **12. WAIVER OF JURY TRIAL**

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MAKER AND PAYEE HEREBY JOINTLY AND SEVERALLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING RELATING TO THIS INSTRUMENT, THE OBLIGATIONS HEREUNDER, ANY COLLATERAL SECURING THE OBLIGATIONS HEREUNDER OR ANY TRANSACTION ARISING HEREFROM OR CONNECTED HERETO. EACH OF MAKER AND PAYEE REPRESENTS TO THE OTHER THAT THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY GIVEN.

### **13. LIMITATION OF LIABILITY**

Maker hereby waives any right it may now or hereafter have to claim or recover from Payee any consequential, exemplary or punitive damages.

### **14. EXPENSES; INDEMNITY**

Maker shall pay or reimburse Payee for (i) all reasonable costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) paid or incurred by Payee in connection with the negotiation, preparation, execution, delivery, administration and enforcement of this Note, each other Transaction Document and any other document required hereunder or thereunder, including, without limitation, any amendment, supplement, modification or waiver of or to any of the foregoing and (ii) all reasonable costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) paid or incurred by Payee before and after judgment in enforcing, protecting or preserving its rights under this Note, each other Transaction Document and any other document required hereunder or thereunder, including, without limitation, the enforcement of rights against, or realization on, any collateral or security therefor or in defending against any claim made against Payee by Maker or any third party as a result of or in any way relating to any matter referred to above in this Section. The foregoing agreements and indemnities shall remain operative and in full force and effect regardless of termination of this Note and/or any other Transaction Document, the consummation of or failure to consummate either the transactions contemplated by this Note and/or any other Transaction Document or any amendment, supplement, modification or waiver, the repayment of any loan made hereunder, the invalidity or unenforceability of any term or provision of this Note or any other Transaction Document or any other document required hereunder or thereunder, any investigation made by or on behalf of Payee or the content or accuracy of any representation or warranty made under this Note, any other Transaction Document or any other document required hereunder or thereunder.

### **15. CONSENT TO JURISDICTION**

Maker hereby consents to the jurisdiction of the state court in Wisconsin before which the rehabilitation proceedings with respect to the Payee are pending, and waives any objection based on lack of personal jurisdiction, improper venue or forum non conveniens, with regard to any actions, claims, disputes or proceedings relating to this Note, the Transaction Documents, or any other document delivered hereunder or in connection herewith, or any transaction arising from or connected to any of the foregoing.

## **16. FURTHER ASSURANCES**

Maker agrees to do such further acts and things and to execute and deliver such statements, assignments, agreements, instruments and other documents as Payee from time to time may reasonably request in connection with the administration, maintenance, enforcement or adjudication of this Note and the other Transaction Documents, including, without limitation, in order to (a) evidence, confirm, perfect or protect any security interest or other Lien granted or required to have been granted under this Note and the other Transaction Documents, (b) give Payee or its designee confirmation and assurance of Payee's rights, powers, privileges, remedies and interests under this Note and the other Transaction Documents or (c) otherwise effectuate the purpose and the terms and provisions of this Note and the other Transaction Documents, each in such form and substance as may be reasonably acceptable to Payee.

## **17. ENTIRE AGREEMENT**

This Note and the other documents referred to herein contain the entire agreement between Maker and Payee with respect to the subject matter hereof, superseding all previous communications and negotiations, and no representation, undertaking, promise or condition concerning the subject matter hereof shall be binding upon Payee unless clearly expressed in this Note or in the other documents referred to herein.

## **18. MODIFICATION, AMENDMENT, ETC.**

Each and every supplement or amendment to or modification or restatement of this Note or any other Transaction Document shall be in writing and signed by all of the parties hereto or the respective parties thereto, as the case may be, and each and every waiver of, or consent to any departure from, any representation, warranty, covenant or other term or provision of this Note or any other Transaction Document shall be in writing and signed by each of the parties hereto or thereto, respectively.

## **19. SETOFF**

In addition to any rights and remedies of Payee provided hereunder and/or by Applicable Law, Payee shall have the right, without prior notice to Maker, any such notice being expressly waived by Maker to the extent permitted by Applicable Law, upon any amount becoming due and payable by Maker hereunder (whether at the stated maturity, by acceleration or otherwise), to set off and appropriate and apply against such amount any and all deposits and any other credits, indebtedness or claims, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by Payee to or for the credit or the account of Maker.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned have signed below as of the date first set forth above.

**AMBAC ASSURANCE CORPORATION (“Maker”)**

By: \_\_\_\_\_  
Name:  
Title:

**SEGREGATED ACCOUNT OF AMBAC  
ASSURANCE CORPORATION (“Payee”)**

By: \_\_\_\_\_  
Name:  
Title:

# **EXHIBIT H**

## AGGREGATE EXCESS OF LOSS REINSURANCE AGREEMENT

This AGGREGATE EXCESS OF LOSS REINSURANCE AGREEMENT (this "Agreement"), dated as of March 24, 2010, is entered into by and between the Segregated Account of Ambac Assurance Corporation, a segregated account of Ambac Assurance Corporation established as of March 24, 2010 ("Ceding Company"), as ceding company, and Ambac Assurance Corporation, a Wisconsin domiciled financial guaranty insurance corporation ("Reinsurer"), as reinsurer.

### RECITALS

WHEREAS, the Reinsurer has established the Ceding Company pursuant to Section 611.24(2) of the Wisconsin Statutes with the approval of the Wisconsin Office of the Commissioner of Insurance ("OCI") and in accordance with the Plan of Operation for the Segregated Account of Ambac Assurance Corporation adopted by the Board of Directors of the Reinsurer, as amended from time to time (the "Plan of Operation");

WHEREAS, in conjunction with the establishment of the Ceding Company, the Reinsurer allocated to the Ceding Company certain insurance policy liabilities, as more fully described in the Plan of Operation (the "Covered Policies");

WHEREAS, in order to support the liabilities associated with the Covered Policies, the Reinsurer has issued a Secured Note to the Ceding Company, pursuant to which the Reinsurer, as Maker, agrees to pay to the Ceding Company, as Payee the amount of outstanding principal necessary in order for the Ceding Company to satisfy current cash claim payments and other obligations, as more fully set forth therein (as amended, restated, supplemented or otherwise modified from time to time, the "Secured Note");

WHEREAS, in order to continue to support the liabilities associated with the Covered Policies upon payment in full of all principal under the Secured Note, the Reinsurer has agreed to reinsure the liability of the Ceding Company under the Covered Policies pursuant to the terms of this Agreement;

WHEREAS, the Ceding Company will be the subject of an order for rehabilitation under Chapter 645 of the Wisconsin Statutes (the "Proceeding"), whereupon the rehabilitator of the Ceding Company under the Proceeding (the "Rehabilitator") will assume control of the management of the Ceding Company, and conduct the business of the Ceding Company in accordance with a Plan of Rehabilitation to be approved by the rehabilitation court pursuant to Section 645.33(5) of the Wisconsin Statutes (the "Plan of Rehabilitation"). At all times while the Ceding Company is subject to the Proceeding, the term "Ceding Company" as used herein shall be deemed to include, and Ceding Company shall act exclusively through, the Rehabilitator, or his or her designee.

**NOW, THEREFORE**, in consideration of the mutual and several promises and undertakings herein contained, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

## ARTICLE I

### EXCESS LOSS COVERAGE

Section 1.01. Business Covered. This Agreement shall cover all Covered Policies.

Section 1.02. Finite Aggregate Coverage. Reinsurer shall provide payments to the Ceding Company, at the times specified in Section 1.05(b) of this Agreement, in an amount equal to (A) the cash portion of claim liabilities (including associated loss adjustment expenses) due and payable by the Ceding Company under Covered Policies ("Cash Claim Payments"), cash amounts due and payable under loss settlements ("Loss Settlements"), cash amounts due and payable by the Ceding Company for the commutation or purchase of Covered Policies or the obligations insured thereby ("Commutation Payments"), and any cash interest payment and cash principal repayment under any Surplus Notes (as defined below) issued by the Ceding Company in connection with any of the foregoing ("Surplus Note Payments"), provided that in each case, such amounts due and payable are in accordance with the Plan of Rehabilitation and not otherwise disapproved by the Rehabilitator plus (B) any other Cash Claim Payments, Loss Settlements, Commutation Payments or Surplus Note Payments directed or ordered to be paid by the Rehabilitator in conjunction with the Proceeding minus (C) the amount, as calculated by the Ceding Company, of the Ceding Company's liquid assets available to pay such claims or other obligations at such time (the "Liquid Asset Amount"). For greater certainty, to the extent that the Ceding Company issues surplus or contribution notes ("Surplus Notes"), in lieu of cash, in connection with any of the foregoing Loss Settlements or Commutation Payments, then the Reinsurer shall not be required to pay or reimburse the Ceding Company therefor unless and until (and to the extent that) a cash interest payment or a cash principal payment under such Surplus Note is authorized for payment by the Rehabilitator in accordance with the Plan of Rehabilitation.

Section 1.03. Finite Aggregate Coverage Attachment Point. Notwithstanding any other provision of this Agreement to the contrary, the coverage afforded under this Agreement shall only attach after all principal under the Secured Note has been paid by the Reinsurer.

Section 1.04. Finite Aggregate Coverage Limit. Notwithstanding any other provision of this Agreement to the contrary, Reinsurer will have no obligation to make any payment under this Agreement at any time that Reinsurer's surplus as regards policyholders, as reflected on its statutory financial statements (its "Surplus") is less than \$100,000,000, or such higher amount as determined by OCI pursuant to a prescribed accounting practice (the "Surplus Amount"), or to the extent that such payment would result in Reinsurer's Surplus being less than the Surplus Amount, it being understood that any payment deferred as a result of the foregoing shall be due and payable at such time as the payment thereof would not result in Reinsurer's Surplus being less than the Surplus Amount.

Section 1.05. Reports and Remittances.

- (a) Within ten (10) days following the end of each calendar month after the Effective Date, the Ceding Company will render an account to the Reinsurer (the "Monthly



Account”) setting forth in reasonable detail (including without limitation evidence reasonably satisfactory to the Reinsurer of the authorization for such amount or payment pursuant to the Plan of Rehabilitation) the following information in respect of such month: (a) Cash Claim Payments; (b) Loss Settlements; (c) Commutation Payments, (d) Surplus Note Payments, (e) the Liquid Asset Amount, (f) the amount due from the Reinsurer under the Secured Note and (g) the amount due from the Reinsurer under this Agreement. In addition to the foregoing, the Ceding Company shall deliver to the Reinsurer such other information as reasonably requested from time to time by the Reinsurer in order for the Reinsurer to prepare and complete its statutory financial statements and financial statements prepared in accordance with generally accepted accounting principles.

(b) The Reinsurer shall remit to the Ceding Company the amount due hereunder in respect of the applicable month within ten (10) business days after receipt of the Monthly Account. Notwithstanding the foregoing, if the Ceding Company reasonably determines it to be necessary, the Ceding Company shall be paid by special remittance within ten (10) business days following delivery to the Reinsurer of a special account, which shall be prepared by the Ceding Company and shall contain all relevant details in connection with amount to be so paid.

## ARTICLE II

### COMMENCEMENT; AMENDMENT

Section 2.01. Commencement. This Agreement shall become effective as of March 24, 2010 (the “Effective Date”) and shall remain in full force and effect until all obligations of the parties under this Agreement have been satisfied.

Section 2.02. Amendment. This Agreement may only be amended by written agreement of the Ceding Company and the Reinsurer.

## ARTICLE III

### SECURITY INTEREST

Section 3.01. Security Interest. Ceding Company and Reinsurer acknowledge and affirm Reinsurer’s grant to Ceding Company of a security interest, lien and mortgage in and to, and agree and acknowledge that Ceding Company has, and shall continue to have, a security interest, lien and mortgage in and to, Reinsurer’s right, title and interest in the Collateral (as defined in the Secured Note) to secure the payment and performance in full of all indebtedness, obligations and liabilities of the Reinsurer to the Ceding Company pursuant to this Agreement, whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising under or in respect of this Agreement, as fully set forth in the Secured Note.

## ARTICLE IV

### REINSURANCE FOLLOWS ORIGINAL POLICIES

Section 4.01. Follow the Fortunes. Except to the extent otherwise agreed between the Ceding Company and the Reinsurer in writing, all reinsurance under this Agreement shall be subject in all respects to the same rates, terms, conditions, waivers and interpretations, and to the same modifications, cancellations and alterations as the respective Covered Policies, except as modified by the Plan of Rehabilitation, the true intent of this Agreement being that the Reinsurer shall, in every case to which this Agreement applies, follow the fortunes of the Ceding Company; *provided, however*, that this Article shall not be construed to expand the liability of the Reinsurer beyond what is specifically assumed under this Agreement.

Section 4.02. Third Party Rights. Nothing herein shall in any manner create any obligations or establish any rights against the Reinsurer in favor of any Person not a party to this Agreement.

## ARTICLE V

### REPRESENTATIONS AND WARRANTIES

Reinsurer hereby represents and warrants to Ceding Company as follows:

Section 5.01. Organization, Powers, etc. Reinsurer: (i) is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization; (ii) has the power and authority to carry on its business as now conducted; (iii) is duly qualified, licensed or registered to transact its business in every jurisdiction where such qualification, licensure or registration is necessary; and (iv) has the power and authority to execute and deliver this Agreement and each other Transaction Document (as defined in the Secured Note) and to perform all of its obligations hereunder and thereunder.

Section 5.02. Authorization, Conflicts and Validity. The execution and delivery by Reinsurer of this Agreement and each of the other Transaction Documents (as defined in the Secured Note) and the performance by Reinsurer of all of its obligations hereunder and thereunder: (i) have been duly authorized by all requisite entity action; (ii) will not in any material respect violate or be in conflict with any term or provision of (A) any applicable law, including, without limitation, any applicable: (1) federal, state, territorial, county, municipal or other governmental or quasi-governmental law, statute, ordinance, rule, regulation, requirement or restriction; or (2) judicial, administrative, regulatory or other governmental, quasi-governmental or regulatory order, injunction, writ, judgment, decree or ruling binding upon Reinsurer; in each case (x) whether domestic or foreign or (y) whether at law, in equity, in rem or otherwise (collectively, "**Applicable Law**") or (B) any of Reinsurer's organizational documents; and (iii) except as specifically contemplated by this Agreement or any other Transaction Document (as defined in the Secured Note), will not result in the creation or imposition of any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge or other security interest or other security agreement or preferential arrangement of any kind or nature whatsoever (each, a "**Lien**") upon any of its assets and properties other than: (a) Liens for

taxes, assessments and governmental charges or levies which are not delinquent for more than ninety (90) days or remain payable without penalty; or (b) Liens imposed by law, such as materialmen's, mechanics', carriers', workmens' and repairmen's Liens and other similar Liens arising in the ordinary course of business securing obligations that are not overdue for a period of more than sixty (60) days; or (c) pledges or deposits to secure obligations under workers' compensation laws or similar legislation or to secure public or statutory obligations.

Section 5.03. Consents, etc. Except as already obtained and in effect, no consent, approval or authorization of, or registration, declaration or filing with, any governmental or regulatory authority or other person is required as a condition to or in connection with the due and valid execution, delivery and performance by Reinsurer of this Agreement or any other Transaction Document (as defined in the Secured Note) or the legality, validity, binding effect or enforceability of any of their respective representations, warranties, covenants and other terms and provisions.

Section 5.04. Legal and Enforceable Agreements. This Agreement is, and each of the other Transaction Documents (as defined in the Secured Note) when executed and delivered will be, legal, valid and binding obligations of Reinsurer, enforceable in accordance with their respective terms and provisions.

Section 5.05. Document Delivery; Absence of Defaults and Certain Agreements. Except as disclosed in writing to Ceding Company prior to the date hereof, no act or event has occurred and is continuing that violates, is in conflict with, results in a breach of or constitutes a default (with or without the giving of notice or the passage of time or both) under any term or provision of (A) this Agreement and/or any other Transaction Document (as defined in the Secured Note), (B) any agreement, contract or instrument to which Reinsurer is a party, by which Reinsurer is bound or to which any substantial portion of Reinsurer's property is subject, in each case the loss of which would have a material adverse effect on Reinsurer (each a "Material Agreement"), or (C) any of Reinsurer's organizational documents.

Section 5.06. Compliance with Applicable Law. Reinsurer is in compliance in all material respects with and conforms in all material respects to all Applicable Law, the failure to comply with which would have a material adverse effect on Reinsurer.

Section 5.07. Assets and Collateral. Reinsurer is the holder and legal and beneficial owner of, and has good title to, the Collateral. Reinsurer has full power and authority and the unconditional right to grant to Ceding Company the security interests respecting the Collateral contemplated by the Secured Note and/or the other Transaction Documents (as defined in the Secured Note). Ceding Company has received legal, valid, binding, enforceable and perfected security interests in and to the Collateral pursuant to the Secured Note and the other Transaction Documents (as defined in the Secured Note). No part of the Collateral is subject to any Lien or any adverse claim of any kind whatsoever, except those in favor of Ceding Company.

## ARTICLE VI

### AFFIRMATIVE COVENANTS

Ambac Assurance Corporation  
Aggregate Excess of Loss Reinsurance Agreement

Reinsurer hereby covenants and agrees with Ceding Company as follows at all times until the indefeasible payment in full of all of the Secured Indebtedness:

Section 6.01. Required Notices. Reinsurer will give, or cause to be given, prompt written notice to Ceding Company of:

- (a) any change in the name or the jurisdiction of organization of Reinsurer;
- (b) receipt of actual knowledge of the institution or threat of, or any adverse determination in, any action, suit, investigation or proceeding at law, in equity, in arbitration or by or before any other authority involving or affecting Reinsurer which Reinsurer reasonably believes, if adversely determined, is reasonably likely to have a material and adverse effect upon Reinsurer's ability to (A) make payment as and when due of all or any material part of its obligations hereunder, (B) perform in any material respect its obligations under any Material Agreement and/or (C) perform in any material respect any of the transactions contemplated by this Agreement and/or any of the other Transaction Documents (as defined in the Secured Note) (a "**Material Adverse Effect**");
- (c) receipt of actual knowledge of the occurrence of any act or event that violates, is in conflict with, results in a breach in any material respect of, or constitutes a material default (with or without the giving of notice or the passage of time or both) under, any of Reinsurer's organizational documents or any Material Agreement;
- (d) receipt of actual knowledge of any attachment, confiscation, detention, levy, requisition, seizure or other taking of any material part of the Collateral, whether through process of law or otherwise, or the filing or other imposition of any Lien against any part of the Collateral (other than any Lien of Ceding Company); or
- (e) receipt of actual knowledge of the occurrence of any act or event that Reinsurer reasonably believes has had or is reasonably likely to have a Material Adverse Effect.

Section 6.02. Accounts and Reports. Reinsurer shall provide to Ceding Company the following:

- (a) promptly following execution, copies of all loan, security and other instruments, agreements and documents respecting indebtedness for borrowed money of Reinsurer in excess of \$5,000,000, including commitments, lines of credit and other credit availabilities, and of all guarantees by Reinsurer respecting any indebtedness or other obligation of any other person in excess of \$5,000,000, except those to which Ceding Company also is a party;
- (b) as soon as available, notice of any acceleration and/or foreclosure of any part of its assets and properties as a result of any default under indebtedness for borrowed money of Reinsurer or any of its subsidiaries in excess of \$5,000,000;

(c) as soon as available, and in any event not more than ten (10) business days after actual receipt, a copy of any summons or complaint, or any other notice of any action, suit, investigation or proceeding, involving or affecting Reinsurer or any of its subsidiaries where the damages sought exceed, or if unspecified are reasonably likely to exceed, \$5,000,000; and

(d) as soon as available, and in any event not less than five (5) business days prior to adoption, copies of each proposed modification, waiver, amendment or termination of any of the terms and provisions of any of the organizational documents of Reinsurer;

together with such supplements to the aforementioned documents and additional accounts, reports, certificates, statements, documents and information as Ceding Company from time to time may reasonably request, each in such form and substance as may be reasonably acceptable to Ceding Company.

Section 6.03. Access to Premises, Records and Collateral. At all reasonable times and upon reasonable notice and as often as Ceding Company reasonably may request, Reinsurer shall permit representatives designated by Ceding Company to (i) have complete and unrestricted access to the premises of Reinsurer, the books and records of Reinsurer and the Collateral, (ii) make copies of, or excerpts from, those books and records and (iii) discuss the Collateral or the accounts, assets, business, operations, properties or condition, financial or otherwise, of Reinsurer with its officers, directors, employees, accountants, attorneys and agents. Ceding Company shall treat as “confidential information” any information or documents provided by Reinsurer to, or obtained by, Ceding Company, pursuant to this paragraph. Ceding Company agrees not to disclose or allow disclosure of confidential information to any person provided that Ceding Company may make such disclosure (i) to its officers, employees, staff members, auditors, attorneys and other professional advisors (collectively, “**Representatives**”), in each case only to the extent such persons need to know the information so disclosed, and provided that such party shall have informed each such Representative of the confidential nature of such information; (ii) to the extent required by applicable law, rule or regulation; (iii) in connection with any action to enforce this Agreement or any provision of this Agreement or in connection with any proceeding, including steps leading to a potential proceeding, that might involve this Agreement or any provision of this Agreement and (iv) to the extent such information shall be in the public domain without breach by any party of its obligation hereunder.

Section 6.04. Existence, Powers, etc.

(a) Reinsurer shall do, or cause to be done, all things that may be necessary (A) to maintain its due organization, valid existence and good standing under the laws of its jurisdiction of incorporation, and (B) to preserve and keep in full force and effect all qualifications, licenses and registrations in those jurisdictions in which the failure to do would have a Material Adverse Effect.

(b) Reinsurer shall not cause, suffer to exist or permit any supplement, modification or amendment to, or any waiver of any term or provision of, any of its organizational documents which would have a Material Adverse Effect.

(c) Reinsurer shall not, and shall not cause, without Ceding Company's prior written consent, any action (with respect to itself or otherwise), or offer, commit or enter into any agreement or arrangement, that would in any material respect restrict, limit, make subject to third-party approval or otherwise impair its right, power or authority (A) to carry on its business in all material respects as now conducted or (B) to execute or deliver this Agreement or any other Transaction Document (as defined in the Secured Note) or any supplement, modification or amendment thereto or restatement or replacement thereof from time to time or (C) to perform any of its obligations hereunder or thereunder.

Section 6.05. Compliance with Applicable Law. Reinsurer shall comply with any and all Applicable Law now or hereafter in effect in all material respects to the extent the failure to so comply shall have a Material Adverse Effect.

Section 6.06. Preservation and Defense of Collateral, etc. Reinsurer shall maintain, enforce, preserve and defend on a timely basis all of the right, title and interest of Reinsurer and Ceding Company in and to the Collateral.

## ARTICLE VII

### NEGATIVE COVENANTS

Reinsurer hereby covenants and agrees with Ceding Company as follows at all times until the indefeasible payment in full of all of the Secured Indebtedness:

Section 7.01. Investments. Reinsurer shall not, directly or indirectly through one or more subsidiaries, make any investments that do not comply with Reinsurer's investment guidelines and policies in effect from time to time (the "**Investments Policy**"), and shall not amend, restate, revise, supplement or otherwise modify the Investments Policy in any manner that would have a Material Adverse Effect without Ceding Company's prior written consent, such consent not to be unreasonably withheld or delayed.

Section 7.02. Distributions to Shareholders. Reinsurer shall not directly or indirectly, without Rehabilitator and OCI approval:

(a) declare or make any dividend, payment or other distribution of cash, assets or property with respect to any equity securities issued by Reinsurer, whether now or hereafter outstanding;

(b) redeem, purchase or otherwise acquire any securities issued by Reinsurer or any option or other right to acquire any such securities;

(c) covenant or otherwise arrange with any person (other than Ceding Company) to directly or indirectly limit or otherwise restrict any dividend, advance or other payment or distribution (whether of cash or otherwise) to or for the benefit of Reinsurer; or

(d) offer, commit or agree to do any of the foregoing.

Section 7.03. Transaction Limitations. Reinsurer shall not, without Ceding Company's prior written consent (such consent not to be unreasonably withheld or delayed), directly or indirectly, enter into any transaction with, or use any asset or property of, any third party (including any affiliate, but excluding Ceding Company), other than pursuant to the reasonable requirements of the business of Reinsurer and which Reinsurer reasonably believes are fair and reasonable terms and provisions. For the avoidance of doubt, "transaction" as used in this Section shall include, without limitation:

(a) the creation, incurrence, assumption, increase, renewal or extension of any indebtedness for borrowed money, however evidenced;

(b) the creation, incurrence or assumption of any Lien of any nature in, to or against any asset or property;

(c) the sale, transfer, exchange, abandonment or other disposition of any asset or property;

(d) the purchase or acquisition of any equity interest, including any membership interest in a limit liability company or partnership interest in a private company;

(e) any issuance, sale, transfer, pledge or other disposition or encumbrance of any capital stock, partnership or membership interests or other equity interests issued by Reinsurer or any of its subsidiaries, or the issuance of any option, warrant or other right to acquire any such securities;

(f) any capital reorganization or reclassification of the capital stock, partnership or membership interests or other equity interests issued by Reinsurer or any of its subsidiaries;

(g) any transaction in which the capital stock, partnership or membership interests or other equity interests issued by Reinsurer or any of its subsidiaries prior to the transaction would be changed into or exchanged for different securities, whether of that or any other person, or for any other assets or properties;

(h) any sale, lease, assignment, conveyance, spin-off or other transfer or disposition of all or any material part of the business or assets and properties of Reinsurer or any of its subsidiaries;

(i) any merger, consolidation, dissolution, liquidation or winding up of Reinsurer or any of its subsidiaries;

(j) the acquisition or establishment of any new subsidiary or joint venture by Reinsurer or any of its subsidiaries; and

(k) the acquisition by Reinsurer or any of its subsidiaries of all or substantially all of the assets and properties of any other person or any discrete division or other business unit thereof.

## **ARTICLE VIII**

### **INSOLVENCY OF THE CEDING COMPANY**

Section 8.01. Insolvency. In the event of the insolvency of the Ceding Company or of proceedings against the Ceding Company pursuant to Chapter 645 of the Wisconsin Insurance Code, payments due the Ceding Company on all reinsurance made, ceded, renewed or otherwise becoming effective under this Agreement shall be payable by Reinsurer directly to the Ceding Company or to its liquidator, receiver, or statutory successor on the basis of amounts authorized for payment in cash under the Covered Policies in accordance with the Plan of Rehabilitation, without diminution because of the insolvency of the Ceding Company (it being understood and agreed that the Reinsurer shall not be required to pay or reimburse the Ceding Company or its liquidator, receiver, or statutory successor for the issuance of Surplus Notes except as expressly set forth in Section 1.02 of this Agreement).

## **ARTICLE IX**

### **ERRORS AND OMISSIONS**

Section 9.01. Errors and Omissions. Any inadvertent act, delay, omission or error by either party will not relieve the other party of any liability which would have attached under this Agreement, provided that such act, delay, omission or error shall not impose any greater liability on the Reinsurer than would have attached hereunder if such act, delay, omission or error had not occurred, and is rectified promptly or reasonably upon discovery by the responsible party.

## **ARTICLE X**

### **STATUTORY FINANCIAL CREDIT; RESERVES**

Section 10.01. Statutory Financial Statement Credit. The Reinsurer shall take all steps necessary to comply with all applicable laws and regulations so as to permit the Ceding Company to obtain full credit for the reinsurance provided by this Agreement on its statutory financial statements in all applicable jurisdictions, including compliance with chp. Ins. 40 of the Wisconsin Administrative Code and Section 6906 of the New York Insurance Law. It is understood and agreed that any term or condition required by any such laws or regulations to be included in this Agreement for the Ceding Company to receive statutory financial statement credit for the



reinsurance provided by this Agreement shall be deemed to be incorporated in this Agreement, except that under no circumstances shall Reinsurer be liable to the Ceding Company for amounts in excess of the amount authorized for payment under the Covered Policies in accordance with the Plan of Rehabilitation.

Section 10.02. Reserves. Without limiting the provisions of Section 10.01, the Reinsurer shall maintain the reserves required to be established and maintained by the Ceding Company with respect to the Covered Policies reinsured hereunder under applicable law, except that under no circumstances shall Reinsurer be required to maintain reserves for amounts in excess of the amount authorized for payment under the Covered Policies in accordance with the Plan of Rehabilitation.

## ARTICLE XI

### MISCELLANEOUS

Section 11.01. No Waiver of Immunity. Nothing in this Agreement may be construed as waiving immunity, or as subjecting the Rehabilitator or OCI, or the Rehabilitator's or OCI's employees or agents, to liability, including contractual liability, for matters that are otherwise subject to immunity from liability, including immunity under Wis. Stat. § 645.08(2).

Section 11.02. Inspection of Records. Following the Effective Date, the Ceding Company shall allow the Reinsurer, upon reasonable prior notice and during regular business hours, through the Reinsurer's employees and representatives, the right to examine and make copies of any books and records of the Ceding Company and shall furnish the Reinsurer with such financial and reporting data and other information with respect to the Covered Policies, as the Reinsurer may from time to time request, for any business purpose (including, without limitation, in connection with the preparation of tax returns, regulatory filings and financial statements). The Ceding Company shall provide the Reinsurer will reasonable work space to permit the Ceding Company to conduct such examinations and shall make its management personnel available at reasonable times in connection with such examinations.

Section 11.03. Governing Law; Severability. The parties agree that this instrument and the rights and obligations of all parties hereunder shall be governed by and construed under the internal laws of the State of Wisconsin (without giving effect to conflict of law principles that provide for the application of the laws of another jurisdiction). If any provision of this Agreement shall be illegal or unenforceable, such provision shall be deemed canceled to the same extent as though it had never appeared herein, but the remaining provisions shall not be affected thereby.

Section 11.04. Consent to Jurisdiction. The Reinsurer hereby consents to the jurisdiction of the state court in Wisconsin before which the rehabilitation proceedings with respect to the Ceding Company are pending, and waives any objection based on lack of personal jurisdiction, improper venue or forum non conveniens, with regard to any actions, claims, disputes or proceedings relating to this Agreement or any other document delivered hereunder or in connection herewith, or any transaction arising from or connected to any of the foregoing.

Section 11.05. Notices. All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing (including by facsimile or e-mail), and shall be deemed to have been duly given or made when received, addressed as follows (or to such other address, facsimile number or e-mail address) as the applicable party may specify to the other in accordance with this Section from time to time):

to the Ceding Company:

Rehabilitator of the Segregated Account of Ambac Assurance Corporation  
One State Street Plaza  
New York, New York 10004

with copies to:

Commissioner of Insurance  
Wisconsin Office of the Commissioner of Insurance  
125 South Webster Street  
Madison, Wisconsin 53703

Foley & Lardner LLP  
777 E. Wisconsin Ave  
Milwaukee, Wisconsin 53202  
Attn: Kevin G. Fitzgerald

to the Reinsurer:

Ambac Assurance Corporation  
One State Street Plaza  
New York, New York 10004  
Attention: General Counsel

Section 11.06. Successors and Assigns. All rights, powers, privileges and immunities herein granted to Ceding Company shall extend to its successors and assigns and any other legal holder of this Agreement, with full right by Ceding Company to assign and/or sell same. Reinsurer shall not assign any of its obligations under this Agreement without the prior written consent of Ceding Company, which Ceding Company may withhold or condition in its sole and absolute discretion.

Section 11.07. Entire Agreement. This Agreement and the other documents referred to herein contain the entire agreement between Reinsurer and Ceding Company with respect to the subject matter hereof, superseding all previous communications and negotiations, and no representation, undertaking, promise or condition concerning the subject matter hereof shall be binding upon the parties unless clearly expressed in this Agreement or in the other documents referred to herein.

Section 11.08. Modification, Amendment, Etc. Each and every supplement or amendment to or modification or restatement of this Agreement shall be in writing and signed by the parties

hereto, and each and every waiver of, or consent to any departure from, any representation, warranty, covenant or other term or provision of this Agreement shall be in writing and signed by each of the parties hereto.

Section 11.09. Time of the Essence. The parties agree that time is of the essence with respect to all payments under this Agreement. No extension of time for performance of any payment obligation shall be deemed an extension of time for performance of any other payment obligation.

Section 11.10. Setoff. The Ceding Company may offset and recoup any balance or amount due from the Reinsurer to the Ceding Company under this Agreement.

Section 11.11. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument.

*[signatures appear on the following page]*

IN WITNESS WHEREOF, the undersigned have signed below as of the date first set forth above.

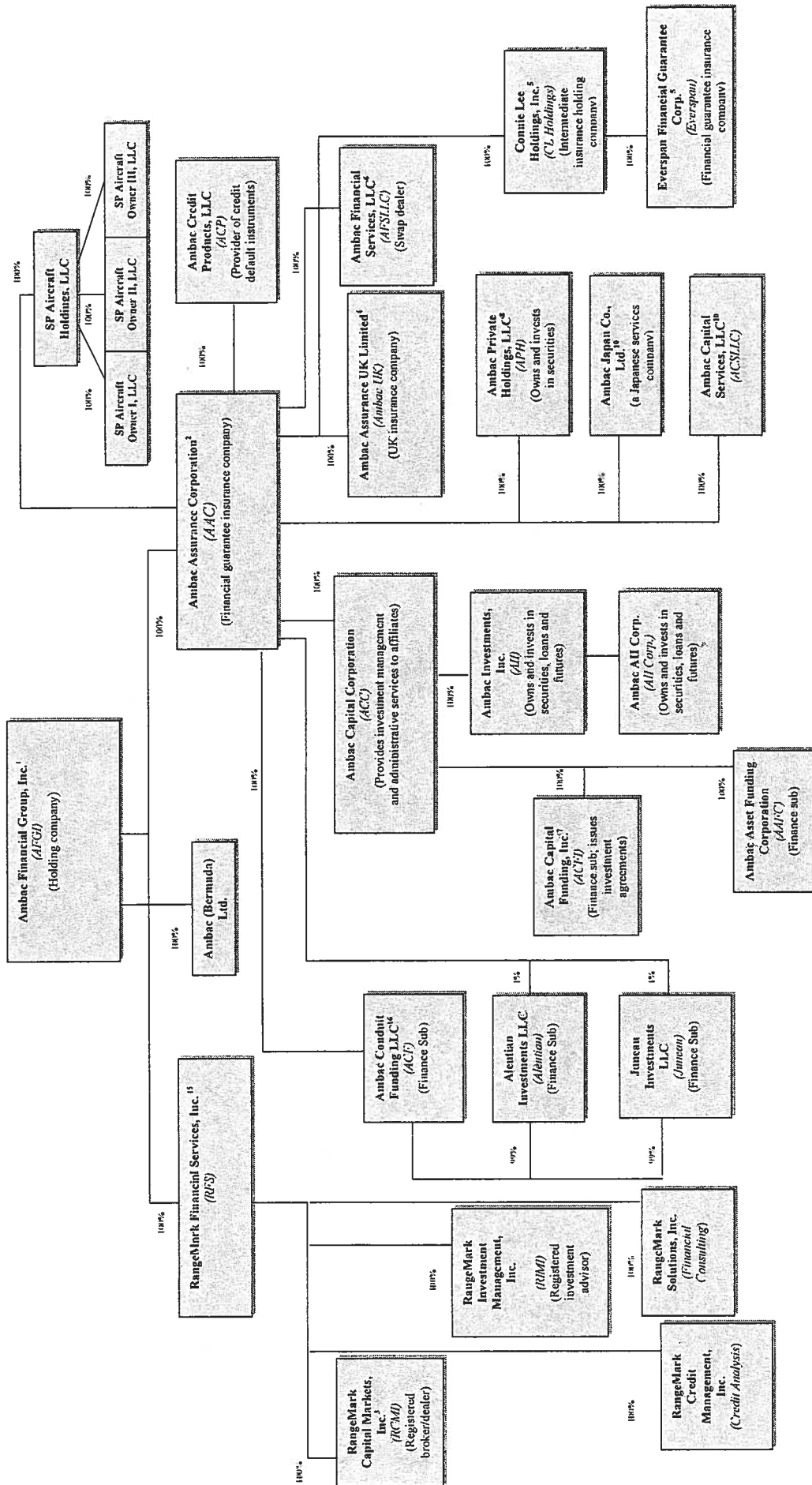
**AMBAC ASSURANCE CORPORATION**

By: \_\_\_\_\_  
Name:  
Title:

**SEGREGATED ACCOUNT OF AMBAC  
ASSURANCE CORPORATION**

By: \_\_\_\_\_  
Name:  
Title:

# **TAB 2**



## Notes

**Ambac Financial Group, Inc. and all of its affiliates are Delaware corporations except as follows: AAC and Everspan are Wisconsin stock insurance corporations; ACP, ACF, AFSLLC and APH are Delaware limited liability corporations; and Ambac UK is a UK company.**

**The address of Ambac UK is Level 7, 6 Broadgate, London EC2M 2QS, England. The address of all other entities listed is One State Street Plaza, New York, New York 10004.**

1. Prior to July 11, 1997, Ambac Financial Group, Inc. was called AMBAC Inc.
2. Prior to July 11, 1997, Ambac Assurance Corporation was called AMBAC Indemnity Corporation.
3. On June 19, 1997, AMBAC Securities Inc. ("*ASI*") acquired the assets of Cadre Securities, Inc., a New York corporation ("*Old Cadre Securities*"). Old Cadre Securities then changed its name to CX, Inc. and ASI changed its name to Cadre Securities, Inc. On April 1, 2002 Cadre Securities, Inc. changed its name to Ambac Securities, Inc. On February 13, 2004 PFMAM, Inc. acquired certain assets of Ambac Securities, Inc.
4. Ambac UK's application to the UK insurance regulators to transact an insurance business (*suretyship, credit and miscellaneous financial*) was granted on February 4, 1997. Ambac UK is also licensed to offer insurance into thirteen other European countries. On February 8, 1999, AMBAC Insurance UK Limited changed its name to Ambac Assurance UK Limited.
5. On December 18, 1997, AAC acquired, through the merger of AAC's subsidiary, Ambac Merger Sub, Inc., into Construction Loan Insurance Corporation ("*Construction Loan*"), all of the stock of CLIC, Connie Lee Management Services Corporation (*which was dissolved on August 18, 2000*) and Connie Lee Consulting Services, Inc. (*which was dissolved on February 3, 1998*). Construction Loan was then merged into another AAC subsidiary, CLIC Acquisition Corporation, which became the surviving corporation, and changed its name to Connie Lee Holdings, Inc. On September 24, 2008, Connie Lee Insurance Company filed with OCI to change its name to Everspan Financial Guarantee, Corp.
6. On December 30, 2003 Ambac Financial Services, L.P. ("*AFSLP*") changed its name to Ambac Financial Service, L.L.C. ("*AFSLLC*"). AFSLLC is a wholly owned subsidiary of AAC.
7. Ambac Capital Management, Inc. was merged into ACFI on September 28, 1999.
8. Ambac Private Holdings, LLC ("*APH*") is a wholly-owned subsidiary of AAC and was formed to make equity investments. APH is not permitted to issue debt to third parties or affiliates other than AAC.
9. Ambac Credit Products Limited ("*ACPL*") was authorized to engage in the investment business as a Category A investment firm on February 7, 2001 by the U.K. Securities and

Futures Authority Limited. On May 26, 2009, the Board of Directors of ACPL signed a resolution of formal dissolution.

10. Ambac Capital Services, LLC (“**ACS**”) is a limited liability corporation formed on March 5, 2002 and is wholly owned by AAC. ACS is a provider of total return swaps. Ambac Japan Co., Limited, a wholly-owned subsidiary of AAC, was created on September 30, 2001 and is a Japanese services company.
11. Ambac Securities Products, Inc. was dissolved on June 2, 2003.
12. Ambac Investment Management Inc. was dissolved on January 27, 2006.
13. Ambac Financial Products, Inc. was dissolved on December 14, 2005.
14. Ambac Financial Services Holdings, Inc. was dissolved on January 7, 2004.
15. Ambac Capital Holdings, Inc. was created on November 12, 2008. On the same date, Ambac Capital Corporation and its subsidiaries ACFI, ACF, and AAFC were dividended to AAC. AAC became the 100% sole shareholder of ACC and ACC remained the 100% sole shareholder of those subsidiaries that were carried over.
16. On March 19, 2010, Ambac Conduit Funding LLC, and its subsidiaries, Aleutian Investments, LLC and Juneau Investments, LLC, were dividended to AAC. AAC became the 100% sole shareholder of ACH.



# TAB 3

**AMBAC ASSURANCE CORPORATION**

**RESOLUTIONS OF THE BOARD OF DIRECTORS**

**March 24, 2010**

**WHEREAS**, Ambac Assurance Corporation (the "Corporation") and its advisors have been working closely with the Wisconsin Office of the Commissioner of Insurance ("OCI") and its advisors to develop a restructuring plan to address the Corporation's deteriorating financial position;

**WHEREAS**, in the context of such discussions, the Wisconsin Commissioner of Insurance (the "Commissioner") has requested, and the Board of Directors of Ambac Assurance Corporation (the "Board") deems it desirable and in the best interests of the Corporation, that the Corporation establish the Segregated Account of Ambac Assurance Corporation (the "Segregated Account") pursuant to Section 611.24(2) of the Wisconsin Statutes for the purpose of segregating certain segments of its liabilities, as more fully set forth in the Plan of Operation for the Segregated Account of Ambac Assurance Corporation (the "Plan of Operation");

**WHEREAS**, the Commissioner has further requested, and the Board deems it desirable and in the best interests of the Corporation, that the Corporation and the Segregated Account enter into that certain Secured Note and that certain Excess of Loss Reinsurance Agreement, each as contemplated by the Plan of Operation, for the purpose of providing an adequate amount of capital and surplus in the Segregated Account pursuant to Section 611.24(3)(a) of the Wisconsin Statutes and to provide fair consideration to the Segregated Account within the meaning of Section 645.03(d) of the Wisconsin Statutes;

**WHEREAS**, the Commissioner has further requested, and the Board deems it desirable and in the best interests of the Corporation, that the Corporation and the Segregated Account enter into that certain Management Services Agreement, as contemplated by the Plan of Operation, for the purpose of providing management services to the Segregated Account;

**WHEREAS**, the Commissioner has further requested, and the Board deems it desirable and in the best interests of the Corporation, that the Corporation and the Segregated Account enter into that certain Cooperation Agreement, as contemplated by the Plan of Operation, for the purpose of addressing certain matters related to decision-making, information sharing, tax compliance and allocation of expenses as between the Corporation and the Segregated Account;

**WHEREAS**, the Commissioner has further requested, and the Board deems it desirable and in the best interests of the Corporation, that upon establishing the Segregated Account, the Board consent to the rehabilitation of the Segregated Account pursuant to the provisions of Wisconsin Insurers Rehabilitation and Liquidation Act in order to facilitate an orderly run-off and/or settlement of the liabilities allocated to the Segregated Account;

**NOW, THEREFORE, BE IT RESOLVED**, that the establishment of the Segregated Account as set forth in the Plan of Operation, and the operation of the Segregated Account as set forth in the Secured Note, Excess of Loss Reinsurance Agreement, Management Services Agreement and Cooperation Agreement are hereby approved in all respects by and on behalf of the Corporation, and that the officers of the Corporation are hereby authorized and directed, jointly and severally, for and on behalf of the Corporation, to submit to the OCI the request to establish the Segregated Account as set forth in the Plan of Operation.

**FURTHER RESOLVED**, that subject to the Corporation's receipt of the requisite approval of the establishment of the Segregated Account from the OCI, the officers of the Corporation are hereby appointed as the officers of the Segregated Account until such time as the Commissioner makes any changes to the management of the Segregated Account in his capacity as rehabilitator of the Segregated Account in accordance with Section 645.33(2) of the Wisconsin Statutes.

**FURTHER RESOLVED**, that subject to the Corporation's receipt of the requisite approval of the establishment of the Segregated Account from the OCI, the officers of the Corporation and the Segregated Account are hereby authorized and directed, jointly and severally, for and on behalf of the Corporation and the Segregated Account, to execute and deliver each of the Secured Note, Excess of Loss Reinsurance Agreement, Management Services Agreement and Cooperation Agreement.

**FURTHER RESOLVED**, that subject to the Corporation's receipt of the requisite approval of the establishment of the Segregated Account from the OCI, the members of the Corporation's Board of Directors, on their own behalf and on behalf of the Corporation, hereby consent to the rehabilitation of the Segregated Account pursuant to Section 645.31(14) of the Wisconsin Statutes.

**FURTHER RESOLVED**, that the officers of the Corporation and Segregated Account be, and each of them hereby is, authorized and directed, jointly and severally, for and on behalf of the Corporation and the Segregated Account, to execute and deliver any and all certificates, agreements and other documents, take any and all steps and do any and all things which they may deem necessary or advisable in order to effectuate the establishment and rehabilitation of the Segregated Account as set forth in the foregoing resolutions.

**FURTHER RESOLVED**, that any actions taken by such officers prior to the date of this meeting that are within the authority conferred hereby are hereby ratified, confirmed and approved in all respects.

**AMBAC ASSURANCE CORPORATION**

**SECRETARY'S CERTIFICATE**

The undersigned, being Secretary of Ambac Assurance Corporation (the "Corporation"), hereby certifies that the attached is a true and correct copy of Resolutions of the Board of Directors of the Corporation unanimously adopted at a special meeting of the Board of Directors on the 24<sup>th</sup> day of March, 2010, and that the same are in full force and effect and have not been rescinded or modified since their adoption.

IN WITNESS WHEREOF, I have executed this instrument as Secretary of the Corporation this 24<sup>th</sup> day of March, 2010.

Secretary

  
\_\_\_\_\_