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**INTEROFFICE
COMMUNICATION**



**OFFICE OF FINANCIAL
REGULATION**

DATE: December 23, 2008

TO: Karon Beyer, Chief
Department of State
Division of Corporations

FROM: Bruce Ricca, Office of Financial Regulation

SUBJECT: Merger of Liberty Bank with and into USAmeriBank and under the title of
USAmeriBank

Please file the attached "Merger Documents" for the above-referenced institutions, using December 31, 2008, as the effective date for the merger.

Please make the following distribution of certified copies of the merger documents:

- (1) One copy to: Bruce Ricca
Office of Financial Regulation
200 East Gaines Street
Fletcher Building, Sixth Floor
Tallahassee, Florida 32399-0371
- (2) Three copies to: Mr. Brad McMurtrey, III
USAmeriBank
Post Office Box 1158
Largo, Florida 33779-1158
- (3) One copy to: Ms. Edye Fulcher
(uncertified) Federal Deposit Insurance Corporation
10 Tenth Street, N. E.
Suite 800
Atlanta, Georgia 30309-3906

Also attached is a check that represents payment of the filing fees, charter tax and certified copies. If you have any questions, please call 410-9528.

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

PLAN OF MERGER AND MERGER AGREEMENT

THIS PLAN OF MERGER AND MERGER AGREEMENT, is dated this 22nd day of August, 2008 ("Agreement"), by and among Liberty Bank, a Florida banking corporation ("Liberty"), USAmeriBancorp, Inc., a Florida corporation ("USAmeriBancorp") and USAmeriBank, a Florida banking corporation.

RECITALS:

A. **Background.** USAmeriBancorp, USAmeriBank and Liberty desire to enter into this Agreement, which provides for Liberty to become a wholly-owned subsidiary of USAmeriBancorp pursuant to the Florida Business Corporation Act (the "FBCA") and the Florida Financial Institutions Code (the "Florida Code"). Liberty will become a wholly-owned subsidiary of USAmeriBancorp by means of a merger of Liberty with and into USAmeriBank. Accordingly, USAmeriBancorp, USAmeriBank and Liberty are entering into this Agreement to provide for such merger transaction.

B. **Liberty.** Liberty is a corporation duly organized and existing in good standing under the laws of the State of Florida, with its principal executive offices located in Clearwater, Florida. As of the date hereof, Liberty's authorized capital stock consisted of 4,000,000 shares of common stock, par value \$5.00 per share (the "Liberty Common Stock"), of which 1,325,000 shares of Liberty Common Stock are outstanding.

C. **USAmeriBancorp.** USAmeriBancorp is a corporation duly organized and existing in good standing under the laws of the State of Florida with its principal executive offices located in Largo, Florida. USAmeriBancorp owns all of the outstanding shares of USAmeriBank.

D. **USAmeriBank.** USAmeriBank is a corporation duly organized and existing in good standing under the laws of the State of Florida, with its principal executive offices located in Largo, Florida. As of the date hereof, USAmeriBank's authorized capital stock consisted of 6,000,000 shares of common stock, par value \$5.00 per share (the "USAmeriBank Common Stock"), of which 4,020,000 shares of USAmeriBank Common Stock are outstanding.

E. **Merger.** Pursuant to this Agreement, Liberty shall merge with and into USAmeriBank. For purposes of this Agreement, the foregoing merger is referred to as the "Merger."

F. **Approvals.** The Boards of Directors of each of USAmeriBancorp, USAmeriBank and Liberty have determined that this Agreement and the transactions contemplated hereby are in their respective best interests and the best interests of their respective stockholders, and have approved this Agreement at meetings of each of such Boards of Directors.

G. **Stockholders Agreement.** As a condition to the signing of this Agreement, USAmeriBancorp has entered into a Stockholders Agreement (the "Stockholders Agreement") with certain Liberty Stockholders pursuant to which each Stockholder has agreed, among other things, to vote in favor of the approval of this Agreement all shares of Liberty Common Stock beneficially owned by such Stockholder in accordance with and subject to the terms set forth in the Stockholders' Agreement.

H. **Non-Competition Agreements.** Also as a condition to the signing of this Agreement, each Non-Compete Person has entered into a Non-Competition Agreement Related to the Sale of Goodwill with USAmeriBancorp (collectively, the "Non-Competition Agreements").

NOW, THEREFORE, in consideration of their mutual promises and obligations, the parties hereto, intending to be legally bound, adopt and make this Agreement and prescribe the terms and conditions hereof and the manner and basis of carrying the Agreement into effect, as follows:

1. THE MERGER; STOCK OFFERING

1.1 **The Merger.** In the event that all of the conditions set forth in Article VI hereof have been satisfied or waived:

(A) **The Merger.** On the Merger Effective Date (as hereinafter defined), Liberty shall merge with and into USAmeriBank, and all of the outstanding shares of capital stock of Liberty shall be converted in the manner set forth in Article II of this Agreement. The name of USAmeriBank following consummation of the Merger shall continue as "USAmeriBank." USAmeriBank, following consummation of the Merger, is sometimes referred to in this Agreement as the "Continuing Corporation."

(B) **Rights, etc.** On the Merger Effective Date, the Continuing Corporation shall thereupon and thereafter possess all the rights, privileges, immunities and franchises of a public as well as of a private nature, of Liberty and USAmeriBank, and all property, real, personal and mixed and all debts due on whatever account, and all other causes of action, 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. 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, as provided by the laws of the State of Florida.

(C) **Liabilities.** On the Merger Effective Date, the Continuing Corporation shall thereupon and thereafter be responsible and liable for all the liabilities, obligations and penalties of each of the corporations so merged. All rights of creditors of USAmeriBank, all liens on the property of USAmeriBank, and all obligations due to USAmeriBank shall be unaffected by the Merger and shall be preserved unimpaired.

(D) **Articles of Incorporation; Bylaws; Directors; Officers; Offices.**

(i) The articles of incorporation and bylaws of USAmeriBank following the Merger Effective Date, shall be those in effect immediately prior to the Merger Effective Date and until such documents are changed in accordance with applicable law.

(ii) The directors of USAmeriBank following the Merger Effective Date, who shall hold office until such time as their successors are elected and qualified, shall consist of those persons set forth on Exhibit 1, which also sets forth the address of each such individual.

(iii) The officers of USAmeriBank following the Merger Effective Date, who shall hold office until such time as their successors are elected and qualified, shall consist of those persons who were officers of USAmeriBank immediately prior to the Merger Effective Date. The name and address of each executive officer of USAmeriBank is set forth on Exhibit 2.

(iv) The banking offices of USAmeriBank following the Merger Effective Date shall consist of those banking offices of USAmeriBank and Liberty immediately prior to the Merger Effective Date. The name and location of the main office and each existing and proposed branch office of USAmeriBank is set forth on Exhibit 3.

1.2 Merger Effective Date; Closing. The Merger shall become effective at the date and time set forth in the certificate of merger issued by the Florida Office of Financial Regulation (the "Florida Department") with respect to the Merger (such time is hereinafter referred to as the "Merger Effective Date"). The parties shall utilize their best efforts to cause the Merger to be effective as promptly as practicable after satisfaction of all conditions set forth in Article VI, including, without limitation, the receipt of the regulatory approvals (and the expiration of all waiting periods) referred to in Section 6.2. All documents required by the terms of this Agreement to be delivered at or prior to consummation of the Merger shall be exchanged by the parties at the closing of the Merger (the "Closing"), which shall be held on the Merger Effective Date at such location and at such time as may be mutually agreed upon.

1.3 Trust Powers. At the Merger Effective Date, no direct or indirect subsidiary bank of USAmeriBancorp will exercise trust powers.

1.4 Stock Offering. Subject to the closing of the Merger and following the Merger Effective Date, USAmeriBancorp intends to commence an offering of up to 265,000 shares of its common stock ("USAmeriBancorp Common Stock"), which such shares shall be available for ~~purchase by the former shareholders of Liberty, provided that each such purchaser of~~ USAmeriBancorp Common Stock shall represent that such purchaser is an "accredited investor" ("Accredited Investor") as defined in Rule 501(a) under the Securities Act of 1933, as amended ("Securities Act"). The shares of USAmeriBancorp Common Stock will be offered at a price of \$12.50 per share. It is anticipated that such shares of USAmeriBancorp Common Stock will be

available for purchase by Liberty shareholders who are Accredited Investors based upon their proportionate ownership of Liberty Common Stock relative to all other eligible Liberty shareholders interested in purchasing the shares of USAmeriBancorp Common Stock. Any such offering of shares of USAmeriBancorp Common Stock may only be sold pursuant to, and shall be subject to such terms and conditions set forth in, the materials provided by USAmeriBancorp in connection with such stock offering. USAmeriBancorp intends that the shares of USAmeriBancorp Common Stock that will be sold in such offering will qualify for an exemption from the registration requirements of the Securities Act and the applicable state securities laws, pursuant to the exemption therefrom contained in Section 4(2) of the Securities Act and other exemptions contained in such state securities laws. To cause the exemption from registration contained in the Securities Act and applicable state securities laws, each purchaser of shares of USAmeriBancorp Common Stock in such stock offering will be required to acknowledge that, among other things, such shares will be subject to restrictions upon transfer in accordance with the Securities Act and applicable state securities laws and the certificates for such shares will bear a legend to that effect.

2. MERGER CONSIDERATION

2.1 Merger Consideration. Subject to the provisions of this Agreement, automatically, as a result of the Merger, and without any action on the part of any party or shareholder:

(A) Outstanding Bank and USAmeriBancorp Common Stock.

(1) Subject to the provisions of this Agreement, as of the Merger Effective Date and by virtue of the Merger and without any further action on the part of the holder of any shares of Liberty Common Stock or USAmeriBancorp Common Stock

(a) each share of USAmeriBancorp Common Stock issued and outstanding immediately prior to the Merger Effective Date shall remain issued and outstanding; and

(b) each share of Liberty Common Stock (excluding shares owned by Liberty, if any, and excluding shares held by shareholders who perfect their dissenters' rights of appraisal as provided in Section 2.5 of this Agreement) issued and outstanding immediately prior to the Merger Effective Date shall cease to be outstanding and shall be converted into and exchanged for the right to receive \$11.25 in cash payable to the holder thereof, without interest, upon the surrender of such shares of Liberty Common Stock in the manner provided for in this Agreement, less any required withholding taxes.

(c) The applicable amount of cash issuable in the Merger for each Liberty Common Stock pursuant to this Section, as may be adjusted as provided herein, shall be hereinafter referred to as the "Exchange Ratio." Any shares of Liberty Common Stock owned by Liberty shall be canceled and retired upon the Merger Effective Date and no

consideration shall be issued in exchange therefor. In the event that prior to the Merger Effective Date the shares of Liberty 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 such shares, an appropriate and proportionate adjustment shall be made in the amount of cash into which such shares shall be converted.

2.2 Shareholder Rights; Stock Transfers. On the Merger Effective Date, holders of Liberty Common Stock shall cease to be, and shall have no rights as stockholders of Liberty other than to receive the Merger consideration provided under Section 2.1 above or the amount set forth in Section 2.6 below (to the extent applicable). After the Merger Effective Date, there shall be no transfers on the stock transfer books of Liberty of the shares of Liberty Common Stock which were issued and outstanding immediately prior to the Merger Effective Date.

2.3 Exchange Procedures; Tender and Payment.

(A) Paying Agent; Deposit of Exchange Fund. Prior to the Merger Effective Date, Liberty, USAmeriBancorp and USAmeriBank shall execute a Paying Agent Agreement mutually acceptable to the parties designating a paying agent mutually agreed upon by Liberty and USAmeriBank as the paying agent for the cash consideration to be issued to Liberty stockholders in the Merger (the "Paying Agent"). No later than the Merger Effective Date, USAmeriBank shall deposit with the Paying Agent an amount equal to the product obtained by multiplying (i) the number of shares of capital stock of Liberty issued and outstanding on the date hereof multiplied by (ii) the Exchange Ratio by wire transfer of immediately available funds to be held for the benefit of the Liberty stockholders (other than stockholders who perfect their dissenters' rights of appraisal as provided in Section 2.5 of this Agreement) (the "Exchange Fund"). The Exchange Fund shall be held by the Paying Agent pursuant to the Paying Agent Agreement. Pursuant to the Paying Agent Agreement, the Paying Agent shall distribute the Exchange Fund to the stockholders pursuant to the allocation provided to the Paying Agent by Liberty prior to the Merger Effective Date. If the fees associated with the Paying Agent plus reimbursement of the Paying Agent's out of pocket expenses exceed \$6,000, then USAmeriBank shall act as Paying Agent, unless Liberty agrees to pay any such amount exceeding \$6,000.

(B) Distribution Procedures. Promptly, and in no event more than 10 days, following the Merger Effective Date, USAmeriBancorp shall cause the Paying Agent to mail to each former stockholder of record of Liberty immediately prior to the Merger Effective Date transmittal materials, including a letter of transmittal, in such form attached to the Paying Agent Agreement which shall set forth instructions for the exchange of such stockholder's certificates formerly representing Liberty Common Stock ("Old Certificates") for the Merger consideration set forth in Section 2.1 above. Upon delivery to the Paying Agent of the Old Certificates ~~representing all of such stockholder's shares of Liberty Common Stock~~ (or, if any of the Old Certificates are lost, stolen or destroyed, indemnity satisfactory to USAmeriBancorp, an Affidavit of Lost Certificate satisfactory to USAmeriBancorp) and the letter of transmittal, properly completed and duly executed by such stockholder in accordance with the instructions thereto, and such other documents as may be reasonably required pursuant to such instructions,

the holder of such shares of Liberty Common Stock shall be entitled to receive in exchange for each such share of Liberty Common Stock an amount equal to the Exchange Ratio, to be mailed promptly following the Paying Agent's receipt of such Old Certificates and such letter of transmittal. No interest shall be paid or accrued for the Merger consideration payable hereunder. If payment of the Exchange Ratio is to be made to a Person other than the Person in whose name the shares of Liberty Common Stock are registered, it shall be a condition of payment that the letter of transmittal be in proper form for such transfer and that the Person requesting such payment shall have paid all transfer and other taxes required by reason of the issuance to a Person other than the registered holder of the shares of Liberty Common Stock or such Person shall have established to the satisfaction of USAmeriBancorp that such tax either has been paid or is not applicable. Until receipt from a stockholder of a duly executed letter of transmittal as contemplated by this Section 2.3 (which such letter shall contain customary representations and warranties, including, but not limited to, such stockholders right, title and interest in his or her shares of Liberty Common Stock; his or her acceptance of the terms and conditions of the proposed transaction; and acknowledgement by each stockholder that any and all rights, preferences, privileges and obligations owed by Liberty to the stockholders shall cease and be of no further force or effect), each share of Liberty Common Stock shall be deemed at all times after the Merger Effective Date to represent only the right to receive an amount, in cash or other immediately available funds, equal to the Exchange Ratio, without interest thereon. The Paying Agent shall accept such letters of transmittal upon compliance with such reasonable terms and conditions as the Paying Agent may impose to effect an orderly exchange thereof in accordance with normal exchange practices.

(C) **Termination of Exchange Fund.** Any portion of the Exchange Fund (including any interest received with respect thereto) that remains undistributed to the stockholders of Liberty following the one year anniversary of the Merger Effective Date shall be delivered to USAmeriBank upon demand, and any stockholders who have not theretofore complied with this Section 2.3 shall thereafter be entitled to look only to USAmeriBank (subject to abandoned property, escheat or other similar Laws) only as general creditors thereof with respect to the Exchange Ratio, payable without any interest thereon.

2.4 **Options.** Any valid option to purchase shares of Liberty Common Stock (an "Liberty Option"), outstanding and unexercised immediately prior to the Merger shall, by virtue of the Merger, automatically and without any action on the part of the holder thereof, become and be converted into the right to receive an amount payable in cash equal to the product of (a) \$11.25, less the exercise price for such option, multiplied by (b) the number of shares of Liberty Common Stock subject to such Liberty Option. A list of all 215,000 outstanding Liberty Options is set forth on Schedule 2.4 of the Disclosure Schedule. All amounts payable to holders of Liberty Options pursuant to this section shall be paid by Liberty at the Closing to the persons listed on Schedule 2.4 in accordance with the allocation on such Schedule 2.4.

2.5 **Dissenters' Rights.** Any shareholder of Liberty who shall have perfected Dissenters' Rights in accordance with the provisions of the Florida Code (such laws are referred to as the "Dissent Provisions"), and has not effectively withdrawn or lost such holder's

dissenters' rights, and shall not be converted into or represent a right to receive the cash issuable in the Merger but the holder thereof shall be entitled only to such rights as are granted by the Dissent Provisions. If after the Merger Effective Date a dissenting shareholder of Liberty fails to perfect, or effectively withdraws or loses, such holder's dissenters right and payment for the shares of Liberty Common Stock, USAmeriBancorp shall issue and deliver the consideration to which such holder is entitled under Section 2.1 (without interest) upon surrender by such holder of the certificate or certificates representing the shares held by the holder.

3. ACTIONS PENDING MERGER

3.1 **Conduct of Business Prior to the Merger Effective Date.** Except as expressly contemplated or permitted by this Agreement, or as required by applicable Law, during the period from the date of this Agreement to the Merger Effective Date, Liberty shall (i) conduct its business in the usual, regular and ordinary course consistent with past practice, (ii) use commercially reasonable efforts to (a) maintain and preserve intact its business organization and advantageous customer and business relationships and (b) retain the services of its key officers and employees and (iii) take no action which would reasonably be expected to adversely affect or delay its ability to consummate the transactions contemplated hereby. For purposes of clarification, "commercially reasonable efforts" shall not include the taking of any action prohibited by this Agreement.

3.2 **Forbearances of Liberty.** From the date hereof until the Merger Effective Date, except as otherwise contemplated by this Agreement, without the prior written consent of USAmeriBancorp, Liberty shall not:

(A) **Capital Stock.** Issue, sell, transfer, dispose of, permit to become outstanding, authorize the creation of, pledge or encumber any shares of capital stock (except pursuant to the exercise of a Liberty Option), voting securities or other equity interest, or any options, warrants, convertible securities or other rights of any kind to acquire or receive any shares of capital stock, voting securities or other equity interests (including stock appreciation rights, phantom stock or similar instruments). The foregoing shall not preclude any transfer of outstanding shares of Liberty Common Stock.

(B) **Dividends, Etc.** Make, declare, pay or set aside for payment any dividend payable in cash, stock or property on or in respect of, or declare or make any distribution on, any shares of its capital stock, or directly or indirectly adjust, split, combine, reclassify, redeem, purchase or otherwise acquire any shares of its capital stock, except for cash distributions to Liberty shareholders as set forth on Schedule 3.2(B).

(C) **Compensation; Employment Agreements, Etc.** Enter into, adopt, establish, renew or allow to renew automatically, make any new grants of awards under, amend or otherwise modify or terminate any employment, consulting, transition, termination, severance, change in control, retention or similar agreements or arrangements, benefit, program, policy, trust, fund or other arrangement with any current or former director, officer, employee or

independent contractor of Liberty or grant any salary or wage increase or increase any other compensation or employee benefit (including incentive or bonus payments), except (provided that USAmeriBancorp is given five (5) Business Days advance written notice thereof): (i) for normal individual increases in base salary or wage rates to current employees, directors and officers in the ordinary and usual course of business consistent with past practice, provided that no such increase shall result in an annual adjustment of more than 5% of the aggregate base salary and wages payable in 2008; or (ii) for changes that are required by applicable Law or any Contract disclosed in Schedule 3.2(C), provided further that Liberty may permit automatic renewals or extend the term of any such Contract.

(D) **Hiring and Promotion.** Hire any person as an employee or promote any employee, except (provided that USAmeriBancorp is given five (5) Business Days advance written notice thereof) persons hired to fill any vacancies and whose employment is terminable at the will of Liberty, as the case may be, and whose base salary or wage rate, including any guaranteed bonus or any similar bonus, does not exceed \$50,000 per annum.

(E) **Benefit Plans.** Except as otherwise allowable pursuant to Sections 3.2(C) or (D), enter into, terminate, establish, adopt or amend (except as may be required by applicable Law) any Benefit Plans, take any action to grant or approve the grant of, accelerate the vesting, accrual or exercisability of stock options (except as expressly provided by this Agreement), restricted stock or other compensation or benefits payable thereunder or increase the participant pool of any Benefit Plan (except that it may renew its insurance policies and programs in effect as of the date of this Agreement upon terms and conditions acceptable to Liberty and USAmeriBancorp). Without limiting the generality of the foregoing, Liberty shall not take any action which has the effect of increasing its obligations or liabilities pursuant to any stock option plans or any other Benefit Plan, other than liabilities arising from actions permitted by clauses (C) or (D).

(F) **Dispositions.** Sell, transfer, lease, license, guarantee, mortgage, pledge, encumber or otherwise create any Lien on, dispose of or discontinue any of its assets, deposits, business or properties (other than sales of loans and loan participations made in the ordinary and usual course of business consistent with past practice and pursuant to Section 3.2(P)) except in the ordinary and usual course of business consistent with past practice and in a transaction that, together with all other such transactions, is not material to it.

(G) **Acquisitions.** Acquire (other than by way of foreclosures or acquisitions of control of property other than real estate in a bona fide fiduciary capacity or in satisfaction of indebtedness previously contracted in good faith, in each case in the ordinary and usual course of business consistent with past practice) all or any portion of the assets, deposits, business or properties of any other person except in the ordinary and usual course of business consistent with past practice and in a transaction that, together with all other such transactions, is not material to it, as the case may be (and, in the case of purchases of loans and loan participations, in accordance with Section 3.2(P)).

(H) **Capital Expenditures.** Make any capital expenditures other than (i) capital expenditures provided for in the capital budget furnished by it to USAmeriBancorp prior to the date of this Agreement, and (ii) other capital expenditures in the ordinary and usual course of business consistent with past practice in amounts not exceeding \$5,000 individually or \$20,000 in the aggregate.

(I) **Governing Documents.** Amend or otherwise change its Organizational Documents or any similar governing instruments.

(J) **Accounting Methods.** Implement or adopt any change in its book or tax accounting principles, practices or methods, other than as may be required by GAAP or regulatory accounting principles, and as concurred in by its independent public accountants.

(K) **Contracts.** Except with respect to Contracts relating to loans or loan participations made in the ordinary and usual course of business consistent with past practice and in accordance with Section 3.2(P), enter into, renew or allow to renew automatically, modify, amend or terminate, make any payment not then required under or waive, release or assign any material right or claims under, any Contract that calls for aggregate annual payments of \$10,000 or more and which is not terminable at will or with sixty (60) days or less notice without payment of any amount other than for products delivered or services performed through the date of termination.

(L) **Claims.** Enter into any settlement, compromise or similar agreement with respect to, or take any other significant action with respect to the conduct of, any litigation, claim, action, suit, hearing, investigation or other proceeding to which it is or becomes a party, which settlement, compromise, agreement or action involves payment by it, of an amount that exceeds \$5,000 individually or \$10,000 in the aggregate and/or would impose any material restriction on the business of Bank, or the Continuing Corporation or any of its Affiliates or create precedent for claims that are reasonably likely to be material to it or any of its subsidiaries, as the case may be.

(M) **Adverse Actions.** Take any action or omit to take any action that would result in (i) any of its representations and warranties set forth in this Agreement being or becoming untrue in any material respect at any time at or prior to the Merger Effective Date, (ii) any of the conditions to the Merger set forth in Article VI not being satisfied on a timely basis or (iii) a material violation of any provision of this Agreement, except as may be required by applicable Law

(N) **Risk Management.** Except as required by applicable Law or as would not have a Material Adverse Effect on Liberty, (i) implement or adopt any material change in its interest rate and other risk management policies, procedures or practices, (ii) fail to follow any of its existing policies or practices with respect to managing its exposure to interest rate and other risks or (iii) fail to use commercially reasonable efforts to avoid any material increase in its aggregate exposure to interest rate risk.

(O) **Indebtedness.** Incur or modify any indebtedness for borrowed money or other liability (other than deposits, federal funds borrowings and borrowings from the Federal Home Loan Bank) or assume, guarantee, endorse or otherwise as an accommodation become responsible for the obligations of any other person (other than in connection with payments, processing and similar matters in the ordinary course of business consistent with past practices and, as to letters of credit, such as are issued or renewed in accordance with Liberty's standard underwriting process).

(P) **Loans.** (i) Make any loan or loan commitment or renewal or extension thereof to any person which would, when aggregated with all outstanding loans or loan commitments thereof to such person and any affiliate or immediate family member of such person, exceed \$250,000 (on a secured basis) and \$50,000 (on an unsecured basis). New loans that total no greater than 10% of the aggregate principal amount outstanding to a person and their affiliates, provided that the new loan or existing aggregate loan relationship is not classified as "Special Mention" or worse by Liberty, would be exempt from this prohibition (these "ancillary authority" loans will be limited to \$100,000 on a secured basis and \$50,000 on an unsecured basis); (ii) take any action that would result in any discretionary releases of collateral or guarantees or otherwise restructure any loan or commitment for any loan with a principal balance in excess of \$250,000 (on a secured basis) and \$50,000 (on an unsecured basis) or (iii) purchase or sell any loan or loan participation exceeding \$250,000 (on a secured basis) and \$50,000 (on an unsecured basis).

(Q) **Investments.** (i) Other than in the ordinary and usual course of business consistent with past practice in amounts not to exceed \$500,000 individually or sales of overnight federal funds (limited to 25% of its shareholders' equity) or in securities transactions as provided in (ii) below, make any investment either by contributions to capital, property transfers or purchases of any property or assets of any person and (ii) other than purchases of direct obligations of the United States of America or obligations of U.S. government agencies which are entitled to the full faith and credit of the United States of America, in any case with a remaining maturity at the time of purchase of one year or less, purchase or acquire securities of any type; *provided, however,* that in the case of investment securities, it may purchase investment securities with an e-mail request (which request shall describe in detail the investment securities to be purchased and the price thereof) that USAmeriBancorp consents to the making of any such purchase, or has not responded in writing to such request within five (5) Business Day after Liberty sends such e-mail.

(R) **Taxes.** Commence, compromise or settle any litigation or proceeding with respect to any liability for Taxes, make or change any Tax election, file any amended Tax Return, enter into any closing agreement, surrender any right to claim a refund of Taxes, consent to any extension or waiver of the limitation period applicable to any Tax claim or assessment relating to it, take any action which is reasonably likely to have an adverse effect on any Tax position of it or, after the Merger, the Continuing Corporation or any of its Affiliates, change any of its methods of reporting income or deductions for Tax purposes or take any other action with

respect to Taxes that is outside the ordinary and usual course of business or inconsistent with past practice.

(S) **Operations.** Introduce any material new products or services; begin any material marketing campaigns; enter into any material new line of business; change its lending, underwriting, credit-grading or other material banking or operating policies in any material respects; or make or file any applications with any Regulatory Authority for the opening, relocation or closing of any, or open, relocate or close any, branch, servicing center or other office or facility.

(T) **Commitments.** Agree or commit to do any of the foregoing.

3.3 **Forbearances of USAmeriBancorp** From the date hereof until the Merger Effective Date, except as expressly contemplated by this Agreement, without the prior written consent of Liberty, USAmeriBancorp and USAmeriBank will not take, or omit to take, or agree or commit to take or omit to take, any action that would result in (i) any of USAmeriBancorp's or USAmeriBank's representations and warranties set forth in this Agreement being or becoming untrue in any material respect at any time at or prior to the Merger Effective Date, (ii) any of the conditions to the Merger set forth in Article VI not being satisfied or (iii) a material violation of any provision of this Agreement, except as may be required by applicable Law.

4. REPRESENTATIONS AND WARRANTIES.

4.1 For purposes of this Agreement, any reference in this Article IV to USAmeriBancorp shall mean, unless otherwise indicated, USAmeriBancorp on a consolidated basis, including its ownership of USAmeriBank. Except as set forth on the Disclosure Schedules attached hereto (the section numbers of which are numbered to correspond to the Section numbers of this Agreement to which they refer, it being understood that an item included on a Schedule referenced in any Section or subsection of this Article IV shall be deemed to relate to each other Section or subsection of this Article IV to the extent such relationship is readily apparent from a reasonable reading thereof), Liberty hereby represents and warrants to USAmeriBancorp and USAmeriBank, and USAmeriBancorp and USAmeriBank hereby represent and warrant to Liberty as follows:

(A) **Recitals.** The facts set forth in the Recitals of this Agreement with respect to it are true and correct.

(B) **Organization.** It is a corporation duly organized, validly existing, in good standing under the laws of the State of Florida.

(C) **Qualification.** It is duly qualified to do business and is in good standing in the State of Florida and in any other states of the United States and foreign jurisdictions where it owns, uses or leases property or the conduct or nature of its business requires it to be so qualified, licensed or admitted and in which the failure to be so qualified, licensed or admitted

and in good standing would reasonably be expected to have a Material Adverse Effect (as such term is defined in Section 8.3(H)). It has the corporate power and authority to carry on its business as it is now being conducted and to own all its material properties and assets. It has in effect all material federal, state and local authorizations, licenses and approvals necessary for it to own or lease its properties and assets and to carry on its business as it is now conducted.

(D) **Authority.** Subject to the regulatory approvals referred to in Section 6.2 and, as to Liberty, the approval by its shareholders, (i) it has the corporate power and authority to execute this Agreement; (ii) the execution, delivery and performance of its obligations under this Agreement have been duly and validly authorized by all necessary corporate action by it; and (iii) this Agreement constitutes a valid and binding obligation of it enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, receivership, conservatorship and other laws of general applicability relating to or affecting creditors rights and to general equity principles.

(E) **No Conflict.** Except as set forth on Schedule 4.1(E) and except for, in the cases of clauses (i), (iii), (iv), and (v), a result or results that would not reasonably be expected to have a Material Adverse Effect, the execution and delivery of this Agreement does not and the consummation of the transactions contemplated hereby by it will not (i) constitute a breach or violation of, or a default under, any law, rule or regulation (collectively "Laws") or any judgment, decree or order (collectively "Orders"), governmental permit or license (collectively "Licenses"), or contract, agreement, indenture or instrument (collectively "Contracts") of it or to which it or any of its properties is subject or by which any of them are bound; (ii) violate or conflict with the provisions of its articles of incorporation, charter or bylaws (or other comparable corporate charter documents); (iii) result in or give any person any right of termination, cancellation, acceleration or modification in or with respect to any Orders, Licenses or Contracts, (iv) result in or give to any person any additional rights or entitlement to increased, accelerated or guaranteed payments under any Orders, Licenses or Contracts, or (v) result in the creation or imposition of any lien or encumbrance on the assets or properties of it; and the consummation of the transactions contemplated by this Agreement will not require any consent or approval under any Laws, Orders, Licenses or Contracts or, except as set forth in Schedule 4.1(E), the consent or approval of any other party to any Orders, Licenses or Contracts other than the required approvals of applicable regulatory authorities referred to in Section 6.2.

(F) **No Regulatory Impediment.** It knows of no reason why the regulatory approvals referred to in Section 6.2 should not be obtained.

(G) **Merger Consideration.** As to USAmeriBank, USAmeriBank has funds in cash or the present ability to obtain funds in cash sufficient to consummate the transactions contemplated hereby and at the Closing will possess immediately available funds in cash sufficient to consummate the transactions contemplated hereby and affirms that it is not a condition to Closing or any of its other obligations under this Agreement that it obtain financing for or related to any of the transactions contemplated hereby.

(H) **Due Diligence.** It acknowledges that, except for the matters that are expressly covered by the provisions of this Agreement, including the Exhibits and Schedules, it is relying on its own investigation and analysis in entering into the Agreement and in consummating the transactions contemplated by the Agreement. It is an informed and sophisticated participant in the transactions contemplated by the Agreement and has undertaken such investigation, and has been provided with and has evaluated such documents and information as it has deemed necessary in connection with the execution, delivery and performance of this Agreement. It acknowledges that it is consummating the Merger without any representation or warranty, express or implied, by any other party or any advisor of any other party or any affiliate of any other party except as expressly set forth in this Agreement. In furtherance of the foregoing, and not in limitation thereof, it acknowledges that no other representation or warranty, express or implied, of any other party or any advisors of any other party or any affiliate of any other party, or any of their respective representatives, shall (except as otherwise expressly represented to in this Agreement) form the basis of any claim (other than a claim for fraud) against any other party, the advisors of any other party, the affiliates of any other party, or any of their respective representatives with respect thereto or with respect to any related matter. It has received advice from its own professional advisors regarding the tax consequences of the transactions contemplated by this Agreement and it has not received or relied upon any advice regarding tax matters from any other party or their respective representatives. Nothing contained in this Section 4.1(G) will be construed as a waiver of, or a defense to, claims for fraud.

4.2 In addition to the representations under Section 4.1 and except as set forth on the Disclosure Schedules attached hereto (the section numbers of which are numbered to correspond to the Section numbers of this Agreement to which they refer, it being understood that an item included on a Schedule referenced in any Section or subsection of this Article IV shall be deemed to relate to each other Section or subsection of this Article IV to the extent such relationship is readily apparent from a reasonable reading thereof), Liberty also represents and warrants to USAmeriBancorp and USAmeriBank as follows:

(A) **Absence of Changes.** Except as set forth on Schedule 4.2(A) and except in connection with the execution and delivery of this Agreement and the transactions to take place pursuant hereto on the Merger Effective Date, since December 31, 2007, there has not been any change, development or event which, individually or together with other such changes, developments or events, would reasonably be expected to have a Material Adverse Effect on its business, financial condition or results of operations. Without limiting the foregoing, except as disclosed in Schedule 4.2(A) or in the Unaudited Financial Statements and except in connection with the execution and delivery of this Agreement and the transactions to take place pursuant to this Agreement on the Merger Effective Date, there has not occurred between December 31, 2007 and the date hereof:

(1) any declaration, setting aside or payment of any dividend or other distribution in respect of its capital stock, or any direct or indirect redemption, purchase or other acquisition by it of any such capital stock of, or any Options with respect to, it;

(2) any authorization, issuance, sale or other disposition by it of any shares of capital stock or any Options or any modification or amendment of any right of any holder of any outstanding shares of capital stock or Options (except for the issuance of shares upon the exercise of Options);

(3) (x) any increase in the salary, wages or other compensation of any officer, employee or consultant of it whose annual salary is, or after giving effect to such change would be, \$100,000 or more; (y) any establishment or modification of (A) targets, goals, pools or similar provisions in respect of any fiscal year under any benefit agreement, employment contract or other employee compensation arrangement or (B) salary ranges, increase guidelines or similar provisions in respect of any benefit agreement, employment contract or other employee compensation arrangement; or (z) any adoption, entering into, amendment, modification or termination (partial or complete) of any benefit agreement except to the extent required by applicable Laws and, in the event compliance with legal requirements presented options, only to the extent the option which it reasonably believed to be the least costly was chosen;

(4) any borrowing by it except in the ordinary course of business;

(5) with respect to any property securing any loan or other credit arrangement made by it, to its Knowledge, any physical damage, destruction or other casualty loss (whether or not covered by insurance) in an aggregate amount exceeding \$100,000;

(6) any material change in (w) any pricing, investment, accounting, financial reporting, credit, allowance or tax practice or policy, (x) any method of calculating any bad debt, contingency or other reserve for accounting, financial reporting or tax purposes, (y) its fiscal year or (z) any credit policy or standard, including, without limitation, criteria relating to placement of a debtor on any credit watch or other similar list maintained by it;

(7) with respect to any loan or other credit arrangement made by it, any write off or write down of or any determination to write off or write down any such loan or other credit arrangement in an aggregate amount exceeding \$10,000 per month;

(8) except for the sale of foreclosed properties, or properties received in lieu of foreclosure in the ordinary course of business consistent with past practice, any acquisition or disposition of, or incurrence of a lien or other encumbrance on, any of its assets and properties;

(9) ~~any (x) amendment of its articles of incorporation, articles of association, or bylaws (or other comparable corporate charter documents), (y) reorganization, liquidation or dissolution of it, or (z) merger, consolidation or business combination involving it and any other person;~~

- (10) any capital expenditures or commitments for additions to its property or equipment constituting capital assets in an aggregate amount exceeding \$100,000;
- (11) any commencement or termination by it of any line of business;
- (12) any transaction by it with any officer, director, affiliate or associate of it or any affiliate or associate of any such officer, director or affiliate (A) outside the ordinary course of business consistent with past practice or (B) other than on an arm's-length basis, other than pursuant to any Contract in effect on December 31, 2007 and disclosed in Schedule 4.2(A);
- (13) any agreement to do or engage in any of the foregoing;
- (14) any other transaction involving, or development affecting it outside the ordinary course of business consistent with past practice.

USAmeriBancorp and USAmeriBank acknowledge that there may be disruption to Liberty's business as a result of the announcement by USAmeriBancorp and USAmeriBank of their intention to consummate any of the transactions contemplated by this Agreement (and there may be disruption to Liberty's business as a result of the execution of this Agreement and the consummation of the transactions contemplated hereby), and each of USAmeriBancorp and USAmeriBank acknowledges that such disruptions to the extent attributable to such announcement or the execution of this Agreement or the consummation of the transactions contemplated hereby do not and shall not constitute a breach of this Section 4.2(A), but nothing in such acknowledgement is intended to negate any representation, warranty or covenant of Liberty.

(B) **Material Contracts.** Except as set forth in Schedule 4.2(B) or in its Financial Statements, and except for this Agreement, it is not bound by any material contract, agreement or other arrangement to be performed after the date hereof. For purposes of this Section 4.2(B), "material" shall mean any contract, agreement or arrangement that calls for aggregate annual payments of \$20,000 or more and which is not terminable at will or with 60 days or less notice without payment of any amount other than for products delivered or services performed through the date of termination.

(C) **Real Property.** Schedule 4.2(C) lists and describes briefly all of the real property owned in fee or leased by it. It has a valid leasehold interest in the real properties leased by it as lessee.

(1) Each lease set forth in Schedule 4.2(C) is a legal, valid and binding agreement of Liberty, enforceable against Liberty in accordance with its terms (except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, receivership, conservatorship, moratorium, or similar laws affecting the enforcement of creditors' rights generally and except that the availability of the equitable remedy of specific performance or injunctive relief is subject to the discretion of the court before which any proceeding may be

brought), and it has received no notice of any, default, or any condition or event which, after notice or lapse of time or both, would constitute a default thereunder. It does not owe any brokerage commissions with respect to any such leased space.

(2) Except as disclosed in Schedule 4.2(C), the improvements on the real property identified therein are in good operating condition and in a state of good maintenance and repair, ordinary wear and tear excepted, are adequate and suitable for the purposes for which they are presently being used and, to its knowledge, there are no condemnation or appropriation proceedings pending or threatened against any of such real property or the improvements thereon.

(D) **Tangible Personal Property.** It is in possession of and has good title to, valid leasehold interests in, or valid rights under contract to use, all material items of tangible personal property used in the conduct of its business. All such material tangible personal property is free and clear of all liens, other than liens disclosed in Schedule 4.2(D), and has been maintained in accordance with Liberty's normal practice and is in usable condition for the operation of Liberty's business, ordinary wear and tear and aging excepted, and its use complies in all material respects with all applicable laws.

(E) **Intellectual Property Rights.** Schedule 4.2(E) lists all Intellectual Property (as such term is hereinafter defined) owned by it or used in its business and operations as currently conducted. Except as set forth in Schedule 4.2(E), it has such ownership and use (free and clear of all liens) of, or rights by license, lease or other agreement to use (free and clear of all liens), such Intellectual Property as is necessary to permit it to conduct its business and operations as currently conducted, except where the failure to have any such right would not reasonably be expected to have a Material Adverse Effect on its business, financial condition or results of operations. Except as disclosed in Schedule 4.2(E), in respect of such Intellectual Property (i) all required filings have been made (or appropriate remedial steps have been taken) and all maintenance, filing, and other fees have been paid (or appropriate remedial steps have been taken), and no additional maintenance, filing or other fees are required to be paid prior to the date hereof, (ii) it has taken steps reasonable under the circumstances to protect the secrecy, confidentiality and value of its trade secrets, except where a failure to protect such trade secrets has not had and would not reasonably be expected to have a Material Adverse Effect, (iii) it has not received any notice that it is in default (or with the giving of notice or lapse of time or both, would be in default) under any license to use such Intellectual Property, and (iv) it has no Knowledge of any infringement of any of its Intellectual Property rights by any third party. Within the last twelve months, it has not received written notice alleging or asserting that it is infringing any Intellectual Property right of any third party. In addition, to its Knowledge, the Intellectual Property owned by it is not infringing upon the Intellectual Property rights of any other person. For purposes of this Agreement "Intellectual Property" means all material patents and patent rights, trademarks and trademark rights, trade names and trade name rights, service marks and service mark rights, service names and service name rights, brand names, inventions, processes, formulae, copyrights and copyright rights, trade dress, business and product names, logos, slogans, trade secrets, industrial models, processes, designs, methodologies, computer

programs (including all source codes) and related documentation, software license and sub-license agreements, end-user license agreements for software, software maintenance agreements, technical information, manufacturing, engineering and technical drawings, know-how and all pending applications for and registrations of patents, trademarks, service marks and copyrights.

(F) **Employee Benefit Plans.** Except as Previously Disclosed:

(1) Schedule 4.2(F) contains a true and complete list of each "employee benefit plan" (within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), including, without limitation, "multiemployer plans" within the meaning of Section 4001(a)(3) of ERISA), and all stock purchase, stock option, severance, employment, change-in-control, fringe benefit, vacation, perquisite, collective bargaining, bonus, incentive, deferred compensation, employee loan and all other material employee benefit plans, agreements, programs, policies or other arrangements, whether or not subject to ERISA (including any funding mechanism therefore now in effect or required in the future as a result of the transaction contemplated by this Agreement or otherwise), whether formal or informal, oral or written, legally binding or not, under which (i) any current or former employee, director or independent contractor of it (the "Employees") has any present or future right to benefits and which are contributed to, sponsored by or maintained by it or (ii) it has any liability, contingent or otherwise. All such plans, agreements, programs, policies and arrangements shall be collectively referred to as the "Benefit Plans".

(2) With respect to each Benefit Plan, it has provided to USAmeriBancorp a current, accurate and complete copy (or, to the extent no such copy exists, an accurate description) thereof and, to the extent applicable: (i) any related adoption agreement, trust agreement or other funding instrument; (ii) the most recent determination letter, if applicable; (iii) any summary plan description and other written communications (or a description of any oral communications) by it to its Employees concerning the extent of the benefits provided under a Benefit Plan; (iv) for the three most recent years and as applicable, (A) the Form 5500 and attached schedules, (B) audited financial statements and (C) actuarial valuation reports; and (v) all filings made by it within the last 3 years with any governmental authority including but not limited to any filings under the Voluntary Compliance Resolution or Closing Agreement Program or the Department of Labor Delinquent Filer Program.

(3) (i) Each Benefit Plan has been established, operated and administered in all material respects in accordance with its terms and in compliance with the applicable provisions of ERISA, the Code and other applicable laws, rules and regulations; (ii) each Benefit Plan which is intended to be qualified within the meaning of Sections 401(a) or 4975(e)(7) of the Code is so qualified and has received a favorable determination or opinion letter as to its qualification, and each trust established in connection with any Benefit Plan which is intended to be exempt from federal taxation under Section 501(a) of the Code is so exempt, and nothing has occurred, whether by action or failure to act, that could reasonably be expected to cause the loss of such qualification or exempt status; (iii) no event has occurred and no condition exists with respect to any Benefit Plan that would reasonably be expected to subject it,

either directly or by reason of its affiliation with any member of its "Controlled Group" (defined as any organization which is a member of a controlled group of organizations within the meaning of Sections 414(b), (c), (m) or (o) of the Code), to any material tax, fine, lien, penalty or other liability imposed by ERISA, the Code or other applicable Laws, rules and regulations; (iv) for each Benefit Plan with respect to which a Form 5500 has been filed, no material change has occurred with respect to the matters covered by the most recent Form since the date thereof that would result in increased liability to it; (v) no nonexempt "prohibited transaction" (as such term is defined in Section 406 of ERISA and Section 4975 of the Code) has occurred with respect to any Benefit Plan; (vi) all prior employer (including pre-tax employee) contributions and payments or benefits provided pursuant to such Benefit Plans and all other compensatory payments made to any current or former director, officer, employee or consultant of it have been deductible under the Code, including under Sections 162 and 404, as applicable; (vii) it has not incurred any current or projected liability in respect of post-employment or post-retirement health, medical or life insurance benefits for its current, former or retired employees or any of its subsidiaries, except as required to avoid an excise tax under Section 4980B of the Code or otherwise except as may be required pursuant to any other applicable Law, and it does not have any liability under Part 6 of Subtitle B of Title I of ERISA with respect to unsatisfied continuation coverage obligations under a healthcare plan maintained or formerly maintained by any member of their "Controlled Group"; and (viii) neither it nor to its Knowledge, any other Person has any express or implied commitment, whether legally enforceable or not, to modify, change or terminate any Benefit Plan, other than with respect to a modification, change or termination required by ERISA, the Code or other applicable Law.

(4) No Benefit Plan is: (i) a "multiemployer plan" (as defined in Section 4001(a)(3) of ERISA) and neither it, nor any member of its Controlled Group has at any time sponsored or contributed to, or has or had any liability or obligation in respect of, any multiemployer plan; (ii) a pension plan (within the meaning of Section 3(2) of ERISA) subject to Section 412 of the Code or Title IV of ERISA; (iii) a multiple employer plan for which it could incur liability under Sections 4063 or 4064 of ERISA; or (vi) a voluntary employee benefit association under 501(c)(9) of the Code.

(5) With respect to any Benefit Plan, (i) no actions, suits or claims (other than routine claims for benefits in the ordinary course) are pending or, to its Knowledge, threatened; (ii) to its Knowledge, no facts or circumstances exist that could give rise to any such actions, suits or claims; (iii) no administrative investigation, audit or other administrative proceeding by the Department of Labor, the Internal Revenue Service or other governmental agencies are pending, threatened or in progress; and (iv) all tax, annual reporting and other governmental filings required by ERISA, the Code or other applicable Law with respect to the Benefit Plans have been timely filed with the appropriate Regulatory Authority and all notices and disclosures have been timely provided to participants.

(6) Except as set forth on Schedule 4.2(F) or as contemplated by Section 2.4, neither the execution of this Agreement, shareholder approval of the Merger nor the consummation of the transactions (either alone or in combination with any subsequent event)

contemplated hereby will (i) entitle any of its Employees to severance pay or any increase in severance pay upon any termination of employment after the date hereof, (ii) accelerate the time of payment or vesting or result in any payment or funding (through a grantor trust or otherwise) of compensation or benefits under, increase the amount payable or result in any other obligation pursuant to, any of the Benefit Plans, (iii) limit or restrict the right of it or, after the consummation of the transactions contemplated hereby, USAmeriBancorp or the Continuing Corporation to merge, amend or terminate any of the Benefit Plans or result in any liability on account of such Merger, amendment or termination (other than liability for ordinary administrative expenses typically incurred under such Benefit Plan), (iv) cause it or, after the consummation of the transactions contemplated hereby, USAmeriBancorp or the Continuing Corporation to record additional compensation expense on its income statement with respect to any outstanding stock option or other equity-based award or (v) result in payments under any of the Benefit Plans or otherwise which would not be deductible under section 280G of the Code.

(G) **Labor Matters.** It is not a party to, or bound by any collective bargaining agreement, contract or other agreement or understanding with a labor union or labor organization, nor is it the subject of a proceeding asserting that it has committed an unfair labor practice (within the meaning of the State Labor Relations Act) or seeking to compel it to bargain with any labor organization as to wages and conditions of employment, nor is there any strike or other labor dispute involving it, pending or, to its Knowledge, threatened, nor is it aware of any activity involving its employees seeking to certify a collective bargaining unit or engaging in any other organization activity.

(H) **Insurance.** Schedule 4.2(H) contains a true and complete list (including the names and addresses of the insurers, the expiration dates thereof, the annual premiums and payment thereof and a brief description of the interests insured thereby) of all liability, property, workers' compensation, directors' and officers' liability and other insurance policies currently in effect that insure the business, operations or employees of it or affect or relate to the ownership, use or operation of any of its assets and properties and that (i) have been issued to it or (ii) have been issued to any person for their benefit. The insurance coverage provided by the policies described in clause (i) above will not terminate or lapse by reason of the transactions contemplated by this Agreement. Each policy listed in Schedule 4.2(H) is in full force and effect, no premiums due thereunder have not been paid and neither it nor the person to whom such policy has been issued has received any notice of cancellation or termination in respect of any such policy or is in default thereunder. It has not received notice that any insurer under any such insurance policy (x) is denying liability with respect to a claim thereunder or defending under a reservation of rights clause or (y) has filed for protection under applicable bankruptcy or insolvency laws or is otherwise in the process of liquidating or has been liquidated. Schedule 4.2(H) sets forth a complete and accurate list of all claims in excess of \$25,000 made under the policies and binders described in clause (i) above since December 31, 2006. It does not have or maintain any self-insurance arrangement.

(I) **Affiliate Transactions.** Except as disclosed in Schedule 4.2(I), in any other Schedule to this Agreement or in the Financial Statements, as of the date of this Agreement

there are no intercompany liabilities between Liberty, on one hand, and USAmeriBancorp, USAmeriBank and any of their direct or indirect subsidiaries, on the other hand. Except as disclosed in Schedule 4.2(I) and except for services rendered as an officer or director of Liberty, no officer, director, affiliate or associate of Liberty, nor any associate of any such officer, director or affiliate, provides or causes to be provided any assets, services or facilities to Liberty; Liberty does not provide or cause to be provided any assets, services or facilities to any such officer, director, affiliate or associate; and Liberty does not beneficially own, directly or indirectly, any assets of any such officer, director, affiliate or associate. Except as disclosed in Schedule 4.2(I), in any other Schedule to this Agreement or in the Financial Statements, each of the liabilities and transactions referred to in the previous sentence was incurred or engaged in, as the case may be, on an arm's length basis. Except as disclosed in Schedule 4.2(I), since December 31, 2007, all settlements between Liberty and its respective officers, directors, affiliates and associates, have been made, and all allocations of intercompany expenses have been applied, in the ordinary course of business consistent with past practice.

(J) **Asset Classification.** Set forth on Schedule 4.2(J) is a list, accurate and complete in all material respects, of all loans, extensions of credit or other assets that are classified as of June 30, 2008 by it (the "Asset Classification"); and no amounts of loans, extensions of credit or other assets that are classified by it as of June 30, 2008 by any regulatory examiner as "Other Assets Especially Mentioned", "Substandard", "Doubtful," "Loss," or words of similar import are excluded from the amounts disclosed in the Asset Classification, other than amounts of loans, extensions of credit or other assets that were charged off by it prior to June 30, 2008. The allowances for loan losses disclosed in the Financial Statements were, and the allowances for loan losses for periods ending after the date of this Agreement will be, adequate as of the date thereof, under generally accepted accounting principles consistently applied to banks and bank holding companies and under all other regulatory requirements, for all losses reasonably anticipated in the ordinary course of business as of the date thereof based on information available as of such date, and the assets comprising other real estate owned and in-substance foreclosures included in any of their non-performing assets are carried net of reserves at the lower of cost or market value based on current independent appraisals or current management appraisals.

(K) **Environmental Matters.** Except as set forth in Schedule 4.2(K):

(1) It is in material compliance with all applicable Environmental Laws. There are no actions, suits or proceedings, and Liberty has received no written notice of any demand, claim, or investigation including, without limitation, written notices, demand letters or requests for information from any environmental agency or other person, instituted, or to Liberty's knowledge, pending or threatened relating to the liability of any property owned or operated by it under any Environmental Law.

(2) During the past twelve months, it has not received any notice, citation, summons or order, complaint or penalty assessment by any governmental or other entity or person with respect to a property in which it holds a security interest or other lien for (i) any

alleged violation of Environmental Law, (ii) any failure to have any environmental permit, certificate, license, approval, or registration, or (iii) any use, possession, generation, treatment, storage, recycling, transportation or disposal of any Hazardous Material (as such term is defined in subsection (3) below).

(3) The following definitions apply for purposes of this Agreement: "Environmental Law" means (i) any federal, state or local law, statute, ordinance, rule, regulation, code, license, permit, authorization, approval, consent, order, judgment, decree, injunction, requirement or agreement with any governmental entity relating to (a) the protection, preservation or restoration of the environment, (including, without limitation, air, water vapor, surface water, groundwater, drinking water supply, surface land, subsurface land, and animal life or any other natural resource), or to human health or safety, or (b) the exposure to, or the use, storage, recycling, treatment, generation, transportation, processing, handling, labeling, production, release or disposal of Hazardous Material, in each case as amended and as in effect on or prior to the date of this Agreement and includes, without limitation, the Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Superfund Amendments and Reauthorization Act, the Federal Water Pollution Control Act of 1972, the Federal Clean Air Act, the Federal Clean Water Act, the Federal Resource Conservation and Recovery Act of 1976 (including the Hazardous and Solid Waste Amendments thereto), the Federal Solid Waste Disposal and the Federal Toxic Substances Control Act, and the Federal Insecticide, Fungicide and Rodenticide Act, the Federal Occupational Safety and Health Act of 1970, each as amended and as now in effect, and (ii) any common law or equitable doctrine (including, without limitation, injunctive relief and tort doctrines such as negligence, nuisance, trespass and strict liability) that may impose liability or obligations for injuries or damages due to, or threatened as a result of, the presence of or exposure to any Hazardous Material; "Hazardous Material" means any substance presently listed, defined, designated or classified as hazardous, toxic, radioactive or dangerous, or otherwise regulated, under any Environmental Law, whether by type or quantity, and includes, without limitation, any oil or other petroleum product, toxic waste, pollutant, contaminant, hazardous substance, toxic substance, hazardous waste, special waste or petroleum or any derivative or by-product thereof, radon, radioactive material, asbestos, asbestos containing material, urea formaldehyde foam insulation, lead and polychlorinated biphenyl.

The representations in this Section 4.2(K) are the sole and exclusive representations of Liberty with respect to all matters arising under or relating to any Environmental Law.

(L) **Tax Matters.**

(1) Except as set forth in Schedule 4.2(L), (i) all reports and returns with respect to material Taxes (as defined below) that are required to be filed by or with respect to it prior to the date hereof or the Closing Date (collectively, the "Tax Returns"), have been or will be timely filed, or requests for extensions have been timely filed and have not expired except to the extent any such filing is not yet due or all such failures to file, taken together, are not reasonably likely to have either by themselves or in the aggregate with one or more other

events, occurrences or circumstances, a Material Adverse Effect on it, and such Tax Returns were true, complete, accurate and correct in all material respects, (ii) all taxes (which shall mean federal, state, local or foreign income, gross receipts, windfall profits, severance, property, production, sales, use, occupancy, license, excise, franchise, employment, withholding or similar taxes imposed on the income, properties, operations or activities of it, together with any interest, additions, or penalties with respect thereto and any interest in respect of such additions or penalties, collectively the "Taxes") shown to be due on the Tax Returns have been or will be paid in full on or before the due date or are being or will be contested in good faith and adequately reserved for on its consolidated balance sheet, and (iii) none of the Tax Returns are currently the subject of audit by any taxing authority.

(2) Liberty made a valid election under Subchapter S of the Code, and such election became effective on November 15, 2004. Liberty is, and has been since the date of its incorporation, an S corporation (within the meaning of Section 1361 of the Code).

(M) **Subsidiaries.** Liberty does not own any shares of another corporation.

(N) **Financial Statements.** Prior to the execution of this Agreement, Liberty has delivered to USAmeriBancorp true and complete copies of the following financial statements (which are attached as Schedule 4.2(N)):

(1) Its audited balance sheets as of December 31, 2007 and 2006 and the related audited statements of operations, stockholders' equity and cash flows for the fiscal year then ended (the "Audited Financial Statements"), together with a true and correct copy of the report on such audited information by its independent accountants, and all letters from such accountants with respect to the results of such audits; and

(2) its unaudited balance sheets as of June 30, 2008 and the related unaudited statements of operations, stockholders' equity and cash flows for the period then ended (the "Unaudited Financial Statements"). The Audited Financial Statements and the Unaudited Financial Statements are sometimes hereinafter collectively referred to as the "Financial Statements". All such Financial Statements were prepared in accordance with generally accepted accounting principles ("GAAP") consistently applied and fairly present (subject, in the case of the Unaudited Financial Statements, to normal and recurring year-end adjustments which will not, individually or in the aggregate, be materially adverse and to the absence of footnote disclosures that, if presented, would not differ materially from those included in the most recent Audited Financial Statements) in all material respects its financial condition and results of operations at and as of the respective dates thereof and for the respective periods covered thereby.

(O) **No Undisclosed Liabilities.** Except as and to the extent reflected on the balance sheet included in its Unaudited Financial Statements, there are no material liabilities of a nature required to be reflected on a balance sheet in accordance with GAAP other than liabilities incurred after June 30, 2008, in the ordinary course of business consistent with past practice

which in the aggregate are not material to its business, financial condition or results of operations.

(P) **Litigation; Regulatory Action.** Except as set forth in Schedule 4.2(P) or in its Financial Statements, no litigation, proceeding, or controversy before any court or governmental agency is pending which, either by itself or in the aggregate with one or more other events, occurrences or circumstances, is reasonably likely to have a Material Adverse Effect on it and, to its Knowledge, no such litigation, proceedings or controversy has been threatened; and except as set forth in Schedule 4.2(P), it is not a party to, or subject to any order, decree, agreement, memorandum of understanding or similar arrangement with, or a commitment letter or similar submission to, or has adopted any board resolution at the request of, any federal, state or other government, governmental agency or authority charged with the supervision or regulation of financial institutions or their holding companies or the issuance of securities or engaged in the insurance of deposits (including, without limitation, the Florida Office of Financial Regulation, the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation) or the supervision or regulation of it or its properties (collectively, the "Regulatory Authorities"); and it has not been advised by any Regulatory Authority that such authority is contemplating issuing or requesting (or is considering the appropriateness of issuing or requesting) any such order, decree, agreement, memorandum of understanding, commitment letter or similar submission or any such resolutions.

(Q) **Compliance with Laws.** It is in material compliance, in the conduct of its business, with all applicable federal, state and local statutes, laws, regulations, ordinances, rules, judgments, orders or decrees applicable thereto or to the employees conducting such businesses, including, without limitation, the Equal Credit Opportunity Act, the Fair Housing Act, the Community Reinvestment Act, the Home Mortgage Disclosure Act, all other applicable fair lending laws relating to discriminatory business practices, the Currency and Foreign Transaction Reporting Act, as amended ("Bank Secrecy Act"), Title III of the USA Patriot Act and all other applicable secrecy laws; and it has all permits, licenses, authorizations, orders and approvals of, and has made all filings, applications and registrations with, all Regulatory Authorities that are required in order to permit it to conduct its business substantially as presently conducted; all such permits, licenses, certificates of authority, orders and approvals are in full force and effect and, to its Knowledge, no suspension or cancellation of any of them is threatened; and it has not received notification or communication from any Regulatory Authority (i) asserting that it is not in material compliance with any of the statutes, regulations, or ordinances which such Regulatory Authority enforces or (ii) threatening to revoke any license, franchise, permit, or governmental authorization or (iii) threatening or contemplating revocation or limitation of, or which would have the effect of revoking or limiting, federal deposit insurance (nor, to its Knowledge, do any grounds for any of the foregoing exist).

(R) **Defaults.** It is not in default under any material contract, agreement, commitment, arrangement, lease, insurance policy or other instrument to which it is a party, by which its assets, business, or operations may be bound or affected, or under which it or its assets, business, or operations receives benefits, and there has not occurred any event that, with the

lapse of time or the giving of notice or both, would constitute such a default. It is not subject to, or bound by, any Contract containing covenants which (i) limit its ability to compete in any material line of business or with any person, or (ii) involve any material restriction of geographical area in which, or method by which, it may carry on its business (other than as may be required by law or any applicable Regulatory Authority).

(S) **Brokers; Advisors.** Except as set forth in Schedule 4.2(S), all negotiations relative to this Agreement and the transactions contemplated hereby have been carried on by it and its agents directly with the other parties hereto and their agents and no action has been taken by it that would give rise to any valid claim against any party hereto for a brokerage commission, finder's fee or other like payment.

(T) **Takeover Laws; Dissenters' Rights.** It has taken all necessary action to exempt the transactions contemplated by this Agreement from, or the transactions contemplated by this Agreement are otherwise exempt from, the requirements of any "moratorium," "control share," "fair price," "affiliate transaction," "control transaction," "business combination" or other anti-takeover laws and regulations (collectively, the "Takeover Laws") of the State of Florida.

(U) **Articles and Bylaws.** It has previously delivered to USAmeriBancorp its articles of incorporation and bylaws (or other comparable corporate charter documents) which are true, correct and complete copies of such documents as in effect on the date of this Agreement.

(V) **Capital Shares.** The outstanding shares of Liberty Common Stock are duly authorized, validly issued, fully paid and nonassessable. Except for Liberty Options and except as provided in Liberty's articles of incorporation, as amended, there are no outstanding options, warrants, securities, subscriptions, rights or other contractual agreements or arrangements that give any person the right to purchase or otherwise receive or be issued any capital stock of Liberty or any security of any kind convertible into or exercisable or exchangeable for any shares of capital stock of Liberty or to receive any benefits or rights similar to any rights enjoyed by or accruing to a holder of shares of capital stock (including any rights to participate in the equity, income or election of directors of Liberty).

(W) **Disclosure.** No representation or warranty of Liberty in this Agreement, and no statement contained in the Schedules hereto or in any certificate, list or other writing furnished by Liberty pursuant to any provision of this Agreement contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements herein or therein, in the light of the circumstances under which they were made, not misleading.

5. COVENANTS.

5.1 **Commercially Reasonable Efforts.** Subject to the terms and conditions of this Agreement, each party hereto agrees to cooperate with the other and use its commercially reasonable efforts in good faith to take, or cause to be taken, all actions, and to do, or cause to be

done, all things necessary, proper or desirable, or advisable on its part under this Agreement or under applicable Laws to consummate and make effective the Merger and the other transactions contemplated hereby as promptly as practicable, including the satisfaction of the conditions set forth in Article VI hereof.

5.2 Stockholder Approval.

(A) As soon as practicable following the date of this Agreement, Liberty, acting through its Board of Directors, shall take all action necessary to duly call and give notice of, a meeting of its stockholders (including any adjournment or postponement, the "Liberty Meeting"), to be held within thirty (30) calendar days after the Proxy Statement (as defined in Section 5.3) is first sent or mailed to its stockholders, for the purpose of adopting this Agreement and considering and voting upon any other matters required to be approved by Liberty's stockholders for consummation of the Merger. Liberty shall solicit from its stockholders proxies in favor of the adoption and approval of this Agreement and the Merger and shall take all other action necessary or advisable to secure the vote or consent of its stockholders to adopt and approve this Agreement and the Merger.

(B) Except as otherwise permitted herein, the Board of Directors of Liberty shall recommend adoption of this Agreement by the stockholders of Liberty and shall not (x) withdraw, modify or qualify in any manner adverse to USAmeriBancorp such recommendation or (y) take any other action or make any other public statement in connection with Liberty Meeting inconsistent with such recommendation.

(C) Notwithstanding the foregoing, to the extent that Liberty's Board of Directors determines in good faith, in accordance with and subject to Section 5.6, that compliance with any of the terms set forth in Sections 5.2(A) and 5.2(B) is inconsistent with its fiduciary obligations under applicable Law after receipt of advice from its outside counsel, Liberty will not be required to comply with such terms and its non-compliance will not be deemed to be a breach of this Agreement.

5.3 Proxy Statement.

(A) Liberty shall as promptly as practicable following the date hereof in conjunction with USAmeriBancorp prepare and mail to its stockholders at its own expense a notice of meeting, proxy statement and form of proxy in accordance with applicable Law (the "Proxy Statement"). Liberty shall provide an initial draft of the Proxy Statement for the parties to mutually work upon, review and finalize. Each party shall have the opportunity to review and comment on the Proxy Statement and Liberty shall not mail the Proxy Statement without USAmeriBancorp's prior written consent (such consent not to be unreasonably withheld or delayed). Except as otherwise permitted herein, the Proxy Statement shall include the recommendation of Liberty's Board of Directors in favor of adoption and approval of this Agreement and the transactions contemplated hereby.

(B) Liberty agrees that the Proxy Statement and any amendment or supplement thereto shall, at the date of mailing to stockholders and at the time of Liberty Meeting, not contain 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, in the light of the circumstances under which they were made, not misleading. Each of Liberty and USAmeriBancorp agrees that if it shall become aware prior to the time of Liberty Meeting of any information furnished by such party that would cause any of the statements in the Proxy Statement to be false or misleading with respect to any material fact, or to omit to state any material fact necessary to make the statements therein not false or misleading, to promptly inform the other party thereof and to take the necessary steps to correct the Proxy Statement.

(C) Notwithstanding the foregoing, to the extent that Liberty's Board of Directors determines in good faith, in accordance with and subject to Section 5.6, that recommending the adoption and approval of this Agreement and the transactions contemplated hereby is inconsistent with its fiduciary obligations under applicable Law after receipt of advice from its outside counsel, Liberty will not be required to make such recommendation and its failure to make such recommendation will not be deemed to be a breach of this Agreement.

5.4 **Press Release.** Except as otherwise required by Law, the parties hereto shall consult with each other before issuing any press release with respect to the Merger or this Agreement and shall not issue any such press release or make any such public statements without the prior consent of the other parties, which consent shall not be unreasonably withheld or delayed. The parties hereto shall cooperate to develop all public announcement materials and make appropriate management available at presentations related to the transactions contemplated by this Agreement as reasonably requested by the other party.

5.5 **Access; Information.**

(A) Each party agrees that upon reasonable notice and subject to applicable Laws relating to the exchange of information, it shall afford the other party and its officers, employees, counsel, accountants and other authorized representatives reasonable access during normal business hours throughout the period prior to the Merger Effective Date to its books, records (including Tax Returns and work papers of independent auditors), Contracts, properties and personnel and to such other information as the other party may reasonably request and, during such period, it shall furnish promptly to the other party all information concerning its business, properties and personnel as the other party may reasonably request, provided that such investigation shall not unreasonably interfere with the operations of the parties..

(B) Without limiting the generality of Section 5.5(A), prior to the Merger Effective Date, upon reasonable prior notice and subject to applicable Laws relating to the exchange of information, each party's representatives shall have the right to conduct a review to determine the accuracy of the representations and warranties of the other party and the satisfaction of the conditions to closing as provided hereunder.

(C) Each party agrees that any information obtained pursuant to this Section 5.5 (as well as any other information obtained prior to the date hereof in connection with the entering into of this Agreement) shall be subject to and governed by the letter agreement, dated July 10, 2008, between Liberty and USAmeriBancorp (the "Confidentiality Agreement").

(D) No investigation by either party of the business and affairs of the other party shall affect or be deemed to modify or waive any representation, warranty, covenant or agreement in this Agreement, or the conditions to such party's obligation to consummate the transactions contemplated by this Agreement.

5.6 No Solicitation.

(A) Neither Liberty nor any of its officers, directors, employees, agents, representatives and Affiliates (collectively, "Representatives") shall, directly or indirectly, initiate, solicit, or encourage any inquiries or proposals with respect to any Acquisition Proposal. Liberty will immediately cease and cause to be terminated any activities, discussions or negotiations it or any of its Representatives may have conducted before the date of this Agreement with any persons other than USAmeriBancorp and its Affiliates with respect to any Acquisition Proposal and will use its (and will cause its Representatives to use their) commercially reasonable efforts to enforce any confidentiality or similar agreement relating to an Acquisition Proposal, including by requiring the other parties thereto to promptly return or destroy any confidential information previously furnished by Liberty, or its Representatives thereunder and by using its commercially reasonable efforts to obtain injunctions or other equitable remedies to prevent or restrain any breaches of such agreements and to enforce specifically the terms thereof in a court of competent jurisdiction. For purposes of this Agreement, "Acquisition Proposal" means any inquiry, proposal or offer from any Person other than USAmeriBancorp or its affiliates relating to any direct or indirect acquisition or purchase of the business of Liberty or 25% or more of the assets of Liberty or shares of stock of any class of equity securities of Liberty, any tender offer or exchange offer for any class of equity securities of Liberty, or any merger, consolidation, business combination, recapitalization, liquidation, dissolution or similar transaction involving Liberty, other than the transactions contemplated by this Agreement.

(B) Notwithstanding the foregoing, if prior to obtaining the necessary stockholder approval Liberty's Board of Directors determines in good faith, after consultation with and based, among other things, upon advice of its outside counsel and financial advisor, that it is necessary to do so in order to act in a manner consistent with its fiduciary duties under applicable law, Liberty may, in response to any Superior Proposal (as defined below), which proposal was not solicited by it and which did not otherwise result from a breach of this Section 5.6, and subject to providing prior written notice of its decision to take such action to USAmeriBancorp, (i) furnish information with respect to Liberty to any Person making a Superior Proposal pursuant to a customary confidentiality agreement no less favorable to Liberty than the Confidentiality Agreement (as determined in good faith by Liberty upon advice from its

outside counsel); (ii) participate in discussions or negotiations regarding such Superior Proposal; and (iii) postpone the Liberty Meeting for a reasonable period of time necessary to consider the Superior Proposal as provided herein. Furthermore, nothing contained in this Section 5.6 shall prohibit Liberty from, following advance written notice to USAmeriBancorp delivered promptly following its decision to do so, (i) subject to the restrictions in Section 5.6(A), making any disclosure to Liberty's stockholders which the Board of Directors determines in its good faith, after consultation with and based, among other things, upon advice of its outside counsel and financial advisor, that it is necessary to make in order to act in a manner consistent with its fiduciary obligations under applicable law; and (ii) facilitating "due diligence" inquiries and reviews (which shall be in writing to the extent reasonably practicable) in response to any Acquisition Proposal as the Board of Directors determines in its good faith judgment after consultation with and based, among other things, upon the advice of its outside counsel to be consistent with its fiduciary duties under applicable law.

(C) If prior to obtaining the necessary stockholder approval, Liberty's Board of Directors, by a majority vote, determines in its good faith judgment after consultation with and based, among other things, upon the advice of its outside counsel, that it is required to do so in order to comply with its fiduciary duties to stockholders under applicable law, the Board of Directors may withdraw or modify its recommendation of the transactions contemplated hereby or approve or recommend, or propose to approve or recommend, a Superior Proposal, but in each case only (i) after providing written notice to USAmeriBancorp (a "Notice of Superior Proposal") advising USAmeriBancorp that the Board of Directors has received a Superior Proposal, specifying the material terms and conditions of such Superior Proposal and identifying the person making such Superior Proposal and (ii) if USAmeriBancorp does not, within five (5) Business Days of receipt by USAmeriBancorp of the Notice of Superior Proposal, make a binding, written offer that the Board of Directors by a majority vote determines in its good faith judgment (after receipt of advice of a financial advisor selected by the Board of Directors consistent with such determination) to be at least as favorable, from a financial point of view, to Liberty stockholders as such Superior Proposal. Notwithstanding the foregoing, as permitted by Section 607.1103 of the Florida Business Corporation Act, the Board of Directors of Liberty shall submit this Agreement and the transactions contemplated hereby to its stockholders, at the Liberty Meeting or any adjournment or postponement thereof permitted under this Section or by way of written consent, whether or not the Board of Directors determines at any time subsequent to the date of this Agreement that this Agreement and the transactions contemplated hereby are no longer advisable and/or recommends that its stockholders reject it.

(D) For purposes of this Agreement, "Superior Proposal" means any proposal made by a third party to acquire, directly or indirectly, including pursuant to one or more tender offers, exchange offers, mergers, consolidations, business combinations, recapitalizations, reorganizations, liquidations, dissolutions or similar transactions, for consideration to the Liberty stockholders consisting of cash and/or securities, all or substantially all of Liberty's capital stock then outstanding or all or substantially all the assets of Liberty, on terms which the Board of Directors determines in its good faith judgment to be more favorable to the Liberty stockholders than the Merger and for which financing, to the extent required, is then committed or which, in

the good faith judgment of the Board of Directors, is reasonably capable of being obtained by such third party.

5.7 Regulatory Applications.

(A) USAmeriBancorp and USAmeriBank shall each use its commercially reasonable efforts to prepare and deliver for filing, all documentation to effect all necessary notices, reports and other filings and to obtain all permits, consents, approvals and authorizations necessary or advisable to be obtained from any third parties and/or Regulatory Authorities in order to consummate the Merger and the other transactions contemplated hereby; and any initial filings forwarded to the Regulatory Authorities shall be made by USAmeriBancorp and USAmeriBank within forty-five (45) days after the execution hereof, and Liberty shall cooperate in such preparation and filing. Subject to applicable laws relating to the exchange of information, each of USAmeriBancorp, USAmeriBank and Liberty shall have the right to review in advance, and to the extent practicable each shall consult with the other on, all material nonconfidential written information submitted to any third party and/or any Regulatory Authority in connection with the approval of the Merger. In exercising the foregoing right, each of such parties agrees to act reasonably and as promptly as practicable. Each party hereto agrees that it shall consult with the other parties hereto with respect to the obtaining of all material permits, consents, approvals and authorizations of all third parties and/or Regulatory Authorities necessary or advisable to consummate the transactions contemplated by this Agreement and each party shall keep the other parties apprised of the status of material matters relating to completion of the transactions contemplated hereby (including promptly furnishing the other with copies of applications filed with, and notices or other communications received by USAmeriBancorp, USAmeriBank or Liberty, as the case may be, from any third party and/or Regulatory Authority with respect to the Merger and the other transactions contemplated by this Agreement).

(B) Each party agrees, upon request, to furnish the other party with all information concerning itself, its directors, officers and shareholders and such other matters as may be reasonably necessary or advisable in connection with any filing, notice or application made by or on behalf of such other party to any third party and/or Regulatory Authority.

5.8 Indemnification; Directors' and Officers' Insurance.

(A) From and after the Merger Effective Date, USAmeriBancorp agrees that it will cause the Continuing Corporation to indemnify and hold harmless each present and former director and officer of Liberty (each, an "Indemnified Party" and, collectively, the "Indemnified Parties") against all costs or expenses (including reasonable attorneys' fees), judgments, fines, losses, claims, damages or liabilities incurred in connection with any claim, action, suit, proceeding or investigation, whether civil, criminal, administrative or investigative, arising out of actions or omissions occurring at or prior to the Merger Effective Date (including the transactions contemplated by this Agreement), whether asserted or claimed prior to, at or after the Merger Effective Date, to the fullest extent that Liberty would have been permitted under applicable law and the Organizational Documents of Liberty as in effect on the date hereof to

indemnify such Person (and USAmeriBancorp shall also cause the Continuing Corporation to advance expenses as incurred to the fullest extent permitted under applicable law, *provided* that the person to whom expenses are advanced provides an undertaking to repay such advances if it is ultimately determined that such Person is not entitled to indemnification). USAmeriBancorp's obligations under this Section 5.8(A) shall continue in full force and effect for a period of six (6) years from the Merger Effective Date; *provided, however*, that all rights to indemnification in respect of any claim asserted or made within such period shall continue until the final disposition of such claim; and provided further that USAmeriBancorp's indemnification obligation hereunder with respect to any claim asserted after two (2) years from the Merger Effective Date shall be limited to the insurance coverage provided by Section 5.8(C).

(B) Any Indemnified Party wishing to claim indemnification under paragraph (A) of this Section 5.8, upon learning of any such claim, action, suit, proceeding or investigation, shall promptly notify USAmeriBancorp thereof, but the failure to so notify shall not relieve USAmeriBancorp of any liability it may have to such Indemnified Party if such failure does not materially prejudice USAmeriBancorp. In the event of any such claim, action, suit, proceeding or investigation (whether arising before or after the Merger Effective Date), (i) USAmeriBancorp shall have the right to assume, or cause the Continuing Corporation to assume, the defense thereof and USAmeriBancorp shall not be liable to such Indemnified Party for any legal expenses or other counsel or any other expenses subsequently incurred by such Indemnified Party in connection with the defense thereof, (ii) the Indemnified Party will cooperate in the defense of any such matter and (iii) USAmeriBancorp shall not be liable for any settlement effected without its prior written consent; *provided* that USAmeriBancorp shall not have any obligation hereunder to any Indemnified Party if and when a court of competent jurisdiction shall ultimately determine, and such determination shall have become final, that the indemnification of such Indemnified Party in the manner contemplated hereby is prohibited by applicable Law.

(C) For a period of two (2) years from the Merger Effective Date, USAmeriBancorp shall use its commercially reasonable efforts to provide or cause Liberty to provide that portion of director's and officer's liability insurance ("D&O Insurance") that serves to reimburse the present and former officers and directors (determined as of the Merger Effective Date) of Liberty (as opposed to the portion that serves to reimburse Liberty) with respect to claims against such directors and officers arising from facts or events which occurred before the Merger Effective Date, which D&O Insurance shall contain at least the same coverage and amounts, and contain terms and conditions not materially less advantageous, as that coverage provided by Liberty as of the date hereof; *provided, however*, that in no event shall USAmeriBancorp be required to expend or cause Liberty to expend on an annual basis more than 150% of the last annual premium paid prior to the date hereof (the "Insurance Cap") to maintain or procure such D&O Insurance; *provided further*, however, that if USAmeriBancorp is unable to maintain or obtain the D&O Insurance called for by this Section 5.8, USAmeriBancorp shall use its commercially reasonable efforts to obtain as much comparable insurance as is available for the Insurance Cap; *provided further* that officers and directors of Liberty may be required to make application and provide customary representations and warranties to USAmeriBancorp's insurance carrier for the purpose of obtaining such D&O Insurance. In lieu of the coverage

described in the immediately preceding sentence, Liberty may direct USAmeriBancorp to procure a "tail" insurance policy for Liberty covering a period of up to six years following the Merger Effective Date which shall provide officers' and directors' liability insurance in respect of acts or omissions occurring prior to the Merger Effective Date covering each such person covered by Liberty's officers' and directors' liability insurance policy as of the Closing Date on terms with respect to coverage and in such amount that are no less favorable than those of such policy in effect on the date hereof, provided that USAmeriBancorp shall not be required to expend or cause Liberty to expend an amount exceeding \$27,000.00 for such coverage. Notwithstanding anything to the contrary contained herein, Liberty may cause any insurance coverage required by this Section 5.8 to be bound and in full force and effect at the time of the Closing.

(D) If USAmeriBancorp or any of its successors or assigns shall (i) consolidate with or merge into any other person and shall not be the continuing or surviving person of such consolidation or Merger or (ii) transfer all or substantially all of its properties and assets to any other person, then, and in each case, proper provision shall be made so that the successors and assigns of USAmeriBancorp shall assume the obligations set forth in this Section 5.8

(E) Notwithstanding any provisions to the contrary, the indemnification obligations of this Section 5.8 are limited by federal banking law and those obligations that violate federal banking law will be invalid and unenforceable.

5.9 Benefit Plans.

(A) USAmeriBancorp will cause the USAmeriBank employee benefit plans that employees of Liberty who continue employment with USAmeriBank following the Merger Effective Date are or become eligible to participate in, to take into account for purposes of eligibility and vesting thereunder service by such employees with Liberty as if such service were with USAmeriBancorp or any of its Subsidiaries, as the case may be, to the same extent that such service was credited under any analogous Benefit Plan of Liberty immediately prior to the Merger Effective Date. Following the Merger Effective Date, employees of Liberty will retain credit for unused vacation and sick days which were accrued with Liberty as of the Merger Effective Date. In addition, if the Merger Effective Date falls within an annual period of coverage under any group health plan of the USAmeriBancorp, each employee of Liberty shall be given credit for covered expenses paid by that employee under comparable employee benefit plans of Liberty during the applicable coverage period through the Merger Effective Date toward satisfaction of any annual deductible limitation and out-of-pocket maximum that may apply under that group health plan of the USAmeriBancorp and its Subsidiaries. Nothing herein shall limit the ability of USAmeriBancorp to amend or terminate any of the Benefit Plans in accordance with their terms at any time. If, within six (6) months of the Merger Effective Date, any employee of Liberty is terminated by USAmeriBancorp solely as a result of the Merger (*i.e.*, elimination of duplicative jobs, etc.), and not as a result of inadequate performance or other good cause, USAmeriBancorp shall pay severance to each such employee in an amount equal to two weeks' pay for each year of such employee's prior employment; provided, however, that in no

event will the total amount of severance for any single employee be less than two weeks or greater than eight weeks.

(B) USAmeriBancorp and Liberty agree to cooperate in good faith to mitigate the effects of Section 280G of the Code on Liberty and its employees.

(C) The provisions of this Section 5.9 are for the sole benefit of the parties to this Agreement and nothing herein, expressed or implied, is intended or shall be construed to confer upon or give to any person (including for the avoidance of doubt any current or former employees, directors, officers, consultants or independent contractors of any of Liberty or its beneficiaries, other than the parties hereto and its respective permitted successors and assigns, any legal or equitable or other rights or remedies (with respect to the matters provided for in this Section 5.9) under or by reason of any provision of this Agreement.

5.10 **Non-Competition Agreements.** Liberty shall use its reasonable best efforts, on behalf of USAmeriBancorp and pursuant to the request of USAmeriBancorp, to cause each of the Non-Compete Persons to comply with such person's Non-Competition Agreement.

5.11 **Notification of Certain Matters.** Each of Liberty, USAmeriBancorp and USAmeriBank shall give prompt notice to the other (i) of the occurrence, or non-occurrence, of any event that, individually or in the aggregate, would make the timely satisfaction of any of the conditions set forth in Article VI impossible or unlikely or otherwise prevent, materially delay or materially impair the ability of Liberty, USAmeriBancorp or USAmeriBank, as the case may be, to consummate the transactions contemplated by this Agreement, or (ii) of any fact, event or circumstance known to it that would cause or constitute a material breach of any of its representations, warranties, covenants or agreements contained herein.

5.12 **Human Resources Issues.** Liberty will consult in good faith with USAmeriBancorp regarding the nature and content of any formal presentation of the transactions contemplated by this Agreement to employees of Liberty and will include a USAmeriBancorp representative in any such presentation or any formal group meeting at which the transaction is explained or discussed, under an arrangement that is mutually satisfactory to both parties. Liberty agrees to work in good faith with USAmeriBancorp to facilitate the timely and accurate dissemination of information to employees regarding matters related to the transactions contemplated by this Agreement in such a manner as to cause minimal disruption of the business of Liberty and its relationships with its and their employees and to facilitate the transition of such relationships to USAmeriBancorp.

5.13 **Third-Party Agreements, Etc.**

(A) Liberty shall use its best efforts to obtain (i) within forty-five (45) calendar days after the date hereof, all consents or waivers required to be obtained from any third parties in connection with the Merger and the other transactions contemplated hereby (in such form and content as is approved in writing by USAmeriBancorp) and (ii) the cooperation of such third

parties to effect a smooth transition in accordance with USAmeriBancorp's timetable at or after the Merger Effective Date. Liberty shall cooperate with USAmeriBancorp in minimizing the extent to which any Contracts will continue in effect following the Merger Effective Date, in addition to complying with the prohibitions in Section 3.2(K)

(B) USAmeriBancorp agrees that all actions taken pursuant to this Section 5.13 shall be taken in a manner intended to minimize disruption to the customary business activities of Liberty.

5.14 **Stockholders Agreements.** Liberty shall use its commercially reasonable efforts, on behalf of USAmeriBancorp and pursuant to the request of USAmeriBancorp, to cause each Stockholder who is a party to the Stockholders Agreement to comply with such Stockholders Agreement. Liberty acknowledges and agrees to be bound by and comply with the provisions of the Stockholders Agreement with respect to transfers of record ownership of shares of Liberty Common Stock, and agrees to notify the transfer agent for any Liberty Common Stock and provide such documentation and do such other things as may be necessary to effectuate the provisions of such Stockholders Agreement.

5.15 **Additional Agreements.** In case at any time after the Merger Effective Date of the Merger any further action is necessary or desirable to carry out the purposes of this Agreement or to vest USAmeriBancorp with full title to all properties, assets, rights, powers, approvals, privileges, immunities and franchises of Liberty, the proper officers and directors of each party to this Agreement shall take all necessary or appropriate action.

5.16 **Pre-Closing Adjustments.** On or before the Closing Date, Liberty shall make such accounting entries or adjustments, including additions to its ALL and charge-offs of loans, as USAmeriBancorp shall reasonably and customarily direct as a result of its ongoing review of Liberty and each of its subsidiaries (including its review of the information provided to it pursuant to Sections 5.5 and 5.11) or in order to implement its plans following the Merger Effective Date or to reflect expenses and costs related to the Merger; (collectively, the "Conforming Adjustments"), *provided, however*, that unless the adjustment would otherwise be required by applicable Law or by regulatory accounting principles or GAAP applied on a basis consistent with the financial statements of Liberty, (a) Liberty shall not be required to take such actions more than one day prior to the Merger Effective Date or prior to the time USAmeriBancorp agrees in writing that all of the conditions to its obligation to close as set forth in Section 6.6 have been satisfied or waived and each of the approvals in Section 6.2 have been received, and (b) no such adjustment shall (i) require any filing with any Regulatory Authority, (ii) violate any Law applicable to Liberty, or (iii) constitute or be deemed to be a breach, violation of or failure to satisfy any representation, warranty, covenant, condition or other provision of this Agreement or otherwise be considered in determining whether any such breach, violation or failure to satisfy shall have occurred.

5.17 **Subsequent Interim and Financial Statements.** As soon as reasonably practicable and as soon as they are available, but in no event more than 15 days, after the end of

each calendar month ending after the date of this Agreement, Liberty shall furnish to USAmeriBancorp (i) financial statements (including balance sheet, income statement and statement of changes in shareholders' equity) of Liberty as of and for such month then ended and (ii) copies of any internal management reports prepared by Liberty relating to the foregoing. All information furnished by Liberty to USAmeriBancorp pursuant to this Section 5.17 shall be held in confidence by USAmeriBancorp to the extent required by, and in accordance with, the provisions of the Confidentiality Agreement.

5.18 Nonsolicitation of Employees. If this Agreement is terminated pursuant to Article VII, each party agrees that, for a period of six (6) months following the date of such termination, without obtaining the prior written consent of the other, it will not solicit to hire (or cause or seek to cause to leave the employ of the other) any then current officer or management-level employee. Notwithstanding the foregoing, nothing shall prohibit a party from offering employment to, or employing, any person who responds to a general solicitation or advertisement placed by one party that is not specifically directed to the employees of the other.

5.19 Stock Offering. USAmeriBankcorp will commence the stock offering described in Section 1.4 within 60 days following the Effective Date.

6. CONDITIONS TO CONSUMMATION OF THE MERGER

Consummation of the Merger is conditioned upon:

6.1 Stockholder Vote. Approval of the Merger and the other transactions contemplated hereby by the required vote of the stockholders of Liberty as and to the extent required by law, and the number of dissenting Liberty shares shall not exceed 5% of the number of Liberty Common Stock issued and outstanding immediately prior to the Merger Effective Date.

6.2 Regulatory Approvals. Procurement by USAmeriBancorp, USAmeriBank and Liberty of all requisite approvals and consents of Regulatory Authorities, and the expiration of applicable statutory waiting periods relating thereto, provided, however, that no such approval or consent shall have imposed any condition or requirement (other than conditions or requirements set forth in any Schedule hereto) which would so materially and adversely impact the economic or business benefits to USAmeriBancorp or USAmeriBank, of the transactions contemplated by this Agreement that, had such condition or requirement been known, it would not, in its reasonable judgment, have entered into this Agreement and, provided further, that no such approval or consent shall impose any condition or requirement that USAmeriBancorp or USAmeriBank following the closing of the Merger maintain any capital ratio greater than that required to be maintained by a "well-capitalized" financial institution as defined in the Federal Deposit Insurance Act, as amended, and the regulations of the applicable federal banking agency promulgated thereunder (except that USAmeriBank is required to maintain a leverage ratio of at least 8% through February 12, 2010).

6.3 **Third Party Consents.** All consents or approvals of all persons (other than Regulatory Authorities) required for the consummation of the Merger shall have been obtained and shall be in full force and effect, unless the failure to obtain any such consent or approval is not reasonably likely to have, individually or in the aggregate, a Material Adverse Effect on Liberty or USAmeriBancorp.

6.4 **No Prohibition.** There not being in effect any law, order, decree or injunction of any court or agency of competent jurisdiction that restrains, enjoins or otherwise prohibits or makes illegal consummation of the Merger or which could be reasonably expected to result in a material diminution of the benefits of the transaction to USAmeriBancorp, USAmeriBank or Liberty, and there shall not be pending or threatened on the Merger Effective Date any action or proceeding which could reasonably be expected to result in the enactment or issuance of any such law, order, decree or injunction.

6.5 **Litigation.** No action, suit, or proceeding shall be pending or threatened before any court or administrative agency of any federal, state, local or foreign jurisdiction wherein an unfavorable judgment, order, decree, stipulation, injunction or charge could (a) prevent consummation of any of the transactions contemplated by the Agreement, (b) cause any of the transactions contemplated by this Agreement to be rescinded following consummation, or (c) affect adversely the right after the Merger Effective Date of USAmeriBancorp and USAmeriBank to own, operate, or control substantially all of the assets and operations of Liberty, USAmeriBancorp and USAmeriBank.

6.6 **Representations, Warranties and Covenants.** (i) Each of the representations and warranties contained herein of any party being true and correct as of the date of this Agreement and upon the Merger Effective Date with the same effect as though all such representations and warranties had been made on the Merger Effective Date, except (x) for any such representations and warranties made as of a specified date, which shall be true and correct as of such date, (y) as expressly contemplated by this Agreement, or (z) for representations and warranties (other than the representations and warranties set forth in Paragraph (A) of Article IV, which shall be true and correct in all material respects) the inaccuracies of which relate to matters that, individually or in the aggregate, do not materially adversely affect the Merger and the other transactions contemplated by this Agreement or that have not had, or would not reasonably be expected to result in, a Material Adverse Effect; (ii) each and all of the agreements and covenants contained herein of any party to be performed and complied with pursuant to this Agreement and the other agreements contemplated hereby prior to the Merger Effective Date shall have been duly performed and complied with in all material respects, and (iii) each of Liberty and USAmeriBancorp shall have received a certificate signed by the Chief Executive Officer and the Chief Financial Officer of the other party dated the Merger Effective Date, to such effect.

6.7 **Additional USAmeriBancorp and USAmeriBank Conditions.** In addition, the obligation of USAmeriBancorp and USAmeriBank to consummate the Merger is subject to the

fulfillment or written waiver by USAmeriBancorp and USAmeriBank prior to the Merger Effective Date of each of the following conditions:

(A) **Shareholders' Equity.** The shareholders' equity on the last day of the calendar month immediately preceding the Merger Effective Date, as determined in accordance with GAAP of Liberty shall not be less than \$12,000,000, without regard to the Conforming Adjustments, the payments to be made by Liberty in connection with the termination of or failure to renew existing employment agreements and Change in Control Agreements pursuant to Section 6.7(D), the payments to be made by Liberty pursuant to Section 2.4 hereof, the cost of any insurance coverage described in Section 5.8, and any unrealized gains or losses of securities classified as "available for sale."

(B) **Allowance for Loan Losses.** The allowance for loan losses on the last day of the calendar month immediately preceding the Merger Effective Date, as determined in accordance with GAAP, shall not be less than \$755,000 and 1.29% of its total loans.

(C) **Non-Competition Agreements.** Each of the Non-Competition Agreements shall be in full force and effect as of the Merger Effective Date.

(D) **Employment Agreements; Change in Control Agreements.** Concurrently with the Closing, each of the existing employment agreements and Change in Control Agreements between Liberty and any of its employees shall be terminated.

(E) **FIRPTA.** Liberty shall deliver to USAmeriBancorp at the Closing a duly executed and acknowledged certificate, in form and substance acceptable to USAmeriBancorp and in compliance with the Code and Treasury Regulations, certifying such facts as to establish that the sale of the Shares and any other transactions contemplated hereby are exempt from withholding pursuant to Section 1445 of the Code.

7. TERMINATION.

7.1 **Termination.** This Agreement may be terminated and the Merger may be abandoned at any time prior to the Merger Effective Date, notwithstanding adoption thereof by the stockholders of Liberty:

(A) by the mutual written consent of Liberty and USAmeriBancorp;

(B) by USAmeriBancorp or Liberty if the Merger is not consummated by the 180th day subsequent to the date of this Agreement, except to the extent that the failure of the Merger then to be consummated arises out of or results from the knowing action or inaction of (i) the party seeking to terminate pursuant to this Section 7.1(B) or (ii) any of the Stockholders (if Liberty is the party seeking to terminate), which action or inaction is in violation of its obligations under this Agreement or, in the case of any of the Stockholders, such Stockholder's obligations under the Stockholders Agreement; *provided, however*, that the foregoing date shall

be extended if by the 180th day subsequent to the date of this Agreement all of such regulatory approvals have not been received or applicable waiting periods for consummation of the Merger have not expired and, *provided further*, that the extension shall be for a period following such 180th day equal to the lesser of (x) 90 days, or (y) 30 days after satisfaction of all conditions set forth in Article VI, including, without limitation, the receipt of the regulatory approvals (and the expiration of all waiting periods) referred to in Section 6.2;

(C) by USAmeriBancorp or Liberty if the approval of any Regulatory Authority required for consummation of the Merger and the other transactions contemplated by this Agreement shall have been denied by final and nonappealable action of such Regulatory Authority or an application therefore shall have been permanently withdrawn at the invitation, request or suggestion of a Regulatory Authority;

(D) by USAmeriBancorp or Liberty (so long as, in the case of Liberty, the Stockholders have complied in all material respects with the Stockholders Agreement) if the approval of the stockholders of Liberty contemplated by this Agreement shall not have been obtained by reason of the failure to obtain the required vote at Liberty Meeting or at any adjournment or postponement thereof;

(E) by Liberty if there shall have been a breach of any representation, warranty, covenant or agreement on the part of USAmeriBancorp contained in this Agreement such that the conditions set forth in Section 6.6 would not be satisfied and, in either such case, such breach is not capable of being cured or, if capable of being cured, is not cured within thirty (30) days after written notice thereof is given by Liberty to USAmeriBancorp;

(F) by USAmeriBancorp if there shall have been a breach of any representation, warranty, covenant or agreement on the part of Liberty contained in this Agreement such that the conditions set forth in Section 6.6 would not be satisfied and, in either such case, such breach is not capable of being cured or, if capable of being cured, is not cured within thirty (30) days after written notice thereof is given by USAmeriBancorp to Liberty;

(G) by USAmeriBancorp if there is a material breach by one or more Stockholders of any of the representations, warranties, covenants or agreements contained in the Stockholders Agreement, and, in any such case, such breach is not capable of being cured or, if capable of being cured, is not cured within thirty (30) days after written notice thereof is given by USAmeriBancorp to the breaching party (provided that USAmeriBancorp shall not have the right to terminate this Agreement pursuant to this Section 7.1(G) if, notwithstanding such material breach by one or more Stockholders, the approval of the stockholders of Liberty contemplated by this Agreement shall have been obtained);

(H) by USAmeriBancorp, if the shareholders of Liberty do not approve the Merger at the Liberty Meeting or any adjournment or postponement thereof and (i) the Board of Directors of Liberty shall have failed to recommend the Merger, or shall have withdrawn, modified or changed in a manner adverse to USAmeriBancorp its recommendation of the

Merger, (ii) Liberty or any of its Representatives shall have breached the terms of Section 5.6 hereof in any respect adverse to USAmeriBancorp, or (iii) an Acquisition Proposal shall have been publicly announced after the date of this Agreement, and the Board of Directors of the Company shall have failed to reconfirm its approval and recommendation of this Agreement and the transactions contemplated hereby within ten (10) Business Days of the first announcement of such proposal; or

(I) by Liberty, prior to obtaining the necessary stockholder approval, pursuant to Section 5.6 hereof, if Liberty's Board of Directors, by a majority vote, determines in its good faith judgment after consultation with and based, among other things, upon the advice of its outside counsel, it is required to terminate in order to comply with its fiduciary duties to stockholders under applicable laws; provided, however, that Liberty may not terminate this Agreement pursuant to this Section 7.1(I) until the five (5) Business Days notice to USAmeriBancorp of the Superior Proposal pursuant to Section 5.6(C) shall have elapsed; provided, further, however, that such termination under this Section 7.1(I) shall not be effective until Liberty has made payment to USAmeriBancorp of an amount equal to \$450,000 the ("Termination Fee") as the agreed upon, reasonable reimbursement to compensate USAmeriBancorp for its professional fees, internal due diligence expenses, and other expenses in connection with this transaction; and provided, further, however, that Liberty may not terminate under this Section after receiving the necessary stockholder approval.

7.2 Effect of Termination and Termination Fees. (a) In the event of the termination of this Agreement pursuant to Section 7.1, this Agreement (other than as set forth in Sections 8.1 and 7.2(b)) shall forthwith become void and there shall be no liability or obligation on the part of any party hereto except no such termination shall relieve any party hereto of any liability or damages resulting from any breach of this Agreement.

(b) If (i) USAmeriBancorp shall terminate this Agreement pursuant to Section 7.1(H)(i) or (ii) or (ii) USAmeriBancorp shall terminate this Agreement pursuant to Section 7.1(H)(iii) and at any time after the date of this Agreement and prior to the Liberty Meeting there shall have been a publicly announced Acquisition Proposal with respect to Liberty, and Liberty shall have executed a definitive agreement with respect to such Acquisition Proposal, or such Acquisition Proposal shall have been consummated within nine months of such termination, then Liberty shall pay to USAmeriBancorp a sum equal to the Termination Fee. Any Termination Fee due and payable hereunder shall be paid by wire transfer of immediately available funds to the account designated by USAmeriBancorp within three (3) Business Days of the applicable termination.

7.3 Amendment. This Agreement may be amended by the parties hereto by action taken by or on behalf of their respective Boards of Directors at any time prior to the Merger-Effective Date, whether before or after adoption of this Agreement by the stockholders of Liberty; provided, however, that, after adoption of this Agreement by the stockholders of Liberty, no amendment may be made which by Law requires the further approval of the

stockholders of Liberty without such further approval. This Agreement may not be amended except by an instrument in writing signed by the parties hereto.

8. MISCELLANEOUS.

8.1 **Survival.** Article II, this Article VIII and the agreements of Liberty and USAmeriBancorp contained in Sections 5.8, 5.9 and 5.15 shall survive the consummation of the Merger. This Article VIII and the agreements of Liberty and USAmeriBancorp contained in the Confidentiality Agreement and Section 7.2 shall survive the termination of this Agreement. All other representations, warranties, covenants and agreements in this Agreement shall not survive the consummation of the Merger or the termination of this Agreement.

8.2 **Expenses.**

(A) Whether or not the Merger is consummated, all costs and expenses incurred in connection with this Agreement, the Merger and other transactions contemplated by this Agreement shall be paid by the party incurring such expense.

(B) Notwithstanding Section 8.2(A) hereof, in the event of any Action arising out of or resulting from this Agreement, the prevailing party shall be entitled to recover its costs and expenses (including reasonable attorneys fees and expenses) incurred in connection therewith.

8.3 **Certain Definitions.** For purposes of this Agreement, the term:

(A) **"Affiliate"** means, as to any person, any other person which, directly or indirectly, is in control of, is controlled by or is under common control with such person. For purposes of this definition, "control" of a person shall mean the power, directly or indirectly, either to (i) vote 10% or more of the securities having ordinary voting power for the election of directors or other management of such person or (ii) direct or cause the direction of the management and policies of such person, whether by contract or otherwise.

(B) **"Business Day"** means Monday through Friday of each week, except a legal holiday recognized as such by the United States federal government or any day on which banking institutions in the State of Florida are authorized or obligated by Law to close.

(C) **"Code"** means the Internal Revenue Code of 1986, as amended

(D) **"GAAP"** means generally accepted accounting principles in the United States, consistently applied over the period involved.

(E) **"Knowledge"** when used with respect to a party shall mean the knowledge, after due inquiry, of any "Executive Officer" of such party as such term is defined in Regulation O of the Federal Reserve Board.

(F) "Material Adverse Effect" shall mean (a) an event, occurrence or circumstance, which individually or in the aggregate, results, or is reasonably likely to result, in a decrease in the shareholders' equity account, or results of operations, of a party, as determined in accordance with GAAP and as measured from its Unaudited Financial Statements in an amount equal to or greater than \$100,000, including, without limitation, (i) the making of any provisions for possible loan and lease losses, write-downs of other real estate and taxes, (ii) operating losses and (iii) a breach of a representation or warranty, or (b) a breach of a representation or warranty which would materially impair the party's ability to perform its obligations under this Agreement or the consummation of the Merger and the other transactions contemplated by this Agreement; provided, however, that the term Material Adverse Effect shall not be deemed to include the impact of (a) changes in banking and similar laws of general applicability or interpretations thereof by courts or governmental authorities; and (b) changes in generally accepted accounting principles or regulatory accounting requirements applicable to banks and bank holding companies generally; (c) changes in the United States or World financial markets; (d) changes or effects arising from terrorism, attack, war, riot, insurrection, other armed conflict or civil disorder, except to the extent directly damaging the assets or facilities of a party and (e) the Conforming Adjustments.

(G) "Non-Compete Person" means each of the directors of Liberty, except David Stone.

(H) "Organizational Documents" means, with respect to any person, such person's charter, by-laws, articles or certificate of incorporation, limited liability Bank agreement, partnership agreement or other similar organizational or constituent documents.

(I) "Person" means an individual, corporation, partnership, limited liability company, association, trust, unincorporated organization, other entity or group (as defined in Section 13(d)(3) of the Exchange Act).

(J) "Stockholders" means the collective reference to each of the following persons who are or may become party to the Stockholders Agreement: the Executives and Non-Compete Persons.

8.4 **Notices.** All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be given (and shall be deemed to have been duly given upon receipt) by delivery in person, by facsimile or by registered or certified mail (postage prepaid; return receipt requested) to the respective parties at the following addresses (or at such other address for a party as shall be specified by like notice):

(A) if to Liberty: Liberty Bank
1617 Gulf-to-Bay Boulevard
Clearwater, Florida 33755
Attention: David P. Stone
President and Chief Executive Officer
Facsimile: (727) 298-0134

With a copy to: Foley & Lardner, LLP
100 North Tampa Street, Suite 2700
Tampa, Florida 33602
Attention: Olin G. Shivers
Facsimile: (823) 221-4210

(B) if to USAmeriBancorp:
USAmeriBancorp, Inc.
1125 E. Bay Drive
Largo, Florida 33770
Attention: Thomas B. McMurtrey III, President
Facsimile: (727) 585-9111

With a copy to: Smith Mackinnon, PA
255 South Orange Avenue, Suite 800
Orlando, Florida 32801
Attention: John P. Greeley, Esquire
Facsimile: (407) 843-2448

8.5 **Counterparts.** This Agreement may be executed in one or more counterparts (including by facsimile), each of which shall be deemed to constitute an original, but all of which together shall constitute one and the same instrument.

8.6 **Governing Law; Waiver of Jury Trial.**

(A) This Agreement shall be deemed to be made in and in all respects shall be interpreted, construed and governed by and in accordance with the laws of the State of Florida, without regard to the conflict of law principles thereof.

(B) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (i) NO REPRESENTATIVE, AGENT OR

ATTORNEY OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (ii) EACH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (iii) EACH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (iv) EACH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 8.06.

8.7 Entire Understanding; No Third Party Beneficiaries. This Agreement (including the Disclosure Schedule attached hereto and incorporated herein), the Confidentiality Agreement, the Stockholders Agreements and the Non-Competition Agreements constitute the entire agreement of the parties hereto and thereto with reference to the transactions contemplated hereby and thereby and supersede all other prior agreements, understandings, representations and warranties, both written and oral, between the parties or their officers, directors, agents, employees or representatives, with respect to the subject matter hereof. Except for Section 5.8, nothing in this Agreement, expressed or implied, is intended to confer upon any Person, other than the parties hereto or their respective successors, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

8.8 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of Law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the fullest extent possible.

8.9 Enforcement of the Agreement. The parties hereto agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof in any court of the United States or any state having jurisdiction, this being in addition to any other remedy to which they are entitled at law or in equity.

8.10 Interpretation. When reference is made in this Agreement to a Section, such reference shall be to a Section of this Agreement unless otherwise indicated. Whenever the words "include", "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation." The words "hereof," "herein," "hereby" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The word "or" shall not be exclusive. This Agreement shall be construed without regard to any presumption or

rule requiring construction or interpretation against the party drafting or causing any instrument to be drafted.

8.11 **Assignment.** This Agreement shall not be assignable by operation of law or otherwise without the prior written consent of each of the other parties; provided, however, that USAmeriBancorp may assign all or any of its rights and obligations hereunder to any direct or indirect wholly-owned Subsidiary of USAmeriBancorp.

8.12 **Waiver.** At any time prior to the Merger Effective Date, any party hereto may (a) extend the time for the performance of any of the obligations or other acts of another party hereto, (b) waive any inaccuracies in the representations and warranties contained herein or in any document delivered pursuant hereto, and (c) waive compliance with any of the agreements or conditions contained herein. Any such extension or waiver shall be valid if set forth in an instrument in writing signed by the party or parties to be bound thereby, but such extension or waiver or failure to insist on strict compliance with an obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent other failure.

8.13 **Effect.** No provision of this Agreement shall be construed to require Liberty or USAmeriBancorp, USAmeriBank, or any Affiliates or directors of any of them to take any action or omit to take any action which action or omission would violate applicable Law.

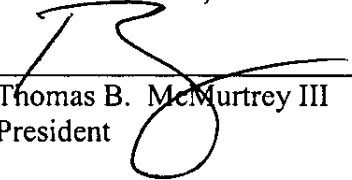
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in counterparts by their duly authorized officers, all as of the day and year first above written.

LIBERTY BANK

By: 

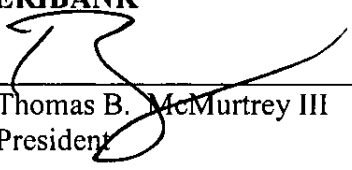
David P. Stone
President and Chief Executive Officer

USAMERIBANCORP, INC.

By: 

Thomas B. McMurtrey III
President

USAMERIBANK

By: 

Thomas B. McMurtrey III
President

EXHIBIT 1 TO PLAN OF MERGER AND MERGER AGREEMENT

Name and address of Directors of USAmeriBank following the Merger Effective Date: *

James T. Ayers
George Bauer
Michael Benstock
Joseph V. Chillura
John P. Connelly
Robert George
Mark S. Klein
T. Brad McMurtrey
Larry Morgan
John E. Oliva
Harrison I. Steans
Jennifer Steans
William I. Sultenfuss, II
William B. Tiller

* The address for each of the directors is 1125 East Bay Drive, Largo, Florida 33770

EXHIBIT 2 TO PLAN OF MERGER AND MERGER AGREEMENT

Name and Address of Executive Officers of USAmeriBank

<u>Na me of Individual *</u>	<u>Position with USAmeriBank</u>
Joseph V. Chillura	Chief Executive Officer
T. Brad McMurtrey	President
Alfred T. Rogers	Executive Vice President and Senior Lender
Christina Ford	Executive Vice President and Chief Operating Officer
Thomas Wokurka	Senior Vice President and Chief Operating Officer

* The address of each individual is 1125 East Bay Drive, Largo, Florida 33770

EXHIBIT 3 TO PLAN OF MERGER AND MERGER AGREEMENT

Banking Offices of USAmeriBank Following the Merger Effective Date

Main Office:

1125 East Bay Drive
Largo, Florida 33770

Branch Offices:

1617 Gulf-to-Bay Boulevard
Clearwater, Florida 33755

119 East Whiting Street
Tampa, Florida 33602

1921 South Dale Mabry
Tampa, Florida 33629

State of Florida



Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of USAMERIBANK, a Florida corporation, filed on October 10, 2006, as shown by the records of this office.

The document number of this corporation is P06000128988.

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
Tenth day of October, 2006



CR2EO22 (01-06)

Sue M. Cobb
Sue M. Cobb
Secretary of State

ARTICLES OF INCORPORATION OF

USAmeriBank

FILED

2006 OCT 10 P 2:14

The undersigned, acting as director(s) for the purpose of forming a financial institution-
corporation in accordance with the Laws of the State of Florida, adopt(s) the following Articles
of Incorporation.

ARTICLE I

The name of the corporation shall be USAmeriBank and its initial place of business shall be at 800 East Bay Drive, Suite I & J, Largo, FL 33740, in the City of Largo, in the County of Pinellas and State of Florida. These Articles shall be effective upon filing.

ARTICLE II

The general nature of the business to be transacted by this corporation shall be: That of a general commercial banking business with all the rights, powers, and privileges granted and conferred by the Florida Financial Institutions Codes, regulating the organization, powers, and management of banking corporations.

ARTICLE III

The total number of shares authorized to be issued by the corporation shall be 2,000,000. Such shares shall be of a single class and shall have a par value of \$5.00 per share. The corporation shall begin business with at least \$6,000,000 in paid-in common capital stock to be divided into 1,200,000 shares. The amount of surplus with which the corporation will begin business will be not less than \$5,696,500 all of which (capital stock and surplus) shall be paid in cash.

Each shareholder of the corporation shall have the right to purchase, subscribe for, or receive a right or rights to purchase or subscribe for, at the subscription price offered to the general public, a pro rata portion of any stock of any class that the corporation may issue or sell.

ARTICLE IV

The term for which said corporation shall exist shall be perpetual unless terminated pursuant to the Florida Financial Institutions Codes.

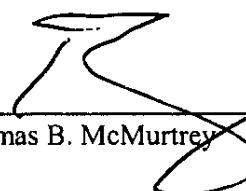
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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

ARTICLE V

The number of directors shall not be fewer than five (5). A majority of the full board of directors may, at any time during the years following the annual meeting of shareholders, increase the number of directors by not more than two and appoint persons to fill resulting vacancies. The names and street addresses of the first directors of the corporation are:

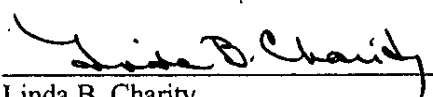
NAME	STREET ADDRESS
James T. Ayers	1926 Cove Lane Clearwater, FL 33764
George P. Bauer	128 Dunning Road New Canaan, CT 06840
Michael Benstock	12383 Windtree Blvd. Seminole, FL 33772
John P. Connelly	1 Harborside Circle Belleair, FL 33756
Robert C. George	9699 125th Street North Seminole, FL 33772
Mark S. Klein	2736 Burning Tree Lane Clearwater, FL 33761
Thomas B. McMurtrey III	300 N. Lincoln Avenue Clearwater, FL 33755
Harrison I. Steans	1900 Meadow Lane Bannockburn, IL 60015
Jennifer W. Steans	2324 Lincolnwood Evanston, IL 60201

In witness of the foregoing, the undersigned has executed these Articles of Incorporation
this 4TH day of October, 2006.



Thomas B. McMurtrey
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2006 OCT 10 PM 2:14
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Approved by the Office of Financial Regulation of the State of Florida at Tallahassee,
Florida, this 9TH day of OCTOBER, 2006.



Linda B. Charity
Director
Division of Financial Institutions

OFFICE OF FINANCIAL REGULATION



Having been approved by the Acting Commissioner of the Office of Financial Regulation on November 26, 2008, to merge Liberty Bank, Clearwater, Pinellas County, Florida, and USAmeriBank, Largo, Pinellas County, Florida, and being satisfied that the conditions of approval have been met, I approve for filing with the Florida Department of State, the attached "Plan of Merger and Merger Agreement," which contains the Articles of Incorporation of USAmeriBank (the resulting bank), so that effective on December 31, 2008, they shall read as stated herein.

Signed on this 17TH day
of December, 2008.


Linda B. Charity, Director
Division of Financial Institutions

Liberty Bank

October 6, 2008 Special, Shareholders' Meeting Minutes

The meeting was called to order by Mr. David Stone, the Bank's President and CEO, at 4:30 PM at 1617 Gulf-to-Bay Blvd. in Clearwater, Florida. Mr. Stone thanked everyone present for coming to the meeting. He noted that the meeting agenda would be in accordance with the notice. Mr. Stone stated that, in accordance with the Bank's by-laws, he would chair the meeting and would appoint Mr. Alan Grandoff Secretary of the meeting.

The Chairman asked Mr. Grandoff to determine the number of shares represented at the meeting and verify the existence of a quorum. Mr. Grandoff provided a report to the Chairman that the shares represented by proxy and those present was 1,210,000; which represents a quorum. Based upon that report, the Chairman declared that the meeting was lawfully convened.

The Chairman noted that the first order of business was to address the matters listed on the meeting notice and he asked for a motion on those matters. Mrs. Jennette Renfrow made motions that:

1. The shareholders approve the Plan of Merger and Merger Agreement dated August 22, 2008, by and among Liberty Bank, USAmeriBancorp, Inc. and USAmeriBank, and the transactions contemplated thereby; and
2. Approval of the revocation or termination of Liberty's S corporation election that will result from the merger, as such approval is required by the shareholder agreement by and among Liberty and all of the shareholders of Liberty.

Mr. William Fisher, Jr. seconded Mrs. Renfrow's motions. The Chairman asked if there were any other official matters that the shareholders present proposed to be voted upon. There were no matters presented. He asked if there was any discussion on the motions made by Mrs. Renfrow. There being none, he called for a vote.

The meeting Secretary, reported that the matters passed by the super majority vote required in the Bank's Bylaws or Articles of Incorporation. A tabulation of that vote was as follows:

Matter	For	Against	Abstain
1) The shareholders approve the Plan of Merger and Merger Agreement dated August 22, 2008, by and among Liberty Bank, USAmeriBancorp, Inc. and USAmeriBank, and the transactions contemplated thereby.	1,210,000 shares (91.32% of the 1,325,000 shares outstanding)	0	0
2) Approval of the revocation or termination of Liberty's S corporation election that will result from the merger, as such approval is required by the shareholder agreement by and among Liberty and all of the shareholders of Liberty.	1,210,000 shares (90.57% of the 1,325,000 shares outstanding)	0	10,000 (.75% of the 1,325,000 shares outstanding)

The secretary further specified that there were no votes against the merger.

The Chairman stated that he would entertain a motion to adjourn. On motion made by Mr. Gary Gray, seconded by Mr. Fisher and unanimously carried, the meeting adjourned at 4:40 PM.

Minutes prepared by


J. Alan Grandoff
Secretary

CERTIFICATE OF SOLE SHAREHOLDER

The undersigned, as the sole shareholder of USAmeriBank and Liberty Bank, does hereby authorize, adopt and approve the Plan of Merger and Merger Agreement dated as of August 22, 2008 between USAmeriBank and Liberty Bank, and the merger of Liberty Bank with and into USAmeriBank thereunder.

26 IN WITNESS WHEREOF, this Certificate of Sole Shareholder is signed as of September 26, 2008.

USAMERIBANCORP, INC.

By: 
Name: BOB McQUIBREY
Title: PRESIDENT/SECRETARY