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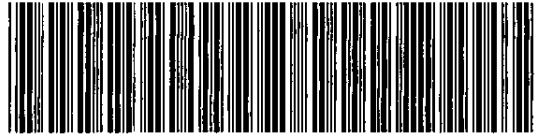
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Effective date
10-31-09

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10-28-09

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

OCT 28 P 12:50

FILED

SMITH MACKINNON, PA

ATTORNEYS AT LAW

SUITE 800
CITRUS CENTER
255 SOUTH ORANGE AVENUE
ORLANDO, FLORIDA 32801

POST OFFICE BOX 2254
ORLANDO, FLORIDA 32802-2254

TELEPHONE (407) 843-7300
FACSIMILE (407) 843-2448
E-MAIL: JPG7300@AOL.COM

JOHN P. GREELEY

October 27, 2009

Via Federal Express

Ms. Karon Beyer
Department of State
Division of Corporations
Clifton Building
2661 Executive Center Circle
Tallahassee, FL 32301

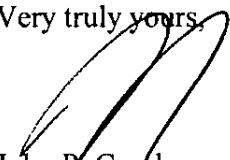
Re: First America Holdings Corporation

Dear Karon:

Enclosed are three manually signed originals of Articles of Merger for the merger of MRCB Holdings, Inc. with and into First America Holdings Corporation, accompanied by a check in the amount of \$122.50 for the filing fees (\$105.00 for filing fee and \$17.50 for two certified copies of the Articles of Merger).

I would appreciate it if you could have the enclosed Articles filed at your earliest convenience and have two certified copies returned to us. If you have any questions regarding the enclosed, please call me at your convenience. As always, we very much appreciate your assistance.

Very truly yours,



John P. Greeley

JPG:erw

Enclosures

Copy to: Daniel S. Hager w/o enclosure
Chairman and Chief Executive Officer
First America Holdings Corporation

**ARTICLES OF MERGER
OF
MRCB HOLDINGS, INC.
INTO
FIRST AMERICA HOLDINGS CORPORATION**

FILED

2009 OCT 28 P 12:50

**SECRETARY OF STATE
TALLAHASSEE, FLORIDA**

MRCB Holdings, Inc. and First America Holdings Corporation do hereby adopt the following Articles of Merger:

FIRST: The names of the corporations which are parties to the merger (the "Merger") contemplated by these Articles of Merger are MRCB Holdings, Inc. and First America Holdings Corporation. The surviving corporation in the Merger is First America Holdings Corporation, which shall continue to conduct its business following effectiveness of the Merger under the name "First America Holdings Corporation."

SECOND: The Plan of Merger is set forth in the Plan of Merger and Merger Agreement dated April 6, 2009, by and among First America Holdings Corporation, MRCB Holdings, Inc., First America Bank and Manatee River Community Bank (the "Plan of Merger"). A copy of the Plan of Merger is attached hereto and made a part hereof by reference as if fully set forth herein.

THIRD: The Merger shall become effective at 5:00 p.m., Bradenton, Florida time, on October 31, 2009.

FOURTH: The Merger Agreement was adopted by the shareholders of MRCB Holdings, Inc. on September 24, 2009.

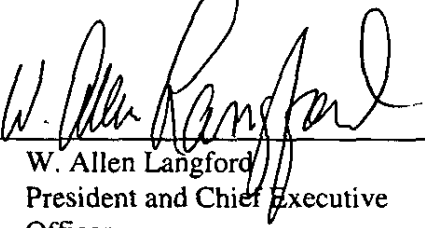
FIFTH: The Merger Agreement was adopted by the shareholders of First America Holdings Corporation on September 22, 2009.

SIXTH: The Articles of Incorporation of First America Holdings Corporation shall serve as the Articles of Incorporation of the surviving corporation, until amended thereafter in accordance with applicable law.

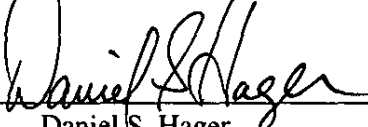
[Signature page follows]

IN WITNESS WHEREOF, the parties have caused these Articles of Merger to be executed as of October 27, 2009.

MRCB HOLDINGS, INC.

By: 
W. Allen Langford
President and Chief Executive
Officer

**FIRST AMERICA HOLDINGS
CORPORATION**

By: 
Daniel S. Hager
Chairman and Chief Executive
Officer

PLAN OF MERGER AND MERGER AGREEMENT

THIS PLAN OF MERGER AND MERGER AGREEMENT, is dated this 6th day of April, 2009 (the "Agreement"), by and among MRCB Holdings, Inc., a Florida banking corporation ("MRCB"), Manatee River Community Bank, a Federal savings association, First America Holdings Corporation, a Florida corporation ("FAHC"), and First America Bank, a Florida banking corporation.

RECITALS:

A. **MRCB.** MRCB 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 Palmetto, Florida. As of the date hereof, MRCB's authorized capital stock consisted of 10,000,000 shares of common stock, par value \$1.00 per share (the "MRCB Common Stock"), of which 663 shares of MRCB Common Stock are outstanding. MRCB owns all of the outstanding shares of Manatee River Community Bank.

B. **FAHC.** FAHC 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 Osprey, Florida. As of the date hereof, FAHC's authorized capital stock consisted of (i) 5,000,000 shares of common stock, par value \$5.00 per share ("FAHC Common Stock"), of which 1,809,232 shares are outstanding, and (ii) 1,000,000 shares of preferred stock, par value \$5.00 per share, none of which such shares are outstanding. FAHC owns all of the outstanding shares of First America Bank.

C. **Merger.** Pursuant to this Agreement, MRCB shall merge with and into FAHC. For purposes of this Agreement, the foregoing merger is referred to as the "Merger."

D. **Intention of the Parties.** It is the intention of the parties to this Agreement that the Merger shall qualify as a tax free reorganization under Section 368 of the Internal Revenue Code of 1986, as amended (the "Code").

E. **Subsidiary Merger.** Pursuant to this Agreement, Manatee River Community Bank shall merge with and into First America Bank. For purposes of this Agreement, the foregoing merger is referred to as the "Subsidiary Merger."

F. **Approvals.** The Boards of Directors of each of FAHC, First America Bank, MRCB and Manatee River Community Bank, 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, FAHC has entered into a Stockholders Agreement (the "Stockholders Agreement") with certain MRCB Stockholders pursuant to which each Stockholder has agreed, among other things, to vote

in favor of the approval of this Agreement all shares of MRCB 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 FAHC (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:

I. THE MERGER AND THE SUBSIDIARY MERGER

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) MRCB will merge with and into FAHC. FAHC, 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 of the rights, privileges, immunities and franchises, of a public as well as of a private nature, of FAHC and MRCB, 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 and obligors and all liens on the property of each of FAHC and MRCB shall be preserved unimpaired.

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

(i) The articles of incorporation and bylaws of the Continuing Corporation following the Merger Effective Date shall be those of FAHC as in effect immediately prior to the Merger Effective Date (as modified as provided herein) until such documents are changed in accordance with applicable law.

(ii) The directors of FAHC following the Merger Effective Date, who shall hold office until such time as their successors are elected and qualified, shall consist of seven individuals designated by the FAHC Board of Directors and six individuals designated by the MRCB Board of Directors. The Bylaws of FAHC shall be amended prior to the Merger

Effective Date to provide that for a period of three years following the Merger Effective Date, any vacancies on the Continuing Corporation Board of Directors shall be nominated by the FAHC representative directors (if such vacancy is attributable to an FAHC representative) and by the MRCB representative directors (if such vacancy is attributable to an MRCB representative).

(iii) The officers of the Continuing Corporation following the Merger Effective Date, who shall hold office until such time as their successors are elected and qualified, shall consist of Daniel S. Hager (Chairman and Chief Executive Officer), James E. Boyd (Vice Chairman of the Board) and W. Allen Langford (President).

(iv) If any committees are established by the Board of Directors of the Continuing Corporation following the Merger Effective Date, the parties will use their commercially reasonable best efforts to balance the composition on such board committees among individuals designated by the FAHC Board of Directors and individuals who were designated by the MRCB Board of Directors.

1.2 Merger Effective Date; Closing. The Merger shall become effective at the date and time set forth in the Articles of Merger relating to the Merger filed with the Secretary of State of Florida (the "Merger Effective Date") and the parties shall utilize their best efforts to cause such Articles of Merger to be issued within thirty (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. 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 The Subsidiary Merger. In the event that all of the conditions set forth in Article VI hereof have been satisfied or waived:

(A) **The Subsidiary Merger.** On the Merger Effective Date Manatee River Community Bank will merge with and into First America Bank. First America Bank following consummation of the Merger is sometimes referred to in this Agreement as the "Continuing Bank."

(B) **Rights, Etc.** On the Merger Effective Date, the Continuing Bank shall thereupon and thereafter possess all of the rights, privileges, immunities and franchises, of a public as well as of a private nature, of First America Bank and Manatee River Community Bank, 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 Banks so merged shall be deemed to be vested in the Continuing Bank without further act or deed. The title to any real estate, or any interest therein, vested in any of such Banks, shall not revert or be in any way impaired by reason of the Subsidiary Merger, as provided by the laws of the State of Florida.

(C) **Liabilities.** On the Merger Effective Date, the Continuing Bank 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 and obligors and all liens on the property of each of First America Bank and Manatee River Community Bank shall be preserved unimpaired.

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

(i) The articles of incorporation and bylaws of the Continuing Bank following the Merger Effective Date shall be those of First America Bank (as modified as provided herein) as in effect immediately prior to the Merger Effective Date until such documents are changed in accordance with applicable law.

(ii) The directors of First America Bank following the Merger Effective Date, who shall hold office until such time as their successors are elected and qualified, shall consist of the 13 current directors of First America Bank and the six current directors of Manatee River Community Bank. The names and addresses of such individuals are set forth on Exhibit 1. The Bylaws of First America Bank shall be amended prior to the Merger Effective Date to provide that for a period of three years following the Merger Effective Date, any vacancies on the Continuing Bank Board of Directors shall be nominated by the First America Bank representative directors (if such vacancy is attributable to a First America Bank representative) and by the Manatee River Community Bank representative Directors (if such vacancy is attributable to a Manatee River Community Bank representative); provided, however, that vacancies attributable to a First America Bank representative may remain vacant, or the number of Board seats may be reduced to eliminate such vacancies.

(iii) The parties will use their commercially reasonable best efforts to balance the leadership positions on all First America Bank board committees among current First America Bank and Manatee River Community Bank directors following the Merger Effective Date, and the First America Bank bylaws shall be amended prior to the Merger Effective Date to reflect this understanding.

(iv) The officers of First America Bank following the Merger Effective Date, who shall hold office until such time as their successors are elected and qualified, shall consist of those individuals set forth on Exhibit 2, and the First America Bank bylaws shall be amended prior to the Merger Effective Date to require a vote of at least 80% of the then directors of First America Bank to remove any of the foregoing officers.

(v) The banking offices of First America Bank following the Merger Effective Date shall be those banking offices of each of First America Bank and Manatee River Community Bank as exist immediately prior to the Merger Effective Date. The name and location of the main office and any existing and proposed branch office of First America Bank is set forth on Exhibit 3.

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

II. 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 Common Stock.**

(i) 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 MRCB Common Stock or FAHC Common Stock

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

(b) each share of MRCB Common Stock (excluding shares owned by MRCB, if any) issued and outstanding immediately prior to the Merger Effective Date shall become and be converted into the right to receive 946.8393 shares of FAHC Common Stock. Notwithstanding the foregoing, within 60 days prior to the Closing, MRCB shall retain an appraiser mutually acceptable to MRCB and FAHC to appraise Manatee River Community Bank's main office and branch office properties. If the aggregate appraised value of these two properties is less than the sum of (x) the aggregate net book value of such properties at the end of the calendar month immediately prior to such appraisal and computed in accordance with GAAP, plus (y) \$1.5 million ("Property Amount"), then the number of shares of FAHC Common Stock into which the shares of MRCB Common Stock shall be converted in the Merger shall be reduced by 15.0527 shares for each full \$100,000 that the aggregate appraised value of the two facilities plus \$1.5 million is less than the Property Amount. For example, if the appraised value of the two properties plus \$1.5 million is \$250,000 less than the Property Amount, then the number of shares of FAHC Common Stock into which each share of MRCB Common Stock shall be converted in the Merger shall be reduced by 30.1054 shares to 916.7329 shares. No adjustment shall be made to the number of shares if the appraised value of the two properties plus \$1.5 million is greater than the Property Amount. The applicable amount of FAHC Common Stock issuable in the Merger for each share of MRCB Common Stock pursuant to this Section, as may be adjusted as provided herein, shall be hereinafter referred to as the "Exchange Ratio."

(ii) Any shares of MRCB Common Stock owned by MRCB 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 MRCB 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 number of shares of FAHC Common Stock into which such shares shall be converted.

(iii) Subject to the provisions of this Agreement, as of the Merger Effective Date and by virtue of the Subsidiary Merger without any further action on the part of the holder of any shares of Manatee River Community Bank common stock or First America Bank common stock,

(a) Any share of First America Bank common stock issued and outstanding immediately prior to the Merger Effective Date shall remain issued and outstanding; and

(b) Each share of Manatee River Community Bank common stock issued and outstanding immediately prior to the Merger Effective Date shall be cancelled.

2.2 Shareholder Rights; Stock Transfers. On the Merger Effective Date, holders of MRCB Common Stock shall cease to be, and shall have no rights as, stockholders of MRCB other than to receive the Merger consideration provided under Section 2.1 above or the amount set forth in Section 2.5 below (to the extent applicable). After the Merger Effective Date, there shall be no transfers on the stock transfer books of MRCB of the shares of MRCB Common Stock which were issued and outstanding immediately prior to the Merger Effective Date.

2.3 Fractional Shares. Notwithstanding any other provision hereof, no fractional shares of FAHC Common Stock, and no certificates or scrip therefor, or other evidence of ownership thereof, will be issued in the Merger. Instead, such fractional share interest shall be rounded up to the next whole share of FAHC Common Stock.

2.4 Exchange Procedures. Promptly following the Merger Effective Date, FAHC shall send or cause to be sent to each former stockholder of record of MRCB immediately prior to the Merger Effective Date transmittal materials for use in exchanging such stockholder's certificates formerly representing MRCB Common Stock ("Old Certificates") for the Merger consideration set forth in Section 2.1 above. The certificates representing the shares of FAHC Common Stock ("New Certificates") issuable in exchange for the Old Certificates, will be delivered to such stockholder only upon delivery of Old Certificates representing all of such shares (or, if any of the Old Certificates are lost, stolen or destroyed, indemnity satisfactory to FAHC and an Affidavit of Lost Certificate satisfactory to FAHC). FAHC shall issue the shares of FAHC Common Stock issuable in the Merger within ten business days after receipt of an Old Certificate and a properly completed letter of transmittal. After the Merger Effective Date, to the extent required by law, former stockholders of record of MRCB shall be entitled to vote at any meeting of holders of FAHC Common Stock the number of whole shares of FAHC Common Stock into which their shares of MRCB Common Stock are converted, regardless of whether such holders have exchanged their Old Certificates for certificates representing FAHC Common Stock in accordance with the provisions of this Agreement. Notwithstanding the foregoing, FAHC shall not be liable to any former holder of MRCB Common Stock for any amount properly delivered to a public official pursuant to applicable abandoned property, escheat or similar laws.

2.5 Dissenters' Rights. The shares of MRCB Common Stock held by any shareholder of MRCB who shall have perfected Dissenters' Rights in accordance with the

provisions of the Florida Business Corporation Act (such laws are referred to as the "Dissent Provisions"), and shall not have effectively withdrawn or lost such holder's dissenters' rights, and shall not be converted into or represent a right to receive the FAHC Common Stock 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 (but before any consideration is paid to such holder pursuant to the dissent provisions) a dissenting shareholder of MRCB fails to perfect, or effectively withdraws or loses, such holder's dissenters' rights and rights to payment for the shares of MRCB Common Stock, FAHC shall issue and deliver the consideration to which such holder is entitled under Section 2.1 upon surrender by such holder of the certificate or certificates representing the shares held by the holder.

2.6 Securities Act Matters. The parties intend that the FAHC Common Stock issuable in the Merger will qualify for an exemption from the registration requirements of the Securities Act of 1933 (the "Securities Act") and applicable state securities laws, pursuant to the exemptions therefrom contained in Regulation D promulgated under the Securities Act and Section 4(2) of the Securities Act and other exemptions contained in such state securities laws, respectively. To cause the exemption from registration contained in the Securities Act and applicable state securities laws, the parties understand that the shares of FAHC Common Stock issuable in the Merger 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.

III. 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, each of the parties and each of their respective subsidiary banks shall (i) conduct its business in the usual, regular and ordinary course consistent with past practice, (ii) use reasonable best efforts to maintain and preserve intact its business organization and advantageous customer and business relationships and 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.

3.2 Forbearances of MRCB and Manatee River Community Bank. From the date hereof until the Merger Effective Date, except as otherwise contemplated by this Agreement, without the prior written consent of FAHC, neither MRCB nor Manatee River Community Bank shall:

(A) **Capital Stock.** Issue, sell, transfer, dispose of, permit to become outstanding, authorize the creation of, pledge or encumber any shares of capital stock, 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).

(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.

(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 MRCB or Manatee River Community Bank or grant any salary or wage increase or increase any other compensation or employee benefit (including incentive or bonus payments), except (provided that FAHC 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 3.0% of the aggregate base salary and wages payable in 2009; or (ii) for other changes that are required by applicable Law or any Contract disclosed to FAHC prior to the date hereof.

(D) **Hiring and Promotion.** Hire any person as an employee or promote any employee, except (provided that FAHC is given two (2) Business Days advance written notice thereof) persons hired to fill any vacancies and whose employment is terminable at the will of MRCB or Manatee River Community Bank, as the case may be, and whose base salary or wage rate does not exceed \$40,000 per annum.

(E) **Benefit Plans.** 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 health insurance policies and programs in effect as of the date of this Agreement upon terms and conditions acceptable to MRCB and FAHC). Without limiting the generality of the foregoing, neither MRCB nor Manatee River Community Bank shall take any action which has the effect of increasing its obligations or liabilities pursuant to any stock option plans or any other Benefit Plan, except as otherwise provided in this Agreement.

(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 FAHC 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 \$20,000 individually or \$100,000 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 \$20,000 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, (i) implement or adopt any material change in its interest rate and other risk management policies, procedures or practices, (ii) fail to follow in any material respect 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).

(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 made to such person and any Affiliate or immediate family member of such person, exceed \$1,500,000 (on a secured basis) and \$500,000 (on an unsecured basis) with respect to any new loan or loan commitment or any renewal or extension of any outstanding loan or loan commitment; (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 \$100,000 (on an unsecured basis) or (iii) purchase or sell any loan or loan participation exceeding \$500,000 (on a secured basis) and \$100,000 (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 \$150,000 individually and \$250,000 in the aggregate 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 if, within five (5) Business Days after MRCB requests in writing (which request shall describe in detail the investment securities to be purchased and the price thereof) that FAHC consent to making of any such purchase, FAHC has approved such request in writing or has not responded in writing to such request.

(R) **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 (*provided, however*, that the foregoing is not intended to restrict the day to day operations of MRCB, conducted in the ordinary course of business and consistent with past practices).

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

3.3 **Forbearances of FAHC.** From the date hereof until the Merger Effective Date, except as expressly contemplated by this Agreement, without the prior written consent of MRCB, FAHC 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 FAHC'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. In addition, FAHC shall not (and shall not permit First America Bank to) take or omit to take any action if such act or omission would constitute a breach of Sections 3.2(A), 3.2(F), 3.2(I) (except as contemplated by this Agreement), 3.2(J), 3.2(N) or 3.2(S) (as applicable to the foregoing sections only) if such Sections referred to FAHC and/or First America Bank.

IV. REPRESENTATIONS AND WARRANTIES

4.1 MRCB hereby represents and warrants to FAHC, and FAHC hereby represents and warrants to MRCB as follows, each solely with respect to itself and not with respect to the other Party:

(A) **Recitals.** The facts set forth in the Recitals of this Agreement with respect to it or its subsidiary bank are true and correct. For purposes of this Agreement, any reference in Article IV to FAHC shall mean, unless otherwise indicated, FAHC on a consolidated basis, including its ownership of First America Bank, and any reference to MRCB shall mean, unless otherwise indicated, MRCB on a consolidated basis, including its ownership of Manatee River Community Bank.

(B) **Organization and Capital Shares.**

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

(ii) The outstanding shares of it are duly authorized, validly issued and outstanding, fully paid and nonassessable, and subject to no preemptive rights. Except for the options outstanding to acquire shares of FAHC Common Stock as set forth on Schedule 4.1(B), 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 it or its subsidiary or any security of any kind convertible into or exercisable or exchangeable for any shares of capital stock of it or its subsidiary 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 it or its subsidiary).

(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 its ownership, use or leasing of property or the conduct or nature of their 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 could 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 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) **Subsidiaries.** The sole subsidiaries of MRCB are (i) Manatee River Community Bank, which is a Federal savings association, all of the outstanding shares of which are owned by MRCB, and (ii) MRCB Holdings Statutory Trust I, a Connecticut statutory trust, all of the common securities of which are owned by MRCB. The sole subsidiary of FAHC is First America Bank, which is a Florida banking corporation, all of the outstanding shares of which are owned by FAHC. It has the corporate power and authority to carry on its business as it is now being conducted and to own all of its material properties and assets, and has in effect all 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.

(E) **Authority.** Subject to receipt of any necessary approval by its stockholders and the regulatory approvals referred to in Section 6.2, it has the corporate power and authority to execute, deliver and perform its obligations under this Agreement, this Agreement has been authorized by all necessary corporate action by it, and is a valid and binding agreement 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.

(F) **No Conflict.** The execution, delivery and performance of this Agreement 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, which breach, violation or default is reasonably likely to have, either by itself or in the aggregate with one or more other events, occurrences or circumstances, a Material Adverse Effect on it; (ii) constitute a breach or violation of, or a default under, 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(F), 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.

(G) **Financial Statements.** Prior to the execution of this Agreement, each party has delivered to the other true and complete copies of the following financial statements (which are attached as Schedule 4.1(G)):

(i) the audited consolidated balance sheets of it as of December 31, 2008 and 2007 and the related audited consolidated 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

(ii) the unaudited financial information included in materials provided by it to its Board of Directors as of February 28, 2009 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 GAAP consistently applied and fairly present its financial condition and results of operations as of the respective dates thereof and for the respective periods covered thereby.

(H) **No Undisclosed Liabilities.** Except as referred to or reserved against in its Financial Statements, there are no liabilities against, relating to or affecting it or any of its assets and properties, other than liabilities incurred 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.

(I) **Litigation; Regulatory Action.** Except as set forth in Schedule 4.1(I) or in its Financial Statements or previously disclosed in writing, 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 the best of its knowledge, no such litigation, proceedings or controversy has been threatened; and except as set forth in Schedule 4.1(I), 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, nor has it 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, the Federal Deposit Insurance Corporation and the Office of Thrift Supervision) 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.

(J) **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 Licenses, 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 Licenses, Orders and approvals are in full force and effect and, to the best of 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, Order or approval 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).

(K) **Defaults.** It is not in default under any material Contract, 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).

(L) **Brokers; Advisors.** Except for the engagement by MRCB of Howe Barnes Hoefer & Arnett, Inc., as described on Schedule 4.1(L) by MRCB, 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.

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

(N) **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.

(O) **Reorganization.** It is aware of no reason why the Merger will fail to qualify as a tax free reorganization under Section 368 of the Code.

(P) **Articles and Bylaws.** It has previously delivered to the other party its articles of incorporation, articles of association, 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.

(Q) **Disclosure.** No representation or warranty contained in this Agreement, and no statement contained in the Schedules hereto or in any certificate, list or other writing furnished 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. All information disclosed by the parties pursuant to this Agreement shall be held by such parties subject to the terms and conditions of Section 5.5(C) of this Agreement.

4.2 In addition to the representations under Section 4.1, MRCB also represents and warrants to FAHC, and any reference to MRCB in this Section 4.2 shall mean, unless otherwise indicated, MRCB on a consolidated basis, including its ownership of Manatee River Community Bank:

(A) **Absence of Changes.** Except for the execution and delivery of this Agreement and the transactions to take place pursuant hereto on the Merger Effective Date, since December 31, 2008 there has not been any change, development or event which, individually or together with other such changes, developments or events, could 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, there has not occurred between December 31, 2008 and the date hereof:

(i) 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 Option with respect to it;

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

(iii) (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 Plan, employment contract or other employee compensation arrangement; or (z) any adoption, entering into, amendment, modification or termination (partial or complete) of any Benefit Plan 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;

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

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

(vi) 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 of it 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;

(vii) 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;

(viii) any (a) amendment of its articles of incorporation, articles of association, or bylaws (or other comparable corporate charter documents), (b) reorganization, liquidation or dissolution of it, or (c) merger, consolidation or business combination involving it and any other person;

(ix) any capital expenditures or commitments for additions to property, Agreement or equipment of it constituting capital assets in an aggregate amount exceeding \$100,000;

(x) any commencement or termination by it of any line of business;

(xi) 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, 2008 and disclosed in Schedule 4.2(A);

(xii) any agreement to do or engage in any of the foregoing;

(xiii) any other transaction involving, or development affecting it outside the ordinary course of business consistent with past practice.

(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 to be performed after the date hereof. For purposes of this Section 4.2(B), "material" shall mean any Contract that calls for aggregate annual payments of \$20,000 or more and which is not terminable at will or with 90 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. Except as set forth in Schedule 4.2(C), it does not own any real property. Schedule 4.2(C) also contains a true and correct list of each parcel of real property leased by it (as lessor or lessee).

(i) It has a valid and subsisting leasehold estate in and the right to quiet enjoyment of the real properties leased by it as lessee for the full term of the lease thereof.

Each lease referred to in this paragraph (i) is a legal, valid and binding agreement, enforceable 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 there is no, 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.

(ii) 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, or have valid leasehold interests in or valid rights under contract to use, all tangible personal property used in the conduct of its business, including all tangible personal property reflected on its Financial Statements and tangible personal property acquired subsequent to December 31, 2008, other than property disposed of since such date in the ordinary course of business consistent with past practice. All such tangible personal property is free and clear of all liens, other than liens disclosed in Schedule 4.2(D), and is in good working order and condition, ordinary wear and tear 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 other than Intellectual Property held under "shrink-wrap", "click-through" and similar off-the-shelf software licenses. 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 have a Material Adverse Effect. Except as disclosed in Schedule 4.2(E), (i) all registrations with and applications to Regulatory Authorities in respect of such Intellectual Property are valid and in full force and effect and are not subject to the payment of any taxes or maintenance fees or the taking of any other actions to maintain their validity or effectiveness, (ii) there are no restrictions on the direct or indirect transfer of any license, or any interest therein in respect of such Intellectual Property, (iii) it has taken reasonable security measures to protect the secrecy, confidentiality and value of their trade secrets, (iv) 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 (v) it has no knowledge that such Intellectual Property is being infringed by any other person. It has not received notice that it is infringing any Intellectual Property of any other person, no claim is pending or, to its knowledge, has been made to such effect that has not been resolved and, to its

knowledge, it is not infringing any Intellectual Property rights of any other person. For purposes of this Agreement "Intellectual Property" means all 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 to FAHC in writing:

(i) Section 4.2(F) of the Disclosure Schedule 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 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 had or has any present or future liability. All such plans, agreements, programs, policies and arrangements shall be collectively referred to as the "Benefit Plans".

(ii) With respect to each Benefit Plan, it has provided to FAHC 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) a summary of any proposed amendments or changes anticipated to be made to the Benefit Plans at any time within the twelve months immediately following the date hereof, (v) 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 (vi) all filings made by it 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.

(iii) (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 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; (v) no "reportable event" (as such term is defined in Section 4043 of ERISA) that could reasonably be expected to result in material liability, no nonexempt "prohibited transaction" (as such term is defined in Section 406 of ERISA and Section 4975 of the Code) or "accumulated funding deficiency" (as such term is defined in Section 302 of ERISA and Section 412 of the Code (whether or not waived)) 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) there is no present intention that any Benefit Plan be materially amended, suspended or terminated, or otherwise modified to change benefits (or the levels thereof) under any Benefit Plan at any time within the twelve months immediately following the date hereof; (viii) 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 (x) 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.

(iv) 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.

(v) 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) no facts or circumstances exist that could give rise to any such actions, suits or

claims; (iii) no written or oral communication has been received from the Pension Benefit Guaranty Corporation (the "PBGC") in respect of any Benefit Plan subject to Title IV of ERISA concerning the funded status of any such plan or any transfer of assets and liabilities from any such plan in connection with the transactions contemplated herein; (iv) no administrative investigation, audit or other administrative proceeding by the Department of Labor, the PBGC, the Internal Revenue Service or other governmental agencies are pending, threatened or in progress (including, without limitation, any routine requests for information from the PBGC); and (v) 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.

(vi) There has been no amendment to, announcement by it relating to, or change in Employee participation or coverage under, any Benefit Plan which would increase the expense of maintaining such plan above the level of the expense incurred therefor for the most recent fiscal year, except for reasonable annual renewals in the ordinary course of business and consistent with past practice.

(vii) Except as set forth on Section 4.2(F) of the Disclosure Schedule, 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, FAHC 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, FAHC 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 the best of 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 its 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 valid and binding and 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. The insurance policies listed in Schedule 4.2(H), in light of its business, operations and assets and properties, are in amounts and have coverages that are reasonable and customary for persons engaged in such businesses and operations and having such assets and properties. It has not received notice that any insurer under any 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, 2007. 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 MRCB and/or Manatee River Community Bank, on one hand, and FAHC or First America Bank and/or any of its director or indirect subsidiaries, on the other hand. No officer, director, affiliate or associate of it, nor any associate of any such officer, director or affiliate, provides or causes to be provided any assets, services or facilities to it; it does not provide or cause to be provided any assets, services or facilities to any such officer, director, affiliate or associate; and it 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, 2008, all such settlements between it 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 February 28, 2009 by it (the "Asset Classification"); and no amounts of loans, extensions of credit or other assets that are classified by it or by any regulatory examiner as of February 28, 2009 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 February 28, 2009. 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 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), to the best of its knowledge:

(i) neither it, nor any properties owned or operated by it, has been or is in violation of or liable under any Environmental Law (as such term is defined in subsection (iii) below), except for such violations or liabilities that, either by themselves or in the aggregate with one or more other events, occurrences or circumstances, would not have a Material Adverse Effect. There are no (and there is no reasonable basis for any) actions, suits or proceedings, or demands, claims, notices or investigations including, without limitation, notices, demand letters or requests for information from any environmental agency or other person, instituted, pending or threatened relating to the liability of any property owned or operated by it under any Environmental Law.

(ii) 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, registration, and (iii) any use, possession, generation, treatment, storage, recycling, transportation or disposal of any Hazardous Material (as such term is defined in subsection (iii) below).

(iii) 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, legal doctrine, 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, Agreement 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.

(L) Tax Matters.

(i) All tax returns required to be filed on its behalf have been timely filed. It has not requested an extension of time to file any tax return. All tax returns filed are complete and accurate in all material respects. All taxes shown on filed tax returns have been paid and all tax withholding requirements imposed on or with respect to it have been satisfied in full in all respects. There is no audit, examination, deficiency or refund litigation with respect to any taxes, except as reserved against in its Financial Statements.

(ii) It is a validly electing S corporation within the meaning of Sections 1361 and 1362 of the Code (and within the meaning of comparable state and local tax provisions which provide for state and local tax treatment of S corporations or reasonable equivalent thereof), and will an S corporation up to and including the Merger Effective Date.

(iii) It will not be liable for any tax under Section 1374 of the Code (or any similar provision of state, local or non United States laws) in connection with the consummation of the terms contemplated by this Agreement.

4.3 In addition to the representations under Section 4.1, FAHC also represents and warrants to MRCB, and any reference to FAHC in this Section 4.3 shall mean, unless otherwise indicated, FAHC on a consolidated basis, including its ownership of First America Bank, that the representations and warranties made by MRCB in Section 4.2(A) are likewise true and correct with respect to FAHC as if such Section 4.2(A) referred to FAHC.

V. COVENANTS

5.1 **Reasonable Best Efforts.** Subject to the terms and conditions of this Agreement, each party hereto agrees to cooperate with the other and use its reasonable best 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, each of FAHC and MRCB, acting through its respective 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 "Shareholders Meetings"), 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 FAHC's and MRCB's stockholders for consummation of the Merger. FAHC and MRCB shall each 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) The Boards of Directors of FAHC and MRCB shall each recommend adoption of this Agreement by its stockholders and shall not (x) withdraw, modify or qualify in any manner adverse to the other such recommendation or (y) take any other action or make any other public statement in connection with the Shareholders Meetings inconsistent with such recommendation, except as to the foregoing where its Board of Directors determines in good faith, after consultation with counsel, that taking such action would likely result in a violation of its fiduciary duties under applicable law.

5.3 Proxy Statement.

(A) Each of MRCB and FAHC shall as promptly as practicable following the date hereof in conjunction with the other prepare and mail to its stockholders at its own expense a notice of meeting, joint proxy statement and form of proxy in accordance with applicable Law (the "Proxy Statement"). FAHC 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 neither party shall mail the Proxy Statement without the other's prior written consent (such consent not to be unreasonably withheld or delayed). The Proxy Statement shall include the recommendation of MRCB's and FAHC's Board of Directors in favor of adoption and approval of this Agreement and the transactions contemplated hereby.

(B) MRCB and FAHC agree that the Proxy Statement and any amendment or supplement thereto shall, at the date of mailing to stockholders and at the time of the Shareholders Meetings, 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 MRCB and FAHC agrees that if such party shall become aware prior to the time of the Shareholders Meetings 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.

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.

(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 Confidentiality Agreement, dated December 2, 2008, between MRCB and FAHC (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; *provided, however*, if a party shall obtain actual knowledge of any breach or inaccuracy in the other party's representations or warranties, such party shall give prompt notice to the other party.

5.6 No Solicitation.

(A) Neither MRCB nor Manatee River Community Bank, or any of their respective officers, directors, employees, agents, representatives and Affiliates (collectively, "Representatives") shall, directly or indirectly, initiate, solicit, encourage or knowingly facilitate any inquiries or proposals with respect to, or, except as required by the fiduciary duties of its Board of Directors (after consultation with its counsel) furnish any non-public information relating to or participate in any negotiations or discussions concerning, any tender offer or exchange offer for, or any proposal for the acquisition or purchase of all or a substantial portion of its assets, or a substantial equity interest in it, or any merger or other business combination other than as contemplated by this Agreement, and it shall instruct its Representatives to refrain from doing any of the foregoing; provided, that, notwithstanding the foregoing, it may communicate information about any such proposal to its shareholders if and to the extent it is

legally required to do so (after consultation with its counsel); and it shall notify FAHC immediately if any such inquiries or proposals are received by it or if any person seeks to initiate such negotiations or discussions.

(B) MRCB agrees that any violation of the restrictions set forth in this Section 5.6 by any Representative of MRCB or Manatee River Community Bank, at the direction or with the consent or prior knowledge or awareness of MRCB or Manatee River Community Bank, shall be deemed to be a breach of this Section 5.6 by MRCB and Manatee River Community Bank.

5.7 Regulatory Applications.

(A) FAHC shall use its reasonable best 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 FAHC within forty-five (45) days after the execution hereof, and MRCB shall cooperate in such preparation and filing. Subject to applicable laws relating to the exchange of information, each of FAHC and MRCB shall have the right to review in advance, and to the extent practicable each shall consult with the other on, all material written information submitted to any third party and/or any Regulatory Authority in connection with the Merger and the other transactions contemplated by this Agreement. 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 FAHC or MRCB, 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 Subsidiaries, 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; Director's and Officers' Insurance.

(A) From and after the Merger Effective Date, FAHC agrees that it will cause the Continuing Bank to indemnify and hold harmless each present and former director and officer of MRCB or its Subsidiaries (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 extent that MRCB would have been permitted under the Organizational Documents of MRCB (to the extent allowed under Section 607.0850 of the Florida Business Corporation Act) as in effect on the date hereof to indemnify such Indemnified Party (and shall advance expenses for such Indemnified Party to the same extent). FAHC's obligations under this Section 5.8(A) shall continue in full force and effect for a period equal to the applicable statute of limitations from the Merger Effective Date; *provided, however*, that all rights to defense, indemnification and advancement in respect of any claim asserted or made within such period shall continue until the final disposition of such claim.

(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 FAHC thereof, but the failure to so notify shall not relieve FAHC of any liability it may have to such Indemnified Party if such failure does not materially prejudice FAHC. In the event of any such claim, action, suit, proceeding or investigation (whether arising before or after the Merger Effective Date), (i) FAHC shall have the right to assume, or cause the Continuing Corporation to assume, the defense thereof and FAHC 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) FAHC shall not be liable for any settlement effected without its prior written consent; *provided* that FAHC 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) FAHC shall maintain or cause MRCB to maintain in effect through December 7, 2010, its current expiration date, 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 MRCB (as opposed to the portion that serves to reimburse MRCB) with respect to claims against such directors and officers arising from facts or events which occurred before the Merger Effective Date, and shall purchase "tail" or "extended reporting period" coverage with respect to such D&O Insurance providing for coverage for claims reported through at least December 7, 2012; *provided, however*, that in no event shall FAHC be required to expend or cause MRCB to expend more than \$35,000 for premiums for such tail/extended reporting period coverage; *provided further, however*, that if FAHC is unable to maintain or obtain the D&O Insurance called for by this Section 5.8, FAHC shall use its commercially reasonable efforts to obtain as much comparable insurance providing for reporting of claims through at least December 7, 2012 as is available for an aggregate cost not to exceed \$35,000; *provided further* that officers and directors of MRCB may be required to make application and provide customary representations and warranties to FAHC's insurance carrier for the purpose of obtaining such D&O Insurance.

(D) If FAHC 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 FAHC 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) For the twelve (12) month period immediately following the Merger Effective Date, FAHC agrees to cause MRCB to provide the then current employees of MRCB who continue employment with Manatee River Community Bank during such period with employee benefits that are comparable in the aggregate to employee benefits (other than equity-based benefits or awards, including any shares granted or issued to any tax qualified retirement plan, and any special bonus arrangements) provided to First America Bank employees. FAHC will cause the employee benefit plans that such employees are or become eligible to participate in to take into account for purposes of eligibility and vesting thereunder service by such employees with MRCB as if such service were with FAHC 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 MRCB or Manatee River Community Bank immediately prior to the Merger Effective Date. Following the Merger Effective Date, employees of MRCB will retain credit for unused vacation and sick days which were accrued with MRCB 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 FAHC, each employee of MRCB shall be given credit for covered expenses paid by that employee under comparable employee benefit plans of Manatee River Community Bank 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 FAHC and its Subsidiaries. Nothing herein shall limit the ability of FAHC 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 MRCB is terminated by FAHC primarily 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, FAHC 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 12 weeks.

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

(C) Prior to the Closing, Messrs. Langford and Neuhauser shall settle their respective Salary Continuation Agreements with Manatee River Community Bank for cash to each equal to the related accrued liability on Manatee River Community Bank's books at the Closing, plus \$66,750 in the case of Mr. Langford and \$81,000 in the cause of Mr. Neuhauser. At the Merger Effective Date, Messrs. Langford and Neuhauser will each receive options exercisable for 55,000 shares, respectively, of FAHC Common Stock at an exercise price of

\$12.50 per share, such options to be issued under FAHC's Officers' and Employees' Stock Option Plan.

(D) The premiums on the whole life insurance policies owned by Messrs. Langford and Neuhauser providing each a death benefit of \$250,000 will be assumed by First America Bank at the Merger Effective Date in accordance with their terms.

(E) The directors of MRCB who become directors of FAHC or First America Bank will be entitled to participate in the FAHC director stock option plan.

(F) 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 MRCB or their beneficiaries, other than the parties hereto and their 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. MRCB shall use its reasonable best efforts, on behalf of FAHC and pursuant to the request of FAHC, 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 MRCB and FAHC 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 MRCB or FAHC, 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. Each party will consult in good faith with the other party regarding the nature and content of any formal presentation of the transactions contemplated by this Agreement to its employees and will include a representative of the other party 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. Each party agrees to work in good faith with the other party to facilitate the timely and accurate dissemination of information to its employees regarding matters related to the transactions contemplated by this Agreement in such a manner as to cause minimal disruption of the business of such party and its relationships with its employees and to facilitate the transition of such relationships to FAHC.

5.13 Third-Party Agreements, Etc.

(A) MRCB 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 FAHC) and (ii) the cooperation of such third parties to effect a smooth transition in accordance with FAHC's timetable at or after the Merger Effective Date. MRCB shall cooperate with FAHC 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) FAHC 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 MRCB.

5.14 Stockholders Agreements. MRCB shall use its reasonable best efforts, on behalf of FAHC and pursuant to the request of FAHC, to cause each Stockholder who is a party to the Stockholders Agreement to comply with such Stockholders Agreement. MRCB 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 MRCB Common Stock, and agrees to notify the transfer agent for any MRCB 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 FAHC with full title to all properties, assets, rights, powers, approvals, privileges, immunities and franchises of MRCB, 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, MRCB and Manatee River Community Bank shall make such accounting entries or adjustments, including additions to its ALL and charge-offs of loans, as FAHC shall reasonably and customarily direct as a result of its ongoing review of MRCB 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 MRCB, (a) MRCB shall not be required to take such actions prior to the time FAHC 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, (b) no such adjustment shall (i) require any filing with any Regulatory Authority, (ii) violate any Law applicable to MRCB, 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 or (c) be taken into account in calculating or otherwise affect the Exchange Ratio.

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 20 days, after the end of each calendar month ending after the date of this Agreement, each Party shall furnish to the other

Party (i) financial information of such Party as of and for such month then ended as provided by such Party to its Board of Directors and (ii) copies of any internal management reports prepared by such Party relating to the foregoing. All information furnished by one Party to the other Party pursuant to this Section 5.17 shall be held in confidence by the receiving Party to the extent required by, and in accordance with, the provisions of the Confidentiality Agreement.

VI. 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 MRCB and FAHC as and to the extent required by law, and the number of dissenting MRCB shares shall not exceed 5% of the number of MRCB Common Stock issued and outstanding immediately prior to the Merger Effective Date.

6.2 Regulatory Approvals. Procurement by FAHC and MRCB 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 FAHC, 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.

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 MRCB or FAHC.

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 FAHC or MRCB, 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 FAHC to own, operate, or control substantially all of the assets and operations of MRCB and FAHC.

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; (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 MRCB and FAHC 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 Tax Opinion. Prior to the date of this Agreement, FAHC and MRCB have received an opinion from Hacker, Johnson & Smith, P.A., to the effect that the Merger constitutes a reorganization under Section 368 of the Code and that no gain or loss will be recognized by the shareholders of MRCB who receive shares of FAHC Common Stock in the Merger, which such opinion has relied upon factual representations contained in certificates of officers of FAHC, MRCB and others. The foregoing tax opinion shall not have been withdrawn as of the Merger Effective Date.

6.8 Additional FAHC Conditions. In addition, the obligation of FAHC to consummate the Merger is subject to the fulfillment or written waiver by FAHC prior to the Merger Effective Date of each of the following conditions:

(A) **Securities Agreements.** FAHC shall have received a completed and executed securities agreement from each of MRCB's shareholders receiving shares of FAHC Common Stock in the Merger acknowledging that such shares were not registered under the applicable provisions of the Securities Act, or any state securities laws, and are subject to the restrictions on transferability set forth in such laws.

(B) **Amendments to Employment Agreements.** Prior to the Closing, each of the existing employment agreements and between MRCB and Messrs. Langford and Neuhauser shall be amended as mutually agreed upon by MRCB, FAHC, and the employees.

(C) **Allowance for Loan Losses.** The allowance for loan losses on the last day of the calendar months immediately preceding the Merger Effective Date, as determined in accordance with GAAP, of MRCB shall not be less than \$1.5 million.

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

VII. 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 MRCB:

(A) by the mutual written consent of MRCB and FAHC;

(B) by FAHC or MRCB if the Merger is not consummated by the 210th 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 MRCB 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 210th 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 210th 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 FAHC or MRCB 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 FAHC or MRCB (so long as, in the case of MRCB, the Stockholders have complied in all material respects with the Stockholders Agreement) if the approval of the stockholders of MRCB contemplated by this Agreement shall not have been obtained by reason of the failure to obtain the required vote at the Shareholders Meeting or at any adjournment or postponement thereof;

(E) by FAHC or MRCB if the approval of the shareholders of FAHC contemplated by this Agreement shall not have been obtained by reason of the failure to obtain the required vote at the Shareholders' Meeting or any adjournment or postponement thereof;

(F) by MRCB if there shall have been a breach of any representation, warranty, covenant or agreement on the part of FAHC 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 MRCB to FAHC;

(G) by FAHC if there shall have been a breach of any representation, warranty, covenant or agreement on the part of MRCB 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 FAHC to MRCB;

(H) by FAHC 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 FAHC to the breaching party; or

(I) by FAHC, at any time prior to MRCB's Shareholders Meeting, if the Board of Directors of MRCB shall have failed to recommend the Merger after requested by FAHC to do so, withdrawn such recommendation or modified or changed such recommendation in a manner adverse to the interests of FAHC. Upon such termination pursuant to this Subsection (I), MRCB shall immediately pay to FAHC by wire transfer, \$300,000 in full satisfaction of the losses and damages incurred by FAHC resulting by MRCB's termination pursuant to this Subsection;

(J) by MRCB, at any time prior to FAHC's Shareholders Meeting, if the Board of Directors of FAHC shall have failed to recommend the Merger after requested by MRCB to do so, withdrawn such recommendation or modified or changed such recommendation in a manner adverse to the interests of MRCB. Upon such termination pursuant to this Subsection (J), FAHC shall immediately pay to MRCB by wire transfer, \$300,000 in full satisfaction of the losses and damages incurred by MRCB resulting by FAHC's termination pursuant to this Subsection;

(K) by MRCB if its Board of Directors so determines by a vote of a majority of the members of its entire Board, in the event that, notwithstanding the covenants set forth in Section 5.6, MRCB has accepted an alternative acquisition proposal by a third party prior to the Merger Effective Date. Upon such termination pursuant to this Subsection (K), MRCB shall immediately pay to FAHC by wire transfer, \$300,000 in full satisfaction of the losses and damages incurred by FAHC resulting from MRCB's acceptance of the alternative acquisition proposal;

(L) by FAHC if its Board of Directors so determines by a vote of a majority of the members of its entire Board, in the event that, notwithstanding the covenants of FAHC set forth in this Agreement, FAHC has decided to enter into an agreement to pursue a merger, consolidation, or special recapitalization transaction with another person or entity and to terminate this Agreement, in which event FAHC shall immediately pay to MRCB by wire transfer, \$300,000 in full satisfaction of the losses and damages incurred by MRCB resulting from FAHC's determination to terminate this Agreement;

(M) by FAHC if there shall have occurred with respect to MRCB, a Material Adverse Effect following December 31, 2008; or

(N) by MRCB if there shall have occurred with respect to FAHC, a Material Adverse Effect following December 31, 2008.

7.2 Effect of Termination. In the event of the termination of this Agreement pursuant to Section 7.1, this Agreement (other than as set forth in Section 8.1) 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 willful breach of this Agreement.

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 MRCB; provided, however, that, after adoption of this Agreement by the stockholders of MRCB, no amendment may be made which by Law requires the further approval of the stockholders of MRCB without such further approval. This Agreement may not be amended except by an instrument in writing signed by the parties hereto.

VIII. MISCELLANEOUS

8.1 Survival. The respective representations, warranties, obligations, covenants and agreements of the parties shall not survive the Merger Effective Date, except for those covenants and agreements contained herein which by their terms apply in whole or in part after the Merger Effective Date.

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 or proceeding 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) “Employment Agreement” means the agreement in the form of Exhibit C-1 hereto.

(E) “Executive” means each of W. Allen Langford and Jon Neuhauser.

(F) “GAAP” means generally accepted accounting principles in the United States.

(G) “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.

(H) “Material Adverse Effect” shall mean any near-term or long-term material adverse change in or material adverse effect (whether or not such change or effect arises from any fact, circumstance, result, change, event, violation or occurrence that was foreseeable or known as of the date of this Agreement) on the business, results of operations, financial condition or assets, taking the assets as a whole on a consolidated basis, of MRCB or FAHC, as the case may be; however, 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; (b) changes in generally accepted accounting principles or regulatory accounting requirements applicable to banks and bank holding companies generally; (c) any changes from December 31, 2008, to the results of operations or the financial condition resulting from unrealized gains and/or losses from available-for-sale securities held by a party; (d) any changes otherwise agreed to by the parties; and (e) the Conforming Adjustments. Without limiting the generality of the foregoing, an event or occurrence, or series of events or occurrences, which result, or is reasonably likely to result, in a decrease in the shareholders’ equity or results of operations of MRCB or FAHC, as the case may be, from December 31, 2008 or an event or occurrence, or series of events or occurrences, which causes liability or damages to MRCB or FAHC, as the case may be, or claims against MRCB or FAHC, as the case may be, which in the aggregate of all such events and occurrences is in excess of \$500,000 shall be deemed to have had a Material Adverse Effect.

(I) “Non-Compete Person” means each of the following persons: the Executives and the existing directors of MRCB.

(J) “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.

(K) “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).

(L) "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, by overnight courier 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 MRCB: MRCB Holdings, Inc.
430 8th Avenue West
Palmetto, Florida 34421
Attention: W. Allen Langford
Facsimile: (941) 721-8323

With a copy to: Haskell Slaughter Young & Rediker, LLC
1200 Abernathy Road, Suite 1700
Atlanta, Georgia 30328
Attention: Stan Pollock
Facsimile: (770) 551-8105

(B) if to FAHC: First America Holdings Corporation
1307 South Tamiami Trail
Osprey, Florida 34229
Attention: Daniel S. Hager
Facsimile: (941) 761-7081

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 8.6.

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 Waivers. Prior to or at the Merger Effective Date, either party shall have the right to waive any default in the performance of any provision of this Agreement by the other, to waive or extend the time for compliance or fulfillment by the other of any and all of its obligations under this Agreement, and to waive any or all of the conditions precedent to the obligations of such party under this Agreement, except any condition which, if not satisfied, would result in a violation of law. No such waiver shall be effective unless it is in writing signed by the party granting such waiver.

8.12 Prevailing Party. If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provision of this Agreement, the successful or prevailing party shall be entitled to recover from the other party the reasonable attorneys' fees, court costs and expenses actually and reasonably incurred in that action or proceeding, in addition to any other relief to which such party may be entitled.

8.13 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 FAHC may assign all or any of its rights and obligations hereunder to any direct or indirect wholly-owned Subsidiary of FAHC, but such assignment shall not relieve FAHC of its obligations hereunder.

8.14 Effect. No provision of this Agreement shall be construed to require MRCB or FAHC 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.

MRCB HOLDINGS, INC.

FIRST AMERICA HOLDINGS CORPORATION

By: /s/ W. Allen Langford
W. Allen Langford
President and Chief Executive
Officer

By: /s/ Daniel S. Hager
Daniel S. Hager
Chairman and Chief Executive Officer

EXHIBIT 1 TO PLAN OF MERGER AND MERGER AGREEMENT

Name and address of Directors of First America Bank following the Merger Effective Date:

Ronald G. Allen *
Paul D. Beitlich *
James E. Boyd **/**
James E. Bridges *
Douglas K. Chapman *
Robert J. Clancy *
Cameron O. Dakin **
Philip Roy Day *
Carol B. Green *
Daniel S. Hager *
Robert J. Klement *
W. Allen Langford **
Reed W. Mapes **
William R. Rice **
Gary A. Roberts *
Robert Clinton Smith *
Robert N. Spencer **
Vincent G. Stenger *
Edward Joseph Valek, II *

* The address for this director is 1307 South Tamiami Trail, Osprey, Florida 34229

** The address for this director is 430 8th Avenue West, Palmetto, Florida 34221

*** Mr. Boyd also shall serve as Chairman of the Executive Committee.

EXHIBIT 2 TO PLAN OF MERGER AND MERGER AGREEMENT

Name and Address of Officers of First America Bank

<u>Name of Individual *</u>	<u>Position with First America Bank</u>
Daniel S. Hager	Chairman of the Board and Chief Executive Officer
Carol B. Green	Vice Chairman of the Board
W. Allen Langford	President
Jon R. Neuhauser	Chief Operating Officer
Henry A. Goldsby	Risk Management Executive
Michael L. Hogan	Chief Financial Officer
Michael F. Turner	Chief Lending Officer

* The address of each individual is 1307 South Tamiami Trail, Osprey, Florida 34229

Note: Mr. James E. Boyd shall serve as Chairman of the Board of the Executive Committee.

EXHIBIT 3 TO PLAN OF MERGER AND MERGER AGREEMENT

**Banking Offices of First America Bank
Following the Merger Effective Date**

Main Office:

1307 South Tamiami Trail
Osprey, Florida 34229

Branch Offices:

2811 Manatee Avenue West
Bradenton, Florida 34205

430 8th Avenue West
Palmetto, FL 34221

7204 U.S. Highway 301 North
Ellenton, FL 34222

15 South Palm Avenue
Sarasota, FL 34236