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Merger

Jefferson Bancorp, Inc.

merging into:

The Colonial Bancgroup, Inc.

() Profit
() NonProfit
() Limited Liability Co.

() Amendment

☒ Merger

() Foreign

() Dissolution/Withdrawal

() Mark

() Limited Partnership

() Annual Report

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ARTICLES OF MERGER
Merger Sheet

MERGING:

JEFFERSON BANCORP, INC., a Florida corporation 344353

INTO

THE COLONIAL BANCGROUP, INC., a Delaware corporation not qualified in
Florida.

File date: January 3, 1997

Corporate Specialist: Annette Hogan

**ARTICLES OF MERGER
OF
JEFFERSON BANCORP, INC.**

AND

THE COLONIAL BANCGROUP, INC.

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TALLAHASSEE, FLORIDA

The undersigned corporations, JEFFERSON BANCORP, INC., and THE COLONIAL BANCGROUP, INC., file these Articles of Merger and certify that:

1. Jefferson Bancorp, Inc., a Florida corporation, is hereby merged with and into The Colonial BancGroup, Inc., a Delaware corporation, pursuant to an Agreement and Plan of Merger dated as of October 25, 1996 (the "Plan of Merger"), a copy of which is attached as Exhibit A, and in accordance with the provisions of the Florida Business Corporation Act and the General Corporation Law of Delaware.

2. The surviving corporation is The Colonial BancGroup, Inc., a Delaware corporation.

3. The merger shall be effective at 11:00 a.m., Eastern Standard Time, on January 3, 1997.

4. The Plan of Merger was approved by the Board of Directors of The Colonial BancGroup, Inc., on October 16, 1996. Pursuant to the General Corporation Law of Delaware, approval of the Plan of Merger by the shareholders of The Colonial BancGroup, Inc., was not required.

5. The Plan of Merger was approved by the Board of Directors of Jefferson Bancorp, Inc. on October 25, 1996, and was approved by the shareholders of Jefferson Bancorp, Inc. on December 27, 1996.

Dated: January 3, 1997.

JEFFERSON BANCORP, INC.

THE COLONIAL BANCGROUP, INC.

By: 

Barton S. Goldberg
Secretary

By: 

Robert E. Lowder
Chairman of the Board of Directors
President and CEO

APPENDIX A

AGREEMENT AND PLAN OF MERGER

by and between

THE COLONIAL BANCGROUP, INC.,

and

JEFFERSON BANCORP, INC.

dated as of

October 25, 1996

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AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER is made and entered into as of this the 25th day of October 1996, by and between JEFFERSON BANCORP, INC. ("Acquired Corporation"), a Florida corporation, and THE COLONIAL BANCGROUP, INC. ("BancGroup"), a Delaware corporation.

WITNESSETH

WHEREAS, Acquired Corporation operates as a bank holding company for its wholly owned subsidiary, Jefferson Bank of Florida (the "Bank") and certain other Subsidiaries, with its principal office in Miami Beach, Florida; and

WHEREAS, BancGroup is a bank holding company with Subsidiary banks in Alabama, Florida, Georgia and Tennessee; and

WHEREAS, Acquired Corporation wishes to merge with BancGroup; and

WHEREAS, it is the intention of BancGroup and Acquired Corporation that such Merger shall qualify for federal income tax purposes as a "reorganization" within the meaning of section 368(a) of the Code, as defined herein;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Parties hereto agree as follows:

ARTICLE 1

NAME

1.1 *Name.* The name of the corporation resulting from the Merger shall be "The Colonial BancGroup, Inc."

ARTICLE 2

MERGER — TERMS AND CONDITIONS

2.1 *Applicable Law.* On the Effective Date, Acquired Corporation shall be merged with and into BancGroup (herein referred to as the "Resulting Corporation" whenever reference is made to it as of the time of merger or thereafter). The Merger shall be undertaken pursuant to the provisions of and with the effect provided in the DGCL and, to the extent applicable, the FBCA. The offices and facilities of Acquired Corporation and of BancGroup shall become the offices and facilities of the Resulting Corporation.

2.2 *Corporate Existence.* On the Effective Date, the corporate existence of Acquired Corporation and of BancGroup shall, as provided in the DGCL and the FBCA, be merged into and continued in the Resulting Corporation, and the Resulting Corporation shall be deemed to be the same corporation as Acquired Corporation and BancGroup. All rights, franchises and interests of Acquired Corporation and BancGroup, respectively, in and to every type of property (real, personal and mixed) and choses in action shall be transferred to and vested in the Resulting Corporation by virtue of the Merger without any deed or other transfer. The Resulting Corporation on the Effective Date, and without any order or other action on the part of any court or otherwise, shall hold and enjoy all rights of property, franchises and interests, including appointments, designations and nominations and all other rights and interests as trustee, executor, administrator, transfer agent and registrar of stocks and bonds, guardian of estates, assignee, and receiver and in every other fiduciary capacity and in every agency, and capacity, in the same manner and to the same extent as such rights, franchises and interests were held or enjoyed by Acquired Corporation and BancGroup, respectively, on the Effective Date.

represent the per share market value of the BancGroup Common Stock at the Effective Date and shall be determined by calculating the average of the closing prices of the Common Stock of BancGroup as reported by the NYSE on each of the ten (10) trading days ending on the trading day immediately preceding the Effective Date, provided, however, that regardless of the Market Value, as calculated above, Market Value shall not be less than \$30.50, nor more than \$38.50. Accordingly, the maximum number of shares of BancGroup Common Stock to be issued in the Merger shall be 2,349,202 (based upon a minimum Market Value of \$30.50) and the minimum number of shares of BancGroup Common Stock to be issued in the Merger shall be 1,861,056 (based upon a maximum Market Value of \$38.50), assuming 3,791,040 shares of Acquired Corporation common stock outstanding as of August 31, 1996. To the extent that as of the Effective Date the number of shares of Acquired Corporation Stock has increased based upon the exercise of Acquired Corporation Options after August 31, 1996, the number of shares of BancGroup Common Stock to be issued in the Merger shall be increased with each share of Acquired Corporation Stock outstanding at the Effective Date exchanged for a number of shares of BancGroup Common Stock equal to \$18.90 divided by the Market Value and the minimum and maximum number of shares of BancGroup Common Stock shall also be adjusted to take into account increases in the number of shares of Acquired Corporation Stock outstanding in excess of 3,791,040 shares as a result of such exercise.

(b) (i) On the Effective Date, BancGroup shall assume all Acquired Corporation Options outstanding, whether or not vested or exercisable, and each such option shall cease to represent a right to acquire Acquired Corporation common stock and shall, instead, represent the right to acquire BancGroup Common Stock on substantially the same terms applicable to the Acquired Corporation Options except as specified below in this section. The number of shares of BancGroup Common Stock to be issued pursuant to such options shall equal the number of shares of Acquired Corporation common stock subject to such Acquired Corporation Options multiplied by the Exchange Ratio, provided that no fractions of shares of BancGroup Common Stock shall be issued and the number of shares of BancGroup Common Stock to be issued upon the exercise of Acquired Corporation Options, if a fractional share exists, shall equal the number of whole shares obtained by rounding to the nearest whole number, giving account to such fraction. The exercise price for the acquisition of BancGroup Common Stock shall be the exercise price for each share of Acquired Corporation common stock subject to such options divided by the Exchange Ratio, adjusted appropriately for any rounding to whole shares that may be done. For purposes of this section 3.1(b) (i), the "Exchange Ratio" shall mean the result obtained by dividing \$18.90 by the Market Value. It is intended that the assumption by BancGroup of the Acquired Corporation Options shall be undertaken in a manner that will not constitute a "modification" as defined in section 424 of the Code as to any stock option which is an "incentive stock option." Schedule 3.1 hereto sets forth the names of all persons holding Acquired Corporation Options, the number of shares of Acquired Corporation common stock subject to such options, the exercise price and the expiration date of such options.

(ii) As soon as practicable, BancGroup shall file at its expense a registration statement with the SEC on Form S-8 or such other appropriate form (including the Form S-4 to be filed in connection with the Merger) with respect to the shares of BancGroup Common Stock to be issued pursuant to such options and shall use its reasonable best efforts to maintain the effectiveness of such registration statement for so long as such options remain outstanding. Such shares shall also be registered or qualified for sale under the securities laws of any state in which registration or qualification is necessary, at BancGroup's expense.

3.2 Surrender of Acquired Corporation Stock. After the Effective Date, each holder of an outstanding certificate or certificates which prior thereto represented shares of Acquired Corporation Stock who is entitled to receive BancGroup Common Stock shall be entitled, upon surrender to BancGroup of their certificate or certificates representing shares of Acquired Corporation Stock (or an affidavit or affirmation by such holder of the loss, theft, or destruction of such certificate or certificates in such form as BancGroup may reasonably require and, if BancGroup reasonably requires, a bond of indemnity in form and amount, and issued by such sureties, as BancGroup may reasonably require), to receive in exchange therefor a certificate or certificates representing the number of whole shares of BancGroup Common Stock into and for which the shares of Acquired Corporation Stock so surrendered shall have been converted, such certificates to be of such denominations and registered in such names as such holder may reasonably request. Until so surrendered and

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CT CORPORATION SYSTEM

Requestor's Name

660 East Jefferson Street

Address

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State

Zip

Phone

CORPORATION(S) NAME

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TALLAHASSEE, FLORIDA

Jefferson Bancorp, Inc.
merging into:

The Colonial Bancgroup, Inc.

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ARTICLES OF MERGER
Merger Sheet

MERGING:

JEFFERSON BANCORP, INC., a Florida corporation 344353

INTO

THE COLONIAL BANCGROUP, INC., a Delaware corporation not qualified in
Florida.

File date: January 3, 1997

Corporate Specialist: Annette Hogan

ARTICLES OF MERGER
OF
JEFFERSON BANCORP, INC.

AND

THE COLONIAL BANCGROUP, INC.

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

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2. The surviving corporation is The Colonial BancGroup, Inc., a Delaware corporation.

3. The merger shall be effective at 11:00 a.m., Eastern Standard Time, on January 3, 1997.

4. The Plan of Merger was approved by the Board of Directors of The Colonial BancGroup, Inc., on October 16, 1996. Pursuant to the General Corporation Law of Delaware, approval of the Plan of Merger by the shareholders of The Colonial BancGroup, Inc., was not required.

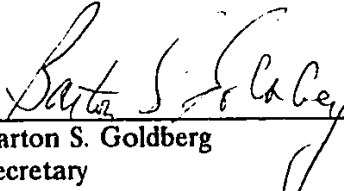
5. The Plan of Merger was approved by the Board of Directors of Jefferson Bancorp, Inc. on October 25, 1996, and was approved by the shareholders of Jefferson Bancorp, Inc. on December 27, 1996.

Dated: January 3, 1997.


JEFFERSON BANCORP, INC.

THE COLONIAL BANCGROUP, INC.

By:


Barton S. Goldberg
Secretary

By:


Robert E. Lowder
Chairman of the Board of Directors
President and CEO

APPENDIX A

AGREEMENT AND PLAN OF MERGER

by and between

THE COLONIAL BANCGROUP, INC.,

and

JEFFERSON BANCORP, INC.

dated as of

October 25, 1996

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AGREEMENT AND PLAN OF MERGER

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WITNESSETH

WHEREAS, Acquired Corporation operates as a bank holding company for its wholly owned subsidiary, Jefferson Bank of Florida (the "Bank") and certain other Subsidiaries, with its principal office in Miami Beach, Florida; and

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WHEREAS, Acquired Corporation wishes to merge with BancGroup; and

WHEREAS, it is the intention of BancGroup and Acquired Corporation that such Merger shall qualify for federal income tax purposes as a "reorganization" within the meaning of section 368(a) of the Code, as defined herein;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Parties hereto agree as follows:

ARTICLE 1

NAME

1.1 *Name.* The name of the corporation resulting from the Merger shall be "The Colonial BancGroup, Inc."

ARTICLE 2

MERGER — TERMS AND CONDITIONS

2.1 *Applicable Law.* On the Effective Date, Acquired Corporation shall be merged with and into BancGroup (herein referred to as the "Resulting Corporation" whenever reference is made to it as of the time of merger or thereafter). The Merger shall be undertaken pursuant to the provisions of and with the effect provided in the DGCL and, to the extent applicable, the FBCA. The offices and facilities of Acquired Corporation and of BancGroup shall become the offices and facilities of the Resulting Corporation.

2.2 *Corporate Existence.* On the Effective Date, the corporate existence of Acquired Corporation and of BancGroup shall, as provided in the DGCL and the FBCA, be merged into and continued in the Resulting Corporation, and the Resulting Corporation shall be deemed to be the same corporation as Acquired Corporation and BancGroup. All rights, franchises and interests of Acquired Corporation and BancGroup, respectively, in and to every type of property (real, personal and mixed) and choses in action shall be transferred to and vested in the Resulting Corporation by virtue of the Merger without any deed or other transfer. The Resulting Corporation on the Effective Date, and without any order or other action on the part of any court or otherwise, shall hold and enjoy all rights of property, franchises and interests, including appointments, designations and nominations and all other rights and interests as trustee, executor, administrator, transfer agent and registrar of stocks and bonds, guardian of estates, assignee, and receiver and in every other fiduciary capacity and in every agency, and capacity, in the same manner and to the same extent as such rights, franchises and interests were held or enjoyed by Acquired Corporation and BancGroup, respectively, on the Effective Date.

2.3 *Articles of Incorporation and Bylaws.* On the Effective Date, the certificate of incorporation and bylaws of the Resulting Corporation shall be the restated certificate of incorporation and bylaws of BancGroup as they exist immediately before the Effective Date.

2.4 *Resulting Corporation's Officers and Board.* The board of directors and the officers of the Resulting Corporation on the Effective Date shall consist of those persons serving in such capacities of BancGroup as of the Effective Date.

2.5 *Stockholder Approval.* This Agreement shall be submitted to the shareholders of Acquired Corporation at the Stockholders Meeting to be held as promptly as practicable consistent with the satisfaction of the conditions set forth in this Agreement. Upon approval by the requisite vote of the shareholders of Acquired Corporation as required by applicable Law and upon satisfaction or waiver of each of the conditions set forth in Articles 8, 9 and 10 hereof, the Merger shall become effective as soon as practicable thereafter in the manner provided in section 2.7 hereof.

2.6 *Further Acts.* If, at any time after the Effective Date, the Resulting Corporation shall consider or be advised that any further assignments or assurances in law or any other acts are necessary or desirable (i) to vest, perfect, confirm or record, in the Resulting Corporation, title to and possession of any property or right of Acquired Corporation or BancGroup, acquired as a result of the Merger, or (ii) otherwise to carry out the purposes of this Agreement, BancGroup and its officers and directors shall execute and deliver all such proper deeds, assignments and assurances in law and do all acts necessary or proper to vest, perfect or confirm title to, and possession of, such property or rights in the Resulting Corporation and otherwise to carry out the purposes of this Agreement; and the proper officers and directors of the Resulting Corporation are fully authorized in the name of Acquired Corporation or BancGroup, or otherwise, to take any and all such action.

2.7 *Effective Date and Closing.* Subject to the terms of all requirements of Law and the conditions specified in this Agreement, the Merger shall become effective on the date specified in the Certificate of Merger to be filed with the Secretary of State of the State of Delaware and with the Department of State of the State of Florida (such time being herein called the "Effective Date"). The Closing shall take place at the offices of BancGroup, in Montgomery, Alabama, at 11:00 a.m. on the date that the Effective Date occurs or at such other place and time that the Parties may mutually agree; provided, that the Closing shall occur not later than fifteen (15) days following the satisfaction of each of the conditions set forth in sections 8.1 and 8.2, whichever is the last to occur, assuming all other conditions of Articles 8, 9 and 10 have been previously satisfied.

2.8 *Subsidiary Bank Merger.* BancGroup and Acquired Corporation anticipate that shortly after the Effective Date the Bank will merge with and into Colonial Bank, BancGroup's Florida Subsidiary bank. The exact timing and structure of such merger are not known at this time, and BancGroup in its discretion will finalize such timing and structure at a later date. Acquired Corporation will cooperate with BancGroup in the execution of appropriate documentation relating to such merger, provided that the Parties acknowledge, and BancGroup agrees, that the Merger may be concluded before such bank merger and that the Bank may be operated as a separate bank subsidiary of BancGroup following the Merger.

ARTICLE 3

CONVERSION OF ACQUIRED CORPORATION STOCK

3.1 *Conversion of Acquired Corporation Stock.*

(a) On the Effective Date, each share of common stock of Acquired Corporation outstanding and held by Acquired Corporation's shareholders other than shares held by dissenting shareholders for which payment will be made pursuant to section 3.6 hereof (the "Acquired Corporation Stock"), shall be converted by operation of law and without any action by any holder thereof into shares of BancGroup Common Stock at a per share price of \$18.90 (the "Merger Consideration") as specified below. Specifically, each outstanding share of Acquired Corporation Stock shall (subject to section 3.3 hereof), be converted into such number of shares of BancGroup Common Stock equal to \$18.90 divided by the Market Value. The "Market Value" shall

represent the per share market value of the BancGroup Common Stock at the Effective Date and shall be determined by calculating the average of the closing prices of the Common Stock of BancGroup as reported by the NYSE on each of the ten (10) trading days ending on the trading day immediately preceding the Effective Date, provided, however, that regardless of the Market Value, as calculated above, Market Value shall not be less than \$30.50, nor more than \$38.50. Accordingly, the maximum number of shares of BancGroup Common Stock to be issued in the Merger shall be 2,349,202 (based upon a minimum Market Value of \$30.50) and the minimum number of shares of BancGroup Common Stock to be issued in the Merger shall be 1,861,056 (based upon a maximum Market Value of \$38.50), assuming 3,791,040 shares of Acquired Corporation common stock outstanding as of August 31, 1996. To the extent that as of the Effective Date the number of shares of Acquired Corporation Stock has increased based upon the exercise of Acquired Corporation Options after August 31, 1996, the number of shares of BancGroup Common Stock to be issued in the Merger shall be increased with each share of Acquired Corporation Stock outstanding at the Effective Date exchanged for a number of shares of BancGroup Common Stock equal to \$18.90 divided by the Market Value and the minimum and maximum number of shares of BancGroup Common Stock shall also be adjusted to take into account increases in the number of shares of Acquired Corporation Stock outstanding in excess of 3,791,040 shares as a result of such exercise.

(b)(i) On the Effective Date, BancGroup shall assume all Acquired Corporation Options outstanding, whether or not vested or exercisable, and each such option shall cease to represent a right to acquire Acquired Corporation common stock and shall, instead, represent the right to acquire BancGroup Common Stock on substantially the same terms applicable to the Acquired Corporation Options except as specified below in this section. The number of shares of BancGroup Common Stock to be issued pursuant to such options shall equal the number of shares of Acquired Corporation common stock subject to such Acquired Corporation Options multiplied by the Exchange Ratio, provided that no fractions of shares of BancGroup Common Stock shall be issued and the number of shares of BancGroup Common Stock to be issued upon the exercise of Acquired Corporation Options, if a fractional share exists, shall equal the number of whole shares obtained by rounding to the nearest whole number, giving account to such fraction. The exercise price for the acquisition of BancGroup Common Stock shall be the exercise price for each share of Acquired Corporation common stock subject to such options divided by the Exchange Ratio, adjusted appropriately for any rounding to whole shares that may be done. For purposes of this section 3.1(b)(i), the "Exchange Ratio" shall mean the result obtained by dividing \$18.90 by the Market Value. It is intended that the assumption by BancGroup of the Acquired Corporation Options shall be undertaken in a manner that will not constitute a "modification" as defined in section 424 of the Code as to any stock option which is an "incentive stock option." Schedule 3.1 hereto sets forth the names of all persons holding Acquired Corporation Options, the number of shares of Acquired Corporation common stock subject to such options, the exercise price and the expiration date of such options.

(ii) As soon as practicable, BancGroup shall file at its expense a registration statement with the SEC on Form S-8 or such other appropriate form (including the Form S-4 to be filed in connection with the Merger) with respect to the shares of BancGroup Common Stock to be issued pursuant to such options and shall use its reasonable best efforts to maintain the effectiveness of such registration statement for so long as such options remain outstanding. Such shares shall also be registered or qualified for sale under the securities laws of any state in which registration or qualification is necessary, at BancGroup's expense.

3.2 Surrender of Acquired Corporation Stock. After the Effective Date, each holder of an outstanding certificate or certificates which prior thereto represented shares of Acquired Corporation Stock who is entitled to receive BancGroup Common Stock shall be entitled, upon surrender to BancGroup of their certificate or certificates representing shares of Acquired Corporation Stock (or an affidavit or affirmation by such holder of the loss, theft, or destruction of such certificate or certificates in such form as BancGroup may reasonably require and, if BancGroup reasonably requires, a bond of indemnity in form and amount, and issued by such sureties, as BancGroup may reasonably require), to receive in exchange therefor a certificate or certificates representing the number of whole shares of BancGroup Common Stock into and for which the shares of Acquired Corporation Stock so surrendered shall have been converted, such certificates to be of such denominations and registered in such names as such holder may reasonably request. Until so surrendered and

exchanged, each such outstanding certificate which, prior to the Effective Date, represented shares of Acquired Corporation Stock and which is to be converted into BancGroup Common Stock shall for all purposes evidence ownership of the BancGroup Common Stock into and for which such shares shall have been so converted, except that no dividends or other distributions with respect to such BancGroup Common Stock shall be made until the certificates previously representing shares of Acquired Corporation Stock shall have been properly tendered.

3.3 Fractional Shares. No fractional shares of BancGroup Common Stock shall be issued, and each holder of shares of Acquired Corporation Stock having a fractional interest arising upon the conversion of such shares into shares of BancGroup Common Stock shall, at the time of surrender of the certificates previously representing Acquired Corporation Stock, be paid by BancGroup an amount in cash equal to the Market Value of such fractional share.

3.4 Adjustments. In the event that prior to the Effective Date BancGroup Common Stock shall be changed into a different number of shares or a different class of shares by reason of any recapitalization or reclassification, stock dividend, combination, stock split, or reverse stock split of the BancGroup Common Stock, an appropriate and proportionate adjustment shall be made in the number of shares of BancGroup Common Stock into which the Acquired Corporation Stock shall be converted and the maximum and minimum Market Values and numbers of shares of BancGroup Common Stock to be issued in connection with the Merger as described in section 3.1 shall be adjusted accordingly.

3.5 BancGroup Stock. The shares of Common Stock of BancGroup issued and outstanding immediately before the Effective Date shall continue to be issued and outstanding shares of the Resulting Corporation.

3.6 Dissenting Rights. Any shareholder of Acquired Corporation who shall not have voted in favor of this Agreement and who has complied with the applicable procedures set forth in the FBCA, relating to rights of dissenting shareholders, shall be entitled to receive payment for the fair value of his Acquired Corporation Stock. If after the Effective Date a dissenting shareholder of Acquired Corporation fails to perfect, or effectively withdraws or loses, his right to appraisal and payment for his shares of Acquired Corporation Stock, BancGroup shall issue and deliver the consideration to which such holder of shares of Acquired Corporation Stock is entitled under section 3.1 (without interest) upon surrender of such holder of the certificate or certificates representing shares of Acquired Corporation Stock held by him.

ARTICLE 4

REPRESENTATIONS, WARRANTIES AND COVENANTS OF BANCGROUP

BancGroup represents, warrants and covenants to and with Acquired Corporation as follows:

4.1 Organization. BancGroup is a corporation duly organized, validly existing and in good standing under the Laws of the State of Delaware. BancGroup has the necessary corporate powers to carry on its business as presently conducted and is qualified to do business in every jurisdiction in which the character and location of the Assets owned by it or the nature of the business transacted by it requires qualification or in which the failure to qualify could, individually or in the aggregate, have a Material Adverse Effect.

4.2 Capital Stock.

(a) The authorized capital stock of BancGroup consists of (A) 44,000,000 shares of Common Stock, \$2.50 par value per share, of which as of September 19, 1996, 16,296,558 shares were validly issued and outstanding, fully paid and nonassessable and are not subject to preemptive rights (not counting additional shares subject to issue pursuant to stock option and other plans and convertible debentures), and (B) 1,000,000 shares of Preference Stock, \$2.50 par value per share, none of which are issued and outstanding. The shares of BancGroup Common Stock to be issued in the Merger are duly authorized and, when so issued, will be validly issued and outstanding, fully paid and nonassessable, will have been registered under the 1933 Act, and will have been registered or qualified under the securities laws of all jurisdictions in

which such registration or qualification is required, based upon information provided by Acquired Corporation, and will be listed on the NYSE.

(b) The authorized capital stock of each Subsidiary of BancGroup is validly issued and outstanding, fully paid and nonassessable, and each Subsidiary is wholly owned, directly or indirectly, by BancGroup.

4.3 Financial Statements; Taxes. (a) BancGroup has delivered to Acquired Corporation copies of the following financial statements of BancGroup:

(i) Consolidated balance sheets as of December 31, 1994, and December 31, 1995, and for the six months ended June 30, 1996;

(ii) Consolidated statements of operations for each of the three years ended December 31, 1993, 1994 and 1995, and for the six months ended June 30, 1996;

(iii) Consolidated statements of cash flows for each of the three years ended December 31, 1993, 1994 and 1995, and for the six months ended June 30, 1996; and

(iv) Consolidated statements of changes in shareholders' equity for the three years ended December 31, 1993, 1994 and 1995, and for the six months ended June 30, 1996.

All such financial statements are in all material respects in accordance with the books and records of BancGroup and have been prepared in accordance with generally accepted accounting principles applied on a consistent basis throughout the periods indicated, all as more particularly set forth in the notes to such statements. Each of the consolidated balance sheets presents fairly as of its date the consolidated financial condition of BancGroup and its Subsidiaries. Except as and to the extent reflected or reserved against in such balance sheets (including the notes thereto), BancGroup and its Subsidiaries did not have, as of the dates of such balance sheets, any material Liabilities or obligations (absolute or contingent) of a nature customarily reflected in a balance sheet or the notes thereto. The statements of consolidated income, shareholders' equity and changes in consolidated financial position present fairly the results of operations and changes in financial position of BancGroup and its Subsidiaries for the periods indicated. The foregoing representations, insofar as they relate to the unaudited interim financial statements of BancGroup for the six months ended June 30, 1996, are subject in all cases to normal recurring year-end adjustments and the omission of footnote disclosure.

(b) All Tax returns required to be filed by or on behalf of BancGroup have been timely filed (or requests for extensions therefor have been timely filed and granted and have not expired), and all returns filed are complete and accurate in all material respects. All Taxes shown on these returns to be due and all additional assessments received have been paid. The amounts recorded for Taxes on the balance sheets provided under section 4.3(a) are, to the Knowledge of BancGroup, sufficient in all material respects for the payment of all unpaid federal, state, county, local, foreign or other Taxes (including any interest or penalties) of BancGroup accrued for or applicable to the period ended on the dates thereof, and all years and periods prior thereto and for which BancGroup may at such dates have been liable in its own right or as transferee of the Assets of, or as successor to, any other corporation or other party. No audit, examination or investigation is presently being conducted or, to the Knowledge of BancGroup, threatened by any taxing authority which is likely to result in a material Tax Liability, no material unpaid Tax deficiencies or additional liabilities of any sort have been proposed by any governmental representative and no agreements for extension of time for the assessment of any material amount of Tax have been entered into by or on behalf of BancGroup. BancGroup has not executed an extension or waiver of any statute of limitations on the assessment or collection of any Tax due that is currently in effect that would have a Material Adverse Effect on BancGroup. BancGroup has withheld from its employees (and timely paid to the appropriate governmental entity) proper and accurate amounts for all periods in material compliance with all Tax withholding provisions of applicable federal, state, foreign and local Laws (including without limitation, income, social security and employment Tax withholding for all types of compensation).

4.4 No Conflict with Other Instrument. The consummation of the transactions contemplated by this Agreement will not result in a breach of or constitute a Default (without regard to the giving of notice or the

passage of time) under any material Contract, indenture, mortgage, deed of trust or other material agreement or instrument to which BancGroup or any of its Subsidiaries is a party or by which they or their Assets may be bound; will not conflict with any provision of the restated certificate of incorporation or bylaws of BancGroup or the articles of incorporation or bylaws of any of its Subsidiaries; and will not violate any provision of any Law, regulation, judgment or decree binding on them or any of their Assets.

4.5 Absence of Material Adverse Change. Since the date of the most recent balance sheet provided under section 4.3(a) (i) above, there have been no events, changes or occurrences which have had or are reasonably likely to have, individually or in the aggregate, a Material Adverse Effect on BancGroup.

4.6 Approval of Agreements. The board of directors of BancGroup has approved this Agreement and the transactions contemplated by it and has authorized the execution and delivery by BancGroup of this Agreement. This Agreement constitutes the legal, valid and binding obligation of BancGroup, enforceable against it in accordance with its terms. Approval of this Agreement by the stockholders of BancGroup is not required by applicable law. Subject to the matters referred to in section 8.2, BancGroup has full power, authority and legal right to enter into this Agreement and to consummate the transactions contemplated by this Agreement. BancGroup has no Knowledge of any fact or circumstance under which the appropriate regulatory approvals required by section 8.2 will not be granted without the imposition of material conditions or material delays.

4.7 Tax Treatment. BancGroup has no present plan to sell or otherwise dispose of any of the Assets of Acquired Corporation, subsequent to the Merger, and BancGroup intends to continue the historic business of Acquired Corporation.

4.8 Title and Related Matters. BancGroup has good and marketable title to all the properties, interests in properties and Assets, real and personal, reflected in the most recent balance sheet referred to in section 4.3(a), or acquired after the date of such balance sheet (except properties, interests and Assets sold or otherwise disposed of since such date, in the ordinary course of business), free and clear of all mortgages, Liens, pledges, charges or encumbrances except (i) mortgages and other encumbrances referred to in the notes of such balance sheet, (ii) liens for current Taxes not yet due and payable and (iii) such imperfections of title and easements as do not materially detract from or interfere with the present use of the properties subject thereto or affected thereby, or otherwise materially impair present business operations at such properties. To the Knowledge of BancGroup, the material structures and equipment of BancGroup comply in all material respects with the requirements of all applicable Laws.

4.9 Subsidiaries. Each Subsidiary of BancGroup has been duly incorporated and is validly existing as a corporation in good standing under the Laws of the jurisdiction of its incorporation and each Subsidiary has been duly qualified as a foreign corporation to transact 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 and in which the failure to be duly qualified could have a Material Adverse Effect upon BancGroup and its Subsidiaries considered as one enterprise; each of the banking Subsidiaries of BancGroup has its deposits fully insured by the Federal Deposit Insurance Corporation to the extent provided by the Federal Deposit Insurance Act; and the businesses of the non-bank Subsidiaries of BancGroup are permitted to subsidiaries of registered bank holding companies.

4.10 Contracts. Neither BancGroup nor any of its Subsidiaries is in violation of its respective certificate of incorporation or bylaws or in Default in the performance or observance of any material obligation, agreement, covenant or condition contained in any Contract, indenture, mortgage, loan agreement, note, lease or other instrument to which it is a party or by which it or its property may be bound.

4.11 Litigation. Except as disclosed in or reserved for in BancGroup's financial statements, there is no Litigation before or by any court or Agency, domestic or foreign, now pending, or, to the Knowledge of BancGroup, threatened against or affecting BancGroup or any of its Subsidiaries (nor is BancGroup aware of any facts which could give rise to any such Litigation) which is required to be disclosed in the Registration Statement (other than as disclosed both therein and in Schedule 4.11 hereof), or which is likely to have any Material Adverse Effect or prospective Material Adverse Effect, or which is likely to materially and adversely

affect the properties or Assets thereof or which is likely to materially affect or delay the consummation of the transactions contemplated by this Agreement; all pending legal or governmental proceedings to which BancGroup or any Subsidiary is a party or of which any of their properties is the subject which are not described both in the Registration Statement and in Schedule 4.11 hereof, including ordinary routine litigation incidental to the business, are, considered in the aggregate, not material; and neither BancGroup nor any of its Subsidiaries have any contingent obligations which could be considered material to BancGroup and its Subsidiaries considered as one enterprise which are not disclosed both in the Registration Statement and in Schedule 4.11 hereof.

4.12 Compliance. BancGroup and its Subsidiaries, in the conduct of their businesses, are to the Knowledge of BancGroup, in material compliance with all material federal, state or local Laws applicable to them or the conduct of their businesses.

4.13 Registration Statement. At the time the Registration Statement becomes effective and at the time of the Stockholders' Meeting, the Registration Statement, including the Proxy Statement which shall constitute a part thereof, will comply in all material respects with the requirements of the 1933 Act and the rules and regulations thereunder, will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that the representations and warranties in this subsection shall not apply to statements in or omissions from the Proxy Statement made in reliance upon and in conformity with information furnished in writing to BancGroup by Acquired Corporation or any of its representatives expressly for use in the Proxy Statement or information included in the Proxy Statement regarding the business of Acquired Corporation, its operations, Assets and capital.

4.14 SEC Filings. (a) BancGroup has heretofore delivered to Acquired Corporation copies of BancGroup's: (i) Annual Report on Form 10-K for the fiscal year ended December 31, 1995; (ii) 1995 Annual Report to Shareholders; (iii) Quarterly Reports on Form 10-Q for the fiscal quarters ended March 31 and June 30, 1996; and (iv) any reports on Form 8-K, filed by BancGroup with the SEC since December 31, 1995. Since December 31, 1995, BancGroup has timely filed all reports and registration statements and the documents required to be filed with the SEC under the rules and regulations of the SEC and all such reports and registration statements or other documents have complied in all material respects, as of their respective filing dates and effective dates, as the case may be, with all the applicable requirements of the 1933 Act and the 1934 Act. As of the respective filing and effective dates, none of such reports or registration statements or other documents contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

(b) The documents incorporated by reference into the Registration Statement, at the time they were or will be filed with the SEC, complied or will comply in all material respects with the requirements of the 1934 Act and Regulations thereunder and when read together and with the other information in the Registration Statement will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading at the time the Registration Statement becomes effective or at the time of the Stockholders Meeting.

4.15 Form S-4. The conditions for use of a registration statement on SEC Form S-4 set forth in the General Instructions on Form S-4 have been or will be satisfied with respect to BancGroup and the Registration Statement.

4.16 Brokers. All negotiations relative to this Agreement and the transactions contemplated by this Agreement have been carried on by BancGroup directly with Acquired Corporation and without the intervention of any other Person other than the Persons described on Schedule 5.18, if any, who are acting on behalf of the Acquired Corporation, either as a result of any act of BancGroup or otherwise in such manner as to give rights to any valid claim against BancGroup for finders fees, brokerage commissions or other like payments.

4.17 *Government Authorization.* BancGroup and its Subsidiaries have all Permits that, to the Knowledge of BancGroup and its Subsidiaries, are or will be legally required to enable BancGroup or any of its Subsidiaries to conduct their businesses in all material respects as now conducted by each of them.

4.18 *Absence of Regulatory Communications.* Neither BancGroup nor any of its Subsidiaries is subject to, or has received during the past three (3) years, any written communication directed specifically to it from any Agency to which it is subject or pursuant to which such Agency has imposed or has indicated it may impose any material restrictions on the operations of it or the business conducted by it or in which such Agency has raised a material question concerning the condition, financial or otherwise, of such company.

4.19 *Disclosure.* No representation or warranty, or any statement or certificate furnished or to be furnished to Acquired Corporation by BancGroup, contains or will contain any untrue statement of a material fact, or omits or will omit to state a material fact necessary to make the statements contained in this Agreement or in any such statement or certificate not misleading.

ARTICLE 5

REPRESENTATIONS, WARRANTIES AND COVENANTS OF ACQUIRED CORPORATION

Acquired Corporation represents, warrants and covenants to and with BancGroup, as follows:

5.1 *Organization.* Acquired Corporation is a Florida corporation, and the Bank is a Florida state bank. Each Acquired Corporation Company is duly organized, validly existing and in good standing under the respective Laws of its jurisdiction of incorporation and has all requisite power and authority to carry on its business as it is now being conducted and is qualified to do business in every jurisdiction in which the character and location of the Assets owned by it or the nature of the business transacted by it requires qualification or in which the failure to qualify could, individually, or in the aggregate, have a Material Adverse Effect.

5.2 *Capital Stock.* (i) As of August 31, 1996, the authorized capital stock of Acquired Corporation consisted of 10,000,000 shares of common stock, \$1.00 par value per share, 3,791,040 shares of which were issued and outstanding. All of such shares which are outstanding are validly issued, fully paid and nonassessable and not subject to preemptive rights. As of August 31, 1996, Acquired Corporation had 231,925 shares of its common stock subject to exercise pursuant to stock options under its stock option plans. Except for the foregoing, Acquired Corporation does not have any other arrangements or commitments obligating it to issue shares of its capital stock or any securities convertible into or having the right to purchase shares of its capital stock, including the granting of Acquired Corporation Options.

5.3 *Subsidiaries.* Except as set forth on Schedule 5.3, Acquired Corporation has no direct Subsidiaries other than the Bank, and there are no Subsidiaries of the Bank. Acquired Corporation owns, directly or indirectly, all of the issued and outstanding capital stock of the Bank and each of its other Subsidiaries free and clear of any liens, claims or encumbrances of any kind. All of the issued and outstanding shares of capital stock of the Subsidiaries have been validly issued and are fully paid and non-assessable. As of August 31, 1996, there were 200,000 shares of the common stock, par value \$100 per share, authorized of the Bank, 100,000 of which are issued and outstanding and wholly owned by Acquired Corporation. The Bank has no arrangements or commitments obligating it to issue shares of its capital stock or any securities convertible into or having the right to purchase shares of its capital stock. Neither Acquired Corporation nor the Bank owns any investment in any entity that exceeds 5% of the outstanding securities of such entity other than investments in any Subsidiary.

5.4 *Financial Statements; Taxes.* (a) Acquired Corporation has delivered to BancGroup copies of the following financial statements of Acquired Corporation:

(i) Consolidated balance sheets as of December 31, 1994 and 1995, and for the nine months ended September 30, 1996;

(ii) Consolidated statements of income for each of the three years ended December 31, 1993, 1994 and 1995, and for the nine months ended September 30, 1996;

(iii) Consolidated statements of stockholders' equity for each of the three years ended December 31, 1993, 1994, and 1995, and for the nine months ended September 30, 1996; and

(iv) Consolidated statements of cash flows for the three years ended December 31, 1993, 1994 and 1995, and for the nine months ended September 30, 1996.

All of the foregoing financial statements are in all material respects in accordance with the books and records of Acquired Corporation and have been prepared in accordance with generally accepted accounting principles applied on a consistent basis throughout the periods indicated, except for changes required by GAAP, all as more particularly set forth in the notes to such statements. Each of such consolidated balance sheets presents fairly as of its date the consolidated financial condition of Acquired Corporation and its Subsidiaries. Except as and to the extent reflected or reserved against in such balance sheets (including the notes thereto), Acquired Corporation and its Subsidiaries did not have, as of the date of such balance sheets, any material Liabilities or obligations (absolute or contingent) of a nature customarily reflected in a balance sheet or the notes thereto. The statements of consolidated income, stockholders' equity and cash flows present fairly the results of operation, changes in shareholders equity and cash flows of Acquired Corporation and its Subsidiaries for the periods indicated. The foregoing representations, insofar as they relate to the unaudited interim financial statements of Acquired Corporation and its Subsidiaries for the nine months ended September 30, 1996, are subject in all cases to normal recurring year-end adjustments and the omission of footnote disclosure.

(b) Except as set forth on Schedule 5.4(b), all Tax returns required to be filed by or on behalf of Acquired Corporation have been timely filed (or requests for extensions therefor have been timely filed and granted and have not expired), and all returns filed are complete and accurate in all material respects. All Taxes shown on these returns to be due and all additional assessments received have been paid. The amounts recorded for Taxes on the balance sheets provided under section 5.4(a) are, to the Knowledge of Acquired Corporation, sufficient in all material respects for the payment of all unpaid federal, state, county, local, foreign and other Taxes (including any interest or penalties) of Acquired Corporation accrued for or applicable to the period ended on the dates thereof, and all years and periods prior thereto and for which Acquired Corporation may at such dates have been liable in its own right or as a transferee of the Assets of, or as successor to, any other corporation or other party. No audit, examination or investigation is presently being conducted or, to the Knowledge of Acquired Corporation, threatened by any taxing authority which is likely to result in a material Tax Liability, no material unpaid Tax deficiencies or additional liability of any sort have been proposed by any governmental representative and no agreements for extension of time for the assessment of any material amount of Tax have been entered into by or on behalf of Acquired Corporation. Acquired Corporation has not executed an extension or waiver of any statute of limitations on the assessment or collection of any Tax due that is currently in effect that would have a Material Adverse Effect on Acquired Corporation.

(c) Each Acquired Corporation Company has withheld from its employees (and timely paid to the appropriate governmental entity) proper and accurate amounts for all periods in material compliance with all Tax withholding provisions of applicable federal, state, foreign and local Laws (including without limitation, income, social security and employment Tax withholding for all types of compensation). Each Acquired Corporation Company is in compliance with in all material respects, and its records contain all information and documents (including properly completed IRS Forms W-9) necessary to comply with in all material respects, all applicable information reporting and Tax withholding requirements under federal, state and local Tax Laws, and such records identify with specificity all accounts subject to backup withholding under section 3406 of the Code.

5.5 Absence of Certain Changes or Events. Except as set forth on Schedule 5.5, since the date of the most recent balance sheet provided under section 5.4(a)(i) above, no Acquired Corporation Company has

(a) issued, delivered or agreed to issue or deliver any stock, bonds or other corporate securities (whether authorized and unissued or held in the treasury) or granted any options or rights to acquire any securities except shares of common stock issued upon the exercise of Acquired Corporation Options existing on the date hereof and shares issued as director's qualifying shares;

(b) borrowed or agreed to borrow any funds or incurred, or become subject to, any Liability (absolute or contingent) except borrowings, obligations (including purchase of federal funds) and Liabilities incurred in the ordinary course of business and consistent with past practice;

(c) paid any material obligation or Liability (absolute or contingent) other than current Liabilities (including, without limitation, the current portion of long-term Liabilities) reflected in or shown on the most recent balance sheet referred to in section 5.4(a)(i) and current Liabilities incurred since that date in the ordinary course of business and consistent with past practice;

(d) except in the ordinary course of business and consistent with past practice, declared or made, or agreed to declare or make, any payment of dividends or distributions of any Assets of any kind whatsoever to shareholders, or purchased or redeemed, or agreed to purchase or redeem, any of its outstanding securities;

(e) except in the ordinary course of business, sold or transferred, or agreed to sell or transfer, any of its Assets, or canceled, or agreed to cancel, any debts or claims;

(f) except in the ordinary course of business, entered or agreed to enter into any agreement or arrangement granting any preferential rights to purchase any of its Assets, or requiring the consent of any party to the transfer and assignment of any of its Assets;

(g) suffered any Losses or waived any rights of value which in either event in the aggregate are material other than as a result of actions which are taken by any Acquired Corporation Company pursuant to sections 6.2(j) and (k) of this Agreement or otherwise taken by any Acquired Corporation Company with the consent or agreement of BancGroup;

(h) except in the ordinary course of business, made or permitted any amendment or termination of any material Contract, agreement or license to which it is a party if such amendment or termination is material;

(i) except in accordance with past practices, made any accrual or arrangement for or payment of bonuses or special compensation of any kind or any severance or termination pay to any present or former officer or employee;

(j) except in accordance with past practices, increased the rate of compensation payable to or to become payable to any of its officers or employees or made any material increase in any profit sharing, bonus, deferred compensation, savings, insurance, pension, retirement or other employee benefit plan, payment or arrangement made to, for or with any of its officers or employees;

(k) received notice or had Knowledge or reason to believe that any of its substantial customers has terminated or intends to terminate its relationship, which termination would have a Material Adverse Effect on Acquired Corporation; or

(l) failed generally to operate its business in the ordinary course so as to preserve its business intact and to preserve the goodwill of its customers and others with whom it has business relations which failure has had a Material Adverse Effect on Acquired Corporation; or

(m) entered into any material transaction other than in the ordinary course of business which would have a Material Adverse Effect on Acquired Corporation; or

(n) agreed in writing, or otherwise, to take any action described in clauses (a) through (m) above.

5.6 Title and Related Matters.

(a) *Title.* Acquired Corporation has good and marketable title to all real property and good title to all other properties, interest in properties and Assets reflected in the most recent balance sheet referred to in section 5.4(a) (i), or acquired after the date of such balance sheet (except properties, interests and Assets sold or otherwise disposed of since such date, in the ordinary course of business), free and clear of all mortgages, Liens, pledges, charges or encumbrances except (i) mortgages and other encumbrances referred to in the notes to such balance sheet (or in the most recent year-end balance sheet referred to in section 5.4(a) (i)), (ii) Liens for current Taxes not yet due and payable and (iii) such imperfections of title and easements as do not materially detract from or interfere with the present use of the properties subject thereto or affected thereby, or otherwise materially impair present business operations at such properties. To the Knowledge of Acquired Corporation, the material structures and equipment of each Acquired Corporation Company comply in all material respects with the requirements of all applicable Laws.

(b) *Leases.* Schedule 5.6(b) sets forth a list and description of all real and personal property owned or leased by any Acquired Corporation Company, either as lessor or lessee, copies of which have been delivered to BancGroup.

(c) *Personal Property.* Schedule 5.6(c) sets forth a depreciation schedule of each Acquired Corporation Company's fixed Assets as of September 30, 1996.

(d) *Computer Hardware and Software.* Schedule 5.6(d) contains a description of all material agreements relating to data processing computer software and hardware now being used in the business operations of any Acquired Corporation Company having a cost per unit or license in excess of \$5,000. Acquired Corporation is not aware of any defects, irregularities or problems with any of its computer hardware or software which renders such hardware or software unable to satisfactorily perform the material tasks and functions to be performed by them in the business of any Acquired Corporation Company.

5.7 *Commitments.* Except as set forth in Schedule 5.7, no Acquired Corporation Company is a party to any oral or written (i) Contracts for the employment of any officer or employee which is not terminable on 30 days' (or less) notice, (ii) material profit sharing, bonus, deferred compensation, savings, stock option, severance pay, pension or retirement plan, agreement or arrangement, (iii) loan agreement, indenture or similar agreement relating to the borrowing of money by such party, (iv) guaranty of any obligation for the borrowing of money or otherwise, excluding endorsements made for collection and guaranties made in the ordinary course of business, (v) consulting Contracts, (vi) collective bargaining agreement, (vii) agreement with any present or former officer, director or shareholder of such party, or (viii) other Contract, agreement or other commitment which is material to the business, operations, property, prospects or Assets or to the condition, financial or otherwise, of Acquired Corporation and its Subsidiaries taken as a whole. Complete and accurate copies of all Contracts, plans and other items so listed have been made or will be made available to BancGroup for inspection.

5.8 *Charter and Bylaws.* Schedule 5.8 contains true and correct copies of the articles of incorporation and bylaws of each Acquired Corporation Company, including all amendments thereto, as currently in effect. There will be no changes in such articles of incorporation or bylaws prior to the Effective Date, without the prior written consent of BancGroup.

5.9 *Litigation.* Schedule 5.9 sets forth the Litigation pending or, to the Knowledge of the Acquired Corporation, threatened against or affecting any Acquired Corporation Company as of the date of this Agreement which involves the reasonable probability of any material judgment or Liability against any Acquired Corporation Company. There is no Litigation (whether or not purportedly on behalf of Acquired Corporation) pending or, to the Knowledge of Acquired Corporation, threatened against or affecting any Acquired Corporation Company (nor is Acquired Corporation aware of any facts which are likely to give rise to any such Litigation) at law or in equity, or before or by any governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, or before any arbitrator of any kind, which involves the reasonable probability of any judgment or Liability not fully covered by insurance in excess of a reasonable deductible amount which would have a Material Adverse Effect on Acquired Corporation, and no Acquired

Corporation Company is in Default with respect to any judgment, order, writ, injunction, decree, award, rule or regulation of any court, arbitrator or governmental department, commission, board, bureau, agency or instrumentality, which Default would have a Material Adverse Effect on Acquired Corporation. To the Knowledge of Acquired Corporation, each Acquired Corporation Company has complied in all material respects with all material applicable Laws and Regulations including those imposing Taxes, of any applicable jurisdiction and of all states, municipalities, other political subdivisions and Agencies, in respect of the ownership of its properties and the conduct of its business, which, if not complied with, would have a Material Adverse Effect on Acquired Corporation.

5.10 Material Contract Defaults. Except as disclosed on Schedule 5.10, no Acquired Corporation Company is in Default in any material respect under the terms of any material Contract, agreement, lease or other commitment which is or may be material to the business, operations, properties or Assets, or the condition, financial or otherwise, of Acquired Corporation and its Subsidiaries taken as a whole and, to the Knowledge of Acquired Corporation, there is no event which, with notice or lapse of time, or both, may be or become an event of Default under any such material Contract, agreement, lease or other commitment in respect of which adequate steps have not been taken to prevent such a Default from occurring.

5.11 No Conflict with Other Instrument. The consummation of the transactions contemplated by this Agreement will not result in the breach of any term or provision of or constitute a Default under any material Contract, indenture, mortgage, deed of trust or other material agreement or instrument to which any Acquired Corporation Company is a party and will not conflict with any provision of the charter or bylaws of any Acquired Corporation Company.

5.12 Governmental Authorization. Each Acquired Corporation Company has all Permits that, to the Knowledge of Acquired Corporation, are legally required to enable any Acquired Corporation Company to conduct its business in all material respects as now conducted by each Acquired Corporation Company.

5.13 Absence of Regulatory Communications. Except as provided in Schedule 5.13, no Acquired Corporation Company is subject to, nor has any Acquired Corporation Company received during the past three years prior to the date of the Agreement, any written communication directed specifically to it from any Agency to which it is subject or pursuant to which such Agency has imposed or has indicated it may impose any material restrictions on the operations of it or the business conducted by it or in which such Agency has raised any material question concerning the condition, financial or otherwise, of such company.

5.14 Absence of Material Adverse Change. To the Knowledge of Acquired Corporation, since the date of the most recent balance sheet provided under section 5.4(a)(i), there have been no events, changes or occurrences which have had, or are reasonably likely to have, individually or in the aggregate, a Material Adverse Effect on Acquired Corporation other than events, changes or occurrences which have occurred as a result of (i) the Bank's disposition of structured notes or other securities in its investment portfolio as described in section 6.2(j) hereof, (ii) any of the Acquired Corporation Companies taking any action pursuant to section 6.2(k) hereof, and (iii) any other action taken by any of the Acquired Corporation Companies with the consent or agreement of BancGroup.

5.15 Insurance. Each Acquired Corporation Company has in effect insurance coverage and bonds with reputable insurers which, in respect to amounts, types and risks insured, management of Acquired Corporation reasonably believes to be adequate for the type of business conducted by such company. No Acquired Corporation Company is liable for any material retroactive premium adjustment. All material insurance policies and bonds are valid, enforceable and in full force and effect, and no Acquired Corporation Company has received any notice of any material premium increase or cancellation with respect to any of its material insurance policies or bonds. Within the last three years, no Acquired Corporation Company has been refused any material insurance coverage which it has sought or applied for, and it has no reason to believe that existing material insurance coverage cannot be renewed as and when the same shall expire, upon terms and conditions which are not materially less favorable than those presently in effect, other than possible increases in premiums that do not result from any extraordinary loss experience of the Acquired Corporation Companies. All material policies of insurance presently held or policies containing substantially equivalent coverage will be

outstanding and in full force with respect to each Acquired Corporation Company at all times from the date hereof to the Effective Date.

5.16 Pension and Employee Benefit Plans.

(a) To the Knowledge of Acquired Corporation, all employee benefit plans of each Acquired Corporation Company have been established in compliance with, and such plans have been operated in material compliance with, all applicable Laws. Except as set forth in Schedule 5.16, no Acquired Corporation Company sponsors or otherwise maintains a "pension plan" within the meaning of section 3(2) of ERISA or any other retirement plan that is intended to qualify under section 401 of the Code, nor do any material unfunded Liabilities exist with respect to any employee benefit plan, past or present, which are not disclosed in the financial statements referred to in section 5.4(a) or in Schedule 5.5. To the Knowledge of Acquired Corporation, no employee benefit plan, any trust created thereunder or any trustee or administrator thereof has engaged in a "prohibited transaction," as defined in section 4975 of the Code, which may have a Material Adverse Effect on the condition, financial or otherwise, of any Acquired Corporation Company.

(b) To the Knowledge of Acquired Corporation, no material amounts payable to any employee of any Acquired Corporation Company will fail to be deductible for federal income tax purposes by virtue of section 280G of the Code and regulations thereunder.

5.17 Buy-Sell Agreement. To the Knowledge of Acquired Corporation, there are no agreements among any of its shareholders granting to any person or persons a right of first refusal in respect of the sale, transfer, or other disposition of shares of outstanding securities by any shareholder of Acquired Corporation, any similar agreement or any voting agreement or voting trust in respect of any such shares.

5.18 Brokers. Except as disclosed on Schedule 5.18, all negotiations relative to this Agreement and the transactions contemplated by this Agreement have been carried on by Acquired Corporation directly with BancGroup and without the intervention of any other person, either as a result of any act of Acquired Corporation, or otherwise, in such manner as to give rise to any valid claim against Acquired Corporation for a finder's fee, brokerage commission or other like payment.

5.19 Approval of Agreements. The board of directors of Acquired Corporation has approved this Agreement and the transactions contemplated by this Agreement and has authorized the execution and delivery by Acquired Corporation of this Agreement. Subject to the matters referred to in section 8.2, Acquired Corporation has full power, authority and legal right to enter into this Agreement, and, upon appropriate vote of the shareholders of Acquired Corporation in accordance with this Agreement, Acquired Corporation shall have full power, authority and legal right to consummate the transactions contemplated by this Agreement.

5.20 Disclosure. No representation or warranty, nor any written statement or certificate furnished or to be furnished to BancGroup by Acquired Corporation, contains or will contain any untrue statement of a material fact, or omits or will omit to state a material fact necessary to make the statements contained in this Agreement or in any such statement or certificate not misleading.

5.21 Registration Statement. At the time the Registration Statement becomes effective and at the time of the Stockholders Meeting, the Registration Statement, including the Proxy Statement which shall constitute part thereof, will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that the representations and warranties in this section shall only apply to statements in or omissions from the Proxy Statement relating to descriptions of the business of Acquired Corporation, its Assets, properties, operations, and capital stock or to information furnished in writing by Acquired Corporation or its representatives expressly for inclusion in the Proxy Statement.

5.22 Loans; Adequacy of Allowance for Loan Losses. All reserves for loan losses shown on the most recent financial statements furnished by Acquired Corporation have been calculated in accordance with prudent and customary banking practices and are adequate in all material respects to reflect the risk inherent in the loans of Acquired Corporation. Except as disclosed on Schedule 6.2(k), Acquired Corporation has no

Knowledge of any fact which is likely to require a future material increase in the provision for loan losses or a material decrease in the loan loss reserve reflected in such financial statements. To the Knowledge of the Acquired Corporation, each loan reflected as an Asset on the financial statements of Acquired Corporation referred to in section 5.4(a) is the legal, valid and binding obligation of the obligor of each loan, enforceable in accordance with its terms subject to the effect of bankruptcy, insolvency, reorganization, moratorium, or other similar laws relating to creditors' rights generally and to general equitable principles. Acquired Corporation does not have in its portfolio any loan exceeding its legal lending limit, and except as disclosed on Schedule 5.22, as of the date of this Agreement, Acquired Corporation has no known significant delinquent, substandard, doubtful, loss, nonperforming or problem loans.

5.23 Environmental Matters. Except as provided in Schedule 5.23, to the Knowledge of Acquired Corporation, each Acquired Corporation Company is in material compliance with all Laws and other governmental requirements relating to the generation, management, handling, transportation, treatment, disposal, storage, delivery, discharge, release or emission of any waste, pollution, or toxic, hazardous or other substance (the "Environmental Laws"), and Acquired Corporation has no Knowledge that any Acquired Corporation Company has not complied with all regulations and requirements promulgated by the Occupational Safety and Health Administration that are applicable to any Acquired Corporation Company. To the Knowledge of Acquired Corporation, there is no Litigation pending or threatened with respect to any violation or alleged violation of the Environmental Laws. Except as disclosed on Schedule 5.23, to the Knowledge of Acquired Corporation, as of the date of this Agreement with respect to Assets of or owned by any Acquired Corporation Company or any Loan Property, (i) there has been no spillage, leakage, contamination or release of any substances for which the appropriate remedial action has not been completed; (ii) no owned or leased property is contaminated with or contains any hazardous substance or waste; and (iii) there are no underground storage tanks on any premises owned or leased by any Acquired Corporation Company. Acquired Corporation has no Knowledge as of the date of this Agreement of any facts which might suggest that any Acquired Corporation Company has engaged in any management practice with respect to any of its past or existing borrowers which could reasonably be expected to subject any Acquired Corporation Company to any material Liability, either directly or indirectly, under the principles of law as set forth in *United States v. Fleet Factors Corp.*, 901 F.2d 1550 (11th Cir. 1990) or any similar principles. Moreover, to the Knowledge of Acquired Corporation, as of the date of this Agreement no Acquired Corporation Company has extended credit, either on a secured or unsecured basis, to any person or other entity engaged in any activities which would require or requires such person or entity to obtain any Permits which are required under any Environmental Law which has not been obtained.

5.24 Transfer of Shares. Acquired Corporation has no Knowledge of any plan or intention on the part of Acquired Corporation's shareholders to sell or otherwise dispose of any of the BancGroup Common Stock to be received by them in the Merger that would reduce such shareholders' ownership to a number of shares having, in the aggregate, a fair market value of less than fifty (50%) percent of the total fair market value of Acquired Corporation common stock outstanding immediately before the Merger.

5.25 Collective Bargaining. There are no labor contracts, collective bargaining agreements, letters of undertakings or other arrangements, formal or informal, between any Acquired Corporation Company and any union or labor organization covering any of Acquired Corporation Company's employees and, as of the date of this Agreement, none of said employees are represented by any union or labor organization.

5.26 Labor Disputes. To the Knowledge of Acquired Corporation, each Acquired Corporation Company is in material compliance with all federal and state laws respecting employment and employment practices, terms and conditions of employment, wages and hours. No Acquired Corporation Company is or has been engaged in any unfair labor practice, and, to the Knowledge of Acquired Corporation, as of the date of this Agreement, no unfair labor practice complaint against any Acquired Corporation Company is pending before the National Labor Relations Board. There have not been, nor to the Knowledge of Acquired Corporation, are there as of the date of this Agreement, (i) any attempts to organize employees, nor (ii) to the Knowledge of Acquired Corporation, plans for any such attempts. As of the date of this Agreement, Acquired Corporation has no Knowledge of any development between any Acquired Corporation Company and its employees that could have a Material Adverse Effect on Acquired Corporation.

5.27 *Derivative Contracts.* Except as disclosed on Schedule 5.27, as of the date of this Agreement no Acquired Corporation Company is a party to or has agreed to enter into a swap, forward, future, option, cap, floor or collar financial contract, or any other interest rate or foreign currency protection contract or derivative security not included in Acquired Corporation's financial statements delivered under section 5.4 hereof which is a financial derivative contract (including various combinations thereof).

ARTICLE 6

ADDITIONAL COVENANTS

6.1 *Additional Covenants of BancGroup.* BancGroup covenants to and with Acquired Corporation as follows:

(a) *Registration Statement and Other Filings.* At its expense, BancGroup shall prepare and file with the SEC the Registration Statement on Form S-4 (or such other form as may be appropriate) and all amendments and supplements thereto, in form reasonably satisfactory to Acquired Corporation and its counsel, with respect to the Common Stock to be issued pursuant to this Agreement and shall use its best efforts to cause the Registration Statement to become effective. BancGroup shall use reasonable good faith efforts to prepare in compliance with applicable Law and Agency requirements and file as soon as practicable all necessary filings with any Agencies which may be necessary for approval to consummate the Merger. BancGroup shall use reasonable good faith efforts to make all such necessary filings with Agencies referenced in the foregoing sentence within forty-five (45) days following the date of the Agreement. BancGroup will diligently pursue the issuance of the approvals of the Merger by all required Agencies at the earliest practicable time. BancGroup will provide Acquired Corporation with copies of each filing and all supplemental information which is requested by any Agency with respect to any filing and, upon request by Acquired Corporation, will advise Acquired Corporation of the status of each Agency approval.

(b) *Blue Sky Permits.* BancGroup shall use its best efforts to obtain, prior to the effective date of the Registration Statement, all necessary state securities Law or "blue sky" Permits and approvals required to carry out the transactions contemplated by this Agreement.

(c) *Financial Statements.* BancGroup shall furnish to Acquired Corporation:

(i) As soon as practicable and in any event within forty-five (45) days after the end of each quarterly period (other than the last quarterly period) in each fiscal year, consolidated statements of operations of BancGroup for such period and for the period beginning at the commencement of the fiscal year and ending at the end of such quarterly period, and a consolidated statement of financial condition of BancGroup as of the end of such quarterly period, setting forth in each case in comparative form figures for the corresponding periods ending in the preceding fiscal year, subject to changes resulting from year-end adjustments;

(ii) Promptly upon receipt thereof, copies of all audit reports submitted to BancGroup by independent auditors in connection with each annual, interim or special audit of the books of BancGroup made by such accountants;

(iii) As soon as practicable, copies of all such financial statements and reports as it shall send to its stockholders and of such regular and periodic reports as BancGroup may file with the SEC or any other Agency; and

(iv) With reasonable promptness, such additional financial data as Acquired Corporation may reasonably request.

(d) *No Control of Acquired Corporation by BancGroup.* Notwithstanding any other provision hereof, until the Effective Date, the authority to establish and implement the business policies of Acquired Corporation shall continue to reside solely in Acquired Corporation's officers and board of directors.

(c) *Listing.* Prior to the Effective Date, BancGroup shall use its best efforts to list the shares of BancGroup Common Stock to be issued in the Merger on the NYSE or other quotations system on which such shares are primarily traded.

(f) *Employee Benefit Matters.* On the Effective Date, all employees of any Acquired Corporation Company shall, at BancGroup's option, either become employees of the Resulting Corporation or its Subsidiaries or be entitled to severance benefits in accordance with Colonial Bank's severance policy as of the date of this Agreement; *provided*, that (i) no employee of any Acquired Corporation Company who holds any of the Acquired Corporation Options may be terminated without thirty (30) days' prior written notice unless the agreement pursuant to which the Acquired Corporation Options held by such employee were issued permits the exercise of such Acquired Corporation Options for a period of at least thirty (30) days after the termination of the employment of the holder of the Acquired Corporation Options, (ii) for purposes of determining the period of employment of an employee of an Acquired Corporation Company under the Colonial Bank severance policy, the period of employment of any Acquired Corporation Company employees who are employed at least 30 hours per week with any Acquired Corporation Company shall be counted as employment with Colonial Bank and (iii) after the Effective Date Barton S. Goldberg and Robert E. Lowder, Chairman and Chief Executive Officer of Colonial Bank, may in their sole discretion, mutually agree to pay severance benefits in an amount greater than the amount provided for under the Colonial Bank severance policy to any employee of any Acquired Corporation Company who would have been entitled to receive greater severance benefits had the Bank severance policy been in effect as of the date of such employee's termination. All employees of any Acquired Corporation Company who become employees of the Resulting Corporation or its Subsidiaries on the Effective Date shall be entitled, to the extent permitted by applicable Law, to participate in all benefit plans of Colonial Bank to the same extent as Colonial Bank employees, except as stated otherwise in this section. Employees of any Acquired Corporation Company who become employees of the Resulting Corporation or its Subsidiaries on the Effective Date shall be allowed to participate as of the Effective Date in the medical and dental benefits plan of Colonial Bank as new employees of Colonial Bank, and the period of employment of such employees who are employed at least 30 hours per week with any Acquired Corporation Company as of the Effective Date shall be counted as employment under such dental and medical plans of Colonial Bank for purposes of calculating any eligibility period and pre-existing condition limitations. To the extent permitted by applicable Law, other than with respect to medical and dental benefits plans and the Colonial Bank severance policy, the period of service with the appropriate Acquired Corporation Company of all employees who become employees of the Resulting Corporation or its Subsidiaries on the Effective Date shall be recognized only for vesting and eligibility purposes under Colonial Bank's benefit plans. In addition, if the Effective Date falls within an annual period of coverage under any group health plan or group dental plan of the Resulting Corporation and its Subsidiaries, each such Acquired Corporation Company employee shall be given credit for covered expenses paid by that employee under comparable employee benefit plans of the Acquired Corporation Company during the applicable coverage period through the Effective Date towards satisfaction of any annual deductible limitation and out-of-pocket maximum that may apply under that group health plan or group dental plan of Colonial Bank.

(g) *Adequate Current Public Information.* For not less than the three year period immediately following the Effective Date, BancGroup shall use its best efforts to make available adequate current public information about itself, as that terminology is used in and as required by Rules 144(c) and 145 of the SEC under the 1933 Act.

(h) *SEC Action.*

(i) BancGroup shall promptly deliver to Acquired Corporation copies of all written material filed or supplementally furnished to the SEC or the SEC staff with, or in connection with, the Registration Statement (and any amendments thereto), and copies of all written and electronically transcribed material and other information received from the SEC and the SEC staff in connection with the Registration Statement (and any amendments thereto) including any comments (verbal or written) received from the SEC with respect to the Registration Statement. BancGroup shall

consult with Acquired Corporation regarding, and provide Acquired Corporation and its counsel a reasonable opportunity to comment on, any such material received from the SEC or the SEC staff, and BancGroup shall give due consideration to any comments of Acquired Corporation and its counsel before BancGroup formally or informally responds to the SEC or the SEC staff.

(ii) BancGroup will advise Acquired Corporation, promptly after BancGroup receives notice thereof, of the time when the Registration Statement has become effective or any supplement or amendment has been filed, of the issuance of any stop order or the suspension of the qualification of the BancGroup Common Stock for offering or sale in any jurisdiction, of the initiation or threat of any proceeding for any such purpose, or of any request by the SEC for the amendment or supplement of the Registration Statement or for additional information. In the event that a stop order has been issued or threatened by the SEC that suspends or would suspend the effectiveness of the Registration Statement, BancGroup shall use its reasonable best efforts to promptly remove or cause not to be issued any such stop order.

(i) *Qualification for Tax Free Reorganization.* BancGroup undertakes and agrees to use its best efforts to cause the Merger to qualify and to take no action which would cause the Merger to fail to qualify as a reorganization within the meaning of section 368 of the Code. BancGroup agrees to notify Acquired Corporation promptly of any action of which it has Knowledge which will cause the Merger to fail to qualify as a reorganization.

(j) *Indemnification; Directors and Officers Insurance.*

(i) From and after the Effective Date, BancGroup shall indemnify and advance costs and expenses (including reasonable attorneys fees, disbursements and expenses) and hold harmless each present and former director and/or officer of each Acquired Corporation Company determined as of the Effective Date (the "Indemnified Parties"), against any costs or expenses (including reasonable attorneys' fees), judgments, fines, losses, claims, damages, settlements or liabilities (collectively, "Costs") incurred in connection with any claim, action, suit, proceeding or investigation, whether civil, criminal, administrative or investigative (each a "Claim"), arising out of or pertaining to matters existing or occurring at or prior to the Effective Date, whether asserted or claimed prior to, at or after the Effective Date to the fullest extent that the applicable Acquired Corporation Company would have been required under Florida Law and its Articles of Incorporation or Bylaws in effect on the date hereof, to indemnify such person (and also advance expenses as incurred to the fullest extent permitted under applicable Law).

(ii) Any Indemnified Party wishing to claim indemnification under section 6.1(j)(i) shall notify BancGroup within forty-five (45) days of the Indemnified Party's receipt of a notice of any Claim, but the failure to so notify shall not relieve BancGroup of any liability it may have to such Indemnified Party if such failure does not materially prejudice the Indemnifying Party. In the event of any claim (whether arising before or after the Effective Date), (i) BancGroup shall have the right to assume the defense thereof, and BancGroup shall not be liable to such Indemnified Parties for any legal expenses of other counsel or any other expenses subsequently incurred by such Indemnified Parties in connection with the defense thereof, except that if BancGroup elects not to assume such defense, or counsel for the Indemnified Parties advises that there are issues which raise conflicts of interest between BancGroup and the Indemnified Parties, the Indemnified Parties may retain counsel satisfactory to them, and BancGroup shall pay the reasonable fees and expenses of such counsel for the Indemnified Parties promptly after statements therefore are received; provided, however, that BancGroup shall be obligated pursuant to this paragraph (ii) to pay for only one firm of counsel for all Indemnified Parties in any jurisdiction unless the use of one counsel for such Indemnified Parties will present such counsel with a conflict of interest, (ii) the Indemnified Parties will cooperate in the defense of any such matter, and (iii) and BancGroup shall not be liable for any settlement effected without its prior written consent which shall not be unreasonably withheld. If such indemnity with any respect to any Indemnified Party is unenforceable against BancGroup, then

BancGroup and the Indemnified Party shall contribute to the amount payable in such proportion as is appropriate to reflect relative faults and benefits.

(iii) For a period of four (4) years after the Effective Date, BancGroup shall maintain in effect the current policies with directors and officers liability insurance maintained by the Acquired Corporation provided that the insurer agrees to maintain such policies (and provided that BancGroup may substitute therefore policies of at least the same coverage and amounts containing terms and conditions which are no less advantageous to such directors and officers and provided that the deductible amount on BancGroup's policies may be higher than that for existing Acquired Corporation policies) with respect to claims arising from facts or events which occurred before the Effective Date, provided that such policies may be maintained at a cost that does not exceed 200% of the cost of one year's annual premium of such policies as of the date of this Agreement.

(iv) If BancGroup or any of its successors and assigns, (i) shall consolidate with or merge into any other corporation or entity and shall not be the continuing or surviving corporation or entity of such consolidation or merger, or (ii) shall transfer all or substantially all of its property and assets to any individual, corporation or other entity, then, in each such case, proper provision shall be made so that the successors and assigns of BancGroup and its Subsidiaries shall assume the obligations set forth in this section.

(v) In consideration of and as a condition precedent to the effectiveness of the indemnification obligations provided by BancGroup in this section to a director or officer of the Acquired Corporation, such director or officer of the Acquired Corporation shall have delivered to BancGroup on or prior to the Effective Date a letter in form reasonably satisfactory to BancGroup concerning claims such directors or officer may have against Acquired Corporation. In the letter, the directors or officer shall: (i) acknowledge the assumption by BancGroup as of the Effective Date of all Liability (to the extent Acquired Corporation is so liable) for claims for indemnification arising under section 6.1(j) hereof; (ii) affirm that they do not have nor are they aware of any claims they might have (other than those referred to in the following clause (iii)) against Acquired Corporation; (iii) identify any claims or any facts or circumstances of which they are aware that could give rise to a claim for indemnification under section 6.1(j) (i) hereof; and (iv) release as of the Effective Date any and all claims that they may have against any Acquired Corporation Company other than (A) those referred to in the foregoing clause (iii) and disclosed in the letter of the director or officer, (B) claims which have not yet been asserted against such director or officer (other than claims arising from facts and circumstances of which such director or officer is aware but which are not disclosed in such director or executive officer's letter), (C) claims arising from any transaction contemplated by this Agreement or disclosed in any schedule to this Agreement, and (D) claims arising in the ordinary course of business of any Acquired Corporation Company after the date of the letter.

(vi) Acquired Corporation hereby represents and warrants to BancGroup that it has no Knowledge of any claim, pending or threatened, or of any facts or circumstances that could give rise to any obligation by BancGroup to provide the indemnification required by this section 6.1(j) other than as disclosed in the letters of the directors and executive officers referred to in section 6.1(j) (v) hereof or described in any schedule to this Agreement and claims arising from any transaction contemplated by this Agreement.

(vii) The provisions of this section 6.1(j) are intended to be for the benefit of, and shall be enforceable by each Indemnified Party, and each Indemnified Party's heirs and representatives.

6.2 Additional Covenants of Acquired Corporation. Acquired Corporation covenants to and with BancGroup as follows:

(a) **Operations.** (i) Acquired Corporation will conduct its business and the business of each Acquired Corporation Company in a proper and prudent manner and will use commercially reasonable efforts to maintain its relationships with its depositors, customers and employees. Except with the prior written consent

of BancGroup, no Acquired Corporation Company will engage in any material transaction outside the ordinary course of business or make any material change in its accounting policies or methods of operation, nor will Acquired Corporation permit the occurrence of any change or event which would render any of the representations and warranties in Article 5 hereof untrue in any material respect at and as of the Effective Date with the same effect as though such representations and warranties had been made at and as of such Effective Date except to the extent that such representations expressly relate to an earlier date; *provided*, that the foregoing shall not be deemed to prohibit or limit the ability of any Acquired Corporation Company to take any of the actions described in Schedule 5.5 hereto. BancGroup agrees to respond to any request for a consent pursuant to this section 6.2(a) within ten (10) days after its receipt of a written request for such consent, which request shall include a description in reasonable detail of the transaction with respect to which such consent is being requested. In the event that Acquired Corporation has not received a written response to such request within such period, the transaction shall be deemed to have been consented to by BancGroup. Acquired Corporation will take no action that would prevent or impede the Merger from qualifying (i) for pooling of interests accounting treatment or (ii) as a reorganization with the meaning of section 368 of the Code.

(ii) If requested by BancGroup, Acquired Corporation shall use its best efforts to cause all officers and directors of Acquired Corporation that own more than five percent (5%) of Acquired Corporation's outstanding shares of common stock to execute an acknowledgement that such person has no present plan, intention, or binding commitment to sell or otherwise dispose of the BancGroup Common Stock to be received in the Merger within twelve (12) months after the Effective Date.

(b) *Stockholders Meeting; Best Efforts.* Acquired Corporation will cooperate with BancGroup in the preparation of the Registration Statement and any regulatory filings and will cause the Stockholders Meeting to be held for the purpose of approving the Merger as soon as practicable after the effective date of the Registration Statement, and will use its best efforts to bring about the transactions contemplated by this Agreement, including stockholder approval of this Agreement, as soon as practicable unless this Agreement is terminated as provided herein.

(c) *Prohibited Negotiations.* (i) Neither Acquired Corporation nor any of Acquired Corporation's directors or officers (or any person representing any of the foregoing) shall solicit or encourage inquiries or proposals with respect to, furnish any information relating to or participate in any negotiations or discussions concerning, an Acquisition Proposal other than as contemplated by this Agreement. Acquired Corporation will notify BancGroup immediately if any such Acquisition Proposal is received by Acquired Corporation, if any such information is requested from Acquired Corporation, or if any such negotiations or discussions are sought to be initiated with Acquired Corporation, and Acquired Corporation shall instruct Acquired Corporation's officers, directors, agents or affiliates or their subsidiaries to refrain from doing any of the above; provided, however, that nothing contained herein shall be deemed to prohibit any officer or director of Acquired Corporation from fulfilling its fiduciary duty or from taking any action that is required by Law, as advised in writing by counsel for Acquired Corporation, a copy of which shall be furnished to BancGroup.

(ii) If Acquired Corporation (A) enters into a letter of intent or definitive agreement regarding an Acquisition Proposal with any third party (other than BancGroup or any of its Subsidiaries) prior to the earlier of (i) the Effective Date or (ii) the termination of this Agreement pursuant to Article 13 hereof (other than a termination by either Party pursuant to paragraphs (a), (d) or (f) of section 13.2 hereof or by Acquired Corporation pursuant to paragraphs (b), (c) or (g) of section 13.2 hereof), or (B) if Acquired Corporation receives or is the subject of an Acquisition Proposal from a third party (other than BancGroup or its Subsidiaries) prior to the termination of this Agreement pursuant to Article 13 hereof (other than a termination by either Party pursuant to paragraphs (a), (d) or (f) of section 13.2 hereof or by Acquired Corporation pursuant to paragraphs (b), (c) or (g) of section 13.2 hereof), and within 12 months after termination of this Agreement pursuant to Article 13 hereof (other than a termination by either Party pursuant to paragraphs (a), (d) or (f) of section 13.2 hereof or by Acquired Corporation pursuant to paragraphs (b), (c) or (g) of section 13.2 hereof) an Acquisition Proposal is consummated with such third party, Acquired Corporation covenants and agrees that it shall pay to BancGroup upon demand at any time (C) after Acquired Corporation enters into an agreement which is legally binding on Acquired Corporation

regarding an Acquisition Proposal or (D) at any time on or after the date of consummation of such Acquisition Proposal, which ever is the first to occur, the principal sum of \$2,000,000 less any amounts payable by Acquired Corporation to BancGroup for expenses pursuant to the *proviso* clause of section 15.1 hereof. Such payment shall compensate BancGroup for its direct and indirect costs and expenses in connection with the transactions contemplated by this Agreement, including BancGroup's management time devoted to negotiation and preparation for the Merger and BancGroup's loss as a result of the Merger not being consummated. The Parties acknowledge and agree that it would be impracticable or extremely difficult to fix the actual damages resulting from the foregoing events and, therefore, the Parties have agreed upon the foregoing payment as liquidated damages which shall not be deemed to be in the nature of a penalty. Other than the payment provided for in this section 6.2(c)(ii) and any Liability for expenses as set forth in section 15.1 hereof, there shall be no other Liability or obligation on the part of any Acquired Corporation Company or their respective directors or officers resulting from any of the events described in this section 6.2(c)(ii).

(d) *Director Recommendation.* The members of the board of directors of Acquired Corporation agree to support publicly the Merger, provided, however, that nothing contained herein shall be deemed to prohibit any officer or director of Acquired Corporation from fulfilling his fiduciary duty or from taking any action that is required by Law as set forth in section 6.2(c)(i) hereof.

(e) *Shareholder Voting.* Acquired Corporation shall on the date of execution of this Agreement obtain and submit to BancGroup an agreement from each of its directors who are shareholders substantially in the form set forth in Exhibit A.

(f) *Financial Statements.* Acquired Corporation shall furnish to BancGroup:

(i) As soon as practicable and in any event within 45 days after the end of each quarterly period (other than the last quarterly period) in each fiscal year, consolidated statements of operations of Acquired Corporation for such period and for the period beginning at the commencement of the fiscal year and ending at the end of such quarterly period, and a consolidated statement of financial condition of Acquired Corporation as of the end of such quarterly period, setting forth in each case in comparative form figures for the corresponding periods ending in the preceding fiscal year, subject to changes resulting from year-end adjustments;

(ii) Promptly upon receipt thereof, copies of all audit reports submitted to Acquired Corporation by independent auditors in connection with each annual, interim or special audit of the books of Acquired Corporation made by such accountants;

(iii) As soon as practicable, copies of all such financial statements and reports as it shall send to its stockholders and of such regular and periodic reports as Acquired Corporation may file with the SEC or any other Agency; and

(iv) With reasonable promptness, such additional financial data as BancGroup may reasonably request.

(g) *Forbearances.* Between the date hereof and the Effective Date, no Acquired Corporation Company, without the express written approval of BancGroup (which approval will not be unreasonably withheld except respecting clauses (a), (b), (d), (e) and (i) of section 5.5), will do any of the things listed in clauses (a) through (m) of section 5.5 except as permitted therein or in Schedule 5.5 or as contemplated in this Agreement, and no Acquired Corporation Company will enter into any material Contract, other than Contracts and Loans or renewals thereof entered into in the ordinary course of business, without the express written consent of BancGroup (which approval will not be unreasonably withheld). BancGroup agrees to respond to any request for a consent pursuant to this section 6.2(g) within ten (10) days after its receipt of a written request for such consent, which request shall include a description in reasonable detail of the transaction with respect to which such consent is being requested. In the event that Acquired Corporation has not received a written response to such request within such period, the transaction shall be deemed to have been consented to by BancGroup.

(h) *Fiduciary Duties.* Acquired Corporation shall deliver agreements from each director of Acquired Corporation respecting certain fiduciary activities.

(i) *Certain Practices.* At the request of BancGroup, (i) Acquired Corporation shall consult with BancGroup and advise BancGroup through its bank Subsidiary in Florida of all of the Bank's loan requests over \$3,000,000 that are not single-family residential loan requests or of any other loan request outside the normal course of business (other than any loan requests for which commitments have already been issued by the Bank), (ii) Acquired Corporation shall furnish to BancGroup promptly upon their availability copies of all minutes of loan committee meetings of the Bank for meetings occurring after the date of this Agreement, and (iii) Acquired Corporation will consult with BancGroup to coordinate various business issues on a basis mutually satisfactory to Acquired Corporation and BancGroup. Acquired Corporation and the Bank shall not be required to undertake any of such activities if to do so would constitute a violation of Law.

(j) *Investment Portfolio.* Between the date of this Agreement and December 31, 1996, the Bank will dispose of all of the structured notes in its investment portfolio and such other items as may be mutually agreed upon between Acquired Corporation and BancGroup as disclosed on Schedule 6.2(j); *provided*, that no such action will be required to be taken by Bank if, after giving effect to such action, the Bank would not be "well capitalized" within the meaning of 12 CFR § 208.33 or if such action would otherwise result in a violation of applicable Law. All proceeds received from such dispositions shall be reinvested in instruments mutually agreed upon between BancGroup and Acquired Corporation.

(k) *Expenses.* Acquired Corporation shall consult with BancGroup regarding ways in which operating expenses of Acquired Corporation and the Bank may be reduced prior to the Effective Date. Acquired Corporation shall not be required to undertake any steps to reduce expenses unless such steps are mutually agreeable to BancGroup and Acquired Corporation; *provided*, that the Acquired Corporation shall take the actions with respect to certain expenses as described on Schedule 6.2(k); *provided*, that no such action will be required to be taken by Bank if, after giving effect to such action, the Bank would not be "well capitalized" within the meaning of 12 CFR § 208.33 or if such action would otherwise result in a violation of applicable Law.

ARTICLE 7

MUTUAL COVENANTS AND AGREEMENTS

7.1 *Best Efforts; Cooperation.* Subject to the terms and conditions herein provided, BancGroup and Acquired Corporation each agrees to use its best efforts promptly to take, or cause to be taken, all actions and do, or cause to be done, all things necessary, proper or advisable under applicable Laws or otherwise, including, without limitation, promptly making required deliveries of stockholder lists and stock transfer reports and attempting to obtain all necessary Consents and waivers and regulatory approvals, to consummate and make effective, as soon as practicable, the transactions contemplated by this Agreement. The officers of each Party to this Agreement shall fully cooperate with officers and employees, accountants, counsel and other representatives of the other Parties not only in fulfilling the duties hereunder of the Party of which they are officers but also in assisting, directly or through direction of employees and other persons under their supervision or control, such as stock transfer agents for the Party, the other Parties requiring information which is reasonably available from such Party.

7.2 *Press Release.* Each Party hereto agrees that, unless approved by the other Party in advance, such Party will not make any public announcement, issue any press release or other publicity or confirm any statements by any person not a party to this Agreement concerning the transactions contemplated hereby. Notwithstanding the foregoing, each Party hereto reserves the right to make any disclosure if such Party, in its reasonable discretion, deems such disclosure required by Law. In that event, such Party shall provide to the other Party the text of such disclosure sufficiently in advance to enable the other Party to have a reasonable opportunity to comment thereon.

7.3 *Mutual Disclosure.* Each Party hereto agrees to promptly furnish to each other Party hereto its public disclosures and filings not precluded from disclosure by Law including but not limited to call reports,

Form 8-K, Form 10-Q and Form 10-K filings, Y-3 applications, reports on Form Y-6, quarterly or special reports to shareholders, Tax returns, Form S-8 registration statements and similar documents.

7.4 Access to Properties and Records. Each Party hereto shall afford the officers and authorized representatives of the other Party full access to the Assets, books and records of such Party in order that such other Party may have full opportunity to make such investigation as they shall desire of the affairs of such Party and shall furnish to such Party such additional financial and operating data and other information as to its businesses and Assets as shall be from time to time reasonably requested. All such information that may be obtained by any such Party shall constitute "Confidential Information" subject to the provisions of the Confidentiality Agreement.

7.5 Notice of Adverse Changes. Each Party agrees to give written notice promptly to the other Party upon becoming aware of the occurrence or impending occurrence of any event or circumstance relating to it or any of its Subsidiaries which (i) is reasonably likely to have, individually or in the aggregate, a Material Adverse Effect on it or (ii) would cause or constitute a material breach of any of its representations, warranties, or covenants contained herein, and to use its reasonable efforts to prevent or promptly to remedy the same.

ARTICLE 8

CONDITIONS TO OBLIGATIONS OF ALL PARTIES

The obligations of BancGroup and Acquired Corporation to cause the transactions contemplated by this Agreement to be consummated shall be subject to the satisfaction on or before the Effective Date of all the following conditions, except as such Parties may waive such conditions in writing:

8.1 Approval by Shareholders. At the Stockholders Meeting, this Agreement and the matters contemplated by this Agreement shall have been duly approved by the vote of the holders of not less than the requisite number of the issued and outstanding voting securities of Acquired Corporation as is required by applicable Law and Acquired Corporation's articles of incorporation and bylaws.

8.2 Regulatory Authority Approval. Orders, Consents and approvals shall have been entered by the Board of Governors of the Federal Reserve System and other appropriate bank regulatory Agencies and shall be in full force and effect (and all statutory waiting periods in respect thereof shall have expired) (i) granting the authority necessary for the consummation of the transactions contemplated by this Agreement including consummation of the Merger and the merger referenced in section 2.8 hereof, provided that neither the consummation of the merger referenced in section 2.8 nor approval of such merger shall be a condition precedent to the consummation of the Merger and (ii) satisfying all other requirements prescribed by Law; *provided, however*, that no such Order, Consent or approval shall have imposed any condition or requirement which, in the good faith, reasonable opinion of BancGroup, would so materially adversely impact the economic or business benefits to BancGroup of the transactions contemplated by this Agreement so as to render inadvisable the consummation of the Merger.

8.3 Litigation. There shall be no pending or threatened Litigation in any court or any pending or threatened proceeding by any governmental commission, board or Agency, with a view to seeking or in which it is sought to restrain or prohibit consummation of the transactions contemplated by this Agreement or in which it is sought to obtain divestiture, rescission or damages in connection with the transactions contemplated by this Agreement and no investigation by any Agency shall be pending or threatened which might result in any such suit, action or other proceeding.

8.4 Registration Statement. The Registration Statement shall be effective under the 1933 Act and no stop order suspending the effectiveness of the Registration Statement shall be in effect; no proceedings for such purpose, or under the proxy rules of the SEC or any bank regulatory authority pursuant to the 1934 Act, and with respect to the transactions contemplated hereby, shall be pending before or threatened by the SEC or any bank regulatory authority; and all approvals or authorizations for the offer of BancGroup Common Stock shall have been received or obtained pursuant to any applicable state securities Laws, and no stop order or

proceeding with respect to the transactions contemplated hereby shall be pending or threatened under any such state Law.

8.5 *No Illegality.* No action shall have been taken and no statute, rule, regulation or Order shall have been enacted, promulgated or issued or been deemed applicable to the Merger by any governmental authority, which would make the consummation of the Merger illegal.

ARTICLE 9

CONDITIONS TO OBLIGATIONS OF ACQUIRED CORPORATION

The obligations of Acquired Corporation to cause the transactions contemplated by this Agreement to be consummated shall be subject to the satisfaction on or before the Effective Date of all the following conditions except as Acquired Corporation may waive such conditions in writing:

9.1 *Representations, Warranties and Covenants.* Notwithstanding any investigation made by or on behalf of Acquired Corporation, all representations and warranties of BancGroup contained in this Agreement shall be true in all material respects on and as of the Effective Date (except to the extent that such representations and warranties speak as of an earlier date) as if such representations and warranties were made on and as of such Effective Date, and BancGroup shall have performed in all material respects all agreements and covenants required by this Agreement to be performed by it on or prior to the Effective Date.

9.2 *Adverse Changes.* There shall have been no changes after the date of the most recent balance sheet provided under section 4.3(a)(i) hereof in the results of operations (as compared with the corresponding period of the prior fiscal year), Assets, Liabilities, financial condition or affairs of BancGroup which in their total effect constitute a Material Adverse Effect, nor shall there have been any material changes in the Laws governing the business of BancGroup or which would impair the rights of Acquired Corporation or its shareholders pursuant to this Agreement.

9.3 *Closing Certificate.* In addition to any other deliveries required to be delivered hereunder, Acquired Corporation shall have received a certificate from the Chairman and from the Secretary or Assistant Secretary of BancGroup dated as of the Closing certifying that:

(a) the board of directors of BancGroup has duly adopted resolutions approving the substantive terms of this Agreement and authorizing the consummation of the transactions contemplated by this Agreement and such resolutions have not been amended or modified and remain in full force and effect;

(b) each person executing this Agreement on behalf of BancGroup is an officer of BancGroup holding the office or offices specified therein and the signature of each person set forth on such certificate is his or her genuine signature;

(c) the certificate of incorporation and bylaws of BancGroup referenced in section 4.4 hereof remain in full force and effect;

(d) such persons have no knowledge of a basis for any material claim, in any court or before any Agency or arbitration or otherwise against, by or affecting BancGroup or the business, prospects, condition (financial or otherwise), or Assets of BancGroup or which would prevent the performance of this Agreement or the transactions contemplated by this Agreement or declare the same unlawful or cause the rescission thereof;

(e) to such persons' knowledge, the Proxy Statement delivered to Acquired Corporation's shareholders, or any amendments or revisions thereto so delivered, as of the date thereof, did not contain or incorporate by reference any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading in light of the circumstances under which they were made (it being understood that such persons need not express a statement as to information concerning or provided by Acquired Corporation for inclusion in such Proxy Statement); and

(f) the conditions set forth in this Article 9 insofar as they relate to BancGroup have been satisfied.

9.4 *Opinion of Counsel.* Acquired Corporation shall have received an opinion of Miller, Hamilton, Snider & Odom, L.L.C., counsel to BancGroup, dated as of the Closing, substantially in the form set forth in Exhibit B hereto.

9.5 *Fairness Opinion.* The letter received from Tucker Anthony Incorporated on or prior to the date of this Agreement setting forth its opinion that the Merger Consideration to be received by the shareholders of Acquired Corporation under the terms of this Agreement is fair to them from a financial point of view shall not have been withdrawn as of the Effective Date.

9.6 *NYSE Listing.* The shares of BancGroup Common Stock to be issued under this Agreement shall have been approved for listing on the NYSE.

9.7 *Other Matters.* There shall have been furnished to such counsel for Acquired Corporation certified copies of such corporate records of BancGroup and copies of such other documents as such counsel may reasonably have requested for such purpose.

9.8 *Material Events.* There shall have been no determination by the board of directors of Acquired Corporation in its good faith, reasonable judgment that the transactions contemplated by this Agreement have become impractical because of any state of war, declaration of a banking moratorium in the United States or a general suspension of trading for an extended period on the NYSE or any other exchange on which BancGroup Common Stock may be traded.

9.9 *Acquired Corporation Counsel Tax Opinion.* Acquired Corporation shall have received an opinion of Steel Hector & Davis LLP, counsel to Acquired Corporation, in form and substance satisfactory to the Acquired Corporation, to the effect that (i) the Merger will constitute a "reorganization" within the meaning of section 368 of the Code; (ii) no gain or loss will be recognized by Acquired Corporation; (iii) no gain or loss will be recognized to the shareholders of Acquired Corporation who receive shares of BancGroup Common Stock except to the extent of any taxable "boot" received by such persons from BancGroup, and except to the extent of any dividends received from Acquired Corporation prior to the Effective Date; (iv) the basis of the BancGroup Common Stock received in the Merger will be equal to the sum of the basis of the shares of Acquired Corporation common stock exchanged in the Merger and the amount of gain, if any, which was recognized by the exchanging Acquired Corporation shareholder, including any portion treated as a dividend, less the value of taxable boot, if any, received by such shareholder in the Merger; (v) the holding period of the BancGroup Common Stock will include the holding period of the shares of Acquired Corporation common stock exchanged therefor if such shares of Acquired Corporation common stock were capital assets in the hands of the exchanging Acquired Corporation shareholder; and (vi) cash received by an Acquired Corporation shareholder in lieu of a fractional share interest of BancGroup Common Stock will be treated as having been received as a distribution in full payment in exchange for the fractional share interest of BancGroup Common Stock which he or she would otherwise be entitled to receive and will qualify as capital gain or loss (assuming the Acquired Corporation common stock was a capital asset in his or her hands as of the Effective Date).

ARTICLE 10

CONDITIONS TO OBLIGATIONS OF BANCGROUP

The obligations of BancGroup to cause the transactions contemplated by this Agreement to be consummated shall be subject to the satisfaction on or before the Effective Date of all of the following conditions except as BancGroup may waive such conditions in writing:

10.1 *Representations, Warranties and Covenants.* Notwithstanding any investigation made by or on behalf of BancGroup, all representations and warranties of Acquired Corporation contained in this Agreement shall be true in all material respects on and as of the Effective Date as if such representations and warranties were made on and as of the Effective Date (except to the extent that such representations and warranties speak as of an earlier date), and Acquired Corporation shall have performed in all material respects all agreements and covenants required by this Agreement to be performed by it on or prior to the Effective Date.

10.2 *Adverse Changes.* There shall have been no changes after the date of the most recent balance sheet provided under section 5.4(a)(i) hereof in the results of operations (as compared with the corresponding period of the prior fiscal year), Assets, Liabilities, financial condition, or affairs of Acquired Corporation which constitute a Material Adverse Effect, nor shall there have been any material changes in the Laws governing the business of Acquired Corporation which would impair BancGroup's rights pursuant to this Agreement.

10.3 *Closing Certificate.* In addition to any other deliveries required to be delivered hereunder, BancGroup shall have received a certificate from Acquired Corporation executed by the Chairman and from the Secretary or Assistant Secretary of Acquired Corporation dated as of the Closing certifying that:

(a) the board of directors of Acquired Corporation has duly adopted resolutions approving the substantive terms of this Agreement and authorizing the consummation of the transactions contemplated by this Agreement and such resolutions have not been amended or modified and remain in full force and effect;

(b) the shareholders of Acquired Corporation have duly adopted resolutions approving the substantive terms of the Merger and the transactions contemplated thereby and such resolutions have not been amended or modified and remain in full force and effect;

(c) each person executing this Agreement on behalf of Acquired Corporation is an officer of Acquired Corporation holding the office or offices specified therein and the signature of each person set forth on such certificate is his or her genuine signature;

(d) the articles of incorporation and bylaws of Acquired Corporation and the Bank referenced in section 5.8 hereof remain in full force and effect and have not been amended or modified since the date hereof;

(e) to such persons' knowledge, the Proxy Statement delivered to Acquired Corporation's shareholders, or any amendments or revisions thereto so delivered, as of the date thereof, did not contain or incorporate by reference any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading in light of the circumstances under which they were made (it being understood that such persons need only express a statement as to information concerning or provided by Acquired Corporation for inclusion in such Proxy Statement); and

(f) the conditions set forth in this Article 10 insofar as they relate to Acquired Corporation have been satisfied.

10.4 *Opinion of Counsel.* BancGroup shall have received an opinion of Steel, Hector & Davis LLP, counsel to Acquired Corporation, dated as of the Closing, substantially as set forth in Exhibit C hereto.

10.5 *Controlling Shareholders.* Each shareholder of Acquired Corporation who may be an "affiliate" of Acquired Corporation, within the meaning of Rule 145 of the general rules and regulations under the 1933 Act shall have executed and delivered an agreement satisfactory to BancGroup to the effect that such person shall not make a "distribution" (within the meaning of Rule 145) of the Common Stock which he receives upon the Effective Date and that such Common Stock will be held subject to all applicable provisions of the 1933 Act and the rules and regulations of the SEC thereunder, and the undersigned will not sell or otherwise reduce risk relative to any shares of BancGroup Common Stock received in the Merger until financial results concerning at least 30 days of post-Merger combined operations have been published by BancGroup within the meaning of section 201.01 of the SEC's Codification of Financial Reporting Policies. Acquired Corporation recognizes and acknowledges that BancGroup Common Stock issued to such persons may bear a legend evidencing the agreement described above.

10.6 *Other Matters.* There shall have been furnished to counsel for BancGroup certified copies of such corporate records of Acquired Corporation and copies of such other documents as such counsel may reasonably have requested for such purpose.

10.7 *Dissenters.* The number of shares as to which shareholders of Acquired Corporation have exercised dissenters rights of appraisal under section 3.6 does not exceed 10% of the outstanding shares of common stock of Acquired Corporation.

10.8 *Material Events.* There shall have been no determination by the board of directors of BancGroup in its good faith, reasonable judgment that the transactions contemplated by this Agreement have become impractical because of any state of war, declaration of a banking moratorium in the United States or general suspension of trading for an extended period on the NYSE or any exchange on which BancGroup Common Stock may be traded.

10.9 *Ancillary Agreements.* The supplemental agreements executed on or prior to the date of this Agreement between BancGroup, Colonial Bank and Barton S. Goldberg, and BancGroup, Colonial Bank, and Arthur H. Courshon shall be in full force and effect and each of the parties thereto shall be in compliance with the provisions thereof.

10.10 *Pooling of Interests.* BancGroup shall have received the written opinion of Coopers & Lybrand, L.L.P., that the Merger will qualify for the pooling of interests method of accounting under generally accepted accounting principles.

10.11 *Tax Opinion.* BancGroup shall have received an opinion of Coopers & Lybrand, L.L.P., in form and substance reasonably satisfactory to BancGroup, that (i) the Merger will constitute a "reorganization" under section 368 of the Code and (ii) no gain or loss will be recognized by BancGroup or Acquired Corporation as a result of the transactions contemplated by this Agreement.

ARTICLE 11

TERMINATION OF REPRESENTATIONS AND WARRANTIES

All representations and warranties provided in Articles 4 and 5 of this Agreement or in any closing certificate pursuant to Articles 9 and 10 shall terminate and be extinguished at and shall not survive the Effective Date. All covenants, agreements and undertakings required by this Agreement to be performed by any Party hereto following the Effective Date shall survive such Effective Date and be binding upon such Party. If the Merger is not consummated, all representations, warranties, obligations, covenants, or agreements hereunder or in any certificate delivered hereunder relating to the transaction which is not consummated shall be deemed to be terminated or extinguished, except that sections 6.2(c) (ii), 7.2, Article 11, Article 15, any applicable definitions of Article 14 and the Confidentiality Agreement, shall survive. Items disclosed in the Exhibits and Schedules attached hereto are incorporated into this Agreement and form a part of the representations, warranties, covenants or agreements to which they relate. Information provided in such Exhibits and Schedules is provided only in response to the specific section of this Agreement which calls for such information.

ARTICLE 12

NOTICES

All notices, requests, demands and other communications under this Agreement shall be in writing and shall be made by (i) certified or registered mail, return receipt requested; (ii) hand delivery; (iii) telefax transmittal; or (iv) by courier service, and shall be deemed to have been duly given (a) when delivered by hand; (b) three days after mailing, in the case of certified or registered mail; (c) when electronic confirmation is received and recorded, in the case of telefax, and (d) one business day after being forwarded to a nationally recognized overnight courier service for overnight delivery; in each case correctly addressed to such Party at its address set forth below or such other address as such Party may specify by notice to the parties hereto:

(a) If to Acquired Corporation to Barton S. Goldberg, Secretary, Jefferson Bancorp, Inc., 301 Arthur Godfrey Road, Miami Beach, Florida 33140, facsimile (305) 531-4045, with copies to Thomas R. Woolsey, Esq., Steel, Hector & Davis LLP, 777 South Flagler Drive, 1900 Phillips Point West, West

Palm Beach, Florida 33401-6198, facsimile (561) 655-1509, or as may otherwise be specified by Acquired Corporation in writing to BancGroup.

(b) If to BancGroup, to W. Flake Oakley, IV, One Commerce Street, Suite 800, Montgomery, Alabama, 36104, facsimile (334) 240-6019, with a copy to Michael D. Waters, Miller, Hamilton, Snider & Odom, L.L.C., One Commerce Street, Suite 802, Montgomery, Alabama 36104, facsimile (334) 265-4533, or as may otherwise be specified in writing by BancGroup to Acquired Corporation.

ARTICLE 13

AMENDMENT OR TERMINATION

13.1 *Amendment.* Subject to compliance with applicable Law, this Agreement may be amended by the mutual consent of BancGroup and Acquired Corporation before or after approval of the transactions contemplated herein by the shareholders of Acquired Corporation; *provided, however*, that after any approval of the transactions contemplated by this Agreement by the Acquired Corporation's shareholders, there may not be, without further approval of such shareholders, any amendment of this Agreement which reduces the amount or changes the form of the consideration to be delivered to the Acquired Corporation's shareholders hereunder other than as contemplated by this Agreement. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the Parties.

13.2 *Termination.* This Agreement may be terminated at any time prior to or on the Effective Date whether before or after action thereon by the shareholders of Acquired Corporation, as follows:

(a) by the mutual consent of the respective boards of directors of Acquired Corporation and BancGroup;

(b) by the board of directors of either Party (provided that the terminating Party is not then in material breach of any representation, warranty, covenant, or other agreement contained in this Agreement) in the event of a material breach by the other Party of any representation or warranty contained in this Agreement which cannot be or has not been cured within thirty (30) days after the giving of written notice to the breaching Party of such breach; *provided*, that the non-breaching Party provides the breaching Party with a written notice of termination within ten days after the earlier of the expiration of such 30-day period or the date it receives a written notice from the breaching Party stating that it is unable or unwilling to cure such breach;

(c) by the board of directors of either Party (provided that the terminating Party is not then in material breach of any representation, warranty, covenant, or other agreement contained in this Agreement) in the event of a material breach by the other Party of any covenant or agreement contained in this Agreement which cannot be or has not been cured within thirty (30) days after the giving of written notice to the breaching Party of such breach; *provided*, that the non-breaching Party provides the breaching Party with a written notice of termination within ten days after the earlier of the expiration of such 30-day period or the date it receives a written notice from the breaching Party stating that it is unable or unwilling to cure such breach;

(d) by the board of directors of either BancGroup or Acquired Corporation if any approval or authorization of any Agency, the lack of which would result in the failure to satisfy the closing condition set forth in section 8.2, (i) shall have been denied by such Agency, (ii) such Agency shall have requested the withdrawal of any application therefor, or (iii) such Agency shall have indicated in writing an intention to deny, or impose a condition or requirement of the type referred to in the proviso to section 8.2; *provided*, that in connection with any termination pursuant to this section 13.2(d), (i) the Party terminating this Agreement shall have provided evidence reasonably satisfactory to the other Party that such event has occurred, (ii) if BancGroup is the terminating party, BancGroup shall be in material compliance with the provisions of section 6.1(a) with respect to the applicable Agency, and (iii) if BancGroup is the terminating party, prior to such termination BancGroup shall have given Acquired Corporation not less than fifteen (15) days notice of such Agency action and, if requested in writing by

Acquired Corporation within such fifteen (15) day period, arranged for a meeting between appropriate representatives of Acquired Corporation and the applicable Agency, in which case such termination may not occur until ten (10) days after such meeting has occurred;

(c) by the board of directors of either BancGroup or Acquired Corporation in the event that any shareholder approval contemplated by section 8.1 is not obtained at a meeting or meetings or any adjournment thereof called for the purpose of obtaining such approval;

(f) by the board of directors of either BancGroup or Acquired Corporation if (i) there shall be a final nonappealable Order of federal or state court restraining or prohibiting the consummation of the Merger, or (ii) there shall be any action taken, or any statute, rule, regulation or Order enacted, promulgated or issued or deemed applicable to the Merger by any governmental authority, which would make the consummation of the merger illegal;

(g) by the board of directors of Acquired Corporation if all transactions contemplated by this Agreement shall not have been consummated on or prior to June 30, 1997, if the failure to consummate the transactions provided for in this Agreement on or before such date is not caused by any breach of this Agreement by the Acquired Corporation; or

(h) without further action by either Party, upon the execution by Acquired Corporation of an agreement which is legally binding on Acquired Corporation with any third party (other than BancGroup or its Subsidiaries) with respect to an Acquisition Proposal if, in connection therewith, BancGroup will have the right to demand the payment of the sum described in section 6.2(c) (ii) by the Acquired Corporation.

13.3 *Damages.* In the event of termination pursuant to section 13.2, this Agreement shall forthwith become null and void and there shall be no liability or obligation on the part of Acquired Corporation or BancGroup or their respective directors or officers other than as set forth in section 6.2(c) (ii) and hereinafter in this section 13.3, except that nothing shall relieve any Party hereto from any liability for willful breach of this Agreement (including without limitation, liability for certain expenses as set forth in section 15.1 hereof), and except that sections 6.2(c) (ii) and 7.2, Article 11, Article 15, any applicable definitions of Article 14 and the Confidentiality Agreement shall survive the termination of this Agreement.

ARTICLE 14

DEFINITIONS

(a) The following terms, which are capitalized in this Agreement, shall have the meanings set forth below for the purpose of this Agreement:

Acquired Corporation	Jefferson Bancorp, Inc., a Florida corporation.
Acquired Corporation Company	Shall mean Acquired Corporation, the Bank, any Subsidiary of Acquired Corporation or the Bank, or any person or entity acquired as a Subsidiary of Acquired Corporation or the Bank in the future and owned by Acquired Corporation or the Bank at the Effective Date.
Acquired Corporation Options	Options respecting the issuance of a maximum of 231,925 shares of Acquired Corporation common stock pursuant to Acquired Corporation's stock option plans.
Acquired Corporation Stock	Shares of common stock, par value \$1.00 per share, of Acquired Corporation.
Acquisition Proposal	Shall mean, with respect to a Party, any tender offer or exchange offer or any proposal for a merger, acquisition of all of the stock or assets of, or other business combination involving such Party or any of its Subsidiar-

	ies or the acquisition of a substantial equity interest in, or a substantial portion of the assets of, such Party or any of its Subsidiaries.
Agencies	Shall mean, collectively, the Federal Trade Commission, the United States Department of Justice, the Board of the Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, all state regulatory agencies having jurisdiction over the Parties and their respective Subsidiaries, HUD, the VA, the FHA, the GNMA, the FNMA, the FHLMC, the NYSE, and the SEC.
Agreement	Shall mean this Agreement and Plan of Merger and the Exhibits and Schedules delivered pursuant hereto and incorporated herein by reference.
Assets	Of a Person shall mean all of the assets, properties, businesses and rights of such Person of every kind, nature, character and description, whether real, personal or mixed, tangible or intangible, accrued or contingent, or otherwise relating to or utilized in such Person's business, directly or indirectly, in whole or in part, whether or not carried on the books and records of such Person, and whether or not owned in the name of such Person or any Affiliate of such Person and wherever located.
BancGroup	The Colonial BancGroup, Inc., a Delaware corporation with its principal offices in Montgomery, Alabama.
Bank	Jefferson Bank of Florida, a Florida state bank.
Closing	The closing of the transactions contemplated hereby as described in section 2.7 of this Agreement.
Code	The Internal Revenue Code of 1986, as amended.
Colonial Bank	A wholly owned, Florida commercial bank Subsidiary of BancGroup, located in Orlando, Florida.
Common Stock	BancGroup's Common Stock authorized and defined in the restated certificate of incorporation of BancGroup, as amended through the date of this Agreement.
Confidentiality Agreement	Confidentiality Agreement executed by BancGroup on August 22, 1996 and Acquired Corporation on August 28, 1996.
Consent	Any consent, approval, authorization, clearance, exemption, waiver, or similar affirmation by any Person pursuant to any Contract, Law, Order, or Permit.
Contract	Any written or oral agreement, arrangement, authorization, commitment, contract, indenture, instrument, lease, obligation, plan, practice, restriction, understanding or undertaking of any kind or character, or other document to which any Person is a party or that is binding on any Person or its capital stock, Assets or business.
Default	Shall mean (i) any breach or violation of or default under any Contract, Order or Permit, (ii) any occurrence of any event that with the passage of time or the giving of notice or both would constitute a breach or violation of or default under any Contract, Order or Permit, or (iii) any occurrence of any event that with or without the passage of time or the giving of notice would give rise to a right to terminate or revoke, change

	the current terms of, or renegotiate, or to accelerate, increase, or impose any Liability under, any Contract, Order or Permit.
DGCL	The Delaware General Corporation Law.
Effective Date	Means the date and time at which the Merger becomes effective as defined in section 2.7 hereof.
Environmental Laws	Means the laws, regulations and governmental requirements referred to in section 5.23 hereof.
ERISA	The Employee Retirement Income Security Act of 1974, as amended.
Exchange Ratio	The ratio obtained by dividing \$18.90 by the Market Value, as set forth in section 3.1(b).
Exhibits	A through C, inclusive, shall mean the Exhibits so marked, copies of which are attached to this Agreement. Such Exhibits are hereby incorporated by reference herein and made a part hereof, and may be referred to in this Agreement and any other related instrument or document without being attached hereto.
FBCA	The Florida Business Corporation Act
Knowledge	Means the actual knowledge of the Chairman, President, Chief Financial Officer, Chief Accounting Officer, Chief Credit Officer, General Counsel or any Senior or Executive Vice President of BancGroup, in the case of knowledge of BancGroup, or of Acquired Corporation and the Bank, in the case of knowledge of Acquired Corporation.
Law	Any code, law, ordinance, regulation, reporting or licensing requirement, rule, or statute applicable to a Person or its Assets, Liabilities or business, including those promulgated, interpreted or enforced by any Agency.
Liability	Any direct or indirect, primary or secondary, liability, indebtedness, obligation, penalty, cost or expense (including costs of investigation, collection and defense), deficiency, guaranty or endorsement of or by any Person (other than endorsements of notes, bills, checks, and drafts presented for collection or deposit in the ordinary course of business) of any type, whether accrued, absolute or contingent, liquidated or unliquidated, matured or unmatured, or otherwise.
Lien	Any conditional sale agreement, default of title, easement, encroachment, encumbrance, hypothecation, infringement, lien, mortgage, pledge, reservation, restriction, security interest, title retention or other security arrangement, or any adverse right or interest, charge, or claim of any nature whatsoever of, on, or with respect to any property or property interest, other than (i) Liens for current property Taxes not yet due and payable, (ii) for depository institution Subsidiaries of a Party, pledges to secure deposits and other Liens incurred in the ordinary course of the banking business, and (iii) Liens in the form of easements and restrictive covenants on real property which do not materially adversely affect the use of such property by the current owner thereof.
Litigation	Any action, arbitration, complaint, criminal prosecution, governmental or other examination or investigation, hearing, inquiry, administrative or other proceeding relating to or affecting a Party, its business, its Assets

	(including Contracts related to it), or the transactions contemplated by this Agreement.
Loan Property	Any property in which the Party in question or Subsidiary holds a security interest.
Loss	Any and all direct or indirect payments, obligations, recoveries, deficiencies, fines, penalties, interest, assessments, losses, diminution in the value of Assets, damages, punitive, exemplary or consequential damages (including, but not limited to, lost income and profits and interruptions of business), liabilities, costs, expenses (including without limitation, reasonable attorneys' fees and expenses, and consultant's fees and other costs of defense or investigation), and interest on any amount payable to a third party as a result of the foregoing.
material	For purposes of this Agreement shall be determined in light of the facts and circumstances of the matter in question and, with respect to any action taken or relating to any Acquired Corporation Company, shall be determined in light of the financial position, Assets, business and results of operation of the Acquired Corporation and its Subsidiaries taken as a whole; provided that any specific monetary amount stated in this Agreement shall determine materiality in that instance.
Material Adverse Effect	On a Party shall mean an event, change or occurrence which has a material adverse impact on (i) the financial position, Assets, business, or results of operations of such Party and its Subsidiaries, taken as a whole, or (ii) the ability of such Party to perform its obligations under this Agreement or to consummate the Merger or the other transactions contemplated by this Agreement, provided that "material adverse impact" shall not be deemed to include the impact of (x) changes in banking and similar laws of general applicability or interpretations thereof by courts or governmental authorities, (y) changes in generally accepted accounting principles or regulatory accounting principles generally applicable to banks and their holding companies, and (z) the Merger and compliance with the provisions of this Agreement on the operating performance or financial condition of the Parties, including, without limitation, the taking of any actions by any Acquired Corporation Company pursuant to sections 6.2(j) and (k) of this Agreement or otherwise taken by any Acquired Corporation Company with the consent or agreement of BancGroup.
Merger	The merger of Acquired Corporation with BancGroup as contemplated in this Agreement.
Merger Consideration	The distribution of BancGroup Common Stock and cash for each share of Acquired Corporation Stock as provided in section 3.1(a) hereof.
NYSE	The New York Stock Exchange.
Order	Any administrative decision or award, decree, injunction, judgment, order, quasi-judicial decision or award, ruling, or writ of any federal, state, local or foreign or other court, arbitrator, mediator, tribunal, administrative agency or Agency.
Party	Shall mean Acquired Corporation or BancGroup, and "Parties" shall mean both Acquired Corporation and BancGroup.

Permit	Any federal, state, local, and foreign governmental approval, authorization, certificate, easement, filing, franchise, license, notice, permit, or right to which any Person is a party or that is or may be binding upon or inure to the benefit of any Person or its securities, Assets or business.
Person	A natural person or any legal, commercial or governmental entity, such as, but not limited to, a corporation, general partnership, joint venture, limited partnership, limited liability company, trust, business association, group acting in concert, or any person acting in a representative capacity.
Proxy Statement	The proxy statement used by Acquired Corporation to solicit the approval of its stockholders of the transactions contemplated by this Agreement, which shall include the prospectus of BancGroup relating to the issuance of the BancGroup Common Stock to the shareholders of Acquired Corporation.
Registration Statement	The registration statement on Form S-4, or such other appropriate form, to be filed with the SEC by BancGroup, and which will have been agreed to by Acquired Corporation, to register the shares of BancGroup Common Stock offered to stockholders of the Bank pursuant to his Agreement, including the Proxy Statement.
Resulting Corporation	BancGroup, as the surviving corporation resulting from the Merger.
SEC	United States Securities and Exchange Commission.
Stockholders Meeting	The special meeting of stockholders of Acquired Corporation called to approve the transactions contemplated by this Agreement.
Subsidiaries	Shall mean all those corporations, banks, associations, or other entities of which the entity in question owns or controls 50% or more of the outstanding equity securities either directly or through an unbroken chain of entities as to each of which 50% or more of the outstanding equity securities is owned directly or indirectly by its parent; provided, however, there shall not be included any such entity acquired through foreclosure or any such entity the equity securities of which are owned or controlled in a fiduciary capacity.
Tax or Taxes	Means any federal, state, county, local, foreign, and other taxes, assessments, charges, fares, and impositions, including interest and penalties thereon or with respect thereto.
1933 Act	The Securities Act of 1933, as amended.
1934 Act	The Securities Exchange Act of 1934, as amended.

ARTICLE 15

MISCELLANEOUS

15.1 *Expenses.* Each Party hereto shall bear its own legal, auditing, trustee, investment banking, regulatory and other expenses in connection with this Agreement and the transactions contemplated hereby; *provided*, in the event of termination of this Agreement, which termination shall have been judicially determined to have been caused by willful breach of this Agreement, then in addition to other remedies at law or equity for breach of this Agreement, the Party so found to have willfully breached this Agreement shall indemnify the other Party for its costs and fees, including without limitation reasonable fees and expenses of counsel (including at the trial and appellate levels).

15.2 *Benefit.* This Agreement shall inure to the benefit of and be binding upon Acquired Corporation and BancGroup, and their respective successors. Nothing in this Agreement, express or implied, is intended to confer upon any person, other than the Parties or their respective successors, any rights remedies, obligations or liabilities under or by reason of this Agreement, other than as set forth in section 6.1(f) and (j). This Agreement shall not be assignable by any Party without the prior written consent of the other Party.

15.3 *Governing Law.* Except to the extent that the laws of the States of Florida and Delaware apply to the Merger, this Agreement shall be governed by, and construed in accordance with the Laws of the State of Alabama without regard to any conflict of Laws.

15.4 *Counterparts.* This Agreement may be executed in counterparts, each of which shall be deemed to constitute an original. This Agreement shall become effective when one counterpart has been signed by each Party thereto.

15.5 *Headings.* The headings of the various articles and sections of this Agreement are for convenience of reference only and shall not be deemed a part of this Agreement or considered in construing the provisions thereof.

15.6 *Severability.* Any term or provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining terms and provisions thereof or affecting the validity or enforceability of such provision in any other jurisdiction, and if any term or provision of this Agreement is held by any court of competent jurisdiction to be void, voidable, invalid or unenforceable in any given circumstance or situation, then all other terms and provisions, being severable, shall remain in full force and effect in such circumstance or situation and the term or provision shall remain valid and in effect in any other circumstances or situation.

15.7 *Construction.* Use of the masculine pronoun herein shall be deemed to refer to the feminine and neuter genders and the use of singular references shall be deemed to include the plural and vice versa, as appropriate. No inference in favor of or against any Party shall be drawn from the fact that such Party or such Party's counsel has drafted any portion of this Agreement.

15.8 *Return of Information.* In the event of termination of this Agreement prior to the Effective Date, each Party shall return to the other, without retaining copies thereof, all confidential or non-public documents, work papers and other materials obtained from the other Party in connection with the transactions contemplated in this Agreement and shall keep such information confidential, not disclose such information to any other person or entity, and not use such information in connection with its business.

15.9 *Equitable Remedies.* The parties hereto agree that, in the event of a breach of this Agreement by either Party, the other Party may be without an adequate remedy at law owing to the unique nature of the contemplated transactions. In recognition thereof, in addition to (and not in lieu of) any remedies at law that may be available to the non-breaching Party, the non-breaching Party shall be entitled to obtain equitable relief, including the remedies of specific performance and injunction, in the event of a breach of this Agreement by the other Party, and no attempt on the part of the non-breaching Party to obtain such equitable relief shall be deemed to constitute an election of remedies by the non-breaching Party that would preclude the non-breaching Party from obtaining any remedies at law to which it would otherwise be entitled.

15.10 *Attorneys' Fees.* If any Party hereto shall bring an action at law or in equity to enforce its rights under this Agreement (including an action based upon a misrepresentation or the breach of any warranty, covenant, agreement or obligation contained herein) which is permitted pursuant to section 13.3, the prevailing Party in such action shall be entitled to recover from the other Party its reasonable costs and expenses incurred in connection with such action (including fees, disbursements and expenses of attorneys at the trial and appellate levels and costs of investigation).

15.11 *No Waiver.* No failure, delay or omission of or by any Party in exercising any right, power or remedy upon any breach or Default of any other Party shall impair any such rights, powers or remedies of the Party not in breach or Default, nor shall it be construed to be a waiver of any such right, power or remedy, or an acquiescence in any similar breach or Default; nor shall any waiver of any single breach or Default be

deemed a waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part of any Party of any provisions of this Agreement must be in writing and be executed by the Parties to this Agreement and shall be effective only to the extent specifically set forth in such writing.

15.12 *Remedies Cumulative.* All remedies provided in this Agreement, by law or otherwise, shall be cumulative and not alternative.

15.13 *Entire Contract.* This Agreement, the Confidentiality Agreement and the documents and instruments referred to herein constitute the entire contract between the parties to this Agreement and supersede all other understandings with respect to the subject matter of this Agreement.

IN WITNESS WHEREOF, Acquired Corporation and BancGroup have caused this Agreement to be signed by their respective duly authorized officers as of the date first above written.

ATTEST:

JEFFERSON BANCORP, INC.

/s/ ARTHUR H. COURSHON

BY: /s/ Barton S. Goldberg

BY: Arthur H. Courshon

ITS: Secretary

ITS: Chairman

(CORPORATE SEAL)

ATTEST:

THE COLONIAL BANCGROUP, INC.

/s/ ROBERT E. LOWDER

BY: /s/ W. Flake Oakley

BY: Robert E. Lowder

ITS: Secretary

ITS: Chairman

(CORPORATE SEAL)