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F06235

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660 East Jefferson Street

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CORPORATION(S) NAME

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United BankShares, Inc. merging into:
Mellon Bank Corporation

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

98 JAN 30 PM 4:00

FILED

☐ Profit

☐ NonProfit

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☒ Merger

☐ Foreign

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☐ Limited Partnership

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DIVISION OF CORPORATION

CR2E031 (1-89)

ARTICLES OF MERGER
Merger Sheet

MERGING:

UNITED BANKSHARES, INC., a Florida corporation, F06235

INTO

MELLON BANK CORPORATION, a Pennsylvania corporation not qualified in
Florida.

File date: January 30, 1998, effective February 2, 1998

Corporate Specialist: Joy Moon-French

Applicant's Acct No. _____

Filed this 30th day of
January, A.D. 1998.
Commonwealth of Pennsylvania
Department of State
Effective February 2, 1998

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
CORPORATION BUREAU

Secretary of the Commonwealth

EFFECTIVE DATE
FEB 2 1998

ARTICLES OF MERGER
MERGING
UNITED BANKSHARES, INC.
WITH AND INTO
MELLON BANK CORPORATION

FILED
98 JAN 30 PM 4:00
SECRETARY OF STATE
ALABAMA

In compliance with the requirements of Section 1926 of the Pennsylvania Business Corporation Law, Act of December 21, 1988, P.L. 1444, as amended (15 Pa.C.S. § 1926), and Section 607.1105 of the Florida Business Corporation Code, Ch. 89-1154, L'89, as amended (Fla. Stat. Ch. 607.1105), the undersigned corporations, desiring to effect a merger, hereby certify that:

1. The name of the corporation surviving the merger is Mellon Bank Corporation, a domestic Pennsylvania business corporation, and the address of its current registered office in this Commonwealth is One Mellon Bank Center, 500 Grant Street, Pittsburgh, Pennsylvania 15258. Mellon Bank Corporation is not a qualified foreign corporation in Florida.

2. The name of the other corporation which is a party to the Agreement and Plan of Merger is United Bankshares, Inc., a Florida corporation, which is not a qualified foreign corporation in Pennsylvania.

3. The Agreement and Plan of Merger shall become effective at 9:00 a.m., EST, on February 2, 1998.

4. (a) The Agreement and Plan of Merger was approved by the Board of Directors of Mellon Bank Corporation on November 18, 1997. Pursuant to Section 1924(b)(1)(i) of the Pennsylvania Business Corporation Law, no approval of the Agreement and Plan of Merger by the shareholders of Mellon Bank Corporation was required.

(b) The Agreement and Plan of Merger was authorized, adopted and approved in accordance with the laws of the State of Florida by the Board of Directors of United Bankshares, Inc. on January 16, 1998, and by the shareholders of United Bankshares, Inc. on January 29, 1998.

5. The full text of the Agreement and Plan of Merger is attached hereto as Exhibit A. There are no provisions of the Agreement and Plan of Merger that are intended to amend or constitute the operative provisions of the Articles of Incorporation of Mellon Bank Corporation as in effect subsequent to the effective date of the Agreement and Plan of Merger.

IN TESTIMONY WHEREOF, each undersigned corporation has caused these Articles of Merger to be signed by a duly authorized officer and its corporate seal, duly attested by another such officer, to be hereunto affixed as of the 30th day of January, 1998.

[CORPORATE SEAL]

Attest:

Title:

Jane Pedraza

SECRETARY

UNITED BANKSHARES, INC.

By

Title:

Gerald Katcher

Gerald Katcher

Chairman

[CORPORATE SEAL]

Attest:

Title:

Paul Keasler

SECRETARY

MELLON BANK CORPORATION

By

Title:

Martin G. McGuinn

Martin G. McGuinn

Vice-Chairman

EXHIBIT A

**AGREEMENT AND PLAN OF MERGER
MERGING
UNITED BANKSHARES, INC.
WITH AND INTO
MELLON BANK CORPORATION**

This AGREEMENT AND PLAN OF MERGER (this "Merger Agreement") is made as of January 30, 1998, by and among MELLON BANK CORPORATION, a Pennsylvania corporation ("MBC"), and United Bankshares, Inc., a Florida corporation (the "Company").

WHEREAS, MBC and the Company desire to accomplish the Merger of the Company with and into MBC as provided for in this Merger Agreement.

NOW, THEREFORE, in consideration of the mutual premises hereinafter set forth and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound hereby, the parties hereby agree as follows:

FIRST: At the Effective Time, the Company shall merge (the "Merger") with and into MBC. MBC shall be the surviving corporation in the Merger (the "Continuing Corporation") and shall continue to be governed by the Business Corporation Law of the Commonwealth of Pennsylvania. The Company shall cease to have separate corporate existence under the Florida Business Corporation Code. The shareholders of MBC are to hold in the aggregate shares of the Continuing Corporation to be outstanding immediately after the Effective Time entitled to cast at least a majority of the votes entitled to be cast generally for the election of directors. The terms and conditions of the Merger and the manner of carrying the same into effect are as set forth in this Merger Agreement, which sets forth the relevant provisions of that certain Agreement and Plan of Reorganization, dated as of November 24, 1997, by and among MBC, the Company, Gerald Katcher and Howard R. Scharlin (the "Agreement and Plan of Reorganization").

SECOND: This Merger Agreement shall become effective upon the date and time specified in the Articles of Merger (the "Effective Time"), which are to be filed with the Secretary of State of the Commonwealth of Pennsylvania and the Secretary of State of the State of Florida as contemplated by Section 1927 of the Pennsylvania Business Corporation Law and Section 607.1105 of the Florida Business Corporation Code, respectively.

THIRD: The Articles of Incorporation and Bylaws of the Continuing Corporation shall be those of MBC, as in effect at the Effective Time.

FOURTH: The directors and officers of MBC in office immediately prior to the Merger becoming effective at the Effective Time shall be the directors and officers of the Continuing Corporation, together with such additional directors and officers as may thereafter be elected. Such persons shall hold office until such time as their successors are elected and qualified.

FIFTH: At the Effective Time, each share of capital stock of MBC, including each share of common stock, par value \$.50 per share, of MBC ("MBC Common Stock"), issued and outstanding immediately prior to the Effective Time shall remain outstanding, without change therein by reason of the Merger.

SIXTH: (a) Subject to the provisions of this Merger Agreement with respect to the payment of fractional shares in cash and dissenters' rights, at the Effective Time each issued and outstanding share of Company Common Stock shall, by virtue of the Merger and without any action on the part of the holder thereof, be converted into and become a right to receive, at the election of the holder thereof, either:

- (i) 14.6017 shares of MBC Common Stock (the "Merger Shares"); or

(ii) an amount in cash equal to \$748.89 (a "Cash Payment").

(b) In order for a Company stockholder to receive Merger Shares or a Cash Payment for each of his or her shares of Company Common Stock all of the Company Common Stock owned by such stockholder must be fully paid in cash prior to the Effective Time. Accordingly, if a Company stockholder is paying for his or her Company Common Stock on a deferred basis pursuant to an applicable purchase contract with the Company, in order for such Company stockholder to receive Merger Shares or a Cash Payment for each of his or her shares of Company Common Stock, such Company stockholder must accelerate such payments and pay any remaining deferred amount in full and in cash prior to the Effective Time.

(c) An election form (the "Election Form") pursuant to which each holder of Company Common Stock may elect to receive for all such holders' shares of Company Common Stock (i) only Merger Shares (the "Stock Election"), (ii) only Cash Payments (the "Cash Election") or (iii) (A) Merger Shares with respect to a percentage of such holder's Company Common Stock (such percentage to equal a minimum of 10% of such holder's Company Common Stock or, if in excess of 10% of such holder's Company Common Stock, an integral multiple of 10% up to 90% of such holder's Company Common Stock) and (B) Cash Payments with respect to a percentage of such holder's Company Common Stock (such percentage, when added to the percentage elected under subclause (A), to equal 100%), rounded in each case to the nearest whole share ("Mixed Payment Election") has been mailed to each holder of record of Company Common Stock on the record date (the "Company Record Date") for the meeting of stockholders of the Company called to take action with respect to the Merger (the "Company Stockholders' Meeting"). To be effective, an Election Form (or a facsimile thereof), properly completed and signed, must have been received by the Company no later than 10:00 a.m., local time, on the date of the Company Stockholders' Meeting (the "Election Deadline"). Any holder of record of Company Common Stock whose Election Form was not so received by the Election Deadline (a "Non-Electing Holder") shall be deemed to have made the Stock Election. Subject to the provisions of this Merger Agreement, the shares subject to Mixed Payment Elections shall be divided by MBC into such portion with respect to which the holder has elected to receive Merger Shares ("Mixed Stock Shares") and such portion with respect to which the holder has elected to receive Cash Payments ("Mixed Cash Shares") for purposes of allocating the Total Consideration as specified below.

(d) Notwithstanding any other provision contained herein or in any Election Form, the effectiveness of the Elections by holders of Company Common Stock herein provided for shall be subject to the limitation that (i) the aggregate Transaction Share Price as of the day prior to the Effective Time of all whole shares of MBC Common Stock to be issued pursuant to the Stock Election (including shares of Company Common Stock held by Non-Electing Holders deemed to have made the Stock Election pursuant to this Merger Agreement) and the Mixed Payment Election (the "Stock Value") shall be at least equal to 50% of the Total Consideration (the "Minimum Stock Limitation") and (ii) the aggregate amount of the Cash Elections and Mixed Cash Shares shall be not less than \$140,000,000 (the "Minimum Cash Limitation").

(e) In applying the Minimum Stock Limitation, if, after tentatively giving effect to the Elections by holders of Company Common Stock herein provided for, MBC shall determine that the Minimum Stock Limitation may be violated, then certain of such Elections shall be deemed ineffective as follows: if the Minimum Stock Limitation might otherwise not be met, MBC shall automatically convert, on a pro rata basis, the number of shares of Company Common Stock subject to Cash Elections and Mixed Cash Shares to the Stock Elections and to Mixed Stock Shares, respectively, to the extent that MBC shall determine to be reasonably necessary in order to assure that the Minimum Stock Limitation shall be met. The pro rata conversion to be used by MBC shall consist of an equitable proration process reasonably designed to treat all holders of Company Common Stock who have elected the Cash Election and who have elected the Mixed Payment Election equally based on the amount of cash elected to be received by such holders.

(f) In applying the Minimum Cash Limitation, if, after tentatively giving effect to the Elections by holders of Company Common Stock herein provided for, MBC shall determine that the Minimum Cash Limitation may be violated, then certain of such Elections shall be deemed ineffective as follows: if the Minimum Cash Limitation might otherwise not be met, MBC shall automatically convert, on a pro rata basis, the number of shares of

Company Common Stock subject to Stock Elections and Mixed Stock Shares to the Cash Elections and to Mixed Cash Shares, respectively, to the extent that MBC shall determine to be reasonably necessary in order to assure that the Minimum Cash Limitation shall be met. The pro rata conversion to be used by MBC shall consist of an equitable proration process reasonably designed to treat all holders of Company Common Stock who have elected the Stock Election and who have elected the Mixed Payment Election equally based on the amount of MBC Common Stock elected to be received by such holders.

(g) MBC shall have the right to establish additional procedures and to make reasonable determinations not inconsistent with the provisions of this Merger Agreement governing any matters in connection with this Merger Agreement, including but not limited to procedures and determinations as to the manner, form and validity of Elections. Any such procedures established shall be effective as if set forth in this Merger Agreement and any such determinations made by MBC in good faith shall be final and conclusive.

(h) For purposes of this Merger Agreement, the following terms shall have the meanings set forth below:

"Business Day" shall mean any day other than a Saturday, Sunday, or public holiday under the laws of the Commonwealth of Pennsylvania or the State of Florida.

"Closing Date" shall mean February 2, 1998, or such other date thereafter as the parties shall agree.

"Company Common Stock" shall mean the 550,000 authorized shares of common stock, \$.625 par value per share, of the Company, of which 534,124 shares are issued and outstanding.

"Total Consideration" shall mean the sum of (i) the Stock Value, (ii) the aggregate amount of cash to be paid pursuant to the Cash Election and Mixed Payment Election, (iii) the aggregate amount of cash to be paid in lieu of fractional shares of MBC Common Stock pursuant to the Stock Election and Mixed Payment Election, and (iv) the aggregate amount of cash which MBC determines may be payable to all holders of Company Common Stock who as of the Effective Time may perfect rights of dissenting stockholders pursuant to Florida law.

"Transaction Share Price" shall mean, as of any date, the average of the daily closing price of MBC Common Stock (adjusting both the number of shares and price of shares as may be necessary to account for a pending stock split, if any) for a period consisting of 10 consecutive trading days ending the Business Day immediately prior to such date, such last sale prices in each case as reported by the NYSE composite transactions reporting system (as reported in The Wall Street Journal); provided however, that in the circumstance where the date of this Agreement is after the record date with respect to a dividend declared on the MBC Common Stock and any of such 10 consecutive trading days occurs on a date from and after the date of declaration of such dividend to but excluding the date MBC Common Stock begins to trade on an ex-dividend basis, then for purposes of determining the Transaction Share Price, the reported closing price of MBC Common Stock for each of such days which occur during such period will not include the value of such declared dividend.

SEVENTH: (a) At least five Business Days prior to the Effective Time, MBC sent to the holders of Company Common Stock transmittal materials and instructions for surrendering certificates for Company Common Stock ("Old Certificates") in exchange for a certificate or certificates for the number of whole shares of MBC Common Stock and checks representing Cash Payments to which such holders of Company Common Stock are entitled hereunder. To the extent that a holder of Company Common Stock has complied with the procedures set forth in this Merger Agreement as of the Closing Date, such holder shall be entitled to receive any Cash Payments to which such holder is entitled as of the Effective Time, or, if the Effective Time is not a Business Day, on the first Business Day following the Effective Time, by a wire transfer of immediately available funds or in such other form and manner as may be mutually satisfactory that provides the holder with immediately available funds.

(b) No certificates for fractional shares of MBC Common Stock shall be issued in connection with the Merger. In lieu thereof, MBC shall issue to the holders of Company Common Stock, upon surrender of the Old Certificates in accordance with the instructions furnished by MBC, a check for an amount of cash (without interest

thereon) equal to the fraction of a share of MBC Common Stock represented by the Old Certificates so surrendered multiplied by the Transaction Share Price as of the Effective Time.

(c) If any dividend on MBC Common Stock is declared with a record date after the Effective Time, the declaration shall include dividends on all whole shares of MBC Common Stock into which shares of Company Common Stock have been converted under this Merger Agreement. A holder of the Company Common Stock shall not be entitled to receive payment of any such dividend until surrender of such holder's Old Certificates shall have been effected in accordance with the instructions furnished by MBC. Upon such surrender for exchange of the Old Certificates of a holder of Company Common Stock, such holder shall be entitled to receive from MBC (without interest thereon) an amount equal to all such dividends declared and for which the payment date has occurred, on the whole shares of MBC Common Stock into which the shares represented by such Old Certificates have been converted.

(d) After the Effective Time, there shall be no transfer on the stock transfer books of the Company or MBC of shares of Company Common Stock. If Old Certificates are presented for transfer after the Effective Time, they shall be canceled and the consideration to be issued in exchange therefor as provided in this Merger Agreement shall be issued or paid as provided herein.

EIGHTH: At the Effective Time, the Continuing Corporation shall thereupon and thereafter possess all of the rights, privileges, immunities and franchises, of a public as well as of a private nature, of each of the merging corporations; and all property, real, personal and mixed, and all debts due on whatever account and all other choses in action and all and every other interest, of or belonging to or due to each of the corporations so merged, shall be deemed to be vested in the Continuing Corporation without further act or deed; and the title to any real estate or any interest therein, vested in any of such corporations, shall not revert or be in any way impaired by reason of the Merger. At the Effective Time, the Continuing Corporation shall thenceforth be responsible and liable for all the liabilities, obligations and penalties of each of the corporations so merged.

NINTH: At the Effective Time, holders of Company Common Stock shall cease to be and shall have no rights as stockholders of the Company, other than to receive the consideration to be issued in exchange therefor provided under this Merger Agreement, subject, however, to the Continuing Corporation's obligation to pay any dividends or make any other distributions permitted under the Agreement and Plan of Reorganization with a record date prior to the Effective Time. To the extent permitted by law, former stockholders of record of the Company shall be entitled to vote after the Effective Time at any meeting of MBC stockholders, the number of whole shares of MBC Common Stock into which their respective shares of Company Common Stock are converted, regardless of whether such holders have exchanged their Old Certificates for certificates representing MBC Common Stock in accordance with the provisions of this Merger.

TENTH: Any holder of shares of Company Common Stock who perfects his or her dissenters' rights of appraisal in accordance with and as contemplated by Sections 1301 through 1320 of Chapter 607 of the Florida Business Corporation Code shall be entitled to receive the value of such shares as determined pursuant to such provision of law; provided, however, that no such payment shall be made to any dissenting stockholder unless and until such dissenting stockholder has complied with the applicable provisions of Chapter 607 of the Florida Business Corporation Code and duly surrendered the certificate or certificates representing the shares for which payment is being made. If a dissenting stockholder of the Company fails to perfect or effectively withdraws or loses, his rights to appraisal and of payment for his shares, after the Effective Time, such holder shall be deemed to have made a Stock Election, Cash Election or Mixed Payment Election, as determined by MBC in its sole discretion, and MBC shall issue and deliver the consideration to which such holder is entitled hereunder (without interest) upon surrender by such holder of the Old Certificates representing shares of Company Common Stock held by him or her.

ELEVENTH: This Merger Agreement shall be governed by the laws of the Commonwealth of Pennsylvania without regard to conflicts of laws principles except to the extent that the laws of the State of Florida may apply to the Merger.

IN WITNESS WHEREOF, each of the corporate parties hereto, pursuant to the authority granted by its Board of Directors, has caused this Merger Agreement to be executed on its behalf as of the date first written above.

MELLON BANK CORPORATION

By: Martin G. McGuinn
Martin G. McGuinn
Vice Chairman

UNITED BANKSHARES, INC.

By: Gerald Katcher
Gerald Katcher
Chairman