

EXCHANGE AGREEMENT

by and between

CARVER BANCORP, INC.

and

THE UNITED STATES DEPARTMENT OF THE TREASURY

Dated as of June 29, 2011

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EXCHANGE AGREEMENT, dated as of June 29, 2011 (this "Agreement") by and between Carver Bancorp, Inc., a Delaware corporation (the "Company"), and the United States Department of the Treasury (the "Investor"). All capitalized terms used herein and not otherwise defined shall have the respective meanings ascribed to them in the Exchange Agreement.

BACKGROUND

WHEREAS, on January 16, 2009, the Company and the Investor entered into that certain Securities Purchase Agreement – Standard Terms incorporated into a Letter Agreement, as amended from time to time (the "Securities Purchase Agreement"), pursuant to which the Company issued to the Investor 18,980 shares of the Company's preferred stock designated as "Fixed Rate Cumulative Perpetual Preferred Stock, Series A," having a liquidation amount of \$1,000 per share (the "CPP Preferred Shares");

WHEREAS, on August 27, 2010, the Company and the Investor entered into that certain Exchange Agreement – Standard Terms incorporated into a Letter Agreement, as amended from time to time (the "Exchange Agreement"), pursuant to which the Company issued to the Investor in exchange for the CPP Preferred Shares, and the Investor is, as of the date hereof, the beneficial owner of, 18,980 shares of the Company's preferred stock designated as "Fixed Rate Cumulative Perpetual Preferred Stock, Series B," having a liquidation amount of \$1,000 per share (the "CDCI Preferred Shares");

WHEREAS, on or about June 29, 2011, the Company entered into stock purchase agreements (the "Stock Purchase Agreements") with certain qualified institutional investors and accredited investors (the "Equity Investors"), pursuant to which those investors agreed, subject to certain conditions, to purchase from the Company an aggregate of 55,000 shares of Series C mandatorily convertible non-voting participating preferred stock, the designations for which are attached hereto as Exhibit A (the "Series C Preferred Stock"), at a price of \$1,000 per share (the "Preferred Stock Purchase Price"), yielding aggregate gross proceeds to the Company that will equal no less than \$55,000,000 (the "Equity Investments") in a private placement (the "Private Placement") exempt from registration under the Securities Act of 1933, as amended (the "Securities Act");

WHEREAS, upon receipt of the Stockholder Approval and filing of the Charter Amendment, each share of Series C Preferred Stock will be converted (the "Series C Conversion") into shares of common stock, par value \$0.01 per share, of the Company (the "Common Stock"), subject to certain ownership limitations, and Series D convertible non-cumulative, non-voting participating preferred stock, the designations for which are attached hereto as Exhibit A (the "Series D Preferred Stock"); and

WHEREAS, the Company and the Investor desire, in connection with the Series C Conversion, and subject to the conditions set forth herein, to exchange (the "Exchange") all of the CDCI Preferred Shares beneficially owned and held by the Investor, including all accrued and unpaid dividends on the CDCI Preferred Shares as of the Closing Date, for shares of Common Stock (such shares of Common Stock, the "Exchange Shares").

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the parties hereby agree as follows:

ARTICLE I
THE CLOSING; CONDITIONS TO THE CLOSING

Section 1.1 The Closing.

(a) The closing of the Exchange (the “Closing”) will take place at the offices of Alston & Bird LLP, 950 F Street NW, Washington, DC 20004, or remotely via the electronic or other exchange of documents and signature pages, as the parties may agree. The Closing shall take place on the same day as the date on which the Series C Conversion becomes effective; *provided* that the conditions set forth in Section 1.1(c) and (d) shall have been satisfied or waived, or at such other place, time and date as shall be agreed between the Company and the Investor. The time and date on which the Closing occurs is referred to in this Agreement as the “Closing Date”.

(b) Subject to the fulfillment or waiver of the conditions to the Closing in this Section 1.1, at the Closing (i) the Company will deliver the Exchange Shares to the Investor, as evidenced by one or more certificates dated the Closing Date and registered in the name of the Investor or its designee(s) (or if shares of Common Stock are uncertificated, cause the transfer agent for the Common Stock to register the Exchange Shares in the name of the Investor and deliver reasonably satisfactory evidence of such registration to the Investor) and (ii) the Investor will deliver the certificate representing the CDCI Preferred Shares to the Company.

(c) The respective obligations of each of the Investor and the Company to consummate the Exchange are subject to the fulfillment (or waiver by the Company and the Investor, as applicable) prior to the Closing of the conditions that (i) any approvals or authorizations of all United States and other governmental, regulatory or judicial authorities (collectively, “Governmental Entities”) required for the consummation of the Exchange shall have been obtained or made in form and substance reasonably satisfactory to each party and shall be in full force and effect and all waiting periods required by United States and other applicable law, if any, shall have expired and (ii) no provision of any applicable United States or other law and no judgment, injunction, order or decree of any Governmental Entity shall prohibit consummation of the Exchange as contemplated by this Agreement.

(d) The obligation of the Investor to consummate the Exchange is also subject to the fulfillment (or waiver by the Investor) at or prior to the Closing of each of the following conditions:

(i) the Company shall have obtained the necessary approval of the Company’s stockholders (the “Stockholder Approval”) authorizing (i) an amendment to the Company’s certificate of incorporation (the “Certificate of Incorporation”) increasing the authorized Common Stock to a number at least

sufficient to support the issuance of the Exchange Shares and the issuance of Common Stock upon conversion of the Series C Preferred Stock and Series D Preferred Stock issuable only upon the receipt of the Stockholder Approval and mandatory conversion of the Series C Preferred Stock (the “Common Stock Authorization”), (ii) an amendment to the Certificate of Incorporation that would permit the Investor to vote the shares of Common Stock the Investor will hold following the Closing in excess of 9.9% of the outstanding shares of Common Stock (the “Voting Authorization”), (iii) the conversion of the Series C Preferred Stock, (iv) the issuance and conversion of Series D Preferred Stock, and (v) the exchange of the CDCI Preferred Shares for Exchange Shares (collectively, clauses (i) through (v) shall be the “Stockholder Proposals”);

(ii) the Company shall have duly adopted and filed with the State of Delaware an amendment to the Certificate of Incorporation (the “Charter Amendment”), in substantially the form attached hereto as Exhibit B, reflecting the Common Stock Authorization and the Voting Authorization, and the Company shall have delivered to the Investor a copy of the filed Charter Amendment with appropriate evidence from the Secretary of State that the filing has been accepted;

(iii) the Company shall have issued Series C Preferred Stock to the Equity Investors in the Private Placement for aggregate gross proceeds to the Company of not less than \$55,000,000, and all conditions, if any, to the effectiveness of the Series C Conversion shall have been satisfied or waived;

(iv) (A) the representations and warranties of the Company set forth in Article III of this Agreement shall be true and correct in all respects as though made on and as of the Closing Date (other than representations and warranties that by their terms speak as of another date, which representations and warranties shall be true and correct in all respects as of such other date) and (B) the Company shall have performed in all material respects all obligations required to be performed by it under this Agreement at or prior to the Closing;

(v) the Investor shall have received a certificate, in substantially the form attached hereto as Annex A, signed on behalf of the Company by a Senior Executive Officer certifying to the effect that the conditions set forth in Section 1.1(d)(iv) have been satisfied;

(vi) the Company shall have delivered certificates in proper form or, with the prior consent of the Investor, evidence in book-entry form, evidencing the Exchange Shares to the Investor or its designee(s);

(vii) the Company shall have delivered to the Investor written opinions from counsel to the Company, addressed to the Investor and dated as of the Closing Date, in substantially the form attached hereto as Annex B;

(viii) the Exchange Shares shall have been authorized for listing on the NASDAQ Stock Market, LLC (“NASDAQ”);

(ix) the Company shall have delivered to the Investor prior to the date hereof either (i) a true, complete and correct certified copy of each CDFI Certification Application that each Certified Entity submitted to the Community Development Financial Institution Fund (the “Fund”) in connection with its certification as a CDFI along with any updates to the CDFI Certification Application necessary to make it true, complete and correct as of the date hereof or (ii), to the extent a copy of the CDFI Certification Application that any Certified Entity submitted to the Fund in connection with its certification as a CDFI is not available, a newly completed CDFI Certification Application with respect to such Certified Entity that is true, complete and correct as of the date hereof (the CDFI Certification Application delivered to the Investor pursuant to this Section 1.1(d)(ix), the “CDFI Application”), and, to the extent any information set forth in the CDFI Application is not true, complete and correct as of the Closing Date, the Company shall have delivered to the Investor an update to the CDFI Application (the “CDFI Application Update”), setting forth any information necessary to make the information set forth in the CDFI Application true, correct and complete as of the Closing Date;

(x) (A) the Company shall have effected such changes to its compensation, bonus, incentive and other benefit plans, arrangements and agreements (including golden parachute, severance and employment agreements) (collectively, “Benefit Plans”) with respect to its Senior Executive Officers and any other employee of the Company or its Affiliates subject to Section 111 of the Emergency Economic Stabilization Act of 2008, as amended by the American Recovery and Reinvestment Act of 2009, or otherwise from time to time (“EESA”), as implemented by any guidance, rule or regulation thereunder, as the same shall be in effect from time to time (collectively, the “Compensation Regulations”) (and to the extent necessary for such changes to be legally enforceable, each of its Senior Executive Officers and other employees shall have duly consented in writing to such changes), as may be necessary, during the period in which any obligation of the Company arising from financial assistance under the Troubled Asset Relief Program remains outstanding (such period, as it may be further described in the Compensation Regulations, the “Relevant Period”), in order to comply with Section 111 of EESA or the Compensation Regulations; (B) the Investor shall have received a certificate signed on behalf of the Company by a Senior Executive Officer certifying to the effect that the condition set forth in Section 1.1(d)(x)(A) has been satisfied; “Senior Executive Officers” means the Company’s “senior executive officers” as defined in Section 111 of the EESA and the Compensation Regulations; and (C) the Company shall have obtained waivers from all relevant directors, officers and employees of the Company necessary to ensure that the consummation of the transactions contemplated by this Agreement will not accelerate the vesting, payment or distribution of any

equity-based awards, deferred cash awards or any nonqualified deferred compensation payable by the Company or any of its Affiliates; and

(xi) the Company shall have paid to Investor all accrued and unpaid dividends and/or interest due on the CDCI Preferred Shares as of the Closing Date.

(e) Within two (2) business days following the receipt by the Company of the Stockholder Approval, the Company shall provide a notice of the Exchange to the Investor, which shall state (i) the Closing Date (which date shall not be earlier than the later of (x) two (2) business days after the notice of the Exchange is delivered to the Investor and (y) the Mandatory Conversion Date (as defined in the Certificate of Designations), (ii) the Conversion Price and (iii) the number of Exchange Shares to be issued upon the exchange for each CDCI Preferred Share held by the Investor.

Section 1.2 Interpretation. When a reference is made in this Agreement to “Recitals,” “Articles,” “Sections,” “Annexes” or “Schedules” such reference shall be to a Recital, Article or Section of, or Annex or Schedule to, this Agreement, unless otherwise indicated. The terms defined in the singular have a comparable meaning when used in the plural, and vice versa. References to “herein,” “hereof,” “hereunder” and the like refer to this Agreement as a whole and not to any particular section or provision, unless the context requires otherwise. The table of contents and headings contained in this Agreement are for reference purposes only and are not part of this Agreement. Whenever the words “include,” “includes” or “including” are used in this Agreement, they shall be deemed followed by the words “without limitation.” No rule of construction against the draftsman shall be applied in connection with the interpretation or enforcement of this Agreement, as this Agreement is the product of negotiation between sophisticated parties advised by counsel. All references to “\$” or “dollars” mean the lawful currency of the United States of America. Except as expressly stated in this Agreement, all references to any statute, rule or regulation are to the statute, rule or regulation as amended, modified, supplemented or replaced from time to time (and, in the case of statutes, include any rules and regulations promulgated under the statute) and to any section of any statute, rule or regulation include any successor to the section. References to a “business day” shall mean any day except Saturday, Sunday and any day on which banking institutions in the State of New York generally are authorized or required by law or other governmental actions to close.

ARTICLE II **EXCHANGE**

Section 2.1 Exchange.

(a) On the terms and subject to the conditions set forth in this Agreement, upon the Closing (i) the Company agrees to issue to the Investor, in exchange for its 18,980 CDCI Preferred Shares, a number of Exchange Shares equal to 18,980 *multiplied by* the quotient of which (x) the numerator is \$1,000 and (y) the denominator is the Conversion Price and (ii) the Investor agrees to deliver to the Company the CDCI Preferred Shares in exchange for such number of Exchange Shares. In lieu of any fractional Exchange Share

otherwise issuable to the Investor pursuant to this Section 2.1(a), the Company shall pay an amount in cash (computed to the nearest cent) equal to the same fraction of the Closing Price of the Common Stock determined as of the second Trading Day immediately preceding the Closing Date.

(b) Following consummation of the Exchange, no further cash dividends shall be payable in respect of the CDCI Preferred Shares outstanding immediately prior to the Closing Date.

Section 2.2 Exchange Documentation. Settlement of the Exchange will take place on the Closing Date, at which time the Investor will cause delivery of the CDCI Preferred Shares to the Company or its designated agent and the Company will cause delivery of the Exchange Shares (together with cash in lieu of any fractional shares) to the Investor or its designated agent.

Section 2.3 Status of CDCI Preferred Shares after Closing. The CDCI Preferred Shares exchanged for the Exchange Shares pursuant to this Article II are being reacquired by the Company and shall have the status of authorized but unissued shares of Preferred Stock of the Company undesignated as to series and may be designated or redesignated and issued or reissued, as the case may be, as part of any series of preferred stock of the Company; *provided* that such shares shall not be reissued as CPP Preferred Shares or CDCI Preferred Shares.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF THE COMPANY

Except as Previously Disclosed, the Company represents and warrants to the Investor as of the date hereof and as of the Closing Date that:

Section 3.1 Existence and Power.

(a) **Organization, Authority and Significant Subsidiaries.** The Company is duly organized, validly existing and in good standing under the laws of the State of Delaware and has all necessary power and authority to own, operate and lease its properties and to carry on its business in all material respects as it is being currently conducted, and except as has not, individually or in the aggregate, had and would not reasonably be expected to have a Company Material Adverse Effect, has been duly qualified as a foreign corporation for the transaction of business and is in good standing under the laws of each other jurisdiction in which it owns or leases properties or conducts any business so as to require such qualification; each subsidiary of the Company that is a “significant subsidiary” within the meaning of Rule 1-02(w) of Regulation S-X under the Securities Act, including, without limitation, Carver Federal Savings Bank, has been duly organized and is validly existing in good standing under the laws of the jurisdiction of its respective incorporation or organization. The Certificate of Incorporation and bylaws of the Company, copies of which have been provided to the Investor prior to the date hereof, are true, complete and correct copies of such documents as in full force and effect as of the date hereof.

(b) **Capitalization.** The authorized capital stock of the Company, and the outstanding capital stock of the Company (including securities convertible into, or exercisable or exchangeable for, capital stock of the Company), as of the most recent fiscal month end preceding the date hereof (the “Capitalization Date”) is set forth on Schedule 3.1(b). The outstanding shares of capital stock of the Company have been duly authorized and are validly issued and outstanding, fully paid and nonassessable, and subject to no preemptive rights (and were not issued in violation of any preemptive rights). As of the date hereof, the Company does not have outstanding any securities or other obligations providing the holder the right to acquire Common Stock that is not reserved for issuance as specified on Schedule 3.1(b), and, except as disclosed on Schedule 3.1(b), the Company has not made any other commitment to authorize, issue or sell any Common Stock except pursuant to this Agreement and the Stock Purchase Agreements. Since the Capitalization Date, except pursuant to this Agreement and the Stock Purchase Agreements, the Company has not issued any shares of Common Stock other than (i) shares issued upon the exercise of stock options or delivered under other equity-based awards or other convertible securities or warrants which were issued and outstanding on the Capitalization Date and disclosed on Schedule 3.1(b) and (ii) shares disclosed on Schedule 3.1(b).

Section 3.2 Authorization and Enforceability.

(a) The Company has the corporate power and authority to execute and deliver this Agreement and to carry out its obligations hereunder (which, following receipt of the Stockholder Approval and filing of the Charter Amendment, includes the issuance of the Exchange Shares).

(b) The execution, delivery and performance by the Company of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary corporate action on the part of the Company, subject to receipt of the Stockholder Approval, and no further approval or authorization is required on the part of the Company or its stockholders, other than the Stockholder Approval. This Agreement is a valid and binding obligation of the Company enforceable against the Company in accordance with its terms, subject to the Bankruptcy Exceptions.

(c) The Stock Purchase Agreements entered into with the Equity Investors, copies of which have been provided to the Investor prior to the date hereof, are true, complete and correct copies of such documents as in full force and effect as of the date hereof.

Section 3.3 Exchange Shares. When issued and delivered pursuant to this Agreement, the Exchange Shares will be duly and validly authorized by all necessary action, will be duly and validly issued and fully paid and nonassessable, will not be issued in violation of any preemptive rights, and will not subject the holder thereof to personal liability.

Section 3.4 Community Development Financial Institution Status; Domestic Ownership.

(a) The Company, collectively with all of its “Affiliates” (within the meaning of 12 C.F.R. 1805.104), satisfies the requirements of 12 C.F.R. 1805.200(b).

(b) Each Certified Entity (A) is a regulated community development financial institution (a “CDFI”) currently certified by the Fund of the United States Department of the Treasury pursuant to 12 C.F.R. 1805.201(a) as having satisfied the eligibility requirements of the Fund’s Community Development Financial Institutions Program and (B) satisfies the eligibility requirements for a CDFI set forth in 12 C.F.R. 1805.201(b)(1) - (6).

(c) The Company is not a Bank Holding Company, Savings and Loan Holding Company, bank or savings association controlled (within the meaning of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)(2)) and 12 C.F.R. 225(a)(i) in the case of Bank Holding Companies and banks and the Home Owners’ Loan Act of 1933 (12 U.S.C. 1467a (a)(2)) and 12 C.F.R. 583.7 in the case of Savings and Loan Holding Companies and savings associations) by a foreign bank or company.

Section 3.5 Non-Contravention.

(a) The execution, delivery and performance by the Company of this Agreement and the consummation of the transactions contemplated hereby, and compliance by the Company with the provisions hereof, will not (A) violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, or accelerate the performance required by, or result in a right of termination or acceleration of, or result in the creation of, any lien, security interest, charge or encumbrance upon any of the properties or assets of the Company or any subsidiary of the Company (each, a “Company Subsidiary” and collectively, the “Company Subsidiaries”) under any of the terms, conditions or provisions of (i) its organizational documents or (ii) any note, bond, mortgage, indenture, deed of trust, license, lease, agreement or other instrument or obligation to which the Company or any Company Subsidiary is a party or by which it or any Company Subsidiary may be bound, or to which the Company or any Company Subsidiary or any of the properties or assets of the Company or any Company Subsidiary may be subject, or (B) subject to compliance with the statutes and regulations referred to in the next paragraph, violate any statute, rule or regulation or any judgment, ruling, order, writ, injunction or decree applicable to the Company or any Company Subsidiary or any of their respective properties or assets except, in the case of clauses (A)(ii) and (B), for those occurrences that, individually or in the aggregate, have not had and would not reasonably be expected to have a Company Material Adverse Effect.

(b) Other than the filing of the Charter Amendment with the State of Delaware, any current report on Form 8-K required to be filed with the Securities and Exchange Commission (“SEC”), and the filing of the Notification for Listing of Additional Shares

with NASDAQ, such filings and approvals as are required to be made or obtained under any state “blue sky” laws and such consents and approvals that have been made or obtained, no notice to, filing with or review by, or authorization, consent or approval of, any Governmental Entity is required to be made or obtained by the Company in connection with the consummation by the Company of the Exchange, except for any such notices, filings, reviews, authorizations, consents and approvals the failure of which to make or obtain would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect.

(c) Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, (A) the execution, delivery and performance by the Company of this Agreement and the consummation of the transactions contemplated hereby (including for this purpose the consummation of the Exchange) and compliance by the Company with the provisions hereof will not (1) result in any payment (including any severance payment, payment of unemployment compensation, “excess parachute payment” (within the meaning of the Internal Revenue Code of 1986, as amended (the “Code”)), “golden parachute payment” (as defined in the EESA, as implemented by the Compensation Regulations) or forgiveness of indebtedness or otherwise) becoming due to any current or former employee, officer or director of the Company or any Company Subsidiary from the Company or any Company Subsidiary under any benefit plan or otherwise, (2) increase any benefits otherwise payable under any benefit plan, (3) except as disclosed on Schedule 3.5(c), result in any acceleration of the time of payment or vesting of any such benefits, (4) require the funding or increase in the funding of any such benefits or (5) result in any limitation on the right of the Company or any Company Subsidiary to amend, merge, terminate or receive a reversion of assets from any benefit plan or related trust and (B) neither the Company nor any Company Subsidiary has taken, or permitted to be taken, any action that required, and no circumstances exist that will require the funding, or increase in the funding, of any benefits or resulted, or will result, in any limitation on the right of the Company or any Company Subsidiary to amend, merge, terminate or receive a reversion of assets from any benefit plan or related trust.

Section 3.6 Anti-Takeover Provisions. The Board of Directors has taken all necessary action to ensure that the transactions contemplated by this Agreement and the consummation of the transactions contemplated hereby will be exempt from any anti-takeover or similar provisions of the Company’s Certificate of Incorporation and bylaws, and any other provisions of any applicable “moratorium”, “control share”, “fair price”, “interested stockholder” or other anti-takeover laws and regulations of any jurisdiction. The Company has not adopted any stockholder rights plan or similar arrangement relating to accumulations of beneficial ownership of Common Stock or a change in control of the Company.

Section 3.7 No Company Material Adverse Effect. Since August 27, 2010, no fact, circumstance, event, change, occurrence, condition or development has occurred that, individually or in the aggregate, has had or would reasonably be likely to have a Company Material Adverse Effect, except as disclosed on Schedule 3.7.

Section 3.8 Offering of Securities. Neither the Company nor any person acting on its behalf has taken any action (including any offering of any securities of the Company under circumstances which would require the integration of such offering with the offering of the Exchange Shares under the Securities Act and the rules and regulations of the SEC promulgated thereunder), which might subject the offering, issuance or sale of the Exchange Shares to the Investor pursuant to this Agreement to the registration requirements of the Securities Act.

Section 3.9 Brokers and Finders. No broker, finder or investment banker is entitled to any financial advisory, brokerage, finder's or other fee or commission in connection with this Agreement or the transactions contemplated hereby based upon arrangements made by or on behalf of the Company or any Company Subsidiary for which the Investor could have any liability.

Section 3.10 CDCI Preferred Shares. Except as disclosed on Schedule 3.10, the Company has not breached any representation, warranty or covenant set forth in the Exchange Agreement or any of the other documents governing the CDCI Preferred Shares.

ARTICLE IV **COVENANTS**

Section 4.1 Commercially Reasonable Efforts.

(a) Subject to the terms and conditions of this Agreement, each of the parties will use its commercially reasonable efforts in good faith to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper or desirable, or advisable under applicable laws, so as to permit consummation of the Exchange, including the consummation of the investments contemplated by the Stock Purchase Agreements and the transactions contemplated thereby, as promptly as practicable and otherwise to enable consummation of the transactions contemplated hereby and shall use commercially reasonable efforts to cooperate with the other party to that end.

(b) The Company shall call a meeting (the "Meeting") of its stockholders, to be held no later than five months following the closing date of the Equity Investments, to vote on the Stockholder Proposals. The Company's Board of Directors shall recommend to the Company's stockholders that such stockholders vote in favor of the Stockholder Proposals. In connection with the Meeting, the Company shall prepare and file with the SEC, not more than forty-five (45) days following the closing date of the Equity Investments, a preliminary proxy statement, shall use its reasonable best efforts to respond to any comments of the SEC or its staff thereon and to cause a definitive proxy statement related to the Meeting to be mailed to the Company's stockholders not more than five business days after clearance thereof by the SEC, and shall use its reasonable best efforts to solicit proxies for such stockholder approval of the Stockholder Proposals. If at any time prior to the Meeting there shall occur any event that is required to be set forth in an amendment or supplement to the proxy statement, the Company shall as promptly as practicable prepare and mail to its stockholders such an amendment or supplement. In the event that the

approval of any of the Stockholder Proposals is not obtained at the Meeting, the Company shall include a proposal to approve (and the Company's Board of Directors shall recommend approval of) each such proposal at a meeting of its stockholders, to be held no less than once in each subsequent four-month period following the date on which the Meeting is held, until all such approvals are obtained or made.

(c) None of the information supplied by the Company or any of the Company Subsidiaries for inclusion in any proxy statement in connection with the Meeting, or any subsequent special stockholders' meetings referenced in Section 4.1(b), will, at the date it is filed with the SEC, when first mailed to the Company's stockholders and at the time of any stockholders' meeting, and at the time of any amendment or supplement thereof, contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading.

(d) Within five business days following the receipt of the Stockholder Approval, the Company shall have duly executed and filed the Charter Amendment with the State of Delaware.

Section 4.2 Expenses and Further Assurances.

(a) If requested by the Investor, the Company shall pay all reasonable out of pocket and documented costs and expenses associated with the Exchange, including, but not limited to, the reasonable fees, disbursements and other charges of the Investor's legal counsel and financial advisors.

(b) The Company shall, at the Company's sole cost and expense, (i) furnish to the Investor all instruments, documents and other agreements required to be furnished by the Company pursuant to the terms of this Agreement, including, without limitation, any documents required to be delivered pursuant to Section 5.5 below, or which are reasonably requested by the Investor in connection therewith, (ii) execute and deliver to the Investor such documents, instruments, certificates, assignments and other writings, and do such other acts necessary or desirable, to evidence, preserve and/or protect the Exchange Shares purchased by the Investor, as the Investor may reasonably require, and (iii) do and execute all and such further lawful and reasonable acts, conveyances and assurances for the better and more effective carrying out of the intents and purposes of this Agreement, as the Investor shall reasonably require from time to time.

Section 4.3 Exchange Listing. The Company shall, at its expense, use its reasonable best efforts to list the Exchange Shares on the NASDAQ Global Market or, if the Company is unable to maintain such listing despite its reasonable best efforts to do so, then on the NASDAQ Capital Market, and, if such listing is approved, shall, at its expense, use its reasonable best efforts to maintain such listing of the Exchange Shares on the NASDAQ Global Market or the NASDAQ Capital Market.

Section 4.4 Access, Information and Confidentiality.

(a) From the date hereof until the date when the Investor no longer holds any debt or equity securities of the Company or an Affiliate of the Company acquired pursuant to this Agreement, the Exchange Agreement or the Securities Purchase Agreement (including, for the avoidance of doubt, the Exchange Shares, the CDCI Preferred Shares and the CPP Preferred Shares), the Company will permit the Investor and its agents, consultants, contractors and advisors (i) acting through the Company's Appropriate Federal Banking Agency, or otherwise to the extent necessary to evaluate, manage or transfer its investment in the Company, to examine the corporate books, Tax returns (including all schedules and attachments thereto) and other information reasonably requested by the Investor relating to Taxes and make copies thereof and to discuss the affairs, finances and accounts of the Company and the Company Subsidiaries with the principal officers of the Company, all upon reasonable notice and at such reasonable times and as often as the Investor may reasonably request and (ii) to review any information material to the Investor's investment in the Company provided by the Company to its Appropriate Federal Banking Agency.

(b) From the date hereof until the date when the Investor no longer holds any debt or equity securities of the Company or an Affiliate of the Company acquired pursuant to this Agreement, the Exchange Agreement or the Securities Purchase Agreement (including, for the avoidance of doubt, the Exchange Shares, the CDCI Preferred Shares and the CPP Preferred Shares), the Company shall permit, and shall cause each of the Company's Subsidiaries to permit (A) the Investor and its agents, consultants, contractors, (B) the Special Inspector General of the Troubled Asset Relief Program, and (C) the Comptroller General of the United States access to personnel and any books, papers, records or other data, in each case, to the extent relevant to ascertaining compliance with the financing terms and conditions; *provided* that prior to disclosing any information pursuant to clause (B) or (C), the Special Inspector General of the Troubled Asset Relief Program and the Comptroller General of the United States shall have agreed, with respect to documents obtained under this Agreement in furtherance of its function, to follow applicable law and regulation (and the applicable customary policies and procedures) regarding the dissemination of confidential materials, including redacting confidential information from the public version of its reports and soliciting the input from the Company as to information that should be afforded confidentiality, as appropriate.

(c) From the date hereof until the date when the Investor no longer holds any debt or equity securities of the Company or an Affiliate of the Company acquired pursuant to this Agreement, the Exchange Agreement or the Securities Purchase Agreement (including, for the avoidance of doubt, the Exchange Shares, the CDCI Preferred Shares and the CPP Preferred Shares), the Company will deliver, or cause to be delivered, to the Investor:

(i) as soon as available after the end of each fiscal year of the Company, and in any event within 90 days thereafter, a consolidated balance sheet of the Company as of the end of such fiscal year, and consolidated statements of income, retained earnings and cash flows of the Company for

such year, in each case prepared in accordance with GAAP and setting forth in each case in comparative form the figures for the previous fiscal year of the Company, and which shall be audited to the extent audited financial statements are available;

(ii) as soon as available after the end of the first, second and third quarterly periods in each fiscal year of the Company, a copy of any quarterly reports provided to other stockholders of the Company or Company management by the Company;

(iii) as soon as available after the Company receives any assessment of the Company's internal controls, a copy of such assessment;

(iv) annually on a date specified by the Investor, a completed survey, in a form specified by the Investor, providing, among other things, a description of how the Company has utilized the funds the Company received in connection with the sale of the CPP Preferred Shares and the effects of such funds on the operations and status of the Company;

(v) as soon as such items become effective, any amendments to the Certificate of Incorporation, bylaws or other organizational documents of the Company; and

(vi) at the same time as such items are sent to any stockholders of the Company, copies of any information or documents sent by the Company to its stockholders.

(d) The Investor will use reasonable best efforts to hold, and will use reasonable best efforts to cause its agents, consultants, contractors, advisors, and United States executive branch officials and employees, to hold, in confidence all non-public records, books, contracts, instruments, computer data and other data and information (collectively, "Information") concerning the Company furnished or made available to it by the Company or its representatives pursuant to this Agreement (except to the extent that such information can be shown to have been (i) previously known by such party on a non-confidential basis, (ii) in the public domain through no fault of such party or (iii) later lawfully acquired from other sources by the party to which it was furnished (and without violation of any other confidentiality obligation)); *provided* that nothing herein shall prevent the Investor from disclosing any Information to the extent required by applicable laws or regulations or by any subpoena or similar legal process. The Investor understands that the Information may contain commercially sensitive confidential information entitled to an exception from a Freedom of Information Act request.

(e) Nothing in this Section shall be construed to limit the authority that the Special Inspector General of the Troubled Asset Relief Program, the Comptroller General of the United States or any other applicable regulatory authority has under law.

(f) The Investor's information rights pursuant to Sections 4.4(c)(i), (ii), (iii), (v) and (vi) and the Investor's right to receive certifications from the Company pursuant to

Section 4.5(b) may be assigned by the Investor to a transferee or assignee holding at least 2% of the Exchange Shares.

Section 4.5 CDFI Requirements.

(a) From the date hereof until the date when the Investor no longer holds any debt or equity securities of the Company or an Affiliate of the Company acquired pursuant to this Agreement, the Exchange Agreement or the Securities Purchase Agreement (including, for the avoidance of doubt, the Exchange Shares, the CDCI Preferred Shares and the CPP Preferred Shares), each Certified Entity shall (i) be certified by the Fund as a CDFI; (ii) together with its Affiliates, collectively meet the eligibility requirements of 12 C.F.R. 1805.200(b); (iii) have a primary mission of promoting community development, as may be determined by the Investor from time to time, based on criteria set forth in 12 C.F.R. 1805.201(b)(1); (iv) provide Financial Products, Development Services, and/or other similar financing as a predominant business activity in arm's-length transactions; (v) serve a Target Market by serving one or more Investment Areas and/or Targeted Populations as may be determined by the Investor from time to time, substantially in the manner set forth in 12 C.F.R. 1805.201(b)(3); (vi) provide Development Services in conjunction with its Financial Products, directly, through an Affiliate or through a contract with a third-party provider; (vii) maintain accountability to residents of the applicable Investment Area(s) or Targeted Population(s) through representation on its governing Board of Directors or otherwise; and (viii) remain a non-governmental entity which is not an agency or instrumentality of the United States of America, or any State or political subdivision thereof, as described in 12 C.F.R. 1805.201(b)(6) and within the meaning of any supplemental regulations or interpretations of 12 C.F.R. 1805.201(b)(6) or such supplemental regulations published by the Fund. Notwithstanding any other provision hereof, as used in this Section 4.5(a), the terms "Affiliates"; "Financial Products"; "Development Services"; "Target Market"; "Investment Areas"; and "Targeted Populations" have the meanings ascribed to such terms in 12 C.F.R. 1805.104.

(b) From the date hereof until the date when the Investor no longer holds any debt or equity securities of the Company or an Affiliate of the Company acquired pursuant to this Agreement, the Exchange Agreement or the Securities Purchase Agreement (including, for the avoidance of doubt, the Exchange Shares, the CDCI Preferred Shares and the CPP Preferred Shares), the Company shall deliver to the Investor (i)(x) on the date that is 180 days after the Closing Date and (y) annually on the same date on which the Company delivers the documentation required under Section 4.4(c)(i) to the Investor, a certificate signed on behalf of the Company by a Senior Executive Officer, in substantially the form attached hereto as Annex C, certifying (A) that the Company and each Certified Entity remains in compliance with the covenants set forth in Section 4.5(a); (B) that the information in the CDFI Application, as modified by any updates to the CDFI Application provided by the Company to the Investor on or prior to the date of such certificate, with respect to the covenants set forth in Section 4.5(a)(ii) and Section 4.5(a)(iv) remains true, correct and complete as of such date or, to the extent any information set forth in the CDFI Application, as modified by any updates to the CDFI Application provided by the Company to the Investor on or prior to the date of such certificate, with respect to such covenants needs to be updated or supplanted to make it true, complete and correct as of

such date, that an updated narrative to the CDFI Application setting forth any information necessary to make the information set forth in the CDFI Application true, complete and correct as of such date; (C) either (a) that the contracts and material agreements entered into by each Certified Entity with respect to Development Services previously disclosed to the Investor remain in effect or (b) that attached are any new contracts and material agreements entered into by the Certified Entity with respect to Development Services; (D) a list of the names and addresses of the individuals which comprise the board of directors of each Certified Entity as of such date and, to the extent any of such individuals was not a member of the board of directors of such Certified Entity as of the last certification to the Investor, a narrative describing such individual's relationship to the applicable Investment Area(s) and Targeted Population(s) or, if such Certified Entity maintains accountability to residents of the applicable Investment Area(s) or Target Population(s) through means other than representation on its governing board of directors and such means have changed since the date of the last certification to the Investor, a narrative describing such change; (E) that each Certified Entity is not an agency of the United States of America, or any State or political subdivision thereof, as described in 12 C.F.R. 1805.201(b)(6) and within the meaning of any supplemental regulations or interpretations of 12 C.F.R. 1805.201(b)(6) or such supplemental regulations published by the Fund and (F) that the Company remains in compliance with the covenants set forth in Section 5.9 and Section 4.12 and (ii) within five (5) business days of receipt, copies of any notices, correspondence or other written communication between each Certified Entity and the Fund, including any form that such Certified Entity is required to provide to the Fund due to the occurrence of a "Material Event" within the meaning of the Fund's CDFI Certification Procedures.

(c) The Company shall immediately notify the Investor upon the occurrence of any breach of any of the covenants set forth in this Section 4.5.

Section 4.6 Executive Compensation.

(a) Benefit Plans. During the Relevant Period, the Company shall take all necessary action to ensure that the Benefit Plans of the Company and its Affiliates comply in all respects with, and shall take all other actions necessary to comply with, Section 111 of the EESA, as implemented by the Compensation Regulations, and neither the Company nor any Affiliate shall adopt any new Benefit Plan (i) that does not comply therewith or (ii) that does not expressly state and require that such Benefit Plan and any compensation thereunder shall be subject to any relevant Compensation Regulations adopted, issued or released on or after the date any such Benefit Plan is adopted. To the extent that EESA and/or the Compensation Regulations are amended or otherwise change during the Relevant Period in a manner that requires changes to then-existing Benefit Plans, or that requires other actions, the Company and its Affiliates shall effect such changes to its or their Benefit Plans, and take such other actions, as promptly as practicable after it has actual knowledge of such amendments or changes in order to be in compliance with this Section 4.6(a) (and shall be deemed to be in compliance for a reasonable period to effect such changes). In addition, the Company and its Affiliates shall take all necessary action, other than to the extent prohibited by applicable law or regulation applicable outside of the United States, to ensure that the consummation of the transactions contemplated by this Agreement will not accelerate the vesting, payment or distribution of any equity-based

awards, deferred cash awards or any nonqualified deferred compensation payable by the Company or any of its Affiliates.

(b) Additional Waivers. After the Closing Date, in connection with the hiring or promotion of a Section 4.6 Employee and/or the promulgation of applicable Compensation Regulations or otherwise, to the extent any Section 4.6 Employee shall not have executed a waiver with respect to the application to such Section 4.6 Employee of the Compensation Regulations, the Company shall use its best efforts to (i) obtain from such Section 4.6 Employee a waiver in substantially the form attached hereto as Annex D and (ii) deliver such waiver to the Investor as promptly as possible, in each case, within sixty days of the Closing Date or, if later, within sixty days of such Section 4.6 Employee becoming subject to the requirements of this Section. “Section 4.6 Employee” means (A) each Senior Executive Officer and (B) any other employee of the Company or its Affiliates determined at any time to be subject to Section 111 of EESA and the Compensation Regulations.

(c) Clawback. In the event that any Section 4.6 Employee receives a payment in contravention of the provisions of this Section 4.6, the Company shall promptly provide such individual with written notice that the amount of such payment must be repaid to the Company in full within fifteen business days following receipt of such notice or such earlier time as may be required by the Compensation Regulations and shall promptly inform the Investor (i) upon discovering that a payment in contravention of this Section 4.6 has been made and (ii) following the repayment to the Company of such amount and shall take such other actions as may be necessary to comply with the Compensation Regulations.

(d) Limitation on Deductions. During the Relevant Period, the Company agrees that it shall not claim a deduction for remuneration for federal income tax purposes in excess of \$500,000 for each Senior Executive Officer that would not be deductible if Section 162(m)(5) of the Code applied to the Company.

(e) Amendment to Prior Agreement. The parties agree that, effective as of the date hereof, Section 4.1(e) of the Exchange Agreement shall be amended in its entirety by replacing such Section 4.1(e) with the provisions set forth in this Section 4.6 and any terms included in this Section 4.6 that are not otherwise defined in the Exchange Agreement shall have the meanings ascribed to such terms in this Agreement.

Section 4.7 Certain Notifications Until Closing. From the date hereof until the Closing, the Company shall promptly notify the Investor of (i) any fact, event or circumstance of which it is aware and which would reasonably be likely to cause any representation or warranty of the Company contained in this Agreement to be untrue or inaccurate in any material respect or to cause any covenant or agreement of the Company contained in this Agreement not to be complied with or satisfied in any material respect and (ii) except as Previously Disclosed, any fact, circumstance, event, change, occurrence, condition or development of which the Company is aware and which, individually or in the aggregate, has had or would reasonably be likely to have a Company Material Adverse Effect; *provided, however,* that delivery of any notice pursuant to this Section 4.7 shall not limit or affect any

rights of or remedies available to the Investor; *provided, further*, that a failure to comply with this Section 4.7 shall not constitute a breach of this Agreement or the failure of any condition set forth in Section 1.1 to be satisfied unless the underlying Company Material Adverse Effect or material breach would independently result in the failure of a condition set forth in Section 1.1 to be satisfied.

Section 4.8 Equity Investments. The Company has informed the Investor that the Company intends to pursue the closings of the Equity Investments by June 7, 2011 (the "Targeted Completion Date"). The Company will use its commercially reasonable efforts to consummate the Equity Investments by the Targeted Completion Date. Until the Equity Investments have been consummated (or the Company and the Investor agree that the Equity Investments are no longer susceptible to consummation on terms and conditions that are in the Company's best interest), the Company shall provide the Investor with a reasonably detailed written report regarding the status of the Equity Investments at least once every two weeks and more frequently if reasonably requested by the Investor; *provided, however*, that if the Equity Investments are not consummated by the time of its Targeted Completion Date, the Company shall, with respect to the non-consummated Equity Investments, (x) within five business days after the Targeted Completion Date provide to the Investor a reasonably detailed written description of the status of such Equity Investments including the Company's best estimate of the steps and timeline to complete such Equity Investments (the "Status Report") and (y) thereafter, no less frequently than monthly and more frequently if reasonably requested by the Investor until such Equity Investments have been consummated, provide to the Investor an updated version of the Status Report.

Section 4.9 Amendment of Agreements Relating to the Equity Investments. The Company will not, without the prior written consent of the Investor, (i) agree to any amendment, waiver or modification of the Stock Purchase Agreements or any other documents governing the terms of the Equity Investments (other than corrections of obvious errors, if any, or other ministerial amendments) or (ii) enter into any new agreements relating to the Equity Investments, in each case to the extent such amendment, waiver, modification or new agreement is adverse to the Investor's interests under this Agreement.

Section 4.10 Predominantly Financial. From the date hereof until the date when the Investor no longer holds any debt or equity securities of the Company or an Affiliate of the Company acquired pursuant to this Agreement, the Exchange Agreement or the Securities Purchase Agreement (including, for the avoidance of doubt, the Exchange Shares, the CDCI Preferred Shares and the CPP Preferred Shares), the Company, to the extent it is not itself an insured depository institution, agrees to remain predominantly engaged in financial activities. A company is predominantly engaged in financial activities if the annual gross revenues derived by the company and all subsidiaries of the company (excluding revenues derived from subsidiary depository institutions), on a consolidated basis, from engaging in activities that are financial in nature or are incidental to a financial activity under subsection (k) of Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)) represent at least 85 percent of the consolidated annual gross revenues of the company.

Section 4.11 Capital Covenant. From the date hereof until the date when the Investor no longer holds any debt or equity securities of the Company or an Affiliate of the Company acquired pursuant to this Agreement, the Exchange Agreement or the Securities Purchase Agreement (including, for the avoidance of doubt, the Exchange Shares, the CDCI Preferred Shares and the CPP Preferred Shares), the Company and the Company Subsidiaries shall maintain such capital as may be necessary to meet the minimum capital requirements of the Appropriate Federal Banking Agency, as in effect from time to time.

Section 4.12 Control by Foreign Bank or Company. From the date hereof until the date when the Investor no longer holds any debt or equity securities of the Company or an Affiliate of the Company acquired pursuant to this Agreement, the Exchange Agreement or the Securities Purchase Agreement (including, for the avoidance of doubt, the Exchange Shares, the CDCI Preferred Shares and the CPP Preferred Shares), the Company shall not be controlled (within the meaning of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)(2)) and 12 C.F.R. 225(a)(i) in the case of Bank Holding Companies and banks and the Home Owners' Loan Act of 1933 (12 U.S.C. 1467a (a)(2)) and 12 C.F.R. 583.7 in the case of Savings and Loan Holding Companies and savings associations) by a foreign bank or company.

ARTICLE V

ADDITIONAL AGREEMENTS

Section 5.1 Unregistered Exchange Shares. The Investor acknowledges that the Exchange Shares have not been registered under the Securities Act or under any state securities laws. The Investor (a) is acquiring the Exchange Shares pursuant to an exemption from registration under the Securities Act solely for investment with no present intention to distribute them to any person in violation of the Securities Act or any applicable U.S. state securities laws, (b) will not sell or otherwise dispose of any of the Exchange Shares, except in compliance with the registration requirements or exemption provisions of the Securities Act and any applicable U.S. state securities laws, and (c) has such knowledge and experience in financial and business matters and in investments of this type that it is capable of evaluating the merits and risks of the Exchange and of making an informed investment decision.

Section 5.2 Legend.

(a) The Investor agrees that all certificates or other instruments representing the Exchange Shares will bear a legend substantially to the following effect:

“THE SECURITIES REPRESENTED BY THIS INSTRUMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES LAWS OF ANY STATE AND MAY NOT BE TRANSFERRED, SOLD OR OTHERWISE DISPOSED OF EXCEPT WHILE A REGISTRATION STATEMENT RELATING THERETO IS IN EFFECT UNDER SUCH ACT AND APPLICABLE STATE SECURITIES LAWS OR PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER SUCH ACT OR SUCH LAWS.”

(b) In the event that any Exchange Shares (i) become registered under the Securities Act or (ii) are eligible to be transferred without restriction in accordance with Rule 144 or another exemption from registration under the Securities Act (other than Rule 144A), the Company shall issue new certificates or other instruments representing such Exchange Shares, which shall not contain the applicable legend in Section 5.2(a) above; *provided* that the Investor surrenders to the Company the previously issued certificates or other instruments.

Section 5.3 Certain Transactions.

(a) The Company will not merge or consolidate with, or sell, transfer or lease all or substantially all of its property or assets to, any other party unless the successor, transferee or lessee party (or its ultimate parent entity), as the case may be (if not the Company), expressly assumes the due and punctual performance and observance of each and every covenant, agreement and condition of this Agreement to be performed and observed by the Company.

(b) Without the prior written consent of the Investor, until such time as the Investor shall cease to own any securities of the Company acquired pursuant to this Agreement, the Exchange Agreement or the Securities Purchase Agreement (including, for the avoidance of doubt, the Exchange Shares, the CDCI Preferred Shares and the CPP Preferred Shares), the Company shall not permit any of its “significant subsidiaries” (as such term is defined in Rule 12b-2 promulgated under the Securities Exchange Act of 1934, as amended (the “Exchange Act”)) to (i) engage in any merger, consolidation, statutory share exchange or similar transaction following the consummation of which such significant subsidiary is not wholly-owned by the Company, (ii) dissolve or sell all or substantially all of its assets or property other than in connection with an internal reorganization or consolidation involving wholly-owned subsidiaries of the Company or (iii) issue or sell any shares of its capital stock or any securities convertible or exercisable for any such shares, other than issuances or sales in connection with an internal reorganization or consolidation involving wholly-owned subsidiaries of the Company.

Section 5.4 Transfer of Exchange Shares. Subject to compliance with applicable securities laws, the Investor shall be permitted to transfer, sell, assign or otherwise dispose of (“Transfer”) all or a portion of the Exchange Shares at any time, and the Company shall take all steps as may be reasonably requested by the Investor to facilitate the Transfer of the Exchange Shares.

Section 5.5 Registration Rights.

(a) The Exchange Shares shall be Registrable Securities under the Exchange Agreement and, upon their issuance, the provisions of Section 4.1(j) and Annex E of the Exchange Agreement shall be applicable to them, including with the benefit, to the extent available, of the tacking of any holding period from the date of issuance of the CDCI Preferred Shares and the CPP Preferred Shares; *provided*, that, notwithstanding anything to the contrary in Section 1.3 of Annex E of the Exchange Agreement, all Selling Expenses incurred by the Investor or any other Holder in connection with any registration

thereunder or any other sale or other transfer of Exchange Shares under this Section 5.5 shall be borne by the Company. From and after the Closing Date, all references in Section 1.10 of Annex E of the Exchange Agreement to “preferred stock” shall mean and refer to Common Stock (as defined herein) and, with respect to any underwritten offering of Registrable Securities (as defined in Annex E of the Exchange Agreement) by the Investor or other Holders (as defined in Annex E of the Exchange Agreement) pursuant to Annex E of the Exchange Agreement, the Company further agrees to cause any of its stockholders holding in excess of 4.0% of its Common Stock (assuming full exercise of any rights to convert or exchange any other securities into or for shares of Common Stock, in each case without regard for the limitations (i) set forth in Section 8 of the Certificate of Designations or in Article V of the Certificate of Incorporation or (ii) imposed by any regulatory requirement, rule, or regulation, including any commitment, arrangement or agreement made by any such stockholder pursuant to any regulatory requirement, rule, regulation, order or filing) to execute and deliver customary lock-up agreements in such form and for such time period up to 90 days as may be requested by the managing underwriter. From and after the Closing Date, Section 1.2(f) of Annex E shall be deleted in its entirety and restated as follows: “If either (x) the Company grants “piggyback” registration rights to one or more third parties to include their securities in an underwritten offering under the Shelf Registration Statement pursuant to Section 1.2(b) of this Annex E or (y) a Piggyback Registration under Section 1.2(d) of this Annex E relates to an underwritten offering, and in either case, following consultations with the Investor, the managing underwriters advise the Company and the Investor that in their reasonable opinion the number of securities requested to be included in such offering exceeds the number which can be sold without adversely affecting the marketability of such offering (including an adverse effect on the per share offering price), the Company will include in such offering only such number of securities that in the reasonable opinion of such managing underwriters can be sold without adversely affecting the marketability of the offering (including an adverse effect on the per share offering price), which securities will be so included in the following order of priority: (A) first, in either case, the Registrable Securities of the Investor, (B) second, in the case of a Piggyback Registration under Section 1.2(d) of this Annex E, the securities the Company proposes to sell, (C) third, the Registrable Securities of all other Holders who have requested inclusion of Registrable Securities pursuant to Section 1.2(b) or Section 1.2(d) of this Annex E, as applicable, *pro rata* on the basis of the aggregate number of such securities or shares owned by each such person and (D) fourth, any other securities of the Company that have been requested to be so included, subject to the terms of this Agreement.” The Investor acknowledges that, on the date hereof, the Company is not eligible to file a registration statement on Form S-3 covering the Exchange Shares, and the Company shall not be obligated to file a Shelf Registration Statement (as defined in Annex E of the Exchange Agreement) unless and until requested to do so in writing by the Investor.

(b) At all times after the Closing, the Company covenants that (1) it will, upon the request of the Investor or any subsequent holders of the Exchange Shares (“Holders”), use its reasonable best efforts to (x), to the extent any Holder is relying on Rule 144 under the Securities Act to sell any of the Exchange Shares, make “current public information” available, as provided in Section (c)(1) of Rule 144 (if the Company is a “Reporting Issuer” within the meaning of Rule 144) or in Section (c)(2) of Rule 144 (if the Company

is a “Non-Reporting Issuer” within the meaning of Rule 144), in either case for such time period as necessary to permit sales pursuant to Rule 144, or (y), to the extent any Holder is relying on the so-called “Section 4(1½)” exemption to sell any of its Exchange Shares, prepare and provide to such Holder such information, including the preparation of private offering memoranda or circulars or financial information, as the Holder may reasonably request to enable the sale of the Exchange Shares pursuant to such exemption, and (2) it will take such further action as any Holder may reasonably request from time to time to enable such Holder to sell the Exchange Shares without registration under the Securities Act within the limitations of the exemptions provided by (i) the provisions of the Securities Act or any interpretations thereof or related thereto by the SEC, including transactions based on the so-called “Section 4(1½)” and other similar transactions, (ii) Rule 144 under the Securities Act, as such rule may be amended from time to time, or (iii) any similar rule or regulation hereafter adopted by the SEC; provided that the Company shall not be required to take any action described in this Section 5.5(b) that would cause the Company to become subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act if the Company was not subject to such requirements prior to taking such action. Upon the request of any Holder, the Company will deliver to such Holder a written statement as to whether it has complied with such requirements and, if not, the specifics thereof.

(c) The Company agrees to indemnify the Investor, the Investor’s officers, directors, employees, agents, representatives and Affiliates, and each person, if any, that controls the Investor within the meaning of the Securities Act (each, an “Indemnitee”), against any and all losses, claims, damages, actions, liabilities, costs and expenses (including reasonable fees, expenses and disbursements of attorneys and other professionals incurred in connection with investigating, defending, settling, compromising or paying any such losses, claims, damages, actions, liabilities, costs and expenses), joint or several, arising out of or based upon any untrue statement or alleged untrue statement of material fact contained in any document or report provided by the Company pursuant to this Section 5.5 or any omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

(d) If the indemnification provided for in Section 5.5(c) is unavailable to an Indemnitee with respect to any losses, claims, damages, actions, liabilities, costs or expenses referred to therein or is insufficient to hold the Indemnitee harmless as contemplated therein, then the Company, in lieu of indemnifying such Indemnitee, shall contribute to the amount paid or payable by such Indemnitee as a result of such losses, claims, damages, actions, liabilities, costs or expenses in such proportion as is appropriate to reflect the relative fault of the Indemnitee, on the one hand, and the Company, on the other hand, in connection with the statements or omissions which resulted in such losses, claims, damages, actions, liabilities, costs or expenses as well as any other relevant equitable considerations. The relative fault of the Company, on the one hand, and of the Indemnitee, on the other hand, shall be determined by reference to, among other factors, whether the untrue statement of a material fact or omission to state a material fact relates to information supplied by the Company or by the Indemnitee and the parties’ relative intent, knowledge, access to information and opportunity to correct or prevent such

statement or omission; the Company and Investor agree that it would not be just and equitable if contribution pursuant to this Section 5.5(d) were determined by *pro rata* allocation or by any other method of allocation that does not take account of the equitable considerations referred to in Section 5.5(c). No Indemnitee guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from the Company if the Company was not guilty of such fraudulent misrepresentation.

Section 5.6 Voting Matters.

(a) The Investor agrees that it will vote, or cause to be voted, or exercise its right to consent (or cause its right to consent to be exercised) with respect to, all Exchange Shares beneficially owned by it and its controlled Affiliates (and which are entitled to vote on such matter) with respect to each matter on which holders of Common Stock are entitled to vote or consent, other than a Designated Matter, in the same proportion (for, against or abstain) as all other shares of the Company's Common Stock are voted or consents are given with respect to each such matter. The Investor agrees to attend all meetings of the Company's stockholders in person or by proxy for purposes of obtaining a quorum. In order to effectuate the foregoing agreements, to the maximum extent permitted by applicable law, the Investor hereby grants a proxy appointing each of the Chairman of the Board and General Counsel of the Company attorney-in-fact and proxy for it and its controlled Affiliates with full power of substitution, for and in the name of it and its controlled Affiliates, to vote, express consent or dissent, or otherwise to utilize such voting power in the manner and solely on the terms provided by this Section 5.6 with respect to the Exchange Shares and the Investor hereby revokes any and all previous proxies granted with respect to the Exchange Shares for purposes of the matters contemplated in this Section 5.6; *provided* that such proxy may only be exercised if the Investor fails to comply with the terms of this Section 5.6. The proxy granted hereby is irrevocable prior to the termination of this Agreement, is coupled with an interest and is granted in consideration of the Company entering into this Agreement and issuing the Exchange Shares to the Investor.

(b) The Investor shall retain the right to vote in its sole discretion all Exchange Shares beneficially owned by it and its controlled Affiliates (and which are entitled to vote on such matter) on any Designated Matter.

Section 5.7 Restriction on Dividends and Repurchases.

(a) Until the earlier of (i) January 16, 2012, or (ii) such time as the Investor ceases to own any debt or equity securities of the Company or an Affiliate of the Company acquired pursuant to this Agreement, the Exchange Agreement or the Securities Purchase Agreement (including, for the avoidance of doubt, the Exchange Shares, the CDCI Preferred Shares and the CPP Preferred Shares), neither the Company nor any Company Subsidiary shall, without the consent of the Investor:

(i) declare or pay any dividend or make any distribution on the Common Stock (other than (A) regular quarterly cash dividends of not more

than the amount of the last quarterly cash dividend per share declared or, if lower, publicly announced an intention to declare, on the Common Stock prior to October 14, 2008, as adjusted for any stock split, stock dividend, reverse stock split, reclassification or similar transaction, (B) dividends payable solely in shares of Common Stock and (C) dividends or distributions of rights or Junior Stock in connection with a stockholders' rights plan); or

(ii) redeem, purchase or acquire any shares of Common Stock or other capital stock or other equity securities of any kind of the Company, or any trust preferred securities issued by the Company or any Affiliate of the Company, other than (A) redemptions, purchases or other acquisitions of shares of Common Stock or other Junior Stock, in each case in this clause (A) in connection with the administration of any employee benefit plan in the ordinary course of business (including purchases to offset the Share Dilution Amount (as defined below) pursuant to a publicly announced repurchase plan) and consistent with past practice; *provided* that any purchases to offset the Share Dilution Amount shall in no event exceed the Share Dilution Amount, (B) purchases or other acquisitions by a broker-dealer subsidiary of the Company solely for the purpose of market-making, stabilization or customer facilitation transactions in trust preferred securities of the Company or an Affiliate of the Company, Junior Stock or Parity Stock in the ordinary course of its business, (C) purchases by a broker-dealer subsidiary of the Company of trust preferred securities or capital stock of the Company or an Affiliate of the Company for resale pursuant to an offering by the Company of such trust preferred securities or capital stock underwritten by such broker-dealer subsidiary, (D) any redemption or repurchase of rights pursuant to any stockholders' rights plan, (E) the acquisition by the Company or any of the Company Subsidiaries of record ownership in Junior Stock, Parity Stock or trust preferred securities of the Company or an Affiliate of the Company for the beneficial ownership of any other persons (other than the Company or any other Company Subsidiary), including as trustees or custodians, and (F) the exchange or conversion of Junior Stock for or into other Junior Stock or of Parity Stock or of trust preferred securities of the Company or an Affiliate of the Company for or into other Parity Stock (with the same or lesser aggregate liquidation amount) or Junior Stock, in each case set forth in this clause (F), solely to the extent required pursuant to binding contractual agreements entered into prior to January 16, 2009, or any subsequent agreement for the accelerated exercise, settlement or exchange thereof for Common Stock. "Share Dilution Amount" means the increase in the number of diluted shares outstanding (determined in accordance with United States generally accepted accounting principles ("GAAP"), and as measured from the date of the Company's most recently filed consolidated financial statements prior to the Closing Date) resulting from the grant, vesting or exercise of equity-based compensation to employees and equitably adjusted for any stock split, stock dividend, reverse stock split, reclassification or similar transaction.

(b) The parties agree that, effective as of the Closing Date, Section 4.2(b) of the Exchange Agreement shall be amended in its entirety by replacing such Section 4.2(b) with the provisions set forth in this Section 5.7 and any terms included in this Section 5.7 that are not otherwise defined in the Exchange Agreement shall have the meanings ascribed to such terms in this Agreement.

Section 5.8 Repurchase of Investor Securities. From and after the date of this Agreement, the agreements set forth in Section 5.7 of the Exchange Agreement shall be applicable following the Transfer by the Investor of all of the Exchange Shares held by the Investor to one or more third parties not affiliated with the Investor. For the avoidance of doubt, the Exchange Shares may not be repurchased by the Company pursuant to this Section 5.8 or Section 5.7 of the Exchange Agreement.

Section 5.9 Savings and Loan Holding Company Status. The Company shall maintain its status as a Savings and Loan Holding Company for as long as the Investor owns any debt or equity securities of the Company or an Affiliate of the Company acquired pursuant to this Agreement, the Exchange Agreement or the Securities Purchase Agreement (including, for the avoidance of doubt, the Exchange Shares, the CDCI Preferred Shares and the CPP Preferred Shares).

Section 5.10 Compliance with Employ American Workers Act. Until the Company is no longer deemed a recipient of funding under Title I of EESA or Section 13 of the Federal Reserve Act for purposes of the EAWA, as the same may be determined pursuant to any regulations or other legally binding guidance promulgated under EAWA, the Company shall comply, and the Company shall take all necessary action to ensure that its Subsidiaries comply, in all respects with the provisions of the EAWA and any regulations or other legally binding guidance promulgated under the EAWA.

Section 5.11 Observer to the Board of Directors. So long as the Investor and its Affiliates beneficially own at least 5% of the issued and outstanding Common Stock (treating all securities beneficially owned by the Investor and its Affiliates that are convertible into or exchangeable or exercisable for Common Stock as converted, exchanged or exercised), the Investor shall be entitled to designate one individual to serve as an observer (the "Observer") to the Board of Directors of the Company, which designation may be changed from time to time in the sole discretion of the Investor. The Observer shall be entitled to (i) attend all meetings of the Board of Directors of the Company and the board of directors of each subsidiary of the Company, including any committee meetings of such boards of directors, (ii) receive notices of such meetings concurrently with the members of the Board of Directors of the Company or such boards of directors or committees thereof and (iii) receive all information provided to members of the Board of Directors of the Company or such boards of directors or committees thereof at such meetings.

The Observer shall have no voting rights and his or her presence shall not be required for determining a quorum at any meeting he or she is entitled to attend pursuant to this Section 5.11.

ARTICLE VI
MISCELLANEOUS

Section 6.1 Termination. This Agreement may be terminated at any time prior to the Closing:

(a) by either the Investor or the Company if the Closing shall not have occurred by October 27, 2011; *provided, however*, that in the event the Closing has not occurred by such date, the parties will consult in good faith to determine whether to extend the term of this Agreement, it being understood that the parties shall be required to consult only until the fifth day after such date and not be under any obligation to extend the term of this Agreement thereafter; *provided, further*, that the right to terminate this Agreement under this Section 6.1(a) shall not be available to any party whose breach of any representation or warranty or failure to perform any obligation under this Agreement shall have caused or resulted in the failure of the Closing to occur on or prior to such date;

(b) by either the Investor or the Company in the event that any Governmental Entity shall have issued an order, decree or ruling or taken any other action restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement and such order, decree, ruling or other action shall have become final and nonappealable; or

(c) by the mutual written consent of the Investor and the Company.

In the event of termination of this Agreement as provided in this Section 6.1, this Agreement shall forthwith become void and there shall be no liability on the part of either party hereto except that nothing herein shall relieve either party from liability for any breach of this Agreement.

Section 6.2 Survival of Representations and Warranties. The representations and warranties of the Company made herein or in any certificates delivered in connection with the Closing shall survive the Closing without limitation.

Section 6.3 Amendment. No amendment of any provision of this Agreement will be effective unless made in writing and signed by an officer or a duly authorized representative of each of the Company and the Investor; *provided* that the Investor may unilaterally amend any provision of this Agreement to the extent required to comply with any changes after the date hereof in applicable federal statutes. No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative of any rights or remedies provided by law.

Section 6.4 Waiver of Conditions. The conditions to each party's obligation to consummate the Exchange are for the sole benefit of such party and may be waived by such party in whole or in part to the extent permitted by applicable law. No waiver will be effective unless it is in a writing signed by a duly authorized officer of the waiving party that makes express reference to the provision or provisions subject to such waiver.

Section 6.5 Governing Law; Submission to Jurisdiction, etc. This Agreement and any claim, controversy or dispute arising under or related to this Agreement, the relationship of the parties, and/or the interpretation and enforcement of the rights and duties of the parties shall be enforced, governed, and construed in all respects (whether in contract or in tort) in accordance with the federal law of the United States if and to the extent such law is applicable, and otherwise in accordance with the laws of the State of New York applicable to contracts made and to be performed entirely within such State. Each of the parties hereto agrees (a) to submit to the exclusive jurisdiction and venue of the United States District Court for the District of Columbia and the United States Court of Federal Claims for any and all civil actions, suits or proceedings arising out of or relating to this Agreement or the Exchange contemplated hereby and (b) that notice may be served upon (i) the Company at the address and in the manner set forth for notices to the Company in Section 6.6 and (ii) the Investor at the address and in the manner set forth for notices to the Company in Section 6.6, but otherwise in accordance with federal law. To the extent permitted by applicable law, each of the parties hereto hereby unconditionally waives trial by jury in any civil legal action or proceeding relating to this Agreement or the Exchange contemplated hereby.

Section 6.6 Notices. Any notice, request, instruction or other document to be given hereunder by any party to the other will be in writing and will be deemed to have been duly given (a) on the date of delivery if delivered personally, or by facsimile, upon confirmation of receipt, or (b) on the second business day following the date of dispatch if delivered by a recognized next day courier service. All notices hereunder shall be delivered as set forth below or pursuant to such other instructions as may be designated in writing by the party to receive such notice.

If to the Company:

Carver Bancorp, Inc.
75 West 125th Street
New York, NY 10027
Attention: Mark A. Ricca
Executive Vice President, Chief Risk Officer and General Counsel
Telephone: (212) 360-8820
Facsimile: (212) 426-6213

With a copy to:

Luse Gorman Pomerenk & Schick, P.C.
5335 Wisconsin Avenue, NW
Suite 780
Washington, D.C. 20015
Attention: Lawrence M.F. Spaccasi
Telephone: (202) 274-2037
Facsimile: (202) 362-2902

If to the Investor:

United States Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220
Attention: Chief Counsel Office of Financial Stability
Facsimile: (202) 927-9225
Email: OFSChiefCounselNotices@do.treas.gov

With a copy to:

Alston & Bird LLP
950 F Street NW
Washington, DC 20004
Attention: David E. Brown, Jr.
Telephone: (202) 239-3345
Facsimile: (202) 654-4945

Section 6.7 Definitions.

(a) When a reference is made in this Agreement to a subsidiary of a person, the term “subsidiary” means any corporation, partnership, joint venture, limited liability company or other entity (x) of which such person or a subsidiary of such person is a general partner or (y) of which a majority of the voting securities or other voting interests, or a majority of the securities or other interests of which having by their terms ordinary voting power to elect a majority of the board of directors or persons performing similar functions with respect to such entity, is directly or indirectly owned by such person and/or one or more subsidiaries thereof.

(b) The term “Affiliate” means, with respect to any person, any person directly or indirectly controlling, controlled by or under common control with, such other person. For purposes of this definition, “control” (including, with correlative meanings, the terms “controlled by” and “under common control with”) when used with respect to any person, means the possession, directly or indirectly, of the power to cause the direction of management and/or policies of such person, whether through the ownership of voting securities by contract or otherwise.

(c) The term “Business Combination” means a merger, consolidation, statutory share exchange or similar transaction that requires the approval of the Company’s stockholders.

(d) The term “Closing Price” means the closing sale price or, if no closing sale price is reported, the last reported sale price of the shares of the Common Stock on The NASDAQ Global Market on such date. If the Common Stock is not traded on The NASDAQ Global Market on any date of determination, the Closing Price of the Common Stock on such date of determination means the closing sale price as reported in the

composite transactions for the principal U.S. national or regional securities exchange on which the Common Stock is so listed or quoted, or, if no closing sale price is reported, the last reported sale price on the principal U.S. national or regional securities exchange on which the Common Stock is so listed or quoted, or if the Common Stock is not so listed or quoted on a U.S. national or regional securities exchange, the last quoted bid price for the Common Stock in the over-the-counter market as reported by Pink OTC Markets Inc. or a similar organization, or, if that bid price is not available, the market price of the Common Stock on that date as determined by a nationally recognized independent investment banking firm retained by the Company for this purpose.

(e) The term “Company Material Adverse Effect” means a material adverse effect on (i) the business, results of operation or financial condition of the Company and its consolidated subsidiaries taken as a whole; *provided, however*, that Company Material Adverse Effect shall not be deemed to include: the effects of (A) changes after the date hereof in general business, economic or market conditions (including changes generally in prevailing interest rates, credit availability and liquidity, currency exchange rates and price levels or trading volumes in the United States or foreign securities or credit markets), or any outbreak or escalation of hostilities, declared or undeclared acts of war or terrorism, in each case generally affecting the industries or geographic areas in which the Company and its subsidiaries operate, (B) changes or proposed changes after the date hereof in GAAP or regulatory accounting requirements, or authoritative interpretations thereof, (C) changes or proposed changes after the date hereof in securities, banking and other laws of general applicability or related policies or interpretations of Governmental Entities (in the case of each of these clauses (A), (B) and (C), other than changes or occurrences to the extent that such changes or occurrences have or would reasonably be expected to have a materially disproportionate adverse effect on the Company and its consolidated subsidiaries taken as a whole relative to comparable U.S. banking or financial services organizations), (D) changes in the market price or trading volume of the Common Stock or any other equity, equity-related or debt securities of the Company or its consolidated subsidiaries (it being understood and agreed that the exception set forth in this clause (D) does not apply to the underlying reason giving rise to or contributing to any such change); or (E) actions or omissions of the Company or any Company Subsidiary expressly required by the terms of the Exchange; or (ii) the ability of the Company to consummate the Exchange and the other transactions contemplated by this Agreement and perform its obligations hereunder on a timely basis.

(f) The term “Conversion Price” means for each CDCI Preferred Share, for purposes of calculating the Exchange into Exchange Shares, \$0.5451, subject to adjustment at the same time and in the same manner as adjustments are made to the “Applicable Conversion Rate” pursuant to Section 10 of the Certificate of Designations for Series C and Series D of Preferred Stock (the “Certificate of Designations”) attached as Exhibit A hereto; *provided, however*, that adjustments to the Conversion Price shall be made notwithstanding the last sentence of Section 4(a)(i) of the Certificate of Designations and Section 10(d) of the Certificate of Designations.

(g) The term “Designated Matters” means (i) the election and removal of directors, (ii) the approval of any Business Combination, (iii) the approval of a sale of all

or substantially all of the assets or property of the Company, (iv) the approval of a dissolution of the Company, (v) the approval of any issuance of any securities of the Company on which holders of Common Stock are entitled to vote, (vi) the approval of any amendment to the Certificate of Incorporation or bylaws of the Company on which holders of Common Stock are entitled to vote, and (vii) the approval of any other matters reasonably incidental to the foregoing subclauses (i) through (vi) as determined by the Investor.

(h) The term “EAWA” means the Employ American Workers Act (Section 1611 of Division A, Title XVI of the American Recovery and Reinvestment Act of 2009), Public Law No. 111-5, effective as of February 17, 2009, as may be amended and in effect from time to time.

(i) The term “Junior Stock” means Common Stock and any other class or series of stock of the Company the terms of which expressly provide that it ranks junior to the CDCI Preferred Shares as to dividend rights and/or as to rights on liquidation, dissolution or winding up of the Company.

(j) The term “Parity Stock” means any class or series of stock of the Company the terms of which do not expressly provide that such class or series will rank senior or junior to the CDCI Preferred Shares as to dividend rights and/or as to rights on liquidation, dissolution or winding up of the Company (in each case without regard to whether dividends accrue cumulatively or non-cumulatively).

(k) The term “Preferred Stock” means any and all series of preferred stock of the Company.

(l) The term “Previously Disclosed” means information set forth or incorporated in the Company’s Annual Report on Form 10-K for the most recently completed fiscal year of the Company filed with the SEC prior to the date hereof or in its other reports and forms filed with or furnished to the SEC under Section 13(a), 14(a) or 15(d) of the Exchange Act on or after the last day of the most recently completed fiscal year of the Company and prior to the date hereof.

(m) The term “Trading Day” means a day on which the shares of Common Stock: (i) are not suspended from trading on any national or regional securities exchange or association or over-the-counter market at the close of business; and (ii) have traded at least once on the national or regional securities exchange or association or over-the-counter market that is the primary market for the trading of the Common Stock.

(n) To the extent any securities issued pursuant to this Agreement or the transactions contemplated hereby are registered in the name of a designee of the Investor pursuant to Section 1.1 or 6.8 or transferred to an Affiliate of the Investor, all references herein to the Investor holding or owning any debt or equity securities of the Company, Exchange Shares or Registrable Securities (and any like variations thereof) shall be deemed to refer to the Investor, together with such designees and/or Affiliates, holding or

owning any debt or equity securities, Exchange Shares or Registrable Securities (and any like variations thereof), as applicable.

Section 6.8 Assignment. Neither this Agreement nor any right, remedy, obligation nor liability arising hereunder or by reason hereof shall be assignable by any party hereto without the prior written consent of each other party, and any attempt to assign any right, remedy, obligation or liability hereunder without such consent shall be void, except (a) an assignment, in the case of a Business Combination where such party is not the surviving entity, or a sale of substantially all of its assets, to the entity which is the survivor of such Business Combination or the purchaser in such sale, (b) as provided in Sections 5.4 and 5.5 and (c) an assignment by the Investor of this Agreement to an Affiliate of the Investor; *provided* that if the Investor assigns this Agreement to an Affiliate, the Investor shall be relieved of its obligations under this Agreement but (i) all rights, remedies and obligations of the Investor hereunder shall continue and be enforceable and exercisable by such Affiliate, and (ii) the Company's obligations and liabilities hereunder shall continue to be outstanding.

Section 6.9 Severability. If any provision of this Agreement, or the application thereof to any person or circumstance, is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof, or the application of such provision to persons or circumstances other than those as to which it has been held invalid or unenforceable, will remain in full force and effect and shall in no way be affected, impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination, the parties shall negotiate in good faith in an effort to agree upon a suitable and equitable substitute provision to effect the original intent of the parties.

Section 6.10 No Third-Party Beneficiaries. Nothing contained in this Agreement, expressed or implied, is intended to confer upon any person or entity other than the Company and the Investor any benefit, right or remedies, except that (i) the provisions of Section 4.4 shall inure to the benefit of the persons referred to in that Section and (ii) the provisions of Section 5.5 shall inure to the benefit of the persons holding Exchange Shares during any tacked holding period, as contemplated by that Section.

Section 6.11 Entire Agreement, etc. This Agreement (including the Annexes and Schedules hereto) constitutes the entire agreement, and supersedes all other prior agreements, understandings, representations and warranties, both written and oral, between the parties, with respect to the subject matter hereof. For the avoidance of doubt, the Exchange Agreement shall remain in full force and effect, notwithstanding Sections 6.1(b) or (c) of the Exchange Agreement, but shall be deemed amended hereby effective as of the Closing, and any provisions in this Agreement that supplement, duplicate or contradict any provision of the Exchange Agreement shall be deemed to supersede the corresponding provision of the Exchange Agreement from and after the Closing. For the further avoidance of doubt, the Securities Purchase Agreement shall remain in full force and effect, other than as specifically modified by the Exchange Agreement and herein.

Section 6.12 Counterparts and Facsimile. For the convenience of the parties hereto, this Agreement may be executed in any number of separate counterparts, each such

counterpart being deemed to be an original instrument, and all such counterparts will together constitute the same agreement. Executed signature pages to this Agreement may be delivered by facsimile and such facsimiles will be deemed as sufficient as if actual signature pages had been delivered.

Section 6.13 Specific Performance. The parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms. It is accordingly agreed that the parties shall be entitled (without the necessity of posting a bond) to specific performance of the terms hereof, this being in addition to any other remedies to which they are entitled at law or equity.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

CARVER BANCORP, INC.

By: _____

Name: Mark A. Ricca

Title: Executive Vice President, Chief
Financial Officer and General
Counsel

**UNITED STATES DEPARTMENT OF THE
TREASURY**

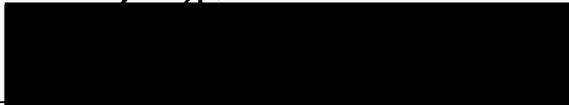
By: _____

Name: Timothy G. Massad

Title: Acting Assistant Secretary for
Financial Stability

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

CARVER BANCORP, INC.

By: 

Name: Mark A. Ricca
Title: Executive Vice President, Chief
Financial Officer and General
Counsel

**UNITED STATES DEPARTMENT OF THE
TREASURY**

By: _____

Name: Timothy G. Massad
Title: Acting Assistant Secretary for
Financial Stability

ANNEX A

FORM OF OFFICER'S CERTIFICATE

OFFICER'S CERTIFICATE
OF
CARVER BANCORP, INC.

In connection with that certain exchange agreement, dated June 29, 2011 (the "Agreement") by and between Carver Bancorp, Inc. (the "Company") and the United States Department of the Treasury, the undersigned does hereby certify as follows:

1. I am a duly elected/appointed [_____] of the Company.
2. The representations and warranties of the Company set forth in Article III of the Agreement are true and correct in all respects as though made on and as of the Closing Date (other than representations and warranties that by their terms speak as of another date, which representations and warranties shall be true and correct in all respects as of such other date) and the Company has performed in all material respects all obligations required to be performed by it under the Agreement at or prior to the Closing.
3. The Company has effected such changes to its Benefit Plans with respect to its Senior Executive Officers and any other employee of the Company or its Affiliates subject to Section 111 of EESA, as implemented by any Compensation Regulations (and to the extent necessary for such changes to be legally enforceable, each of its Senior Executive Officers and other employees has duly consented in writing to such changes), as may be necessary, during the Relevant Period, in order to comply with Section 111 of EESA or the Compensation Regulations.
4. The Certificate of Incorporation and bylaws of the Company delivered to the Investor pursuant to the Agreement are true, complete and correct as of the date hereof.

The foregoing certifications are made and delivered as of [_____] pursuant to Sections 1.1(d)(v) and 1.1(d)(x) of the Agreement.

Capitalized terms used and not otherwise defined herein shall have the meanings assigned to them in the Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this Officer's Certificate has been duly executed and delivered as of the ___ day of _____, 2011.

CARVER BANCORP, INC.

By: _____
Name:
Title:

ANNEX B

FORM OF OPINION

Subject to customary limitations, qualifications, and exceptions to be set forth in the letter as delivered at Closing:

- a) The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has the corporate power and authority to own, operate and lease its properties and to carry on its business as it is currently conducted.
- b) Carver Federal Savings Bank is a savings association duly organized, validly existing and in good standing under the laws of the United States of America and has the corporate power and authority to own, operate and lease its properties and to carry on its business as it is currently conducted.
- c) The outstanding shares of capital stock of the Company have been duly authorized and are validly issued and outstanding, fully paid and nonassessable, are subject to no preemptive rights and were not issued in violation of any preemptive rights.
- d) The Company has the corporate power and authority to execute and deliver the Agreement and to perform its obligations thereunder (which includes the issuance of the Exchange Shares).
- e) The Agreement constitutes a valid and binding agreement of the Company, enforceable against the Company in accordance with its terms.
- f) The execution, delivery and performance by the Company of the Agreement and the consummation of the transactions contemplated thereby, have been duly authorized by all necessary corporate action on the part of the Company and its shareholders, no further approval or authorization is required in connection with such execution, delivery and performance, either on the part of the Company or its shareholders, including, without limitation, by any applicable rule or requirement of any national stock exchange.
- g) The Exchange Shares have been duly and validly authorized, and, when issued and delivered pursuant to the Agreement, the Exchange Shares will be duly and validly issued, fully paid and nonassessable, will not be issued in violation of any preemptive rights, and will not subject the holder thereof to personal liability.
- h) The execution of the Agreement does not, and the delivery and performance by the Company of the Agreement and the consummation of the transactions contemplated thereby, and compliance by the Company with the provisions thereof, will not (A) violate, conflict with, or result in a breach of any provision of the Company's Certificate of Incorporation or By-laws or (B) constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, or accelerate the performance required by, or result in a right of

termination or acceleration of, or result in the creation of, any lien, security interest, charge or encumbrance upon any of the properties or assets of the Company or any Company Subsidiary under any of the terms, conditions or provisions of (i) its organizational documents or (ii) under any note, bond, indenture, deed of trust, license, lease, agreement or other instrument or obligation to which the Company or any Company Subsidiary is a party or by which it or any Company Subsidiary may be bound, or to which the Company or any Company Subsidiary or any of the properties or assets of the Company or any Company Subsidiary may be subject, or (C) subject to compliance with the statute and regulations referred to in Section 3.5(b) of the Agreement violate any statute, rule or regulation or any judgment, ruling, order, writ, injunction or decree applicable to the Company or any Company Subsidiary or any of their respective properties or assets except, in the case of clause (B)(ii) or (C), for those occurrences that, individually or in the aggregate, have not had and would not reasonably be expected to have a Company Material Adverse Effect.

- i) Other than the filing of the Charter Amendment with the State of Delaware, the filing of any current report on Form 8-K required to be filed with the SEC and the filing of the Notification for Listing of Additional Shares with The NASDAQ Stock Market, LLC, such filings and approvals as are required to be made or obtained under any state “blue sky” laws and such consents and approvals that have been made or obtained, no notice to, filing with, exemption or review by, or authorization, consent or approval of, any Governmental Entity is required to be made or obtained by the Company in connection with the consummation by the Company of the Exchange.
- j) The Company is not and, after giving effect to the issuance of the Exchange Shares pursuant to the Agreement and the other issuances of Common Stock pursuant to the Equity Investments, as contemplated by this Agreement, would not be on the date hereof an “investment company” or an entity “controlled” by an “investment company,” as such terms are defined in the Investment Company Act of 1940, as amended.
- k) Each Certified Entity (A) is a regulated community development financial institution (a “CDFI”) currently certified by the Community Development Financial Institution Fund (the “Fund”) of the United States Department of the Treasury pursuant to 12 C.F.R. 1805.201(a) and (B) satisfies all of the eligibility requirements of the Fund’s Community Development Financial Institutions Program for CDFI.

ANNEX C

FORM OF OFFICER'S CERTIFICATE (CDFI REQUIREMENTS)

OFFICER'S CERTIFICATE
OF
CARVER BANCORP, INC.

In connection with that certain exchange agreement, dated June 29, 2011 (the "Agreement") by and between Carver Bancorp, Inc. (the "Company") and the United States Department of the Treasury, the undersigned does hereby certify as follows:

1. I am a duly elected/appointed [_____] of the Company.
2. Each Certified Entity (as defined in the Standard Terms) (A) is certified by the Community Development Financial Institution Fund (the "Fund") of the United States Department of the Treasury as a regulated community development financial institution (a "CDFI"); (B) together with its Affiliates collectively meets the eligibility requirements of 12 C.F.R. 1805.200(b); (C) has a primary mission of promoting community development, as may be determined by Investor from time to time, based on criteria set forth in 12 C.F.R. 1805.201(b)(1); (D) provides Financial Products, Development Services, and/or other similar financing as a predominant business activity in arm's-length transactions; (E) serves a Target Market by serving one or more Investment Areas and/or Targeted Populations in the manner set forth in 12 C.F.R. 1805.201(b)(3); (F) provides Development Services in conjunction with its Financial Products, directly, through an Affiliate or through a contract with a third-party provider; (G) maintains accountability to residents of the applicable Investment Area(s) or Targeted Population(s) through representation on its governing Board of Directors or otherwise; and (H) remains a non-governmental entity which is not an agency or instrumentality of the United States of America, or any State or political subdivision thereof, as described in 12 C.F.R. 1805.201(b)(6) and within the meaning of any supplemental regulations or interpretations of 12 C.F.R. 1805.201(b)(6) or such supplemental regulations published by the Fund. As used herein, the terms "Affiliates"; "*Financial Products*"; "*Development Services*"; "*Target Market*"; "*Investment Areas*"; and "*Targeted Populations*" have the meanings ascribed to such terms in 12 C.F.R. 1805.104.
3. The information set forth in the CDFI Certification Application delivered to the Investor pursuant to Section 1.1(d)(ix) of the Agreement (the "CDFI Application"), as modified by any updates to the CDFI Application provided on *[Insert Date(s)]* by the Company to the Investor on or prior to the date hereof, with respect to the covenants set forth in Section 4.5(a)(ii) and Section 4.5(a)(iv) of the Agreement remains true, correct and complete as of the date hereof.
4. The contracts and material agreements entered into by each Certified Entity with respect to Development Services previously disclosed to the Investor remain in effect and copies of any new contracts and material agreements entered into by the Certified Entity with respect to Development Services are attached hereto as Exhibit A.

5. Attached hereto as Exhibit B is (A) a list of the names and addresses of the individuals which comprise the board of directors of each Certified Entity as of the date hereof, (B) to the extent any member of the board of directors listed on Exhibit B was not a member of the board of directors as of the last certification provided to the Investor pursuant to Section 4.5(b) of the Agreement, a narrative describing such individual's relationship to the applicable Investment Area(s) and Targeted Population(s) and (C) to the extent any Certified Entity maintains accountability to residents of the applicable Investment Area(s) or Target Population(s) through means other than representation on its governing board of directors and such means have changed since the date of the last certification provided to the Investor pursuant to Section 4.5(b) of the Agreement on *[Insert Date]*, a narrative describing such change.

6. Each Certified Entity is not an agency of the United States of America, or any State or political subdivision thereof, as described in 12 C.F.R. 1805.201(b)(6) and within the meaning of any supplemental regulations or interpretations of 12 C.F.R. 1805.201(b)(6) or such supplemental regulations published by the Fund.

7. *[Insert if the Company was a Bank Holding Company or a Savings and Loan Holding Company on the Signing Date: The Company is and has been at all times since the date of the last certification provided to the Investor pursuant to Section 4.5(b) of the Agreement, a [Insert if the Company is a Bank Holding Company: Bank Holding Company] [Insert if the Company is a Savings and Loan Holding Company: Savings and Loan Holding Company].]* The Company is not, and has not been at any time since the date of the last certification provided to the Investor pursuant to Section 4.5(b) of the Agreement on *[Insert Date]*, controlled (within the meaning of *[Insert for banks and Bank Holding Companies: the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)(2)) and 12 C.F.R. 225(a)(i)] [Insert for savings associations and Savings and Loan Holding Companies: the Home Owners' Loan Act of 1933 (12 U.S.C. 1467a (a)(2)) and 12 C.F.R. 583.7]*) by a foreign bank or company.

The foregoing certifications are made and delivered as of pursuant to Section 4.5(b) of the Agreement.

Capitalized terms used and not otherwise defined herein shall have the meanings assigned to them in the Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this Officer's Certificate has been duly executed and delivered as of the ___ day of _____, 2011.

CARVER BANCORP, INC.

By: _____
Name:
Title:

EXHIBIT A
NEW CONTRACTS AND MATERIAL AGREEMENTS

EXHIBIT B

BOARD OF DIRECTORS

CERTIFIED ENTITY: [CERTIFIED ENTITY]¹

NAME	ADDRESS	NARRATIVE²

¹ Include chart for each Certified Entity.

² To the extent (x) any of the individuals was not a member of the board of directors of such Certified Entity as of the last certification to the Investor, include a narrative describing such individual's relationship to the applicable Investment Area(s) and Targeted Population(s) or, (y) if such Certified Entity maintains accountability to residents of the applicable Investment Area(s) or Target Population(s) through means other than representation on its governing board of directors and such means have changed since the date of the last certification to the Investor, a narrative describing such change.

ANNEX D

FORM OF WAIVER

In consideration for the benefits I will receive as a result of the participation of CARVER BANCORP, INC. (together with its subsidiaries and affiliates, the “Company”), which is either my employer or the sole shareholder of my employer, in the United States Department of the Treasury’s (the “Treasury”) Community Development Capital Initiative and/or any other economic stabilization program implemented by the Treasury under the Emergency Economic Stabilization Act of 2008 (as amended, supplemented, or otherwise modified, the “EESA”) (any such program, including the Community Development Capital Initiative, a “Program”), I hereby voluntarily waive any claim against the United States (and each of its departments and agencies) or the Company or my employer, or any of their respective directors, officers, employees and agents for any changes to my compensation or benefits that are required to comply with the executive compensation and corporate governance requirements of Section 111 of the EESA, as implemented by any guidance or regulations issued and/or to be issued thereunder, including without limitation the provisions for the Community Development Capital Initiative, as implemented by any guidance or regulation thereunder, including the rules set forth in 31 C.F.R. Part 30, or any other guidance or regulations under the EESA and the applicable requirements of the Exchange Agreement by and among the Company and the Treasury dated as of August 27, 2010 (such requirements, the “Limitations”).

I acknowledge that the Limitations may require modification or termination of the employment, compensation, bonus, incentive, severance, retention and other benefit plans, arrangements, policies and agreements (including so-called “golden parachute” agreements), whether or not in writing, that I may have with the Company or my employer or in which I may participate as they relate to the period the United States holds any equity or debt securities of the Company acquired through a Program or for any other period applicable under such Program or Limitations, as the case may be, and I hereby consent to all such modifications.

This waiver includes all claims I may have under the laws of the United States or any other jurisdiction (whether or not in existence as of the date hereof) related to the requirements imposed by the Limitations, including without limitation a claim for any compensation or other payments or benefits I would otherwise receive, any challenge to the process by which the Limitations are or were adopted and any tort or constitutional claim about the effect of these Limitations on my employment relationship and I hereby agree that I will not at any time initiate, or cause or permit to be initiated on my behalf, any such claim against the United States, the Company, my employer or their respective directors, officers, employees or agents in or before any local, state, federal or other agency, court or body.

I agree that, in the event and to the extent that the Compensation Committee of the Board of Directors of the Company or similar governing body (the “Committee”) reasonably determines that any compensatory payment and benefit provided to me, including any bonus or incentive compensation based on materially inaccurate financial statements or performance criteria, would cause the Company to fail to be in compliance with the Limitations (such payment or benefit, an “Excess Payment”), upon notification from the Company, I shall repay such Excess Payment to

the Company within 15 business days. In addition, I agree that the Company shall have the right to postpone any such payment or benefit for a reasonable period of time to enable the Committee to determine whether such payment or benefit would constitute an Excess Payment.

I understand that any determination by the Committee as to whether or not, including the manner in which, a payment or benefit needs to be modified, terminated or repaid in order for the Company to be in compliance with Section 111 of the EESA and/or the Limitations shall be a final and conclusive determination of the Committee which shall be binding upon me. I further understand that the Company is relying on this letter from me in connection with its participation in a Program.

IN WITNESS WHEREOF, I execute this waiver on my own behalf, thereby communicating my acceptance and acknowledgement to the provisions herein.

Respectfully,

Name:

Title:

Date:

SCHEDULE 3.1(b)

CAPITALIZATION

Authorized Capital Stock of the Company (as of April 30, 2011)

Common Stock: 10,000,000 shares, par value \$.01 per share

Preferred Stock: 2,000,000 shares, par value \$.01 per share (18,980 designated as Fixed Rate Cumulative Perpetual Preferred Stock, Series B)

Outstanding Capital Stock of the Company (as of April 30, 2011)

Common Stock: 2,484,263

Preferred Stock: 18,980 shares of Fixed Rate Cumulative Perpetual Preferred Stock, Series B

As of April 30, 2011, approximately 209,000 shares of Common Stock have been reserved for issuance under the following equity based benefit plans:

- Carver Bancorp, Inc. Employee Stock Ownership Plan – Currently frozen; no new entrants or funding since 12/31/2006 (approximately 82 participants)
- 2006 Stock Incentive Plan (as amended December 2008 to comply with Section 409A definition of “change in control”).
- 1995 Stock Option Plan (replaced by 2006 Stock Incentive Plan on September 12, 2006).
- 1995 Management Recognition Plan (replaced by 2006 Stock Incentive Plan on September 12, 2006).

The Company also currently holds 40,428 shares of Common Stock in its treasury (“Treasury Shares”).

The Pledge Agreements, dated January 14, 2011, by and among certain Directors and Officers of the Company, each as Lenders, and the Company, as the Borrower, in the aggregate amount of \$113,227.33 to assist the Company in making its December 15, 2010 dividend interest payment required under the Indenture, dated September 17, 2003, between Carver Bancorp, Inc. (the “Company”), as Issuer, and U.S. Bank National Association, as debenture Trustee, for Floating Rate Junior Subordinated Deferrable Interest Debentures due 2033, were collateralized by all of the Treasury Shares of the Company. In the event that the Company enters into an Event of Default under the Pledge Agreements, those shares will be issued to the Lenders. In the event that an Event of Default occurs under the Pledge Agreements, those shares will be issued to the Lenders on a pro rata basis based on the amount that each Lender loaned to the Company. The transactions contemplated by this Agreement, the Additional Agreements and the TARP Exchange Agreement will not cause an Event of Default under the Pledge Agreements.

SCHEDULE 3.5(c)

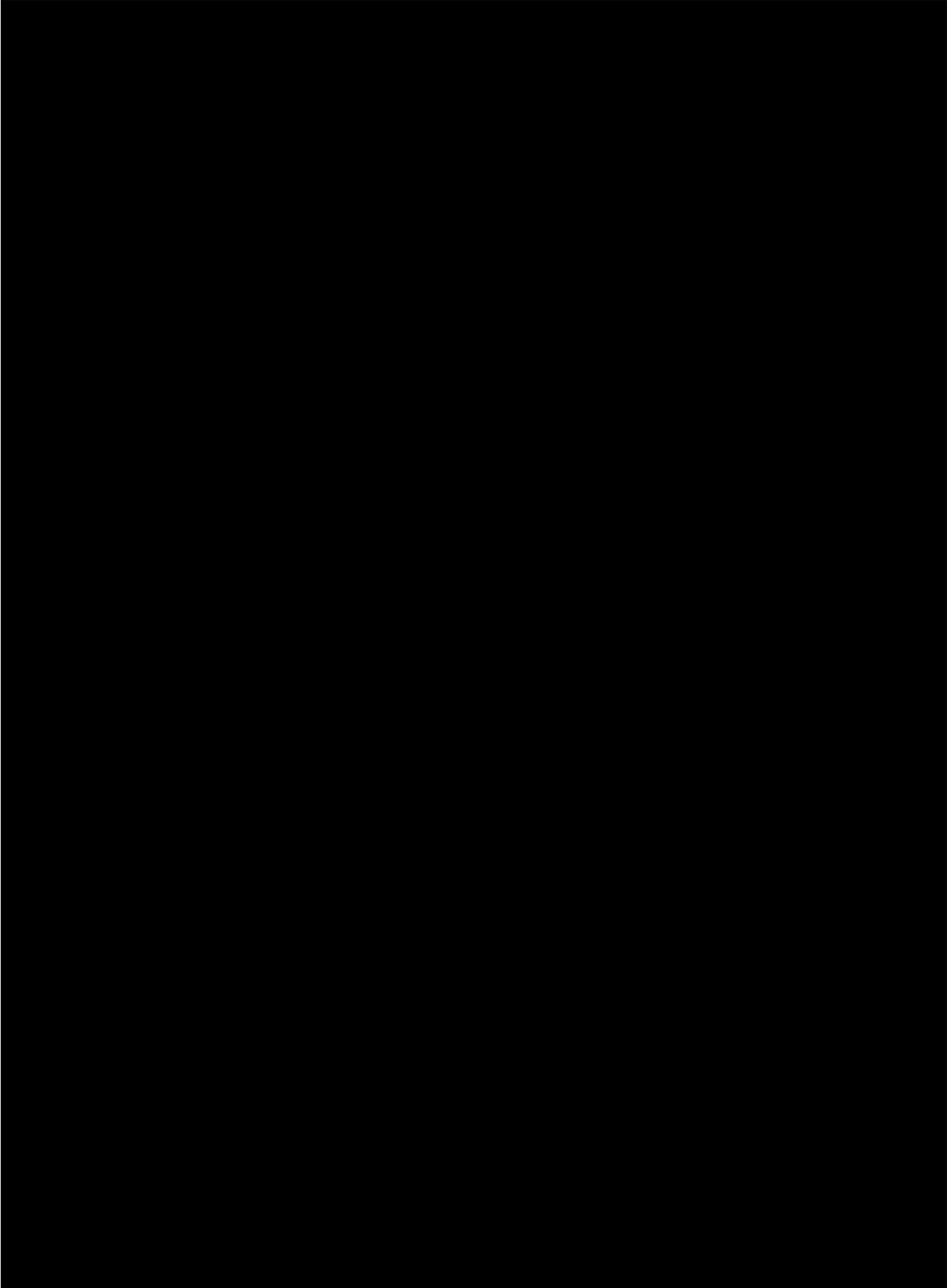
NON-CONTRAVENTION

The acquisition by Investor of approximately 62.6% of the voting stock of the Company would constitute a “change of control” under certain of the Company’s benefits plans, which change of control would trigger (double trigger provisions upon “change of control” and a termination or, in some cases, demotion) the acceleration of the following:

- 7,985 shares of restricted stock granted under the 2006 Stock Incentive Plan.
- 2,400 options outstanding that were granted at prices ranging from \$6.50 - \$19.63 under the 1995 Management Recognition Plan and the 2006 Stock Incentive Plan.
- Long-term Cash awards in the amount of \$16,814 granted under the 2006 Performance Cash Plan.

Pursuant to TARP, none of the restricted stock, options and cash awards held by Senior Executive Officers (as defined by TARP) or the next five (5) highly paid employees of the Company may be accelerated upon a “change of control.” Accordingly, the restricted stock, options and cash awards listed above are held by directors and employees not subject to TARP restrictions on accelerated vesting. Directors hold 2,400 shares of restricted stock and 2,400 options of the awards listed above. However, as required by Section 4.6 of the Agreement, the Company and its Affiliates shall take all necessary action, other than to the extent prohibited by applicable law or regulation applicable outside of the United States, to ensure that the consummation of the transactions contemplated by this Agreement will not accelerate the vesting, payment or distribution of any equity-based awards, deferred cash awards or any nonqualified deferred compensation payable by the Company or any of its Affiliates, and pursuant to Section 1.1(d)(x) of the Agreement, the Company shall obtain waivers from all relevant directors, officers and employees in this regard.

SCHEDULE 3.7





SCHEDULE 3.10

As a Community Development Capital Initiative Program Participant, the Company is required to certify its status as a certified Community Development Financial Institution (the “CDCI Certification”) within 180 days of the closing date of the Securities Purchase Agreement with the U.S. Treasury and annually thereafter at the same time as the Annual Report is available and in any event within 90 days after the end of the fiscal year. The Company filed the initial CDCI Certification approximately 88 days late. To the Company’s knowledge, the late filing did not affect and will not affect the Company’s status as a Community Development Financial Institution.

EXHIBIT A
CERTIFICATE OF DESIGNATIONS

CERTIFICATE OF DESIGNATIONS
OF
MANDATORILY CONVERTIBLE NON-VOTING PARTICIPATING
PREFERRED STOCK, SERIES C
AND
CONVERTIBLE NON-CUMULATIVE NON-VOTING PARTICIPATING
PREFERRED STOCK, SERIES D
OF
CARVER BANCORP, INC.

Pursuant to Section 151 of the
General Corporation Law
of the State of Delaware

CARVER BANCORP, INC., a corporation organized and existing under the laws of the State of Delaware (the “Corporation”), in accordance with the provisions of Section 151(g) of the General Corporation Law of the State of Delaware thereof, does hereby certify:

The Board of Directors of the Corporation (the “Board of Directors”), in accordance with the certificate of incorporation and bylaws of the Corporation and applicable law, adopted the following resolution creating two series of shares of Preferred Stock of the Corporation designated as “Mandatorily Convertible Non-Voting Participating Preferred Stock, Series C” and “Convertible Non-Cumulative Non-Voting Participating Preferred Stock, Series D.”

RESOLVED, that pursuant to the provisions of the Certificate of Incorporation and the Bylaws and applicable law, two series of Preferred Stock, par value \$0.01 per share, of the Corporation be and hereby are created, and that the designation and number of shares of each such series, and the voting and other powers, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of each such series, are as follows:

RIGHTS AND PREFERENCES

MANDATORILY CONVERTIBLE NON-VOTING PARTICIPATING PREFERRED STOCK, SERIES C

AND

CONVERTIBLE NON-CUMULATIVE NON-VOTING PARTICIPATING PREFERRED STOCK, SERIES D

Section 1. Designation.

(a) ***Series C Preferred Stock.*** There is hereby created out of the authorized and unissued shares of preferred stock of the Corporation a series of preferred stock designated as the “Mandatorily Convertible Non-Voting Participating Preferred Stock, Series C” (the “Series C Preferred Stock”). The number of shares constituting the Series C Preferred Stock shall be 55,000. The par value of the Series C Preferred Stock shall be \$0.01 per share. The liquidation preference of the Series C Preferred Stock shall be \$1,000 per share. Each share of Series C Preferred Stock shall be identical in all respects to every other share of Series C Preferred Stock.

(b) ***Series D Preferred Stock.*** There is hereby created out of the authorized and unissued shares of preferred stock of the Corporation a series of preferred stock designated as the “Convertible Non-Cumulative Non-Voting Participating Preferred Stock, Series D” (the “Series D Preferred Stock”). The number of shares constituting the Series D Preferred Stock shall be 55,000. The par value of the Series D Preferred Stock shall be \$0.01 per share. The liquidation preference of the Series D Preferred Stock shall be \$0.01 per share. Each share of Series D Preferred Stock shall be identical in all respects to every other share of Series D Preferred Stock.

Section 2. Ranking.

(a) ***Series C Preferred Stock.*** The Series C Preferred Stock will, with respect to dividend rights and rights on liquidation, winding up and dissolution, rank (i) on a parity with (A) the Corporation’s Fixed Rate Cumulative Perpetual Preferred Stock, Series B (the “Series B Preferred Stock”), (B) the Series D Preferred Stock, and (C) each other class or series of equity securities of the Corporation established by the Corporation after the Effective Date the terms of which do not expressly provide that such class or series will rank senior or junior to the Series C Preferred Stock as to dividend rights and/or rights on liquidation, winding-up and dissolution of the Corporation (collectively referred to as “Series C Parity Securities”), (ii) junior to each other class or series of equity securities of the Corporation the terms of which expressly provide that such class or series will rank senior to the Series C Preferred Stock as to dividend rights and rights on liquidation, winding-up and dissolution of the Corporation, and (iii) senior to (A) the Corporation’s common stock, par value \$0.01 per share (the “Common Stock”), and (B) each other class or series of capital stock of the Corporation outstanding or established after the Effective Date by the Corporation the terms of which expressly provide that it ranks junior to the Series C Preferred Stock as to dividend rights and/or rights on liquidation, winding-up and dissolution of the Corporation (collectively referred to as “Series C Junior Securities”). In each

case, “dividend rights,” as used above, will be analyzed without regard to whether dividends accrue cumulatively or non-cumulatively. The Corporation has the power to authorize and/or issue additional shares or classes or series of Series C Junior Securities or Series C Parity Securities without the consent of the Series C Holders. The respective definitions of “Series C Parity Securities” and “Series C Junior Securities” shall include any options, warrants and any other rights exercisable for or convertible into Series C Parity Securities or Series C Junior Securities.

(b) ***Series D Preferred Stock.*** The Series D Preferred Stock will, with respect to dividend rights and rights on liquidation, winding up and dissolution, rank (i) on a parity with each other class or series of equity securities of the Corporation the terms of which do not expressly provide that such class or series will rank senior or junior to the Series D Preferred Stock as to dividend rights and/or rights on liquidation, winding-up and dissolution of the Corporation (collectively referred to as “Series D Parity Securities”), (ii) junior to (A) the Series B Preferred Stock and (B) each other class or series of equity securities of the Corporation the terms of which expressly provide that such class or series will rank senior to the Series D Preferred Stock as to dividend rights and/or rights on liquidation, winding-up and dissolution of the Corporation, and (iii) senior to (A) the Common Stock, and (B) each other class or series of capital stock of the Corporation outstanding or established after the Effective Date by the Corporation the terms of which expressly provide that it ranks junior to the Series D Preferred Stock as to dividend rights and/or rights on liquidation, winding-up and dissolution of the Corporation (collectively referred to as “Series D Junior Securities”). In each case, “dividend rights,” as used above, will be analyzed without regard to whether dividends accrue cumulatively or non-cumulatively. The Corporation has the power to authorize and/or issue additional shares or classes or series of Series D Junior Securities or Series D Parity Securities without the consent of the Series D Holders. The respective definitions of “Series D Parity Securities” and “Series D Junior Securities” shall include any options, warrants and any other rights exercisable for or convertible into Series D Parity Securities or Series D Junior Securities.

Section 3. Definitions. The following initially capitalized terms shall have the following meanings, whether used in the singular or the plural:

“Affiliate” means, with respect to any Person, any other Person that directly or indirectly Controls, is Controlled by or is under common Control with such Person. In addition, for purposes of Section 8(a) only, the term “Series C Holder and its Affiliates” shall also include (i) accounts holding shares of Common Stock with respect to which accounts the Series C Holder or any Affiliate has discretionary authority to exercise voting rights, (ii) with respect to any Series C Holder that is an Initial Investor, any Person holding shares of Series C Preferred Stock that have been Transferred by such Initial Investor, regardless of whether such Person received such shares of Series C Preferred Stock directly from such Initial Investor or from a subsequent transferee of such Initial Investor, and (iii) with respect to any Series C Holder that is not an Initial Investor, any Person to which such Series C Holder Transfers any shares of Series C Preferred Stock, any Person from which such Series C Holder has received such shares of Series C Preferred Stock, and any Person who at any time held, but subsequently Transferred, such shares of Series C Preferred Stock.

“Applicable Conversion Price” means the Conversion Price in effect at any given time.

“Applicable Ownership Limit” has the meaning set forth in Section 8(a).

“Automatic Conversion Date” means, with respect to the shares of Series D Preferred Stock of any Series D Holder, the Business Day on which any shares of Series D Preferred Stock have been transferred in an Eligible Transfer, *provided, however*, that if an Automatic Conversion Date would otherwise occur on or after an Ex-Date for an issuance or distribution that results in an adjustment of the Conversion Price pursuant to Section 10 and on or before the Record Date for such issuance or distribution, such Automatic Conversion Date shall instead occur on the first calendar day after the Record Date for such issuance or distribution.

“BHC Act” means the Bank Holding Company Act of 1956, as amended, or any successor statute, and the rules and regulations promulgated thereunder.

“Business Day” means any day that is not Saturday or Sunday and that, in New York City, is not a day on which banking institutions generally are authorized or obligated by law or executive order to be closed.

“Bylaws” means the bylaws of Carver Bancorp, Inc., as amended from time to time and as in effect as of any applicable date.

“Certificate of Designations” means this Certificate of Designations of the Corporation, dated June 29, 2011, as amended from time to time.

“Certificate of Incorporation” means the Certificate of Incorporation of the Corporation, as amended from time to time, and including the Certificate of Designations as of the date the Certificate of Designations is filed with the Secretary of State of the State of Delaware.

“Charitable Organization” means any entity described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or any similar not-for-profit entity.

“Closing Price” of the Common Stock (or other relevant capital stock or equity interest) on any date of determination means the closing sale price or, if no closing sale price is reported, the last reported sale price of the shares of the Common Stock (or other relevant capital stock or equity interest) on The NASDAQ Global Market on such date. If the Common Stock (or other relevant capital stock or equity interest) is not traded on The NASDAQ Global Market on any date of determination, the Closing Price of the Common Stock (or other relevant capital stock or equity interest) on such date of determination means the closing sale price as reported in the composite transactions for the principal U.S. national or regional securities exchange on which the Common Stock (or other relevant capital stock or equity interest) is so listed or quoted, or, if no closing sale price is reported, the last reported sale price on the principal U.S. national or regional securities exchange on which the Common Stock (or other relevant capital

stock or equity interest) is so listed or quoted, or if the Common Stock (or other relevant capital stock or equity interest) is not so listed or quoted on a U.S. national or regional securities exchange, the last quoted bid price for the Common Stock (or other relevant capital stock or equity interest) in the over-the-counter market as reported by Pink OTC Markets Inc. or a similar organization, or, if that bid price is not available, the market price of the Common Stock (or other relevant capital stock or equity interest) on that date as determined by a nationally recognized independent investment banking firm retained by the Corporation for this purpose.

For purposes of this Certificate of Designations, all references herein to the “Closing Price” and “last reported sale price” of the Common Stock (or other relevant capital stock or equity interest) on The NASDAQ Global Market shall be such closing sale price and last reported sale price as reflected on the website of The NASDAQ Global Market (<http://www.nasdaq.com>) and as reported by Bloomberg Professional Service; *provided* that in the event that there is a discrepancy between the closing sale price or last reported sale price as reflected on the website of The NASDAQ Global Market and as reported by Bloomberg Professional Service, the closing sale price and last reported sale price on the website of The NASDAQ Global Market shall govern.

“Common Stock” has the meaning set forth in Section 2(a).

“Control” (including the terms “controlling,” “controlled by,” or “under common control with”) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“Conversion Price” means for each share of Series C Preferred Stock and for each share of Series D Preferred Stock, for purposes of calculating conversion into shares of Common Stock only, \$0.5451, subject to adjustment pursuant to Section 10.

“Corporation” means Carver Bancorp, Inc., a Delaware corporation.

“Current Market Price” means, on any date, the average of the daily Closing Price per share of the Common Stock or other securities on each of the five consecutive Trading Days preceding the earlier of the day before the date in question and the day before the Ex-Date with respect to the issuance or distribution giving rise to an adjustment to the Conversion Price pursuant to Section 10.

“Distributed Property” has the meaning set forth in Section 10(a)(iv).

“Distribution” means the transfer from the Corporation to its stockholders of cash, securities or other assets or property, including, without limitation, evidences of indebtedness, shares of capital stock or securities (including, without limitation, any dividend or distribution of (i) shares of capital stock of any class or series, or similar equity interests, of or relating to a subsidiary or other business unit in a “spin-off” transaction or (ii) rights or warrants to purchase shares of Common Stock (other than rights issued pursuant to a shareholders’ rights plan, a

dividend reinvestment plan or other similar plans)), without consideration, whether by way of dividend or otherwise.

“Effective Date” means the date on which shares of the Series C Preferred Stock are first issued to Initial Investors.

“Eligible Transfer” means any Transfer of Series D Preferred Stock to a person or entity other than an Initial Investor or an Affiliate of an Initial Investor (i) in a widespread public distribution, (ii) in a Transfer in which no transferee (together with its Affiliates and other transferees acting in concert with it) acquires more than 2% of the Common Stock or any other class or series of Voting Stock of the Corporation, or (iii) to a transferee that (together with its Affiliates and other transferees acting in concert with it) owns or controls more than 50% of the Common Stock, without regard to the Transfer.

“Exchange Property” has the meaning set forth in Section 11(a).

“Ex-Date”, when used with respect to any issuance or distribution, means the first date on which the Common Stock or other securities trade without the right to receive the issuance or distribution giving rise to an adjustment to the Conversion Price pursuant to Section 10.

“HOLA” means the Home Owners’ Loan Act of 1933, as amended.

“Holder” means, as applicable, a Series C Holder or a Series D Holder.

“Initial Investor” means, as applicable, (i) any Series C Holder who acquired shares of Series C Preferred Stock directly from the Corporation prior to the receipt of the Stockholder Approval, and (ii) any Series D Holder who acquired shares of Series D Preferred Stock on the Mandatory Conversion Date in accordance with Section 9(a).

“Initial Stockholder Meeting” means the first meeting of stockholders of the Corporation, which the Corporation is required to call and hold not later than the Stockholder Outside Date for the purpose of obtaining the Stockholder Approval.

“Mandatory Conversion Date” means, with respect to the shares of Series C Preferred Stock of any Series C Holder, the third Business Day after which the Corporation has received the Stockholder Approval (or, if a Reorganization Event has theretofore been consummated, the date of consummation of such Reorganization Event); *provided, however*, that if a Mandatory Conversion Date would otherwise occur on or after an Ex-Date for an issuance or distribution that results in an adjustment of the Conversion Price pursuant to Section 10 and on or before the Record Date for such issuance or distribution, such Mandatory Conversion Date shall instead occur on the first calendar day after the Record Date for such issuance or distribution; *provided, further*, that if a Mandatory Conversion Date would otherwise occur but the Series C Holders have not received payment in full of all accrued and unpaid dividends (including any Section 4(a)(ii) Dividends with respect to any Section 4(a)(ii) Dividend Period completed prior to such Mandatory Conversion Date), whether or not declared, such Mandatory Conversion Date shall

instead occur on the first Business Day after the Series C Holders have received all accrued and unpaid dividends (such period, an “Extension Period”), and dividends shall continue to accrue at the applicable rate during the Extension Period.

“Notice of Eligible Transfer” has the meaning set forth in Section 9(b)(i).

“Notice of Mandatory Conversion” has the meaning set forth in Section 9(a)(i).

“OTS” means the Office of Thrift Supervision, or any federal regulatory agency succeeding to the authority of the Office of Thrift Supervision.

“Permitted Rights Offering” means a rights offering relating to the Common Stock (i) that provides only for the issuance of rights to holders of Common Stock as of a record date that is not later than July 9, 2011, (ii) the registration statement with respect to which is filed with the Securities and Exchange Commission prior to the Stockholder Outside Date, (iii) that grants the holders of Common Stock the right to purchase shares of Common Stock at a per share purchase price that is not less than the Conversion Price, and (iv) pursuant to which the Corporation offers an aggregate of not more than \$4.3 million of its Common Stock.

“Person” means a legal person, including any individual, corporation, estate, partnership, joint venture, association, joint-stock company, limited liability company or trust.

“Record Date” means, (i) with respect to Section 4(a)(ii) Dividends, the fifteenth day of the month in which the relevant Section 4(a)(ii) Dividend Payment Date occurs and (ii) with respect to any other dividends payable on the Series C Preferred Stock or the Series D Preferred Stock, the date established by the Board of Directors or duly authorized committee of the Board of Directors in accordance with the Certificate of Incorporation, Bylaws and Delaware law.

“Receiving Initial Investor” has the meaning set forth in Section 8(a).

“Reorganization Event” has the meaning set forth in Section 11(a).

“Section 4(a)(ii) Dividend” means any dividend payable with respect to Series C Preferred Stock pursuant to Section 4(a)(ii).

“Section 4(a)(ii) Dividend Payment Date” has the meaning set forth in Section 4(a)(ii).

“Section 4(a)(ii) Dividend Period” has the meaning set forth in Section 4(a)(iii).

“Section 4(a)(ii) Dividend Rate” means, with respect to any Section 4(a)(ii) Dividend Period, twelve percent (12%) per annum.

“Series B Preferred Stock” has the meaning set forth in Section 2(a).

“Series C Holder” means the Person in whose name the shares of the Series C Preferred Stock are registered, which may be treated by the Corporation as the absolute owner of the shares of Series C Preferred Stock for the purpose of making payment and settling the related conversions and for all other purposes.

“Series C Liquidation Preference” means \$1,000 per share of Series C Preferred Stock (as adjusted for any split, subdivision, combination, consolidation, recapitalization or similar event with respect to the Series C Preferred Stock).

“Series C Junior Securities” has the meaning set forth in Section 2(a).

“Series C Parity Securities” has the meaning set forth in Section 2(a).

“Series C Preferred Stock” has the meaning set forth in Section 1(a).

“Series D Holder” means the Person in whose name the shares of the Series D Preferred Stock are registered, which may be treated by the Corporation as the absolute owner of the shares of Series D Preferred Stock for the purpose of making payment and settling the related conversions and for all other purposes.

“Series D Junior Securities” has the meaning set forth in Section 2(b).

“Series D Liquidation Preference” means \$0.01 per share of Series D Preferred Stock (as adjusted for any split, subdivision, combination, consolidation, recapitalization or similar event with respect to the Series D Preferred Stock).

“Series D Parity Securities” has the meaning set forth in Section 2(b).

“Series D Preferred Stock” has the meaning set forth in Section 1(b).

“Series D Transferee” means the recipient of Series D Preferred Stock pursuant to an Eligible Transfer.

“Stockholder Approval” means the affirmative vote of stockholders holding such number of shares as is necessary pursuant to the Certificate of Incorporation, the Bylaws and Delaware law to approve all but not less than all of the following: (i) an amendment to the Certificate of Incorporation to increase in the number of authorized shares of Common Stock to a number sufficient to support the exchange of the Series B Preferred Stock and the conversion of the Series C Preferred Stock and the Series D Preferred Stock, (ii) the conversion of the Series C Preferred Stock into authorized Common Stock and Series D Preferred Stock, as applicable, (iii) the issuance of the Series D Preferred Stock and the conversion thereof into authorized Common Stock, (iv) the exchange of the Series B Preferred Stock for authorized Common Stock, and (v) an amendment to the Certificate of Incorporation to permit the U.S. Treasury to vote shares of Common Stock that it holds in excess of 9.9% of the outstanding Common Stock of the Corporation.

“Stockholder Outside Date” means the date that is 120 days from the Effective Date.

“Stockholder Rights Agreement” means that Stockholder Rights Agreement, dated as of June 28, 2011, by and between the Corporation and each Initial Investor, as amended, and as joined as a counterparty by any Series C Holder or Series D Holder that is not an Initial Investor.

“Subsequent Stockholder Meeting” means any meeting of stockholders of the Corporation, other than the Initial Stockholder Meeting, which the Corporation is required to call and hold for the purpose of obtaining the Stockholder Approval in the event that the Stockholder Approval is not obtained at the Initial Stockholder Meeting.

“Subsidiary” means any entity in which the Corporation, directly or indirectly, owns sufficient capital stock or holds a sufficient equity or similar interest such that it is consolidated with the Corporation in the financial statements of the Corporation or has the power to elect a majority of the board of directors or other persons performing similar functions.

“Total Equity Limit” means capital stock or other equity of the Corporation representing more than 24.9% of the total equity capital of the Corporation (as determined pursuant to the rules, regulations and guidance of the OTS and the Board of Governors of the Federal Reserve.

“Trading Day” means a day on which the shares of Common Stock: (i) are not suspended from trading on any national or regional securities exchange or association or over-the-counter market at the close of business; and (ii) have traded at least once on the national or regional securities exchange or association or over-the-counter market that is the primary market for the trading of the Common Stock.

“Transfer” means, with respect to any securities (i) when used as a verb, to sell, assign, dispose of, exchange, or otherwise transfer such securities, or agree or commit to do any of the foregoing and (ii) when used as a noun, a direct or indirect sale, assignment, disposition, exchange, or other transfer of such securities, or any agreement or commitment to do any of the foregoing.

“Transferring Initial Investor” has the meaning set forth in Section 8(a).

“Voting Stock” has the meaning set forth in Part 574 of the Rules and Regulations of the OTS and, in the case of a Holder that is a bank holding company, the meaning set forth in the relevant rules, regulations and guidance of the Board of Governors of the Federal Reserve.

Section 4. Dividends.

(a) *Series C Preferred Stock.*

(i) From and after the Effective Date, so long as any shares of Series C Preferred Stock are outstanding, the Corporation shall not declare, pay or set apart for payment any dividend or make any Distribution on any Common Stock, unless (i) all Section 4(a)(ii)

Dividends have been paid or set aside for payment, and (ii) at the time of such dividend or Distribution the Corporation first pays (or sets aside for payment) a non-cumulative dividend or makes a Distribution, which non-cumulative dividend or Distribution shall be payable in cash or the same securities or other assets or other property as is paid to holders of Common Stock, on each outstanding share of Series C Preferred Stock in an amount equal to the product of (A) any per share dividend or Distribution paid on the Common Stock *multiplied by* (B) a fraction, (I) the numerator of which is \$1,000 and (II) the denominator of which is the Applicable Conversion Price. Notwithstanding the provisions of Section 10 hereof, if the Corporation pays a dividend or makes a Distribution that causes it to make a payment to Series C Holders pursuant to this Section 4(a)(i), no adjustment to the Conversion Price under Section 10 shall be made with respect to such dividend or Distribution.

(ii) If the Stockholder Approval is not received at the Initial Stockholder Meeting or if the Initial Stockholder Meeting does not occur on or prior to the Stockholder Outside Date, then, from and including the earlier of the date of the Initial Stockholder Meeting or the Stockholder Outside Date, to but excluding the Mandatory Conversion Date, cumulative dividends shall accrue at the Section 4(a)(ii) Dividend Rate and shall be payable quarterly in arrears on March 31, June 30, September 30 and December 31 of each year (each, a “Section 4(a)(ii) Dividend Payment Date”) or, if any such day is not a Business Day, the next Business Day. Section 4(a)(ii) Dividends, if, when and as declared by the Board of Directors or a duly authorized committee of the Board of Directors, will be, for each outstanding share of Series C Preferred Stock, payable in cash at an annual rate equal to the Section 4(a)(ii) Dividend Rate *multiplied by* the sum of (A) the Series C Liquidation Preference *plus* (B) all accrued and unpaid dividends for any prior Section 4(a)(ii) Dividend Period that are payable on such share of Series C Preferred Stock. Section 4(a)(ii) Dividends shall be paid prior to and in addition to any dividends payable on the shares of Series C Preferred Stock pursuant to Section 4(a)(i).

(iii) Section 4(a)(ii) Dividends will be computed on the basis of a 360-day year of twelve 30-day months and, for any Section 4(a)(ii) Dividend Period greater or less than a full Section 4(a)(ii) Dividend Period, will be computed on the basis of the actual number of days elapsed in the period divided by 360. The period from the date of the Initial Stockholder Meeting or the Stockholder Outside Date, as applicable, to the first Section 4(a)(ii) Dividend Payment Date thereafter and each period from and including a Section 4(a)(ii) Dividend Payment Date to but excluding the following Section 4(a)(ii) Dividend Payment Date is herein referred to as a “Section 4(a)(ii) Dividend Period”.

(iv) Section 4(a)(ii) Dividends are cumulative. Section 4(a)(ii) Dividends shall begin to accrue and be cumulative from and including the date of the Initial Stockholder Meeting or the Stockholder Outside Date, as applicable, shall compound at the Section 4(a)(ii) Dividend Rate on each subsequent Section 4(a)(ii) Dividend Payment Date (*i.e.*, no Section 4(a)(ii) Dividends shall accrue on a previous Section 4(a)(ii) Dividend unless and until the first Section 4(a)(ii) Dividend Payment Date for such previous Section 4(a)(ii) Dividends has passed without such previous Section 4(a)(ii) Dividends having been paid on such date) and shall be payable quarterly in arrears on each Section 4(a)(ii) Dividend Payment Date, commencing with the first such Section 4(a)(ii) Dividend Payment Date. If the Corporation determines not to pay a

full Section 4(a)(ii) Dividend on any Section 4(a)(ii) Dividend Payment Date, the Corporation will provide prompt written notice to the Series C Holders.

(v) Each Section 4(a)(ii) Dividend or dividend payable pursuant to Section 4(a)(i) will be payable to Series C Holders of record as they appear in the records of the Corporation on the applicable Record Date.

(vi) So long as any shares of Series C Preferred Stock remain outstanding, if all dividends on all outstanding shares of the Series C Preferred Stock have not been declared and paid in full, or declared and sufficient funds set aside therefor, the Corporation shall not, directly or indirectly, (x) declare or pay dividends with respect to, or make any distributions on, or directly or indirectly, redeem, purchase or acquire any of its Series C Junior Securities or (y) directly or indirectly, redeem, purchase or acquire any of the Series C Preferred Stock or any of its Series C Parity Securities, other than, in each case, (i) redemptions, purchases or other acquisitions of Series C Junior Securities or Series C Parity Securities in connection with any employment contract, benefit plan or other similar arrangement with or for the benefit of any one or more employees, officers, directors or consultants or in connection with a dividend reinvestment plan, in each case in the ordinary course of business and consistent with past practice (ii) any declaration of a dividend in connection with any stockholders' rights plan, or the issuance of rights, stock or other property under any stockholders' rights plan, or the redemption or repurchase of rights pursuant thereto, (iii) conversions or exchanges of Series C Junior Securities into or for Series C Junior Securities or conversions or exchanges of Series C Parity Securities into or for Series C Junior Securities or Series C Parity Securities and (iv) any purchase of fractional interests in shares of the Corporation's capital stock pursuant to the conversion or exchange provisions of such capital stock or the securities being converted or exchanged. If dividends payable for any dividend payment date are not paid in full, or declared and sufficient funds set aside therefor on the shares of the Series C Preferred Stock and there are issued and outstanding shares of Series C Parity Securities with the same dividend payment date (or, in the case of Series C Parity Securities having dividend payment dates different from the dividend payment dates applicable to the Series C Preferred Stock, on a dividend payment date falling within a dividend period applicable to such dividend payment date with respect to the Series C Preferred Stock), then all dividends declared on shares of the Series C Preferred Stock and such Series C Parity Securities on such date or dates, as the case may be, shall be declared pro rata so that the respective amounts of such dividends shall bear the same ratio to each other as full dividends per share payable on the shares of the Series C Preferred Stock and all such Series C Parity Securities otherwise payable on such dividend payment date (or, in the case of Series C Parity Securities having dividend payment dates different from the dividend payment dates applicable to the Series C Preferred Stock, on a dividend payment date falling within a dividend period applicable to such dividend payment date with respect to the Series C Preferred Stock) (subject to such dividends on such Series C Parity Securities having been declared by the Board of Directors out of legally available funds and including, in the case of any such Series C Parity Securities that bear cumulative dividends, all accrued but unpaid dividends) bear to each other.

(vii) If the Mandatory Conversion Date is prior to any Record Date with respect to dividends payable to Series C Holders (including any Section 4(a)(ii) Dividends), the

Series C Holders will not have the right to receive any dividends payable on such dividend payment date with respect to the applicable dividend period; *provided* that this provision shall not affect any rights to receive any accrued but unpaid Section 4(a)(ii) Dividends attributable to any Section 4(a)(ii) Dividend Period completed prior to the Mandatory Conversion Date. If the Mandatory Conversion Date is after any Record Date but prior to any dividend payment date with respect to dividends payable to Series C Holders (including any Section 4(a)(ii) Dividends), the Series C Holders will have the right to receive the dividends payable on such dividend payment date with respect to the applicable dividend period.

(b) *Series D Preferred Stock.*

(i) From and after the Effective Date, so long as any shares of Series D Preferred Stock are outstanding, the Corporation shall not declare, pay or set apart for payment any dividend or make any Distribution on any Common Stock, unless at the time of such dividend or Distribution the Corporation simultaneously pays a non-cumulative dividend or makes a Distribution, which non-cumulative dividend or Distribution shall be payable in cash or the same securities or other assets or other property as is paid to holders of Common Stock, on each outstanding share of Series D Preferred Stock in an amount equal to the product of (A) any per share dividend or Distribution paid on the Common Stock *multiplied by* (B) a fraction, (I) the numerator of which is \$1,000 and (II) the denominator of which is the Applicable Conversion Price. Notwithstanding the provisions of Section 10 hereof, if the Corporation pays a dividend or makes a Distribution that causes it to make a payment to Series D Holders pursuant to this Section 4(b)(i), no adjustment to the Conversion Price under Section 10 shall be made with respect to such dividend or Distribution.

(ii) Each dividend payable pursuant to Section 4(b)(i) will be payable to Series D Holders of record as they appear in the records of the Corporation on the applicable Record Date.

(iii) So long as any shares of Series D Preferred Stock remain outstanding, if all dividends on all outstanding shares of the Series D Preferred Stock have not been declared and paid in full, or declared and sufficient funds set aside therefor, the Corporation shall not, directly or indirectly, (x) declare or pay dividends with respect to, or make any distributions on, or directly or indirectly, redeem, purchase or acquire any of its Series D Junior Securities or (y) directly or indirectly, redeem, purchase or acquire any of the Series D Preferred Stock or any of its Series D Parity Securities, other than, in each case, (i) redemptions, purchases or other acquisitions of Series D Junior Securities or Series D Parity Securities in connection with any employment contract, benefit plan or other similar arrangement with or for the benefit of any one or more employees, officers, directors or consultants or in connection with a dividend reinvestment plan, in each case in the ordinary course of business and consistent with past practice, (ii) any declaration of a dividend in connection with any stockholders' rights plan, or the issuance of rights, stock or other property under any stockholders' rights plan, or the redemption or repurchase of rights pursuant thereto, (iii) conversions or exchanges of Series D Junior Securities into or for Series D Junior Securities or conversions or exchanges of Series D Parity Securities into or for Series D Junior Securities or Series D Parity Securities and (iv) any purchase of fractional interests in shares of the Corporation's capital stock pursuant to the

conversion or exchange provisions of such capital stock or the securities being converted or exchanged. If dividends payable for any dividend payment date are not paid in full, or declared and sufficient funds set aside therefor on the shares of the Series D Preferred Stock and there are issued and outstanding shares of Series D Parity Securities with the same dividend payment date (or, in the case of Series D Parity Securities having dividend payment dates different from the dividend payment dates applicable to the Series D Preferred Stock, on a dividend payment date falling within a dividend period applicable to such dividend payment date with respect to the Series D Preferred Stock), then all dividends declared on shares of the Series D Preferred Stock and such Series D Parity Securities on such date or dates, as the case may be, shall be declared pro rata so that the respective amounts of such dividends shall bear the same ratio to each other as full dividends per share payable on the shares of the Series D Preferred Stock and all such Series D Parity Securities otherwise payable on such dividend payment date (or, in the case of Series D Parity Securities having dividend payment dates different from the dividend payment dates applicable to the Series D Preferred Stock, on a dividend payment date falling within a dividend period applicable to such dividend payment date with respect to the Series D Preferred Stock) (subject to such dividends on such Series D Parity Securities having been declared by the Board of Directors out of legally available funds and including, in the case of any such Series D Parity Securities that bear cumulative dividends, all accrued but unpaid dividends) bear to each other.

(iv) If the Automatic Conversion Date is prior to any Record Date with respect to dividends payable to Series D Holders, the Series D Holders will not have the right to receive any dividends payable on such dividend payment date with respect to the applicable dividend period. If the Automatic Conversion Date is after any Record Date but prior to the dividend payment date with respect to dividends payable to Series D Holders, the Series D Holders will have the right to receive dividends payable on such dividend payment date with respect to the applicable dividend period.

(c) **General.** For so long as any shares of Series C Preferred Stock or Series D Preferred Stock remain outstanding, the Corporation will not make any non-cash Distributions on the Common Stock, Series C Preferred Stock or Series D Preferred Stock that would cause or would be reasonably likely to cause any Holder or any of its Affiliates (which for purposes of this paragraph shall include all “affiliates” as defined in the BHC Act or Regulation Y of the Federal Reserve Board) to (i) violate the Applicable Ownership Limit or Total Ownership Limit, (ii) be required to file an application, notice, rebuttal or waiver with any banking regulator or (iii) be deemed to “control” any Person for purposes of the BHC Act or HOLA, as applicable.

Section 5. Liquidation.

(a) ***Series C Preferred Stock.***

(i) In the event the Corporation voluntarily or involuntarily liquidates, dissolves or winds up, the Series C Holders at the time shall be entitled to receive liquidating distributions in an amount equal to the Series C Liquidation Preference per share of Series C Preferred Stock, plus an amount equal to any accrued but unpaid dividends (including Section 4(a)(ii) Dividends), whether or not declared, thereon to and including the date of such

liquidation, out of assets legally available for distribution (or proceeds from the sale thereof) to the Corporation's stockholders, before any distribution of assets is made to or set aside for the holders of the Common Stock or any other Series C Junior Securities.

(ii) After payment of the full amount of the liquidation distribution set forth in Section 5(a)(i), the Series C Holders shall be entitled to receive additional liquidating distributions in such amounts as the Series C Holders would be entitled to receive if all of the Series C Preferred Stock were converted solely and directly into Common Stock (without regard to the Applicable Ownership Limit) immediately before such liquidation, dissolution or winding-up.

(iii) In the event the assets of the Corporation available for distribution (or proceeds from the sale thereof) to stockholders upon any liquidation, dissolution or winding-up of the affairs of the Corporation, whether voluntary or involuntary, shall be insufficient to pay in full the amounts payable pursuant to Section 5(a)(i) with respect to all outstanding shares of the Series C Preferred Stock and the corresponding amounts payable on any Series C Parity Securities, the Series C Holders and the holders of such Series C Parity Securities shall share ratably in any distribution of assets of the Corporation in proportion to the full respective liquidating distributions to which they would otherwise be respectively entitled.

(iv) For purposes of this Section 5(a), the Corporation's consolidation or merger with or into any other entity, the consolidation or merger of any other entity with or into the Corporation, or the sale of all or substantially all of the Corporation's assets, property or business will not constitute its liquidation, dissolution or winding up.

(b) *Series D Preferred Stock.*

(i) In the event the Corporation voluntarily or involuntarily liquidates, dissolves or winds up, the Series D Holders at the time shall be entitled to receive liquidating distributions in an amount equal to the Series D Liquidation Preference per share of Series D Preferred Stock, before any distribution of assets is made to or set aside for the holders of the Common Stock or any other Series D Junior Securities.

(ii) After payment of the full amount of the liquidation distribution set forth in Section 5(b)(i), the Series D Holders shall be entitled to receive additional liquidating distributions in such amounts as the Series D Holders would be entitled to receive if all of the Series D Preferred Stock were converted solely and directly into Common Stock by the Series D Holders (without regard to the Applicable Ownership Limit) immediately before such liquidation, dissolution or winding-up.

(iii) In the event the assets of the Corporation available for distribution (or proceeds from the sale thereof) to stockholders upon any liquidation, dissolution or winding-up of the affairs of the Corporation, whether voluntary or involuntary, shall be insufficient to pay in full the amounts payable pursuant to Section 5(b)(i) with respect to all outstanding shares of the Series D Preferred Stock and the corresponding amounts payable on any Series D Parity Securities, the Series D Holders and the holders of such Series D Parity Securities shall share

ratably in any distribution of assets of the Corporation in proportion to the full respective liquidating distributions to which they would otherwise be respectively entitled.

(iv) For purposes of this Section 5(b), the Corporation's consolidation or merger with or into any other entity, the consolidation or merger of any other entity with or into the Corporation, or the sale of all or substantially all of the Corporation's assets, property or business will not constitute its liquidation, dissolution or winding up.

Section 6. Maturity. The Series C Preferred Stock and the Series D Preferred Stock shall be perpetual unless converted or redeemed in accordance with this Certificate of Designations.

Section 7. Redemptions.

(a) ***Series C Preferred Stock Optional Redemption.*** The Series C Preferred Stock may not be redeemed by the Corporation prior to June 28, 2013. Thereafter, the Corporation, at its option, may redeem, in whole or in part, at any time, the shares of Series C Preferred Stock at the time outstanding, upon notice given as provided in Section 7(c) below, at a redemption price per share payable in cash equal to \$1,000 plus all accrued and unpaid dividends (including any Section 4(a)(ii) Dividends), whether or not declared, up to, but excluding, the date fixed for redemption; *provided*, that the Corporation shall not redeem any shares of Series C Preferred Stock if such redemption would result in any Series C Holder exceeding the Applicable Ownership Limit or the Total Equity Limit. Any redemption of Series C Preferred Stock shall be subject to the prior written approval of the Corporation's federal banking regulators. The redemption price for any shares of Series C Preferred Stock shall be payable on the redemption date to the Series C Holders against surrender of the certificate(s) evidencing such shares to the Corporation or its agent. Any declared but unpaid dividends payable on a redemption date that occurs subsequent to a Record Date shall not be paid to the Series C Holder entitled to receive the redemption price on the redemption date, but rather shall be paid to the holder of record of the redeemed shares on such Record Date. If the Corporation elects to redeem less than all of the outstanding Series C Preferred Stock, then the Corporation shall redeem shares of Series C Preferred Stock held by each Series C Holder, on a *pro rata* basis as among all Series C Holders. The Series C Preferred Stock will not be subject to any mandatory redemption, sinking fund or other similar provisions. Holders of Series C Preferred Stock will have no right to require redemption of any shares of Series C Preferred Stock.

(b) ***Series D Preferred Stock Optional Redemption.*** The Series D Preferred Stock may not be redeemed by the Corporation prior to June 28, 2013. Thereafter, the Corporation, at its option, may redeem, in whole or in part, at any time, the shares of Series D Preferred Stock at the time outstanding, upon notice given as provided in Section 7(c) below, at a redemption price per share payable in cash equal to \$1,000 plus all accrued and unpaid dividends, whether or not declared, up to, but excluding, the date fixed for redemption; *provided*, that the Corporation shall not redeem any shares of Series D Preferred Stock if such redemption would result in any Series D Holder exceeding the Applicable Ownership Limit or the Total Equity Limit. Any redemption of Series D Preferred Stock shall be subject to the prior written approval of the Corporation's federal banking regulators. The redemption price for any shares of Series D Preferred Stock shall

be payable on the redemption date to the Series D Holders against surrender of the certificate(s) evidencing such shares to the Corporation or its agent. Any declared but unpaid dividends payable on a redemption date that occurs subsequent to a Record Date shall not be paid to the Series D Holder entitled to receive the redemption price on the redemption date, but rather shall be paid to the holder of record of the redeemed shares on such Record Date. If the Corporation elects to redeem less than all of the outstanding Series D Preferred Stock, then the Corporation shall redeem shares of Series D Preferred Stock held by each Series D Holder, on a *pro rata* basis as among all Series D Holders. The Series D Preferred Stock will not be subject to any mandatory redemption, sinking fund or other similar provisions. Holders of Series D Preferred Stock will have no right to require redemption of any shares of Series D Preferred Stock.

(c) *Terms and Conditions Applicable to All Redemptions.*

(i) Notice of every redemption of shares of Series C Preferred Stock or Series D Preferred Stock shall be given by first class mail, postage prepaid, addressed to the Series C Holders or the Series D Holders, as applicable, at their respective last addresses appearing on the books of the Corporation. Such mailing shall be at least 30 days and not more than 60 days before the date fixed for redemption; *provided*, that failure to give such notice by mail, or any defect in such notice or in the mailing thereof, to any Series C Holder or Series D Holder shall not affect the validity of the proceedings for the redemption of any other shares of Series C Preferred Stock or Series D Preferred Stock to be so redeemed except as to the Series C Holder or the Series D Holder to whom the Corporation has failed to give such notice or except as to the Series C Holder or Series D Holder to whom notice was defective. Notwithstanding the foregoing, if the Series C Preferred Stock or Series D Preferred Stock or any depositary shares representing interests in the Series C Preferred Stock or Series D Preferred Stock are issued in book-entry form through The Depository Trust Company or any other similar facility, notice of redemption may be given to the Series C Holders or the Series D Holders at such time and in any manner permitted by such facility. Each such notice given to a Series C Holder or a Series D Holder shall state: (1) the redemption date; (2) the number of shares of Series C Preferred Stock or Series D Preferred Stock to be redeemed and, if less than all the shares held by such Series C Holder or Series D Holder are to be redeemed, the number of such shares to be redeemed from such Series C Holder or Series D Holder; (3) the redemption price (or manner of determination of the redemption price); and (4) the place or places where certificates for such shares are to be surrendered for payment of the redemption price.

(ii) If notice of redemption has been duly given as provided in Section 7(c)(i) and if on or before the redemption date specified in the notice all funds necessary for the redemption have been set aside by the Corporation, separate and apart from its other funds, in trust for the *pro rata* benefit of the Series C Holders or Series D Holders, as applicable, so as to be and continue to be available therefor, then, notwithstanding that any certificate for any share so called for redemption has not been surrendered for cancellation, on and after the redemption date unless the Corporation defaults in the payment of the redemption price, in which case such rights shall continue until the redemption price is paid, dividends shall cease to accrue on all shares so called for redemption, all shares so called for redemption shall no longer be deemed outstanding and all rights with respect to such shares shall forthwith on such redemption date cease and terminate, except only the right of the Series C Holders or Series D Holders thereof to

receive the amount payable on such redemption, without interest. Any funds unclaimed at the end of two (2) years from the redemption date shall, to the extent permitted by law, be released to the Corporation, after which time the Series C Holders or Series D Holders shall look only to the Corporation for payment of the redemption price of such shares. Shares of outstanding Series C Preferred Stock or Series D Preferred Stock that are redeemed, purchased or otherwise acquired by the Corporation, or converted into another series of preferred stock, shall be cancelled and shall revert to authorized but unissued shares of preferred stock undesignated as to series.

Section 8. Conversion.

(a) ***Series C Preferred Stock Mandatory Conversion.*** Effective as of the close of business on the Mandatory Conversion Date, so long as the Series B Preferred Stock has been exchanged for shares of Common Stock prior to or on the Mandatory Conversion Date, all shares of Series C Preferred Stock shall, automatically and without further action by the Series C Holder or the Corporation, convert into (i) the maximum whole number of shares of Common Stock as would not (A) with respect to any Series C Holder that is a bank holding company or a savings and loan holding company, and subject to the third sentence of this Section 8(a), cause or result in any such Series C Holder and its Affiliates, collectively, being deemed to own, control or have the power to vote securities which would represent more than 4.9% of any class of Voting Stock of the Corporation outstanding at such time (calculated in accordance with 12 C.F.R. § 225, *et seq.*), (B) with respect to any Series C Holder that is not a bank holding company or a savings and loan holding company, cause or result in any such Series C Holder and its Affiliates, collectively, being deemed to own, control or have the power to vote securities which would represent more than 9.9% of any class of Voting Stock of the Corporation outstanding at such time (unless such Series C Holder has submitted all required applications to the OTS and, if applicable, received the approval of the OTS), or (C) notwithstanding the submission of required applications to the OTS and the receipt of any approval of the OTS, cause or result in any Series C Holder and its Affiliates, collectively, being deemed to own, control or have the power to vote securities which would represent more than 24.9% of any class of Voting Stock of the Corporation outstanding at such time (each, as applicable, the “Applicable Ownership Limit”); *provided*, that, solely for the purposes of this Section 8(a), in the event that any such Series C Holder and its Affiliates shall be comprised of more than one Person, then the number of shares of Common Stock issuable to such Series C Holder and its Affiliates shall be allocated among such Persons in the same proportion, as nearly as practicable, that the number of shares of Series C Preferred Stock held by each such Person as of the Mandatory Conversion Date bears to the aggregate number of shares of Series C Preferred Stock that is the sum of (w) the number of shares of Series C Preferred Stock held by the Initial Investor as of the Mandatory Conversion Date, *plus* (x) the aggregate number of shares of Series C Preferred Stock Transferred to such other Persons by the Initial Investor prior to the Mandatory Conversion Date; *provided, further*, that, for purposes of the immediately preceding *proviso*, the phrase “the number of shares of Series C Preferred Stock held by each such Person” shall include, with respect to a Person who is not an Initial Investor, only those shares of Series C Preferred Stock received, directly or indirectly, by such Person from the Initial Investor whose shares of Series C Preferred Stock are included in clause (w); *provided, further*, that, solely for the purposes of this Section 8(a), for the avoidance of doubt, each share of Series C Preferred Stock held by a Person

other than an Initial Investor shall be included, for purposes of (y) determining compliance with the Applicable Ownership Limit, and (z) calculating the allocation of shares of Common Stock as among an Initial Investor and other Persons to whom an Initial Investor has Transferred shares of Series C Preferred Stock, only with respect to such determination or calculation as it applies to the Initial Investor of that particular share of Series C Preferred Stock; *provided, further*, that, solely for the purposes of this Section 8(a), in the event that one Initial Investor (the “*Transferring Initial Investor*”) has Transferred shares of Series C Preferred Stock to another Initial Investor (the “*Receiving Initial Investor*”) prior to the Mandatory Conversion Date, then the Transferred shares of Series C Preferred Stock shall be included in clause (x) for purposes of allocating shares of Common Stock to be received pursuant to this Section 8(a)(i) among a Series C Holder and its Affiliates (where the Series C Holder is a Transferring Initial Investor), but shall not be included in clause (w) with respect to the Receiving Initial Investor for purposes of allocating shares of Common Stock to be received by such Initial Investor pursuant to this Section 8(a)(i) among a Series C Holder and its affiliates (where the Series C Holder is a Receiving Initial Investor); *provided, further*, that, solely for the purposes of this Section 8(a), for purposes of determining compliance with the Applicable Ownership Limit, all shares of Series C Preferred Stock Transferred by a Transferring Initial Investor to a Receiving Initial Investor, but no shares of Series C Preferred Stock held by the Receiving Initial Investor other than as a result of such Transfer, shall be included in calculating the aggregate number of shares of Series C Preferred Stock held by the Series C Holder and its Affiliates (where the Series C Holder is a Transferring Initial Investor); and (ii) a number of shares of Series D Preferred Stock equal to the number of shares of Series C Preferred Stock that is not converted into Common Stock pursuant to clause (i) of this Section 8(a). The number of shares of Common Stock into which one share of Series C Preferred Stock shall be convertible shall be determined by dividing (A) \$1,000 by (B) the Applicable Conversion Price (subject to the applicable conversion procedures of Section 9 hereof); *provided*, that the Series C Preferred Stock shall not convert into Common Stock or Series D Preferred Stock unless and until all accrued and unpaid dividends (including any Section 4(a)(ii) Dividends with respect to any Section 4(a)(ii) Dividend Period completed prior to the Mandatory Conversion Date but excluding any Section 4(a)(ii) Dividends with respect to the Section 4(a)(ii) Dividend Period in which the Mandatory Conversion Date occurs), whether or not declared, have been paid in full to the Series C Holders. Notwithstanding the foregoing, any Series C Holder may specify in writing to the Company that such Series C Holder shall receive a number of shares of Common Stock upon the Mandatory Conversion Date that is less than 4.9% of the outstanding Common Stock; *provided*, that the number of shares of Common Stock held by any Series C Holder and its Affiliates after the conversion of the Series C Preferred Stock, where the Series C Holder is a bank holding company or savings and loan holding company, shall not be less than the maximum number of shares to which such Series C Holder and its Affiliates would be entitled pursuant to Section 8(a)(i)(A). The number of shares of Series D Preferred Stock into which one share of Series C Preferred Stock shall be convertible shall be one (1). Upon conversion, Series C Holders shall receive cash in lieu of fractional shares of Common Stock and Series D Preferred Stock in accordance with Section 14 hereof.

(b) ***Series C Preferred Stock Optional Conversion.*** Except as provided in Section 8(a), no Series C Holder will have the right to require conversion of any shares of Series C Preferred Stock.

(c) ***Series D Preferred Stock Automatic Conversion.*** In the event that any Series D Holder effects an Eligible Transfer of Series D Preferred Stock, then, subject to the Applicable Ownership Limit, all shares of Series D Preferred Stock subject to such Eligible Transfer shall, automatically and without further action by the Series D Holder, the Series D Transferee or the Corporation, be converted into a number of shares of Common Stock as shall be determined by dividing (i) \$1,000, plus all accrued and unpaid dividends, whether or not declared, by (ii) the Applicable Conversion Price (subject to the applicable conversion procedures of Section 9 hereof); *provided* that any and all dividends, whether or not declared, shall be paid to the holder of record of the shares of Series D Preferred Stock or the shares of Common Stock as of the applicable record date with respect to such dividends.

(d) ***Series D Preferred Stock Optional Conversion.*** Except as provided in Section 8(c), no Series D Holder will have the right to require conversion of any shares of Series D Preferred Stock.

Section 9. Conversion Procedures.

(a) ***Series C Preferred Stock Mandatory Conversion.***

(i) Upon receipt by the Corporation of Stockholder Approval, within two (2) Business Days thereafter, the Corporation shall provide notice of mandatory conversion to each Series C Holder (such notice, a “Notice of Mandatory Conversion”). In addition to any information required by applicable law or regulation, the Notice of Mandatory Conversion shall state, as appropriate, (i) the Mandatory Conversion Date, (ii) the Applicable Conversion Price, (iii) the number of shares of Common Stock and Series D Preferred Stock to be issued upon conversion of each share of Series C Preferred Stock held of record by such Series C Holder, and (iv) if certificates are to be issued, the place or places where certificates for shares of Series C Preferred Stock held of record by such Series C Holder are to be surrendered for issuance of certificates representing shares of Common Stock.

(ii) Effective immediately prior to the close of business on the Mandatory Conversion Date, dividends shall no longer be declared on the Series C Preferred Stock and all outstanding shares of Series C Preferred Stock shall cease to be outstanding, in each case, subject to the right of the Series C Holder to receive (i) shares of Common Stock issuable upon mandatory conversion, subject to the Applicable Ownership Limit, (ii) shares of Series D Preferred Stock issuable upon mandatory conversion, (iii) any declared and unpaid dividends on such Series C Holder’s shares of Series C Preferred Stock, to the extent provided in Section 4(a), and (iv) any other payments to which such Series C Holder is otherwise entitled pursuant to Section 5, Section 7, Section 8, Section 11 or Section 14 hereof, as applicable.

(b) ***Series D Preferred Stock Automatic Conversion.***

(i) If a Series D Holder intends to effect an Eligible Transfer, such Series D Holder shall, at least two (2) Business Days prior to consummation of such Eligible Transfer, provide notice of such Eligible Transfer to the Corporation (such notice, a “Notice of Eligible Transfer”). In addition to any information required by applicable law or regulation, the Notice of

Eligible Transfer shall state, as appropriate (i) the anticipated closing date of the Eligible Transfer, (ii) to the extent known, the name, address and telephone number of the Series D Transferee, and (iii) a certification that the Series D Holder has determined that the Transfer will constitute an Eligible Transfer.

(ii) Effective immediately prior to the close of business on the Automatic Conversion Date, dividends shall no longer be declared on the Series D Preferred Stock subject to the Eligible Transfer and the Series D Preferred Stock subject to the Eligible Transfer shall cease to be outstanding, in each case, subject to the right of the Series D Transferee to receive (i) shares of Common Stock issuable upon automatic conversion (subject to the Applicable Ownership Limit), (ii) any declared and unpaid dividends on such Series D Holder's shares of Series D Preferred Stock, to the extent provided in Section 4(b), and (iii) any other payments to which such Series D Holder is otherwise entitled pursuant to Section 5, Section 7, Section 8, Section 11 or Section 14 hereof, as applicable.

(c) *Terms and Conditions Applicable to All Conversions.*

(i) No allowance or adjustment to the Applicable Conversion Price, except pursuant to Section 10, shall be made in respect of dividends payable to holders of the Common Stock of record as of any date prior to the close of business on (i) the Mandatory Conversion Date with respect to any share of Series C Preferred Stock or (ii) the Automatic Conversion Date with respect to any share of Series D Preferred Stock. Effective immediately prior to the close of business on the Mandatory Conversion Date or the Automatic Conversion Date, as applicable, the shares of Series C Preferred Stock or Series D Preferred Stock, as applicable, converted thereon shall not be deemed outstanding for any purpose, and the Series C Holders or Series D Holders, as applicable, shall have no rights with respect to the Common Stock or other securities issuable upon conversion (including voting rights, rights to respond to tender offers for the Common Stock or other securities issuable upon conversion and rights to receive any dividends or other distributions on the Common Stock or other securities issuable upon conversion) by virtue of holding such share of Series C Preferred Stock or Series D Preferred Stock converted, except to the extent set forth in Section 4(a)(i) or Section 4(b)(i), as applicable.

(ii) Shares of Series C Preferred Stock or Series D Preferred Stock duly converted in accordance with this Certificate of Designations, or otherwise reacquired by the Corporation, shall, upon the effectiveness of such conversion or reacquisition, resume the status of authorized and unissued preferred stock, undesignated as to series and available for future issuance. The Corporation may from time-to-time take such appropriate action as may be necessary to reduce the authorized number of shares of Series C Preferred Stock or Series D Preferred Stock; *provided*, that the Corporation shall not take any such action if such action would reduce the authorized number of shares of Series C Preferred Stock below the number of shares of Series C Preferred Stock then outstanding, or if such action would reduce the authorized number of shares of Series D Preferred Stock below the number of shares of Series D Preferred Stock then outstanding and issuable upon conversion of the Series C Preferred Stock.

(iii) The Person or Persons entitled to receive the Common Stock and/or cash, securities or other property issuable upon conversion of Series C Preferred Stock or Series D Preferred Stock shall be treated for all purposes as the record holder(s) of such shares of

Common Stock and/or securities as of the close of business on the Mandatory Conversion Date or Automatic Conversion Date, as applicable, with respect thereto. In the event that a Series C Holder or Series D Holder shall not by written notice designate the name in which shares of Common Stock and/or cash, securities or other property (including payments of cash in lieu of fractional shares) to be issued or paid upon conversion of shares of Series C Preferred Stock or Series D Preferred Stock should be registered or paid or the manner in which such shares should be delivered, the Corporation shall be entitled to register and deliver such shares, and make such payment, in the name of the Series C Holder or Series D Holder, as applicable, and in the manner shown on the records of the Corporation.

(iv) On the Mandatory Conversion Date, certificates representing shares of Common Stock and Series D Preferred Stock shall be issued and delivered to the Series C Holders or such Series C Holder's designee (or, at the Corporation's option such shares shall be registered in book-entry form) upon presentation and surrender of the certificate evidencing the Series C Preferred Stock to the Corporation and, if required, the furnishing of appropriate endorsements and transfer documents and the payment of all transfer and similar taxes. On any Automatic Conversion Date, certificates representing shares of Common Stock shall be issued and delivered to the Series D Holders or such Series D Holder's designee (or, at the Corporation's option such shares shall be registered in book-entry form), upon presentation and surrender of the certificate evidencing the Series D Preferred Stock to the Corporation and, if required, the furnishing of appropriate endorsements and transfer documents and the payment of all transfer and similar taxes.

Section 10. Anti-Dilution Adjustments.

(a) The Conversion Price shall be subject to the following adjustments:

(i) Stock Dividends and Distributions. If the Corporation pays dividends or other Distributions on the Common Stock in shares of Common Stock, then the Conversion Price in effect immediately prior to the Ex-Date for such dividend or Distribution will be multiplied by a fraction (A) the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to the Ex-Date for such dividend or Distribution, and (B) the denominator of which shall be the sum of (I) the number of shares of Common Stock outstanding immediately prior to the Ex-Date for such dividend or Distribution *plus* (II) the total number of shares of Common Stock constituting such dividend or Distribution. For the purposes of this clause (i), the number of shares of Common Stock at the time outstanding shall not include shares acquired by the Corporation. If any dividend or Distribution described in this clause (i) is declared but not so paid or made, the Conversion Price shall be readjusted, effective as of the date the Board of Directors publicly announces its decision not to make such dividend or Distribution, to such Conversion Price that would be in effect if such dividend or Distribution had not been declared (but giving effect to any intervening adjustments that may have been made with respect to the Series C Preferred Stock or the Series D Preferred Stock).

(ii) Subdivisions, Splits and Combination of the Common Stock. If the Corporation subdivides, splits or combines the shares of Common Stock, then the Conversion Price in effect immediately prior to the effective date of such share subdivision, split or combination will be multiplied by a fraction (A) the numerator of which shall be the number of

shares of Common Stock outstanding immediately prior to the effective date of such share subdivision, split or combination, and (B) the denominator of which shall be the number of shares of Common Stock outstanding immediately after the opening of business on the effective date of such share subdivision, split or combination. For the purposes of this clause (ii), the number of shares of Common Stock at the time outstanding shall not include shares acquired by the Corporation. If any subdivision, split or combination described in this clause (ii) is announced but the outstanding shares of Common Stock are not subdivided, split or combined, the Conversion Price shall be readjusted, effective as of the date the Board of Directors publicly announces its decision not to subdivide, split or combine the outstanding shares of Common Stock, to such Conversion Price that would be in effect if such subdivision, split or combination had not been announced (but giving effect to any intervening adjustments that may have been made with respect to the Series C Preferred Stock or the Series D Preferred Stock).

(iii) Issuance of Stock Purchase Rights. If the Corporation issues to all holders of the shares of Common Stock rights or warrants (other than rights or warrants issued pursuant to a Permitted Rights Offering, a stockholders' rights plan, a dividend reinvestment plan or share purchase plan or other similar plans) entitling them to subscribe for or purchase the shares of Common Stock at less than (or having an Applicable Conversion Price per share that is less than) the Current Market Price on the date fixed for the determination of stockholders entitled to receive such rights or warrants, then the Conversion Price in effect immediately prior to the Ex-Date for such distribution will be multiplied by a fraction (A) the numerator of which shall be the sum of (I) the number of shares of Common Stock outstanding immediately prior to the Ex-Date for such distribution *plus* (II) the number of shares of Common Stock equal to the aggregate price payable to exercise such rights or warrants divided by the Current Market Price on the date fixed for the determination of stockholders entitled to receive such rights or warrants, and (B) the denominator of which shall be the sum of (I) the number of shares of Common Stock outstanding immediately prior to the Ex-Date for such distribution *plus* (II) the total number of shares of Common Stock issuable pursuant to such rights or warrants. For the purposes of this clause (iii), the number of shares of Common Stock at the time outstanding shall not include shares acquired by the Corporation. The Corporation shall not issue any such rights or warrants in respect of shares of the Common Stock acquired by the Corporation. In the event that such rights or warrants described in this clause (iii) are not so issued, the Conversion Price shall be readjusted, effective as of the date the Board of Directors publicly announces its decision not to issue such rights or warrants, to the Conversion Price that would then be in effect if such issuance had not been declared (but giving effect to any intervening adjustments that may have been made with respect to the Series C Preferred Stock or the Series D Preferred Stock). To the extent that such rights or warrants are not exercised prior to their expiration or shares of Common Stock are otherwise not delivered pursuant to such rights or warrants upon the exercise of such rights or warrants, the Conversion Price shall be readjusted to such Conversion Price (but giving effect to any other adjustments that may have been made with respect to the Conversion Price pursuant to the terms of this Certificate of Designations) that would then be in effect had the adjustment made upon the issuance of such rights or warrants been made on the basis of the delivery of only the number of shares of Common Stock actually delivered. In determining the aggregate offering price payable for such shares of Common Stock, there shall be taken into account any consideration received for such rights or warrants and the value of such consideration (if other than cash, to be determined in a reasonable manner by the Board of Directors).

(iv) Debt or Asset Distributions. If the Corporation distributes (including by dividend) to all holders of shares of Common Stock evidences of indebtedness, shares of capital stock, securities, cash or other assets (excluding any (a) dividend or Distribution referred to in clause (i) above, (b) any rights or warrants referred to in clause (iii) above, (c) any dividend or distribution paid exclusively in cash, (d) any consideration payable in connection with a tender or exchange offer made by the Corporation or any of its applicable subsidiaries, and (e) any dividend of shares of capital stock of any class or series, or similar equity interests, of or relating to a subsidiary or other business unit in the case of certain spin-off transactions as described below) (the “*Distributed Property*”), then the Conversion Price in effect immediately prior to the Ex-Date for such distribution will be multiplied by a fraction (A) the numerator of which shall be the difference between (I) the Current Market Price per share of Common Stock on such date *minus* (II) the fair market value of the portion of the distribution applicable to one share of Common Stock on such date as reasonably determined in good faith by the Board of Directors, and (B) the denominator of which shall be the Current Market Price per share of Common Stock on such date.

In a “spin-off”, where the Corporation makes a dividend or other Distribution to all holders of shares of Common Stock consisting of capital stock of any class or series, or similar equity interests of, or relating to, a subsidiary or other business unit, the Conversion Price will be adjusted on the fifteenth Trading Day after the effective date of the distribution by multiplying the Conversion Price in effect as of the close of business on the business day immediately preceding such fifteenth Trading Day by a fraction (A) the numerator of which shall be the average of the Closing Prices of the Common Stock over the first ten Trading Days commencing on and including the fifth Trading Day following the effective date of such distribution, and (B) the denominator of which shall be the sum of (I) the average of the Closing Prices of the Common Stock over the first ten Trading Days commencing on and including the fifth Trading Day following the effective date of such distribution *plus* (II) the average of the Closing Prices of the capital stock or equity interests representing the portion of the distribution applicable to one share of Common Stock over the first ten Trading Days commencing on and including the fifth Trading Day following the effective date of such Distribution, or, if not traded on a national or regional securities exchange or over-the-counter market, the fair market value of the capital stock or equity interests representing the portion of the distribution applicable to one share of Common Stock on such date as reasonably determined in good faith by the Board of Directors.

In the event that such Distribution described in this Section 10(a)(iv) is not so paid or made, the Conversion Price shall be readjusted, effective as of the date the Board of Directors publicly announces its decision not to pay or make such dividend or distribution, to the Conversion Price that would then be in effect if such dividend or distribution had not been declared (but giving effect to any intervening adjustments that may have been made with respect to the Series C Preferred Stock or the Series D Preferred Stock).

(v) Cash Distributions. If the Corporation makes a Distribution consisting exclusively of cash to all holders of the Common Stock (excluding, (a) any cash that is distributed in a Reorganization Event or as part of a “spin-off” referred to in clause (iv) above,

(b) any dividend or Distribution in connection with the Corporation's liquidation, dissolution or winding up, and (c) any consideration payable in connection with a tender or exchange offer made by the Corporation or any of its subsidiaries), then in each event, the Conversion Price in effect immediately prior to the Ex-Date for such Distribution will be multiplied by a fraction (A) the numerator of which shall be the difference between (I) the Closing Price per share of Common Stock on the Trading Day immediately preceding the Ex-Date *minus* (II) the amount per share of Common Stock of the cash Distribution, as determined pursuant to the introduction to this Section 10(a)(v) and (B) the denominator of which shall be the Closing Price per share of Common Stock on the Trading Day immediately preceding the Ex-Date.

In the event that any Distribution described in this Section 10(a)(v) is not so made, the Conversion Price shall be readjusted, effective as of the date the Board of Directors publicly announces its decision not to pay such Distribution, to the Conversion Price which would then be in effect if such Distribution had not been declared (but giving effect to any intervening adjustments that may have been made with respect to the Series C Preferred Stock or the Series D Preferred Stock).

(vi) Self Tender Offers and Exchange Offers. If the Corporation or any of its subsidiaries successfully completes a tender or exchange offer for the Common Stock where the cash and the value of any other consideration included in the payment per share of the Common Stock exceeds the Closing Price per share of the Common Stock on the Trading Day immediately succeeding the expiration of the tender or exchange offer, then the Conversion Price in effect at the close of business on such immediately succeeding Trading Day will be multiplied by a fraction (A) the numerator of which shall be the product of (I) the number of shares of Common Stock outstanding immediately prior to the expiration of the tender or exchange offer, including any shares validly tendered and not withdrawn *multiplied by* (II) the Closing Price per share of Common Stock on the Trading Day immediately succeeding the expiration of the tender or exchange offer and (B) the denominator of which shall be the sum of (I) the aggregate cash and fair market value of the other consideration payable in the tender or exchange offer, as determined in good faith by the Board of Directors *plus* (II) the product of (x) the Closing Price per share of Common Stock on the Trading Day immediately succeeding the expiration of the tender or exchange offer *multiplied by* (y) the number of shares of Common Stock outstanding immediately after the expiration of the tender or exchange offer, giving effect to consummation of the acquisition of all shares validly tendered or exchanged (and not withdrawn) in connection with such tender or exchange.

In the event that the Corporation, or one of its subsidiaries, is obligated to purchase shares of Common Stock pursuant to any such tender offer or exchange offer, but the Corporation, or such subsidiary, is permanently prevented by applicable law from effecting any such purchases, or all such purchases are rescinded, then the Conversion Price shall be readjusted to be such Conversion Price that would then be in effect if such tender offer or exchange offer had not been made or declared, as applicable (but giving effect to any intervening adjustments that may have been made with respect to the Series C Preferred Stock or the Series D Preferred Stock). Except as set forth in the preceding sentence, in the event the application of this Section 10(a)(vi) with respect to any tender offer or exchange offer would result in an increase in the

Conversion Price, no adjustment shall be made for such tender offer or exchange offer pursuant to this Section 10(a)(vi).

(vii) Shareholder Rights Plan. To the extent that the Corporation has a rights plan in effect on the Mandatory Conversion Date or on any Automatic Conversion Date with respect to any shares of Series C Preferred Stock, Series D Preferred Stock or Common Stock, each share of Common Stock issued upon conversion of the Series C Preferred Stock or Series D Preferred Stock shall be entitled to receive the appropriate number of rights, if any, and the certificates representing the Common Stock issued upon such conversion shall bear such legends, if any, in each case as may be provided by the terms of any shareholder rights plan, as the same may be amended from time to time. If, however, on the Mandatory Conversion Date or any Automatic Conversion Date, the rights have separated from the shares of Common Stock in accordance with the provisions of the applicable shareholder rights plan and the holders of the Series C Preferred Stock or Series D Preferred Stock would not be entitled to receive any rights in respect of Common Stock issuable upon conversion of the Series C Preferred Stock or Series D Preferred Stock, then the Conversion Price shall be equally and ratably adjusted at the time of the separation, subject to readjustment in the event of the expiration, termination or redemption of such rights.

(b) The Corporation may make such decreases in the Conversion Price, in addition to any other decreases required by this Section 10, if the Board of Directors deems it advisable to avoid or diminish any income tax to holders of the Corporation's capital stock resulting from any dividend or Distribution of shares of Common Stock (or issuance of rights or warrants to acquire shares of Common Stock) or from any event treated as such for income tax purposes or for any other reason.

(c) All adjustments to the Conversion Price shall be calculated to the nearest one-tenth (1/10) of a cent. No adjustment in the Conversion Price shall be required if such adjustment would be less than \$0.01; *provided*, that any adjustments which by reason of this subparagraph are not required to be made shall be carried forward and taken into account in any subsequent adjustment; *provided, further*, that on the Mandatory Conversion Date or any Automatic Conversion Date, adjustments to the Conversion Price will be made with respect to any such adjustment carried forward and which has not been taken into account before such date.

(d) No adjustment to the Conversion Price shall be made if the Series C Holders or Series D Holders, as applicable, may participate in the transaction that would otherwise give rise to an adjustment, as a result of holding the Series C Preferred Stock or the Series D Preferred Stock (including without limitation pursuant to Section 4 hereof), without having to convert the Series C Preferred Stock or Series D Preferred Stock, as if they held the full number of shares of Common Stock into which a share of the Series C Preferred Stock or Series D Preferred Stock, as applicable, may then be converted (without regard to the Applicable Ownership Limit).

(e) The Conversion Price shall not be adjusted: (i) upon the issuance of any shares of Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Corporation's securities and the investment of additional optional amounts in shares of Common Stock under any such plan; (ii) upon the issuance of any

shares of Common Stock or rights or warrants to purchase those shares pursuant to any present or future employee, director or consultant benefit plan or program of or assumed by the Corporation or any of its subsidiaries; (iii) upon the issuance of any shares of Common Stock pursuant to any option, warrant, right or exercisable, exchangeable or convertible security outstanding as of the date shares of the Series C Preferred Stock were first issued and not substantially amended thereafter; (iv) for a change in the par value or no par value of Common Stock; or (v) for accrued but unpaid dividends on the Series C Preferred Stock or the Series D Preferred Stock.

(f) As soon as practicable following the occurrence of an event that requires an adjustment to the Conversion Price pursuant to Section 10(a) or Section 10(b) (or if the Corporation is not aware of such occurrence, as soon as practicable after becoming so aware), the Corporation shall (i) provide, or cause to be provided, a written notice to the Series C Holders and the Series D Holders, as applicable, of the occurrence of such event, and (ii) compute the Conversion Price in accordance with Section 10(a) or Section 10(b), taking into account the \$0.01 threshold set forth in Section 10(c) hereof. As soon as practicable following such computation of the revised Conversion Price in accordance with Section 10(a) or Section 10(b), the Corporation shall provide, or cause to be provided, a written notice to the Series C Holders and the Series D Holders, as applicable, setting forth in reasonable detail the method by which the adjustment to the Conversion Price was determined and setting forth the revised Conversion Price.

Section 11. Reorganization Events.

(a) In the event that, for so long as any shares of Series C Preferred Stock remains outstanding there occurs, in one transaction or a series of related transactions: (i) any reorganization, merger, shares exchange or consolidation, or similar transaction (other than a transaction pursuant to which the Corporation is the surviving entity and pursuant to which the shares of Common Stock outstanding immediately prior to the transaction are not exchanged for cash, securities or other property of the Corporation or another Person); (ii) any transaction resulting in the sale, transfer, lease or conveyance to another Person of all or substantially all of the property and assets of the Corporation, in each case pursuant to which the Common Stock will be converted into cash, securities or other property of the Corporation or another Person; or (iii) any statutory exchange of the outstanding shares of Common Stock for securities of another Person (other than in connection with a merger or acquisition) (any such event specified in this Section 11(a), a “Reorganization Event”), then each share of Series C Preferred Stock or Series D Preferred Stock, as applicable, outstanding immediately prior to such Reorganization Event shall be deemed, solely for purposes of this Section 11(a), to have converted, effective immediately prior to the effective time of the Reorganization Event, into the number of shares of Common Stock into which one share of Series C Preferred Stock (assuming the receipt of the Stockholder Approval) or Series D Preferred Stock would then be convertible (without regard to the Applicable Ownership Limit); *provided*, that, notwithstanding the foregoing and for the avoidance of doubt, the shares of Series C Preferred Stock and Series D Preferred Stock shall not convert into shares of Common Stock upon the occurrence of a Reorganization Event. Any agreement setting forth the terms and conditions of, or otherwise relating to, a Reorganization Event shall provide that the Series C Holders and the Series D Holders, as applicable, will be

entitled to receive the type and amount of securities, cash and other property receivable in such Reorganization Event (such securities, cash and other property, the “Exchange Property”) by the holder of the number of shares of Common Stock into which one share of Series C Preferred Stock (assuming the receipt of the Stockholder Approval) or Series D Preferred Stock held by such Series C Holder or Series D Holder, as applicable, plus all accrued and unpaid dividends, whether or not declared, up to but excluding the date of consummation of such Reorganization Event, would then be convertible (without regard to the Applicable Ownership Limit); *provided*, that if the receipt of the Exchange Property would (i) require a Holder or any Affiliate of a Holder to file an application, notice, rebuttal or waiver with any banking regulator or (ii) cause a Holder or any of its Affiliates (which for purposes of this paragraph shall include all “affiliates” as defined in the BHC Act or Regulation Y of the Federal Reserve Board) to be deemed to “control” any Person for purposes of the BHC Act or HOLA, as applicable, any agreement shall provide that instead of receiving the Exchange Property, such Holder will receive a cash payment equivalent to the fair market value of such Exchange Property.

(b) In the event that holders of the shares of Common Stock have the opportunity to elect the form of consideration to be received in such transaction, the Series C Holders and Series D Holders shall likewise be entitled to make such an election.

(c) The above provisions of this Section 11 shall similarly apply to successive Reorganization Events and the provisions of Section 10 shall apply to any shares of capital stock of the Corporation (or any successor) received by the holders of the Common Stock in any such Reorganization Event.

(d) The Corporation (or any successor) shall, within seven (7) days of the consummation of any Reorganization Event, provide written notice to the Series C Holders and Series D Holders of such consummation of such event and of the kind and amount of the cash, securities or other property that constitutes the Exchange Property. Failure to deliver such notice shall not affect the operation of this Section 11.

(e) The Corporation shall not enter into any agreement for a transaction constituting a Reorganization Event unless such agreement provides for or does not interfere with or prevent (as applicable) a transaction that is consistent with and gives effect to this Section 11.

Section 12. Voting Rights.

(a) ***Series C Preferred Stock.*** Series C Holders will not have any voting rights, except as required under Delaware law and except that:

(i) so long as any shares of Series C Preferred Stock are outstanding, the vote or consent of the Series C Holders owning a majority of the shares of Series C Preferred Stock at the time outstanding, voting as a single class, given in person or by proxy, either in writing without a meeting or by vote at any meeting called for the purpose, will be necessary for effecting or validating (A) any matter that requires the approval of the Series C Holders in accordance with applicable law; (B) any amendment, alteration or repeal (including by means of a merger, consolidation or otherwise) of any provision of the Certificate of Incorporation

(including this Certificate of Designations) or the Corporation's bylaws that would alter or change the rights, preferences or privileges of the Series C Preferred Stock so as to affect them adversely; (C) any amendment or alteration (including by means of a merger, consolidation or otherwise) of the Corporation's Certificate of Incorporation to authorize, or create, or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of the Corporation's capital stock ranking senior to the Series C Preferred Stock in the payment of dividends or in the distribution of assets on any liquidation, dissolution or winding up of the Corporation; or (D) the consummation of a binding share exchange or reclassification involving the Series C Preferred Stock, a merger or consolidation of the Corporation with another entity, or the sale of all or substantially all of the property and assets of the Corporation; *provided*, that, the Series C Holders will have no right to vote under this Section 12(a)(i)(D) if in each case (x) the Series C Preferred Stock remains outstanding or, in the case of any such merger or consolidation with respect to which the Corporation is not the surviving or resulting entity, is converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, that is an entity organized and existing under the laws of the United States of America, any state thereof or the District of Columbia, and (y) such Series C Preferred Stock remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series C Preferred Stock, taken as a whole.

(ii) For the avoidance of doubt, any increase in the amount of the authorized preferred stock or any securities convertible into preferred stock or the creation and issuance, or an increase in the authorized or issued amount, of any series of preferred stock or any securities convertible into preferred stock ranking junior to the Series C Preferred Stock with respect to the payment of dividends (whether such dividends are cumulative or non-cumulative) will not, in and of itself, be deemed to adversely affect rights, preferences or privileges of the Series C Preferred Stock and, notwithstanding any provision of Delaware law, the Series C Holders will have no right to vote solely by reason of such an increase, creation or issuance.

(iii) Notwithstanding the foregoing, Series C Holders shall not have any voting rights if, at or prior to the effective time of the act with respect to which such vote would otherwise be required, all outstanding shares of Series C Preferred Stock shall have been converted into shares of Common Stock or Series D Preferred Stock.

(b) ***Series D Preferred Stock.*** Series D Holders will not have any voting rights, except as required under Delaware law and except that:

(i) so long as any shares of Series D Preferred Stock are outstanding, the vote or consent of the Series D Holders owning a majority of the shares of Series D Preferred Stock at the time outstanding, voting as a single class, given in person or by proxy, either in writing without a meeting or by vote at any meeting called for the purpose, will be necessary, whether or not such approval is required by Delaware law, for effecting or validating (A) any matter that requires the approval of the Series D Holders in accordance with applicable law; (B) any amendment, alteration or repeal (including by means of a merger, consolidation or otherwise) of any provision of the Certificate of Incorporation (including this Certificate of Designations) or

the Corporation's bylaws that would alter or change the rights, preferences or privileges of the Series D Preferred Stock so as to affect them adversely; (C) any amendment or alteration (including by means of a merger, consolidation or otherwise) of the Corporation's Certificate of Incorporation to authorize, or create, or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of the Corporation's capital stock ranking senior to the Series D Preferred Stock in the payment of dividends or in the distribution of assets on any liquidation, dissolution or winding up of the Corporation; or (D) the consummation of a binding share exchange or reclassification involving the Series D Preferred Stock, a merger or consolidation of the Corporation with another entity, or the sale of all or substantially all of the property and assets of the Corporation; *provided*, that, the Series D Holders will have no right to vote under this Section 12(b)(i)(D) if in each case (x) the Series D Preferred Stock remains outstanding or, in the case of any such merger or consolidation with respect to which the Corporation is not the surviving or resulting entity, is converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, that is an entity organized and existing under the laws of the United States of America, any state thereof or the District of Columbia, and (y) such Series D Preferred Stock remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series D Preferred Stock, taken as a whole.

(ii) For the avoidance of doubt, any increase in the amount of the authorized preferred stock or any securities convertible into preferred stock or the creation and issuance, or an increase in the authorized or issued amount, of any series of preferred stock or any securities convertible into preferred stock ranking junior to the Series D Preferred Stock with respect to the payment of dividends (whether such dividends are cumulative or non-cumulative) will not, in and of itself, be deemed to adversely affect rights, preferences or privileges of the Series D Preferred Stock and, notwithstanding any provision of Delaware law, the Series D Holders will have no right to vote solely by reason of such an increase, creation or issuance.

(iii) Notwithstanding the foregoing, Series D Holders shall not have any voting rights if, at or prior to the effective time of the act with respect to which such vote would otherwise be required, all outstanding shares of Series D Preferred Stock shall have been converted into shares of Common Stock.

SECTION 13. TRANSFER OF SERIES C PREFERRED STOCK AND SERIES D PREFERRED STOCK.

(a) *Series C Preferred Stock.* **Prior to the Initial Stockholder Meeting, any Transfer of the Series C Preferred Stock shall be prohibited except for the Transfer of such Series C Preferred Stock to (i) an Affiliate, a Series C Holder or an Affiliate of a Series C Holder, or (ii) a Charitable Organization. If the Stockholder Approval is not received at the Initial Stockholder Meeting, then from the date of the Initial Stockholder Meeting to (and including) any Subsequent Stockholder Meeting where Stockholder Approval is obtained, the Series C Preferred Stock shall be freely Transferable, subject to applicable law.**

(b) Series D Preferred Stock. The Series D Preferred Stock shall, subject to applicable law, be freely Transferable; *provided*, that any Transfer, except a Transfer (i) to an Affiliate, a Series D Holder or an Affiliate of a Series D Holder, (ii) to a Charitable Organization or (iii) pursuant to clause (i) of the definition of Eligible Transfer, shall be subject to the rights of first refusal set forth in the Stockholder Rights Agreement.

(c) General. Each Series C Holder or Series D Holder (as applicable) shall promptly provide, but in no event later than three (3) Business Days, notice to the Corporation of any Transfer of the Series C Preferred Stock or Series D Preferred Stock except for a Transfer pursuant to clause (i) of the definition of Eligible Transfer.

Section 14. Fractional Shares.

(a) No fractional shares of Common Stock or Series D Preferred Stock will be issued as a result of any conversion of shares of Series C Preferred Stock, and no fractional shares of Common Stock will be issued as a result of any conversion of shares of Series D Preferred Stock.

(b) In lieu of any fractional share of Common Stock otherwise issuable in respect of any conversion pursuant to Section 8 hereof, the Corporation shall pay an amount in cash (computed to the nearest cent) equal to the same fraction of the Closing Price of the Common Stock determined as of the second Trading Day immediately preceding the Mandatory Conversion Date or Automatic Conversion Date, as applicable. In lieu of any fractional share of Series D Preferred Stock otherwise issuable in respect of any conversion pursuant to Section 8 hereof, the Corporation shall pay an amount in cash (computed to the nearest cent) equal to \$1,000 multiplied by the fractional portion of a share of Series D Preferred Stock to which such Holder would otherwise be entitled.

(c) If more than one share of the Series C Preferred Stock or Series D Preferred Stock is surrendered for conversion at one time by or for the same Series C Holder or Series D Holder, the number of full shares of Common Stock issuable upon conversion thereof shall be computed on the basis of the aggregate number of shares of the Series C Preferred Stock or Series D Preferred Stock so surrendered.

Section 15. Reservation of Common Stock and Series D Preferred Stock.

(a) The Corporation shall at all times (i) reserve and keep available out of its authorized and unissued Common Stock or shares acquired by the Corporation, solely for issuance upon the conversion of shares of Series C Preferred Stock and Series D Preferred Stock as provided in this Certificate of Designations free from any preemptive or other similar rights, such number of shares of Common Stock as shall from time to time be issuable upon the conversion of all of the shares of Series C Preferred Stock and all of the shares of Series D Preferred Stock then outstanding, and (ii) reserve and keep available out of its authorized and unissued preferred stock or shares acquired by the Corporation, solely for issuance upon the conversion of shares of Series C Preferred Stock as provided in this Certificate of Designations free from any preemptive or other similar rights, such number of shares of Series D Preferred Stock as shall from time to time be issuable upon the conversion of all of the shares of Series C Preferred Stock then outstanding.

(b) Notwithstanding the foregoing, the Corporation shall be entitled to deliver upon conversion of shares of the Series C Preferred Stock or the Series D Preferred Stock, as herein provided, shares of Common Stock or shares of Series D Preferred Stock acquired by the Corporation (in lieu of the issuance of authorized and unissued shares of Common Stock or Series D Preferred Stock), so long as any such acquired shares of Common Stock or Series D Preferred Stock are free and clear of all liens, charges, security interests or encumbrances.

(c) All shares of Common Stock and Series D Preferred Stock delivered upon conversion of the Series C Preferred Stock and all shares of Common Stock delivered upon conversion of the Series D Preferred Stock shall be duly authorized, validly issued, fully paid and non-assessable, free and clear of all liens, claims, security interests and other encumbrances.

(d) Prior to the delivery of any securities that the Corporation shall be obligated to deliver upon conversion of the Series C Preferred Stock or the Series D Preferred Stock, the Corporation shall use its reasonable best efforts to comply with all federal and state laws and regulations thereunder requiring the registration of such securities with, or any approval of or consent to the delivery thereof by, any governmental authority.

(e) The Corporation hereby covenants and agrees that, if at any time the Common Stock shall be listed on The NASDAQ Global Market or any other national securities exchange or automated quotation system, the Corporation will, if permitted by the rules of such exchange or automated quotation system, list and keep listed, so long as the Common Stock shall be so listed on such exchange or automated quotation system, all the Common Stock issuable upon conversion of the Series C Preferred Stock and the Series D Preferred Stock.

Section 16. Replacement Certificates.

(a) The Corporation shall replace any mutilated certificate at the Series C Holder's or Series D Holder's expense upon surrender of that certificate to the Corporation. The Corporation shall replace certificates that become destroyed, stolen or lost at the Series C Holder's or Series D Holder's expense upon delivery to the Corporation of satisfactory evidence that the certificate has been destroyed, stolen or lost, together with any indemnity that may reasonably be required by the Corporation.

(b) The Corporation shall not be required to issue any certificates representing the Series C Preferred Stock on or after the Mandatory Conversion Date or to issue any certificates representing affected shares of Series D Preferred Stock after an Automatic Conversion Date. In place of the delivery of a replacement certificate following the Mandatory Conversion Date or an Automatic Conversion Date, as applicable, the Corporation, upon delivery of the evidence and indemnity described in clause (a) above, shall deliver the shares of Common Stock pursuant to the terms of the Series C Preferred Stock or the Series D Preferred Stock formerly evidenced by the certificate.

Section 17. Miscellaneous.

(a) All notices referred to herein shall be in writing, and, unless otherwise specified herein, all notices hereunder shall be deemed to have been given upon the earlier of receipt thereof or three (3) Business Days after the mailing thereof if sent by registered or certified mail (unless first-class mail shall be specifically permitted for such notice under the terms of this Certificate of Designations) with postage prepaid, addressed: (i) if to the Corporation, to its office at 75 West 125th Street, New York, New York 10027, Attention: Chief Executive Officer, (ii) if to any Series C Holder or Series D Holder, to such Series C Holder or Series D Holder at the address of such Series C Holder or Series D Holder as listed in the stock record books of the Corporation, or (iii) to such other address as the Corporation or any such Series C Holder or Series D Holder, as the case may be, shall have designated by notice similarly given.

(b) The Corporation shall pay any and all stock transfer and documentary stamp taxes that may be payable in respect of any issuance or delivery of shares of Series C Preferred Stock, Series D Preferred Stock or Common Stock or other securities issued on account of Series C Preferred Stock or Series D Preferred Stock pursuant hereto or certificates representing such shares or securities. The Corporation shall not, however, be required to pay any such tax that may be payable in respect of any transfer involved in the issuance or delivery of shares of Series C Preferred Stock, Series D Preferred Stock or Common Stock or other securities in a name other than that in which the shares of Series C Preferred Stock or Series D Preferred Stock with respect to which such shares or other securities are issued or delivered were registered, or in respect of any payment to any Person other than a payment to the registered holder thereof, and shall not be required to make any such issuance, delivery or payment unless and until the Person otherwise entitled to such issuance, delivery or payment has paid to the Corporation the amount of any such tax or has established, to the satisfaction of the Corporation, that such tax has been paid or is not payable.

(c) All payments on the shares of Series C Preferred Stock and Series D Preferred Stock shall be subject to withholding and backup withholding of tax to the extent required by applicable law, subject to applicable exemptions, and amounts withheld, if any, shall be treated as received by the holders thereof.

(d) No share of Series C Preferred Stock or Series D Preferred Stock shall have any rights of preemption whatsoever under this Certificate of Designations as to any securities of the Corporation, or any warrants, rights or options issued or granted with respect thereto, regardless of how such securities, or such warrants, rights or options, may be designated issued or granted.

(e) The shares of Series C Preferred Stock and Series D Preferred Stock shall not have any voting powers, preferences or relative, participating, optional or other special rights, or qualifications, limitations or restrictions thereof, other than as set forth herein or in the Certificate of Incorporation or as provided by applicable law.

(f) The Corporation covenants not to treat the Series C Preferred Stock or the Series D Preferred Stock as preferred stock for purposes of Section 305 of the Internal Revenue Code of 1986, as amended, except as otherwise required by applicable law.

(g) For so long as any Holder owns any shares of Series C Preferred Stock or Series D Preferred Stock, the Corporation shall not take any action (including entering into any business relationships or any redemption, repurchase (including full or partial exercise of the right of first refusal contained in the Stockholder Rights Agreement) or recapitalization of the Common Stock, of securities or rights, options or warrants to purchase Common Stock, or securities of any type whatsoever that are, or may become, convertible into or exchangeable into or exercisable for Common Stock), that could, or would be reasonably likely to, (i) cause a Holder or any of its Affiliates (which for purposes of this paragraph shall include all “affiliates” as defined in the BHC Act or Regulation Y of the Federal Reserve Board) to be deemed to “control” the Corporation or its Affiliates for purposes of the BHC Act or HOLA, as applicable; (ii) cause a Holder or any of its Affiliates to violate the Applicable Ownership Limit or Total Equity Limit; or (iii) cause the Corporation or Carver Federal Savings Bank to become a “commonly controlled insured depository institution” (as that term is defined and interpreted for purposes of 12 U.S.C. § 1815(e), as may be amended or supplemented from time to time) with respect to any institution that is not a Subsidiary of the Corporation.

RESOLVED, that all actions taken by the officers and directors of the Corporation or any of them in connection with the foregoing resolutions through the date hereof be, and they hereby are, ratified and approved.

IN WITNESS WHEREOF, Carver Bancorp, Inc. has caused this Certificate of Designations to be signed by Deborah C. Wright, its Chairman of the Board, President and Chief Executive Officer this 29th day of June, 2011.

CARVER BANCORP, INC.

By: _____
Deborah C. Wright
Chairman of the Board, President and
Chief Executive Officer

EXHIBIT B

FORM OF CHARTER AMENDMENT

**CERTIFICATE OF AMENDMENT
TO THE
CERTIFICATE OF INCORPORATION
OF
CARVER BANCORP, INC.**

(Pursuant to 8 Del. C. Section 242)

Pursuant to Section 242 of the Delaware General Corporation Law, the undersigned, Chairman of the Board, President and Chief Executive Officer of Carver Bancorp, Inc. (the “Corporation”), a corporation duly organized and existing under the General Corporation Law of the State of Delaware, hereby certifies that:

1. The original Certificate of Incorporation of the Corporation was filed with the Secretary of State of the State of Delaware on May 9, 1996. A Certificate of Designation was filed on each of January 11, 2000, January 14, 2009, August 24, 2010 and June __, 2011. A Certificate of Change of Registered Agent was filed March 27, 2009.
2. The Certificate of Incorporation of the Corporation is hereby amended by deleting therefrom Article IV, Section 1 in its entirety, and substituting in lieu thereof the following:

“Section 1. Shares, Classes and Series Authorized.

(a) The total number of shares of all classes of capital stock which the Corporation shall have authority to issue is _____ million (_____) shares, of which two million (2,000,000) shares shall be preferred stock, par value one cent (\$.01) per share (the “Preferred Stock”), and _____ million (_____)¹ shares shall be common stock, par value one cent (\$.01) per share (the “Common Stock”). The Preferred Stock and Common Stock are sometimes hereinafter collectively referred to as the “Capital Stock.

(b) “Effective at 11:59 p.m., Delaware time, on the date of filing of this Certificate of Amendment with the Secretary of State of the State of Delaware (the “Effective Time”), each 10 shares of Common Stock of the Corporation then issued and outstanding will be automatically reclassified as and changed into one share of Common Stock, without any change to par value (such transaction, the “Reverse Stock Split”). If immediately prior to the Reverse Stock Split a stockholder holds fewer than 10 shares of Common Stock or a number of shares of Common Stock that is not

¹ The number of authorized shares of common stock shall not be less than the minimum number of shares of common stock that must be issued to effectuate the Series C and Series D conversions, the exchange of shares by U.S. Treasury, and the reverse stock split.

evenly divisible by 10, the Corporation will make a cash payment at the rate of \$[]² (the “Purchase Price”) for each fractional share of Common Stock immediately following the completion of the Reverse Stock Split. Upon completion of the Reverse Stock Split: (i) each stockholder of record holding fewer than 10 shares of Common Stock immediately prior to the completion of the Reverse Stock Split will have only the right to receive cash based upon the Purchase Price, and the equity interest of each such stockholder in the Corporation will be terminated and shall no longer confer on such stockholder any further right to vote as a stockholder or share in the Corporation’s assets, earnings or profits following the completion of the Reverse Stock Split; and (ii) each such stockholder of record holding 10 or more shares of Common Stock immediately prior to the completion of the Reverse Stock Split shall continue to be entitled to all rights and privileges of a stockholder of the Corporation with respect to the shares of Common Stock of which he or she is the record owner after giving effect to the provisions of this Article IV, Section 1(b).”

3. The Certificate of Incorporation of the Corporation is hereby amended by deleting therefrom Article V, Section 2 in its entirety, and substituting in lieu thereof the following:

“Section 2. Prohibitions Relating to Beneficial Ownership of Voting Stock. No Person (other than the Corporation, any Subsidiary, any pension, profit-sharing, stock bonus or compensation plan maintained by the Corporation or by a member of a controlled group of corporations or trades or businesses of which the Corporation is a member for the benefit of the employees of the Corporation and/or any Subsidiary, or any trust or custodial arrangement established in connection with any such plan, or the United States Department of the Treasury or any affiliate thereof) shall directly or indirectly acquire or hold the beneficial ownership of more than ten percent (10%) of the issued and outstanding Voting Stock of the Corporation. Any Person so prohibited who directly or indirectly acquires or holds the beneficial ownership of more than ten percent (10%) of the issued and outstanding Voting Stock in violation of this Section 2 shall be subject to the provisions of Sections 3 and 4 of this Article V, below; *provided*, that the provisions of this Section 2 and the provision of Sections 3 and 4 of Article V shall not apply with respect to any shares of Voting Stock beneficially owned by the United States Department of the Treasury or any affiliate thereof. The Corporation is authorized to refuse to recognize a transfer or attempted transfer of any Voting Stock to any Person who beneficially owns, or who the Corporation believes would

² The rate shall be based on a formula that includes the closing price of the shares on the day preceding the effective date of the reverse stock split.

become by virtue of such transfer the beneficial owner of, more than ten percent (20%) of the Voting Stock.”

4. The above amendment has been duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

[Signatures appear on following page]

IN WITNESS WHEREOF, the undersigned has signed this Certificate of Amendment, on this ____ day of _____, 2011.

CARVER BANCORP, INC.

By: _____

Deborah C. Wright
Chairman of the Board, President and

Chief Executive Officer