

# SECURITIES AND EXCHANGE COMMISSION

## FORM POSASR

Post-effective amendments to an automatic shelf registration statement on Form S-3ASR or Form F-3ASR

Filing Date: **2010-03-11**  
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### FILER

#### **DEUTSCHE BANK AKTIENGESELLSCHAFT**

CIK: **1159508** | IRS No.: **000000000** | Fiscal Year End: **1231**  
Type: **POSASR** | Act: **33** | File No.: **333-162195** | Film No.: **10674097**  
SIC: **6022** State commercial banks

Business Address  
*TAUNUSANLAGE 12 60325  
FRANKFURT AM MAIN  
GERMANY 18 00000  
011496991000*

#### **Deutsche Bank Contingent Capital Trust V**

CIK: **1433609** | IRS No.: **000000000** | State of Incorp.: **DE** | Fiscal Year End: **1231**  
Type: **POSASR** | Act: **33** | File No.: **333-162195-03** | Film No.: **10674098**

Mailing Address  
*60 WALL STREET  
NEW YORK NY 10005*

Business Address  
*60 WALL STREET  
NEW YORK NY 10005  
212-250-8024*

#### **Deutsche Bank Contingent Capital LLC V**

CIK: **1433611** | IRS No.: **000000000** | State of Incorp.: **DE** | Fiscal Year End: **1231**  
Type: **POSASR** | Act: **33** | File No.: **333-162195-04** | Film No.: **10674099**

Mailing Address  
*60 WALL STREET  
NEW YORK NY 10005*

Business Address  
*60 WALL STREET  
NEW YORK NY 10005  
212-250-8024*



**SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

Post-Effective Amendment No. 1 to

**FORM F-3**

REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933

**DEUTSCHE BANK AKTIENGESELLSCHAFT**

(Exact name of Registrant as specified in its charter)

**DEUTSCHE BANK CORPORATION**

(Translation of Registrant's name into English)

**Federal Republic of Germany**  
(State or other jurisdiction of  
incorporation or organization)

**Not Applicable**  
(I.R.S. Employer  
Identification Number)

**Theodor-Heuss-Allee 70**  
**60486 Frankfurt am Main**  
**Germany**  
**+49-69-910-0**

(Address and telephone number of Registrant's principal executive offices)

**DEUTSCHE BANK CONTINGENT  
CAPITAL LLC V**

(Exact name of Registrant as specified in its  
charter)

**Delaware**

(State or other jurisdiction of incorporation or  
organization)

**26-2498666**

(I.R.S. Employer Identification No.)

**60 Wall Street**

**New York, New York 10005**

**212-250-2077**

(Address and telephone number of Registrant's  
principal executive offices)

**DEUTSCHE BANK CONTINGENT  
CAPITAL TRUST V**

(Exact name of Registrant as specified in its  
charter)

**Delaware**

(State or other jurisdiction of incorporation or  
organization)

**26-6356518**

(I.R.S. Employer Identification No.)

**60 Wall Street**

**New York, New York 10005**

**212-250-2077**

(Address and telephone number of Registrant's  
principal executive offices)

**Deutsche Bank Americas**  
**c/o Office of the Secretary**  
**60 Wall Street**  
**New York, NY 10005**  
**Attention: Peter Sturzinger**  
**212-250-5591**

*Copies to:*

**Deutsche Bank Aktiengesellschaft**  
**Theodor-Heuss-Allee 70**  
**60486 Frankfurt am Main**  
**Germany**  
**Attn: Legal Dept.**

**Ward A. Greenberg**  
**Cleary Gottlieb Steen & Hamilton LLP**  
Main Tower  
Neue Mainzer Strasse 52  
D-60311 Frankfurt am Main  
Germany  
+49 69 97103-0

**James Leyden, Jr., Esq.**  
**Richards, Layton & Finger, P.A.**  
One Rodney Square  
P.O. Box 551  
Wilmington, Delaware 19899  
302-651-7700

**Approximate date of commencement of proposed sale to the public:** From time to time after the effective date of this Registration Statement.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, as amended (the "Securities Act"), please check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act Registration Statement number of the earlier effective Registration Statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective Registration Statement for the same offering.

If this Form is a Registration Statement pursuant to General Instruction I.C. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.C. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

**CALCULATION OF REGISTRATION FEE**

<b>Title Of Each Class Of Securities To Be Registered</b>	<b>Amount To Be Registered(1)</b>	<b>Proposed Maximum Aggregate Price per Unit(1)</b>	<b>Proposed Maximum Aggregate Offering Price(1)</b>	<b>Amount Of Registration Fee(1)</b>
Senior Debt Securities of Deutsche Bank Aktiengesellschaft	—	—	—	—
Warrants of Deutsche Bank Aktiengesellschaft				
Debt Warrants				
Equity Warrants				
Other Warrants(2)	—	—	—	—
Purchase Contracts of Deutsche Bank Aktiengesellschaft (3)	—	—	—	—
Units of Deutsche Bank Aktiengesellschaft (4)	—	—	—	—
Trust Preferred Securities of Deutsche Bank Contingent Capital Trust V	—	—	—	—
Company Preferred Securities of Deutsche Bank Contingent Capital LLC V (5)	—	—	—	—
Subordinated Guarantees of Deutsche Bank Aktiengesellschaft in connection with Capital Securities (5)	—	—	—	—

(1) This Registration Statement also relates to offers and sales of securities in connection with market-making transactions by and through certain affiliates of the Registrants, which may include Deutsche Bank Securities Inc. An unspecified aggregate initial offering price and number or amount of the securities of each identified class is being registered as may from time to time be offered at indeterminate prices in U.S. dollars or equivalent thereof in foreign denominated coin or currency or currency units. Separate consideration may or

may not be received for securities that are issuable upon exercise, conversion, or exchange of other securities or that are represented by depositary shares. In accordance with Rules 456(b) and 457(r), the Registrants are deferring payment of all of the registration fee.

Warrants may be issued together with any of the debt securities or purchase contracts registered hereby or any combination of such securities. Warrants may be offered to purchase or sell, or whose redemption value is determined by reference to the performance, level or value of, one or more of the following: (i) securities issued by an entity affiliated or not affiliated with the Registrants, a basket or baskets of those securities, an index or indices of those securities or any combination of the above, (ii) currencies, (iii) commodities, and (iv) any other financial, economic or other measure or instrument, including the occurrence or non-occurrence of any event or circumstance.

(2)

Purchase contracts may be issued together with any of the debt securities or warrants registered hereby or any combination of such securities. Purchase contracts may be offered to purchase or sell, or whose redemption value is determined by reference to the performance, level or value of, one or more of the following: (i) securities issued by an entity affiliated or not affiliated with the Registrants, a basket or baskets of those securities, an index or indices of those securities or any combination of the above, (ii) currencies, (iii) commodities, and (iv) any other financial, economic or other measure or instrument, including the occurrence or non-occurrence of any event or circumstance.

(3)

Units may consist of any combination of the securities being registered hereby, and debt obligations or other securities of an entity affiliated or not affiliated with the Registrants.

(4)

No separate consideration will be received for the company preferred securities of Deutsche Bank Contingent Capital LLC V or the subordinated guarantees of Deutsche Bank Aktiengesellschaft. Pursuant to Rule 457(a) under the Securities Act of 1933, no separate fee will be payable with respect to such securities.

(5)

## TABLE OF CONTENTS

### PART II INFORMATION NOT REQUIRED IN PROSPECTUS

SIGNATURES

SIGNATURES

SIGNATURES

EXHIBIT INDEX

Exhibit 4.2

Exhibit 4.4

Exhibit 4.5

Exhibit 4.6

Exhibit 4.9

Exhibit 25.1

Exhibit 25.2

Exhibit 25.3

Exhibit 25.4

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**EXPLANATORY NOTE**

The purpose of this post-effective amendment is to add two registrants (Deutsche Bank Contingent Capital LLC V and Deutsche Bank Contingent Capital Trust V) to the Registration Statement No. 333-162195, filed with the Securities and Exchange Commission on September 29, 2009 (the "Registration Statement"), and to file as exhibits to such Registration Statement documents relating to these registrants. The prospectus filed in Part I of the Registration Statement is not being amended hereby and has, therefore, been omitted from this post-effective amendment.

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## PART II INFORMATION NOT REQUIRED IN PROSPECTUS

### Indemnification of Directors and Officers

#### Deutsche Bank Aktiengesellschaft

Under German law, a corporation may indemnify its officers, and, under certain circumstances, German labor law requires a stock corporation to do so. However, a corporation may not, as a general matter, indemnify members of the Management Board or the Supervisory Board. A German stock corporation may, however, purchase directors' and officers' insurance. The insurance may be subject to any mandatory restrictions imposed by German law. In addition, German law may permit a corporation to indemnify a member of the Management Board or the Supervisory Board for attorneys' fees incurred if such member is the successful party in a suit in a country, like the United States, where winning parties are required to bear their own costs, if German law would have required the losing party to pay the member's attorneys' fees had the suit been brought in Germany and for attorneys' fees incurred in connection with other proceedings.

Members of the registrant's Supervisory Board and Management Board and officers of the registrant are covered by customary liability insurance, including insurance against liabilities under the Securities Act.

#### Deutsche Bank Contingent Capital Trust V

Section 8, 9 and 10 of the initial trust agreement relating to the formation of Deutsche Bank Contingent Capital Trust V provide as follows regarding indemnification:

"8. (a) The Trustees (the "Fiduciary Indemnified Persons") shall not be liable, responsible or accountable in damages or otherwise to the Trust, the Sponsor, any other Trustee or any holder of the Trust Securities for any loss, damage or claim incurred by reason of any act or omission performed or omitted by the Fiduciary Indemnified Persons in good faith on behalf of the Trust and in a manner the Fiduciary Indemnified Persons reasonably believed to be within the scope of authority conferred on the Fiduciary Indemnified Persons by this Trust Agreement or by law, except that the Fiduciary Indemnified Persons shall be liable for any such loss, damage or claim incurred by reason of the Fiduciary Indemnified Person's gross negligence, bad faith or willful misconduct with respect to such acts or omissions.

(b) The Fiduciary Indemnified Persons shall be fully protected in relying in good faith upon the records of the Trust and upon such information, opinions, reports or statements presented to the Trust by any person as to matters the Fiduciary Indemnified Persons reasonably believe are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Trust, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits, losses, or any other facts pertinent to the existence and amount of assets from which distributions to holders of Trust Securities might properly be paid.

9. The Sponsor agrees, to the fullest extent permitted by applicable law, (a) to indemnify and hold harmless each Fiduciary Indemnified Person, or any of its officers, directors, shareholders, employees, representatives or agents, from and against any loss, damage, liability, tax, penalty, expense or claim of any kind or nature whatsoever incurred by the Fiduciary Indemnified Persons by reason of the creation, operation or termination of the Trust in a manner the Fiduciary Indemnified Persons reasonably believed to be within the scope of authority conferred on the Fiduciary Indemnified Persons by this Trust Agreement, except that no Fiduciary Indemnified Persons shall be entitled to be indemnified in respect of any loss, damage or claim incurred by the Fiduciary Indemnified Persons by reason of gross negligence, bad faith or willful misconduct with respect to such acts or omissions; and (b) to advance expenses (including reasonable legal fees and expenses) incurred by a Fiduciary Indemnified Person in defending any claim, demand, action, suit or proceeding, from time to time, prior to the final disposition of such claim, demand, action, suit or proceeding, upon receipt by the Trust of an undertaking by or on behalf of such Fiduciary Indemnified Persons to repay such amount if it shall be determined that such Fiduciary Indemnified Person is not entitled to be indemnified as authorized in the preceding subsection. Promptly after receipt by a Fiduciary Indemnified Person of notice of the commencement of any action, such Fiduciary Indemnified Person will, if a claim in respect thereof is to be made against the Sponsor under this Section 9, notify the Sponsor in writing of the commencement thereof, provided that failure to give such prompt notice shall not impair the obligations of the Sponsor hereunder except to the extent that such failure to provide notice materially prejudices the Sponsor. The Sponsor shall be entitled to appoint counsel of the Sponsor's choice at the Sponsor's expense to represent the Fiduciary Indemnified Persons in any action for which indemnification is sought; provided, however, that such counsel shall be satisfactory to the Fiduciary Indemnified Persons. The Sponsor will not, without the prior written consent of the Fiduciary Indemnified Persons, settle or compromise or consent to the entry of any judgment with respect to any pending or threatened claim, action, suit or proceeding in respect of which indemnification may be sought unless such settlement, compromise or consent includes an unconditional release of each Fiduciary Indemnified Person from all liability arising out of such claim, action, suit or proceeding.

10. The provisions of Section 8 and Section 9 shall survive the termination of this Trust Agreement or the earlier resignation or removal of the Fiduciary Indemnified Persons."





## Deutsche Bank Contingent Capital LLC V

The Delaware Limited Liability Company Act provides that, subject to such standards and restrictions, if any, as are set forth in its limited liability company agreement, a limited liability company may, and shall have the power to, indemnify and hold harmless any member or manager or other person from and against any and all claims and demands whatsoever.

Section 18 of the initial LLC agreement relating to the formation of Deutsche Bank Contingent Capital LLC V provides as follows regarding indemnification:

18. Exculpation and Indemnification. No member of the Company or Officer shall be liable to the Company, or any other person or entity who is bound by this Agreement, for any loss, damage or claim incurred by reason of any act or omission performed or omitted by such member of the Company or Officer in good faith on behalf of the Company and in a manner reasonably believed to be within the scope of the authority conferred on such member or Officer by this Agreement, except that a member of the Company or Officer shall be liable for any such loss, damage or claim incurred by reason of such member's or Officer's willful misconduct. To the fullest extent permitted by applicable law, a member of the Company or Officer shall be entitled to indemnification from the Company for any loss, damage or claim incurred by such member or Officer by reason of any act or omission performed or omitted by such member or Officer in good faith on behalf of the Company and in a manner reasonably believed to be within the scope of the authority conferred on such member or Officer by this Agreement, except that no member of the Company or Officer shall be entitled to be indemnified in respect of any loss, damage or claim incurred by such member or Officer by reason of willful misconduct with respect to such acts or omissions; provided, however, that any indemnity under this Section 18 shall be provided out of and to the extent of Company assets only, and no member of the Company shall have personal liability on account thereof.

## Exhibits

Reference is made to the Exhibit Index included herewith which is incorporated herein by reference.

## Undertakings

The undersigned Registrants hereby undertake:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) to include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(ii) to reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in the volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of a prospectus filed with the SEC pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and

(iii) to include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement; *provided, however*, that (i), (ii) and (iii) above do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the SEC by Deutsche Bank AG pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) that is part of the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each post-effective amendment shall be deemed to be a new registration statement relating to the securities offered in the post-effective amendment, and the offering of those securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

## [Table of Contents](#)

(4) In the case of Deutsche Bank Aktiengesellschaft, to file a post-effective amendment to the registration statement to include any financial statements required by Item 8.A of Form 20-F at the start of any delayed offering or throughout a continuous offering. Financial statements and information otherwise required by Section 10(a)(3) of the Securities Act need not be furnished, *provided* that Deutsche Bank Aktiengesellschaft includes in the prospectus, by means of a post-effective amendment, financial statements required pursuant to this paragraph and other information necessary to ensure that all other information in the prospectus is at least as current as the date of those financial statements. Notwithstanding the foregoing, a post-effective amendment need not be filed to include financial statements and information required by Section 10(a)(3) of the Securities Act or Item 8.A of Form 20-F if such financial statements and information are contained in periodic reports filed with or furnished to the Commission by Deutsche Bank Aktiengesellschaft pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in this registration statement.

(5) That, for the purpose of determining liability under the Securities Act of 1933 to any purchaser:

(i) Each prospectus filed by a Registrant pursuant to Rule 424(b)(3) shall be deemed to be part of the registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and

(ii) Each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5) or (b)(7) as part of the registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii) or (x) for the purpose of providing the information required by Section 10(a) of the Securities Act of 1933 shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration statement relating to the securities in the registration statement to which the prospectus relates, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof; provided, however, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date.

(6) That, for the purpose of determining liability of a Registrant under the Securities Act of 1933 to any purchaser in the initial distribution of the securities, each undersigned Registrant undertakes that in a primary offering of securities of such undersigned Registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, such undersigned Registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

(i) Any preliminary prospectus or prospectus of such undersigned Registrant relating to the offering required to be filed pursuant to Rule 424;

(ii) Any free writing prospectus relating to the offering prepared by or on behalf of such undersigned Registrant or used or referred to by such undersigned Registrant;

(iii) The portion of any other free writing prospectus relating to the offering containing material information about such undersigned Registrant or its securities provided by or on behalf of such undersigned Registrant; and

(iv) Any other communication that is an offer in the offering made by such undersigned Registrant to the purchaser.

(7) That, for purposes of determining any liability under the Securities Act of 1933, each filing of Deutsche Bank Aktiengesellschaft's annual report pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(8) To file an application for the purpose of determining the eligibility of the trustee to act under subsection (a) of Section 310 of the Trust Indenture Act in accordance with the rules and regulations prescribed by the Commission under Section 305(b)(2) of the Trust Indenture Act.

## [Table of Contents](#)

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the Registrants pursuant to the foregoing provisions or otherwise, the Registrants have been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrants of expenses incurred or paid by a director, officer or controlling person of the Registrants in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrants will, unless in the opinion of their counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by them is against public policy as expressed in the Securities Act of 1933 and will be governed by the final adjudication of such issue.

**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, as amended, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form F-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in Frankfurt am Main, Germany, as of this 11th day of March 2010.

DEUTSCHE BANK AKTIENGESELLSCHAFT

By: /s/ Jonathan Blake

Name: Jonathan Blake

Title: Managing Director

By: /s/ Matthias von Tiesenhausen

Name: Matthias von Tiesenhausen

Title: Director

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## Table of Contents

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed by the following persons in the capacities indicated as of this 11th day of March 2010.

<u>Signature</u>	<u>Title</u>
*	
Dr. Josef Ackermann	Chairman of the Management Board and Chief Executive Officer
*	
Dr. Hugo Bänziger	Member of the Management Board and Chief Risk Officer
*	
Stefan Krause	Member of the Management Board and Chief Financial Officer
*	
Hermann-Josef Lamberti	Member of the Management Board and Chief Operating Officer
*	
Michael Cohrs	Member of the Management Board
*	
Jürgen Fitschen	Member of the Management Board
*	
Anshuman Jain	Member of the Management Board
*	
Rainer Neske	Member of the Management Board
*	
Martin Edelmann	Managing Director (Principal Accounting Officer)
*	
Peter Sturzinger	Authorized Representative in the United States
* By: /s/ Jonathan Blake	
Name: Jonathan Blake	Attorney-in-fact
* By: /s/ Joseph C. Kopec	
Name: Joseph C. Kopec	Attorney-in-fact

## SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the undersigned registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form F-3 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in Frankfurt am Main, Germany, as of this 11th day of March 2010.

DEUTSCHE BANK CONTINGENT CAPITAL TRUST V

By: DEUTSCHE BANK CONTINGENT CAPITAL LLC V

By: DEUTSCHE BANK AKTIENGESELLSCHAFT

By: /s/ Jonathan Blake

Name: Jonathan Blake

Title: Managing Director

By: /s/ Matthias von Tiesenhausen

Name: Matthias von Tiesenhausen

Title: Director

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the following capacities as of this 11th day of March 2010.

<u>Name</u>
<u>DEUTSCHE BANK CONTINGENT CAPITAL LLC V</u>

<u>Title</u>
Sponsor

By: DEUTSCHE BANK AKTIENGESELLSCHAFT, as  
Member

By: /s/ Jonathan Blake

Name: Jonathan Blake

Title: Managing Director

By: /s/ Matthias von Tiesenhausen

Name: Matthias von Tiesenhausen

Title: Director

## SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the undersigned registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form F-3 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in Frankfurt am Main, Germany, as of this 11th day of March 2010.

DEUTSCHE BANK CONTINGENT CAPITAL LLC V

By: DEUTSCHE BANK AKTIENGESELLSCHAFT

By: /s/ Jonathan Blake

Name: Jonathan Blake

Title: Managing Director

By: /s/ Matthias von Tiesenhausen

Name: Matthias von Tiesenhausen

Title: Director

## POWER OF ATTORNEY

The Registrant hereby constitutes and appoints Richard W. Ferguson, Joseph Rice, Helmut Mannhardt and Anjali Thadani, any two such individuals acting together, its true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for its and its name, place and stead, in any and all capacities, to sign any and all post-effective amendments to the Registration Statement on Form F-3, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as it might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or their or his/her substitute or substitutes, may lawfully do or cause to be done by virtue thereof. This Power of Attorney may be executed in multiple counterparts, each of which shall be deemed an original, but which taken together shall constitute one instrument.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the following capacities as of this 11th day of March 2010.

<u>Name</u>	<u>Title</u>
<u>DEUTSCHE BANK AKTIENGESELLSCHAFT</u>	<u>Member</u>

By: /s/ Jonathan Blake

Name: Jonathan Blake

Title: Managing Director

By: /s/ Matthias von Tiesenhausen

Name: Matthias von Tiesenhausen

Title: Director



**EXHIBIT INDEX**

<b>Exhibit Number</b>	<b>Description</b>
1.3	Form of Purchase Agreement.*
4.1	Initial Trust Agreement of Deutsche Bank Contingent Capital Trust V (incorporated by reference to Exhibit 4.1 to Deutsche Bank Aktiengesellschaft' s registration statement on Form F-3 (No. 333-137902) and filed as Exhibit 4.1 on Post-Effective Amendment No. 5 to Form F-3 on April 30, 2008).
4.2	Amended and Restated Trust Agreement of Deutsche Bank Contingent Capital Trust V.
4.3	Initial Limited Liability Company Agreement of Deutsche Bank Contingent Capital LLC V (incorporated by reference to Exhibit 4.3 to Deutsche Bank Aktiengesellschaft' s registration statement on Form F-3 (No. 333-137902) and filed as Exhibit 4.3 on Post-Effective Amendment No. 5 to Form F-3 on April 30, 2008).
4.4	Amended and Restated LLC Agreement of Deutsche Bank Contingent Capital LLC V.
4.5	Trust Preferred Securities Subordinated Guarantee Agreement.
4.6	Company Preferred Securities Subordinated Guarantee Agreement.
4.7	Form of Trust Preferred Security for Deutsche Bank Contingent Capital Trust V (included in Item 4.2).
4.8	Form of Company Preferred Security (included in Item 4.4).
4.9	Subordinated Deposit Agreement by and between Deutsche Bank Contingent Capital LLC V and Deutsche Bank Aktiengesellschaft.
4.10	Form of Subordinated Debt Obligation issued in connection with certain Capital Securities.*
5.1	Opinion of Cleary Gottlieb Steen & Hamilton LLP (incorporated by reference to Exhibit 5.1 to Deutsche Bank Aktiengesellschaft' s registration statement on Form F-3 (No. 333-137902) and filed as Exhibit 5.1 on Form 6-K on May 8, 2008).
5.2	Opinion of Group Legal Services of Deutsche Bank Aktiengesellschaft (incorporated by reference to Exhibit 5.2 to Deutsche Bank Aktiengesellschaft' s registration statement on Form F-3 (No. 333-137902) and filed as Exhibit 5.2 on Form 6-K on May 8, 2008).
5.3	Opinion of Richards, Layton & Finger, P.A.*
8.1	Opinion of Cleary Gottlieb Steen & Hamilton LLP regarding tax matters.*
23.1	Consent of Cleary Gottlieb Steen & Hamilton LLP (included in Item 5.1 and Item 8.1).*
23.2	Consent of Group Legal Services of the Registrant (included in Item 5.2).
23.3	Consent of Richards, Layton & Finger, P.A (included in Item 5.3).*
24.1	Powers of Attorney for Deutsche Bank Contingent Capital LLC V (included on the signature pages to this registration statement).
25.1	Statement of Eligibility under the Trust Indenture Act of 1939, as amended, of The Bank of New York Mellon, as trustee under the subordinated company preferred guarantee agreement in connection with the capital securities.
25.2	Statement of Eligibility under the Trust Indenture Act of 1939, as amended, of The Bank of New York Mellon, as trustee under the subordinated trust preferred guarantee agreement in connection with the capital securities.

25.3 Statement of Eligibility under the Trust Indenture Act of 1939, as amended, of The Bank of New York Mellon, as property trustee, under the amended and restated trust agreement relating to Deutsche Bank Contingent Capital Trust V.

25.4 Statement of Eligibility under the Trust Indenture Act of 1939, as amended, of The Bank of New York Mellon, as manager trustee, under the amended and restated LLC agreement relating to Deutsche Bank Contingent Capital LLC V.

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\* To be filed by amendment or incorporated by reference. Deutsche Bank Aktiengesellschaft will furnish on a Form 6-K and incorporate by reference any related Form used in the future and not previously filed by means of an amendment or incorporated by reference.

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**AMENDED AND RESTATED  
TRUST AGREEMENT  
OF  
DEUTSCHE BANK CONTINGENT CAPITAL TRUST V  
Dated as of May 9, 2008**

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## TABLE OF CONTENTS

	Page
ARTICLE 1 INTERPRETATIONS AND DEFINITIONS	2
Section 1.01. Definitions	2
Section 1.02. Other Definitional Provisions	14
ARTICLE 2 TRUST INDENTURE ACT	14
Section 2.01. Trust Indenture Act; Application	14
Section 2.02. Lists of Holders of the Trust Preferred Securities	15
Section 2.03. Reports by the Trustee	15
Section 2.04. Periodic Reports to the Trustee	15
Section 2.05. Evidence of Compliance with Conditions Precedent	16
Section 2.06. Enforcement Event; Waiver	16
Section 2.07. Notice of Enforcement Event	16
ARTICLE 3 ORGANIZATION	17
Section 3.01. Name	17
Section 3.02. Office	17
Section 3.03. Purpose	17
Section 3.04. Authority	17
Section 3.05. Title to Property of the Trust	17
Section 3.06. Powers and Duties of the Regular Trustees	18
Section 3.07. Prohibition of Actions by the Trust and the Trustees	21
Section 3.08. Powers and Duties of the Property Trustee	21
Section 3.09. Certain Duties and Responsibilities of the Property Trustee	24
Section 3.10. Certain Rights of Property Trustee	25
Section 3.11. Delaware Trustee	27
Section 3.12. Execution of Documents	28
Section 3.13. Not Responsible for Recitals or Issuance of Trust Securities	28
Section 3.14. Duration of Trust	28
Section 3.15. Mergers	28
ARTICLE 4 THE GUARANTOR	30



**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
Section 4.02. Indemnification and Expenses of the Trustees	30
Section 4.03. Covenants of the Guarantor	30
ARTICLE 5 THE TRUST COMMON SECURITYHOLDER	31
Section 5.01. Purchase of Trust Common Security	31
ARTICLE 6 TRUSTEES	31
Section 6.01. Number of Trustees	31
Section 6.02. Delaware Trustee	32
Section 6.03. Property Trustee; Eligibility	32
Section 6.04. Qualifications of Regular Trustees and Delaware Trustee Generally	33
Section 6.05. Regular Trustees	33
Section 6.06. Appointment, Removal and Resignation of Trustees	33
Section 6.07. Vacancies among Trustees	35
Section 6.08. Effect of Vacancies	35
Section 6.09. Meetings	36
Section 6.10. Delegation of Power	36
Section 6.11. Merger, Conversion, Consolidation or Succession to Business	36
ARTICLE 7 CAPITAL PAYMENTS	37
Section 7.01. Capital Payments on the Upper Tier 2 Percentage	37
Section 7.02. Capital Payments on the Tier 1 Percentage	39
ARTICLE 8 ISSUANCE OF TRUST SECURITIES	42
Section 8.01. Designation and General Provisions Regarding Trust Securities	42
Section 8.02. Priority of Payments on Trust Securities	44
Section 8.03. Redemption of Trust Securities	44
Section 8.04. Redemption Procedures	46
Section 8.05. Voting Rights of Trust Preferred Securities	47
Section 8.06. Voting Rights of the Trust Common Security	49
Section 8.07. Paying Agent	49



**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
ARTICLE 9 TERMINATION AND LIQUIDATION OF THE TRUST	50
Section 9.01. Dissolution of Trust	50
Section 9.02. Liquidation Distribution upon Termination and Dissolution of the Trust	51
ARTICLE 10 TRANSFER OF INTERESTS	52
Section 10.01. Form and Denomination of Trust Preferred Securities	52
Section 10.02. Deemed Security Holders	52
Section 10.03. Global Trust Preferred Certificates	52
Section 10.04. Notices to Clearing Agency	53
Section 10.05. Appointment of Successor Clearing Agency	53
Section 10.06. Definitive Trust Preferred Certificates	53
Section 10.07. Registration of Trust Securities	54
Section 10.08. Transfer and Exchanges of Trust Securities	54
Section 10.09. Lost or Stolen Trust Securities, Etc	56
ARTICLE 11 LIMITATION OF LIABILITY OF HOLDERS OF TRUST SECURITIES, TRUSTEES OR OTHERS	56
Section 11.01. Liability	56
Section 11.02. Exculpation	57
Section 11.03. Fiduciary Duty	57
Section 11.04. Indemnification	58
Section 11.05. Outside Businesses	61
ARTICLE 12 ACCOUNTING	61
Section 12.01. Fiscal Year	61
Section 12.02. Certain Accounting and Reporting Matters	62
Section 12.03. Banking	62
ARTICLE 13 AMENDMENTS AND MEETINGS	62
Section 13.01. Amendments	62
Section 13.02. Meetings of the Holders of Trust Securities; Action by Written Consent	65
ARTICLE 14 REPRESENTATIONS OF PROPERTY TRUSTEE AND DELAWARE TRUSTEE	66





**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
Section 14.01. Representations and Warranties of Property Trustee	66
Section 14.02. Representations and Warranties of Delaware Trustee	66
ARTICLE 15 MISCELLANEOUS	67
Section 15.01. Notices	67
Section 15.02. Governing Law	69
Section 15.03. Intention of the Parties	69
Section 15.04. Successors and Assigns	69
Section 15.05. Partial Enforceability	69
Section 15.06. Counterparts	69

## CROSS-REFERENCES TABLE<sup>1</sup>

Section of Trust Indenture Act of 1939, as amended	Section of Agreement
310(a)	Section 6.03(a)
310(b)	Section 6.03(c), (d)
310(c)	Inapplicable
311(a)	Section 2.02(b)
311(b)	Section 2.02(b)
311(c)	Inapplicable
312(a)	Section 2.02(a)
312(b)	Section 2.02(b)
313	Section 2.03
314(a)	Section 2.04
314(b)	Inapplicable
314(c)	Section 2.05
314(d)	Inapplicable
314(f)	Inapplicable
315(a)	Section 3.09(a), (c)
315(b)	Section 2.07
315(c)	Section 3.09(a)
315(d)	Section 3.09(c)
316(a)	Section 2.06
317(b)	Section 8.07

<sup>1</sup> This Cross-Reference Table does not constitute part of the Agreement and shall not affect the interpretation of any of its terms or provisions.

Amended & Restated Trust Agreement

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**AMENDED AND RESTATED  
TRUST AGREEMENT  
OF  
DEUTSCHE BANK CONTINGENT CAPITAL TRUST V**

AMENDED AND RESTATED TRUST AGREEMENT (the “**Agreement**”) dated and effective as of May 9, 2008, by the Trustees (as defined herein), the Sponsor (as defined herein), the Bank (as defined herein) and the Holders (as defined herein), from time to time, of undivided beneficial interests in the Trust Estate (as defined herein) of the Trust (as defined herein) to be issued pursuant to this Agreement;

WHEREAS, the Trustees and the Sponsor established Deutsche Bank Contingent Capital Trust V (the “**Trust**”) as a statutory trust formed under the Delaware Statutory Trust Act (as defined herein) pursuant to a trust agreement, dated as of April 24, 2008 (the “**Initial Trust Agreement**”), and a Certificate of Trust filed with the Secretary of State of the State of Delaware on April 25, 2008 (the “**Certificate of Trust**”);

WHEREAS, the Trustees and the Sponsor wish to continue the Trust and to amend and restate in its entirety the Initial Trust Agreement; and

WHEREAS, the Trustees and the Sponsor wish to operate the Trust for the sole purpose of issuing and selling certain securities representing undivided beneficial interests in the Trust Estate of the Trust, guaranteed on a subordinated basis by the Bank, and investing the proceeds thereof in the Class B Preferred Securities (as defined herein);

NOW, THEREFORE, it being the intention of the parties hereto that this Agreement constitute the governing instrument of the Trust and in consideration of the agreements and obligations set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each party hereto agrees to amend and restate the Initial Trust Agreement for the benefit of the other party and for the benefit of the Holders hereby as follows:

**ARTICLE 1  
INTERPRETATIONS AND DEFINITIONS**

*Section 1.01. Definitions.* Unless the context otherwise requires:

(a) capitalized terms used in this Agreement but not defined in the preamble above have the respective meanings assigned to them in this Section 1.01;

(b) a term defined anywhere in this Agreement (i) has the same meaning throughout and (ii) shall have the defined meaning when used in any certificate or other document made or delivered pursuant hereto unless otherwise defined therein;

(c) all references to “the Agreement” or “this Agreement” are to this Agreement as modified, supplemented or amended from time to time;

(d) a term defined in the Trust Indenture Act shall have the same meaning when used in this Agreement unless otherwise defined in this Agreement or unless the context otherwise requires; and

(e) a term used in this Agreement and not otherwise defined herein shall have the meaning ascribed to such term in the LLC Agreement.

“**1940 Act**” means the U.S. Investment Company Act of 1940, as amended from time to time, or any successor legislation.

“**Additional Amounts**” has the meaning set forth in Section 7.01(g) hereof.

“**Administrative Action**” means any judicial decision, official administrative pronouncement, published or private ruling, regulatory procedure, notice or announcement (including any notice or announcement of intent to adopt such procedures or regulations) by any legislative body, court, governmental authority or regulatory body.

“**Affiliate**” means, with respect to any specified Person, any other Person that directly or indirectly controls, is controlled by, or is under common control with such specified Person. The terms “controlling,” “controlled by” and “under common control” mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting shares, by contract or otherwise.

“**Agency Agreement**” has the meaning set forth in Section 8.01(c) hereof.

“**Applicable Procedures**” means, with respect to any transfer or transaction involving a Global Trust Preferred Certificate, the rules and procedures of the Clearing Agency for such Global Trust Preferred Certificate, in each case to the extent applicable to such transaction and as in effect from time to time.

“**Arrears of Payments**” means Capital Payments and any Additional Amounts, if any, the payment of which has, in accordance with the applicable deferral provisions of the relevant Upper Tier 2 Percentage of Trust Preferred Securities and the relevant Upper Tier 2 Percentage of Class B Preferred Securities, as the case may be, been deferred and which thereupon constitute cumulative arrears of Capital Payments, and Additional Amounts, if any, thereon.

“**Asset Property Account**” has the meaning set forth in Section 3.08(c) hereof.

“**Authenticating Agent**” means the Authenticating Agent appointed pursuant to the Agency Agreement.

“**Authorized Officer**” of a Person means any Person that is authorized to bind such Person (either acting singly or acting together with one or more other Persons which Persons, acting together, are authorized to bind such Person).

“**BaFin**” means the German Federal Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht*).

“**Bank**” means Deutsche Bank Aktiengesellschaft, Frankfurt am Main, a Federal Republic of Germany stock corporation.

“**Bank Indemnified Person**” means (a) any Regular Trustee; (b) any Affiliate of any Regular Trustee; (c) any representatives or agents of any Regular Trustee; or (d) any officer, director, shareholder, member, partner, employee, representative or agent of the Trust or its Affiliates that is not a Fiduciary Indemnified Person.

“**Business Day**” means a day other than Saturday, Sunday or a day on which banking institutions in the City of New York are authorized or required by law, regulation or executive order to remain closed.

“**Capital Payments**” means (i) with respect to the Trust Preferred Securities, periodic distributions to the Holders of the Trust Preferred Securities paid in accordance with this Agreement to Holders of the Trust Preferred Securities and (ii) with respect to the Class B Preferred Securities, periodic distributions to holders of the Class B Preferred Securities declared (or deemed declared) and paid in accordance with the LLC Agreement.

“**Cash Property Account**” has the meaning set forth in Section 3.08(c) hereof.

“**Certificate**” means a certificate representing the Trust Common Security or the Trust Preferred Securities.

“**Certificate of Trust**” has the meaning set forth in the preamble of this Agreement.

“**Class A Preferred Securities**” means Class A Preferred Securities representing preferred ownership interests in the Company.

“**Class B Preferred Guarantee**” means the Class B Preferred Securities Subordinated Guarantee Agreement dated as of May 9, 2008, as amended from time to time, between the Bank, as guarantor, and The Bank of New York, as Class B Preferred Guarantee Trustee, for the benefit of the Class B Preferred Securityholders from time to time.

“**Class B Preferred Guarantee Trustee**” has the meaning specified in the Class B Preferred Guarantee.

“**Class B Preferred Securities**” means the Class B Preferred Securities representing preferred ownership interests in the Company.

“**Class B Preferred Securityholder**” has the meaning assigned thereto in the LLC Agreement.

“**Class B Redemption Date**” has the meaning set forth in the LLC Agreement.

“**Clearing Agency**” means, initially, DTC and, thereafter, shall mean any successor securities clearing system appointed or designated by the Sponsor or the Trust to effect book-entry transfers and pledges of beneficial interests in the Trust Preferred Securities.

“**Closing Date**” has the meaning specified in the Purchase Agreement.

“**Code**” means the U.S. Internal Revenue Code of 1986, as amended from time to time, or any successor legislation. A reference to a specific section (§) of the Code (or any Treasury Regulation) refers not only to such section but also to any corresponding provision of any federal tax statute (or any Treasury Regulation) enacted after the date of this Agreement, as such specific section or corresponding provision is in effect on the date of application of the provisions of this Agreement containing such reference.

“**Commission**” means the U.S. Securities and Exchange Commission.

“**Company**” means Deutsche Bank Contingent Capital LLC V, a Delaware limited liability company.

“**Company Special Redemption Event**” means (i) a Regulatory Event, (ii) a Tax Event other than a Tax Event solely with respect to the Trust or (iii) an Investment Company Act Event with respect to the Company.

“**Corporate Trust Office**” means the principal corporate trust office of the Property Trustee at which, at any particular time, its corporate trust business shall be administered, which office at the date hereof is located at The Bank of New York, 101 Barclay Street, Floor 21 West, New York, New York 10286.

“**Covered Person**” means: (a) any officer, director, shareholder, partner, member, representative, employee or agent of (i) the Trust or (ii) the Trust’s Affiliates; and (b) any Holder of the Trust Securities.

“**Definitive Trust Preferred Certificates**” means Trust Preferred Securities issued in certificated, fully registered form.

“**Delaware Statutory Trust Act**” means Chapter 38 of Title 12 of the Delaware Code, 12 Del. Code Section 3801 *et seq.*, as it may be amended from time to time, or any successor legislation thereto.

“**Delaware Trustee**” means Deutsche Bank Trust Company Delaware or any successor entity in a merger, consolidation or amalgamation, in its capacity as the Delaware trustee to the Trust.

“**Distributable Profits**” of the Bank for any fiscal year is the balance sheet profit (*Bilanzgewinn*) as of the end of such fiscal year, as shown in the audited unconsolidated balance sheet of the Bank as of the end of such fiscal year. Such balance sheet profit includes the annual surplus or loss (*Jahresüberschuss/-fehlbetrag*), plus any profit carried forward from previous years, minus any loss carried forward from previous years, plus transfers from capital reserves and earnings reserves, minus allocations to earnings reserves, all as determined in accordance with the provisions of the German Stock Corporation Act (*Aktiengesetz*) and accounting principles generally accepted in the Federal Republic of Germany as described in the German Commercial Code (*Handelsgesetzbuch*) and other applicable German law then in effect. In determining the availability of sufficient Distributable Profits of the Bank for any fiscal year to

permit Capital Payments to be declared with respect to the Class B Preferred Securities, any Capital Payments already paid on the Class B Preferred Securities and any capital payments, dividends or other distributions already paid during the succeeding fiscal year of the Bank (x) to the extent that the determination of Distributable Profits is being made with respect to the Upper Tier 2 Percentage of the Class B Preferred Securities, on Parity Capital Securities and Preferred Tier 1 Capital Securities, if any, and (y) to the extent that the determination of Distributable Profits is being made with respect to the Tier 1 Percentage of the Class B Preferred Securities, on Preferred Tier 1 Securities, if any, in each case *pro rata* on the basis of Distributable Profits for such fiscal year, will be deducted from such Distributable Profits.

“**DTC**” means The Depository Trust Company, a New York corporation.

“**Enforcement Event**” means the occurrence, at any time, of (i) non-payment of Capital Payments (plus any Additional Amounts thereon, if any) on the Trust Preferred Securities at the Stated Rate in full, for four consecutive Payment Periods, (ii) non-payment of Capital Payments (plus any Additional Amounts thereon, if any) on the Class B Preferred Securities at the Stated Rate in full, for four consecutive Payment Periods, (iii) a default by the Guarantor (x) in respect of any of its obligations under Article 4 of the Trust Preferred Guarantee and (y) in the performance of any other obligation under the Trust Preferred Guarantee, and, in the case of (y) only, continuance of such default for 60 days after the Trust Preferred Guarantee Trustee has given notice thereof to the Guarantor or (iv) a default by the Guarantor (x) in respect of any of its obligations under Article 4 of the Class B Preferred Guarantee and (y) in the performance of any other obligation under the Class B Preferred Guarantee, and, in the case of (y), continuance of such default for 60 days after the Class B Preferred Guarantee Trustee has given notice thereof to the Guarantor.

“**ERISA**” means the U.S. Employee Retirement Income Security Act of 1974, as amended from time to time, or any successor legislation.

“**Fiduciary Indemnified Person**” has the meaning set forth in Section 11.04(b) hereof.

“**Fiscal Year**” has the meaning set forth in Section 12.01 hereof.

“**Global Trust Preferred Certificate**” means a Global Trust Preferred Certificate substantially in the form attached hereto as Exhibit A, representing the Trust Preferred Securities.

“**Guarantees**” means collectively, the Trust Preferred Guarantee and the Class B Preferred Guarantee.

“**Guarantor**” means the Bank in its capacity as guarantor under the Trust Preferred Guarantee or the Class B Preferred Guarantee, as applicable.

“**Holder**” means a Person in whose name a Certificate representing a Trust Security is registered, such Person being a beneficial owner within the meaning of the Delaware Statutory Trust Act.



**“Indemnified Person”** means a Bank Indemnified Person or a Fiduciary Indemnified Person (as defined in Section 11.04(b) hereof).

**“Initial Obligation”** means the U.S.\$1,265,000,025 8.05% subordinated obligation issued by Deutsche Bank Aktiengesellschaft acquired by the Company using the proceeds from the issuance of the Class B Preferred Securities.

**“Initial Redemption Date”** means June 30, 2018, the first day on which the Class B Preferred Securities will be redeemable by the Company other than on the occurrence of a Company Special Redemption Event.

**“Initial Trust Agreement”** has the meaning as set forth in the preamble of this Agreement.

**“Investment Company Act Event”** means that the Bank shall have requested and received an opinion of a nationally recognized U.S. law firm experienced in such matters to the effect that there is more than an insubstantial risk that the Company or the Trust is or will be considered an “investment company” within the meaning of the 1940 Act as a result of any judicial decision, any pronouncement or interpretation (irrespective of the manner made known), the adoption or amendment of any law, rule or regulation, or any notice or announcement (including any notice or announcement of intent to adopt such law, rule or regulation) by any U.S. legislative body, court, governmental agency, or regulatory authority, in each case after the date hereof.

**“Issue Date”** means May 9, 2008.

**“Legal Action”** has the meaning set forth in Section 3.06(h) hereof.

**“Liquidation Preference Amount”** has the meaning set forth in Section 8.01 hereof.

**“List of Holders”** has the meaning set forth in Section 2.02(a) hereof.

**“LLC Agreement”** means the Amended and Restated Limited Liability Company Agreement of Deutsche Bank Contingent Capital LLC V, dated as of May 9, 2008.

**“Majority or Other Stated Percentage”** means, except as provided in the terms of the Trust Securities, a vote by Holders of outstanding Trust Securities voting together as a single class or, as the context may require, Holders of the outstanding Trust Preferred Securities or Holder of the outstanding Trust Common Security voting separately as a class, who are the record owners of more than 50% (or of equal to or more than such other stated percentage) of the aggregate liquidation amount (including the stated amount that would be paid on redemption, liquidation or otherwise, plus accumulated and unpaid Capital Payments to the date upon which the voting percentages are determined) of all outstanding Trust Securities or all outstanding Trust Securities of the relevant class, as the case may be.

**“Ministerial Action”** means, a ministerial action (such as filing a form or making an election or pursuing some other similar reasonable measure) which in the sole judgment of the

Bank has or shall cause no adverse effect on the Trust, the Company, the Bank or the Holders or beneficial owners of the Trust Securities and shall involve no material cost.

“**Obligations**” means (i) the Initial Obligation, (ii) an obligation, if any, issued by the Bank in connection with a notice to the Company to issue additional Class B Preferred Securities (in connection with the exercise of the underwriters’ over-allotment option or otherwise) and having the same terms and conditions as the Initial Obligation in all respects except for the issue date, the date from which interest accrues, the issue price and any other deviations required for compliance with applicable law, and (iii) the Substitute Obligations, if any.

“**Officers’ Certificate**” means, with respect to any Person (who is not an individual), a certificate signed by two Authorized Officers of such Person, and, with respect to a natural person, a certificate signed by such person. Any Officers’ Certificate delivered with respect to compliance with a condition or covenant provided for in this Agreement shall include:

- (a) a statement that each officer signing the Officers’ Certificate has read the covenant or condition and the definitions relating thereto;
- (b) a statement that each such officer has made such examination or investigation as, in such officer’ s opinion, is necessary to enable such officer to express an informed opinion as to whether or not such covenant or condition has been complied with; and
- (c) a statement as to whether, in the opinion of each such officer, such condition or covenant has been complied with.

“**Parity Capital Securities**” means, at any time, Parity Subsidiary Capital Securities and each class of ownership interests in the capital of the Bank that at such time rank senior to the preference shares of the Bank and junior to all other securities of the Bank that at such time (i) rank senior to preference shares and (ii) do not by their terms rank *pari passu* with such ownership interests of the Bank, if any.

“**Parity Subsidiary Capital Securities**” means, at any time, any instrument of any subsidiary of the Bank subject to any guarantee or support agreement of the Bank ranking at such time *pari passu* with the obligations of the Bank under the terms of the Guarantees in effect with respect to the Upper Tier 2 Percentage of the Trust Preferred Securities and the Upper Tier 2 Percentage of the Class B Preferred Securities.

“**Paying Agent**” has the meaning set forth in Section 8.07 hereof.

“**Payment Amount**” has the meaning set forth in Section 7.01(f) and Section 7.02(f) hereof, as applicable.

“**Payment Date**” means (i) March 30, June 30, September 30 and December 30 of each year, commencing on June 30, 2008. If any Payment Date or redemption date falls on a day that is not a Business Day, the amounts payable on such Payment Date or redemption date will be payable on the next succeeding Business Day, without adjustment, interest or further payment as a result of such delay in payment.

**“Payment Period”** with respect to any Payment Date means the period from and including the immediately preceding Payment Date (or the Issue Date with respect to Capital Payments payable on June 30, 2008) to but excluding the relevant Payment Date.

**“Person”** means a legal person, including any individual, corporation, estate, partnership (general or limited), joint venture, association, joint stock company, limited liability company, trust, unincorporated association, or government or any agency or political subdivision thereof, or any other entity of whatever nature.

**“Preferred Tier 1 Capital Securities”** of any person means, at any time, each class of the most senior ranking preference shares of such person and any other instruments of such person (other than common shares) then qualifying as Tier 1 Regulatory Capital and, if such person is the Bank, Preferred Tier 1 Subsidiary Securities.

**“Preferred Tier 1 Securities”** means, (a) each class of the most senior ranking preference shares of the Bank, if any, and (b) preference shares or any other instrument of any subsidiary of the Bank subject to any guarantee or support agreement of the Bank then ranking on a parity with the obligations of the Bank as Guarantor under the Guarantees.

**“Preferred Tier 1 Subsidiary Securities”** means, at any time, the most senior ranking preference shares and any other instruments of any person other than the Bank, which, in each case, then qualify as Tier 1 Regulatory Capital and are subject to any agreement of the Bank that guarantees or otherwise provides support of such preference shares or other instruments.

**“Property Accounts”** has the meaning set forth in Section 3.08(c) hereof.

**“Property Trustee”** means The Bank of New York or any successor entity in a merger, consolidation or amalgamation, in its capacity as property trustee of the Trust.

**“Purchase Agreement”** means the Purchase Agreement dated as of May 1, 2008 among the Bank, the Company, the Trust and the underwriters named therein, relating to the sale and issuance of Trust Preferred Securities and Class B Preferred Securities.

**“Qualified Subsidiary”** means a Subsidiary that meets the definition of “a company controlled by its parent company” as defined in Rule 3a-5 under the 1940 Act.

**“Quorum”** means a majority of the Regular Trustees or, if there are only two Regular Trustees, both of them.

**“Redemption Date”** means the date fixed for redemption of the Trust Preferred Securities.

**“Redemption Notice”** has the meaning set forth in Section 8.04 hereof.

**“Redemption Price”** has the meaning set forth in Section 8.03 hereof.

**“Register”** has the meaning set forth in Section 10.08 hereof.

“**Registrar**” shall mean the party appointed as such pursuant to the Agency Agreement, which shall initially be Deutsche Bank Trust Company Americas.

“**Regular Trustee**” has the meaning set forth in Section 6.01 hereof.

“**Regulatory Event**” means that the Bank is notified by a relevant regulatory authority that, as a result of the occurrence of any amendment to, or change (including any change that has been adopted but has not yet become effective) in, the applicable banking laws of Germany (or any rules, regulations or interpretations thereunder, including rulings of the relevant banking authorities) or the guidelines of the Committee on Banking Supervision at the Bank for International Settlements, in each case effective after the date of the issuance of the Company Securities and the Trust Securities, the Bank is not, or will not be, allowed to treat (i) the Upper Tier 2 Percentage of the Class B Preferred Securities, if any, as supplementary capital (*Ergänzungskapital*) or upper Tier 2 regulatory capital or (ii) the Tier 1 Percentage of the Class B Preferred Securities, if any, as core capital (*Kernkapital*) or Tier 1 regulatory capital, in each case of the Bank, for capital adequacy purposes on a consolidated basis.

“**Relevant Jurisdiction**” has the meaning set forth in Section 7.01(g) hereof.

“**Responsible Officer**” shall mean, when used with respect to the Property Trustee, any officer within the Corporate Trust Office of the Property Trustee, including any vice president, assistant vice president, assistant treasurer, trust officer or any other officer of the Property Trustee who customarily performs functions similar to those performed by the Persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such person’s knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Agreement.

“**Securities Act**” means the U.S. Securities Act of 1933, as amended from time to time, or any successor legislation.

“**Services Agreement**” means the Services Agreement dated as of May 9, 2008 among the Bank, acting directly and through its New York branch, the Company and the Trust.

“**Similar Law**” has the meaning specified in Section 8.09 hereof.

“**Specified Increment**” means the percentage of the aggregate liquidation preference amount of the Trust Preferred Securities or the Class B Preferred Securities, as applicable, to which a Tier 1 Qualification Election relates, which percentage may only be (a) zero or (b) 10% or an integral multiple thereof.

“**Sponsor**” means the Company or any successor entity in a merger, consolidation or amalgamation, in its capacity as sponsor of the Trust.

“**Stated Rate**” means a fixed rate per annum for each Payment Period equal to 8.05%, calculated on the basis of a 360-day year of twelve 30-day months.

“**Subsidiary**” means a subsidiary (i) that is consolidated with the Bank for German bank regulatory purposes and (ii) of which the Bank owns or controls, directly or

indirectly, more than (x) fifty percent (50%) of the outstanding voting stock or other equity interest entitled ordinarily to vote in the election of the directors or other governing body (however designated) and (y) fifty percent (50%) of the outstanding capital stock or other equity interest.

“**Substitute Obligations**” means a subordinated obligation issued (in substitution for the Initial Obligation or of Substitute Obligations or any additional obligation described in the definition of “Obligations”) by the Bank or a Subsidiary with the same aggregate principal amount and interest rate and payment dates as those of the Initial Obligation and a maturity that is perpetual or is not earlier than May 9, 2038 and terms otherwise substantially identical to those of the Initial Obligation, provided, that unless the Bank itself is the issuer of the Substitute Obligations, the Bank (which may act through a branch) guarantees on a subordinated basis, at least equal to the ranking of the Initial Obligation, the obligations of the new substitute obligor; provided, in each case, that (i) the Bank has received the written opinion of a nationally recognized law firm in the United States that reinvestment in such Substitute Obligation will not adversely affect the “qualified dividend income” eligibility for purposes of Section 1(h)(11) of the Internal Revenue Code of 1986, as amended (or any successor legislation), of Capital Payments on the Trust Preferred Securities or cause the holders thereof to recognize gain or loss for U.S. federal income tax purposes and (ii) such substitution or replacement does not result in a Company Special Redemption Event or a Trust Special Redemption Event, and provided, further in each case that the Bank has obtained any required regulatory approvals.

“**Successor Delaware Trustee**” has the meaning set forth in Section 6.06 hereof.

“**Successor Entity**” has the meaning set forth in Section 3.15 hereof.

“**Successor Property Trustee**” has the meaning set forth in Section 6.06 hereof.

“**Successor Trust Securities**” has the meaning set forth in Section 3.15 hereof.

“**Tax Event**” means (A) the receipt by the Bank of an opinion of a nationally recognized law firm or other tax adviser in a Relevant Jurisdiction, as appropriate, experienced in such matters, to the effect that, as a result of (i) any amendment to, or clarification of, or change (including any announced prospective change) in, the laws (or any regulations promulgated thereunder) of a Relevant Jurisdiction or any political subdivision or taxing authority thereof or therein affecting taxation, (ii) any Administrative Action or (iii) any amendment to, clarification of, or change in the official position or the interpretation of such Administrative Action or any interpretation or pronouncement that provides for a position with respect to such Administrative Action that differs from the theretofore generally accepted position in each case, by any legislative body, court, governmental authority or regulatory body, irrespective of the manner in which such amendment, clarification or change is made known, which amendment, clarification or change is effective, or which Administrative Action, pronouncement or decision is announced, after the date hereof, there is more than an insubstantial risk that (a) the Trust or the Company is or will be subject to more than a *de minimis* amount of taxes, duties or other governmental charges, (b) the Trust, the Company, an obligor on the Obligations, or the Guarantor would be obligated to pay Additional Amounts, Additional Interest Amounts or Trust Preferred Guarantee Additional Amounts or Class B Preferred Guarantee Additional Amounts, as applicable, or (c)

the Bank would be subject to tax on income of the Company under the rules of the German Foreign Tax Act (*Aussensteuergesetz*) except in cases where the Capital Payments may not be declared by the Company or (B) a final determination has been made by the German tax authorities to the effect that the Bank, as obligor on the Obligations, may not, in the determination of its taxable income for the purposes of determining German corporate income tax in any year, deduct in full interest payments on the Obligations (except to the extent such interest payments are determined to be connected with income of a branch that is not subject to taxation in Germany). However, none of the foregoing shall constitute a Tax Event if it may be avoided by the Bank, the Trust or the Company taking reasonable measures under the circumstances.

“**Tier 1 Qualification Election**” means the election of the Bank, made pursuant to Section 10.04(k) of the LLC Agreement, to treat all or a percentage of each and every Class B Preferred Security as consolidated Tier 1 Regulatory Capital and as a consequence to replace, from and after the first day of the Payment Period during which such election occurs, specified terms of all or such portion of each and every Class B Preferred Security and Trust Preferred Security with terms specified in the LLC Agreement and this Agreement, as applicable, to be then applicable to the Tier 1 Percentage of the Class B Preferred Securities and Trust Preferred Securities, as applicable.

“**Tier 1 Percentage**” means the Specified Increment of each Class B Preferred Security with respect to which Tier 1 Qualification Elections have been made and the Specified Increment of each Trust Preferred Security that is reclassified as a result of such Tier 1 Qualification Election, as applicable, in each case from and after the first day of the Payment Period during which such Tier 1 Qualification Election occurs.

“**Tier 1 Regulatory Capital**” means core capital (*Kernkapital*) of the Bank on a consolidated basis.

“**Transfer Agent**” means the Transfer Agent appointed pursuant to the Agency Agreement.

“**Treasury Regulations**” means the income tax regulations, including temporary and proposed regulations, promulgated under the Code by the United States Treasury Department, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

“**Trust**” has the meaning set forth in the preamble of this Agreement.

“**Trust Common Security**” has the meaning set forth in Section 8.01 hereof.

“**Trust Common Security Certificate**” means a definitive certificate in fully registered form representing a Trust Common Security substantially in the form of Exhibit B.

“**Trust Estate**” means all right, title and interest of the Trust in and to (i) the Class B Preferred Securities, (ii) the related rights under the Class B Preferred Guarantee, and (iii) the Cash Property Account and the Asset Property Account, any subaccounts thereof and all

financial assets credited and amounts on deposit or credit balances carried in, each of them from time to time, and all distributions and payments with respect to any of the foregoing, in each case from time to time held by the Property Trustee hereunder. **“Trust Estate”** shall not include any amounts paid or payable to the Guarantor pursuant to this Agreement, including without limitation, fees, expenses and indemnities.

**“Trust Indenture Act”** means the U.S. Trust Indenture Act of 1939, as amended from time to time, or any successor legislation.

**“Trust Liquidation”** has the meaning set forth in Section 9.02 hereof.

**“Trust Preferred Guarantee”** means the Trust Preferred Securities Guarantee Agreement dated as of May 9, 2008, as amended from time to time, between the Bank, as guarantor, and The Bank of New York, as Trust Preferred Guarantee Trustee, for the benefit of the Property Trustee for the benefit of the holders of the Trust Preferred Securities from time to time.

**“Trust Preferred Guarantee Additional Amounts”** has the meaning set forth in the Trust Preferred Guarantee.

**“Trust Preferred Guarantee Trustee”** has the meaning specified in the Trust Preferred Guarantee.

**“Trust Preferred Security”** has the meaning set forth in Section 8.01(a) hereof.

**“Trust Securities”** means the Trust Common Security and the Trust Preferred Securities.

**“Trust Special Redemption Event”** means (i) a Tax Event solely with respect to the Trust, but not with respect to the Company or (ii) an Investment Company Act Event solely with respect to the Trust, but not with respect to the Company.

**“Trustee”** or **“Trustees”** means each Person who has signed this Agreement as a trustee, so long as such Person shall continue in office in accordance with the terms hereof, and all other Persons who may from time to time be duly appointed, qualified and serving as Trustees in accordance with the provisions hereof, and references herein to a Trustee or the Trustees shall refer to such Person or Persons solely in their capacity as trustees hereunder.

**“Upper Tier 2 Percentage”** means the portion of each Class B Preferred Security with respect to which no Tier 1 Qualification Election has been made and the same portion of each Trust Preferred Security that has not been reclassified pursuant to a Tier 1 Qualification Election.

**“Withholding Taxes”** has the meaning set forth in Section 7.01(g) hereof.

*Section 1.02. Other Definitional Provisions.*

(a) The headings and subheadings contained in this Agreement are included for convenience of reference and identification only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

(b) The following rules shall apply to the construction of this Agreement unless the context requires otherwise: (i) the singular includes the plural and the plural, the singular; (ii) words importing any gender include the other gender; (iii) references to statutes are to be construed as including all statutory provisions consolidating, amending or replacing the statute to which reference is made and all regulations promulgated pursuant to such statutes; (iv) references to "writing" include printing, photocopy, typing, lithography and other means of reproducing words in a tangible visible form; (v) the words "including," "includes" and "include" shall be deemed to be followed by the words "without limitation"; (vi) references to the introductory paragraph, preliminary statements, articles, sections (or subdivisions of sections), exhibits, appendices, annexes or schedules are to those of this Agreement unless otherwise indicated; (vii) references to agreements and other contractual instruments shall be deemed to include all subsequent amendments and other modifications to such instruments but only to the extent that such amendments and other modifications are permitted or not prohibited by the terms of this Agreement; (viii) references to Persons include their respective successors and assigns permitted or not prohibited by the terms of this Agreement; (ix) an accounting term not otherwise defined has the meaning assigned to it in accordance with generally accepted accounting principles in the United States of America; (x) "or" is not exclusive; (xi) provisions apply to successive events and transactions; (xii) references to documents or agreements which have been terminated or released or which have expired shall be of no force and effect after such termination, release or expiration; (xiii) references to mail shall be deemed to refer to first class mail, postage prepaid, unless another type of mail is specified; (xiv) all references to time shall be to New York City time unless otherwise indicated; (xv) references to specific Persons, positions or officers shall include those who or which succeed to or perform their respective functions, duties or responsibilities referred to in the proceedings in connection with the Trust Preferred Securities; (xvi) the terms "herein," "hereunder," "hereby," "hereto," "hereof" and any similar terms refer to this Agreement as a whole and not to any particular article, section or subdivision hereof; and the term "heretofore" means before the date of execution of this Agreement, the term "now" means at the date of execution of this Agreement, and the term "hereafter" means after the date of execution of this Agreement; and (xvii) references to payments of principal include any premium payable on the same date.

ARTICLE 2  
TRUST INDENTURE ACT

*Section 2.01. Trust Indenture Act; Application.*

(a) This Agreement is subject to the provisions of the Trust Indenture Act that are required to be part of this Agreement and shall, to the extent applicable, be governed by



such provisions. A term defined in the Trust Indenture Act has the same meaning when used in this Agreement, unless otherwise defined in this Agreement or unless the context otherwise requires.

(b) If and to the extent that any provision of this Agreement limits, qualifies or conflicts with the duties imposed by Sections 310 to 317, inclusive, of the Trust Indenture Act, such imposed duties shall control.

(c) The application of the Trust Indenture Act to this Agreement shall not affect the nature of the Trust Preferred Securities as equity securities representing undivided beneficial interests in the Trust Estate.

*Section 2.02. Lists of Holders of the Trust Preferred Securities.*

(a) The Registrar on behalf of the Trust shall provide the Property Trustee and the Paying Agent a list, in such form as the Property Trustee and the Paying Agent may reasonably require, of the names and addresses of the Holders of the Trust Preferred Securities (each such list, a "**List of Holders**") (i) as of each record date for payment of Capital Payments, within 14 days after such record date, and (ii) upon receipt by the Trust from the Property Trustee or Paying Agent of a written request therefor, as of any other date, within the later of (x) 14 days after such date and (y) 30 days after the receipt by the Trust of such written request.

(b) The Property Trustee shall comply with its obligations under Sections 311(a), 311(b) and 312(b) of the Trust Indenture Act.

(c) The Property Trustee shall be the only Trustee which is a trustee for purposes of the Trust Indenture Act.

*Section 2.03. Reports by the Trustee.* Within 60 days after May 1 of each year (beginning with May 2009), the Property Trustee shall provide to the Holders of the Trust Preferred Securities such reports as are required by Section 313(a) of the Trust Indenture Act, if any, in the form and in the manner provided by Section 313 of the Trust Indenture Act. The Property Trustee shall also comply with the other requirements of Section 313(d) of the Trust Indenture Act.

*Section 2.04. Periodic Reports to the Trustee.* The Trust shall provide to the Property Trustee such documents, reports and information as required by Section 314 of the Trust Indenture Act (if any) and shall provide, within 60 days after the end of each of its fiscal years, commencing with the fiscal year ending December 31, 2008, the compliance certificate required by Section 314 of the Trust Indenture Act, in the form and in the manner required by Section 314 of the Trust Indenture Act. Delivery of such reports, information and documents to the Property Trustee is for informational purposes only and the Property Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Trust's compliance with any of its covenants hereunder (as to which the Property Trustee is entitled to rely exclusively on Officers' Certificates furnished by the Trust).

*Section 2.05. Evidence of Compliance with Conditions Precedent.* The Trust shall provide to the Property Trustee evidence of compliance with the conditions precedent, if any, provided for in this Agreement that relate to any of the matters set forth in Section 314(c) of the Trust Indenture Act. Any certificate or opinion required to be given by an officer pursuant to Section 314(c)(1) of the Trust Indenture Act may be given in the form of an Officers' Certificate.

*Section 2.06. Enforcement Event; Waiver.*

(a) As long as any Trust Preferred Securities are outstanding, a Majority of the Trust Preferred Securities (excluding any Trust Preferred Securities held by the Bank or any of its Subsidiaries) may, by vote, on behalf of the Holders of all of the Trust Securities, waive any past Enforcement Event and its consequences, except that any Enforcement Event in respect of a covenant or provision hereof, the LLC Agreement or any Guarantee, as applicable, which (i) cannot be modified or amended without the consent of each Holder of Trust Preferred Securities or each Holder of Class B Preferred Securities, as applicable, can only be waived by all Holders of Trust Preferred Securities, or (ii) can only be modified or amended with the consent or vote of the Holders of a stated percentage greater than 50% of the Trust Preferred Securities or the Class B Preferred Securities, as applicable, can only be waived under this Agreement by the vote of the Holders of at least the same percentage of the Trust Preferred Securities.

Upon such waiver, such waived Enforcement Event shall be deemed to have been cured, for every purpose of this Agreement, but no such waiver shall extend to any subsequent or other default or Enforcement Event or impair any right consequent thereon. For as long as any Enforcement Event has occurred and is continuing, the Property Trustee shall be deemed to be acting solely on behalf of the Holders of the Trust Preferred Securities and only the Holders of the Trust Preferred Securities shall have the right to direct the Property Trustee.

The foregoing provisions of this Section 2.06(a) shall be in lieu of Section 316(a)(1)(B) of the Trust Indenture Act and such Section 316(a)(1)(B) of the Trust Indenture Act is hereby expressly excluded from this Agreement and the Trust Securities, as permitted by the Trust Indenture Act.

(b) A waiver of an Enforcement Event pursuant to clause (ii) or (iv) of the definition thereof under this Agreement by the Holders of the Trust Securities constitutes an instruction to the Property Trustee to waive the corresponding Event of Default under the LLC Agreement. In the absence of such waiver and upon the occurrence of an Enforcement Event pursuant to clause (ii) or (iv) of the definition thereof, the Property Trustee shall have the right to enforce the rights of the holders of Class B Preferred Securities.

(c) The Property Trustee shall take all such other actions as directed by the Holders of the Trust Securities in accordance with the terms of this Agreement.

*Section 2.07. Notice of Enforcement Event.* The Property Trustee shall, within 90 days after the occurrence of an Enforcement Event (or an event which with the passage of time would become an Enforcement Event, including the failure of the Company to pay a Capital Payment on the Class B Preferred Securities in full for any Payment Period), give to the Holders of the Trust Securities in the manner set forth in Section 15.01 hereof, notices of all Enforcement

Events (or such events) actually known to a Responsible Officer of the Property Trustee, unless such Enforcement Events have been cured before the giving of such notice; *provided*, that, the Property Trustee shall be protected in withholding such notice if and so long as a Responsible Officer of the Property Trustee in good faith determines that the withholding of such notice is in the interests of the Holders of the Trust Securities.

The Property Trustee shall not be deemed to have knowledge of any Enforcement Event (or any such event) unless an officer of the Property Trustee in its Corporate Office shall have received written notice thereof, or a Responsible Officer of the Property Trustee shall have obtained actual knowledge of such Enforcement Event (or such event).

### ARTICLE 3 ORGANIZATION

*Section 3.01. Name.* The Trust is named “Deutsche Bank Contingent Capital Trust V,” as such name may be modified from time to time by the Regular Trustees following written notice to the Holders of the Trust Securities. The Trust’s activities may be conducted under the name of the Trust or any other name deemed advisable by the Regular Trustees.

*Section 3.02. Office.* The address of the principal office of the Trust is 60 Wall Street, New York, New York 10005. The Regular Trustees may designate another principal office on ten Business Days’ written notice to the Holders of the Trust Securities.

*Section 3.03. Purpose.* The Trust exists for the sole purposes of (a) issuing the Trust Securities which will constitute direct, unsecured and unsubordinated securities of the Trust, representing undivided beneficial ownership interests in the Trust Estate of the Trust, (b) investing the proceeds from the issuance of the Trust Securities in the Class B Preferred Securities and (c) except as otherwise limited herein, engaging in those other activities necessary or incidental thereto. The Trust shall not borrow money, issue debt or reinvest proceeds derived from investments, pledge any of its assets, or otherwise undertake (or permit to be undertaken) any activity that would (x) cause the Trust to be classified as other than a grantor trust for United States federal income tax purposes or (y) require the Trust to register under the 1940 Act.

*Section 3.04. Authority.* Subject to the limitations provided in this Agreement and to the specific duties of the Property Trustee, the Regular Trustees shall have exclusive and complete power and authority to carry out the purposes of the Trust. An action taken by the Regular Trustees in accordance with their powers shall constitute the act of and serve to bind the Trust and an action taken by the Property Trustee on behalf of the Trust in accordance with its powers shall constitute the act of and serve to bind the Trust. In dealing with the Trustees acting on behalf of the Trust, no person shall be required to inquire into the authority of the Trustees to bind the Trust. Persons dealing with the Trust are entitled to rely conclusively on the power and authority of the Trustees as set forth in this Agreement.

*Section 3.05. Title to Property of the Trust.* Except as provided in Section 3.06(c) and Section 3.08 hereof with respect to the Class B Preferred Securities and the Property Accounts or as otherwise provided in this Agreement, legal title to the Trust Estate of the Trust shall be vested in the Trust. The Holders of the Trust Securities shall not have legal title to any

part of the Trust Estate of the Trust, but shall have an undivided beneficial ownership interest in the Trust Estate of the Trust.

*Section 3.06. Powers and Duties of the Regular Trustees.* The Regular Trustees are authorized and directed to conduct the affairs of and to operate the Trust in such a way that the Trust shall not be required to register under the 1940 Act or characterized as other than a grantor trust for United States federal income tax purposes. In this connection, the Regular Trustees are authorized to take any action, not inconsistent with applicable law, the certificate of trust or the Trust Agreement, which the Regular Trustees determine to be necessary for such purposes as long as such action does not adversely affect the interests of the Holders of the Trust Preferred Securities.

The Regular Trustees shall have the exclusive power, duty and authority to cause the Trust to engage in the following activities:

(a) To issue and sell the Trust Preferred Securities and the Trust Common Security in accordance with the terms and conditions of this Agreement; *provided, however*, that the Trust may issue no more than one series of Trust Preferred Securities and no more than one series of the Trust Common Security.

Notwithstanding the foregoing, the Company will (a) if so required by the Bank, in connection with the exercise of the underwriters' over-allotment option or (b) from time to time on or prior to June 30, 2013 and without the consent of the holders of the Class B Preferred Securities, issue additional Class B Preferred Securities having the same terms as the Class B Preferred Securities in all respects except for the issue date, the date from which Capital Payments accrue on the Class B Preferred Securities, the issue price, and any other deviations required for compliance with applicable law, so as to form a single series with the Class B Preferred Securities. In such circumstances, and without consent of the holders of the Trust Preferred Securities, the Trust will issue additional Trust Preferred Securities having the same terms and conditions as the Trust Preferred Securities in all respects except for the issue date, the date from which Capital Payments accrue on the Trust Preferred Securities, the issue price, and any other deviations required for compliance with applicable law, so as to form a single series with the Trust Preferred Securities, in consideration for the receipt of such additional Class B Preferred Securities equal to the aggregate liquidation preference amount of such additional Trust Preferred Securities.

(b) In connection with the issue and sale of the Trust Preferred Securities, at the direction of the Bank, to:

(i) execute and file with the Commission the Registration Statement on Form F-3 prepared by the Bank, including any amendments thereto, pertaining to the Trust Preferred Securities, the Class B Preferred Securities and the Guarantees;

(ii) execute and enter into the Purchase Agreement providing for the sale of the Trust Preferred Securities and perform the duties and obligations of the Trust thereunder;

- (iii) execute and enter into the Services Agreement and perform the duties and obligations of the Trust thereunder,
  - (iv) execute and file applications, prepared by the Bank, to the New York Stock Exchange Inc. for listing upon notice of issuance of any Trust Preferred Securities, and
  - (v) execute and file any documents, or take any acts that they or the Bank determines to be necessary in order to qualify or register all or part of the Trust Preferred Securities in any jurisdiction in which the Trust or the Bank has determined to qualify or register such Trust Preferred Securities for offer or sale.
- (c) To acquire the Class B Preferred Securities with the proceeds of the sale of the Trust Preferred Securities and the Trust Common Security and to execute and enter into the LLC Agreement; *provided, however*, that the Regular Trustees shall cause legal title to the Class B Preferred Securities to be held of record in the name of the Property Trustee for the benefit of the Holders or beneficial owners of the Trust Preferred Securities and the Holder of the Trust Common Security;
- (d) To give the Bank and the Property Trustee prompt written notice of the occurrence of a Trust Special Redemption Event; *provided*, that the Regular Trustees shall consult with the Bank and the Property Trustee before taking or refraining from taking any Ministerial Action in relation to a Trust Special Redemption Event;
- (e) To establish a record date with respect to all actions to be taken hereunder that require a record date be established, including and with respect to, for the purpose of Section 316(c) of the Trust Indenture Act, Capital Payments, and to issue relevant notices to the Holders of the Trust Preferred Securities and the Holder of the Trust Common Security as to such actions and applicable record dates;
- (f) To give prompt written notice to the Holders of the Trust Securities of any notice received from the Company to the effect that the Company will not make a current, annual or quarterly distribution, as the case may be, at the Stated Rate (as defined in the LLC Agreement) in full on the Class B Preferred Securities under the LLC Agreement;
- (g) To take all actions and perform such duties as may be required of the Regular Trustees pursuant to the terms of the Trust Securities;
- (h) To bring or defend, pay, collect, compromise, arbitrate, resort to legal action, or otherwise adjust claims or demands of or against the Trust (“**Legal Action**”), unless pursuant to Section 3.08(e) or Section 3.08(f) hereof, the Property Trustee has the exclusive power to bring such Legal Action;
- (i) To employ or otherwise engage employees and agents (who may be designated as officers with titles) and managers, contractors, advisors, and consultants and pay reasonable compensation for such services;

- (j) To cause the Trust to comply with the Trust' s obligations under the Trust Indenture Act;
- (k) To give the certificates required by Section 314 of the Trust Indenture Act to the Property Trustee, which certificate may be executed by any Regular Trustee;
- (l) To incur expenses that are necessary or incidental to carry out any of the purposes of the Trust;
- (m) To act as, or appoint another Person to act as, registrar, authenticating agent, paying agent and transfer agent for the Trust Securities;
- (n) To execute all documents or instruments, perform all duties and powers, and do all things for and on behalf of the Trust in all matters necessary or incidental to the foregoing;
- (o) To take all action that may be necessary or appropriate for the preservation and the continuation of the Trust' s valid existence, rights, franchises and privileges as a statutory trust under the laws of the State of Delaware and of each other jurisdiction in which such existence is necessary to protect the limited liability of the Holders of the Trust Preferred Securities or to enable the Trust to effect the purposes for which the Trust was created;
- (p) To take any action, or to take no action, not inconsistent with this Agreement or with applicable law, that the Regular Trustees determine in their discretion to be necessary or desirable in carrying out the activities of the Trust as set out in this Section 3.06, including, but not limited to:
  - (i) causing the Trust not to be deemed to be an "investment company" within the meaning of the 1940 Act required to be registered under the 1940 Act; and
  - (ii) taking no action which would be reasonably likely to cause the Trust to be classified as other than a grantor trust for United States federal income tax purposes;

*provided*, that such action does not adversely affect the interests of Holders or beneficial owners of the Trust Securities;

- (q) To take all action necessary to cause all applicable tax returns and tax information reports that are required to be filed with respect to the Trust to be duly prepared and filed by the Regular Trustees, on behalf of the Trust; and
- (r) To execute and enter into one or more agency agreements with the Paying Agent, Registrar, Transfer Agent, Authenticating Agent and the Property Trustee.

The Regular Trustees must exercise the powers set forth in this Section 3.06 in a manner that is consistent with the purposes and functions of the Trust set out in Section 3.03

hereof, and the Regular Trustees shall not take any action that is inconsistent with the purposes and functions of the Trust set forth in Section 3.03 hereof.

Subject to this Section 3.06, the Regular Trustees shall have none of the powers or the authority of the Property Trustee set forth in Section 3.08 hereof.

Any expenses incurred by the Regular Trustees pursuant to this Section 3.06 shall be reimbursed by the Bank pursuant to the Services Agreement.

*Section 3.07. Prohibition of Actions by the Trust and the Trustees.* The Trust shall not, and the Trustees (including the Property Trustee) shall cause the Trust not to, engage in any activity other than as required or authorized by this Agreement. In particular, the Trust shall not and the Trustees (including the Property Trustee) shall cause the Trust not to:

- (a) invest any proceeds received by the Trust from holding the Class B Preferred Securities, but shall distribute all such proceeds to Holders of the Trust Securities pursuant to the terms of this Agreement and of the Trust Securities;
- (b) acquire any assets other than as expressly provided herein;
- (c) possess Trust property other than for a Trust purpose;
- (d) make any loans or incur any indebtedness or acquire any securities other than the Class B Preferred Securities;
- (e) possess any power or otherwise act in such a way as to vary the Trust Estate or the terms of the Trust Securities in any way whatsoever except as provided herein;
- (f) issue any securities or other evidences of beneficial ownership of, or beneficial interest in, the Trust other than the Trust Securities;
- (g) other than as set forth herein, consent to any amendment, modification or termination of the LLC Agreement or the Class B Preferred Securities where such consent shall be required; and
- (h) other than in connection with the liquidation of the Trust pursuant to a Tax Event or upon redemption of all the Trust Securities, file a certificate of cancellation of the Trust.

*Section 3.08. Powers and Duties of the Property Trustee.*

(a) The legal title to the Class B Preferred Securities shall be owned by and held of record in the name of the Property Trustee in trust for the benefit of the Holders of the Trust Securities. The Property Trustee shall have the power to exercise all rights, powers and privileges with respect to the Class B Preferred Securities under the LLC Agreement as the holder of the Class B Preferred Securities. The right, title and interest of the Property Trustee to the Class B Preferred Securities shall vest automatically in each Person who may hereafter be appointed as Property Trustee in accordance with Section

6.06 hereof. Such vesting and cessation of title shall be effective whether or not conveyancing documents with regard to the Class B Preferred Securities have been executed and delivered.

(b) The Property Trustee shall not transfer its right, title and interest in the Class B Preferred Securities to the Regular Trustees or to the Delaware Trustee (if the Property Trustee does not also act as Delaware Trustee).

(c) The Property Trustee shall:

(i) establish and maintain segregated non-interest bearing trust account for the receipt, deposit and payment of funds in respect of Capital Payments on, and payments on redemption of, the Class B Preferred Securities, (plus Additional Amounts, if any) which payments shall include, but not be limited to, payments pursuant to the Class B Preferred Guarantee (such account, the "**Cash Property Account**") and to establish and maintain a segregated non-interest bearing trust account for the receipt, deposit and payment of other assets and funds in respect of the Class B Preferred Securities (such account, the "**Asset Property Account**" and, together with the Cash Property Account, the "**Property Accounts**"). Each of the Property Accounts shall be in the name of and under the exclusive control of the Property Trustee on behalf of the Holders of the Trust Securities.

Upon the receipt of payments of funds made in respect of the Class B Preferred Securities held by the Property Trustee, deposit such funds into the Cash Property Account and cause such funds to be transferred to the Paying Agent for the purpose of making payments to the Holders of the Trust Preferred Securities and the Holder of the Trust Common Security in accordance with this Agreement. The Property Trustee shall maintain all other payments of funds made in respect of the Class B Preferred Securities and the assets of the Trust in the Asset Property Account until such funds, assets or the proceeds therefrom are distributed to the Holders of the Trust Securities in accordance with this Agreement. Funds in the Property Accounts shall be held uninvested until disbursed in accordance with this Agreement. Each Property Account shall be an account that is maintained with a banking institution authorized to exercise corporate trust powers and having a combined capital and surplus of at least U.S.\$50,000,000 and subject to supervision or examination by federal or state authority;

(ii) engage in such ministerial activities as shall be necessary or appropriate to effect the redemption of the Trust Preferred Securities and the Trust Common Security to the extent the Class B Preferred Securities are redeemed; and

(iii) upon written notice of distribution issued by the Regular Trustees in accordance with the terms of the Trust Securities, engage in such ministerial activities as shall be necessary or appropriate to effect the distribution of the Class B Preferred Securities to Holders of the Trust Securities.

(d) The Property Trustee shall take all actions and perform such duties as may be specifically required of the Property Trustee pursuant to the terms of the Trust Securities.



(e) The Property Trustee shall take any Legal Action that arises out of or in connection with (i) an Enforcement Event of which a Responsible Officer of the Property Trustee has actual knowledge or (ii) the Property Trustee's duties and obligations under this Agreement or the Trust Indenture Act.

(f) The Property Trustee shall have the legal power, and the Regular Trustees shall have no power, to exercise all of the rights, powers and privileges of a holder of the Class B Preferred Securities and, if an Enforcement Event occurs and is continuing, the Property Trustee shall (subject to the rights of the Holders of the Trust Securities pursuant to the terms of such Trust Securities) for the benefit of Holders of the Trust Securities, enforce its rights as holder of the Class B Preferred Securities, including the right to receive Capital Payments (only if and to the extent declared or deemed declared by the Company) and Arrears of Payments, if any (plus, in each case, Additional Amounts thereon, if any) on the Class B Preferred Securities.

(g) The Property Trustee shall continue to serve as a Trustee until either:

(i) the Trust has been completely liquidated and the proceeds of the liquidation distributed to the Holders of the Trust Securities pursuant to the terms of the Trust Securities; or

(ii) a Successor Property Trustee has been appointed and has accepted that appointment in accordance with Section 6.06 hereof.

Subject to this Section 3.08, the Property Trustee shall have none of the duties, liabilities, powers or the authorities of the Regular Trustees set forth in Section 3.06 hereof.

The Property Trustee must exercise the responsibilities set forth in this Section 3.08 in a manner that is consistent with the purposes and functions of the Trust set out in Section 3.03 hereof, and the Property Trustee shall not take any action that is inconsistent with the purposes and functions of the Trust set out in Section 3.03 hereof.

*Section 3.09. Certain Duties and Responsibilities of the Property Trustee.*

(a) The Property Trustee, prior to the occurrence of any Enforcement Event and after the curing or waiver of all Enforcement Events that may have occurred, shall undertake to perform only such duties as are specifically set forth in this Agreement and no implied covenants shall be read into this Agreement against the Property Trustee.

(b) In case an Enforcement Event has occurred (that has not been cured or waived pursuant to Section 2.06 hereof) and is actually known to a Responsible Officer of the Property Trustee, the Property Trustee shall exercise such of the rights and powers vested in it by this Agreement, and use the same degree of care and skill in its exercise thereof, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs. Upon the occurrence of an Enforcement Event, the Property Trustee, as the holder of the Class B Preferred Securities, shall enforce its rights in accordance with Section 3.08(f) hereof.

(c) No provision of this Agreement shall be construed to relieve the Property Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) in the absence of bad faith on the part of the Property Trustee, the Property Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Property Trustee and conforming to the requirements of this Agreement; but in the case of any such certificates or opinions that by any provision hereof are specifically required to be furnished to the Property Trustee, the Property Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Agreement;

(ii) the Property Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer of the Property Trustee, unless it shall be proved that the Property Trustee was negligent in ascertaining the pertinent facts upon which such judgment was made;

(iii) subject to the requirement of the Property Trustee receiving a tax opinion as set forth in Section 8.05(g) or Section 8.06(b) hereof, as the case may be, the Property Trustee shall not be liable with respect to any action taken or omitted to be taken by it regarding the time, method and place of conducting any proceeding for any remedy available to the Property Trustee, or exercising any trust or power conferred upon the Property Trustee under this Agreement, in good faith in accordance with the direction of the Holders of not less than a Majority of the Trust Securities entitled to give such directions in accordance with this Agreement;

(d) no provision of this Agreement shall require the Property Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers if the Property Trustee shall have reasonable grounds for believing that the repayment of such funds or liability

is not reasonably assured to it under the terms of this Agreement or indemnity reasonably satisfactory to the Property Trustee against such risk or liability is not reasonably assured to it;

(e) the Property Trustee's sole duty with respect to the custody, safe keeping and physical preservation of the Class B Preferred Securities and the Property Accounts shall be to deal with such property in a similar manner as the Property Trustee deals with similar property for its own account, subject to the protections and limitations on liability afforded to the Property Trustee under this Agreement and the Trust Indenture Act;

(f) the Property Trustee shall have no duty or liability for or with respect to the value, genuineness, existence or sufficiency of the Class B Preferred Securities or the payment of any taxes or assessments levied thereon or in connection therewith;

(g) the money held by the Property Trustee need not be segregated from other funds held by it except in relation to the Property Accounts maintained by the Property Trustee pursuant to Section 3.08(c) hereof and except to the extent otherwise required by law; and

(h) the Property Trustee shall not be responsible for monitoring the compliance by the Regular Trustees or the Sponsor or the Bank with their respective duties under this Agreement, nor shall the Property Trustee be liable for any default or misconduct of the Regular Trustees or the Sponsor or the Bank. In no event shall the Property Trustee be liable for any act or omission of any act of the Regular Trustees hereunder.

*Section 3.10. Certain Rights of Property Trustee.*

(a) Subject to the provisions of Section 3.09 hereof:

(i) the Property Trustee may conclusively rely and shall be fully protected in acting or refraining from acting upon, any Officers' Certificate, any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(ii) any direction, request, order or demand of the Sponsor or the Regular Trustees acting on behalf of the Trust contemplated by this Agreement shall be sufficiently evidenced by an Officers' Certificate (unless other evidence in respect thereof be herein specifically prescribed);

(iii) whenever in the administration of this Agreement, the Property Trustee shall deem it desirable that a matter be proved or established before taking, suffering or omitting any action hereunder, such matter (unless other evidence is herein specifically prescribed), may, in the absence of negligence or bad faith on the part of the Property Trustee, be deemed to be conclusively proved and established by an Officers' Certificate delivered to the Property Trustee, and such Officers' Certificate, in the

absence of negligence or bad faith on the part of the Property Trustee, shall be full warrant to the Property Trustee for any action taken, suffered or omitted by it under the provisions of this Agreement upon the faith thereof;

(iv) the Property Trustee may, at the expense of the Bank, consult with counsel or other experts and the advice or opinion of such counsel and experts with respect to legal matters or advice within the scope of such experts' area of expertise shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in accordance with such advice or opinion; such counsel may be counsel to the Sponsor or any of its Affiliates, and may include any of its employees. The Property Trustee shall have the right at any time to seek instructions concerning the administration of this Agreement from any court of competent jurisdiction;

(v) the Property Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Agreement at the request or direction of any Holder of the Trust Securities, unless (a) such Holder shall have provided to the Property Trustee security and indemnity, reasonably satisfactory to the Property Trustee, against the fees, charges, costs, expenses (including attorneys' fees and expenses and the expenses of the Property Trustee's agents, nominees or custodians) and liabilities that might be incurred by it in complying with such request or direction, including such reasonable advances as may be requested by the Property Trustee and (b) the Property Trustee has obtained the legal opinion, if any, required by Section 8.05(g) or Section 8.06(b) hereof, as the case may be; *provided*, that nothing contained in this Section 3.10(a)(v) shall be taken to relieve the Property Trustee, upon the occurrence of an Enforcement Event, of its obligation to exercise the rights and powers vested in it by this Agreement;

(vi) prior to the occurrence of any Enforcement Event and after the curing or waiving of all Enforcement Events, the Property Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, unless requested in writing to do so by a Majority of Trust Securities affected (voting as a single class) but the Property Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit but shall incur no liability or additional liability of any kind by reason of such inquiry or investigation;

(vii) the Property Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, custodians, nominees or attorneys and the Property Trustee shall not be responsible for any misconduct or negligence on the part of any agent, custodian, nominee or attorney appointed with due care by it hereunder;

(viii) any action taken by the Property Trustee or its agents hereunder shall bind the Trust and the Holders of the Trust Securities, and the signature of the Property Trustee or its agents alone shall be sufficient and effective to perform any such

action and no third party shall be required to inquire as to the authority of the Property Trustee to so act or as to its compliance with any of the terms and provisions of this Agreement, both of which shall be conclusively evidenced by the Property Trustee' s or its agent' s taking such action;

(ix) whenever in the administration of this Agreement the Property Trustee shall deem it desirable to receive instructions with respect to enforcing any remedy or right or taking any other action hereunder, the Property Trustee (i) may request written instructions from the Majority or Other Stated Percentage of the Trust Securities as would be entitled to direct the Property Trustee under the terms of the Trust Securities in respect of such remedy, right or action, (ii) may refrain from enforcing such remedy or right or taking such other action until such written instructions are received, and (iii) shall be protected in conclusively relying on or acting in accordance with such instructions; *provided, however*, that the Property Trustee shall not be required to take any action unless it shall have obtained such legal opinions, if any, required by Section 8.05(g) or Section 8.06(d) hereof, as the case may be; and

If the Property Trustee is also acting as Authenticating Agent, Paying Agent, Transfer Agent and/or Registrar, the rights and protections afforded to the Property Trustee pursuant to this Article 3 shall also be afforded to such Authenticating Agent, Paying Agent, Transfer Agent and Registrar.

(b) No provision of this Agreement shall be deemed to impose any duty or obligation on the Property Trustee to perform any act or acts or exercise any right, power, duty or obligation conferred or imposed on it, in any jurisdiction in which it shall be illegal, or in which the Property Trustee shall be unqualified or incompetent in accordance with applicable law, to perform any such act or acts, or to exercise any such right, power, duty or obligation. No permissive power or authority available to the Property Trustee shall be construed to be a duty.

*Section 3.11. Delaware Trustee.* Notwithstanding any provision of this Agreement other than Section 6.02 hereof, the Delaware Trustee is appointed to serve as the trustee of the Trust in the State of Delaware for the sole purpose of satisfying the requirement of Section 3807 (a) of the Delaware Statutory Trust Act that the Trust have at least one trustee with a principal place of business in Delaware. It is understood and agreed by the parties hereto that the Delaware Trustee shall have none of the duties or liabilities of the Property Trustee or Regular Trustees. The duties of the Delaware Trustee shall be limited to (a) accepting legal process served on the Trust in the State of Delaware and (b) the execution of any certificates required to be filed with the Delaware Secretary of State which the Delaware Trustee is required to execute under Section 3811 of the Delaware Statutory Trust Act. To the extent that, at law or in equity, the Delaware Trustee has duties (including fiduciary duties) and liabilities relating thereto to the Trust, the beneficial owners thereof or any other person, it is hereby understood and agreed by the other parties hereto that such duties and liabilities are replaced by the duties and liabilities of the Delaware Trustee expressly set forth in this Agreement. In no event shall the Delaware Trustee be liable for any act or omission of any act of the Regular Trustees hereunder. The Delaware Trustee will be entitled to the same rights, privileges and immunities as the Property Trustee is entitled to under Section 3.09 and Section 3.10 of this Agreement.

*Section 3.12. Execution of Documents.* Unless otherwise determined by the Regular Trustees, and except as otherwise required by the Delaware Statutory Trust Act, any Regular Trustee is authorized to execute on behalf of the Trust any documents that the Regular Trustees have the power and authority to cause the Trust to execute pursuant to Section 3.10 hereof.

*Section 3.13. Not Responsible for Recitals or Issuance of Trust Securities.* The recitals contained in this Agreement and the Trust Securities shall be taken as the statements of the Sponsor, and the Trustees do not assume any responsibility for their correctness. The Trustees make no representations as to the value or condition of the property of the Trust or any part thereof. The Trustees make no representations as to the validity or sufficiency of this Agreement or the Trust Securities.

*Section 3.14. Duration of Trust.* The Trust, unless terminated pursuant to the provisions of Article 9 hereof, shall have perpetual existence.

*Section 3.15. Mergers.*

(a) The Trust may not consolidate, amalgamate, merge with or into, or be replaced by, or convey, transfer or lease its properties and assets substantially as an entirety to any corporation or other entity, except as described in Section 3.15(b) and (c) hereof.

(b) The Trust may, with the consent of a majority of the Regular Trustees and without the consent of the Holders of the Trust Securities, the Property Trustee or the Delaware Trustee, consolidate, amalgamate, merge with or into, or be replaced by a trust organized as such under the laws of any State of the United States, or convey, transfer or lease its properties and assets substantially as an entirety to any corporation or other entity; *provided*, that:

(i) if the Trust is not the survivor, such successor entity (the “**Successor Entity**”) either:

(A) expressly assumes all of the obligations of the Trust to the Holders of the Trust Securities; or

(B) substitutes for the Trust Securities other securities having substantially the same terms as the Trust Securities (the “**Successor Trust Securities**”) so long as the Successor Trust Securities rank the same as the Trust Securities rank with respect to Capital Payments, distributions and rights upon liquidation, redemption or otherwise;

(ii) the Company expressly acknowledges a trustee of such Successor Entity possessing the same powers and duties as the Property Trustee as the holder of the Class B Preferred Securities;

(iii) if applicable, the Successor Trust Securities are listed, or any Successor Trust Securities will be listed upon notification of issuance, on any securities

exchange or other organization on which the Trust Preferred Securities are then listed or quoted, and the Successor Securities have at least the same rating as the Trust Preferred Securities;

(iv) such merger, consolidation, amalgamation or replacement does not adversely affect the rights, preferences and privileges or tax treatment of the Holders of the Trust Preferred Securities (including any Successor Trust Securities) in any material respect;

(v) such Successor Entity has purposes substantially identical to that of the Trust,

(vi) such Successor Entity will be classified as a grantor trust for United States federal income tax purposes;

(vii) the Guarantor guarantees the obligations of such Successor Entity under the Successor Trust Securities to the same extent as provided under the Trust Preferred Guarantee;

(viii) prior to such merger, consolidation, amalgamation or replacement, the Bank has received an opinion of a nationally recognized law firm experienced in such matters to the effect that:

(A) such merger, consolidation, amalgamation or replacement shall not adversely affect the rights, preferences and privileges or tax treatment of the Holders of the Trust Preferred Securities (including the Successor Trust Securities) in any material respect;

(B) following such merger, consolidation, amalgamation or replacement, neither the Trust nor such Successor Entity shall be required to register under the 1940 Act;

(C) following such merger, consolidation, amalgamation or replacement, the Trust (or such Successor Entity) shall be classified as a grantor trust for U.S. federal income tax purposes; and

(D) following such merger, consolidation, amalgamation or replacement, the Company shall not be classified as an association or a publicly traded partnership taxable as a corporation for United States federal income tax purposes; and

(viii) such merger, consolidation, amalgamation or replacement does not otherwise result in a Trust Special Redemption Event and/or Company Special Redemption Event.

(c) Notwithstanding Section 3.15(b) hereof, the Trust shall not, except with the consent of Holders of 100% of the outstanding Trust Preferred Securities (excluding Trust Preferred Securities held by the Bank and its Affiliates), consolidate, amalgamate,

merge with or into, or be replaced by any other entity or permit any other entity to consolidate, amalgamate, merge with or into, or replace it, if such consolidation, amalgamation, merger or replacement would cause the Trust or Successor Entity not to be classified as a grantor trust for United States federal income tax purposes.

#### ARTICLE 4 THE GUARANTOR

*Section 4.01. Responsibilities of the Guarantor.* In connection with the issue and sale of the Trust Preferred Securities, the Guarantor shall have the exclusive right and responsibility to engage in the following activities:

(a) To determine the jurisdictions in which to take appropriate action to qualify for sale all or part of the Trust Preferred Securities and to do any and all such acts, other than actions which must be taken by the Trust, and advise the Trust of actions it must take, and prepare for execution and filing any documents to be executed and filed by the Trust, as the Guarantor deems necessary or advisable in order to comply with the applicable laws of any such jurisdictions;

(b) To prepare for filing by the Trust with the Commission a registration statement on Form F-3 in relation to the Trust Preferred Securities, Class B Preferred Securities and the Guarantees, including any amendments thereto;

(c) To prepare for filing by the Trust applications to the New York Stock Exchange for listing upon notice of issuance of any Trust Preferred Securities; and

(d) To negotiate the terms of and execute the Purchase Agreement providing for the sale of the Trust Preferred Securities.

*Section 4.02. Indemnification and Expenses of the Trustees.* The Guarantor agrees to indemnify the Regular Trustees, the Property Trustee and the Delaware Trustee and their respective officers, directors, employees and agents for, and to hold each of them harmless against, any loss, liability or expense incurred without negligence or bad faith on the part of the Regular Trustees, Property Trustee or the Delaware Trustee, as the case may be, arising out of or in connection with the acceptance or administration of the trust or trusts hereunder, including the costs and expenses of defending them against any claim or liability in connection with the exercise or performance of any of their respective powers or duties hereunder. The provisions of this Section 4.02 shall survive the resignation or removal of the Regular Trustees, Property Trustee or the Delaware Trustee, as the case may be, or the termination of this Agreement.

*Section 4.03. Covenants of the Guarantor.*

(a) The Guarantor, for so long as any Trust Preferred Securities remain outstanding, shall maintain, or shall cause a Qualified Subsidiary to maintain, 100% ownership of the Trust Common Security. Any transfer of the Trust Common Security from the Guarantor to a Qualified Subsidiary or from a Qualified Subsidiary to the Guarantor or to another Qualified Subsidiary is conditioned on the receipt by the



Guarantor of an opinion of a nationally recognized law firm in the United States experienced in such matters to the effect that (A) the Company shall continue to be treated as a partnership for U.S. federal income tax purposes, (B) such transfer shall not cause the Company or the Trust to be classified as an association or publicly traded partnership taxable as a corporation for United States federal income tax purposes, (C) such transfer shall not cause the Company or the Trust to be required to register under the 1940 Act; (D) such transfer shall not adversely affect the limited liability of the holders of the Class B Preferred Securities and (E) such transfer shall not otherwise result in a Trust Special Redemption Event and/or a Company Special Redemption Event.

(b) For so long as any Trust Preferred Securities remain outstanding, the Guarantor shall cause the Trust to remain a statutory trust and shall use its commercially reasonable efforts to ensure that the Trust shall not be classified as other than a grantor trust for U.S. federal income tax purposes.

(c) The Guarantor, for so long as any of the Trust Securities are outstanding, shall not permit, or take any action to cause, the dissolution, liquidation, termination or winding up of the Trust, unless (i) a Trust Special Redemption Event or a Company Special Redemption Event occurs or (ii) the Company is in liquidation and the approval of any necessary regulatory authorities to such action has been received.

#### ARTICLE 5 THE TRUST COMMON SECURITYHOLDER

*Section 5.01. Purchase of Trust Common Security.* On the Closing Date, the Bank shall purchase the Trust Common Security issued by the Trust, for an amount at least equal to U.S.\$25, at the same time as the Trust Preferred Securities are sold.

#### ARTICLE 6 TRUSTEES

*Section 6.01. Number of Trustees.* The number of Trustees initially shall be five (5), and:

(a) At any time before the issuance of any Trust Securities, the Bank may, by written instrument, increase or decrease the number of Trustees (subject to Section 6.03(a)); and

(b) After the issuance of any Trust Securities, the number of Trustees may be increased or decreased by vote of the Holder of the Trust Common Security at a meeting of the Holder of the Trust Common Security; *provided, however*, that the number of Trustees shall in no event be less than three (3); *provided, further* that at all times (i) if required by the Delaware Statutory Trust Act, one Trustee shall be the Delaware Trustee; (ii) there shall be at least one Trustee who is an employee or officer of, or is affiliated with the Bank or a Qualified Subsidiary (each, a “**Regular Trustee**”); and (iii) one Trustee shall be the Property Trustee to enforce the rights of the Trust Preferred

Securities, and such Property Trustee may also serve as Delaware Trustee if it meets the applicable requirements.

*Section 6.02. Delaware Trustee.* If required by the Delaware Statutory Trust Act, one Trustee (the “**Delaware Trustee**”) shall be:

(a) A natural person who is a resident of the State of Delaware; or

(b) If not a natural person, an entity which has its principal place of business in the State of Delaware, and otherwise meets the requirements of applicable law; *provided*, that, if the Property Trustee has its principal place of business in the State of Delaware and otherwise meets the requirements of applicable law, then the Property Trustee may also be the Delaware Trustee (in which case, Section 3.11 hereof shall have no application).

(c) The initial Delaware Trustee shall be Deutsche Bank Trust Company Delaware, a Delaware banking corporation.

*Section 6.03. Property Trustee; Eligibility.*

(a) There shall at all times be one Trustee which shall act as Property Trustee which shall:

(i) not be an Affiliate of the Bank;

(ii) be a corporation organized and doing business under the laws of the United States of America or any State or Territory thereof or of the District of Columbia (or a corporation or other person permitted by the Commission to act as trustee pursuant to the Trust Indenture Act), authorized under such laws to exercise corporate trust powers and subject to supervision or examination by a federal, state, territorial or District of Columbia authority;

(iii) have at all times a combined capital and surplus of at least 50 million U.S. dollars (U.S.\$50,000,000), and if such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of the supervising or examining authority referred to in clause (ii) above, then for the purposes of this Section 6.03(a)(iii), the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

(b) If at any time the Property Trustee shall cease to be eligible to so act under Section 6.03(a) hereof, the Property Trustee shall immediately resign in the manner and with the effect set forth in Section 6.06(c) hereof.

(c) If the Property Trustee shall acquire any “conflicting interest” within the meaning of Section 310(b) of the Trust Indenture Act, the Property Trustee and the Holder of the Trust Common Security (as if it were the obligor referred to in Section

310(b) of the Trust Indenture Act) shall in all respects comply with the provisions of Section 310(b) of the Trust Indenture Act.

(d) The Guarantees shall be deemed to be specifically described in this Agreement for purposes of clause (i) of the first proviso contained in Section 310(b) of the Trust Indenture Act.

(e) The initial Property Trustee shall be The Bank of New York, a New York banking corporation.

*Section 6.04. Qualifications of Regular Trustees and Delaware Trustee Generally.* Each Regular Trustee and the Delaware Trustee (unless the Property Trustee also acts as Delaware Trustee) shall be either a natural person who is at least 21 years of age or a legal entity that shall act through one or more Authorized Officers.

*Section 6.05. Regular Trustees.* The initial Regular Trustees shall be John Cipriani, Richard W. Ferguson and Joseph J. Rice.

(a) Except as expressly set forth in this Agreement and except if a meeting of the Regular Trustees is called with respect to any matter over which the Regular Trustees have power to act, any power of the Regular Trustees may be exercised by, or with the consent of, any one such Regular Trustee.

(b) Unless otherwise determined by the Regular Trustees, and except as otherwise required by the Delaware Statutory Trust Act or applicable law, any one Regular Trustee is authorized to execute on behalf of the Trust any documents which the Regular Trustees have the power and authority to cause the Trust to execute pursuant to Section 3.06(c) hereof.

*Section 6.06. Appointment, Removal and Resignation of Trustees.*

(a) Subject to Section 6.06(b) hereof, Trustees may be appointed or removed without cause at any time:

(A) until the issuance of any Trust Securities, by written instrument executed by the Bank; and

(B) after the issuance of any Trust Securities, by a Majority of the outstanding Trust Common Security voting as a class at a meeting of the Holder of the Trust Common Security,

*provided*, that the Holders of Trust Common Security shall remove (x) the Property Trustee and the Delaware Trustee, respectively, in the case of a material breach of representation of the Property Trustee or the Delaware Trustee, as applicable that is not cured within 60 days after notice of such breach has been given to the Property Trustee or Delaware Trustee, as applicable, and (y) the Property Trustee in an event of bankruptcy occurs with respect to the Property Trustee.

(b)

(i) the Trustee that acts as Property Trustee shall not be removed in accordance with Section 6.06(a) hereof until a successor Trustee possessing the qualifications to act as Property Trustee under Section 6.03 hereof (a “**Successor Property Trustee**”) has been appointed and has accepted such appointment by written instrument executed by such Successor Property Trustee and delivered to the Regular Trustees and the Sponsor; provided that the Holder of the Trust Common Security in the case of a removal of the Property Trustee pursuant to the proviso to clause (a) above shall use its reasonable best efforts to appoint a Successor Property Trustee within no more than 90 days of such removal;

(ii) the Trustee that acts as Delaware Trustee shall not be removed in accordance with Section 6.06(a) hereof until a successor Trustee possessing the qualifications to act as Delaware Trustee under Section 3.11, Section 6.02 and Section 6.04 hereof (a “**Successor Delaware Trustee**”) has been appointed and has accepted such appointment by written instrument executed by such Successor Delaware Trustee and delivered to the Regular Trustees and the Sponsor; *provided* that the Holder of the Trust Common Security in the case of a removal of the Delaware Trustee pursuant to the proviso to clause (a) above shall use its reasonable best efforts to appoint a Successor Delaware Trustee within no more than 90 days of such removal;

(iii) no such removal of the Property Trustee or the Delaware Trustee shall be effective until all of the fees, charges, and expenses due and payable to such entity under or pursuant to this Agreement have been paid.

(c) A Trustee appointed to office shall hold office until his successor shall have been appointed or until his death, removal or resignation. Any Trustee may resign from office (without need for prior or subsequent accounting) by an instrument in writing signed by the Trustee and delivered to the Sponsor and the Trust, which resignation shall take effect upon such delivery or upon such later date as is specified therein; *provided, however*, that:

(i) no such resignation of the Trustee that acts as the Property Trustee shall be effective:

(A) until a Successor Property Trustee has been appointed and has accepted such appointment by instrument executed by such Successor Property Trustee and delivered to the Trust, the Sponsor and the resigning Property Trustee; or

(B) until the assets of the Trust have been completely liquidated and the proceeds thereof distributed to the Holders of the Trust Securities; and

(ii) no such resignation of the Trustee that acts as the Delaware Trustee shall be effective until a Successor Delaware Trustee has been appointed and has

accepted such appointment by instrument executed by such Successor Delaware Trustee and delivered to the Trust, the Sponsor and the resigning Delaware Trustee; and

(iii) no such resignation of the Property Trustee or the Delaware Trustee shall be effective until all of the fees, charges, and expenses due and payable to such entity under or pursuant to this Agreement have been paid.

(d) The Holder of the Trust Common Security shall use its best efforts to promptly appoint a Successor Delaware Trustee or Successor Property Trustee, as the case may be, if the Property Trustee or the Delaware Trustee delivers an instrument of resignation in accordance with this Section 6.06.

(e) If no Successor Property Trustee or Successor Delaware Trustee shall have been appointed and accepted appointment as provided in this Section 6.06 within 60 days after delivery to the Sponsor and the Trust of an instrument of removal or resignation, the Property Trustee or Delaware Trustee, as applicable, resigning or being removed may petition, at the expense of the Trust, any court of competent jurisdiction for appointment of a Successor Property Trustee or Successor Delaware Trustee. Such court may thereupon, after prescribing such notice, if any, as it may deem proper, appoint a Successor Property Trustee or Successor Delaware Trustee, as the case may be.

(f) No Property Trustee or Delaware Trustee shall be liable for the acts or omissions to act of any Successor Property Trustee or Successor Delaware Trustee, as the case may be.

(g) Upon termination of this Agreement or removal or resignation of the Property Trustee or Delaware Trustee, as applicable, pursuant to this Section 6.06, and before the appointment of any Successor Property Trustee or Successor Delaware Trustee, as applicable, the Trust shall pay to the Property Trustee or the Delaware Trustee, as applicable, all amounts to which it is entitled to the date of such termination, removal or resignation.

*Section 6.07. Vacancies among Trustees.* If a Trustee ceases to hold office for any reason and the number of Trustees is not reduced pursuant to Section 6.01 hereof, or if the number of Trustees is increased pursuant to Section 6.01 hereof, a vacancy shall occur. A resolution certifying the existence of such vacancy by the Regular Trustees or, if there are more than two, a majority of the Regular Trustees shall be conclusive evidence of the existence of such vacancy. The vacancy shall be filled with a Trustee appointed in accordance with Section 6.06 hereof.

*Section 6.08. Effect of Vacancies.* The death, resignation, retirement, removal, bankruptcy, dissolution, liquidation, incompetence or incapacity to perform the duties of a Trustee shall not operate to annul the Trust. Whenever a vacancy in the number of Regular Trustees shall occur, until such vacancy is filled by the appointment of a Regular Trustee in accordance with Section 6.06 hereof, the Regular Trustees in office, regardless of their number, shall have all the powers granted to the Regular Trustees and shall discharge all the duties imposed upon the Regular Trustees by this Agreement.

*Section 6.09. Meetings.* If there is more than one Regular Trustee, meetings of the Regular Trustees shall be held from time to time upon the call of any Regular Trustee. Regular meetings of the Regular Trustees may be held at a time and place fixed by resolution of the Regular Trustees. Notice of any in-person meetings of the Regular Trustees shall be hand delivered or otherwise delivered in writing (including by email or facsimile, followed by a hard-copy) not less than 48 hours before such meeting. Notice of any telephonic meetings of the Regular Trustees or any committee thereof shall be hand delivered or otherwise delivered in writing (including by email or facsimile, followed by a hard copy) not less than 24 hours before a meeting. Notices shall contain a brief statement of the time, place and anticipated purposes of the meeting. The presence (whether in person or by telephone) of a Regular Trustee at a meeting shall constitute a waiver of notice of such meeting except where a Regular Trustee attends a meeting for the express purpose of objecting to the transaction of any activity on the ground that the meeting has not been lawfully called or convened. Unless provided otherwise in this Agreement, any action of the Regular Trustees may be taken at a meeting by vote of a majority of the Regular Trustees present (whether in person or by telephone) and eligible to vote with respect to such matter, provided that a Quorum is present, or without a meeting by the unanimous written consent of the Regular Trustees. Notwithstanding the foregoing, any and all actions of the Regular Trustees may be taken by the unanimous written consent of all Regular Trustees.

*Section 6.10. Delegation of Power.*

(a) Any Regular Trustee may, by power of attorney consistent with applicable law, delegate to any other natural person over the age of 21, his or her power for the purpose of executing any documents contemplated in Section 3.06 hereof including any registration statement or amendment thereto filed with the Commission or making any other government filing; and

(b) The Regular Trustees shall have power to delegate from time to time to such of their number or to officers of the Trust the doing of such things and the execution of such instruments either in the name of the Trust or the names of the Regular Trustees or otherwise as the Regular Trustees may deem expedient, to the extent such delegation is not prohibited by applicable law or contrary to the provisions of the Trust, as set forth herein.

*Section 6.11. Merger, Conversion, Consolidation or Succession to Business.* Any corporation into which the Property Trustee or the Delaware Trustee, as the case may be, may be merged or converted or with which either may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Property Trustee or the Delaware Trustee, as the case may be, shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Property Trustee or the Delaware Trustee, as the case may be, shall be the successor hereunder of the Property Trustee or the Delaware Trustee, as the case may be; *provided*, that such corporation shall be otherwise qualified and eligible under this Article 6, without the execution or filing of any paper or any further act on the part of any of the parties hereto, other than any such filing as may be required under the Delaware Statutory Trust Act.

ARTICLE 7  
CAPITAL PAYMENTS

*Section 7.01. Capital Payments on the Upper Tier 2 Percentage.* The provisions of this Section 7.01 shall apply solely with respect to Capital Payments in respect of the Upper Tier 2 Percentage of the Trust Preferred Securities.

(a) Capital Payments on the Upper Tier 2 Percentage of the Trust Preferred Securities shall be due and payable to the extent Capital Payments on the Upper Tier 2 Percentage of the Class B Preferred Securities have been declared (or deemed declared) and paid; provided that Capital Payments on the Upper Tier 2 Percentage of the Trust Preferred Securities shall also be due and payable to the extent Capital Payments on the Upper Tier 2 Percentage of the Class B Preferred Securities have been deemed declared, but were not authorized to be paid (and were not paid) due to a lack of Operating Profits at the Company. Holders of the Upper Tier 2 Percentage of the Trust Preferred Securities shall be entitled to receive due and payable Capital Payments in cash on the Upper Tier 2 Percentage of the Trust Preferred Securities held by them payable quarterly in arrears on each Payment Date. Capital Payments on the Upper Tier 2 Percentage of the Trust Preferred Securities payable on each Payment Date shall accrue for the related Payment Period. Capital Payments on the Upper Tier 2 Percentage of the Trust Preferred Securities shall be cumulative only to the same extent that Capital Payments on the Upper Tier 2 Percentage of the Class B Preferred Securities are deferred and constitute Arrears of Payments pursuant to the LLC Agreement. Arrears of Payments on the Upper Tier 2 Percentage of the Class B Preferred Securities shall be paid only under the circumstances described in the LLC Agreement.

(b) For each Payment Period, Capital Payments shall accrue on the Liquidation Preference Amount of the Upper Tier 2 Percentage, if any, of each Trust Preferred Security at a fixed rate per annum equal to the Stated Rate, calculated on the basis of a 360-day year of twelve 30-day months.

(c) If any Payment Date or redemption date falls on a day that is not a Business Day, the amounts payable on such Payment Date or redemption date will be paid on the next succeeding Business Day, without adjustment, interest or further payment as a result of such delay in payment.

(d) Capital Payments, Arrears of Payments and other distributions on the Upper Tier 2 Percentage of the Trust Preferred Securities shall be paid out of, and amounts available to the Trust for such payments shall be limited to, amounts received by the Trust from the Company with respect to the Upper Tier 2 Percentage of the Class B Preferred Securities pursuant to the provisions of the LLC Agreement and from the Guarantor pursuant to the Class B Preferred Guarantee or the Trust Preferred Guarantee (including payments by the Guarantor under the Trust Preferred Guarantee to fund Capital Payments on the Upper Tier 2 Percentage of the Trust Preferred Securities in the event of non-payment of deemed declared Capital Payments on the Upper Tier 2 Percentage of the Class B Preferred Securities due to a lack of Operating Profits at the Company).

(e) Each Capital Payment shall be payable to the Holders of record as they appear on the Register on the corresponding record date. The record dates for the Trust Preferred Securities shall be (A) for Global Trust Preferred Certificates, the end of the Business Day immediately preceding the relevant Payment Date and (B) for Definitive Trust Preferred Certificates, the end of business of the 15<sup>th</sup> Business Day prior to the relevant Payment Date.

(f) If and to the extent that the Company makes a distribution on the Upper Tier 2 Percentage of the Class B Preferred Securities held by the Property Trustee or the Bank makes a payment under the Class B Preferred Guarantee (the amount of any such distribution or payment being a “**Payment Amount**” with respect to the Upper Tier 2 Percentage of the Class B Preferred Securities), the Holder of the Trust Common Security shall be entitled to receive a *pro rata* portion of such Payment Amount if, as and when funds are held by the Property Trustee in a Property Account; *provided, however*, upon the liquidation of the Trust and during the continuance of a default under the Initial Obligation or the Substitute Obligations or a failure by the Bank to perform any obligation under the Class B Preferred Guarantee, holders of the Upper Tier 2 Percentage of the Trust Preferred Securities will have a preference over the holder of the Trust Common Security with respect to payments of Capital Payments and other distributions and amounts upon redemption or liquidation of the Trust.

(g) All payments on the Upper Tier 2 Percentage of the Trust Preferred Securities and any payment upon redemption or liquidation thereof, will be made without deduction or withholding for or on account of any present or future taxes, duties or governmental charges of any nature whatsoever imposed, levied or collected by or on behalf of the United States or Germany or, during any period in which any Substitute Obligations are outstanding, the jurisdiction of residence of any obligor on such Substitute Obligations (or any jurisdiction from which payments are made) (each, a “**Relevant Jurisdiction**”) or by or on behalf of any political subdivision or authority therein or thereof having the power to tax (collectively, “**Withholding Taxes**”), unless such deduction or withholding is required by law. In such event, the Trust will pay, as additional Capital Payments (or Arrears of Payments, as the case may be), such additional amounts (“**Additional Amounts**”) to the Holders of the Upper Tier 2 Percentage of the Trust Preferred Securities as may be necessary in order that the net amounts received by the holders of the Upper Tier 2 Percentage of the Trust Preferred Securities after such deduction or withholding will equal the amounts that would have been received had no such deduction or withholding been required; provided however, no such Additional Amounts will be payable in respect of the Upper Tier 2 Percentage of the Trust Preferred Securities:

(i) in respect of each portion of the Upper Tier 2 Percentage of the Trust Preferred Securities for Payment Periods ending prior to the Payment Period during which the respective Tier 1 Qualification Election, if any, occurred with respect to such portions, if and to the extent that the Company is unable to pay corresponding amounts in respect of the Upper Tier 2 Percentage of the Class B Preferred Securities because such payment would exceed the Distributable Profits of the Bank for the fiscal year in respect of which the relevant Capital Payments are payable (after subtracting from such Distributable Profits the amount of the Capital Payments on the Upper Tier 2 Percentage of the Class B Preferred Securities and dividends or other distributions or payments on Parity Capital Securities, the Tier 1 Percentage, if any, of the Trust Preferred Securities and Preferred Tier 1 Capital Securities, if any, already paid on the basis of such



Distributable Profits on or prior to the date on which such Additional Amounts will be payable), in which case such Additional Amounts shall be deferred and will thereupon constitute Arrears of Payments;

(ii) with respect to any Withholding Taxes that are payable by reason of a Holder or beneficial owner of the Trust Preferred Securities having some connection with the Relevant Jurisdiction other than by reason only of the mere holding or beneficial ownership of the Trust Preferred Securities;

(iii) with respect to any Withholding Taxes which are deducted or withheld pursuant to (A) European Council Directive 2003/48/EC or any other European Union Directive or Regulation implementing the conclusions of the ECOFIN Council meeting of 26-27 November 2000 on the taxation of savings income, or (B) any international treaty or understanding entered into for the purpose of facilitating cooperation in the reporting and collection of savings income and to which (x) the United States, and (y) the European Union or Germany are parties, or (C) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding; or

(iv) to the extent such deduction or withholding can be avoided or reduced if the Holder or beneficial owner of the Trust Preferred Securities makes a declaration of non-residence or other similar claim for exemption to the relevant tax authority or complies with any reasonable certification, documentation, information or other reporting requirement imposed by the relevant tax authority; *provided, however,* that the exclusion set forth in this clause (iv) shall not apply if the certification, information, documentation or other reporting requirement would be materially more onerous (in form, procedure or substance of information required to be disclosed) to the Holder or beneficial owner of Trust Preferred Securities than comparable information or other reporting requirements imposed under U.S. tax law, regulation and administrative practice (such as IRS Forms W-8 and W-9).

*Section 7.02. Capital Payments on the Tier 1 Percentage.* The provisions of this Section 7.02 shall apply solely with respect to Capital Payments in respect of the Tier 1 Percentage for all Payment Periods from and including the Payment Period during which the Tier 1 Qualification Election with respect to the Specified Increment arising from such Tier 1 Qualification Election, occurred.

(a) Capital Payments on the Tier 1 Percentage of the Trust Preferred Securities shall be due and payable to the extent Capital Payments on the Tier 1 Percentage of the Class B Preferred Securities have been declared (or deemed declared) and paid; provided that Capital Payments on the Tier 1 Percentage of the Trust Preferred Securities shall also be due and payable to the extent Capital Payments on the Tier 1 Percentage of the Class B Preferred Securities have been deemed declared, but were not authorized to be paid (and were not paid) due to a lack of Operating Profits at the Company. Holders of the Tier 1 Percentage of the Trust Preferred Securities shall be entitled to receive due and payable Capital Payments in cash on the Tier 1 Percentage of the Trust Preferred Securities held by them, on a non-cumulative basis, payable quarterly in arrears on each

Payment Date. Capital Payments on the Tier 1 Percentage of the Trust Preferred Securities payable on each Payment Date shall accrue for the related Payment Period.

(b) For each Payment Period, Capital Payments shall accrue on the Liquidation Preference Amount of the Tier 1 Percentage of each Trust Preferred Security at a fixed rate per annum equal to the Stated Rate, calculated on the basis of a 360-day year of twelve 30-day months.

(c) If any Payment Date or redemption date falls on a day that is not a Business Day, the amounts payable on such Payment Date or redemption date will be paid on the next succeeding Business Day, without adjustment, interest or further payment as a result of such delay in payment.

(d) Capital Payments and other distributions on the Tier 1 Percentage of the Trust Preferred Securities shall be paid out of, and amounts available to the Trust for such payments shall be limited to, amounts received by the Trust from the Company with respect to the Tier 1 Percentage of the Class B Preferred Securities pursuant to the provisions of the LLC Agreement and from the Guarantor pursuant to the Class B Preferred Guarantee or the Trust Preferred Guarantee (including payments by the Guarantor under the Trust Preferred Guarantee to fund Capital Payments on the Tier 1 Percentage of the Trust Preferred Securities in the event of non-payment of deemed declared Capital Payments on the Tier 1 Percentage of the Class B Preferred Securities due to a lack of Operating Profits at the Company).

(e) Each Capital Payment shall be payable to the Holders of record as they appear on the Register on the corresponding record date. The record dates for the Trust Preferred Securities shall be (A) for Global Trust Preferred Certificates, the end of the Business Day immediately preceding the relevant Payment Date and (B) for Definitive Trust Preferred Certificates, the end of business of the 15<sup>th</sup> Business Day prior to the relevant Payment Date.

(f) If and to the extent that the Company makes a distribution on the Tier 1 Percentage of the Class B Preferred Securities held by the Property Trustee or the Guarantor makes a payment under the Class B Preferred Guarantee (the amount of any such distribution or payment being a "**Payment Amount**" with respect to the Tier 1 Percentage of the Class B Preferred Securities), the Holder of the Trust Common Security shall be entitled to receive a *pro rata* portion of such Payment Amount if, as and when funds are held by the Property Trustee in a Property Account; *provided, however*, upon the liquidation of the Trust and during the continuance of a default under the Initial Obligation or the Substitute Obligations or a failure by the Guarantor to perform any obligation under the Guarantees, holders of the Tier 1 Percentage of the Trust Preferred Securities will have a preference over the holder of the Trust Common Security with respect to payments of Capital Payments and other distributions and amounts upon redemption or liquidation of the Trust.

(g) The payment of Capital Payments on the Tier 1 Percentage of the Trust Preferred Securities and any amount payable in liquidation or upon redemption thereof,

shall be made without deduction or withholding for or on account of any Withholding Taxes, unless such deduction or withholding is required by law. In such event, the Trust will pay, as additional Capital Payments, Additional Amounts to the Holders of the Tier 1 Percentage of the Trust Preferred Securities; *provided, however*, that no such Additional Amounts shall be payable in respect of the Tier 1 Percentage of the Trust Preferred Securities:

(i) in respect of each portion of the Tier 1 Percentage of the Trust Preferred Securities for Payment Periods from and including the Payment Period during which the respective Tier 1 Qualification Election, if any, occurred with respect to such portions, if and to the extent that the Company is unable to pay corresponding amounts in respect of the Tier 1 Percentage of the Class B Preferred Securities because of insufficient Distributable Profits of the Bank for the preceding fiscal year (after subtracting from such Distributable Profits the amounts of Capital Payments on the Tier 1 Percentage of the Class B Preferred Securities and dividends or other distributions or payments on Preferred Tier 1 Securities, if any, already paid on the basis of such Distributable Profits on or prior to the date on which such Additional Amounts will be payable);

(ii) with respect to any Withholding Taxes that are payable by reason of a Holder or beneficial owner of the Trust Preferred Securities having some connection with any Relevant Jurisdiction other than by reason only of the mere holding or beneficial ownership of the Trust Preferred Securities;

(iii) with respect to any Withholding Taxes which are deducted or withheld pursuant to (A) European Council Directive 2003/48/EC or any other European Union Directive or Regulation implementing the conclusions of the ECOFIN Council meeting of 26-27 November 2000 on the taxation of savings income, or (B) any international treaty or understanding entered into for the purpose of facilitating cooperation in the reporting and collection of savings income and to which (x) the United States, and (y) the European Union or Germany are parties, or (C) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding; or

(iv) to the extent such deduction or withholding can be avoided or reduced if the Holder or beneficial owner of the Trust Preferred Securities makes a declaration of non-residence or other similar claim for exemption to the relevant tax authority or complies with any reasonable certification, documentation, information or other reporting requirement imposed by the relevant tax authority; *provided, however*, that the exclusion set forth in this clause (iv) shall not apply if the certification, information, documentation or other reporting requirement would be materially more onerous (in form, procedure or substance of information required to be disclosed) to the Holder or beneficial owner of Trust Preferred Securities than comparable information or other reporting requirements imposed under U.S. tax law, regulation and administrative practice (such as IRS Forms W-8 and W-9).

ARTICLE 8  
ISSUANCE OF TRUST SECURITIES

*Section 8.01. Designation and General Provisions Regarding Trust Securities.*

(a) The Regular Trustees shall on behalf of the Trust issue one class of preferred securities representing preferred undivided beneficial ownership interests in the Trust Estate and one class of common securities representing undivided beneficial ownership interests in the Trust Estate as follows:

(i) *Trust Preferred Securities.* There is hereby designated as one class of preferred securities the Trust Preferred Securities (the “**Trust Preferred Securities**”). The Trust Preferred Securities shall be issued in minimum denomination of a liquidation preference amount of U.S.\$25 per Trust Preferred Security (the “**Liquidation Preference Amount**”) or greater integral multiples thereof. The Trust Preferred Securities shall be issued with an aggregate Liquidation Preference Amount of U.S.\$1,265,000,000. The Global Trust Preferred Certificates evidencing the Trust Preferred Securities shall be substantially in the form of Exhibit A-1 to this Agreement, with such changes and additions thereto or deletions therefrom or in any other manner as is reasonably acceptable to the Regular Trustees (as evidenced by their execution thereof), and may have such letters, numbers or other marks of identification or designation and such legends and endorsements as the Regular Trustee may deem appropriate, or as may be required by ordinary usage, custom or practice or as may be requested to comply with any law or to conform to the rules of any stock exchange on which the Trust Preferred Securities are listed.

(ii) *Trust Common Security.* There is hereby designated as one class of common securities the Trust Common Security (the “**Trust Common Security**” and, together with the Trust Preferred Securities, the “**Trust Securities**”). The Trust Common Security shall be issued with an aggregate liquidation amount of U.S.\$25. The Trust Common Security Certificate evidencing the Trust Common Security shall be substantially in the form of Exhibit B to this Agreement, with such changes and additions thereto or deletions therefrom, or in any other manner as is reasonably acceptable to the Regular Trustees (as evidenced by their execution thereof), and may have such letters, numbers or other marks of identification or designation and such legends and endorsements as the Regular Trustee may deem appropriate, or as may be required by ordinary usage, custom or practice or as may be requested to comply with any law.

(b) The Trust shall issue no securities or other interests in the Trust Estate of the Trust other than the Trust Preferred Securities and the Trust Common Security.

Notwithstanding the foregoing, the Company will (a) if so required by the Bank in connection with the exercise of the underwriters’ over-allotment option or (b) from time to time on or prior June 30, 2013 and without the consent of the holders of the Class B Preferred Securities, issue additional Class B Preferred Securities having the same terms as the Class B Preferred Securities in all respects except for the issue date, the date from which Capital Payments accrue on the Class B Preferred Securities, the issue price, and

any other deviations required for compliance with applicable law, so as to form a single series with the Class B Preferred Securities. In such circumstances, and without consent of the holders of the Trust Preferred Securities, the Trust will issue additional Trust Preferred Securities having the same terms and conditions as the Trust Preferred Securities in all respects except for the issue date, the date from which Capital Payments accrue on the Trust Preferred Securities, the issue price, and any other deviations required for compliance with applicable law, so as to form a single series with the Trust Preferred Securities, in consideration for the receipt of such additional Class B Preferred Securities equal to the aggregate liquidation preference amount of such additional Trust Preferred Securities.

(c) Each of the Trust Securities shall be signed by a Regular Trustee for the Trust by manual or facsimile signature. No Trust Security shall be valid or obligatory for any purposes or entitled to any benefit under this Agreement until authenticated by the manual signature of an Authorized Officer of the Property Trustee. Such signature shall be conclusive evidence that the Trust Security has been authenticated and delivered under this Agreement and entitled to its benefits. All Trust Securities shall be dated the date of their execution. Trust Securities bearing signatures of individuals who were, at the time when such signatures shall have been affixed, authorized to sign on behalf of the Trust or authenticate on behalf of the Property Trustee, as applicable shall be validly issued notwithstanding that such individuals or any of them shall have ceased to be so authorized prior to the delivery of such Trust Securities. Upon a written order of the Trust, signed by at least one Regular Trustee, directing the Property Trustee to authenticate and deliver Trust Securities, the Property Trustee shall authenticate and deliver the Trust Securities for original issue.

The Property Trustee is authorized to enter into the agency agreement (the “**Agency Agreement**”) dated the date hereof with the Bank, the Paying Agent, the Company and the Trust, and is authorized to appoint as Authenticating Agent the Paying Agent or another agent acceptable to the Trust to authenticate the Trust Preferred Securities. An Authenticating Agent may authenticate Trust Preferred Securities whenever the Property Trustee may do so. Each reference in this Agreement to authentication by the Property Trustee includes authentication by such Authenticating Agent. An Authenticating Agent has the same rights as the Property Trustee to transact with the Sponsor or any Affiliate of the Sponsor. Pursuant to the Agency Agreement, the initial Authenticating Agent shall be Deutsche Bank Trust Company Americas.

(d) The consideration received by the Trust for the issuance of the Trust Securities shall constitute a contribution to the capital of the Trust and shall not constitute a loan to the Trust.

(e) Upon issuance of the Trust Securities as provided in this Agreement, the Trust Securities so issued shall be deemed to be validly issued, fully paid and nonassessable, subject to Section 11.01 hereof with respect to the Trust Common Security.

(f) Every Person, by virtue of having become a Holder of a Trust Preferred Security in accordance with the terms of this Agreement, shall be deemed to have expressly assented and agreed to the terms of, and shall be bound by, this Agreement.

(g) Upon receipt of the Tier 1 Qualification Election notice provided for in Section 10.04(k) of the LLC Agreement, the Regular Trustees, on behalf of the Trust shall:

(i) promptly forward such notice to the Authenticating Agent and shall direct the Authenticating Agent to reflect the appropriate Tier 1 Percentage and Upper Tier 2 Percentage as of the first day of the Payment Period during which the Tier 1 Qualification Election occurred on Schedule 1 of each Global Trust Preferred Certificate; and

(ii) as soon as practicable announce, by publication in a newspaper of general circulation in the United States,

(A) that the Bank has made a Tier 1 Qualification Election;

(B) the Specified Increment to which that Tier 1 Qualification Election pertains;

(C) that the Specified Increment will be treated as Tier 1 Percentage for all purposes under this Agreement from the first day of the Payment Period in which that Tier 1 Qualification Election occurred, specifying the date of such first day; and

(D) the total Tier 1 Percentage of each Trust Preferred Security following that Tier 1 Qualification Election.

The cost of such announcement shall be an expense of and be paid by the Bank.

*Section 8.02. Priority of Payments on Trust Securities.* Payment of Capital Payments on, and other distributions and amounts on redemption of the Trust Securities or liquidation of the Trust shall be made *pro rata* among the Trust Common Security and the Trust Preferred Securities, based on the Liquidation Preference Amount and the liquidation amount thereof; *provided, however,* that upon the occurrence and during the continuance of a failure to pay interest or additional interest amounts, if any, under the Initial Obligation or the Substitute Obligations or a failure by the Bank to perform any obligation under the Trust Preferred Guarantee or the Class B Preferred Guarantee, no payment of Capital Payments, Arrears of Payments or any other distributions of amounts, including upon redemption or liquidation of the Trust will be made to the holder of the Trust Common Security, unless payment in full in cash of all accumulated and unpaid Capital Payments and Arrears of Payments on, and amounts on redemption of, the Trust Preferred Securities have been made or provided for.

*Section 8.03. Redemption of Trust Securities.*

(a) Except as set forth in Section 8.02, upon a purchase of the Class B Preferred Securities by the Company upon redemption or otherwise, the proceeds from such purchase shall be simultaneously applied to redeem the Trust Securities for an amount equal to U.S.\$25 per Trust Preferred Security and an amount equal to U.S.\$25 per Trust Common Security, plus Additional Amounts, if any, plus Arrears of Payments, if any, plus any accumulated and unpaid Capital Payments in respect of the then current Payment Period to but excluding the date of redemption (the “**Redemption Price**”). In the event that payment of the Redemption Price in respect of any Trust Securities is improperly withheld or refused and not paid, Capital Payments on such Trust Securities shall continue to accrue at the Stated Rate from the designated Redemption Date to the date of actual payment of the Redemption Price, in which case the actual payment date shall be considered the Redemption Date for purposes of calculating the Redemption Price. The Property Trustee shall give prompt notice to the Holders of the Trust Preferred Securities of the Company’s intention to redeem the Class B Preferred Securities.

(b) If, at any time, a Trust Special Redemption Event shall occur and be continuing, the Regular Trustees shall, within 90 days following the occurrence of such Trust Special Redemption Event, after consultation with DTC, the Paying Agent and the Property Trustee dissolve the Trust upon not less than 30 nor more than 60 days’ notice to the Holders of the Trust Securities, with the result that, after satisfaction of the claims of creditors of the Trust, if any, Class B Preferred Securities would be distributed on a *pro rata* basis to the Holders of the Trust Preferred Securities and the Holder of the Trust Common Security in liquidation of such Holders’ interest in the Trust; *provided, however*, that, if, at such time, the Trust has the opportunity to eliminate, within such 90-day period, the Trust Special Redemption Event by taking some Ministerial Action, then the Trust shall pursue such measure in lieu of dissolution.

(c) If the Class B Preferred Securities are distributed to the Holders of the Trust Preferred Securities, the Bank shall use its commercially reasonable efforts to cause such Class B Preferred Securities to be eligible for clearing and settlement through DTC or a successor clearing agent and to be listed on the New York Stock Exchange or such other securities exchange or similar organization as the Trust Preferred Securities are then listed or quoted.

(d) On the date fixed for any distribution of Class B Preferred Securities, upon dissolution of the Trust, (i) the Trust Securities shall be deemed to be redeemed and no longer be deemed to be outstanding and (ii) certificates representing Trust Securities shall be deemed to represent the Class B Preferred Securities having an aggregate liquidation preference amount equal to the Liquidation Preference Amount of, and bearing accumulated and unpaid Capital Payments equal to accumulated and unpaid Capital Payments on, such Trust Securities until such certificates are presented to the Company or its agent for transfer or reissuance.

(e) Unless otherwise provided in this Agreement, the Trust Securities shall not be redeemable at any time at the option of the Holders of the Trust Securities.

(f) Any Trust Securities that are redeemed shall be canceled, and not reissued, following their redemption.

(g) No vote or consent of the Holders of any Trust Securities shall be required for the Trust to redeem and cancel any Trust Securities or distribute Class B Preferred Securities in accordance with this Agreement and the terms of the Trust Securities.

*Section 8.04. Redemption Procedures.*

(a) *Redemption Notice.* An irrevocable notice of redemption (including, if applicable, an irrevocable notice of distribution of Class B Preferred Securities) of the Trust Securities (a “**Redemption Notice**”) shall be given by the Trust in the manner set forth in Section 15.01 hereof to each Holder of Trust Securities to be redeemed not fewer than 30 nor more than 60 calendar days before the proposed Redemption Date (which, in the case of a redemption of the Class B Preferred Securities, shall be the same as the Class B Redemption Date) or such other time period or in such manner as may be required by the relevant regulatory authorities. A Redemption Notice shall be deemed to be given on the day such notice is first delivered, telecopied or mailed by first-class mail, registered or certified postage prepaid, to Holders of the Trust Securities. Each Redemption Notice shall be addressed to the Holders of the Trust Securities at the address of each such Holder appearing in the Register. No defect in the Redemption Notice or in the delivery thereof with respect to any Holder shall affect the validity of the redemption or exchange proceedings with respect to any other Holder.

(b) *Payment of Redemption Price.* Except in the case of a distribution of the Class B Preferred Securities to the Holders of the Trust Preferred Securities, and provided the Company or the Guarantor has paid to the Property Trustee a sufficient amount of cash in connection with the related redemption of Class B Preferred Securities, then by 9:00 a.m., New York City time, on the Redemption Date, the Property Trustee shall (i) with respect to Global Trust Preferred Certificates, irrevocably deposit with DTC funds sufficient to pay the applicable Redemption Price thereon together with irrevocable instructions to DTC to make such payment or (ii) with respect to Definitive Trust Preferred Certificates, irrevocably deposit with the Paying Agent funds sufficient to pay the applicable Redemption Price thereon, together with irrevocable instructions to the Paying Agent to make such payment by check mailed to the relevant Holder (at its address in the Register on the Redemption Date) upon surrender of its Definitive Trust Preferred Certificates.

(c) Upon satisfaction of the foregoing conditions, all rights of Holders of such Trust Securities so called for redemption shall cease on the Redemption Date, except the right of the Holders of such Trust Securities to receive the applicable Redemption Price (without interest thereon from and after the Redemption Date) or distribution of Class B Preferred Securities with the applicable liquidation preference amount.

If any Redemption Date falls on a day that is not a Business Day, payment of all amounts otherwise payable on such date will be made on the next succeeding Business Day, without adjustment, interest or further payment as a result of such delay in payment.



(d) Subject to the foregoing redemption provisions and procedures and applicable law (including, without limitation, U.S. federal securities law), the Bank or its Subsidiaries may at any time and from time to time purchase outstanding Trust Preferred Securities by tender, in the secondary market or by private agreement.

*Section 8.05. Voting Rights of Trust Preferred Securities.*

(a) Except as shall be otherwise expressly provided in this Agreement or the LLC Agreement or as otherwise required by the Delaware Statutory Trust Act, the Trust Indenture Act or other applicable law, the Holders of the Trust Preferred Securities shall have no right or power to vote on any question or matter or in any proceeding or to be presented at, or to receive notice of, any meeting of Holders of Trust Securities.

(b) Notwithstanding that Holders of the Trust Preferred Securities are entitled to vote or consent under certain circumstances described in this Agreement, any of the Trust Preferred Securities that are beneficially owned by the Bank, or any of its Subsidiaries or Affiliates, either directly or indirectly, shall not, in such case, be entitled to vote or consent and shall, for purposes of such vote or consent, be treated as if such Trust Preferred Securities were not outstanding, except for the Trust Preferred Securities purchased or acquired by the Bank or its Subsidiaries or Affiliates in connection with transactions effected by or for the account of customers of the Bank or any of its Subsidiaries or Affiliates or in connection with the distribution or trading of or market-making in connection with such Trust Preferred Securities in the ordinary course of business; *provided, however*, that Persons (other than Subsidiaries or Affiliates of the Bank) to whom the Bank or any of its Subsidiaries or Affiliates have pledged Trust Preferred Securities may vote or consent with respect to such pledged Trust Preferred Securities pursuant to the terms of such pledge.

(c) Subject to the requirement of the Property Trustee obtaining a tax opinion in certain circumstances set forth in Section 8.05(g) hereof, the Holders of a Majority of the Trust Preferred Securities have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Property Trustee, or direct the exercise of any trust or power conferred upon the Property Trustee under this Agreement, including the right to direct the Property Trustee, as Holder of the Class B Preferred Securities, to (i) exercise the remedies available to it under the LLC Agreement as a Holder of the Class B Preferred Securities or (ii) consent to any amendment, modification, or termination of the LLC Agreement or the Class B Preferred Securities where such consent shall be required; *provided, however*, that where a consent or action under the LLC Agreement would require the consent or action of the Holders of a stated percentage greater than 50% of the Class B Preferred Securities affected thereby, only the Holders of at least the same percentage of the Trust Preferred Securities may direct the Property Trustee to give such consent or take such action on behalf of the Trust.

(d) If the Property Trustee fails to enforce its rights under the Class B Preferred Securities after a Holder of Trust Preferred Securities has made a written request, such Holder of Trust Preferred Securities may, to the fullest extent permitted by applicable law, institute a legal proceeding directly against the Company to enforce the Property

Trustee's rights under the Class B Preferred Securities without first instituting any legal proceeding against the Property Trustee, the Trust or any other person or entity.

(e) Nothing in this Agreement shall affect the right of a Holder of Trust Preferred Securities, if the Trust has failed to pay the Redemption Price with respect to Trust Preferred Securities duly called for redemption, any Capital Payments, including Additional Amounts, if applicable, that are due and owing, to directly institute a proceeding in such Holder's own name against the Trust for enforcement of the Trust's obligation to make such payment or against the Guarantor for enforcement of the Trust Preferred Guarantee.

(f) In the event the consent of the Property Trustee, as the holder of the Class B Preferred Securities, is required under the LLC Agreement with respect to any amendment, modification or termination of the LLC Agreement, the Property Trustee shall request the direction of the Holders of the Trust Securities with respect to such amendment, modification or termination and shall vote with respect to such amendment, modification or termination as directed by a Majority of the Trust Securities voting together as a single class; *provided, however*, that where a consent under the LLC Agreement would require the consent of the holders of a stated percentage greater than 50% of the Class B Preferred Securities, the Property Trustee may only give such consent at the direction of the Holders of at least the same stated percentage of the Trust Securities.

(g) The Property Trustee shall be under no obligation to take any of the actions described in Section 8.05(c)(i) or (ii) above unless the Property Trustee has obtained an opinion of independent tax counsel to the effect that following such action, the Trust will be classified as a grantor trust for United States federal income tax purposes and each Holder of the Trust Securities will be treated as owning an undivided beneficial ownership interest in the Trust Estate.

(h) Any required vote of Holders of the Trust Preferred Securities may be given at a separate meeting of Holders of the Trust Preferred Securities convened for such purpose, at a meeting of all of the Holders of the Trust Securities or pursuant to a written consent. The Regular Trustees shall cause a notice of any meeting at which Holders of the Trust Preferred Securities are entitled to vote, or of any matter upon which action may be taken by written consent of such Holders, to be given to the Holders of the Trust Preferred Securities in the manner set forth in Section 15.01 hereof. Each such notice shall include a statement setting forth the following information: (i) the date of such meeting or the date by which such action is to be taken, (ii) a description of any resolution proposed for adoption at such meeting on which such Holders are entitled to vote or of such matter upon which written consent is sought and (iii) instructions for the delivery of proxies or consents.

(i) The voting rights provided pursuant to this Section 8.05 and applicable laws may be waived by the Holders of the Trust Preferred Securities by written notice to the Property Trustee and in accordance with applicable laws.

*Section 8.06. Voting Rights of the Trust Common Security.*

(a) Except as shall be otherwise expressly provided in this Agreement or in the LLC Agreement or as otherwise required by the Delaware Statutory Trust Act, the Trust Indenture Act or other applicable law, the Holder of the Trust Common Security shall have no right or power to vote on any question or matter or in any proceeding or to be presented at, or to receive notice of, any meeting of Holders of Trust Preferred Securities. The Holder of the Trust Common Security is entitled, subject to Article 6 hereof, to vote to appoint, remove or replace any Trustee or to increase or decrease the number of Trustees.

(b) Only after all Enforcement Events have been cured, waived, or otherwise eliminated and subject to the requirement of the Property Trustee obtaining a tax opinion in certain circumstances pursuant to Section 8.06(c), the Holder of the Trust Common Security has the right to direct the time, method and place of conducting any proceeding for any remedy available to the Property Trustee, or direct the exercise of any trust or power conferred upon the Property Trustee under this Agreement, including the right to direct the Property Trustee, as holder of the Class B Preferred Security, to (i) exercise the remedies available to it under the LLC Agreement as a holder of the Class B Preferred Securities (with regard to the Class B Preferred Securities relating to the Trust Common Security) or (ii) consent to any amendment, modification, or termination of the LLC Agreement or the Class B Preferred Securities (with regard to the Class B Preferred Securities relating to the Trust Common Security) where such consent shall be required.

(c) The Property Trustee shall be under no obligation to take any of the actions described in Section 8.06(b)(i) and (ii) above unless the Property Trustee has obtained an opinion of independent tax counsel to the effect that, following such action, the Trust will be classified as a grantor trust for United States federal income tax purposes and each Holder of the Trust Securities will be treated as owning an undivided beneficial ownership interest in the Trust Estate.

(d) If the Property Trustee fails to enforce its rights under the Class B Preferred Securities after a Holder of the Trust Common Security has made a written request, such Holder of the Trust Common Security may, to the fullest extent permitted by applicable law, institute a legal proceeding directly against the Company, to enforce the Property Trustee's rights under the Class B Preferred Securities without first instituting any legal proceeding against the Property Trustee or any other person or entity.

(e) The voting rights provided pursuant to this Section 8.06 and applicable laws may be waived by the Holder of the Trust Common Security by written notice to the Property Trustee and in accordance with the applicable laws.

*Section 8.07. Paying Agent.* The Trust shall maintain in the Borough of Manhattan, City of New York, State of New York, an office or agency where the Trust Preferred Securities may be presented for payment ("**Paying Agent**"). The Regular Trustees may appoint the Paying Agent and may appoint one or more additional paying agents in such other locations as they shall determine. The term "Paying Agent" includes any additional paying agent. Any

Paying Agent shall comply with Section 317(b) of the Trust Indenture Act. The Trust may remove any Paying Agent or appoint a successor or additional Paying Agent on not less than 30 days' notice to the Holders of the Trust Securities. The Trust shall notify the Property Trustee of the name and address of any Paying Agent not a party to this Agreement. If the Trust fails to appoint or maintain another entity as Paying Agent, the Property Trustee shall act as such. The Trust or any of its Affiliates may act as Paying Agent. Deutsche Bank Trust Company Americas shall initially act as Paying Agent for the Trust Preferred Securities and the Trust Common Security. Any Paying Agent may resign as Paying Agent upon 30 days' written notice to the Regular Trustees.

*Section 8.08. Listing.* The Bank shall use its best efforts to cause the Trust Preferred Securities to be listed on the New York Stock Exchange.

*Section 8.09. Acceptance of Guarantees and Agreements.* Each Holder and beneficial owner of the Trust Preferred Securities, by purchase and holding of its Trust Preferred Securities, is deemed (i) to agree to the provisions of the Trust Preferred Guarantee, including the subordination provisions therein, and (ii) to represent and warrant that on each day that it holds Trust Preferred Securities (or Class B Preferred Securities) either (A) it is not itself, and is not acquiring any Trust Preferred Securities (or Class B Preferred Securities) on behalf of or with "plan assets" of, an employee benefit plan or other plan subject to the fiduciary responsibility provisions of ERISA, a plan or arrangement subject to Section 4975 of the Code, a governmental plan which is subject to any federal, state or local law that is substantially similar to such provisions of ERISA or the Code ("**Similar Law**") or an entity whose underlying assets include "plan assets" by reason of any such plan's investment in the entity or (B) the purchase, holding and redemption of any Trust Preferred Securities (or Class B Preferred Securities) is exempt by reason of Section 408 (b) (17) of ERISA, Section 4975(d)(20) of the Code or U.S. Department of Labor prohibited transaction class exemption ("**PTCE**") 96-23 (for certain transactions determined by in-house asset managers), PTCE 95-60 (for certain transactions involving insurance company general accounts), PTCE 91-38 (for certain transactions involving bank collective investment funds), PTCE 90-1 (for certain transactions involving insurance company separate accounts), or PTCE 84-14 (for certain transactions determined by independent qualified professional asset managers) or similar exemptions from Similar Law.

## ARTICLE 9 TERMINATION AND LIQUIDATION OF THE TRUST

*Section 9.01. Dissolution of Trust.*

(a) The Trust shall dissolve:

- (i) upon the bankruptcy, insolvency or dissolution of the Bank;
- (ii) upon the filing of a certificate of dissolution or its equivalent with respect to the Company;
- (iii) upon the entry of a decree of a judicial dissolution of the Company or the Trust;

(iv) when the Trust Securities shall have been called for redemption and (x) the applicable Redemption Price shall have been paid to the Holders of the Trust Securities or (y) in connection with a redemption upon the occurrence of a Trust Special Redemption Event, all of the Class B Preferred Securities shall have been distributed to the Holders of the Trust Securities in exchange for the Trust Securities;

(v) with the consent thereto of a Majority of the Trust Securities, voting together as a single class; or

(vi) before the issuance of any Trust Securities, with the consent of all of the Regular Trustees and the Sponsor;

*provided*, that, if a claim has been made under the Trust Preferred Guarantee, the Trust shall not dissolve until (x) such claim has been satisfied and the proceeds therefrom have been distributed to the Holders of the Trust Securities or (y) the Class B Preferred Securities have been distributed to the Holders of the Trust Securities pursuant to Section 9.02 hereof.

(b) As soon as is practicable after the occurrence of an event referred to in Section 9.01(a) hereof, the Trustees shall file a certificate of cancellation with the office of the Secretary of State of the State of Delaware.

(c) The provisions of Section 3.09 hereof and Article 11 hereof shall survive the termination of the Trust.

*Section 9.02. Liquidation Distribution upon Termination and Dissolution of the Trust.* In the event of any voluntary or involuntary liquidation, dissolution, winding up or termination of the Trust (other than following a redemption of the Class B Preferred Securities) (the “**Trust Liquidation**”), the Holders of the Trust Securities on the date of the Trust Liquidation shall be entitled to receive, after satisfaction of the Trust’s liabilities to creditors (if any), the Class B Preferred Securities in an aggregate liquidation preference amount equal to the aggregate Liquidation Preference Amount or liquidation amount, as applicable, of such Trust Securities, plus accumulated and unpaid Capital Payments thereon (and Arrears of Payments, if any, and Additional Amounts, if any) in respect of the related Class B Payment Period, and *pro rata* based on the respective Liquidation Preference Amount or liquidation amount, as applicable, of the Trust Securities, the remainder of the Trust Estate of the Trust. The rights of the Holder of the Trust Common Security under the Class B Preferred Securities received by such Holder upon liquidation of the Trust to any amounts payable on the Class B Preferred Securities (including pursuant to the Class B Preferred Guarantee) will be subordinated to rights of the Holders of the Trust Preferred Securities under Class B Preferred Securities received by such Holders upon liquidation of the Trust and, upon the Trust Liquidation, such Holder of the exchanged Trust Common Security will execute and deliver any additional instruments necessary or appropriate to enforce subordination in favor of such other Holders of the exchanged Trust Preferred Securities.

ARTICLE 10  
TRANSFER OF INTERESTS

*Section 10.01. Form and Denomination of Trust Preferred Securities.*

(a) The Trust Preferred Securities shall be issued in the form of one or more fully registered Global Trust Preferred Certificates, in minimum denomination of U.S.\$25 in Liquidation Preference Amount, or integral multiples thereof, registered in the Register in the name of Cede & Co., the nominee of DTC, and be deposited with a custodian for DTC. Definitive Trust Preferred Securities representing individual Trust Preferred Securities shall not be issued except as provided in Section 10.06 hereof.

(b) The Global Trust Preferred Certificates will be maintained on the book-entry deposit system of DTC in accordance with the procedures established by DTC. Beneficial ownership of such Global Trust Preferred Certificates will be evidenced solely through the book-entry records system maintained by DTC. Beneficial owners of Global Trust Preferred Certificates will not be recognized by the Trustees as "Holder" of the Global Trust Preferred Certificate or the Trust Preferred Security represented thereby, and beneficial owners of such Global Trust Preferred Certificates will only be able to exercise the rights of the Holders of Trust Preferred Securities indirectly through DTC and its participants and shall be subject to any agreements between the beneficial owners and DTC and/or its participants.

(c) All of the Trust Preferred Securities issued in accordance with this Agreement shall be validly issued, fully paid and non-assessable interests in the Trust and shall be entitled to the benefits of this Agreement.

*Section 10.02. Deemed Security Holders.* The Trustees may treat the Person in whose name any Global Trust Preferred Certificate or the Trust Common Security shall be registered in the Register as the sole Holder of such Global Trust Preferred Certificate or Trust Common Security, as applicable, and of the securities represented thereby for purposes of receiving Capital Payments and for all other purposes whatsoever and, accordingly, shall not be bound to recognize any equitable or other claim to or interest in such Global Trust Preferred Certificate or Trust Common Security or in the securities represented thereby on the part of any Person, whether or not the Trust shall have actual or other notice thereof.

*Section 10.03. Global Trust Preferred Certificates.* Unless and until Definitive Trust Preferred Certificates have been issued to the Holders of the Trust Preferred Securities pursuant to Section 10.06:

(a) the provisions of this Section 10.03 shall be in full force and effect and to the extent that the provisions of this Section 10.03 conflict with any other provisions of this Agreement, the provisions of this Section 10.03 shall control;

(b) the Trust and the Trustees shall be entitled to deal with DTC as the sole Holder of the Global Trust Preferred Certificates for all purposes of this Agreement (including the payment of Capital Payments on the Global Trust Preferred Certificates and exercising the rights of the Holders of Trust Preferred Securities under this Agreement, and receiving approvals, votes or consents hereunder) and shall have no obligation to the beneficial owners of the Trust Preferred Securities;

(c) the rights of the beneficial owners of the Global Trust Preferred Certificates shall be exercised only through DTC as Holder of the Global Trust Preferred Certificates and its participants and shall be subject to any agreement between such beneficial owners and DTC and/or its participants;

(d) all Capital Payments and any other payments due on account of or with respect to the Global Trust Preferred Certificate shall be made to DTC as provided herein and neither the Trust nor any Trustee nor any agent of any of them shall have any responsibility or liability for the disbursement of such payments by DTC or any participant to beneficial owners of Global Trust Preferred Certificates;

(e) transfers of beneficial ownership of such Global Trust Preferred Certificates shall be made on the books and records of DTC and/or its participants;

(f) solely for the purposes of determining whether the Holders of the requisite amount of Trust Preferred Securities have voted on any matter provided for in this Agreement, so long as Definitive Trust Preferred Certificates have not been issued, the Trustees may conclusively rely on, and shall be fully protected in relying on, any written instrument (including a proxy) delivered to the Trustees by DTC setting forth the beneficial owners of the Trust Preferred Securities votes or assigning the right to vote on any matter to any other Person either in whole or in part; and

(g) notwithstanding any other provisions of this Agreement, a Global Trust Preferred Certificate may not be transferred except by DTC in whole and not in part to its successor as a Clearing Agency or to a nominee or depositary of either thereof.

*Section 10.04. Notices to Clearing Agency.* Whenever a notice or other communication to the Holders of the Trust Preferred Securities is required under this Agreement, unless and until Definitive Trust Preferred Certificates shall have been issued pursuant to Section 10.06 hereof, the Regular Trustees shall give all such notices and communications specified herein to be given to DTC as the registered Holder of the Trust Preferred Securities, and shall have no notice obligations to the beneficial owners of the Global Trust Preferred Certificate.

*Section 10.05. Appointment of Successor Clearing Agency.* If DTC elects to discontinue its services as clearing agency with respect to the Trust Preferred Securities, the Regular Trustees shall use their best efforts to appoint a successor to DTC as a Clearing Agency with respect to such Trust Preferred Securities.

*Section 10.06. Definitive Trust Preferred Certificates.* If DTC notifies the Trust that it is unwilling or unable to continue its services as depositary for the Trust Preferred Securities or ceases to be a “clearing agency” registered under the Exchange Act and a successor depositary or clearing agency is not appointed within 90 days after such discontinuance pursuant to Section 10.05, or if the Trust determines in its sole discretion that the Global Trust Preferred Certificate shall be exchangeable for Definitive Trust Preferred Certificates then:

(i) Definitive Trust Preferred Certificates shall be prepared by the Property Trustee on behalf of the Trust with respect to the Trust Preferred Securities;

(ii) upon surrender of each Global Trust Preferred Certificate by DTC, accompanied by registration instructions, the Property Trustee shall cause Definitive Trust Preferred Certificates to be delivered to those Persons who were beneficial owners of the Trust Preferred Securities represented by a Global Trust Preferred Certificate, in accordance with the instructions of DTC. Neither the Trustees nor the Trust shall be liable for any delay in delivery of such instructions and each of them may conclusively rely on and shall be protected in relying on, said instructions of DTC. Any Person receiving a Definitive Trust Preferred Certificate in accordance with this Section 10.06 shall be recognized as a Holder upon receipt of such Definitive Trust Preferred Certificate and shall be registered in the Register of the Trust as a Holder of Trust Preferred Securities; and

(iii) any Capital Payments, Arrears of Payments or other payments due on Definitive Trust Preferred Certificates will be made by wire, transfer or by check mailed to the address of the Holder as it appears on the Register on the relevant record date. The final payment on any Definitive Trust Preferred Certificates, however, will be made only upon presentation, and surrender thereof at the office of the Paying Agent on a Business Day. Subject to applicable escheat laws, claims to Capital Payments on Definitive Trust Preferred Certificates, or amounts payable upon redemption, will become void unless presented for payment within a period of (i) with respect to Capital Payments, four years from the relevant Payment Date, or (ii) with respect to amounts payable upon redemption, ten years from the Redemption Date.

*Section 10.07. Registration of Trust Securities.*

The Registrar shall keep or cause to be kept a register for the Trust Securities issued hereunder (herein called the “**Register**”) in which, subject to such reasonable regulations as it may prescribe, the Registrar shall provide for the registration of Trust Securities and of transfers and exchanges of Trust Securities as herein provided. The Register shall be in written form or capable of being converted into written form within a reasonable time. The Registrar shall record on the Register each Trust Security executed and delivered pursuant to this Agreement.

*Section 10.08. Transfer and Exchanges of Trust Securities.*

(a) Trust Securities may only be transferred, in whole or in part, in accordance with the terms of this Agreement and of the Trust Securities. Any transfer or purported transfer of any Trust Security not made in accordance with this Agreement shall be null and void.

(b) Subject to this Article 10 (and, in the case of the Trust Common Security, subject to Section 4.03(a)), Trust Securities shall be freely transferable.

(c) The Trustees and the Registrar shall not be required to issue, register the transfer of, or exchange any Trust Security from and after the opening of business 15 days before the Redemption Date.



(d) No service charge shall be made for any registration of transfer or exchange of a Trust Security, but the Trustees or the Registrar may require payment of a sum sufficient to cover any tax or governmental charge that may be imposed in connection with any transfer or exchange of a Trust Security.

(e) Title to any Trust Security that is properly endorsed or accompanied by a properly executed instrument of transfer or endorsement shall be transferable by delivery with the same effect as in the case of a negotiable instrument.

(f) Certificates may be transferred upon surrender thereof by the Holder in person or by a duly authorized attorney, properly endorsed or accompanied by a properly endorsed instrument of transfer or endorsement, together with evidence of the payment of any transfer taxes or government charges that may be imposed in relation to such transfer. Upon surrender for registration of transfer of a Certificate, the Regular Trustees and the Property Trustee shall cause one or more new Certificates to be executed and authenticated pursuant to the applicable provisions of this Agreement in the name of the designated transferee or transferees. Global Trust Preferred Certificates and the Trust Common Security may only be transferred in whole but not in part. Definitive Trust Preferred Certificates may be transferred in whole or in part subject to the applicable minimum denomination requirements under this Agreement. If only part of Definitive Trust Preferred Certificates is transferred, a new Definitive Trust Preferred Certificate shall be issued to the transferor within three Business Days after the Registrar receives the Definitive Trust Preferred Certificate. The new Definitive Trust Preferred Certificate representing the Trust Preferred Securities that were not transferred shall be delivered to the transferor by uninsured mail at the risk of the transferor, to the address of the transferor in the Register. The new Definitive Trust Preferred Securities Certificate representing the Trust Preferred Securities that were transferred shall be sent to the transferee within three Business Days after the Trust receives the surrendered Definitive Trust Preferred Securities Certificate by uninsured mail at the risk of the transferee, to the address specified on the form of transfer.

(g) At the option of the Holder, Certificates may be exchanged for other Certificates in no less than the applicable minimum denominations in a like aggregate Liquidation Preference Amount or liquidation amount, as applicable. Upon surrender for registration of exchange of a Certificate, subject to the conditions to transfer set forth in this Agreement, the Regular Trustees and the Property Trustee shall execute, authenticate and deliver pursuant to the applicable provisions of this Agreement, a new Certificate of like aggregate Liquidation Preference Amount or liquidation amount, as applicable, as the Certificate surrendered for exchange.

(h) As a condition precedent to the registration of the transfer or exchange of any Trust Security, the Registrar may require (i) production of proof satisfactory to it as to the identity and genuineness of any signature, (ii) compliance with such regulations, if any, as the Trustee or the Registrar may establish not inconsistent with the provisions of this Agreement and (iii) such other information as the Registrar may reasonably request.

(i) Each Certificate surrendered for registration of transfer or exchange shall be cancelled by the Property Trustee. Except as prohibited by applicable law or regulation, the Property Trustee or the Registrar may destroy such cancelled Certificate or otherwise dispose of it in accordance with its usual practices.

(j) By acceptance of a Certificate, each transferee shall be deemed to have agreed to be bound by this Agreement.

(k) The Registrar shall not be responsible for ascertaining whether any transfer complies with, or otherwise to monitor or determine compliance with, the requirements or terms of the Securities Act, applicable state securities laws, ERISA, the Code or the 1940 Act; except that if a certificate is specifically required by the terms of this Section 10.08 to be provided to the Registrar by a prospective transferee, the Registrar shall be under a duty to receive and examine the same to determine whether it conforms substantially on its face to the applicable requirements of this Section 10.08.

*Section 10.09. Lost or Stolen Trust Securities, Etc.* If (i) any mutilated Certificate shall be surrendered to the Registrar, or if the Registrar shall receive evidence to its satisfaction of the destruction, loss or theft of any Certificate, and (ii) there shall be delivered to the Registrar, the Regular Trustee and the Property Trustee such security or indemnity as may be required by them to hold each of them harmless, then in the absence of notice that such Certificate shall have been acquired by a bona fide purchaser or, as applicable, any protected purchaser, the Regular Trustees and the Property Trustee shall make available for delivery, in exchange for or in lieu of any mutilated, destroyed, lost or stolen Certificate, a new Certificate of a like aggregate liquidation amount. In connection with the issuance of any new Certificate, the Registrar, the Regular Trustee or the Property Trustee may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection therewith. Any duplicate Certificate issued pursuant to this Section shall constitute conclusive evidence of a Certificate corresponding to that evidenced by the lost, stolen or destroyed Certificate, as if originally issued, whether or not the lost, stolen or destroyed Certificate shall be found at any time.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Certificates.

## ARTICLE 11 LIMITATION OF LIABILITY OF HOLDERS OF TRUST SECURITIES, TRUSTEES OR OTHERS

### *Section 11.01. Liability.*

(a) Except as expressly set forth in this Agreement, the Trust Preferred Guarantee and the terms of the Trust Securities, the Bank, the Guarantor, the Sponsor and the Trustees shall not be:

(i) personally liable for the return of any portion of the capital contributions (or any return thereon) of the Holders of the Trust Securities, which shall be made solely from assets of the Trust; and

(ii) required to pay to the Trust or to any Holder of the Trust Securities any deficit upon dissolution of the Trust or otherwise.

(b) Notwithstanding any other provision herein, the Holder of the Trust Common Security, by entering into this Agreement, agrees that it shall be liable directly to any creditor or claimant of or against the Trust for the entire amount of all of the debts and obligations of the Trust (other than obligations to the Holders of the Trust Securities in their capacities as Holders) to the extent not satisfied out of the Trust's assets. This Section 11.01(b) shall automatically terminate upon (i) the adoption of final or temporary U.S. federal tax regulations which, if the Trust were not classified as a grantor trust for U.S. federal income tax purposes, would result in the classification of the Trust as a partnership for U.S. federal tax purposes without regard to its organic characteristics and (ii) the taking of such action, if any, by the Trust or the Holders of the Trust Securities as may be necessary to achieve such classification.

(c) Pursuant to Section 3803(a) of the Delaware Statutory Trust Act, the Holders of the Trust Preferred Securities shall be entitled to the same limitation of personal liability extended to shareholders of private corporations for profit organized under the General Corporation Law of the State of Delaware.

*Section 11.02. Exculpation.*

(a) No Indemnified Person shall be liable, responsible or accountable in damages or otherwise to the Trust or any Covered Person for any loss, damage or claim incurred by reason of any act or omission performed or omitted by such Indemnified Person in good faith on behalf of the Trust and in a manner such Indemnified Person reasonably believed to be within the scope of the authority conferred on such Indemnified Person by this Agreement or by law, except that a Indemnified Person shall be liable for any such loss, damage or claim incurred by reason of such Indemnified Person's negligence or willful misconduct with respect to such acts or omissions.

(b) An Indemnified Person shall be fully protected in relying in good faith upon the records of the Trust and upon such information, opinions, reports or statements presented to the Trust by any Person as to matters the Indemnified Person reasonably believes are within such other Person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Trust, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits, losses, or any other facts pertinent to the existence and amount of assets from which Capital Payments and Arrears of Payments to Holders of the Trust Securities might properly be paid.

*Section 11.03. Fiduciary Duty.*

(a) To the extent that, at law or in equity, an Indemnified Person has duties (including fiduciary duties) and liabilities relating thereto to the Trust or to any other Covered Person, an Indemnified Person acting under this Agreement shall not be liable to the Trust or to any other Covered Person for its good faith reliance on the provisions of this Agreement. The provisions of this Agreement, to the extent that they restrict the duties and liabilities of an Indemnified Person otherwise existing at law or in equity, are agreed by the parties hereto to replace such other duties and liabilities of such Indemnified Person.

(b) Unless otherwise expressly provided herein:

(i) whenever a conflict of interest exists or arises between an Indemnified Person and any Covered Person; or

(ii) whenever this Agreement or any other agreement contemplated herein or therein provides that an Indemnified Person shall act in a manner that is, or provides terms that are, fair and reasonable to the Trust or any Holder of the Trust Securities,

the Indemnified Person shall resolve such conflict of interest, take such action or provide such terms, considering in each case the relative interest of each party (including its own interest) to such conflict, agreement, transaction or situation and the benefits and burdens relating to such interests, any customary or accepted industry practices, and any applicable generally accepted accounting practices or principles. In the absence of bad faith by the Indemnified Person, the resolution, action or term so made, taken or provided by the Indemnified Person shall not constitute a breach of this Agreement or any other agreement contemplated herein or of any duty or obligation of the Indemnified Person at law or in equity or otherwise.

(c) Whenever in this Agreement, an Indemnified Person is permitted or required to make a decision:

(i) in its “discretion” or under a grant of similar authority, the Indemnified Person shall be entitled to consider such interests and factors as it desires, including its own interests, and shall have no duty or obligation to give any consideration to any interest of or factors affecting the Trust or any other Person; or

(ii) in its “good faith” or under another express standard, the Indemnified Person shall act under such express standard and shall not be subject to any other or different standard imposed by this Agreement or by applicable law.

*Section 11.04. Indemnification.*

(a)

(i) To the fullest extent permitted by applicable law, the Bank shall indemnify and hold harmless any Bank Indemnified Person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action

by or in the right of the Trust) by reason of the fact that he is or was a Bank Indemnified Person against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Trust, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that the Bank Indemnified Person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Trust, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

(ii) The Bank shall indemnify, to the fullest extent permitted by law, any Bank Indemnified Person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Trust to procure a judgment in its favor by reason of the fact that he is or was a Bank Indemnified Person against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Trust and except that no such indemnification shall be made in respect of any claim, issue or matter as to which such Bank Indemnified Person shall have been adjudged to be liable to the Trust unless and only to the extent that the Court of Chancery of Delaware or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such Court of Chancery or such other court shall deem proper.

(iii) To the extent that a Bank Indemnified Person shall be successful on the merits or otherwise (including dismissal of an action without prejudice or the settlement of an action without admission of liability) in defense of any action, suit or proceeding referred to in paragraphs (i) and (ii) of this Section 11.04(a), or in defense of any claim, issue or matter therein, he shall be indemnified by the Bank, to the fullest extent permitted by law, against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

(iv) Any indemnification under paragraphs (i) and (ii) of this Section 11.04(a) (unless ordered by a court) shall be made by the Bank only as authorized in the specific case upon a determination that indemnification of the Bank Indemnified Person is proper in the circumstances because he has met the applicable standard of conduct set forth in paragraphs (i) and (ii). Such determination shall be made (1) by the Regular Trustees by a majority vote of a Quorum consisting of such Regular Trustees who were not parties to such action, suit or proceeding, (2) if such a Quorum is not obtainable, or, even if obtainable, if a Quorum of disinterested Regular Trustees so directs, by independent legal counsel in a written opinion, or (3) by the Holder of the Trust Common Security.

(v) Expenses (including attorneys' fees) incurred by a Bank Indemnified Person in defending a civil, criminal, administrative or investigative action, suit or proceeding referred to in paragraphs (i) and (ii) of this Section 11.04(a) shall be paid by the Bank in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such Bank Indemnified Person to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Bank as authorized in this Section 11.04(a). Notwithstanding the foregoing, no advance shall be made by the Bank if a determination is reasonably and promptly made (i) by the Regular Trustees by a majority vote of a Quorum of disinterested Regular Trustees, (ii) if such a Quorum is not obtainable, or, even if obtainable, if a Quorum of disinterested Regular Trustees so directs, by independent legal counsel in a written opinion or (iii) the Holder of the Trust Common Security, that, based upon the facts known to the Regular Trustees, counsel or the Holder of the Trust Common Security at the time such determination is made, such Bank Indemnified Person acted in bad faith or in a manner that such person did not believe to be in or not opposed to the best interests of the Trust, or, with respect to any criminal proceeding, that such Bank Indemnified Person believed or had reasonable cause to believe his conduct was unlawful. In no event shall any advance be made in instances where the Regular Trustees, independent legal counsel or the Holder of the Trust Common Security reasonably determine that such person deliberately breached his duty to the Trust or to the Holder of the Trust Common Security.

(vi) The indemnification and advancement of expenses provided by, or granted pursuant to, the other paragraphs of this Section 11.04(a) shall not be deemed exclusive of any other rights to which those seeking indemnification and advancement of expenses may be entitled under any agreement, vote of shareholders or disinterested directors of the Bank or Holders of the Trust Securities or otherwise. All rights to indemnification under this Section 11.04(a) shall be deemed to be provided by a contract between the Bank and each Bank Indemnified Person who serves in such capacity at any time while this Section 11.04(a) is in effect. Any repeal or modification of this Section 11.04(a) shall not affect any rights or obligations then existing.

(vii) The Bank or the Trust may purchase and maintain insurance on behalf of any person who is or was a Bank Indemnified Person against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Bank would have the power to indemnify him against such liability under the provisions of this Section 11.04(a).

(viii) For purposes of this Section 11.04(a), references to "the Trust" shall include, in addition to the resulting or surviving entity, any constituent entity (including any constituent of a constituent) absorbed in a consolidation or merger, so that any person who is or was a director, trustee, officer or employee of such constituent entity, or is or was serving at the request of such constituent entity as a director, trustee, officer, employee or agent of another entity, shall stand in the same position under the provisions of this Section 11.04(a) with respect to the resulting or surviving entity as he would have with respect to such constituent entity if its separate existence had continued.

(ix) The indemnification and advancement of expenses provided by, or granted pursuant to, this Section 11.04(a) shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a Bank Indemnified Person and shall inure to the benefit of the heirs, executors and administrators of such a person.

(b) The Bank agrees to indemnify the (i) Property Trustee, (ii) the Delaware Trustee, (iii) any Affiliate of the Property Trustee and (iv) any officers, directors, shareholders, members, partners, employees, representatives, custodians, nominees or agents of the Property Trustee and the Delaware Trustee (each of the Persons in (i) through (iv) being referred to as a “**Fiduciary Indemnified Person**”) for, and to hold each Fiduciary Indemnified Person harmless against, any loss, damage, claim, liability or expense including taxes (other than taxes based on the income of the Trustee) incurred without negligence or bad faith on the part of the Fiduciary Indemnified Person arising out of or in connection with the acceptance or administration of the trust or trusts hereunder, including the costs and expenses (including reasonable legal fees and expenses) of defending itself against or investigating any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder. The obligation to indemnify as set forth in this Section 11.04(b) shall survive the satisfaction and discharge of this Agreement.

*Section 11.05. Outside Businesses.*

Any Covered Person, the Bank, the Delaware Trustee and the Property Trustee may engage in or possess an interest in other business ventures of any nature or description, independently or with others, similar or dissimilar to the business of the Trust, and the Trust and the Holders of the Trust Securities shall have no rights by virtue of this Agreement in and to such independent ventures or the income or profits derived therefrom, and the pursuit of any such venture, even if competitive with the business of the Trust, shall not be deemed wrongful or improper. Any Covered Person, the Bank, the Delaware Trustee or the Property Trustee shall not be obligated to present any particular investment or other opportunity to the Trust even if such opportunity is of a character that, if presented to the Trust, could be taken by the Trust, and any Covered Person, the Bank, the Delaware Trustee and the Property Trustee shall have the right to take for its own account (individually or as a partner or fiduciary) or to recommend to others any such particular investment or other opportunity. Any Covered Person, the Delaware Trustee and the Property Trustee may engage or be interested in any financial or other transaction with the Bank or any Affiliate of the Bank, or may act as depositary for, trustee or agent for, or act on any committee or body of holders of, securities or other obligations of the Bank or its Affiliates.

ARTICLE 12  
ACCOUNTING

*Section 12.01. Fiscal Year.*

The fiscal year of the Trust (“**Fiscal Year**”) shall be the calendar year, or such other year as is required by the Code or the Treasury Regulations.

*Section 12.02. Certain Accounting and Reporting Matters.*

(a) At all times during the existence of the Trust, the Regular Trustees shall keep, or cause to be kept, full books of account, records and supporting documents, which shall reflect in reasonable detail, each transaction of the Trust. The books of account shall be maintained on the accrual method of accounting, in accordance with generally accepted accounting principles, consistently applied. The books of account and the records of the Trust shall be examined by and reported upon as of the end of each Fiscal Year by a firm of independent certified public accountants selected by the Regular Trustees.

(b) Within 90 days after the end of each Fiscal Year, the Property Trustee shall provide to the Holder of the Trust Common Security the audited financial statements of the Trust for such Fiscal Year prepared in accordance with generally accepted accounting principles.

(c) The Regular Trustees shall cause to be duly prepared and delivered to each of the Holders of the Trust Securities, any annual U.S. federal income tax information statement required by the Code, containing such information with regard to the Trust Securities held by each Holder of the Trust Securities as is required by the Code and the Treasury Regulations. Notwithstanding any right under the Code to deliver any such statement at a later date, the Regular Trustees shall use commercially reasonable efforts to deliver all such statements within 30 days after the end of each Fiscal Year.

(d) The Regular Trustees shall cause to be duly prepared and filed with the appropriate taxing authority an annual U.S. federal income tax return on Internal Revenue Service Form 1041 or other applicable form or statement under U.S. federal income tax law, and any other annual income tax returns required to be filed by the Regular Trustees on behalf of the Trust with any state or local taxing authority.

*Section 12.03. Banking.*

The Trust shall maintain one or more bank accounts in the name and for the sole benefit of the Trust; *provided, however*, that all payments of funds in respect of the Class B Preferred Securities held by the Property Trustee shall be made directly to a Property Account and no other funds of the Trust shall be deposited in the Property Accounts. The sole signatories for such accounts shall be designated by the Regular Trustees; *provided, however*, that the Property Trustee shall designate the signatories for the Property Accounts.

ARTICLE 13  
AMENDMENTS AND MEETINGS

*Section 13.01. Amendments.*

(a) Except as otherwise provided in this Agreement or by any applicable terms of the Trust Securities, this Agreement may only be amended or modified by a written



instrument approved and executed by the Regular Trustees (or, if there are more than two Regular Trustees, a majority of the Regular Trustees); and in certain circumstances, the Delaware Trustee and the Property Trustee;

(b) No amendment shall be made, and any such purported amendment shall be void and ineffective:

(i) unless, in the case of any proposed amendment, the Property Trustee and the Delaware Trustee shall have first received an Officers' Certificate from each of the Trust and the Sponsor that such amendment is permitted by, and conforms to, the terms of this Agreement (including the terms of the Trust Securities);

(ii) unless, in the case of any proposed amendment which affects the rights, powers, duties, obligations or immunities of the Property Trustee or the Delaware Trustee, the Property Trustee or the Delaware Trustee, as the case may be, shall have first received an opinion of counsel (who may be counsel to the Sponsor or the Trust) that such amendment is permitted by, and conforms to, the terms of this Agreement (including the terms of the Trust Securities); and

(iii) to the extent the result of such amendment would be to:

(A) cause the Trust to fail to be classified as a grantor trust for purposes of United States federal income tax;

(B) cause the Company to be classified as an association or a publicly traded partnership taxable as a corporation for purposes of United States federal income tax;

(C) reduce or otherwise adversely affect the powers of the Property Trustee; or

(D) cause the Trust or the Company to be required to register under the 1940 Act.

(c) In the event the consent of the Property Trustee, as the holder of the Class B Preferred Securities is required under the LLC Agreement with respect to any amendment, modification or termination of the LLC Agreement or the Class B Preferred Securities, or under the Class B Preferred Guarantee with respect to any amendment, modification or termination of such Class B Preferred Guarantee, the Property Trustee shall request the direction of the Holders of the Trust Securities with respect to such amendment, modification or termination and shall vote with respect to such amendment, modification or termination as directed by a Majority of the Trust Securities voting together as a single class; *provided, however*, that where a consent under the LLC Agreement or the Class B Preferred Guarantee would require the consent of the Holders of a specified percentage of Class B Preferred Securities in excess of 50%, the Property Trustee may only give such consent at the direction of the Holders of at least the same percentage in Liquidation Preference Amount and liquidation amount, as applicable, of

the Trust Securities; *provided, further*, that the Property Trustee shall not be obligated to take any action in accordance with the directions of the Holders of the Trust Securities under this Section 13.01(c) unless the Property Trustee has obtained an opinion of independent tax counsel to the effect that as a result of such action, the Trust shall not fail to be classified as a grantor trust for United States federal income tax purposes;

(d) At such time after the Trust has issued any Trust Securities that remain outstanding, any amendment that would (i) materially adversely affect the powers, preferences or special rights of the Trust Securities whether by way of amendment to this Agreement or otherwise or (ii) provide for the dissolution, winding up or termination of the Trust other than pursuant to the terms of this Agreement, may be effected only with the approval of the Holders of at least a Majority of the Trust Securities affected thereby; *provided*, that if any amendment or proposal referred to in Section 13.01(d)(i) hereof would adversely affect only the Trust Preferred Securities or the Trust Common Security, then only the affected class shall be entitled to vote on such amendment or proposal and such amendment or proposal shall not be effective except with the approval of a Majority of such class of Trust Securities outstanding;

(e) Article 7 hereof, Section 11.01(c) hereof and this Section 13.01 shall not be amended without the consent of all of the Holders of the Trust Securities;

(f) Article 5 hereof shall not be amended without the consent of the Holders of a Majority of the Trust Common Security;

(g) The rights of the Holder of the Trust Common Security under Article 6 hereof to increase or decrease the number of, and appoint and remove Trustees shall not be amended without the consent of the Holder of a Majority of the Trust Common Security; and

(h) Notwithstanding Section 13.01(c) hereof, this Agreement may be amended without the consent of any Holders of the Trust Securities to:

(i) cure any ambiguity;

(ii) correct or supplement any provision in this Agreement that may be defective or inconsistent with any other provision of this Agreement;

(iii) add to the covenants, restrictions or obligations of the Bank;

(iv) conform to any change in the 1940 Act or the Trust Indenture Act or written change in interpretation or application of the rules and regulations promulgated under either such Act by any legislative body, court, government agency or regulatory authority; and

(v) modify, eliminate and add to any provision of this Agreement to such extent as may be necessary or desirable; *provided*, that such amendments do not have a material adverse effect on the rights, preferences or privileges of the Holders.

*Section 13.02. Meetings of the Holders of Trust Securities; Action by Written Consent.*

(a) Meetings of the Holders of any class of Trust Securities may be called at any time by the Regular Trustees (or as provided in the terms of the Trust Securities) to consider and act on any matter on which Holders of such class of Trust Securities are entitled to act under the terms of this Agreement, the terms of the Trust Securities, the LLC Agreement, the rules of any stock exchange on which the Trust Preferred Securities are listed or admitted for trading the Delaware Statutory Trust Act or other applicable law. The Regular Trustees shall call a meeting of the Holders of such class if directed to do so by the Holders of at least 10% in Liquidation Preference Amount or liquidation amount, as applicable, of such class of Trust Securities. Such direction shall be given by delivering to the Regular Trustees one or more notices in a writing stating that the signing Holders of the Trust Securities wish to call a meeting and indicating the general or specific purpose for which the meeting is to be called. Any Holders of the Trust Securities calling a meeting shall specify in writing the Certificates held by the Holders of the Trust Securities exercising the right to call a meeting and only those Trust Securities specified shall be counted for purposes of determining whether the required percentage set forth in the second sentence of this paragraph has been met.

(b) Except to the extent otherwise provided in the terms of the Trust Securities, the following provisions shall apply to meetings of Holders of the Trust Securities:

(i) notice of any such meeting shall be given to all the Holders of the Trust Securities having a right to vote thereat at least 7 days and not more than 60 days before the date of such meeting. Any action that may be taken at a meeting of the Holders of the Trust Securities may be taken without a meeting if a consent in writing setting forth the action so taken is signed by the Holders of the Trust Securities owning not less than the minimum amount of Trust Securities in liquidation amount that would be necessary to authorize or take such action at a meeting at which all Holders of the Trust Securities having a right to vote thereon were present and voting. Prompt notice of the taking of action without a meeting shall be given to the Holders of the Trust Securities entitled to vote who have not consented in writing. The Regular Trustees may specify that any written ballot submitted to the Holder for the purpose of taking any action without a meeting shall be returned to the Trust within the time specified by the Regular Trustees;

(ii) each Holder of a Trust Security may authorize any Person to act for it by proxy on all matters in which a Holder of the Trust Securities is entitled to participate, including waiving notice of any meeting, or voting or participating at a meeting. No proxy shall be valid after the expiration of 11 months from the date thereof unless otherwise provided in the proxy. Every proxy shall be revocable at the discretion of the Holder of the Trust Securities executing it. Except as otherwise provided herein, all matters relating to the giving, voting or validity of proxies shall be governed by the General Corporation Law of the State of Delaware relating to proxies, and judicial interpretations thereunder, as if the Trust were a Delaware corporation and the Holders of the Trust Securities were shareholders of a Delaware corporation;

(iii) each meeting of the Holder of the Trust Securities shall be conducted by the Regular Trustees or by such other Person that the Regular Trustees may designate; and

(iv) unless the Delaware Statutory Trust Act, this Agreement, the Trust Indenture Act, the listing rules of any stock exchange on which the Trust Preferred Securities are then listed for trading or the terms of the Trust Securities otherwise provide, the Regular Trustees, in their sole discretion, shall establish all other provisions relating to meetings of Holders of the Trust Securities, including notice of the time, place or purpose of any meeting at which any matters is to be voted on by any Holders of the Trust Securities, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy or any other matter with respect to the exercise of any such right to vote.

#### ARTICLE 14 REPRESENTATIONS OF PROPERTY TRUSTEE AND DELAWARE TRUSTEE

##### *Section 14.01. Representations and Warranties of Property Trustee.*

The Trustee that acts as initial Property Trustee represents and warrants to the Trust, to the Bank and to the Sponsor at the date of this Agreement, and each Successor Property Trustee represents and warrants to the Trust and the Sponsor at the time of the Successor Property Trustee's acceptance of its appointment as Property Trustee that:

(a) The Property Trustee is a New York banking corporation with trust powers, duly organized, validly existing and in good standing under the laws of the State of New York, with trust power and authority to execute and deliver, and to carry out and perform its obligations under the terms of, the Agreement;

(b) The execution, delivery and performance by the Property Trustee of the Agreement has been duly authorized by all necessary corporate action on the part of the Property Trustee. The Agreement has been duly executed and delivered by the Property Trustee;

(c) The execution, delivery and performance of the Agreement by the Property Trustee does not conflict with or constitute a breach of the Articles of Incorporation or By-laws of the Property Trustee; and

(d) The Property Trustee, pursuant to this Agreement, shall hold legal title to, and a valid ownership interest on behalf of the Holders and beneficial owners of the Trust Securities, in the Class B Preferred Securities and agrees that, except as expressly provided or contemplated by this Agreement, it shall not create, incur or assume, or suffer to exist any mortgage, pledge, hypothecation, encumbrance, lien or other charge or security interest upon the Class B Preferred Securities.

##### *Section 14.02. Representations and Warranties of Delaware Trustee.*

The Trustee that acts as initial Delaware Trustee represents and warrants to the Trust, to the Bank and to the Sponsor at the date of this Agreement, and each Successor Delaware Trustee represents and warrants to the Trust and the Sponsor at the time of the Successor Delaware Trustee's acceptance of its appointment as Delaware Trustee that:

- (a) The Delaware Trustee is duly organized, validly existing and in good standing under the laws of the State of Delaware, with power and authority to execute and deliver, and to carry out and perform its obligations under the terms of, the Agreement;
- (b) The Delaware Trustee has been authorized to perform its obligations under the Certificate of Trust and this Agreement; and
- (c) The Delaware Trustee is an entity that has its principal place of business in the State of Delaware.

## ARTICLE 15 MISCELLANEOUS

### *Section 15.01. Notices.*

All notices provided for in this Agreement shall be in writing, duly signed by the party giving such notice, and shall be delivered, telecopied or mailed by first-class, registered or certified mail, as follows:

- (a) If given to the Trust, care of the Regular Trustees at the Trust's mailing address set forth below (or such other address as the Trust may give notice of to the Holders of the Trust Securities):

Deutsche Bank Contingent Capital Trust V  
60 Wall Street  
New York, New York 10005  
  
Telecopy No.: (732) 460-7125  
Attention: Treasury (mail stop NYC 60-4011)

with a copy to:

Deutsche Bank Contingent Capital Trust V  
c/o Deutsche Bank Trust Company Delaware  
1011 Centre Road, Suite 200  
Wilmington, Delaware 19805

- (b) If given to the Delaware Trustee, at the mailing address set forth below (or such other address as the Delaware Trustee may give notice of to the other Trustees):

Deutsche Bank Trust Company Delaware  
1011 Centre Road, Suite 200  
Wilmington,  
Delaware 19805

Telecopy No.: (302) 636-3333  
Attention: Corporate Services Division

(c) If given to the Property Trustee, at the mailing address set forth below (or such other address as the Property Trustee may give notice of to the Holders of the Trust Securities and the other Trustees):

The Bank of New York  
101 Barclay Street, Floor 4 East  
New York, New York 10286

Telecopy No.: (212) 815-5802  
Attention: Corporate Trust Administration

(d) If given to the Sponsor, at the mailing address set forth below (or such address as the Sponsor may give notice of to the Holders of the Trust Securities and the Trustees):

Deutsche Bank Aktiengesellschaft  
Theodor-Heuss-Allee 70  
60486 Frankfurt am Main  
Germany

Telecopy No.: (+49) 69 910-35092  
Attention: Group Treasury

(e) If given to the Holder of the Trust Common Security, at the mailing address set forth below (or such other address as the Holder of the Trust Common Security may give notice of to the Trust):

Deutsche Bank Aktiengesellschaft  
Theodor-Heuss-Allee 70  
60486 Frankfurt am Main  
Germany

Telecopy No.: (+49) 69 910-35092  
Attention: Group Treasury

(f) If given to the Holders of the Trust Preferred Securities, at the address set forth in the Register.

Notices shall be deemed to have been given when received in person, telecopied with receipt confirmed, or mailed by first class mail, postage prepaid, except that if a notice or other document is refused delivery or cannot be delivered because of a changed address of which no notice was given, such notice or other document shall be deemed to have been delivered on the date of such refusal or inability to deliver.

*Section 15.02. Governing Law.*

This Agreement and the rights of the parties hereunder shall be governed by and construed in accordance with the laws of the State of Delaware and all rights and remedies shall be governed by such laws without regard to principles of conflict of laws.

*Section 15.03. Intention of the Parties.*

It is the intention of the parties hereto that the Trust be classified for U.S. federal income tax purposes as a grantor trust. The provisions of this Agreement shall be interpreted to further this intention of the parties.

*Section 15.04. Successors and Assigns.*

Whenever in this Agreement any of the parties hereto is named or referred to, the successors and assigns of such party shall be deemed to be included, and all covenants and agreements in this Agreement by the Sponsor, the Bank, the Guarantor and the Trustees shall bind and inure to the benefit of their respective successors and assigns, whether so expressed.

*Section 15.05. Partial Enforceability.*

If any provision of this Agreement, or the application of such provision to any Person or circumstance, shall be held invalid, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

*Section 15.06. Counterparts.*

This Agreement may contain more than one counterpart of the signature page and this Agreement may be executed by the affixing of the signature of each of the Trustees and a duly authorized officer of the Sponsor to one of such counterpart signature pages. All of such counterpart signature pages shall be read as though one, and they shall have the same force and effect as though all of the signers had signed a single signature page.

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

REGULAR TRUSTEES

/s/ Richard Ferguson  
Name: Richard Ferguson  
Title: Regular Trustee

/s/ Joseph J. Rice  
Name: Joseph J. Rice  
Title: Regular Trustee

/s/ John Cipriani  
Name: John Cipriani  
Title: Director

THE BANK OF NEW YORK,  
as Property Trustee

By: /s/ Lesley Daley  
Name: Lesley Daley  
Title: Assistant Vice President

DEUTSCHE BANK TRUST COMPANY DELAWARE,  
as Delaware Trustee

By: /s/ Elizabeth B. Ferry  
Name: Elizabeth B. Ferry  
Title: Assistant Vice President

By: /s/ Michelle Siwik  
Name: Michelle Siwik  
Title: Associate

Amended & Restated Trust Agreement

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DEUTSCHE BANK AKTIENGESELLSCHAFT,  
as the Bank and Guarantor

By: /s/ Jonathan Blake  
Name: Jonathan Blake  
Title: Director, Head of Capital Market Issuance

By: /s/ Marco Zimmermann  
Name: Marco Zimmermann  
Title: Vice President and Liquidity Manager

DEUTSCHE BANK CONTINGENT CAPITAL LLC V,  
as Sponsor

By: /s/ Helmut Mannhardt  
Name: Helmut Mannhardt  
Title: Vice President

By: /s/ Anjali Thadani  
Name: Anjali Thadani  
Title: Vice President

Amended & Restated Trust Agreement

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## [FORM OF GLOBAL TRUST PREFERRED SECURITY CERTIFICATE]

THIS CERTIFICATE IS A GLOBAL TRUST PREFERRED CERTIFICATE WITHIN THE MEANING OF THE TRUST AGREEMENT REFERRED TO HEREINAFTER.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION (THE "DEPOSITARY"), TO THE TRUST OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY, AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFER OF THIS GLOBAL TRUST PREFERRED CERTIFICATE SHALL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF THE DEPOSITARY OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE TRUST AGREEMENT.

FURTHER, THE HOLDER HEREOF, BY PURCHASING AND HOLDING THIS CERTIFICATE, WILL BE DEEMED TO HAVE REPRESENTED AND WARRANTED THAT ON EACH DAY THAT IT HOLDS THE TRUST PREFERRED SECURITIES (OR CLASS B PREFERRED SECURITIES) EITHER (A) IT IS NOT ITSELF, AND IS NOT ACQUIRING ANY SECURITIES (OR CLASS B PREFERRED SECURITIES) ON BEHALF OF OR WITH "PLAN ASSETS" OF, AN EMPLOYEE BENEFIT PLAN OR OTHER PLAN SUBJECT TO TITLE I OF THE U.S. EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED ("ERISA"), ANY PLAN OR ARRANGEMENT SUBJECT TO SECTION 4975 OF THE U.S. INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE "CODE"), A GOVERNMENTAL PLAN WHICH IS SUBJECT TO ANY FEDERAL, STATE OR LOCAL LAW THAT IS SUBSTANTIALLY SIMILAR TO SUCH PROVISIONS OF ERISA OR THE CODE ("SIMILAR LAW") OR ANY ENTITY WHOSE UNDERLYING ASSETS INCLUDE "PLAN ASSETS" BY REASON OF ANY SUCH PLAN'S INVESTMENT IN THE ENTITY OR (B) THE PURCHASE, HOLDING AND REDEMPTION OF ANY SECURITIES (OR CLASS B PREFERRED SECURITIES) IS EXEMPT BY REASON OF SECTION 408(B)(17) OF ERISA, SECTION 4975(D)(20) OF THE CODE OR U.S. DEPARTMENT OF LABOR PROHIBITED TRANSACTION CLASS EXEMPTION ("PTCE") 96-23 (FOR CERTAIN TRANSACTIONS DETERMINED BY IN-HOUSE ASSET MANAGERS), PTCE 95-60 (FOR CERTAIN TRANSACTIONS INVOLVING INSURANCE COMPANY GENERAL ACCOUNTS), PTCE 91-38 (FOR CERTAIN TRANSACTIONS INVOLVING BANK COLLECTIVE INVESTMENT FUNDS), PTCE 90-1 (FOR CERTAIN

TRANSACTIONS INVOLVING INSURANCE COMPANY SEPARATE ACCOUNTS), OR PTCE 84-14 (FOR CERTAIN TRANSACTIONS DETERMINED BY INDEPENDENT QUALIFIED PROFESSIONAL ASSET MANAGERS) OR SIMILAR EXEMPTIONS FROM SIMILAR LAW.

A-2

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CUSIP Number: 25150L 108

ISIN: US25150L1089

R-\_\_\_

Aggregate Liquidation

Preference Amount

U.S.\$ \_\_\_\_\_

[date]

**CERTIFICATE FOR TRUST PREFERRED SECURITIES OF  
DEUTSCHE BANK CONTINGENT CAPITAL TRUST V**

**Trust Preferred Securities  
(Liquidation Preference Amount U.S.\$25 per Trust Preferred Security)**

This Trust Preferred Security is a Global Trust Preferred Certificate within the meaning of the Amended and Restated Trust Agreement, dated as of May 9, 2008 (the “**Trust Agreement**”), by and among Deutsche Bank Aktiengesellschaft, Deutsche Bank Contingent Capital LLC V, Deutsche Bank Trust Company Delaware, as Delaware Trustee, The Bank of New York, as Property Trustee (the “**Property Trustee**”), and the Regular Trustees and is registered in the name of The Depository Trust Company (“**DTC**”) or a nominee of DTC as owner of an undivided beneficial ownership interest in the Trust Estate of Deutsche Bank Contingent Capital Trust V (the “**Trust**”) as described in the Trust Agreement. This Trust Preferred Security is exchangeable for Trust Preferred Securities registered in the name of a person other than DTC or its nominee only in the limited circumstances described in the Trust Agreement and no transfer of this Trust Preferred Security (other than a transfer of this Trust Preferred Security in whole and not in part by DTC to a nominee of DTC or by a nominee of DTC to DTC or another nominee of DTC) may be registered except in limited circumstances.

To the extent not defined herein, the capitalized terms used herein have the meanings assigned in the Trust Agreement. This Trust Preferred Security is issued under and is subject to the terms, provisions and conditions of the Trust Agreement, to which Trust Agreement, as amended from time to time, the Holder by virtue of its acceptance hereof assents and by which the Holder is bound. This Global Trust Preferred Certificate does not purport to summarize the Trust Agreement. Reference is hereby made to the Trust Agreement (to which this Global Trust Preferred Certificate is subject and which is incorporated herein by reference in its entirety as fully as if it were restated herein) for a statement of the duties, obligations, rights, interests and benefits of the registered Holder hereof and the rights, duties and immunities of the Property Trustee.

The interest in the Trust Estate evidenced by this Global Trust Preferred Certificate is limited to the right to receive a *pro rata* share of the Capital Payments received by the Property Trustee in respect of the Class B Preferred Securities issued by the Sponsor (the “**Class B Preferred Securities**”), at the times and in the manner provided in the Trust Agreement.

This Global Trust Preferred Certificate is transferable as provided in the Trust Agreement, subject to the limitations referred to herein and in the Trust Agreement, only upon

entry of such transfer in the Register kept by the Registrar and only upon surrender of this Global Trust Preferred Certificate for transfer to the Registrar together with an endorsement or a written instrument of transfer (executed by the registered Holder hereof or his or her duly authorized attorney) in form satisfactory to the Registrar. No transfer of this Global Trust Preferred Certificate shall be registered unless the transferee satisfies the requirements set forth in the Trust Agreement.

No service charge shall be made for registration of transfer or exchange of this Global Trust Preferred Certificate, but the Registrar, the Property Trustee or any agent may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

In connection with the involuntary or voluntary liquidation, dissolution, winding-up or termination of the Trust not involving the redemption of the Class B Preferred Securities in whole or the liquidation or dissolution of the Sponsor, the Holders shall be entitled to receive corresponding amounts of Class B Preferred Securities.

The Holders shall be entitled to receive cash Capital Payments from the date of original issuance of the Trust Preferred Securities payable quarterly in arrears on March 30, June 30, September 30 and December 30 of each year, commencing on June 30, 2008, as and when funds are available to the Trust to make such Capital Payments. With respect to each Payment Period, Capital Payments shall be payable on the Liquidation Preference Amount of each Trust Preferred Security at the Stated Rate to the extent funds are available to the Trust to make such Capital Payments.

To the extent and in the manner described in the Trust Agreement, (x) Capital Payments on the Upper Tier 2 Percentage of the Trust Preferred Securities shall be cumulative and (y) Capital Payments on each portion of the Tier 1 Percentage of the Trust Preferred Securities shall be noncumulative from the first day of the Payment Period during which the related Tier 1 Qualification Election occurred, if any, with respect to such portion.

The Trust Preferred Securities shall be redeemed if the Class B Preferred Securities are redeemed. The redemption terms for the Class B Preferred Securities including certain restrictions, limitations and prohibitions are as described in the LLC Agreement.

The Holders shall not be entitled to vote except as provided in the Trust Agreement.

The Trust and each Trustee may treat the Person in whose name this Trust Preferred Security is registered on the Register as the owner of this Trust Preferred Security for all purposes, and none of the Trustees shall be affected by any notice to the contrary.

The Holder, by its acceptance of this Global Trust Preferred Certificate, agrees that the Trust Preferred Securities evidenced thereby shall look solely to the funds in the Property Account to the extent available for distribution to the Holder as provided in the Trust Agreement for payment hereunder and that the Property Trustee in its individual capacity is not personally liable to the Holder for any amounts payable under this Global Trust Preferred

Certificate or the Trust Agreement or, except as expressly provided in the Trust Agreement, subject to any liability under the Trust Agreement.

This Global Trust Preferred Certificate shall be governed by and interpreted in accordance with the laws of the State of Delaware without regard to principles of conflicts of laws.

Definitive Trust Preferred Certificates representing individual Trust Preferred Securities shall not be issued; *provided, however*, that in the event that DTC or any successors thereto shall be unable to clear and settle the Trust Preferred Securities, definitive Trust Preferred Certificates representing individual Trust Preferred Securities may be issued.

This Global Trust Preferred Certificate shall not be entitled to any benefit under the Trust Agreement or become valid or obligatory for any purpose until it shall have been executed by the Property Trustee or an Authenticating Agent appointed pursuant to the Agency Agreement.

Copies of the Trust Agreement, the Limited Liability Company Agreement, the Trust Preferred Guarantee and the Class B Preferred Guarantee shall be provided by the Property Trustee to any Holder upon written request and at the expense of the Holder at the Property Trustee's corporate trust office.

IN WITNESS WHEREOF, the Trust has executed this certificate as of the day and year first written above.

DEUTSCHE BANK CONTINGENT CAPITAL TRUST V

By: \_\_\_\_\_  
as Regular Trustee

By: \_\_\_\_\_  
as Regular Trustee

**Schedule 1**

**Tier 1 Qualification Election  
effective as of :**  
Issue Date

**Upper Tier 2 Percentage**  
100%

**Tier 1 Percentage**  
0%

A-7



**CERTIFICATE OF AUTHENTICATION**

Dated: \_\_\_\_\_

This is one of the Trust Preferred Securities designated therein referred to in the within-mentioned Trust Agreement.

THE BANK OF NEW YORK,  
not in its individual capacity, but solely  
as Property Trustee

By: DEUTSCHE BANK TRUST COMPANY  
AMERICAS, as Authenticating Agent

Name: \_\_\_\_\_  
Authorized Signatory

A-8

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[FORM OF TRUST COMMON SECURITY CERTIFICATE]

THIS TRUST COMMON SECURITY IS NOT TRANSFERABLE EXCEPT IN ACCORDANCE WITH THE TRANSFER RESTRICTIONS SET FORTH IN THE TRUST AGREEMENT

THIS CERTIFICATE REPRESENTS A BENEFICIAL INTEREST IN THE TRUST ESTATE. TRANSFERS OF THIS CERTIFICATE SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE TRUST AGREEMENT.

THE SECURITIES EVIDENCED HEREBY HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") AND MAY NOT BE OFFERED OR SOLD IN THE UNITED STATES OR TO OR FOR THE ACCOUNT OF U.S. PERSONS UNLESS SO REGISTERED OR AN EXEMPTION THEREFROM IS AVAILABLE.

B-1

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Certificate Number CS-\_\_\_\_\_

**Aggregate Liquidation  
Amount  
U.S.\$25**

[*date*]

**CERTIFICATE FOR THE TRUST COMMON SECURITY OF  
DEUTSCHE BANK CONTINGENT CAPITAL TRUST V**

**Trust Common Security  
(Liquidation Amount U.S. \$25 per Trust Common Security)**

**DEUTSCHE BANK CONTINGENT CAPITAL TRUST V**, a statutory trust formed under the laws of the State of Delaware (the "**Trust**"), hereby certifies that Deutsche Bank Aktiengesellschaft (the "**Holder**") is the registered owner of one (1) common security of the Trust representing an undivided beneficial ownership interest in the Trust Estate designated the Trust Common Security (liquidation amount U.S.\$25 per Trust Common Security) (the "**Trust Common Security**"). The designation, rights, powers, privileges, restrictions, preferences and other terms and provisions of the Trust Common Security represented hereby are set forth in, issued under and shall in all respects be subject to the provisions of the Amended and Restated Trust Agreement dated as of May 9, 2008, as the same may be amended from time to time (the "**Agreement**"). Capitalized terms used herein but not defined shall have the meaning given them in the Agreement.

B-2

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IN WITNESS WHEREOF, the Trust has executed this certificate as of the day and year first written above.

DEUTSCHE BANK CONTINGENT CAPITAL TRUST V

By: \_\_\_\_\_  
as Regular Trustee

By: \_\_\_\_\_  
as Regular Trustee

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned assigns and transfers this Trust Common Security Certificate to:

\_\_\_\_\_

(Insert assignee's social security or tax identification number)

\_\_\_\_\_

(Insert address and zip code of assignee)

and irrevocably appoints

\_\_\_\_\_

\_\_\_\_\_

agent to transfer this Trust Common Security Certificate on the books of the Trust. The agent may substitute another to act for him or her.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

(Sign exactly as your name appears on the other side of this Trust Common Security Certificate)

**AMENDED AND RESTATED  
LIMITED LIABILITY COMPANY AGREEMENT  
OF  
DEUTSCHE BANK CONTINGENT CAPITAL LLC V  
Dated as of May 9, 2008**

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## TABLE OF CONTENTS

	Page
ARTICLE 1 DEFINED TERMS	2
Section 1.01. Definitions	2
Section 1.02. Other Definitional Provisions	13
ARTICLE 2 TRUST INDENTURE ACT	14
Section 2.01. Trust Indenture Act; Application	14
Section 2.02. List of Holders of Securities	14
Section 2.03. Reports by the Manager Trustee	14
Section 2.04. Periodic Reports to Manager Trustee	15
Section 2.05. Evidence of Compliance with Conditions Precedent	15
Section 2.06. Default; Waiver	15
Section 2.07. Notice of Events of Default	15
ARTICLE 3 POWERS, DUTIES AND RIGHTS OF MANAGER TRUSTEE	16
Section 3.01. Powers, Duties and Rights of Manager Trustee	16
Section 3.02. Certain Rights of Manager Trustee	17
Section 3.03. Not Responsible for Recitals or Issuance of Agreement	19
Section 3.04. Compensation and Reimbursement	19
ARTICLE 4 MANAGER TRUSTEE	19
Section 4.01. Manager Trustee; Eligibility	19
Section 4.02. Appointment, Removal and Resignation of Manager Trustee	20
ARTICLE 5 CONTINUATION AND TERM; ADMISSION OF SECURITYHOLDERS	21
Section 5.01. Continuation	21
Section 5.02. Admission of Securityholders	21
Section 5.03. Name	21
Section 5.04. Term	22
Section 5.05. Registered Agent and Office	22
Section 5.06. Principal Place of Business	22
Section 5.07. Qualification in Other Jurisdictions	22
ARTICLE 6 PURPOSE AND POWERS OF THE COMPANY; BY-LAWS	22

Section 6.01. Purposes and Powers	22
Section 6.02. By-laws	23
ARTICLE 7 CAPITAL CONTRIBUTIONS, ALLOCATIONS AND SECURITIES	23

---



**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
Section 7.01. Form of Contribution	23
Section 7.02. Contributions with Respect to the Common Securityholder	23
Section 7.03. Contributions with Respect to the Preferred Securityholders	23
Section 7.04. Allocation of Profits and Losses	23
Section 7.05. Withholding	24
Section 7.06. Securities as Personal Property	24
<b>ARTICLE 8 SECURITYHOLDERS</b>	<b>24</b>
Section 8.01. Powers of Securityholders	24
Section 8.02. Partition	24
Section 8.03. Resignation	24
Section 8.04. Liability of Securityholders	25
<b>ARTICLE 9 MANAGEMENT</b>	<b>25</b>
Section 9.01. Management of the Company	25
Section 9.02. Limits on Board of Directors' Powers	28
Section 9.03. Reliance by Third Parties	29
Section 9.04. No Management by Any Preferred Securityholders	29
Section 9.05. Business Transactions of the Common Securityholder with the Company	29
Section 9.06. Outside Businesses	29
Section 9.07. Duties of the Independent Directors	29
<b>ARTICLE 10 COMMON SECURITY AND PREFERRED SECURITIES</b>	<b>29</b>
Section 10.01. Common Security and Preferred Securities	29
Section 10.02. General Provisions Regarding Preferred Securities	31
Section 10.03. Class A Preferred Security	31
Section 10.04. Class B Preferred Securities	32
<b>ARTICLE 11 VOTING AND MEETINGS</b>	<b>48</b>
Section 11.01. Voting Rights of Preferred Securityholders	48
Section 11.02. Voting Rights of Common Securityholders	49

Section 11.03. Meetings of the Securityholders	49
ARTICLE 12 CAPITAL PAYMENTS	50
Section 12.01. Capital Payments	50
Section 12.02. Limitations on Distributions	50
Section 12.03. Distribution Policy	50

**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
ARTICLE 13 BOOKS AND RECORDS	51
Section 13.01. Financial Statements	51
Section 13.02. Limitation on Access to Records	51
Section 13.03. Accounting Method	51
Section 13.04. Annual Audit	51
ARTICLE 14 TAX MATTERS	51
Section 14.01. Company Tax Returns	51
Section 14.02. Tax Reports	52
Section 14.03. Taxation as a Partnership	52
ARTICLE 15 EXPENSES	52
Section 15.01. Expenses	52
ARTICLE 16 TRANSFERS OF SECURITIES BY SECURITYHOLDERS	53
Section 16.01. Transfer of the Common Security and Class A Preferred Security	53
Section 16.02. Registration	53
Section 16.03. Events of Cessation of Security Ownership	53
Section 16.04. Persons Deemed Securityholders	53
Section 16.05. The Class B Preferred Certificates	53
Section 16.06. Transfer of Class B Preferred Certificates	54
Section 16.07. Mutilated, Destroyed, Lost or Stolen Class B Preferred Certificates	55
Section 16.08. Book-entry Provisions	56
ARTICLE 17 MERGERS, CONSOLIDATIONS AND SALES; REINVESTMENT OF OBLIGATIONS	58
Section 17.01. The Company	58
Section 17.02. Substitute Obligations	59
ARTICLE 18 DISSOLUTION, LIQUIDATION AND TERMINATION	59
Section 18.01. No Dissolution	59
Section 18.02. Events Causing Dissolution	59
Section 18.03. Notice of Dissolution	61

Section 18.04. Liquidation	61
Section 18.05. Termination	61
ARTICLE 19 MISCELLANEOUS	61
Section 19.01. Amendments	61

**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
Section 19.02. Amendment of LLC Certificate	62
Section 19.03. Successors	62
Section 19.04. Law; Severability	62
Section 19.05. Filings	62
Section 19.06. Power of Attorney	62
Section 19.07. Exculpation	63
Section 19.08. Indemnification	63
Section 19.09. Notices	63
Section 19.10. Additional Documents	65
Section 19.11. Counterparts	65
ANNEX A –By-laws of the Company	
ANNEX B –List of Initial Directors and Officers	
ANNEX C –Form of Certificate Evidencing the Class A Preferred Security	
ANNEX D –Form of Certificate Evidencing Class B Preferred Securities	

## CROSS-REFERENCES TABLE<sup>1</sup>

Section of Trust Indenture Act of 1939, as amended	Section of Agreement
310(a)	4.01 (a)
310(b)	4.01 (c)
310(c)	Inapplicable
311(a)	2.02 (b)
311(b)	2.02 (b)
311(c)	Inapplicable
312(a)	2.02 (a)
312(b)	2.02 (b)
313	2.03
314(a)	2.04
314(b)	Inapplicable
314(c)	2.05
314(d)	Inapplicable
314(f)	Inapplicable
315(a)	3.01(c), (d)
315(b)	2.07
315(c)	3.01 (c)
315(d)	3.01 (d)
316(a)	2.08

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<sup>1</sup> This Cross-Reference Table does not constitute part of the Agreement and shall not affect the interpretation of any of its terms or provisions.

Amended & Restated LLC Agreement

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**AMENDED AND RESTATED**  
**LIMITED LIABILITY COMPANY AGREEMENT**  
**OF**  
**DEUTSCHE BANK CONTINGENT CAPITAL LLC V**

AMENDED AND RESTATED LIABILITY COMPANY AGREEMENT dated and effective of May 9, 2008 by the Bank (as defined below), as initial Common Securityholder (as defined below) and as initial Class A Preferred Securityholder (as defined below), the Trust (as defined below), as initial Class B Preferred Securityholder (as defined below), and The Bank of New York, as Manager Trustee.

WHEREAS, the Bank as the organizing member has formed Deutsche Bank Contingent Capital LLC V (the “**Company**”) as a limited liability company pursuant to the Delaware Limited Liability Company Act, 6 Del.C. § 18-101, et seq., as amended from time to time (the “**LLC Act**”) pursuant to the LLC Certificate (as defined below) filed with the office of the Secretary of State of the State of Delaware on April 24, 2008, and a Limited Liability Company Agreement of the Company dated as of April 24, 2008 (the “**Initial LLC Agreement**”);

WHEREAS, the Bank and the other Securityholders (as defined below) wish to continue the Company as a limited liability company under the LLC Act in accordance with the terms of this Agreement and to amend and restate in its entirety the Initial LLC Agreement;

NOW, THEREFORE, it being the intention of the parties hereto that this Agreement constitute the governing instrument of the Company and in consideration of the agreements and obligations set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each of the initial Securityholders hereby agree as follows:

ARTICLE 1  
DEFINED TERMS

*Section 1.01. Definitions.* Unless the context otherwise requires:

(a) capitalized terms used in this Agreement but not defined in the preamble above have the respective meanings assigned to them in this Section 1.01;

(b) a term defined anywhere in this Agreement (i) has the same meaning throughout and (ii) shall have the defined meaning when used in any certificate or other document made or delivered pursuant hereto unless otherwise defined therein;

(c) all references to “the Agreement” or “this Agreement” are to this Agreement as modified, supplemented or amended from time to time;

(d) a term defined in the Trust Indenture Act shall have the same meaning when used in this Agreement unless otherwise defined in this Agreement or unless the context otherwise requires; and

(e) a term used in this Agreement and not otherwise defined herein shall have the meaning ascribed to such term in the Trust Agreement.

“**1940 Act**” means the U.S. Investment Company Act of 1940, as amended from time to time, or any successor legislation.

“**Additional Amounts**” has the meaning set forth in Section 10.04(c) hereof.

“**Additional Interest Amounts**” means any additional interest amounts payable by the Bank or other obligor pursuant to the terms of the Initial Obligation as a result of deduction or withholding upon payment of interest on the Initial Obligation or repayment upon redemption thereof.

“**Administrative Action**” means any judicial decision, official administrative pronouncement, published or private ruling, regulatory procedure, notice or announcement (including any notice or announcement of intent to adopt such procedures or regulations) by any legislative body, court, governmental authority or regulatory body.

“**Affiliate**” means, with respect to a specified Person, any Person that directly or indirectly controls, is controlled by, or is under common control with such specified Person. The terms “control,” “controlled by” and “under common control” mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting shares, by contract or otherwise.

“**Agreement**” means this Amended and Restated Limited Liability Company Agreement, as it may be further amended, modified, supplemented or restated from time to time in accordance with its terms.

“**Arrears of Payments**” has the meaning set forth in Section 10.04(b)(vi)(A)(3).

“**Authorized Person**” has the meaning specified in Section 5.01(b).

“**BaFin**” means the German Federal Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht*).

“**Bank**” means Deutsche Bank Aktiengesellschaft, Frankfurt am Main, a Federal Republic of Germany stock corporation.

“**Bankruptcy**” means, with respect to any Securityholder, if such Securityholder (i) makes an assignment for the benefit of creditors, (ii) files a voluntary petition in bankruptcy, (iii) is adjudged as bankrupt or insolvent, or has entered against it an order for relief, in any bankruptcy or insolvency proceeding, (iv) files a petition or answer seeking for itself any reorganization, arrangement, composition, readjustment, liquidation or similar relief under any statute, law or regulation, (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against it in a proceeding of this nature, (vi) seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator of the Securityholder or of all or any substantial part of its properties, or (vii) if 120 days after the commencement of any proceeding against the Securityholder seeking reorganization, arrangement, composition, readjustment, liquidation or similar relief



under any statute, law or regulation, the proceeding has not been dismissed, or, if within 90 days after the appointment, without such Securityholder's consent or acquiescence, of a trustee, receiver or liquidator of such Securityholder or of all or any substantial part of its properties, the appointment is not vacated or stayed, or within 90 days after the expiration of any such stay, the appointment is not vacated. The foregoing definition of "Bankruptcy" is intended to replace and shall supersede and replace the definition of "Bankruptcy" set forth in Sections 18-101(1) and 18-304 of the LLC Act.

**"Board of Directors"** means the Board of Directors of the Company as constituted in accordance with the provisions of this Agreement and of the By-laws.

**"Book-Entry Class B Preferred Certificates"** has the meaning specified in Section 16.08(a) of this Agreement.

**"Business Day"** means a day other than a Saturday, a Sunday or a day on which banking institutions in the City of New York are authorized or required by law, regulation or executive order to remain closed.

**"By-laws"** means the By-laws of the Company in the form of Annex A hereto, as they may be amended from time to time by the Board of Directors in accordance with the provisions of this Agreement (which By-laws are, for all purposes of this Agreement, deemed to be incorporated herein and to be a part hereof).

**"Capital Payments"** means with respect to the Class B Preferred Securities, periodic distributions to Class B Preferred Securityholders declared (or deemed declared) and paid in accordance with this Agreement.

**"Class A Preferred Certificate"** means a certificate substantially in the form attached hereto as Annex C, evidencing the Class A Preferred Security held by a Class A Preferred Securityholder.

**"Class A Preferred Security"** has the meaning specified in Section 10.03 of this Agreement.

**"Class A Preferred Securityholder"** means a Securityholder that owns the Class A Preferred Security.

**"Class B Liquidation Preference Amount"** has the meaning set forth in Section 10.04(a) of this Agreement.

**"Class B Payment Date"** has the meaning specified in Section 10.04(b)(i) of this Agreement.

**"Class B Payment Period"** has the meaning specified in Section 10.04(b)(i) of this Agreement.

**"Class B Preferred Certificate"** means a certificate substantially in the form attached hereto as Annex D, evidencing the Class B Preferred Securities held by a Class B Preferred Securityholder.

**"Class B Preferred Guarantee"** means the Class B Preferred Securities Subordinated Guarantee Agreement dated as of May 9, 2008, as amended from time to time,

between the Bank, as guarantor and The Bank of New York, as Class B Preferred Guarantee Trustee, for the benefit of the Class B Preferred Securityholders.

“**Class B Preferred Guarantee Additional Amounts**” has the meaning specified in the Class B Preferred Guarantee.

“**Class B Preferred Guarantee Payments**” has the meaning specified in the Class B Preferred Guarantee.

“**Class B Preferred Guarantee Trustee**” has the meaning specified in the Class B Preferred Guarantee.

“**Class B Preferred Securities**” has the meaning specified in Section 10.04(a) of this Agreement.

“**Class B Preferred Securityholder**” means a Securityholder that owns one or more Class B Preferred Securities.

“**Class B Redemption Date**” has the meaning specified in Section 10.04(d)(i) of this Agreement.

“**Closing Date**” has the meaning specified in the Purchase Agreement.

“**Code**” means the U.S. Internal Revenue Code of 1986, as amended, or any corresponding federal tax statute enacted after the date of this Agreement. A reference to a specific section (§) of the Code (or any Treasury Regulation) refers not only to such section but also to any corresponding provision of any federal tax statute (or any Treasury Regulation) enacted after the date of this Agreement, as such specific section or corresponding provision is in effect on the date of application of the provisions of this Agreement containing such reference.

“**Common Security**” means a voting security of the Company representing common limited liability company interests in the Company which are described in this Agreement.

“**Common Securityholder**” means a Securityholder that owns the Common Security.

“**Company**” has the meaning specified in the Preamble of this Agreement.

“**Company Securities**” means the securities of the Company representing the Common Security and the Preferred Securities.

“**Company Special Redemption Event**” means (a) a Regulatory Event, (b) a Tax Event other than a Tax Event solely with respect to the Trust, or (c) an Investment Company Act Event with respect to the Company.

“**Deferred Payments**” has the meaning specified in Section 16.05(b)(vi)(A)(3)(a) of this Agreement.

“**Definitive Class B Preferred Securities**” has the meaning specified in Section 16.05(b) of this Agreement.

“**Directors**” means each of the Persons listed as a Director on Annex B hereto until such Persons shall resign or otherwise be duly removed as a Director, and each Person who may from time to time be designated to serve as a successor to any Director of the Company in accordance with the provisions of this Agreement and of the By-laws.

“**Distributable Profits**” of the Bank for any fiscal year is the balance sheet profit (*Bilanzgewinn*) as of the end of such fiscal year, as shown in the audited unconsolidated balance sheet of the Bank as of the end of such fiscal year. Such balance sheet profit includes the annual surplus or loss (*Jahresüberschuss/-fehlbetrag*), plus any profit carried forward from previous years, minus any loss carried forward from previous years, plus transfers from capital reserves and earnings reserves, minus allocations to earnings reserves, all as determined in accordance with the provisions of the German Stock Corporation Act (*Aktiengesetz*) and accounting principles generally accepted in the Federal Republic of Germany as described in the German Commercial Code (*Handelsgesetzbuch*) and other applicable German law then in effect. In determining the availability of sufficient Distributable Profits of the Bank for any fiscal year to permit Capital Payments to be declared with respect to the Class B Preferred Securities, any Capital Payments already paid on the Class B Preferred Securities and any capital payments, dividends or other distributions already paid during the succeeding fiscal year of the Bank (x) to the extent that the determination of Distributable Profits is being made with respect to the Upper Tier 2 Percentage of the Class B Preferred Securities, on Parity Capital Securities and Preferred Tier 1 Capital Securities, if any, and (y) to the extent that the determination of Distributable Profits is being made with respect to the Tier 1 Percentage of the Class B Preferred Securities, on Preferred Tier 1 Securities, if any, in each case *pro rata* on the basis of Distributable Profits for such fiscal year, will be deducted from such Distributable Profits.

“**DTC**” means The Depository Trust Company, a New York corporation.

“**ERISA**” means the U.S. Employee Retirement Income Security Act of 1974, as amended from time to time, or any successor legislation.

“**Excess Interest Amounts**” has the meaning specified in Section 16.05(b)(vi)(A)(4) of this Agreement.

“**Event of Default**” means (i) non-payment of Capital Payments (plus any Additional Amounts thereon, if any) on the Class B Preferred Securities at the Stated Rate in full, for four consecutive Class B Payment Periods, and (ii) a default by the Guarantor (x) in respect of any of its obligations under Article 4 of the Class B Preferred Guarantee and (y) in the performance of any other obligation under the Class B Preferred Guarantee, and, in the case of (y) only, continuance of such default for 60 days after the Class B Preferred Guarantee Trustee has given notice thereof to the Guarantor.

“**Fiscal Year**” means (i) the period commencing upon the formation of the Company and ending on December 31, 2008, and (ii) any subsequent twelve (12) month period commencing on January 1 and ending on December 31.

“**Guarantees**” means the Class B Preferred Guarantee and the Trust Preferred Guarantee.

“**Guarantor**” means the Bank in its capacity as guarantor under the Guarantees.

“**Holder**” means any initial holder or subsequent holder of securities issued by the Trust or the Company, as registered on the books and records of the Trust or the Company, as the case may be.

“**Independent Director**” means each member of the Board of Directors who (i) is not a current officer or employee of the Company, the Bank or any Affiliate of the Bank or of any Person or Persons that, in the aggregate, own more than 10% of the Common Securities or (ii) is elected to the Board of Directors by the Class B Preferred Securityholders in accordance with the provisions hereof.

“**Initial LLC Agreement**” has the meaning specified in the recitals of this Agreement.

“**Initial Obligation**” means the U.S. \$1,265,000,025 8.05% perpetual subordinated note issued by the Bank acquired by the Company using the proceeds from the issuance of the Class B Preferred Securities.

“**Initial Redemption Date**” has the meaning specified in Section 10.04(d) of this Agreement.

“**Investment Company Act Event**” means that the Bank shall have requested and received an opinion of a nationally recognized U.S. law firm experienced in such matters to the effect that there is more than an insubstantial risk that the Company or the Trust is or will be considered an “investment company” within the meaning of the 1940 Act as a result of any judicial decision, any pronouncement or interpretation (irrespective of the manner made known), the adoption or amendment of any law, rule or regulation, or any notice or announcement (including any notice or announcement of intent to adopt such law, rule or regulation) by any U.S. legislative body, court, governmental agency, or regulatory authority, in each case after the date hereof.

“**Junior Securities**” means (i) ordinary shares of common stock of the Bank, (ii) each class of preference shares of the Bank ranking junior to Preferred Tier 1 Securities of the Bank, if any, and any other instrument of the Bank ranking on parity with such preference shares or junior thereto, and (iii) preference shares or any other instrument of any subsidiary of the Bank subject to any guarantee or support agreement of the Bank which guarantee or support undertaking ranks junior to the obligations of the Bank under the Guarantees.

“**List of Holders**” has the meaning specified in Section 2.02(a).

“**LLC Act**” has the meaning specified in the first Recital of this Agreement.

“**LLC Certificate**” means the Certificate of Formation of the Company and any and all amendments thereto and restatements thereof filed on behalf of the Company with the office of the Secretary of State of the State of Delaware pursuant to the LLC Act.

“**Majority or Other Stated Percentage**” means a vote by Securityholders of outstanding Company Securities voting together as a single class, or, as the context may require, Class A Preferred Securityholders, Class B Preferred Securityholders or Common Securityholders voting separately as a class, who are the record owners of more than 50% (or of equal to or more than such other stated percentage) of the liquidation amount (including the stated amount that would be paid on redemption, liquidation or otherwise, plus

accumulated and unpaid Capital Payments to the date upon which the voting percentages are determined) of all outstanding Company Securities or all outstanding Company Securities of the relevant class, as the case may be.

“**Manager Trustee**” means The Bank of New York until a Successor Manager Trustee has been appointed and accepted such appointment pursuant to the terms of this Agreement and thereafter means each Successor Manager Trustee.

“**Obligations**” means (i) the Initial Obligation, (ii) an obligation, if any, issued by the Bank in connection with a notice to the Company to issue additional Class B Preferred Securities (in connection with the exercise of the underwriters’ over-allotment option or otherwise) and having the same terms and conditions as the Initial Obligation in all respects except for the issue date, the date from which interest accrues, the issue price and any other deviations required for compliance with applicable law, and (iii) the Substitute Obligations.

“**Officers**” means each of the Persons listed as an Officer of the Company on Annex B hereto until such Person shall resign or otherwise be duly removed as an Officer and each Person who may from time to time be duly appointed an Officer of the Company by the Board of Directors or pursuant to Section 9.01(a) and acting in accordance with the provisions of this Agreement and of the By-laws.

“**Officers’ Certificate**” means, with respect to the Company, a certificate signed by two Officers.

“**Operating Profits**” of the Company means, for any Class B Payment Period, the excess of (a) the amounts paid on the Obligations that the Company may then hold in accordance with this Agreement during such Class B Payment Period over (b) any operating expenses of the Company not paid or reimbursed by the Bank or any one of its branches or affiliates as provided in the Services Agreement during such Class B Payment Period.

“**Parity Capital Securities**” means, at any time, Parity Subsidiary Capital Securities and each class of ownership interests in the capital of the Bank that at such time rank senior to the preference shares of the Bank and junior to all other securities of the Bank that at such time (i) rank senior to preference shares and (ii) do not by their terms rank pari passu with such ownership interests of the Bank, if any.

“**Parity Subsidiary Capital Securities**” means, at any time, any instrument of any subsidiary of the Bank subject to any guarantee or support agreement of the Bank ranking at such time pari passu with the obligations of the Bank under the terms of the Guarantees in effect with respect to the Upper Tier 2 Percentage of the Trust Preferred Securities and the Upper Tier 2 Percentage of the Class B Preferred Securities.

“**Paying Agent**” means Deutsche Bank Trust Company Americas, or any successor.

“**Person**” means a legal person, including any individual, corporation, estate, partnership (general or limited), joint venture, association, joint stock company, limited liability company, trust, unincorporated association, or government or any agency or political subdivision thereof, or any other entity of whatever nature.

“**Power of Attorney**” means the power of attorney granted pursuant to Section 19.06.

“**Preferred Securities**” means the Class A Preferred Security and the Class B Preferred Securities.

“**Preferred Securityholder**” means a Securityholder that holds one or more Preferred Securities.

“**Preferred Tier 1 Capital Securities**” of any person means, at any time, each class of the most senior ranking preference shares of such person and any other instruments of such person (other than common shares) then qualifying as Tier 1 Regulatory Capital and, if such person is the Bank, Preferred Tier 1 Subsidiary Securities.

“**Preferred Tier 1 Securities**” means (i) each class of the most senior ranking preference shares of the Bank, if any, and (ii) preference shares or any other instrument of any subsidiary of the Bank subject to any guarantee or support agreement of the Bank then ranking on a parity with the obligations of the Bank as Guarantor under the Guarantees.

“**Preferred Tier 1 Subsidiary Securities**” means, at any time, the most senior ranking preference shares and any other instruments of any person other than the Bank, which, in each case, then qualify as Tier 1 Regulatory Capital and are subject to any agreement of the Bank that guarantees or otherwise provides support of such preference shares or other instruments.

“**Property Trustee**” has the meaning assigned to it in the Trust Agreement of the Trust.

“**Purchase Agreement**” means the Purchase Agreement dated as of May 1, 2008 among the Bank, the Company, the Trust and the underwriters named therein, relating to the sale and issuance of Trust Preferred Securities and Class B Preferred Securities.

“**Qualified Subsidiary**” means a Subsidiary that meets the definition of “a company controlled by its parent company” as defined in Rule 3a-5 under the 1940 Act.

“**Redemption Notice**” has the meaning specified in Section 10.04(e)(i) of this Agreement.

“**Redemption Price**” has the meaning specified in Section 10.04(d)(i) of this Agreement.

“**Register**” has the meaning specified in Section 16.06 of this Agreement.

“**Registrar**” has the meaning specified in Section 16.06 of this Agreement.

“**Regular Trustee**” has the meaning assigned to it in the Trust Agreement.

“**Regulatory Event**” means that the Bank is notified by a relevant regulatory authority that, as a result of the occurrence of any amendment to, or change (including any change that has been adopted but has not yet become effective) in, the applicable banking laws of Germany (or any rules, regulations or interpretations thereunder, including rulings of the relevant banking authorities) or the guidelines of the Committee on Banking Supervision

at the Bank for International Settlements, in each case effective after the date of the issuance of the Company Securities and the Trust Securities, the Bank is not, or will not be, allowed to treat (i) the Upper Tier 2 Percentage of the Class B Preferred Securities, if any, as supplementary capital (*Ergänzungskapital*) or upper Tier 2 regulatory capital or (ii) the Tier 1 Percentage of the Class B Preferred Securities, if any, as core capital (*Kernkapital*) or Tier 1 regulatory capital, in each case of the Bank, for capital adequacy purposes on a consolidated basis.

“**Relevant Jurisdiction**” has the meaning specified in Section 10.04(c) of this Agreement.

“**Responsible Officer**” means with respect to the Manager Trustee, any officer within the Corporate Trust Office of the Manager Trustee, including any vice president, any assistant vice president, any secretary, any assistant secretary, any assistant treasurer, any trust officer or other officer of the Manager Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of that officer’s knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Agreement.

“**Securities Act**” means the United States Securities Act of 1933, as amended, or any successor legislation.

“**Security**” means a limited liability company interest in the Company, including the right of the holder thereof to any and all benefits to which a Securityholder may be entitled as provided in this Agreement, together with the obligations of a Securityholder to comply with all of the terms and provisions of this Agreement, and includes the Common Security and the Preferred Securities from time to time outstanding.

“**Securityholder**” means any Person that holds a Security of the Company and is admitted as a member and Securityholder of the Company pursuant to the provisions of this Agreement and of the LLC Act, in its capacity as a Securityholder of the Company. For purposes of the LLC Act, the Common Securityholder and the Preferred Securityholders shall constitute separate classes or groups of Securityholders and of members.

“**Services Agreement**” means the Services Agreement dated as of May 9, 2008 among the Bank, acting directly and through its New York branch, the Company and the Trust.

“**Similar Law**” has the meaning specified in Section 16.06(c).

“**Specified Increment**” means the percentage of the aggregate liquidation preference amount of the Trust Preferred Securities or the Class B Preferred Securities, as applicable, to which a Tier 1 Qualification Election relates, which percentage may only be (a) zero or (b) 10% or an integral multiple thereof.

“**Stated Rate**” has the meaning specified in Section 10.04(b)(ii).

“**Subordinated Deposit Agreement**” means the subordinated deposit agreement dated as of May 9, 2008 between the Bank and the Company.

“**Subsidiary**” means a subsidiary (i) that is consolidated with the Bank for German bank regulatory purposes and (ii) of which the Bank owns or controls, directly or indirectly, more than (x) fifty percent (50% ) of the outstanding voting stock or other equity interest entitled ordinarily to vote in the election of the directors or other governing body (however designated) and (y) fifty percent (50% ) of the outstanding capital stock or other equity interest.

“**Substitute Obligations**” means a subordinated obligation issued (in substitution for the Initial Obligation or of Substitute Obligations or any additional obligation described in the definition of “Obligations”) by the Bank or a Subsidiary with the same aggregate principal amount and interest rate and payment dates as those of the Initial Obligation and a maturity that is perpetual or is not earlier than May 9, 2038 and terms otherwise substantially identical to those of the Initial Obligation, provided, that unless the Bank itself is the issuer of the Substitute Obligations, the Bank (which may act through a branch) guarantees on a subordinated basis, at least equal to the ranking of the Initial Obligation, the obligations of the new substitute obligor; provided, in each case, that (i) the Bank has received the written opinion of a nationally recognized law firm in the United States that reinvestment in such Substitute Obligation will not adversely affect the “qualified dividend income” eligibility for purposes of Section 1(h)(11) of the Internal Revenue Code of 1986, as amended (or any successor legislation), of Capital Payments on the Trust Preferred Securities or cause the holders thereof to recognize gain or loss for U.S. federal income tax purposes and (ii) such substitution or replacement does not result in a Company Special Redemption Event or a Trust Special Redemption Event, and provided, further in each case that the Bank has obtained any required regulatory approvals.

“**Successor Company Securities**” has the meaning specified in Section 17.01 of this Agreement.

“**Successor Manager Trustee**” has the meaning specified in Section 4.02(b).

“**Tax Event**” means (A) the receipt by the Bank of an opinion of a nationally recognized law firm or other tax adviser in a Relevant Jurisdiction, as appropriate, experienced in such matters, to the effect that, as a result of (i) any amendment to, or clarification of, or change (including any announced prospective change) in, the laws (or any regulations promulgated thereunder) of a Relevant Jurisdiction or any political subdivision or taxing authority thereof or therein affecting taxation, (ii) any Administrative Action or (iii) any amendment to, clarification of, or change in the official position or the interpretation of such Administrative Action or any interpretation or pronouncement that provides for a position with respect to such Administrative Action that differs from the theretofore generally accepted position in each case, by any legislative body, court, governmental authority or regulatory body, irrespective of the manner in which such amendment, clarification or change is made known, which amendment, clarification or change is effective, or which pronouncement or decision is announced, after the date of issuance of the Preferred Securities and the Trust Securities, there is more than an insubstantial risk that (a) the Trust or the Company is or will be subject to more than a *de minimis* amount of taxes, duties or other governmental charges, (b) the Trust, the Company, an obligor on the Obligations, or the Guarantor would be obligated to pay Additional Amounts, Additional Interest Amounts or Trust Preferred Guarantee Additional Amounts or Class B Preferred Guarantee Additional Amounts, as applicable, or (c) the Bank would be subject to tax on income of the Company under the rules of the German Foreign Tax Act (*Aussensteuergesetz*) except in cases where the Capital Payments may not be declared by the Company, or (B) a final determination has



been made by the German tax authorities to the effect that the Bank, as obligor on the Obligations, may not, in the determination of its taxable income for the purposes of determining German corporate income tax in any year, deduct in full interest payments on the Obligations (except to the extent such interest payments are determined to be connected with income of a branch that is not subject to taxation in Germany). However, none of the foregoing shall constitute a Tax Event if it may be avoided by the Bank, the Trust or the Company taking reasonable measures under the circumstances.

“**Tax Matters Partner**” means the Person designated as such in Section 14.01(a) of this Agreement.

“**Tier 1 Qualification Election**” has the meaning specified in Section 10.04(k) hereof.

“**Tier 1 Percentage**” means the Specified Increment of each Class B Preferred Security with respect to which Tier 1 Qualification Elections have been made and the Specified Increment of each Trust Preferred Security that is reclassified as a result of such Tier 1 Qualification Election, as applicable, in each case from and after the first day of the Payment Period during which such Tier 1 Qualification Election occurs.

“**Tier 1 Regulatory Capital**” means core capital (*Kernkapital*) of the Bank on a consolidated basis.

“**Tier 2 Junior Securities**” means, at any time, (i) common stock of the Bank, (ii) each class of preference shares of the Bank then ranking junior to Parity Capital Securities and Preferred Tier 1 Capital Securities of the Bank, if any, and any other instrument of the Bank then ranking *pari passu* therewith or junior thereto and (iii) preference shares or any other instrument of any subsidiary of the Bank (other than Preferred Tier 1 Subsidiary Securities) subject to any guarantee or support agreement of the Bank then ranking junior to the obligations of the Bank under the terms of the Guarantees in effect with respect to the Tier 1 Percentage, if any, of the Trust Preferred Securities and the Class B Preferred Securities.

“**Transfer Agent**” has the meaning specified in Section 16.06 of this Agreement.

“**Treasury Regulations**” means the income tax regulations, including temporary and proposed regulations, promulgated under the Code by the United States Treasury Department, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

“**Trust**” means Deutsche Bank Contingent Capital Trust V, a Delaware statutory trust, together with its successors.

“**Trust Agreement**” means the Amended and Restated Trust Agreement of the Trust dated May 9, 2008, as amended from time to time.

“**Trust Common Security**” means the Trust Common Security issued by the Trust.

“**Trust Indenture Act**” means the U.S. Trust Indenture Act of 1939, as amended from time to time, or any successor legislation.

“**Trust Preferred Guarantee Additional Amounts**” has the meaning specified in the Trust Preferred Guarantee.

“**Trust Preferred Guarantee**” means the Trust Preferred Securities Guarantee Agreement dated as of May 9, 2008, as amended from time to time, between the Bank, as guarantor, and The Bank of New York, as Trust Preferred Guarantee Trustee, for the benefit of the holders of the Trust Preferred Securities from time to time.

“**Trust Preferred Guarantee Payments**” has the meaning specified in the Trust Preferred Guarantee.

“**Trust Preferred Securities**” means the Trust Preferred Securities issued by the Trust.

“**Trust Securities**” means the Trust Common Security and the Trust Preferred Securities.

“**Trust Special Redemption Event**” means (i) a Tax Event solely with respect to the Trust, but not with respect to the Company or (ii) an Investment Company Act Event solely with respect to the Trust, but not with respect to the Company.

“**Upper Tier 2 Percentage**” means the portion of each Class B Preferred Security with respect to which no Tier 1 Qualification Election has been made and the same portion of each Trust Preferred Security that has not been reclassified pursuant to a Tier 1 Qualification Election.

“**Withholding Taxes**” has the meaning set forth in Section 10.04(c) of this Agreement.

*Section 1.02. Other Definitional Provisions.*

(a) The headings and subheadings contained in this Agreement are included for convenience of reference and identification only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

(b) The following rules shall apply to the construction of this Agreement unless the context requires otherwise: (i) the singular includes the plural and the plural, the singular; (ii) words importing any gender include the other gender; (iii) references to statutes are to be construed as including all statutory provisions consolidating, amending or replacing the statute to which reference is made and all regulations promulgated pursuant to such statutes; (iv) references to “writing” include printing, photocopy, typing, lithography and other means of reproducing words in a tangible visible form; (v) the words “including,” “includes” and “include” shall be deemed to be followed by the words “without limitation”; (vi) references to the introductory paragraph, preliminary statements, articles, sections (or subdivisions of sections), exhibits, appendices, annexes or schedules are to those of this Agreement unless otherwise indicated; (vii) references to agreements and other contractual

instruments shall be deemed to include all subsequent amendments and other modifications to such instruments but only to the extent that such amendments and other modifications are permitted or not prohibited by the terms of this Agreement; (viii) references to Persons include their respective successors and assigns permitted or not prohibited by the terms of this Agreement; (ix) an accounting term not otherwise defined has the meaning assigned to it in accordance with generally accepted accounting principles in the United States of America; (x) “or” is not exclusive; (xi) provisions apply to successive events and transactions; (xii) references to documents or agreements which have been terminated or released or which have expired shall be of no force and effect after such termination, release or expiration; (xiii) references to mail shall be deemed to refer to first class mail, postage prepaid, unless another type of mail is specified; (xiv) all references to time shall be to New York City time unless otherwise indicated; (xv) references to specific Persons, positions or officers shall include those who or which succeed to or perform their respective functions, duties or responsibilities referred to in the proceedings in connection with the Company Preferred Securities; (xvi) the terms “herein,” “hereunder,” “hereby,” “hereto,” “hereof” and any similar terms refer to this Agreement as a whole and not to any particular article, section or subdivision hereof; and the term “heretofore” means before the date of execution of this Agreement, the term “now” means at the date of execution of this Agreement, and the term “hereafter” means after the date of execution of this Agreement; and (xvii) references to payments of principal include any premium payable on the same date.

## ARTICLE 2 TRUST INDENTURE ACT

*Section 2.01. Trust Indenture Act; Application.* (a) This Agreement is subject to the provisions of the Trust Indenture Act that are required to be part of this Agreement and shall, to the extent applicable, be governed by such provisions. A term defined in the Trust Indenture Act has the same meaning when used in this Agreement unless otherwise defined in this Agreement or unless the context otherwise requires.

(b) If and to the extent that any provision of this Agreement limits, qualifies or conflicts with the duties imposed by Sections 310 to 317, inclusive, of the Trust Indenture Act, such imposed duties shall control.

*Section 2.02. List of Holders of Securities.* (a) The Registrar on behalf of the Company shall provide the Manager Trustee and the Paying Agent a list, in such form as the Manager Trustee and the Paying Agent may reasonably require, of the names and addresses of the Holders of the Class B Preferred Securities (each such list, a “**List of Holders**”) (i) as of each record date for payment of Capital Payments, within 14 days after such record date, and (ii) upon receipt by the Company from the Manager or Paying Agent of a written request therefor, as of any other date, within the later of (x) 14 days after such date and (y) 30 days after the receipt by the Company of such written request.

(b) The Manager Trustee shall comply with its obligations under Sections 311(a), 311(b) and Section 312(b) of the Trust Indenture Act.

*Section 2.03. Reports by the Manager Trustee.* Within 60 days after May 1<sup>st</sup> of each year (beginning with May 2009), the Manager Trustee shall provide to the Class B Preferred Securityholders such reports as are required by Section 313 of the Trust Indenture

Act, if any, in the form and in the manner provided by Section 313(a) of the Trust Indenture Act. The Manager Trustee shall also comply with the requirements of Section 313(d) of the Trust Indenture Act.

*Section 2.04. Periodic Reports to Manager Trustee.* The Company shall provide to the Manager Trustee such documents, reports and information as required by Section 314 of the Trust Indenture Act (if any) and shall provide, within 60 days after the end of each of its fiscal years, commencing with the fiscal year ending December 31, 2008, the compliance certificate required by Section 314 of the Trust Indenture Act, in the form and in the manner required by Section 314 of the Trust Indenture Act. Delivery of such reports, information and documents to the Manager Trustee is for informational purposes only and the Manager Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Manager Trustee is entitled to rely exclusively on Officers' Certificates furnished by the Company).

*Section 2.05. Evidence of Compliance with Conditions Precedent.* The Company shall provide to the Manager Trustee evidence of compliance with the conditions precedent, if any, provided for in this Agreement that relate to any of the matters set forth in Section 314(c) of the Trust Indenture Act. Any certificate or opinion required to be given by an officer pursuant to Section 314 (c)(1) of the Trust Indenture Act may be given in the form of an Officers' Certificate.

*Section 2.06. Default; Waiver.* A Majority of the Class B Preferred Securities may, by vote, on behalf of all Class B Preferred Securityholders, waive any past Event of Default with respect to the Class B Preferred Securities and its consequences, except that an Event of Default in respect of any covenant or provision hereof or of the Class B Preferred Guarantee, as applicable, which (i) cannot be modified or amended without the consent of each Holder of Class B Preferred Securities, can only be waived by all Holders of Class B Preferred Securities, or (ii) can only be modified or amended with the consent or vote of Holders of a stated percentage greater than 50% of the Class B Preferred Securities, can only be waived under this Agreement by the vote of the Holders of at least the same percentage of the Class B Preferred Securities. The foregoing provisions of this Section 2.06 shall be in lieu of Section 316(a)(1)(B) of the Trust Indenture Act and such Section 316(a)(1)(B) of the Trust Indenture Act is hereby expressly excluded from this Agreement and the Class B Preferred Securities, as permitted by the Trust Indenture Act. Upon such waiver, any such Event of Default shall be deemed to have been cured, for every purpose of this Agreement, but no such waiver shall extend to any subsequent or other Event of Default or impair any right consequent thereon.

*Section 2.07. Notice of Events of Default.* (a) The Manager Trustee shall, within 90 days after the occurrence of an Event of Default, (or an event which with the passage of time would become an Event of Default, including the failure of the Company to pay a Capital Payment on the Class B Preferred Securities in full for any Class B Payment Period), transmit by mail, first class postage prepaid, to the Securityholders, notices of all such Events of Default (or such events) actually known to a Responsible Officer of the Manager Trustee, unless such Events of Default have been cured before the giving of such notice, provided that, the Manager Trustee shall be protected in withholding such notice if and so long as a Responsible Officer of the Manager Trustee in good faith determines that the withholding of such notice is in the interests of the Securityholders.

(b) The Manager Trustee shall not be deemed to have knowledge of any Event of Default (or any such event) unless an officer of the Manager Trustee in its Corporate Trust Office shall have received written notice thereof, or a Responsible Officer of the Manager Trustee shall have obtained actual knowledge, of such Event of Default (or such event).

ARTICLE 3  
POWERS, DUTIES AND RIGHTS OF MANAGER TRUSTEE

*Section 3.01. Powers, Duties and Rights of Manager Trustee.* (a) The Manager Trustee is appointed pursuant to this Agreement solely for the benefit of the Class B Preferred Securityholders. The duties and responsibilities of the Manager Trustee shall be as provided by the Trust Indenture Act and as set forth herein.

(b) The Manager Trustee, prior to the occurrence of any Event of Default and after the curing or waiver of all such Event of Defaults that may have occurred, shall undertake to perform only such duties as are specifically set forth in this Agreement, and no implied covenants shall be read into this Agreement against the Manager Trustee.

(c) In case an Event of Default has occurred (that has not been cured or waived pursuant to Section 2.06) and is actually known to a Responsible Officer of the Manager Trustee, the Manager Trustee shall exercise such of the rights and powers vested in it by this Agreement, and use the same degree of care and skill in its exercise thereof, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

(d) No provision of this Agreement shall be construed to relieve the Manager Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) In the absence of bad faith on the part of the Manager Trustee, the Manager Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Manager Trustee and conforming to the requirements of this Agreement; provided that in the case of any such certificates or opinions that by any provision hereof are specifically required to be furnished to the Manager Trustee, the Manager Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Agreement (but need not confirm or investigate the accuracy of any mathematical calculations or other facts stated therein);

(ii) The Manager Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer of the Manager Trustee, unless it shall be proved that the Manager Trustee was grossly negligent in ascertaining the pertinent facts upon which such judgment was made;

(iii) The Manager Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Securityholders relating to the time, method and place of conducting any

proceeding for any remedy available to the Manager Trustee, or exercising any trust or power conferred upon the Manager Trustee under this Agreement.

(e) No provision of this Agreement shall require the Manager Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if the Manager Trustee shall have reasonable grounds for believing that the repayment of such fund or liability is not assured to it under the terms of this Agreement or indemnity reasonably satisfactory to the Manager Trustee, against such risk or liability is not reasonably assured to it.

*Section 3.02. Certain Rights of Manager Trustee.* (a) Subject to the provisions of Section 3.01:

(i) The Manager Trustee may conclusively rely, and shall be fully protected in acting or refraining from acting upon, any Officers' Certificate, resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document (whether in its original or facsimile form) believed by it to be genuine and to have been signed or presented by the proper party or parties.

(ii) Any direction, request, order or demand of the Company contemplated by this Agreement shall be sufficiently evidenced by an Officers' Certificate (unless other evidence in respect thereof be herein specifically prescribed).

(iii) Whenever, in the administration of this Agreement, the Manager Trustee shall deem it desirable that a matter be proved or established before taking, suffering or omitting any action hereunder, such matter (unless other evidence is herein specifically prescribed), in the absence of negligence or bad faith on the part of the Manager Trustee, be deemed to be conclusively proved and established by an Officers' Certificate delivered to the Manager Trustee, and such Officers' Certificate, in the absence of negligence or bad faith on the part of the Manager Trustee, shall be full warrant to the Manager Trustee for any action taken, suffered or omitted to be taken by it under the provisions of this Agreement upon the faith thereof.

(iv) The Manager Trustee may, at the expense of the Company, consult with counsel of its selection, and the advice or opinion of such counsel with respect to legal matters shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in accordance with such advice or opinion. Such counsel may be counsel to the Company or any of its Affiliates and may include any of its employees. The Manager Trustee shall have the right at any time to seek instructions concerning the administration of this Agreement from any court of competent jurisdiction.

(v) The Manager Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Agreement at the request or direction of any Securityholder unless such Securityholder shall have provided to the Manager Trustee such security and indemnity, satisfactory to the Manager Trustee, against the costs, expenses (including attorneys' fees and expenses and the expenses of the Manager Trustee's agents, nominees or custodians) and liabilities that might be incurred by it in complying with such request or direction, including such reasonable

advances as may be requested by the Manager Trustee; provided that, nothing contained in this Section 3.02(a)(v) shall be taken to relieve the Manager Trustee, upon the occurrence of an Event of Default, of its obligation to exercise the rights and powers vested in it by this Agreement.

(vi) Prior to the occurrence of an Event of Default and after the curing or waiving of all Events of Default, the Manager Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, unless requested in writing to do so by a Majority of the Company Securities affected (voting as a single class), but the Manager Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit but shall incur no liability or additional liability of any kind by reason of such inquiry or investigation, and if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney at the sole cost of the Company.

(vii) The Manager Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, nominees, custodians or attorneys, and the Manager Trustee shall not be responsible for any misconduct or negligence on the part of any agent, nominee, custodian or attorney appointed with due care by it hereunder.

(viii) Whenever in the administration of this Agreement the Manager Trustee shall deem it desirable to receive instructions with respect to enforcing any remedy or right or taking any other action hereunder, the Manager Trustee (i) may request written instructions from a Majority of the Class B Preferred Securities, (ii) may refrain from enforcing such remedy or right or taking such other action until such written instructions are received and (iii) shall be protected in conclusively relying on or acting in accordance with such written instructions.

(ix) The Manager Trustee shall not be liable for any action taken, suffered, or omitted to be taken by it in good faith and reasonably believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Agreement.

(x) The rights, privileges, protections, immunities and benefits given to the Manager Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Manager Trustee in any other capacity in which it may act hereunder.

(xi) The Trustee may request that the Company deliver a certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Agreement.

(b) No provision of this Agreement shall be deemed to impose any duty or obligation on the Manager Trustee to perform any act or acts or exercise any right power, duty or obligation conferred or imposed on it in any jurisdiction in which it shall be illegal, or in which the Manager Trustee shall be unqualified or incompetent in accordance with applicable law, to perform any such act or acts or to exercise any

such right, power, duty or obligation. No permissive power or authority available to the Manager Trustee shall be construed to be a duty.

*Section 3.03. Not Responsible for Recitals or Issuance of Agreement.* The recitals contained in this Agreement shall be taken as the statements of the Company, and the Manager Trustee does not assume any responsibility for their correctness. The Manager Trustee makes no representation as to the validity or sufficiency of this Agreement or the Company Securities.

*Section 3.04. Compensation and Reimbursement.*

(a) The Bank agrees

(i) to pay to the Manager Trustee from time to time such compensation as the Bank and the Manager Trustee shall from time to time agree in writing for all services rendered by it hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

(ii) except as otherwise expressly provided herein, to reimburse the Manager Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Manager Trustee in accordance with any provision of this Agreement (including the compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to the Manager Trustee's negligence or bad faith; and

(iii) to indemnify the Manager Trustee and its officers, directors, employees and agents for, and to hold each of them harmless against, any and all loss, liability or expense incurred without negligence or bad faith on the part of the Manager Trustee, arising out of or in connection with the acceptance or administration of the trust or trusts hereunder, including the costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder.

(b) The provisions of this Section 3.04 shall survive the termination of this Agreement.

#### ARTICLE 4 MANAGER TRUSTEE

*Section 4.01. Manager Trustee; Eligibility.* (a) There shall at all times be a Manager Trustee which shall:

(i) not be an Affiliate of the Bank; and

(ii) be a corporation organized and doing business under the laws of the United States of America or any State or Territory thereof or of the District of Columbia (or a corporation or other person permitted by the Securities and Exchange Commission to act as trustee pursuant to the Trust Indenture Act), authorized under such laws to exercise corporate trust powers and subject to supervision or examination by federal, state, territorial or District of Columbia authority;



(iii) have at all times a combined capital and surplus of at least 50 million U.S. dollars (U.S.\$50,000,000), and if such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of the supervising or examining authority referred to in clause (ii) above, then for the purposes of this Section 4.01(a)(iii), the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

(b) If at any time the Manager Trustee shall cease to be eligible to so act under Section 4.01(a), the Manager Trustee shall immediately resign in the manner and with the effect set out in Section 4.02(c).

(c) If the Manager Trustee shall acquire any “conflicting interest” within the meaning of Section 310(b) of the Trust Indenture Act, the Manager Trustee and Company shall in all respects comply with the provisions of Section 310(b) of the Trust Indenture Act.

(d) The Guarantees shall be deemed to be specifically described in this Agreement for purposes of clause (i) of the first proviso contained in Section 310(b) of the Trust Indenture Act.

(e) The initial Manager Trustee shall be The Bank of New York, a New York banking corporation.

*Section 4.02. Appointment, Removal and Resignation of Manager Trustee.* (a) Subject to Section 4.02(b), the Manager Trustee may be appointed or removed without cause at any time by a Majority of the outstanding Common Securities voting as a class at a meeting of the Common Securityholders.

(b) The Manager Trustee shall not be removed in accordance with Section 4.02(a) until a successor Manager Trustee possessing the qualifications to act as Manager Trustee under Section 4.01 hereof (a “**Successor Manager Trustee**”) has been appointed and has accepted such appointment by written instrument executed by such Successor Manager Trustee and delivered to the Company.

(c) The Manager Trustee appointed to office shall hold office until a Successor Manager Trustee shall have been appointed or until its death, removal or resignation. The Manager Trustee may resign from office (without need for prior or subsequent accounting) by an instrument in writing signed by the Manager Trustee and delivered to the Company, which resignation shall not take effect until a Successor Manager Trustee has been appointed and has accepted such appointment by written instrument signed by such Successor Manager Trustee and delivered to the Company and the resigning Manager Trustee.

(d) The right, title and interest of the Manager Trustee shall automatically vest in any Successor Manager Trustee, and such vesting and cessation of title shall be effective whether or not conveyancing documents have been executed and delivered pursuant to the appointment of such Successor Manager Trustee.

(e) The Common Securityholder shall use its best efforts to promptly appoint a Successor Manager Trustee, if the Manager Trustee delivers an instrument of resignation in accordance with this Section 4.02.

(f) If no Successor Manager Trustee shall have been appointed and accepted appointment as provided in this Section 4.02 within 60 days after delivery to the Company of an instrument of removal or resignation, the Manager Trustee resigning or being removed may petition, at the expense of the Company, any court of competent jurisdiction for appointment of a Successor Manager Trustee. Such court may thereupon, after prescribing such notice, if any, as it may deem proper, appoint a Successor Manager Trustee.

(g) No Manager Trustee shall be liable for the acts or omissions to act of any Successor Manager Trustee.

(h) Upon termination of this Agreement or removal or resignation of the Manager Trustee pursuant to this Section 4.02, and before the appointment of any Successor Manager Trustee the Company shall pay to the Manager Trustee all amounts to which it is entitled to the date of such termination, removal or resignation.

## ARTICLE 5 CONTINUATION AND TERM; ADMISSION OF SECURITYHOLDERS

### *Section 5.01. Continuation.*

(a) The Securityholders hereby agree to the continuation of the Company as a limited liability company under and pursuant to the provisions of the LLC Act and of this Agreement and agree that the rights, duties and liabilities of the Securityholders shall be as provided in the LLC Act, except as otherwise provided herein or in the By-laws.

(b) Any Person designated as an "Authorized Person" by the Board of Directors is authorized to execute, deliver and file on behalf of the Company any and all amendments to and restatements of the LLC Certificate, as an authorized person within the meaning of the LLC Act.

*Section 5.02. Admission of Securityholders.* Upon the execution of this Agreement and the contribution to the Company pursuant to Section 7.02 and Section 7.03(a), the Bank shall become and be designated as, automatically and without any further action on the part of any Person being necessary, the initial Common Securityholder and the initial Class A Preferred Securityholder. Upon the execution of this Agreement and the contribution to the Company pursuant to Section 7.03(b), the Trust shall become and be designated as, without any further act on the part of any Person being necessary, the initial Class B Preferred Securityholder (with title to the Class B Certificate being held of record in the name of the Property Trustee for the benefit of the Holders of the Trust Preferred Securities and the Holder of the Trust Common Security).

*Section 5.03. Name.* The name of the Company heretofore formed and continued is "Deutsche Bank Contingent Capital LLC V"; provided that the business of the Company may be conducted upon compliance with all applicable laws under any other name designated by the Board of Directors.

*Section 5.04. Term.* The term of the Company shall commence upon the date the LLC Certificate shall have been filed in the office of the Secretary of State of the State of Delaware and shall continue perpetually, unless the Company is dissolved in accordance with the provisions of the LLC Act and this Agreement. The existence of the Company as a separate legal entity shall continue until the cancellation of the LLC Certificate in the manner required by the LLC Act.

*Section 5.05. Registered Agent and Office.* The Company's registered agent in Delaware shall be The Corporation Trust Company, 1209 Orange Street, Wilmington, County of New Castle, Delaware 19801 and its registered office shall be c/o the registered agent. At any time, the Board of Directors may designate another registered agent and/or registered office.

*Section 5.06. Principal Place of Business.* The principal place of business of the Company shall be at 60 Wall Street, New York, New York 10005. The Board of Directors may change the location of the Company's principal place of business; provided, however, that such change has no material adverse effect upon any Securityholder and that the principal place of business of the Company shall always be located in the United States.

*Section 5.07. Qualification in Other Jurisdictions.* The Board of Directors shall cause the Company to be qualified or registered under assumed or fictitious name statutes or similar laws in any jurisdiction in which the Company conducts business and in which such qualification or registration is required by law or deemed advisable by the Board of Directors. Each Person designated by the Board of Directors as an "Authorized Person" is authorized to execute, deliver and file on behalf of the Company any certificates (and any amendments or restatements thereof) necessary for the Company to qualify to do business in each jurisdiction in which the Board of Directors has determined that the Company shall conduct business.

## ARTICLE 6 PURPOSE AND POWERS OF THE COMPANY; BY-LAWS

*Section 6.01. Purposes and Powers.* The sole purposes of the Company are:

(a) to issue the Preferred Securities and the Common Security,

(b) (i) to invest the proceeds of the Class B Preferred Securities in the Initial Obligation, (ii) upon any redemption of the Obligations that does not involve a redemption of the Class B Preferred Securities, to accept Substitute Obligations delivered in accordance with Section 17.02, and (iii) in the event of a failure in the payment of interest on or any Additional Interest Amounts, if any, with respect to, the Obligations, to bring an action or proceeding to enforce such payment, and

(c) except as otherwise expressly limited herein, to enter into, make and perform all contracts and other undertakings, and engage in all activities and transactions, as the Board of Directors may reasonably deem necessary or advisable for the carrying out of the foregoing purposes of the Company.

Unless otherwise permitted herein, the Company may not conduct any other business or operations except as contemplated by the preceding sentence. The Company shall have the power and authority to take any and all actions necessary, appropriate, proper,

advisable, incidental or convenient to or for the furtherance of the purposes of the Company as set forth herein.

*Section 6.02. By-laws.* The Board of Directors, Officers and Securityholders shall be subject to the express provisions of this Agreement and of the By-laws. In case of any conflict between any provisions of this Agreement and any provisions of the By-laws, the provisions of this Agreement shall control.

ARTICLE 7  
CAPITAL CONTRIBUTIONS, ALLOCATIONS AND SECURITIES

*Section 7.01. Form of Contribution.* The contribution to the Company by a Securityholder shall be in cash.

*Section 7.02. Contributions with Respect to the Common Securityholder.* In connection with its purchase of the Common Security, the Common Securityholder shall contribute to the capital of the Company on or prior to the Closing Date, cash in the amount of U.S.\$25 (such amount being the Common Securityholder' s capital contribution to the Company).

*Section 7.03. Contributions with Respect to the Preferred Securityholders.*

(a) In connection with its purchase of the Class A Preferred Security, the Class A Preferred Securityholder shall, in exchange for a Class A Preferred Certificate, contribute to the capital of the Company on or prior to the Closing Date, cash in the amount of U.S.\$25 (such amount being the Class A Preferred Securityholder' s capital contribution to the Company).

(b) In connection with its purchase of the Class B Preferred Securities, the Trust shall, in exchange for a Class B Preferred Certificate registered in the name of the Property Trustee, contribute to the capital of the Company on the Closing Date an amount in cash equal to the gross proceeds from the sale of the Trust Preferred Securities and the Trust Common Security (such amount being such Person' s capital contribution to the Company).

Preferred Securityholders, in their capacity as Securityholders of the Company, shall not be required to make any additional contributions to the Company (except as may be required by law).

*Section 7.04. Allocation of Profits and Losses.* Except as otherwise provided in Section 10.03 or Section 10.04, the income, gains, profits and losses of the Company for any Fiscal Year (or portion thereof) shall be allocated as follows:

(a) all gains and losses resulting from any disposition of assets (including, without limitation, any redemption or prepayment of assets) by the Company shall be allocated 100% to the Common Securityholders;

(b) gross income of the Company (determined without regard to the amount of any gains and losses described in subparagraph (a) of this Section 7.04) shall be allocated (i) *pro rata* among the Class B Preferred Securityholders until the amount so allocated to each Class B Preferred Securityholder equals the amount of Capital

Payments declared (or deemed declared) and attributable to such Fiscal Year and (ii) thereafter to the Common Securityholders, provided, that if capital payments are declared on the Class A Preferred Security, net income shall first be allocated to the Class A Preferred Securityholder in the amount of such capital payments before any allocations pursuant to (i) or (ii); and

(c) net losses (if any) of the Company (determined without regard to the amount of any gains and losses described in subparagraph (a) of this Section 7.04) shall be allocated 100% to the Common Securityholders.

Notwithstanding the foregoing, the Tax Matters Partner shall have the power to alter any such allocations for U.S. federal, state, and local income tax purposes if such alteration is necessary to cause such allocations to have “substantial economic effect” (within the meaning of Treasury regulation 1.704-1(b)(2)) or to ensure that such allocations are otherwise in accordance with the interests of the Securityholders (within the meaning of Treasury regulation 1.704-1(b)(3)) determined on the basis of the economic arrangements of the parties as described in this Agreement.

*Section 7.05. Withholding.* The Company shall comply with any withholding requirements under U.S. federal, state and local law and foreign law and shall remit amounts withheld to and file required forms with applicable jurisdictions. Subject to the provisions of Section 10.04, to the extent that the Company is required to withhold and pay over any amounts to any authority with respect to distributions or allocations to any Securityholder, the amount withheld shall be deemed to be a distribution in the amount of the withholding to such Securityholder. To the fullest extent permitted by law, in the event of any claimed over-withholding, Securityholders shall be limited to an action against the applicable jurisdiction. If the amount was not withheld from actual distributions, the Company may reduce subsequent distributions by the amount of such withholding, except with respect to distributions on the Class B Preferred Securities. Each Securityholder, by its acceptance of Securities, shall be deemed to agree to furnish the Company with any representations and forms as shall reasonably be requested by the Company to assist it in determining the extent of, and in fulfilling, its withholding obligations.

*Section 7.06. Securities as Personal Property.* Each Securityholder hereby agrees that its Securities shall for all purposes be personal property. A Securityholder has no interest in specific property of the Company.

## ARTICLE 8 SECURITYHOLDERS

*Section 8.01. Powers of Securityholders.* The Securityholders shall have the power to exercise any and all rights or powers granted to the Securityholders pursuant to the express terms of this Agreement and of the By-laws and shall be subject in all respects to the provisions hereof and thereof.

*Section 8.02. Partition.* To the fullest extent permitted by law, each Securityholder waives any and all rights that it may have to maintain an action for partition of the property of the Company.

*Section 8.03. Resignation.* A Securityholder may resign from the Company prior to the liquidation, dissolution, winding up or termination of the Company only upon the

assignment of its entire ownership interest in any Securities (including any redemption, repurchase or other acquisition by the Company of such Securities) in accordance with the provisions of this Agreement. A Securityholder that has resigned shall not be entitled to receive any distribution and shall not otherwise be entitled to receive the fair value of its Securities or any portion thereof except as otherwise expressly provided for in this Agreement.

*Section 8.04. Liability of Securityholders.*

(a) Except as otherwise provided by this Agreement and the LLC Act, (i) the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and (ii) no Securityholder shall be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Securityholder of the Company.

(b) A Securityholder, in its capacity as such, shall have no liability in excess of (i) the amount of its capital contributions, (ii) its share of any assets and undistributed profits of the Company, (iii) any amounts required to be paid by such Securityholder pursuant to this Agreement or any payment and/or indemnity in connection with the registration of transfers of Securities and (iv) the amount of any distributions wrongfully distributed to it to the extent set forth in the LLC Act.

ARTICLE 9  
MANAGEMENT

*Section 9.01. Management of the Company.*

(a) Except as otherwise expressly provided in this Agreement or in the By-laws or as required by the LLC Act, the business and affairs of the Company shall be managed, and all actions required under this Agreement shall be determined, solely and exclusively by the Board of Directors, which shall have all rights and powers on behalf and in the name of the Company to perform all acts necessary and desirable to further the objects and purposes of the Company, including the right to appoint Officers and to authorize any Officer to act on behalf of the Company. Any action taken by the Board of Directors or any duly appointed and acting Officer in accordance with this Agreement or the By-laws shall constitute the act of, and shall serve to bind the Company.

(b) The number of Directors of the Company shall initially be four, which number may be increased, and, if increased, may be decreased as provided in this Agreement or in the By-laws, but shall never be less than four or more than seven. The initial Common Securityholder shall appoint the initial Directors who shall serve until the first annual meeting of the Common Securityholders and until their successors are duly elected and qualified. The names of the initial Directors are set forth in Annex B hereto. The Common Securityholders may increase the number of Directors and may fill any vacancy, whether resulting from an increase in the number of Directors or otherwise, on the Board of Directors occurring before the first annual meeting of Common Securityholders in the manner provided in the By-laws. Two Independent Directors may be appointed to the Board of Directors pursuant to Section 10.04(i)(i) under the circumstances set forth therein. Each such Independent Director shall have all the rights, powers and authorities of a Director to participate in actions

by the Board of Directors on behalf of the Company. No Director, including the Independent Directors, shall be a resident of the Federal Republic of Germany.

The names of the initial Officers, and their offices, are set forth in Annex B hereto. Each such Officer shall have the duties and responsibilities that would apply to his or her office if the Company were a corporation established under the Delaware General Corporation Law, except to the extent that the Directors from time-to-time determine otherwise.

(c) Each member of the Board of Directors shall be a “manager” of the Company for all purposes of, and within the meaning of, the LLC Act.

(d) Without limiting the generality of the foregoing, and subject to the provisions of Section 9.02. and provided, that any such action does not cause the Company (i) to be deemed to be required to register under the 1940 Act, (ii) to be treated as an association or as a “publicly traded partnership” (within the meaning of Section 7704 of the Code) or (iii) to be treated as engaged in trade or business within the United States for U.S. federal income tax purposes, the Board of Directors shall have all authority, rights and powers in the management of the business of the Company to do any and all other acts and things necessary, proper, convenient or advisable to effectuate the purposes of this Agreement, including by way of illustration but not by way of limitation, the following:

(i) to authorize the Company or any Officer of the Company on behalf of the Company, to engage in transactions and dealings, including transactions and dealings with any Securityholder or any Affiliate of any Securityholder and including the entering into and performance by the Company of one or more agreements with any Person whereby, subject to the supervision and control of the Board of Directors, any such other Person shall render or make available to the Company managerial, investment, advisory or related services, office space and other services and facilities upon such terms and conditions as may be provided in such agreement or agreements (including, if deemed fair and equitable by the Board of Directors, the compensation payable thereunder by the Company);

(ii) to call meetings of Securityholders or any class or series thereof;

(iii) to cause the Company to issue the Common Security and Preferred Securities in accordance with the provisions of this Agreement;

(iv) to pay all expenses incurred in forming the Company to the extent not paid by the Bank or any other party responsible therefor;

(v) to purchase and hold the Obligations, including as provided in Section 17.02;

(vi) to authorize, suspend, pay, declare or otherwise determine and make Capital Payments or other distributions, in cash or otherwise, on Securities, in accordance with the provisions of this Agreement and of the LLC Act;

(vii) to establish, when a record date is not otherwise established by this Agreement, a record date with respect to all actions to be taken hereunder that

require a record date to be established, including with respect to allocations, distributions and voting rights;

(viii) to redeem or repurchase on behalf of the Company, Securities which may be so redeemed or repurchased in accordance with the provisions of this Agreement;

(ix) to appoint (and dismiss from appointment) attorneys and agents on behalf of the Company, and employ (and dismiss from employment) any and all Persons providing legal, accounting or financial services to the Company, or such other employees or agents as the Directors deem necessary or desirable for the management and operation of the Company;

(x) to incur and pay all expenses and obligations incident to the operation and management of the Company, which shall be paid for and furnished by the Bank pursuant to the Services Agreement, including, without limitation, the services referred to in the preceding paragraph, taxes, interest, rent and insurance;

(xi) to open accounts and deposit, maintain and withdraw funds in the name of the Company in banks, savings and loan associations, brokerage firms or other financial institutions;

(xii) to effect a dissolution of the Company and to act as liquidating trustee or the Person winding up the Company' s affairs, all in accordance with and subject to the provisions of this Agreement and of the LLC Act;

(xiii) to effect the delivery of Class B Preferred Securities to the Holders of Trust Securities generally in the event of the dissolution of the Trust;

(xiv) to bring and defend on behalf of the Company actions and proceedings at law or equity before any court or governmental, administrative or other regulatory agency, body or commission or otherwise;

(xv) to acquire and enter into any contract of insurance necessary or desirable for the protection or conservation of the Company and its assets or otherwise in the interest of the Company as the Board of Directors shall determine;

(xvi) to prepare and cause to be prepared reports, statements, Officers' Certificates and other relevant information for distribution to the Securityholders or as required by applicable regulatory authorities, in each case as may be required or determined to be appropriate by the Board of Directors from time to time;

(xvii) to prepare and file all necessary returns and statements and pay all taxes, assessments and other impositions applicable to the assets of the Company;

(xviii) to purchase and maintain on behalf of the Company insurance to protect any Director or Officer against any liability asserted against him or her, or incurred by him or her, arising out of his or her status as such;

(xix) to enforce the Company' s rights with respect to the issuer of the Obligations held by the Company; and



(xx) to execute all other documents or instruments, perform all duties and powers and do all things for and on behalf of the Company in all matters necessary or desirable or incidental to the foregoing.

(e) Subject to the provisions of Section 9.02, the expression of any power or authority of the Board of Directors shall not in any way limit or exclude any other power or authority which is not specifically or expressly set forth in this Agreement.

(f) The Company, the Bank or a Subsidiary of the Bank, if applicable, and any Director or Officer on behalf of the Company, is hereby authorized to enter into, execute, deliver and perform the Purchase Agreement, the Services Agreement, the Trust Agreement, the Agency Agreement and any other agreement or instrument related thereto or contemplated thereby, notwithstanding any other provision of this Agreement, the LLC Act or other applicable law, rule or regulation, and without any further action, vote or approval of any Person.

(g) Notwithstanding anything to the contrary in this Agreement, the Manager Trustee shall not be deemed to be a member of the Board of Directors and shall have no right, power or authority to participate in the management of the business and affairs of the Company by the Board of Directors. Such Manager Trustee shall be appointed pursuant to Section 4.02 for the sole purpose of qualifying this Agreement under the Trust Indenture Act and performing the duties and obligations of the Manager Trustee provided by the Trust Indenture Act and as expressly set forth herein.

*Section 9.02. Limits on Board of Directors' Powers.*

(a) Notwithstanding anything to the contrary in this Agreement, the Board of Directors shall not cause or permit the Company to, and the Company shall not:

- (i) acquire any assets other than as expressly provided by this Agreement or the By-laws;
- (ii) possess Company property for other than a Company purpose;
- (iii) admit a Person as a Securityholder, except as expressly provided in this Agreement;
- (iv) perform any act that would subject any Class B Preferred Securityholder to liability for the debts, obligations or liabilities of the Company in any jurisdiction;
- (v) engage in any activity that is not consistent with the purposes of the Company, as set forth in Section 6.01 of this Agreement; or
- (vi) engage in any activity that would cause the Company (i) to be required to register under the 1940 Act, (ii) to be treated as an association or as a "publicly traded partnership" (within the meaning of Section 7704 of the Code) or (iii) to be engaged in a trade or business within the United States for U.S. federal income tax purposes.

*Section 9.03. Reliance by Third Parties.* Persons dealing with the Company are entitled to rely conclusively upon the power and authority of the Board of Directors and of any duly appointed and acting Officers. In dealing with the Board of Directors or any Officer duly appointed and acting as set forth in this Agreement or in the By-laws, no Person shall be required to inquire into the authority of the Board of Directors or any such Officer to bind the Company.

*Section 9.04. No Management by Any Preferred Securityholders.* Except as otherwise expressly provided herein, no Preferred Securityholder, in its capacity as a Preferred Securityholder of the Company, shall take part in the day-to-day management, operation or control of the business and affairs of the Company. The Preferred Securityholders, in their capacity as Preferred Securityholders of the Company, shall not be agents of the Company and shall not have any right, power or authority to transact any business in the name of the Company or to act for or on behalf of or to bind the Company.

*Section 9.05. Business Transactions of the Common Securityholder with the Company.* Subject to Section 9.01 and Section 9.02 of this Agreement and applicable law, a Common Securityholder and any of its Affiliates may hold deposits of, and enter into business transactions with, the Company and, subject to applicable law, shall have the same rights and obligations with respect to any such matter as Persons who are not Common Securityholders or Affiliates thereof.

*Section 9.06. Outside Businesses.* Any Director, Officer, Securityholder or Affiliate thereof may engage in or possess an interest in other business ventures of any nature or description, independently or with others, similar or dissimilar to the business of the Company, and the Company and the Securityholders shall have no rights by virtue of this Agreement in and to such independent ventures or the income or profits derived therefrom, and the pursuit of any such venture, even if competitive with the business of the Company, shall not be deemed wrongful or improper. No Director, Officer, Securityholder or Affiliate thereof shall be obligated to present any particular investment opportunity to the Company even if such opportunity is of a character that, if presented to the Company, could be taken by the Company, and any Director, Officer, Securityholder or Affiliate thereof shall have the right to take for its own account (individually or as a partner or fiduciary) or to recommend to others any such particular investment opportunity

*Section 9.07. Duties of the Independent Directors.* Any Independent Directors appointed pursuant to Section 10.04(i)(i) shall, in making decisions with respect to the declaration of Capital Payments or other matters affecting the rights of the Class B Preferred Securityholders as set forth in Section 10.04, take into account only the interests of the Class B Preferred Securityholders and, with respect to all other matters, the interests of the Common Securityholders, the Class A Preferred Securityholders and the Class B Preferred Securityholders. In considering the interests of the Class B Preferred Securityholders, the Independent Directors shall owe the Class B Preferred Securityholders fiduciary duties comparable to those that a director of a Delaware corporation owes to common shareholders of such corporation.

## ARTICLE 10 COMMON SECURITY AND PREFERRED SECURITIES

*Section 10.01. Common Security and Preferred Securities.*

(a) The Securities of the Company shall be divided into the Common Security and Preferred Securities. The Preferred Securities shall be divided into two separate classes representing limited liability company interests in the Company, the Class A Preferred Security and Class B Preferred Securities, and there shall be one class of common securities representing limited liability company interests in the Company, the Common Security.

(b) No Common Securityholder or Preferred Securityholder shall be entitled as a matter of right to subscribe for or purchase, or have any pre-emptive right with respect to, any part of any new or additional issue of Preferred Securities whatsoever, whether now or hereafter authorized and whether issued for cash or other consideration or by way of a dividend or other distribution.

(c) A Preferred Security shall be represented by a certificate which, in the case of a Class B Preferred Security, may be in global form in the circumstances set forth in Section 16.08. The Common Security shall not be evidenced by any certificate or other written instrument, but shall only be evidenced by this Agreement.

(d) Upon issuance of the Preferred Securities as provided in this Agreement, the Preferred Securities so issued shall be deemed to be validly issued, fully paid and nonassessable.

(e) In purchasing the Preferred Securities, each Preferred Securityholder agrees with the Bank and the Company that the Bank, the Company and the Preferred Securityholders shall treat Preferred Securityholders as Holders of the Preferred Securities in the Company for all purposes, and not as the Holders of an interest in the Bank or in any other person.

(f) The Company may pay capital payments on the Common Security only when, as and if declared by the Board of Directors. If any Class B Preferred Securities are outstanding, the Board of Directors will declare capital payments on the Common Security,

(i) with respect to the Upper Tier 2 Percentage of the Class B Preferred Securities only to the extent the Board of Directors does not declare Capital Payments on the Upper Tier 2 Percentage of the Class B Preferred Securities at the Stated Rate in full on any Class B Payment Date. The Common Security holders shall receive Capital Payments relating to such Upper Tier 2 Percentage of the Class B Preferred Securities only to the extent that (x) Capital Payments are not permitted to be declared on such Upper Tier 2 Percentage on any Class B Payment Date at the Stated Rate in full due to an order of the BaFin (or any other relevant regulatory authority) prohibiting the Bank from making any distribution of profits, (y) a declared or deemed declared Capital Payment on the Class B Preferred Securities does not become an Arrears of Payments pursuant to the provisions governing Capital Payments on the Upper Tier 2 Percentage of the Class B Preferred Securities, and (z) the Company has sufficient Operating Profits. Notwithstanding the foregoing, on each Class B Payment Date, the Common Securityholder will also be entitled to receive a distribution corresponding to the amount of any interest accrued on amounts deposited with the Bank under the Subordinated Deposit Agreement to the extent the Company has sufficient Operating Profits for such distribution; and

(ii) with respect to the Tier 1 Percentage of the Class B Preferred Securities, only if all Capital Payments on the Tier 1 Percentage of the Class B Preferred Securities, if any, in respect of the relevant Class B Payment Period have been declared and paid at the Stated Rate in full.

*Section 10.02. General Provisions Regarding Preferred Securities.*

(a) There is hereby authorized for issuance and sale by the Company securities designated as the Class A Preferred Security and the Class B Preferred Securities. The specific designation, stated rate, liquidation preference amount, redemption terms, voting rights, exchange limitations and other powers, preferences and special rights and limitations of the Class A Preferred Security and the Class B Preferred Securities are set forth in Section 10.03 (with respect to the Class A Preferred Security) and in Section 10.04 (with respect to the Class B Preferred Securities).

(b) The Preferred Securities shall rank senior to all other Securities in respect of the right to receive capital payments including Capital Payments or other distributions and the right to receive payments out of the assets of the Company upon voluntary or involuntary liquidation, dissolution, winding-up or termination of the Company in accordance with the provisions hereof. All Preferred Securities redeemed, purchased or otherwise acquired by the Company shall be canceled.

(c) The Class A Preferred Security shall rank senior to the Class B Preferred Securities in respect of the right to receive payments out of the assets of the Company upon voluntary or involuntary liquidation, dissolution, winding-up or termination of the Company in accordance with the provisions hereof, provided that any payments made by the Guarantor pursuant to the Class B Preferred Guarantee shall be payable by the Company solely to the Class B Preferred Securityholders.

*Section 10.03. Class A Preferred Security.*

(a) **Designation.** There shall hereby be designated as a class of Preferred Securities one Class A Preferred Security (the “**Class A Preferred Security**”). The Class A Preferred Security shall have an aggregate liquidation preference amount of U.S.\$25. The Class A Preferred Security, at any time outstanding, shall be owned by the Bank or one or more Qualified Subsidiaries.

(b) **Class A Capital Payment Rights.** The Class A Preferred Securityholder shall be entitled to receive when, as and if declared by the Board of Directors out of assets of the Company legally available therefor, capital payments in cash or in assets of the Company. The Board of Directors is only authorized to declare capital payments on the Class A Preferred Security, and it is the Company’s intent that the Class A Preferred Securityholder will only receive capital payments in respect of Class B Payment Periods commencing on and after the date on which the Tier 1 Percentage of the Class B Preferred Securities exceeds zero, and then only to the extent that (i) Capital Payments are not declared on the Tier 1 Percentage of the Class B Preferred Securities and paid at the Stated Rate in full on any such Class B Payment Date, and (ii) the Company has sufficient Operating Profits. It is the intention of the Company not to pay capital payments on the Class A Preferred Securities.

Furthermore, the payment of capital payments on the Class A Preferred Security is not a condition to the payment of Capital Payments on the Class B Preferred Securities.

(c) **Redemption Terms.** The Class A Preferred Security shall not be redeemable.

(d) **Voting Rights.** The Class A Preferred Securityholders shall not be entitled to vote other than as provided for elsewhere in this Agreement.

(e) **Liquidation Distribution.** In the event of any voluntary or involuntary liquidation, dissolution, winding-up or termination of the Company, the Class A Preferred Securityholders shall be entitled to receive the Obligations (including interest accrued and unpaid thereon) as their liquidation distribution. For the avoidance of doubt, the Class A Preferred Securityholders shall not be entitled to share in any payments made by the Guarantor pursuant to the Class B Preferred Guarantee.

*Section 10.04. Class B Preferred Securities.*

(a) **Designation.** There shall hereby be designated as a class of Preferred Securities the Class B Preferred Securities (the “**Class B Preferred Securities**”). The Class B Preferred Securities shall have a liquidation preference amount of U.S.\$25 per Class B Preferred Security (the “**Class B Liquidation Preference Amount**”). The Class B Preferred Securities shall be issued in an aggregate Class B Liquidation Preference Amount of U.S.\$1,265,000,025.

(b) Class B Capital Payment Rights.

(i) Class B Preferred Securityholders shall be entitled to receive when, as and if declared (or deemed declared) by the Board of Directors out of assets of the Company legally available therefor, Capital Payments in cash on the Class B Preferred Securities held by them, payable quarterly in arrears on March 30, June 30, September 30 and December 30 of each year, (each a “**Class B Payment Date**”). Capital Payments payable on each Class B Payment Date shall accrue from and including the immediately preceding Class B Payment Date (or May 9, 2008 with respect to the Capital Payment payable June 30, 2008) to but excluding the relevant Class B Payment Date (each a “**Class B Payment Period**”). Capital Payments with respect to the Upper Tier 2 Percentage of the Class B Preferred Securities shall be cumulative and Capital Payments with respect to the Tier 1 Percentage of the Class B Preferred Securities shall be non-cumulative as provided in Section 10.04(b)(vi) below.

(ii) For each Class B Payment Period Capital Payments shall accrue on the Class B Liquidation Preference Amount of each Class B Preferred Security at a fixed rate of 8.05% per annum (the “**Stated Rate**”), calculated on the basis of a 360-day year of twelve 30-day months.

(iii) If any Class B Payment Date or Class B Redemption Date falls on a day that is not a Business Day, payment of all amounts otherwise payable on such date will be made on the next succeeding Business Day, without adjustment, interest or further payment as a result of such delay in payment.

(iv) Capital Payments on the Class B Preferred Securities shall be paid out of amounts received by the Company on the Obligations held by the Company from time to time.

(v) Each Capital Payment declared (or deemed to be declared) shall be payable to the Holders of record as they appear on the Register on the corresponding record date. The record dates for the Class B Preferred Securities shall be (A) for those Class B Preferred Securities held by the Property Trustee (regardless of their own form), so long as the Trust Preferred Securities remain in book-entry form, and for Book-Entry Class B Preferred Certificates, the end of business on the Business Day immediately preceding the relevant Class B Payment Date and (B) in all other cases, the end of business on the 15<sup>th</sup> Business Day prior to the relevant Class B Payment Date.

(vi) Capital Payments on Class B Preferred Securities.

(A) The provisions of this Section 10.04(b)(vi)(A) shall apply solely with respect to the Upper Tier 2 Percentage of the Class B Preferred Securities, and shall have no force or effect with respect to the Tier 1 Percentage of the Class B Preferred Securities.

(1) The right of Class B Preferred Securityholders to receive Capital Payments on the Upper Tier 2 Percentage of the Class B Preferred Securities is cumulative to the extent provided herein. If the Board of Directors does not declare a Capital Payment on the Upper Tier 2 Percentage of the Class B Preferred Securities in respect of any Class B Payment Period (and no such Capital Payment is deemed to be declared), Class B Preferred Securityholders shall have no right to receive a Capital Payment on the Upper Tier 2 Percentage of the Class B Preferred Securities in respect of such Class B Payment Period, and the Company shall have no obligation to pay a Capital Payment on the Upper Tier 2 Percentage of the Class B Preferred Securities in respect of such Class B Payment Period, whether or not Capital Payments on the Upper Tier 2 Percentage of the Class B Preferred Securities are declared and paid in respect of any future Class B Payment Period; however, any such Capital Payment or portion thereof not declared (or deemed to have been declared) by the Company in respect of any such Class B Payment Period shall be deferred.

(2) Capital Payments on the Upper Tier 2 Percentage of the Class B Preferred Securities shall only be authorized to be declared, and declared (or deemed declared) Capital Payments are only authorized to be paid, in each case on any Class B Payment Date to the extent that (i) the Company has an amount of Operating Profits for such Class B Payment Period ending on the day immediately preceding such Class B Payment Date at least equal to the amount of Capital Payments on the Class B Preferred Securities for such Class B Payment Period and (ii) the Bank has an amount of Distributable Profits for the preceding fiscal year for which audited unconsolidated financial statements are available at least equal to the aggregate amount of such Capital Payments on the Class B Preferred Securities and capital payments or dividend or other distributions payable on Parity Capital Securities, and Preferred Tier 1 Capital Securities, if any, *pro rata* based on such

Distributable Profits; provided, however, that if the amount of such Distributable Profits is insufficient to pay all such amounts on the Upper Tier 2 Percentage of the Class B Preferred Securities, the Tier 1 Percentage of the Class B Preferred Securities, the Parity Capital Securities and the Preferred Tier 1 Capital Securities, the Company is nevertheless authorized to declare Capital Payment on the Upper Tier 2 Percentage of the Class B Preferred Securities. In the case of insufficient Distributable Profits, however, the portion of such Capital Payments that cannot be paid will be deferred and will thereupon constitute Arrears of Payments.

In determining the availability of sufficient Distributable Profits of the Bank related to any fiscal year to permit Capital Payments to be declared with respect to the Upper Tier 2 Percentage of the Class B Preferred Securities, any Capital Payments already paid on the Upper Tier 2 Percentage of the Class B Preferred Securities during the succeeding fiscal year of the Bank and any capital payments, dividend or other distributions already paid during the succeeding fiscal year of the Bank on Parity Capital Securities, the Tier 1 Percentage of the Class B Preferred Securities and Preferred Tier 1 Capital Securities, if any, on the basis of such Distributable Profits for such fiscal year, will be deducted from such Distributable Profits.

(a) Notwithstanding the foregoing, if the Bank or any of its Subsidiaries declares or pays any dividend or makes any other payment or distribution on any Tier 2 Junior Securities (other than payments on Tier 2 Junior Securities issued by wholly-owned subsidiaries of the Bank, when such Tier 2 Junior Securities are held exclusively by the Bank or by any of its other wholly-owned subsidiaries), then the Company shall be deemed to have declared Capital Payments on the Upper Tier 2 Percentage of the Class B Preferred Securities at the Stated Rate *pro rata* (in the same proportion that the payment that was made on such Tier 2 Junior Securities had to the amount that was payable on such Tier 2 Junior Securities at the respective times of such payment):

- (i) payable on each of the next four Class B Payment Dates, if the dividend, distribution or other payment on the Tier 2 Junior Securities is paid in respect of an annual period;
- (ii) payable on each of the next two Class B Payment Dates, if the dividend, distribution or other payment on the Tier 2 Junior Securities is paid in respect of a semi-annual period; and
- (iii) payable on the next Class B Payment Date, if the dividend, distribution or other payment on the Tier 2 Junior Securities is paid in respect of a quarterly period.

(b) Further, notwithstanding the foregoing, if the Bank or any of its Subsidiaries declares or pays any dividends or makes any other payment or distribution on any Parity Capital Securities, the Tier 1 Percentage of the Class B Preferred Securities or Preferred Tier 1 Capital Securities (other than a payment in kind of ordinary shares of

common stock or Junior Securities or payments on Preferred Tier 1 Securities issued by wholly-owned subsidiaries of the Bank, when such Preferred Tier 1 Securities are held exclusively by the Bank or by any of its other wholly-owned subsidiaries), then the Company shall be deemed to have declared Capital Payments on the Upper Tier 2 Percentage of the Class B Preferred Securities at the Stated Rate *pro rata* (in the same proportion that the payment that was made on any such Parity Capital Securities, the Tier 1 Percentage of the Class B Preferred Securities or Preferred Tier 1 Capital Securities, as applicable, had to the amount that was payable on such Parity Capital Securities, the Tier 1 Percentage of the Class B Preferred Securities or Preferred Tier 1 Capital Securities, as applicable, at the respective times of such payment):

- (i) payable on each of the next four Class B Payment Dates, if the dividend, distribution or other payment on the Parity Capital Securities, the Tier 1 Percentage of the Class B Preferred Securities or Preferred Tier 1 Capital Securities is paid in respect of an annual period;
- (ii) payable on each of the next two Class B Payment Dates, if the dividend, distribution or other payment on the Parity Capital Securities, the Tier 1 Percentage of the Class B Preferred Securities or Preferred Tier 1 Capital Securities is paid in respect of a semi-annual period; and
- (iii) payable on the next Class B Payment Date, if the dividend, distribution or other payment on the Parity Capital Securities, the Tier 1 Percentage of the Class B Preferred Securities or Preferred Tier 1 Capital Securities is paid in respect of a quarterly period.

If the Capital Payment on the Upper Tier 2 Percentage of the Class B Preferred Securities so deemed declared with respect to any Class B Payment Date is only partial, the portion of such Capital Payment that is not so deemed declared will be deferred and will thereupon constitute Arrears of Payments.

(c) If the Bank or any of its Subsidiaries redeems, repurchases or otherwise acquires any Parity Capital Securities, Tier 2 Junior Securities or Preferred Tier 1 Capital Securities (other than Parity Capital Securities, Tier 2 Junior Securities or Preferred Tier 1 Capital Securities issued by wholly-owned subsidiaries of the Bank, when such Parity Capital Securities, Tier 2 Junior Securities or Preferred Tier 1 Capital Securities are held exclusively by the Bank or any of the Bank's wholly-owned subsidiaries) for any consideration (except by conversion into or exchange for common stock of the Bank), or any moneys are paid to or made available for a sinking fund for, or redemption of, any such securities, other than in connection with

- (i) transactions effected by or for the account of customers of the Bank or any of its Subsidiaries or in connection with the



distribution, trading or market-making in respect of such securities,

the satisfaction by the Bank or any of its Subsidiaries of its obligations under any employee benefit plans or similar

- (ii) arrangements with or for the benefit of employees, officers, directors or consultants, including hedging transactions effected to cover exposure to unvested grants under employee benefit plans,
- (iii) a reclassification of the capital stock of the Bank or any of its Subsidiaries or the exchange or conversion of one class or series of such capital stock for another class or series of such capital stock, or
- (iv) the purchase of fractional interests in shares of the capital stock of the Bank or any of its majority-owned Subsidiaries pursuant to the provisions of any security being converted into or exchanged for such capital stock,

the Company shall be deemed to have declared Capital Payments on the Upper Tier 2 Percentage of the Class B Preferred Securities at the Stated Rate in full payable on each of the next four Class B Payment Dates contemporaneously with and/or immediately following the date on which such redemption, repurchase or other acquisition occurred.

Any Capital Payments on the Upper Tier 2 Percentage of the Class B Preferred Securities so deemed to be declared pursuant to clauses (a), (b) or (c) of this Section 10.04(b)(vi)(A)(2) shall (i) only be authorized to be paid on any Class B Payment Date to the extent the Company has an amount of Operating Profits for the related Class B Payment Period at least equal to the amount of Capital Payments so deemed declared and the amount of Capital Payments declared or deemed declared on the Tier 1 Percentage, if any, of the Class B Preferred Securities with respect to such Class B Payment Period, and (ii) to the extent not authorized to be paid pursuant to clause (i) shall not be considered due and payable for any purposes hereunder or under the Class B Preferred Guarantee, except with respect to such Capital Payments deemed declared after the Trust is dissolved and the Class B Preferred Securities have been distributed to the Holders of the Trust Preferred Securities pursuant to the Trust Agreement, which shall be considered due and payable for purposes of the Class B Preferred Guarantee.

(3) If and to the extent the Company declares (or is deemed to have declared) a Capital Payment in respect of the Upper Tier 2 Percentage of the Class B Preferred Securities for any Class B Payment Period under circumstances where the Distributable Profits of the Bank for the most recent preceding fiscal year are insufficient to pay such Capital Payment in full as well as capital payments, dividends or other distributions or payments then due on Parity Capital Securities, the Tier 1 Percentage of the Class B Preferred Securities and Preferred Tier 1 Capital Securities, payment of all or a portion of such Capital Payment on the Upper Tier 2 Percentage of the Class B

Preferred Securities will be deferred. The portions of such Capital Payments that cannot be paid and have been deferred in such case, together with the portions of Capital Payments that were not declared or deemed to have been declared in respect of such Upper Tier 2 Percentage for any Class B Payment Period and therefore deferred, will be cumulative and will collectively constitute arrearages of payments with respect to the Upper Tier 2 Percentage of the Class B Preferred Securities (“**Arrearages of Payments**”). Arrearages of Payments will not themselves bear interest.

The Company will pay outstanding Arrearages of Payments on the Upper Tier 2 Percentage of the Class B Preferred Securities on the earliest of:

(a) the first Class B Payment Date after such deferral to the extent that for the most recent preceding fiscal year for which audited financial statements are available, the Distributable Profits of the Bank are in an amount exceeding the aggregate of (x) Capital Payments on the Upper Tier 2 Percentage of the Class B Preferred Securities due on such Class B Payment Date, (y) capital payments, dividends or other distributions or payments on Parity Capital Securities, if any, due in respect of such fiscal year, and (z) Capital Payments, dividends or other distributions or payments on the Tier 1 Percentage, if any, of the Class B Preferred Securities and Preferred Tier 1 Capital Securities, if any, due in respect of such fiscal year. In such case, such Arrearages of Payments on the Upper Tier 2 Percentage of the Class B Preferred Securities and any deferred payments on Parity Capital Securities that have been deferred in accordance with their terms (“**Deferred Payments**”), will be paid *pro rata* on the basis of Distributable Profits for such preceding fiscal year, with any Arrearages of Payments that cannot be repaid pursuant to the foregoing on such Class B Payment Date continuing to be deferred and to constitute Arrearages of Payments;

(b) any Class B Redemption Date, in the full amount of outstanding Arrearages of Payments; and

(c) the date on which an order is made for the winding up, liquidation or dissolution of the Company or the Bank (other than for the purposes of or pursuant to an amalgamation, reorganization or restructuring while solvent, where the continuing entity assumes substantially all of the assets and obligations of the Company or the Bank, as the case may be), in the full amount of outstanding Arrearages of Payments.

(4) If, as a result of the deferral of Capital Payments on the Upper Tier 2 Percentage of the Class B Preferred Securities, the Company would receive payments of interest on the Obligations that would exceed Capital Payments declared (or deemed declared) and paid on the Upper Tier 2 Percentage of the Class B Preferred Securities on the corresponding Class B Payment Date (in each such case, “**Excess Interest Amounts**”), the Bank will not pay such Excess Interest Amounts to the Company in cash but will instead, without any instruction or other action being taken by the Company, credit such Excess Interest Amount to the account of the Company at the Bank as a

subordinated deposit in the Bank, subject to the Subordinated Deposit Agreement. The Subordinated Deposit Agreement will provide that the deposit account at the Bank will bear interest at a rate of 0.75% per annum. Any interest accumulating in such deposit account will be payable to the holder of the Common Securityholder under the circumstances described herein. The Subordinated Deposit Agreement will provide that, subject to the subordination provisions of the Subordinated Deposit Agreement, the subordinated deposit outstanding under the Subordinated Deposit Agreement will be terminated, and such deposit repaid to the Company, at such time and to the extent that the Company is required to pay Arrears of Payments. The subordinated deposit outstanding at any time pursuant to the Subordinated Deposit Agreement will be subordinated such that the obligations of the Bank under the Subordinated Deposit Agreement upon the bankruptcy, insolvency or liquidation of the Bank will be (i) subordinated in right of payment to the prior payment in full of all indebtedness and other liabilities of the Bank to its creditors (including subordinated liabilities), except those which by their terms rank on parity with or are subordinated to the Bank's obligations under the Subordinated Deposit Agreement, (ii) on parity with the most senior ranking preference shares of the Bank, if any, and any obligations or instruments of the Bank which by their terms rank on parity with such preference shares and (iii) senior to the Junior Securities.

(5) Notwithstanding any of the foregoing provisions of this Section 10.04(b)(vi)(A), however, Capital Payments on the Upper Tier 2 Percentage of the Class B Preferred Securities shall not be payable on any Class B Payment Date (or a date set for redemption or liquidation) if on such date there is in effect an order of the BaFin (or any other relevant regulatory authority) prohibiting the Bank from making any distribution of profits.

(6) The Company shall have no obligation to make up, at any time, any Capital Payments on the Upper Tier 2 Percentage of the Class B Preferred Securities (including Arrears of Payments) not paid in full by the Company as a result of insufficient Operating Profits of the Company or an order of the BaFin.

(B) The provisions of this Section 10.04(b)(vi)(B) shall apply solely with respect to the Tier 1 Percentage of the Class B Preferred Securities, if any, and shall have no force or effect with respect to any Upper Tier 2 Percentage of the Class B Preferred Securities.

(1) The right of Class B Preferred Securityholders to receive Capital Payments on the Tier 1 Percentage of the Class B Preferred Securities is non-cumulative. If the Board of Directors does not declare a Capital Payment on the Tier 1 Percentage of the Class B Preferred Securities in respect of any Class B Payment Period (and no such Capital Payment is deemed to be declared), Class B Preferred Securityholders shall have no right to receive a Capital Payment on the Tier 1 Percentage of the Class B Preferred Securities in respect of such Class B Payment Period, and the Company shall have no obligation to pay a Capital Payment on the Tier 1 Percentage of the Class B Preferred Securities in respect of such Class B Payment Period, whether or not Capital Payments on the Tier 1 Percentage of the Class B

Preferred Securities are declared (or deemed declared) and paid in respect of any future Class B Payment Period.

(2) Capital Payments on the Tier 1 Percentage of the Class B Preferred Securities shall only be authorized to be declared, and declared (or deemed declared) Capital Payments are only authorized to be paid, in each case on any Class B Payment Date to the extent that (i) the Company has an amount of Operating Profits for such Class B Payment Period ending on the day immediately preceding such Class B Payment Date at least equal to the amount of Capital Payments on the Class B Preferred Securities for such Class B Payment Period and (ii) the Bank has an amount of Distributable Profits for the preceding fiscal year of the Bank for which audited unconsolidated financial statements are available at least equal to the aggregate amount of such Capital Payments on the Tier 1 Percentage of the Class B Preferred Securities and capital payments or dividends or other distributions payable on Preferred Tier 1 Securities, if any, *pro rata*, on the basis of such Distributable Profits; provided, that in determining the availability of sufficient Distributable Profits of the Bank related to any fiscal year to permit Capital Payments to be declared with respect to the Tier 1 Percentage of the Class B Preferred Securities, any Capital Payments already paid on the Tier 1 Percentage of the Class B Preferred Securities and any capital payments, dividend or other distributions already paid during the succeeding fiscal year of the Bank on Preferred Tier 1 Securities, if any, on the basis of such Distributable Profits for such fiscal year will be deducted from such Distributable Profits; provided, further that:

(a) Notwithstanding the foregoing, if the Bank or any of its Subsidiaries declares or pays any dividends or makes any other payment or distribution on any Preferred Tier 1 Securities (other than a payment in kind of ordinary shares of common stock or other Junior Securities or payments on Preferred Tier 1 Securities issued by wholly-owned Subsidiaries of the Bank, when such Preferred Tier 1 Securities are held exclusively by the Bank or by any of its other wholly-owned Subsidiaries), then the Company shall be deemed to have declared Capital Payments on the Tier 1 Percentage of the Class B Preferred Securities at the Stated Rate *pro rata* (in the same proportion that the payment that was made on the Preferred Tier 1 Security had to the amount that was payable on such Preferred Tier 1 Security at the time of such payment):

- (i) payable on each of the next four Class B Payment Dates, if the dividend, distribution or other payment on the Preferred Tier 1 Security is paid in respect of an annual period;
- (ii) payable on each of the next two Class B Payment Dates, if the dividend, distribution or other payment on the Preferred Tier 1 Security is paid in respect of a semi-annual period; or

(iii) payable on the next Class B Payment Date, if the dividend, distribution or other payment on the Preferred Tier 1 Security is paid in respect of a quarterly period.

(b) Further, notwithstanding the foregoing, if the Bank or any of its Subsidiaries declares or pays any dividends or makes any other payment or distribution on its Junior Securities (other than payments in kind of ordinary shares of common stock or other Junior Securities or payments on Junior Securities issued by wholly-owned Subsidiaries of the Bank, when such Junior Securities are held exclusively by the Bank or by any of its other wholly-owned Subsidiaries), then the Company shall be deemed to have declared Capital Payments on the Tier 1 Percentage of the Class B Preferred Securities at the Stated Rate in full:

(i) payable on each of the next four Class B Payment Dates, if the dividend, distribution or other payment on the Junior Security is paid in respect of an annual period;

(ii) payable on each of the next two Class B Payment Dates, if the dividend, distribution or other payment on the Junior Security is paid in respect of a semi-annual period; and

(iii) payable on the next Class B Payment Date, if the dividend, distribution or other payment on the Junior Security is paid in respect of a quarterly period.

(c) If the Bank or any of its Subsidiaries redeems, repurchases or otherwise acquires any Junior Securities or Preferred Tier 1 Securities (other than Junior Securities or Preferred Tier 1 Securities issued by wholly-owned Subsidiaries of the Bank, when such Junior Securities or Preferred Tier 1 Securities are held exclusively by the Bank or by any of its other wholly-owned Subsidiaries), for any consideration (except by conversion into or exchange for ordinary shares of common stock of the Bank or other Junior Securities) or any moneys are paid to or made available for a sinking fund for, or for redemption of, any such securities, other than in connection with:

(i) transactions effected by or for the account of customers of the Bank or any of its Subsidiaries or in connection with the distribution, trading or market-making in respect of such securities,

(ii) the satisfaction by the Bank or any of its Subsidiaries of its obligations under any employee benefit plans or similar arrangements with or for the benefit of employees, officers, directors or

- consultants, including hedging transactions effected to cover exposure of yet unvested grants under employee benefit plans,
- (iii) a reclassification of the capital stock of the Bank or any of its Subsidiaries or the exchange or conversion of one class or series of such capital stock for another class or series of such capital stock, or
  - (iv) the purchase of fractional interests in shares of the capital stock of the Bank or any of its majority-owned Subsidiaries pursuant to the provisions of any security being converted into or exchanged for such capital stock,

the Company shall be deemed to have declared Capital Payments on the Tier 1 Percentage of the Class B Preferred Securities at the Stated Rate in full payable on each of the first four Class B Payment Dates falling contemporaneously with and/or immediately following the date on which such redemption, repurchase or other acquisition occurred.

Any Capital Payments on the Tier 1 Percentage of the Class B Preferred Securities so deemed to be declared pursuant to clauses (a), (b) or (c) of this Section 10.04(b)(vi)(B)(2) shall (i) only be authorized to be paid on any Class B Payment Date to the extent the Company has an amount of Operating Profits for the related Class B Payment Period at least equal to the amount of Capital Payments so deemed declared and (ii) to the extent not authorized to be paid pursuant to clause (i) shall not be considered due and payable for any purposes hereunder or under the Class B Preferred Guarantee, except with respect to such Capital Payments on the Tier 1 Percentage of the Class B Preferred Securities deemed declared after the Trust is dissolved and the Class B Preferred Securities have been distributed to the Holders of the Trust Preferred Securities pursuant to the Trust Agreement, which shall be considered due and payable for purposes of the Class B Preferred Guarantee.

(3) Notwithstanding any of the foregoing provisions of this Section 10.04(b)(vi)(B), however, Capital Payments on the Tier 1 Percentage of the Class B Preferred Securities shall not be payable on any Class B Payment Date (or a date set for redemption or liquidation) if on such date there is in effect an order of the BaFin (or any other relevant regulatory authority) prohibiting the Bank from making any distribution of profits (including to the holders of Preferred Tier 1 Securities, if any such Preferred Tier 1 Securities are then outstanding).

(4) The Company shall have no obligation to make up, at any time, any Capital Payments on the Tier 1 Percentage of the Class B Securities not paid in full by the Company as a result of insufficient Operating Profits of the Company, insufficient Distributable Profits of the Bank or an order of the BaFin.

(c) **Additional Amounts.** The payment of Capital Payments on the Class B Preferred Securities, and any amount payable upon redemption thereof or in liquidation, shall be made without any deduction or withholding for or on account of any present or future taxes, duties or governmental charges of any nature whatsoever imposed, levied or collected by or on behalf of the United States or Germany (or any jurisdiction from which payments are made) or, during any period in which any Substitute Obligations are outstanding, the jurisdiction of residence of any obligor on such Substitute Obligations (or any jurisdiction from which payments are made) (each a “**Relevant Jurisdiction**”) or by or on behalf of any political subdivision or authority therein or thereof having the power to tax (collectively, “**Withholding Taxes**”), unless such deduction or withholding is required by law. In such event, the Company shall pay as additional Capital Payments (or Arrears of Payments, as the case may be), such additional amounts (the “**Additional Amounts**”) to the Class B Preferred Securityholders as may be necessary in order that the net amounts received by the Class B Preferred Securityholders and the Trust Preferred Securityholders after such deduction or withholding for or on account of Withholding Taxes shall equal the amounts that otherwise would have been received had no such deduction or withholding been required, provided, however, that no such Additional Amounts shall be payable in respect of the Class B Preferred Securities

(i) in respect of each portion of the Upper Tier 2 Percentage of the Class B Preferred Securities for Class B Payment Periods prior to the Class B Payment Period during which the respective Tier 1 Qualification Election, if any, occurred, with respect to such portions, if and to the extent that the Company is unable to pay because such payment would exceed the Distributable Profits of the Bank for the fiscal year in respect of which the relevant Capital Payments are payable (after subtracting from such Distributable Profits the amount of the Capital Payments on the Upper Tier 2 Percentage of the Class B Preferred Securities and any payments on Parity Capital Securities, the Tier 1 Percentage, if any, of the Class B Preferred Securities and Preferred Tier 1 Capital Securities, if any, already paid on the basis of such Distributable Profits on or prior to the date on which such Additional Amounts will be payable), in which case such Additional Amounts shall be deferred and will thereupon constitute Arrears of Payments;

(ii) in respect of each portion of the Tier 1 Percentage of the Class B Preferred Securities for Class B Payment Periods from and including the Payment Period during which the respective Tier 1 Qualification Election if any, occurred, with respect to such portion, if and to the extent that the Company is unauthorized to pay because of insufficient Distributable Profits of the Bank for the preceding fiscal year (after subtracting from such Distributable Profits the amounts of Capital Payments on the Tier 1 Percentage of the Class B Preferred Securities and the dividends and other distributions or payments on the Preferred Tier 1 Securities, if any, already paid on the basis of such Distributable Profits on or prior to the date on which such Additional Amounts will be payable);

(iii) with respect to any Withholding Taxes that are payable by reason of a Holder or beneficial owner of the Class B Preferred Securities (other than the Trust) having some connection with the Relevant Jurisdiction other than by reason only of the mere holding or beneficial ownership of Class B Preferred Securities;

(iv) with respect to any Withholding Taxes which are deducted or withheld pursuant to (i) European Council Directive 2003/48/EC or any other European Union Directive or Regulation implementing the conclusions of the ECOFIN Council meeting of 26-27 November 2000 on the taxation of savings income, or (ii) any international treaty or understanding entered into for the purpose of facilitating cooperation in the reporting and collection of savings income and to which (x) the United States, and (y) the European Union or Germany are parties, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding; or

(v) to the extent such deduction or withholding can be avoided or reduced if the Holder or beneficial owner of Class B Preferred Securities makes a declaration of non-residence or other similar claim for exemption to the relevant tax authority or complies with any reasonable certification, documentation, information or other reporting requirement imposed by the relevant tax authority, provided, however, that this exclusion shall not apply if the certification, information, documentation or other reporting requirement would be materially more onerous (in form, procedure or substance of information required to be disclosed) to the Holder or beneficial owner of Class B Preferred Securities than comparable information or other reporting requirements imposed under U.S. tax law, regulation and administrative practice (such as IRS Forms W-8 and W-9).

**(d) Redemption Terms.**

(i) On June 30, 2018 (the “**Initial Redemption Date**”) and on any Class B Payment Date falling on or after the Initial Redemption Date, the Class B Preferred Securities shall be redeemable at the option of the Company, in whole but not in part, at a redemption price per Class B Preferred Security equal to the Class B Liquidation Preference Amount, plus any accrued and unpaid Capital Payments in respect of the then current Class B Payment Period to but excluding the date of redemption (the “**Class B Redemption Date**”), plus, in respect of the Upper Tier 2 Percentage of the Class B Preferred Securities, all outstanding Arrears of Payments, if any, on such portions, plus Additional Amounts, if any, on such portion (the sum of which is the “**Redemption Price**”), provided that, the Company may exercise its right to redeem the Class B Preferred Securities only if (A) the Company has given 30 calendar days’ prior notice (or such longer period as may be required by the relevant regulatory authorities) to the Class B Preferred Securityholders of its intention to redeem the Class B Preferred Securities on the Class B Redemption Date and (B) the Company has obtained any required regulatory approvals.

(ii) The Company shall have the right, upon the occurrence of a Company Special Redemption Event, to redeem the Class B Preferred Securities at any time upon at least 30 calendar days’ prior notice, in whole but not in part, at the Redemption Price, subject to the Company having obtained any required regulatory approvals.

(iii) In the event that payment of the Redemption Price in respect of any Class B Preferred Securities is improperly withheld or refused and not paid, Capital Payments on such Class B Preferred Securities shall continue to accrue at the Stated Rate from the designated Class B Redemption Date to the date of actual payment of the Redemption Price, in which case the actual payment date shall be



considered the Class B Redemption Date for purposes of calculating the Redemption Price.

(iv) No redemption of the Class B Preferred Securities shall take place for any reason unless on the Class B Redemption Date (i) the Company has an amount of cash funds (by reason of payments on the Obligations or the Class B Preferred Guarantee) at least equal to the Redemption Price, plus Additional Amounts, if any, (ii) the Company has an amount of Operating Profits for the current Class B Payment Period at least equal to the Capital Payments on the Class B Preferred Securities and Arrears of Payments, if applicable, accrued and unpaid as of the Class B Redemption Date, plus Additional Amounts, if any, (iii) the Bank has an amount of Distributable Profits for the preceding fiscal year of the Bank for which audited unconsolidated financial statements are available at least equal to the Capital Payments on the Class B Preferred Securities accrued and unpaid as of the Class B Redemption Date, plus the aggregate amount of Capital Payments (including any Arrears of Payments) on the Class B Preferred Securities theretofore paid, plus any Additional Amounts plus (x) if the Upper Tier 2 Percentage of the Class B Preferred Securities exceeds zero, capital payments payable on Parity Capital Securities and Preferred Tier 1 Capital Securities, or (y) if the Upper Tier 2 Percentage of the Class B Preferred Securities is zero, capital payments or dividends payable on any Preferred Tier 1 Securities, if any, in each case on the basis of Distributable Profits for such preceding year, and (iv) no order of the BaFin (or any other relevant regulatory authority) is in effect prohibiting the Bank from making any distribution of profits (including to the holders of Preferred Tier 1 Securities, if any).

No redemption of Class B Preferred Securities, whether on a Class B Payment Date, on or after the Initial Redemption Date or upon the occurrence of a Company Special Redemption Event, shall require the vote or consent of any of the Class B Preferred Securityholders.

**(e) Redemption Procedures.**

(i) An irrevocable notice of redemption of Class B Preferred Securities (a “**Redemption Notice**”) shall be given by the Board of Directors on behalf of the Company, in the manner prescribed in Section 19.09 hereof, to each Class B Preferred Securityholder at least 30 calendar days before the proposed Class B Redemption Date, or such other time period or in such manner as may be required by the relevant regulatory authorities. A Redemption Notice shall be deemed to be given on the day such notice is first delivered, telecopied or mailed by first-class mail, postage prepaid, to Class B Preferred Securityholders. Each Redemption Notice shall be addressed to the Class B Preferred Securityholders at the address of each such Holder appearing in the Register. No defect in the Redemption Notice or in the delivery thereof with respect to any Class B Preferred Securityholder shall affect the validity of the redemption proceedings with respect to any other Class B Preferred Securityholder.

(ii) By 9:00 a.m. New York City time on the Class B Redemption Date, the Company shall (A) with respect to Book-Entry Class B Preferred Certificates, irrevocably deposit with DTC funds sufficient to pay the applicable Redemption Price thereon together with irrevocable instructions to DTC to make such payment or (B) with respect to Definitive Class B Preferred Securities, deposit with

the Paying Agent funds sufficient to pay the applicable Redemption Price thereon together with irrevocable instructions to the Paying Agent to make such payment by check mailed to the relevant Class B Preferred Securityholder (at its address in the Register on the Class B Redemption Date) upon surrender of its Class B Preferred Certificates; provided, however, that for so long as the Trust owns the Class B Preferred Securities (which shall be held of record in the name of the Property Trustee for the benefit of the Holders or beneficial owners of the Trust Preferred Securities and the Holder of the Trust Common Security), payment of the Redemption Price shall be made by wire in same day funds to the Property Trustee by 9:00 a.m., New York City time on the Class B Redemption Date. Upon satisfaction of the foregoing conditions, all rights of Class B Preferred Securityholders so called for redemption shall cease on the Class B Redemption Date, except the right of the Class B Preferred Securityholders to receive the applicable Redemption Price (without interest thereon from and after the Class B Redemption Date).

If the Class B Redemption Date falls on a day that is not a Business Day, payment of all amounts otherwise payable on such date will be made on the next succeeding Business Day, without adjustment, interest or further payment as a result of such delay in payment.

(f) Liquidation Terms

(i) In the event of any voluntary or involuntary liquidation, dissolution, winding up or termination of the Company, each Class B Preferred Securityholder shall, subject to the limitations described herein, be entitled to receive the Class B Liquidation Preference Amount of U.S.\$25 per Class B Preferred Security, plus, in each case, accrued and unpaid Capital Payments in respect of the then current Class B Payment Period to but excluding the date of liquidation, and Arrears of Payments and Additional Amounts, if any. Such entitlement shall arise following the liquidation distribution of the Obligations to the Class A Preferred Securityholders and before any distribution of assets is made to Common Securityholders.

(ii) In the event of any voluntary or involuntary liquidation, dissolution, winding up or termination of the Trust not involving redemption of the Class B Preferred Securities or the liquidation of the Company, the Holders of the Trust Preferred Securities shall be entitled to receive Class B Preferred Securities with a corresponding Class B Liquidation Preference Amount.

(g) **Additional Capital and Indebtedness.** For so long as any of the Class B Preferred Securities are outstanding, the Company shall not issue, without the unanimous consent of all the Class B Preferred Securityholders (excluding any Class B Preferred Securities held by the Bank or any of its Affiliates), any additional equity securities ranking prior to or *pari passu* with the Class B Preferred Securities as to periodic distribution rights or rights on liquidation or dissolution, or incur any indebtedness for money borrowed.

Notwithstanding the foregoing, the Company will, from time to time on or prior to June 30, 2013, and without the consent of the holders of the Class B Preferred Securities, issue additional Class B Preferred Securities having the same terms and conditions as the Class B Preferred Securities in all respects except for the issue date,

the date from which Capital Payments accrue on the Class B Preferred Securities, the issue price, and any other deviations required for compliance with applicable law, so as to form a single series with the Class B Preferred Securities, upon notice from the Bank and in consideration for Obligations of a principal amount equal to the aggregate liquidation preference amount of such additional Class B Preferred Securities and having the same terms and conditions as the Initial Obligation in all respects except for the issue date, the date from which interest accrues on such Obligations, the issue price and any other deviations required for compliance with applicable law.

(h) **Class B Preferred Guarantee.** To the extent set forth in the Class B Preferred Guarantee, the Guarantor has agreed to pay the Class B Preferred Securityholders, as and when due, the Class B Preferred Guarantee Payments. As set forth in the Class B Preferred Guarantee, the obligations of the Guarantor under the Class B Preferred Guarantee shall be several and independent of the Company's obligations hereunder. The Class B Preferred Securityholders, by acceptance of such Class B Preferred Securities, acknowledge and agree to the subordination provisions in, and other terms of, the Class B Preferred Guarantee.

**(i) Rights of Holders.**

(i) If for four consecutive Class B Payment Periods, Capital Payments on the Class B Preferred Securities and any Additional Amounts in respect of such Capital Payments have not been paid at the Stated Rate in full by the Company or by the Guarantor under the Class B Preferred Guarantee, the Class B Preferred Securityholders shall be entitled to appoint two Independent Directors to the Board of Directors. Such Independent Directors shall be elected by ordinary resolution, passed by a Majority of the Class B Preferred Securities entitled to vote thereon, as determined in accordance with Section 11.01, present in person or by proxy at a separate general meeting of such Class B Preferred Securityholders convened for that purpose (which shall be called at the request of any Class B Preferred Securityholder entitled to vote thereon). Any Independent Director so appointed shall vacate office if, in such Independent Director's sole determination, Capital Payments have been paid regularly at the Stated Rate in full by the Company or the Guarantor under the Class B Preferred Guarantee or the Trust Preferred Guarantee for one calendar year. Any such Independent Director may be removed by, and shall not be removed except by, the vote of Holders of a Majority of the Class B Preferred Securities entitled to vote thereon, at a meeting of the Company's Securityholders or of the Class B Preferred Securityholders entitled to vote thereon, called for that purpose.

(ii) The Holders of a Majority of the Class B Preferred Securities have the right to direct the time, method and place of conducting of any proceeding for any remedy available to the Manager Trustee in respect of enforcing the rights of the Class B Preferred Securities under this Agreement, or direct the exercise of any trust or power conferred upon the Manager Trustee under this Agreement.

(iii) If the Manager Trustee fails to enforce its rights under the Agreement after a Class B Preferred Securityholder has made a written request, such Class B Preferred Securityholder may, to the fullest extent permitted by applicable law, institute a legal proceeding directly against the Company to enforce the Manager

Trustee's rights under this Agreement, without first instituting a legal proceeding against the Manager Trustee or any other person or entity.

Notwithstanding the foregoing, if the Company has failed to pay the Redemption Price with respect to Class B Preferred Securities duly called for redemption, any Capital Payments declared (or deemed declared), including Additional Amounts, if applicable, that are due and owing, a Class B Preferred Securityholder may take any action authorized by this Agreement and may directly institute a proceeding in such Class B Preferred Securityholder's own name against the Company for enforcement of this Agreement for such payment or against the Guarantor for enforcement of the Class B Preferred Guarantee in respect of such payment.

(j) **Ratings and Clearance.** If the Class B Preferred Securities are distributed to Holders of Trust Preferred Securities in connection with the involuntary or voluntary dissolution, winding up or liquidation of the Trust, the Company shall use its commercially reasonable efforts to cause the Class B Preferred Securities (i) to be assigned the rating at which the Trust Preferred Securities are then rated and (ii) to be eligible for settlement and clearance through DTC and its participants, if the Trust Preferred Securities are then eligible for clearance through DTC and consequently to be issued in the form of one or more global certificates registered in the name of DTC as the depository or its nominee, and (iii) to be listed on the New York Stock Exchange or on such other national securities exchange as the Trust Preferred Securities are then listed or quoted.

(k) **Tier 1 Qualification Election.** At any time on one or more occasions on or before June 30, 2013, the Bank in its sole discretion may give notice to the Company that, as of the date of such notice, the Bank is making an election (each, a "**Tier 1 Qualification Election**") to treat a percentage of each and every Class B Preferred Security as Tier 1 Regulatory Capital and that as a consequence of such Tier 1 Qualification Election, beginning with the first day of the Class B Payment Period in which such Tier 1 Qualification Election occurs, the determination of Capital Payments and related matters with respect to such percentage of each and every Class B Preferred Security is changed to the terms described in this Agreement as applicable to the Tier 1 Percentage of Class B Preferred Securities; provided, that the Bank may elect this qualification only in increments of 10% of the liquidation preference amount of the Class B Preferred Securities.

Any and each notice of a Tier 1 Qualification Election must specify:

- (i) that the Bank is making the Tier 1 Qualification Election;
- (ii) the Specified Increment to which that Tier 1 Qualification Election pertains;
- (iii) that the Specified Increment will be treated as Tier 1 Percentage for all purposes under this Agreement from the first day of the Class B Payment Period in which that Tier 1 Qualification Election occurred, specifying the date of such first day; and

(iv) the total Tier 1 Percentage of each Class B Preferred Security following that Tier 1 Qualification Election,

the Company shall give notice to the Trust immediately upon receipt from the Bank of the Tier 1 Qualification Election notice.

The Bank shall be under no obligation to make any Tier 1 Qualification Election. However, once the Bank has elected to qualify any percentage of the liquidation preference amount of the Class B Preferred Securities as consolidated Tier 1 regulatory capital of the Bank, that election cannot be reversed. The respective percentages of each Class B Security for which the election has been made and has not been made will not be separable at any time, and each Class B Preferred Security will at all times consist of a single security with a liquidation preference amount of U.S.\$25.

The effectiveness of each Tier 1 Qualification Election is subject to the conditions that, on the date of such Tier 1 Qualification Election,

(i) the BaFin has not applied for the initiation of insolvency proceedings against the Bank,

(ii) the Bank has not given notice to the BaFin that it is insolvent (*zahlungsunfähig*) or overindebted (*überschuldet*) within the meaning of §46b of the German Banking Act (*Gesetz über das Kreditwesen*),

(iii) the BaFin (or any other relevant regulatory authority) has not prohibited the Bank from making the Tier 1 Qualification Election, and

(iv) all Arrears of Payments, if any, have been paid or will be paid by or on the date of such Tier 1 Qualification Election.

If any of these conditions are not met with respect to any Tier 1 Qualification Election, such Tier 1 Qualification Election shall not occur and the Bank shall be deemed to have rescinded the related notice. In such case, the Bank may make a Tier 1 Qualification Election at a later date in compliance with the provisions summarized in this Section 10.04(k).

## ARTICLE 11 VOTING AND MEETINGS

### *Section 11.01. Voting Rights of Preferred Securityholders.*

(a) Except as shall be otherwise expressly provided herein, in the By-laws or as otherwise required by the LLC Act or other applicable law, the Preferred Securityholders shall have no right or power to vote on any question or matter or in any proceeding or to be represented at, or to receive notice of, any meeting of Securityholders.

(b) Notwithstanding that Securityholders holding Preferred Securities may become entitled to vote or consent under any of the circumstances described in this Agreement or in the By-laws, any of the Preferred Securities that are beneficially owned by the Bank, or any of its Subsidiaries or Affiliates (other than the Trust),

either directly or indirectly, shall not, in such case, be entitled to vote or consent and shall, for the purposes of such vote or consent, be treated as if such Preferred Securities were not outstanding, except for Preferred Securities purchased or acquired by the Bank or its Subsidiaries or Affiliates in connection with transactions effected by or for the account of customers of the Bank or any of its Subsidiaries or Affiliates or in connection with the distribution or trading of or market-making in connection with such Preferred Securities; provided, however, that Persons (other than Subsidiaries or Affiliates of the Bank) to whom the Bank or any of its Subsidiaries or Affiliates have pledged Preferred Securities may vote or consent with respect to such pledged Preferred Securities pursuant to the terms of such pledge.

*Section 11.02. Voting Rights of Common Securityholders.* Except as otherwise provided herein, and except as otherwise provided by the LLC Act or other applicable law, all voting rights of the Securityholders shall be vested exclusively in the Common Securityholders. The Common Securityholders shall vote as a single class on any matter on which the Common Securityholders have the right to vote regardless of the voting rights of any other Securityholder.

*Section 11.03. Meetings of the Securityholders.*

(a) Meetings of the Securityholders of any class or of all classes of Securities may be called at any time by the Chairman of the Board, if any, the President, the Board of Directors or any of the Independent Directors, if any, as provided by this Agreement or the By-laws. A special meeting of Securityholders shall also be called by the Secretary upon the written request, stating the purpose of the meeting, of Securityholders who together own of record a Majority of the Securities entitled to vote at such meeting, or, if so provided herein, upon the written request of any Class B Preferred Securityholder entitled to vote in such special meeting.

(b) Except to the extent otherwise provided, the following provisions shall apply to meetings of Securityholders:

(i) Securityholders may vote in person or by proxy at such meeting. Whenever a vote, consent or approval of Securityholders is permitted or required under this Agreement, such vote, consent or approval may be given at a meeting of Securityholders or by written consent.

(ii) Each Securityholder may authorize any Person to act for it by proxy on all matters in which a Securityholder is entitled to participate, including waiving notice of any meeting, or voting or participating at a meeting. Every proxy must be signed by the Securityholder or its attorney-in-fact. Every proxy shall be revocable at the discretion of the Securityholder executing it at any time before it is voted.

(iii) Each meeting of Securityholders shall be conducted by the Board of Directors or by such other Person that the Board of Directors may designate.

(iv) Any required vote of Preferred Securityholders may be given at a separate meeting of such Preferred Securityholders convened for such purpose or at a meeting of Securityholders of the Company or pursuant to written consent. The Board of Directors shall cause a notice of any meeting at which Preferred

Securityholders are entitled to vote pursuant to Section 7.04 or of any matter upon which action may be taken by written consent of such Preferred Securityholders, to be given to each Holder of record of such Preferred Securities in the manner set forth in Section 19.09 hereof. Each such notice shall include a statement setting forth the following information: (i) the date of such meeting or the date by which such action is to be taken, (ii) a description of any resolution proposed for adoption at such meeting on which such Preferred Securityholders are entitled to vote or of such matters upon which written consent is sought and (iii) instructions for the delivery of proxies or consents.

(c) Subject to the provisions of this Agreement, the Board of Directors shall establish all other provisions relating to meetings of Securityholders, including notice of the time, place or purpose of any meeting at which any matter is to be voted on by any Securityholders, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy or any other matter with respect to the exercise of any such right to vote.

## ARTICLE 12 CAPITAL PAYMENTS

### *Section 12.01. Capital Payments.*

(a) Subject to the terms of this Article 12 and the provisions of the LLC Act, (i) Class B Preferred Securityholders shall receive periodic Capital Payments, if any, in accordance with Article 10 of this Agreement only when, as and if declared or deemed declared by the Board of Directors, and (ii) Class A Preferred Securityholders and Common Securityholders shall receive periodic distributions, if any, subject to Article 10 of this Agreement, only when, as and if declared by the Board of Directors.

(b) A Securityholder shall not be entitled to receive any Capital Payment or other distribution with respect to any Class B Payment Date (and any such Capital Payment or other distribution shall not be considered due and payable), irrespective of whether such Capital Payment or other distribution has been declared (or is deemed declared) by the Board of Directors, until such time as the Company shall have funds legally available for the payment of such Capital Payment or such other distribution to such Securityholder pursuant to the terms of this Agreement and the LLC Act, and notwithstanding any provision of Section 18-606 of the LLC Act to the contrary, until such time, a Securityholder shall not have the status of a creditor of the Company, or the remedies available to a creditor of the Company.

*Section 12.02. Limitations on Distributions.* Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not make a distribution (including a Capital Payment) to any Securityholder on account of its Security if such distribution would violate Section 18-607 of the LLC Act or other applicable law. No dividends shall be declared and paid on the Common Security unless all Capital Payments (and Arrears of Payments, if any, and Additional Amounts, if any) on the Class B Preferred Securities, if any, have been declared (or deemed declared) and paid in full at the Stated Rate.

*Section 12.03. Distribution Policy.* The Company shall distribute the full amount of Operating Profits for each Class B Payment Period as a capital payment or

dividend to the Company' s Securityholders on the terms, and subject to the provisions, of this Agreement.

### ARTICLE 13 BOOKS AND RECORDS

*Section 13.01. Financial Statements.* The Board of Directors shall, as soon as available after the end of each Fiscal Year, cause to be prepared and mailed to each Common Securityholder and Preferred Securityholder of record the audited financial statements of the Company for such Fiscal Year prepared in accordance with generally accepted accounting principles in the United States of America.

*Section 13.02. Limitation on Access to Records.* Notwithstanding any provision of this Agreement, the Board of Directors may, to the maximum extent permitted by law, keep, or cause to be kept, confidential from the Preferred Securityholders, for such period of time as the Board of Directors deems reasonable, any information the disclosure of which the Board of Directors reasonably believes to be in the nature of trade secrets or other information the disclosure of which the Board of Directors in good faith believe is not in the best interest of the Company or could damage the Company or its business or which the Company or the Board of Directors are required by law or by an agreement with any Person to keep confidential.

*Section 13.03. Accounting Method.* For both financial and tax reporting purposes and for purposes of determining profits and losses, the books and records of the Company shall be kept on the accrual method of accounting applied in a consistent manner and shall reflect all Company transactions and be appropriate and adequate for the Company' s business.

*Section 13.04. Annual Audit.* As soon as practical after the end of each Fiscal Year, but not later than 90 days after such end, the financial statements of the Company shall be audited by a firm of independent certified public accountants selected by the Board of Directors, and such financial statements shall be accompanied by a report of such accountants containing their opinion. The cost of such audits shall be an expense of and be paid by the Bank.

### ARTICLE 14 TAX MATTERS

*Section 14.01. Company Tax Returns.*

(a) The Bank is hereby designated as the Company' s “**Tax Matters Partner**” under Section 6231(a)(7) of the Code and shall have all the powers and responsibilities of such position as provided in the Code. The Bank is specifically directed and authorized to take whatever steps the Bank, in its discretion, deems necessary or desirable to perfect such designation, including filing any forms or documents with the Internal Revenue Service and taking such other action as may from time to time be required under the Treasury Regulations. Expenses incurred by the Tax Matters Partner in its capacity as such shall be borne by the Company.

(b) The Tax Matters Partner shall cause to be prepared and timely filed all tax returns required to be filed for the Company. The Tax Matters Partner may, in its



discretion, cause the Company to make or refrain from making any U.S. federal, state or local income or other tax elections for the Company that it deems necessary or advisable, including, without limitation, any election under Section 754 of the Code or any successor provision.

*Section 14.02. Tax Reports.* The Tax Matters Partner shall, as promptly as practicable and in any event within 90 days of the end of each fiscal year, cause to be prepared and mailed by the Company to each Preferred Securityholder of record Internal Revenue Service Schedule K-1 and any other forms that are necessary or advisable in order to permit the Securityholders to comply with U.S. federal and any other income tax requirements.

*Section 14.03. Taxation as a Partnership.* The Company shall take any necessary steps to be treated as a partnership for U. S. federal income tax purposes and shall not file any election to be treated as anything other than a partnership for such purposes. The Bank and the Company will use their commercially reasonable efforts to ensure that the Company will not be an association or a publicly traded partnership taxable as a corporation for United States federal income tax purposes.

## ARTICLE 15 EXPENSES

*Section 15.01. Expenses.* Except as otherwise provided herein or in the Services Agreement as long as it is in effect, the Bank, shall be responsible for, and shall pay, all expenses of the Company, provided that such expenses or obligations are those of the Company or are otherwise incurred by or pursuant to the direction of the Board of Directors in connection with this Agreement, including, without limitation:

(a) all costs and expenses related to the business of the Company and all routine administrative expenses of the Company, including the maintenance of books and records of the Company, the preparation and dispatch to the Securityholders of checks, financial reports, tax returns and notices required pursuant to this Agreement and the holding of any meetings of the Securityholders;

(b) all expenses incurred in connection with any litigation involving the Company (including the cost of any investigation and preparation) and the amount of any judgment or settlement paid in connection therewith (other than expenses incurred by any Director in connection with any litigation brought by or on behalf of any Securityholder against such Director);

(c) all expenses for indemnity or contribution payable by the Company to any Person;

(d) all expenses incurred in connection with the collection of amounts due to the Company from any Person;

(e) all expenses incurred in connection with the preparation of amendments or restatements to this Agreement; and

(f) all expenses incurred in connection with the involuntary or voluntary liquidation, dissolution, winding up or termination of the Company.

Without limiting the foregoing, the Bank shall pay (i) all expenses relating to the organization of the Company, the preparation of this Agreement and the issuance of the Securities and (ii) any expenses which relate to the organization and offering of the Securities but are not explicitly referenced to in this Section 15.01 above or in the Services Agreement.

ARTICLE 16  
TRANSFERS OF SECURITIES BY SECURITYHOLDERS  
AND RELATED MATTERS

*Section 16.01. Transfer of the Common Security and Class A Preferred Security.* The Bank undertakes that the Bank or one or more other Qualified Subsidiaries of the Bank will maintain sole ownership of the Common Security and the Class A Preferred Security, and the Bank or a Qualified Subsidiary may transfer the Common Security or the Class A Preferred Security only to the Bank or other Qualified Subsidiaries, provided that prior to such transfer it has received an opinion of a nationally recognized law firm experienced in such matters to the effect that: (i) the Company will continue to be treated as a partnership, and not as an association or publicly traded partnership taxable as a corporation, for United States federal income tax purposes, (ii) such transfer will not cause the Company to be required to register under the 1940 Act, (iii) such transfer will not adversely affect the limited liability of the holders of the Class B Preferred Securities and (iv) such transfers will not otherwise result in a Company Special Redemption Event.

*Section 16.02. Registration.* The Board of Directors shall provide for the registration of Class B Preferred Certificates, the Class A Certificate and the Common Security and of transfers of Class B Preferred Certificates, the Class A Certificate and the Common Security in a record thereof (the “**Register**”) and shall appoint a securities registrar (the “**Registrar**”) and transfer agent (the “**Transfer Agent**”) to act on its behalf; provided, however, that without any action on the part of the Board of Directors being necessary, Deutsche Bank Trust Company Americas, is hereby appointed as the initial Registrar and Transfer Agent.

*Section 16.03. Events of Cessation of Security Ownership.* A person shall cease to be a Securityholder upon the lawful assignment of all of its Securities (including by any redemption or other repurchase by the Company) or as otherwise provided herein.

*Section 16.04. Persons Deemed Securityholders.* The Company may treat the Person in whose name any Class B Preferred Certificate, Class A Preferred Certificate or Common Security shall be registered in the Register as the sole Holder of such Class B Preferred Certificate, Class A Preferred Certificate or Common Security and of the Securities represented thereby for purposes of receiving Capital Payments or other distributions and for all other purposes whatsoever and, accordingly, shall not be bound to recognize any equitable or other claim to or interest in such Class B Preferred Certificate, Class A Preferred Certificate or Common Security or in the securities represented thereby on the part of any other Person, whether or not the Company shall have actual or other notice thereof.

*Section 16.05. The Class B Preferred Certificates.*

(a) The Class B Preferred Certificates shall be issued in denominations equal to the Class B Liquidation Preference Amount or greater integral multiples thereof. Each Class B Preferred Certificate shall be signed, manually, by the President, any

Vice-President or the Secretary of the Company. Class B Preferred Certificates bearing the signatures of individuals who were, at the time when such signatures shall have been affixed, authorized to sign on behalf of the Company shall be validly issued notwithstanding that such individuals or any of them shall have ceased to be so authorized prior to the delivery of such Class B Preferred Certificates or did not hold such offices at the date of delivery of such Class B Preferred Certificates. A transferee of a Class B Preferred Certificate shall become a Securityholder, upon due registration of such Class B Preferred Certificate in such transferee's name pursuant to Section 16.06.

(b) Unless and until the Company issues global Class B Preferred Certificates pursuant to Section 16.08, the Company shall only issue Class B Preferred Securities in certificated, fully registered form (the "**Definitive Class B Preferred Securities**") to the Class B Preferred Securityholders.

(c) In connection with any Tier 1 Qualification Election the Registrar shall reflect the appropriate Tier 1 Percentage and Upper Tier 2 Percentage as of the first day of the Payment Period in which the relevant Tier 1 Qualification Election occurred on Schedule 1 of each Book-Entry Class B Preferred Certificate and shall update Schedule 1 of each Definitive Class B Preferred Security upon transfer or exchange.

*Section 16.06. Transfer of Class B Preferred Certificates.*

(a) Subject to the other provisions of this Article 16, upon surrender for registration of transfer of any Class B Preferred Certificate, the Board of Directors shall cause one or more new Class B Preferred Certificates to be issued in the name of the designated transferee or transferees. Every Class B Preferred Certificate surrendered for registration of transfer shall be accompanied by a written instrument of transfer in form satisfactory to the Board of Directors duly executed by the Class B Preferred Securityholder or his or her attorney duly authorized in writing. Any registration of transfer shall be effected upon the Transfer Agent being satisfied with the documents of title and identity of the person making the request, upon the receipt by the Transfer Agent of any applicable certificate relating to transfer restrictions as described below, and subject to such reasonable regulations as the Company may from time to time establish. Each Class B Preferred Certificate surrendered for registration of transfer shall be canceled by the Board of Directors. A transferee of a Class B Preferred Certificate shall be admitted to the Company as a Class B Preferred Securityholder and shall be entitled to the rights and subject to the obligations of a Class B Preferred Securityholder hereunder upon receipt by such transferee of a Class B Preferred Certificate. By acceptance of a Class B Preferred Certificate, each transferee shall be bound by this Agreement. The transferor of a Class B Preferred Certificate, in whole, shall cease to be a Class B Preferred Securityholder (subject to certain exceptions) at the time that the transferee of such Class B Preferred Certificate is admitted to the Company as a Class B Preferred Securityholder in accordance with this Section 16.06.

(b) Upon surrender for registration of transfer of any Class B Preferred Certificate at the office or agency of the Company or the Registrar maintained for that purpose the Company shall deliver or cause to be delivered to the Registrar in a form duly executed on behalf of the Company in the manner provided for in Section

16.05(a) and the Registrar shall register in the Register and deliver, in the name of the designated transferee or transferees, one or more new Class B Preferred Certificates in authorized denominations of a like aggregate Class B Liquidation Preference Amount dated the date of execution by such Registrar.

The Company and the Registrar shall not be required to issue, register the transfer of or exchange any Class B Preferred Security from and after the opening of business 15 days before the Class B Redemption Date.

No service charge shall be made for any registration of transfer or exchange of Class B Preferred Certificates, but the Registrar may require payment of a sum sufficient to cover any tax or governmental charge that may be imposed in connection with any transfer or exchange of Class B Preferred Certificates.

The Registrar shall retain copies of all letters, notices and other written communications received pursuant to its duties under this Agreement. The Company, at its own expense, shall have the right to inspect and make copies of all such letters, notices or other written communications at any reasonable time upon the giving of reasonable written notice to the Registrar.

(c) Any acquiror or Holder of Class B Preferred Securities (other than the Property Trustee or DTC) or holder of a beneficial interest therein shall be deemed to have represented and warranted by its acquisition and holding of the Class B Preferred Securities that on each day that it holds Class B Preferred Securities either (A) it is not itself, and is not acquiring any Class B Preferred Securities on behalf of or with "plan assets" of, an employee benefit plan or other plan subject to the fiduciary responsibility provisions of ERISA, a plan or arrangement subject to Section 4975 of the Code, a governmental plan which is subject to any federal, state or local law that is substantially similar to such provisions of ERISA or the Code ("**Similar Law**") or an entity whose underlying assets include "plan assets" by reason of any such plan's investment in the entity or (B) the purchase, holding and redemption of any Class B Preferred Securities is exempt by reason of Section 408 (b) (17) of ERISA, Section 4975(d)(20) of the Code or U.S. Department of Labor prohibited transaction class exemption ("**PTCE**") 96-23 (for certain transactions determined by in-house asset managers), PTCE 95-60 (for certain transactions involving insurance company general accounts), PTCE 91-38 (for certain transactions involving bank collective investment funds), PTCE 90-1 (for certain transactions involving insurance company separate accounts), or PTCE 84-14 (for certain transactions determined by independent qualified professional asset managers) or similar exemptions from Similar Law.

*Section 16.07. Mutilated, Destroyed, Lost or Stolen Class B Preferred Certificates.* If (a) any mutilated Class B Preferred Certificate shall be surrendered to the Registrar, or if the Registrar shall receive evidence to its satisfaction of the destruction, loss or theft of any Class B Preferred Certificate, and (b) there shall be delivered to the Registrar and the Company such security or indemnity as may be required by them to save each of them harmless, then in the absence of notice that such Class B Preferred Certificate shall have been acquired by a bona fide purchaser, the Company shall sign and the Company and the Registrar shall make available for delivery (all in the manner provided for in Section 16.05), in exchange for or in lieu of any mutilated, destroyed, lost or stolen Class B Preferred Certificate, a new Class B Preferred Certificate of like class, tenor and denomination. In

connection with the issuance of any new Class B Preferred Certificate under this Section 16.07, the Company or the Registrar may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection therewith. Any duplicate Class B Preferred Certificate issued pursuant to this Section shall constitute conclusive evidence of a limited liability company interest in the Company corresponding to that evidenced by the lost, stolen or destroyed Class B Preferred Certificate, as if originally issued, whether or not the lost, stolen or destroyed Class B Preferred Certificate shall be found at any time.

*Section 16.08. Book-entry Provisions.*

(a) **General.** The provisions of this Section 16.08 shall apply only in the event that the Class B Preferred Securities are distributed to the Holders of Trust Preferred Securities in book-entry form in connection with the involuntary or voluntary liquidation, dissolution, winding-up or termination of the Trust. Upon the occurrence of such event, the Company shall use its commercially reasonable efforts to cause the Class B Preferred Securities to be issued in the form of one or more book-entry Class B Preferred Certificates (the “**Book-Entry Class B Preferred Certificates**”) in fully registered form in the name of DTC or its nominee and beneficial interests of the Holders of the Trust Preferred Securities in the Class B Preferred Securities shall be shown on and transfers thereof shall be effected through records maintained by DTC. In the event that the provisions of this Section 16.08 take effect, still outstanding Definitive Class B Preferred Securities shall be of no further force and effect. In connection with the involuntary or voluntary liquidation, dissolution, winding-up or termination of the Trust, DTC or its nominee shall automatically be admitted as the Class B Preferred Securityholder. Receipt of the Book-Entry Class B Preferred Certificates shall be deemed to constitute a request by DTC or its nominee that the Register of the Company reflect its admission as a Class B Preferred Securityholder. Unless and until new definitive, fully registered Class B Preferred Certificates have been issued to the Class B Preferred Securityholders pursuant to Section 16.08(c):

(i) The provisions of this Section 16.08(a) shall be in full force and effect;

(ii) The Company, the Board of Directors, the Manager Trustee, and the Registrar and Transfer Agent shall be entitled to deal with DTC or its nominee for all purposes of this Agreement (including for purposes of the payment of Capital Payments, the Redemption Price and liquidation distributions and the receipt of approvals, votes or consents hereunder) as the Class B Preferred Securityholder and the sole Holder of the Class B Preferred Certificates and shall have no obligation to any other Class B Preferred Securityholders;

(iii) None of the Company, the Trust, the Board of Directors, the Manager Trustee, or any agents of any of the foregoing shall have any liability or responsibility for any aspect of the records relating to or payments made on account of beneficial ownership interests in a Book-Entry Class B Preferred Certificate for such beneficial ownership interests or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests; and

(iv) Except as provided in Section 16.08(c) below, the Class B Preferred Securityholders shall not be entitled to receive physical delivery of the Class B Preferred Securities in definitive form and shall not be considered Holders thereof for any purpose under this Agreement, and no Book-Entry Class B Preferred Certificate representing Class B Preferred Securities shall be exchangeable, except for another Book-Entry Class B Preferred Certificate of like denomination and tenor to be registered in the name of DTC or its nominee. Accordingly, each Class B Preferred Securityholder must rely on the procedures of DTC, or if such person is not a participant in DTC on the procedures of such a participant through which such person owns its interest, to exercise any rights of a Class B Preferred Securityholder under this Agreement.

(b) **Notices to DTC or its Nominee.** Whenever a notice or other communication to the Class B Preferred Securityholders is required under this Agreement, unless and until Definitive Class B Preferred Securities shall have been issued to the Class B Preferred Securityholder pursuant to Section 16.08(c), the Company, the Board of Directors, and the Manager Trustee shall give all such notices and communications specified herein to be given to the Class B Preferred Securityholders to DTC or its nominee, and shall have no obligations to any other Class B Preferred Securityholders.

(c) **Definitive Class B Preferred Certificates.** In the event that (i) the Class B Preferred Securities are distributed to the Holders of Trust Preferred Securities in book-entry form in connection with the involuntary or voluntary liquidation, dissolution, winding-up or termination of the Trust and (ii) DTC or its nominee notifies the Company that it is unwilling or unable to continue its services as a securities depository with respect to the Class B Preferred Securities and no successor depository shall have been appointed within 90 days of such notification, then Definitive Class B Preferred Securities shall be prepared by the Company and exchanged for the Book-Entry Class B Preferred Certificates. Upon surrender of the Book-Entry Class B Preferred Certificates in whole by the Holder thereof, accompanied by registration instructions, the Board of Directors or authorized Officer shall cause Class B Preferred Certificates to be delivered to those Class B Preferred Securityholders who were owners of beneficial interests in the Book-Entry Class B Preferred Certificate in accordance with the instructions of DTC. None of the Board of Directors, authorized Officers or the Company shall be liable for any delay in delivery of such instructions and each of them may conclusively rely on, and shall be protected in relying on, such instructions. Any Person receiving a Definitive Class B Preferred Certificate in accordance with this Section 16.08 shall be admitted to the Company as a Class B Preferred Securityholder upon receipt of such Definitive Class B Preferred Certificate and shall be registered in the Register of the Company as a Class B Preferred Securityholder. DTC or its nominee, as the case may be, shall cease to be a Class B Preferred Securityholder under this Section 16.08(c) at the time of such surrender and delivery. The Definitive Class B Preferred Certificates shall be printed, lithographed or engraved or may be produced in any other manner as may be required by a securities exchange, if any, on which Class B Preferred Securities may be listed and as is reasonably acceptable to any Officer of the Company, as evidenced by his or her execution thereof.

ARTICLE 17  
MERGERS, CONSOLIDATIONS AND SALES; REINVESTMENT OF OBLIGATIONS

*Section 17.01. The Company.* Subject to Section 19.01, the Company may not consolidate, amalgamate, merge with or into, or be replaced by, or convey, transfer or lease its properties and assets substantially as an entirety to, any corporation or other body, except as described below. The Company may, with the consent of at least 66 2/3% of the Class B Preferred Securityholders, consolidate, amalgamate, merge with or into, or be replaced by a limited partnership, limited liability company or trust organized as such under the laws of any state of the United States of America, provided that:

(a) such successor entity either (i) expressly assumes all of the obligations of the Company under the Class B Preferred Securities or (ii) substitutes for the Class B Preferred Securities other securities having substantially the same terms as the Class B Preferred Securities (the “**Successor Company Securities**”) so long as the Successor Company Securities are not junior to any equity securities of the successor entity, with respect to participation in the profits, distributions and assets of the successor entity, except that they may rank junior to the Class A Preferred Security or any successor Class A Preferred Security to the same extent that the Class B Preferred Securities rank junior to the Class A Preferred Security,

(b) the Bank expressly acknowledges such successor entity as the Holder of the Obligations and holds, directly or indirectly, all of the voting securities (within the meaning of Rule 3a-5 under the 1940 Act) of such successor entity,

(c) such consolidation, merger, amalgamation or replacement does not cause the Trust Preferred Securities (or, in the event that the Trust is liquidated, the Class B Preferred Securities (including any Successor Company Securities)) to be downgraded by any nationally recognized rating organization,

(d) such consolidation, merger, amalgamation or replacement does not adversely affect the powers, preferences and other special rights or the tax treatment of the Holders of the Trust Preferred Securities or Class B Preferred Securities (including any Successor Company Securities) in any material respect,

(e) such successor entity has a purpose substantially identical to that of the Company,

(f) prior to such consolidation, merger, amalgamation or replacement, the Company has received an opinion of a nationally recognized law firm experienced in such matters to the effect that

(i) such successor entity will be treated as a partnership, and will not be classified as an association or a publicly traded partnership taxable as a corporation, for United States federal income tax purposes,

(ii) such consolidation, merger, amalgamation or replacement would not cause the Trust to be classified as other than a grantor trust for United States federal income tax purposes,

(iii) following such consolidation, merger, amalgamation or replacement, such successor entity will not be required to register under the 1940 Act and

(iv) such consolidation, merger, amalgamation or replacement will not adversely affect the limited liability of the Class B Preferred Securityholders,

(g) such consolidation, merger, amalgamation or replacement does not otherwise result in a Company Special Redemption Event, and

(h) the Guarantor guarantees the obligations of such successor entity under the Successor Company Securities at least to the extent provided by the Class B Preferred Guarantee.

*Section 17.02. Substitute Obligations.* Upon the redemption of an Obligation (at its maturity, if any, or otherwise) under circumstances that do not involve the redemption of the Class B Preferred Securities, the Bank will deliver and the Company will accept, in replacement thereof, Substitute Obligations, provided, in each case, that (i) the Bank has received the written opinion of a nationally recognized law firm in the United States that reinvestment in such Substitute Obligation will not adversely affect the “qualified dividend income” eligibility for purposes of Section 1(h)(11) of the Internal Revenue Code of 1986, as amended (or any successor legislation), of Capital Payments on the Trust Preferred Securities or cause the holders thereof to recognize gain or loss for U.S. federal income tax purposes and (ii) such substitution or replacement does not result in a Company Special Redemption Event or a Trust Special Redemption Event, and provided, further in each case that the Bank has obtained any required regulatory approvals.

## ARTICLE 18 DISSOLUTION, LIQUIDATION AND TERMINATION

*Section 18.01. No Dissolution.* The Company shall not be dissolved by the admission of Securityholders. The death, insanity, retirement, resignation, expulsion, or dissolution of a Securityholder, or the occurrence of any other event which terminates the continued membership of a Securityholder in the Company, shall not in and of itself cause the Company to be dissolved and its affairs wound up. Upon the occurrence of any such event, the business of the Company shall be continued without dissolution. The Bankruptcy of a Securityholder shall not cause a Securityholder to cease to be a member of the Company, and upon the occurrence of any such event the existence of the Company shall continue without dissolution. Notwithstanding any other provision of this Agreement, each Securityholder waives any right it might have to agree in writing to dissolve the Company upon the Bankruptcy of a Securityholder, or the occurrence of an event that causes a Securityholder to cease to be a member of the Company.

*Section 18.02. Events Causing Dissolution.* The Company shall be dissolved and its affairs shall be wound up upon the occurrence of any of the following events:

(a) a decree or order by a court having jurisdiction in the premises shall have been entered adjudging the Company a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of the Company under any applicable U.S. federal or state bankruptcy or similar law, and such decree or order shall have continued undischarged and unstayed



for a period of 90 days; or a decree or order of a court having jurisdiction in the premises for the appointment of a receiver, liquidator, trustee, assignee, sequestrator or similar official in bankruptcy or insolvency of the Company or of all or substantially all of its property, or for the winding up or liquidation of its affairs, shall have been entered, and such decree or order shall have continued undischarged and unstayed for a period of 90 days or the Company shall institute proceedings to be adjudicated a voluntary bankrupt, or shall consent to the filing of a bankruptcy proceeding against it, or shall file a petition or answer or consent seeking reorganization, arrangement, adjustment or composition under any applicable federal or state bankruptcy or similar law, or shall consent to the filing of any such petition, or shall consent to the appointment of a receiver, liquidator, trustee, assignee, sequestrator or similar official in bankruptcy or insolvency of the Company or of all or substantially all of its property, or shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due and its willingness to be adjudged a bankrupt, or action shall be taken by the Company in furtherance of any of the aforesaid purposes;

(b) the entry of a decree of judicial dissolution of the Company under Section 18-802 of the LLC Act;

(c) the entry of an order by a court initiating insolvency, bankruptcy or liquidation proceedings in respect of the Bank under German law, or the adoption of a shareholder's resolution providing for the liquidation of the Bank under German law, except for any liquidation resulting from an amalgamation, consolidation, merger or replacement;

(d) the redemption, repurchase or exchange of all outstanding Preferred Securities;

(e) the written consent of all Securityholders; or

(f) the termination of the legal existence of the last remaining Securityholder of the Company or the occurrence of any other event which terminates the continued membership of the last remaining Securityholder of the Company in the Company unless the Company is continued without dissolution in a manner permitted by this Agreement or the LLC Act.

Upon the occurrence of any event that causes the last remaining Securityholder of the Company to cease to be a Securityholder of the Company (other than upon an assignment by the Securityholder of all of its limited liability company interest in the Company and the admission of the transferee pursuant to this Agreement), to the fullest extent permitted by law, the personal representative of such Securityholder is hereby authorized to, and shall, within 90 days after the occurrence of the event that terminated the continued membership of such Securityholder in the Company, agree in writing (i) to continue the Company and (ii) to the admission of the personal representative or its nominee or designee, as the case may be, as a substitute member of the Company, effective as of the occurrence of the event that terminated the continued membership of the last remaining Securityholder of the Company.

Notwithstanding the foregoing, the Company shall not be dissolved until all claims under the Guarantees have been paid in full pursuant to their respective terms, to the fullest extent permitted by law.

*Section 18.03. Notice of Dissolution.* Upon the dissolution of the Company, the Board of Directors shall promptly notify the Securityholders of such dissolution.

*Section 18.04. Liquidation.* Upon dissolution of the Company, the Board of Directors or, in the event that the dissolution is caused by an event described in Section 18.02(b) or (c) of this Agreement and there are no Directors, a Person or Persons who may be approved by the Class B Preferred Securityholders holding not less than 66 2/3% of the Class B Preferred Securities, as liquidating trustees, shall immediately commence to wind up the Company's affairs provided, however, that a reasonable time shall be allowed for the orderly liquidation of the assets of the Company and the satisfaction of liabilities to creditors so as to minimize the losses attendant upon a liquidation. The proceeds of liquidation shall be distributed, as realized, in the manner provided in Section 18-804 of the LLC Act.

*Section 18.05. Termination.* The Company shall terminate when all of the assets of the Company have been distributed in the manner provided for in this Article 18, and the LLC Certificate shall have been canceled in the manner required by the LLC Act.

## ARTICLE 19 MISCELLANEOUS

*Section 19.01. Amendments.* This Agreement may be amended by a written instrument executed by an Officer designated by the Board of Directors without the consent of any Preferred Securityholder; provided, however, that (a) no amendment shall be made, and any such purported amendment shall be void and ineffective, to the extent either that such amendment (w) would result in the Company being deemed to be required to register under the 1940 Act, (x) would result in causing the Company to be treated as anything other than a partnership for purposes of United States federal income taxation, (y) has not received any prior requisite approval of Class B Preferred Securityholders as may be expressly provided in this Agreement or the By-laws or (z) would result in a Company Special Redemption Event, (b) so long as any Class B Preferred Securities are outstanding, the Company shall not, without the affirmative vote of at least 66 2/3% of the Class B Preferred Securities voting as a single class (entitled to vote thereon as determined in accordance with Section 11.01) (x) amend, alter, repeal or change any provision of this Agreement (including the terms of the Class B Preferred Securities) if such amendment, alteration, repeal or change would materially adversely affect the rights, preferences, powers or privileges of the Class B Preferred Securities, (y) agree to modify or amend any provision of, or waive any default in the payment of any amount under, the Obligations in any manner that would materially affect the interests of the Class B Preferred Securityholders or (z) effect any merger, consolidation or business combination involving the Company or sale of all or substantially all of the assets of the Company, provided, that in any event any such merger, consolidation, business combination or sale of assets must also comply with Section 17.01 and (c) so long as any Class B Preferred Securities are outstanding, the Company shall not, without the affirmative vote of each Class B Preferred Securityholder affected thereby, amend, alter, repeal or change the right of such Class B Preferred Securityholder to receive the Capital Payments or the applicable Redemption Price, in each case that have become due and payable.

*Section 19.02. Amendment of LLC Certificate.* In the event this Agreement shall be amended pursuant to Section 19.01, the Board of Directors shall cause the LLC Certificate to be amended to reflect such change if it deems such amendment of the LLC Certificate to be necessary or appropriate.

*Section 19.03. Successors.* This Agreement shall be binding as to the executors, administrators, estates, heirs and legal successors, or nominees or representatives, of the Securityholders.

*Section 19.04. Law; Severability.* THIS AGREEMENT AND THE RIGHTS OF PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS. In particular, this Agreement shall be construed to the maximum extent possible to comply with all of the terms and conditions of the LLC Act. If, nevertheless, it shall be determined by a court of competent jurisdiction that any provisions or wording of this Agreement shall be invalid or unenforceable under the LLC Act or other applicable law, such invalidity or unenforceability shall not invalidate the entire Agreement. In that case, this Agreement shall be construed so as to limit any term or provision so as to make it enforceable or valid within the requirements of applicable law, and, in the event such term or provisions cannot be so limited, this Agreement shall be construed to omit such invalid or unenforceable provisions. If it shall be determined by a court of competent jurisdiction that any provision relating to the distributions and allocations of the Company or to any fee payable by the Company is invalid or unenforceable, this Agreement shall be construed or interpreted so as (a) to make it enforceable or valid and (b) to make the distributions and allocations as closely equivalent to those set forth in this Agreement as is permissible under applicable law.

*Section 19.05. Filings.* Following the execution and delivery of this Agreement, the Board of Directors shall cause to be promptly prepared any documents required to be filed and recorded under the LLC Act, and the Board of Directors shall cause to be promptly filed and recorded each such document in accordance with the LLC Act and, to the extent required by local law, to be filed and recorded or notice thereof to be published in the appropriate place in each jurisdiction in which the Company may hereafter establish a place of business. The Board of Directors shall also promptly cause to be filed, recorded and published such statements of fictitious business name and any other notices, certificates, statements or other instruments required by any provision of any applicable law of the United States or any state or other jurisdiction which governs the conduct of its business from time to time.

*Section 19.06. Power of Attorney.* Each Preferred Securityholder does hereby constitute and appoint each Person specifically authorized by the Board of Directors to act as its true and lawful representative and attorney-in-fact, in its name, place and stead to make, execute, sign, deliver and file (a) any amendment of the LLC Certificate required because of an amendment to this Agreement or in order to effectuate any change in the ownership of the Securities of the Company, (b) any amendments to this Agreement made in accordance with the terms hereof and (c) all such other instruments, documents and certificates which may from time to time be required by the laws of the United States of America, the State of Delaware or any other jurisdiction, or any political subdivision or agency thereof, to effectuate, implement and continue the valid and subsisting existence of the Company or to dissolve the Company or for any other purpose consistent with this Agreement and the transactions contemplated hereby.

The Power of Attorney granted hereby is coupled with an interest and shall (a) survive and not be affected by the subsequent death, incapacity, disability, dissolution, termination or Bankruptcy of the Preferred Securityholder granting the same or the transfer of all or any portion of such Preferred Securityholder' s Preferred Securities and (b) extend to such Preferred Securityholder' s successors, assigns and legal representatives.

*Section 19.07. Exculpation.*

(a) No Director or Officer shall have personal liability to the Company or the Securityholders for monetary damages for breach of, in the case of a Director, such Director' s fiduciary duty (if any) or, in the case of a Director or an Officer, for any act or omission performed or omitted by such Director or Officer in good faith on behalf of the Company, except for such Director' s or Officer' s gross negligence or willful misconduct.

(b) Each Director and Officer shall be fully protected in relying in good faith upon the records of the Company and upon such information, opinions, reports or statements presented to the Company by any Person as to matters such Director or Officer reasonably believes are within such other Person' s professional or expert competence and who has been selected with reasonable care by or on behalf of the Company, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits, losses, or any other facts pertinent to the existence and amount of assets from which distributions to Securityholders might properly be paid.

*Section 19.08. Indemnification.* To the fullest extent permitted by applicable law, each Director and Officer shall be entitled to indemnification from the Bank for any loss, damage, claim or expense (including reasonable attorney' s fees) incurred by such Director or Officer by reason of any act or omission performed or omitted by such Director or Officer in good faith on behalf of the Company and in a manner reasonably believed to be within the scope of authority conferred on such Director or Officer by this Agreement, except with respect to any act or omission determined by a court of competent jurisdiction to have constituted gross negligence or willful misconduct of such Director or Officer.

*Section 19.09. Notices.* All notices provided for in this Agreement shall be in writing, duly signed by the party giving such notice, and shall be delivered, telecopied or mailed by registered or certified mail, as follows:

(i) If given to the Company, at the Company' s mailing address set forth below:

Deutsche Bank Contingent Capital LLC V  
60 Wall Street  
New York, New York 10005

Telecopy No.: (732) 460-7125  
Attention: Treasury (mail stop NYC 60-4011)

(ii) If given to the Bank or the Guarantor, at the mailing address set forth below:

Deutsche Bank Aktiengesellschaft  
Theodor-Heuss-Allee 70  
D-60486 Frankfurt am Main  
Germany

Telecopy No.: (+49) 69 910-35092  
Attention: Group Treasury

with a copy to:

Deutsche Bank Contingent Capital LLC V  
60 Wall Street  
New York, New York 10005

(iii) If given to the Trust, at the Trust' s mailing address set forth below:

Deutsche Bank Contingent Capital Trust V  
60 Wall Street  
New York, New York 10005

Telecopy No.: (732) 460-7125  
Attention: Treasury (mail stop NYC 60-4011)

with a copy to:

Deutsche Bank Contingent Capital Trust V  
c/o Deutsche Bank Trust Company Delaware  
1011 Centre Road, Suite 200  
Wilmington, Delaware 19805

(iv) If given to the Paying Agent, Registrar or Transfer Agent at the mailing address set forth below:

Deutsche Bank Trust Company Americas  
60 Wall Street, 27th Floor  
NYC60-2710  
New York, New York 10005

Telecopy No.: 732-578-4635  
Attention: Trust & Securities Services

(v) If given to the Manager Trustee, at the mailing address set forth below:

The Bank of New York  
101 Barclay Street, Floor 4 East  
New York, New York 10286

United States

Telecopy No.: (212) 815-5802

Attention: Corporate Trust Administration

(vi) If given to any Securityholder, at the address set forth in the Register.

Each such notice, request or other communication shall be effective (a) if given by telecopier, when transmitted to the number specified in such Register and the appropriate confirmation is received, (b) if given by mail, 72 hours after such communication is deposited in the mails with first class postage prepaid, addressed as aforesaid, or (c) if given by any other means, when delivered at the address specified in the Register.

*Section 19.10. Additional Documents.* Each Preferred Securityholder, upon the request of the Board of Directors, agrees to perform all further acts and execute, acknowledge and deliver any documents that may be reasonably necessary to carry out the provisions of this Agreement.

*Section 19.11. Counterparts.* This Agreement may be executed in any number of counterparts, each of which shall be deemed an original of this Agreement and all of which together shall constitute one and the same agreement.

IN WITNESS WHEREOF, this Agreement is executed as of the date first above stated.

DEUTSCHE BANK AKTIENGESELLSCHAFT,  
as initial Common Securityholder and  
as initial Class A Preferred Securityholder

By: /s/ Jonathan Blake  
Name: Jonathan Blake  
Title: Director, Head of Capital Market Issuance

By: /s/ Marco Zimmermann  
Name: Marco Zimmermann  
Title: Vice President, Issuance and Liquidity  
Manager

DEUTSCHE BANK CONTINGENT CAPITAL TRUST  
V,  
as initial Class B Preferred Securityholder

By: /s/ Richard Ferguson  
Name: Richard Ferguson  
Title: Regular Trustee

By: /s/ Joseph J. Rice  
Name: Joseph J. Rice  
Title: Regular Trustee

THE BANK OF NEW YORK,  
as Manager Trustee

By: /s/ Lesley Daley  
Name: Lesley Daley  
Title: Assistant Vice President

Amended & Restated LLC Agreement

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BY-LAWS

OF

Deutsche Bank Contingent Capital LLC V

These By-laws have been established as the By-laws of Deutsche Bank Contingent Capital LLC V, a Delaware limited liability company (the “**Company**”) pursuant to the Amended and Restated Limited Liability Company Agreement, dated as of May 9, 2008 (as from time to time amended, modified, restated or supplemented, the “**Agreement**”), pursuant to which the Company’s existence has been continued, and, together with the Agreement and the other annexes thereto, are deemed to be the limited liability company agreement of the Company for purposes of the LLC Act. In the event of any inconsistency between the Agreement and these By-laws, the provisions of the Agreement shall control.

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

ARTICLE 1  
SECURITYHOLDERS

*Section 1.01. Annual Meetings.* An annual meeting of the Common Securityholders shall be held at such date, time and place either within or without the State of Delaware if and as may be decided and designated by the Board of Directors from time to time. Any other proper business may be transacted at the annual meeting.

*Section 1.02. Special Meetings.* Special meetings of Securityholders may be called at any time by the Chairman of the Board, if any, the President, the Board of Directors or any of the Independent Directors, if any, to be held at such date, time and place either within or without the State of Delaware as may be stated in the notice of the meeting. A special meeting of Securityholders shall be called by the Secretary upon the written request, stating the purpose of the meeting, of Securityholders who together own of record a majority of the Securities entitled to vote at such meeting, or, if so provided in the Agreement, upon the written request of any Class B Preferred Securityholder entitled to vote in such special meeting.

*Section 1.03. Notice of Meetings.* Whenever Securityholders are required or permitted to take any action at a meeting, a written notice of the meeting shall be given which shall state the place, date and hour of the meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called. Unless otherwise provided by law, the written notice of any meeting shall be given not less than ten nor more than sixty days before the date of the meeting to each Securityholder entitled to vote at such meeting. If mailed, such notice shall be deemed to be given when deposited in the United States mail, postage prepaid, directed to the Securityholder at such Securityholder’s address as it appears on the records of the Company.

Amended & Restated LLC Agreement

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Section 1.04. *Adjournments.* Any meeting of Securityholders, annual or special, may be adjourned from time to time, to reconvene at the same or some other place, and notice need not be given of any such adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting the Company may transact any business which might have been transacted at the original meeting. If the adjournment is for more than thirty days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each Securityholder of record entitled to vote at the meeting.

Section 1.05. *Quorum.* At each meeting of Securityholders, except where otherwise provided by law or the Agreement or these By-laws, the Holders of at least 50% of the Securities entitled to vote on a matter at the meeting, present in person or represented by proxy, shall constitute a quorum. In the absence of a quorum of the Holders of Securities entitled to vote on a matter, the Holders of a majority of the Securities present or represented may adjourn such meeting from time to time in the manner provided by Section 1.04 of these By-laws until a quorum shall be so present or represented. Securities other than the Common Security belonging on the record date for the meeting to the Bank or an Affiliate of the Bank shall neither be entitled to vote nor be counted for quorum purposes.

Section 1.06. *Organization.* Meetings of Securityholders shall be presided over by the Chairman of the Board, if any, or in the absence of the Chairman of the Board by the President, or in the absence of the President by a Vice President, or in the absence of the foregoing persons, by a chairman designated by the Board of Directors, or in the absence of such designation, by a chairman chosen at the meeting. The Secretary, or in the absence of the Secretary, an Assistant Secretary, shall act as secretary of the meeting, but in the absence of the Secretary and any Assistant Secretary, the chairman of the meeting may appoint any person to act as secretary of the meeting.

Section 1.07. *Voting: Proxies.* Unless otherwise provided in the Agreement, each Securityholder entitled to vote at any meeting of Securityholders shall have voting power proportionate to the outstanding amount, based on initial issue price, of the Securities held by such Securityholder that have voting power upon the matter in question. Each Securityholder entitled to vote at a meeting of Securityholders or to express consent or dissent to action in writing without a meeting may authorize another person or persons to act for such Securityholder by proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. A duly executed proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power, regardless of whether the interest with which it is coupled is an interest in the Securities themselves or an interest in the Company generally. A Securityholder may revoke any proxy which is not irrevocable by attending the meeting and voting in person or by filing an instrument in writing revoking the proxy or another duly executed proxy bearing a later date with the Secretary of the Company. Voting at meetings of Securityholders need not be by written ballot unless the Holders of a majority of the outstanding Securities entitled to vote thereon present in person or represented by proxy at such meeting shall so determine. Directors shall be designated, removed and replaced as provided in the Agreement and Article II hereof. Other than in the case of any matter expressly set forth in the Agreement for which a higher vote is required, the affirmative vote of the Holders of a majority of the Securities present in person or represented by proxy at the meeting and entitled to vote on the subject matter shall be the act of the Securityholders.

*Section 1.08. Fixing Date for Determination of Securityholders of Record.* In order that the Company may determine the Securityholders entitled to notice of or to vote at any meeting of Securityholders or any adjournment thereof, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall not be more than sixty nor less than ten days before the date of such meeting. If no record date is fixed by the Board of Directors, the record date for determining Securityholders entitled to notice of or to vote at a meeting of Securityholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of Securityholders of record entitled to notice of or to vote at a meeting of Securityholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

In order that the Company may determine the Securityholders entitled to consent to action in writing without a meeting, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which date shall not be more than ten days after the date upon which the resolution fixing the record date is adopted by the Board of Directors. If no record date has been fixed by the Board of Directors, the record date for determining Securityholders entitled to consent to action in writing without a meeting, when no prior action by the Board of Directors is required by law, shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Company by delivery to (a) its registered office in the State of Delaware, (b) its principal place of business, or (c) an Officer or agent of the Company having custody of the book in which proceedings of meetings of Securityholders are recorded. Delivery made to the Company's registered office shall be by hand or by certified or registered mail, return receipt requested. If no record date has been fixed by the Board of Directors and prior action by the Board of Directors is required by law, the record date for determining Securityholders entitled to consent to action in writing without a meeting shall be at the close of business on the day on which the Board of Directors adopts the resolution taking such prior action.

In order that the Company may determine the Securityholders entitled to receive payment of any distribution or allotment of any rights or the Securityholders entitled to exercise any rights in respect of any exchange of Securities, or for the purpose of any other lawful action, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than sixty days prior to such action. If no record date is fixed, the record date for determining Securityholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

*Section 1.09. List of Securityholders Entitled to Vote.* The Secretary shall prepare and make, at least ten days before every meeting of Securityholders, a complete list of the Securityholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each Securityholder and the amount of Securities registered in the name of each Securityholder. Such list shall be open to the examination of any Securityholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten days prior to the meeting, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting, or, if not so specified, at the place where the meeting is to be held. The list shall also be produced and

kept at the time and place of the meeting during the whole time thereof and may be inspected by any Securityholder who is present.

*Section 1.10. Consent of Securityholders in Lieu of Meeting.* Unless otherwise provided in the Agreement or by law, any action required by law to be taken at any annual or special meeting of Securityholders of the Company, or any action which may be taken at any annual or special meeting of such Securityholders, may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the Holders of outstanding Securities having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all Securities entitled to vote thereon were present and voted and shall be delivered to the Company by delivery to (a) its registered office in the state of Delaware by hand or by certified mail or registered mail, return receipt requested, (b) its principal place of business, or (c) an Officer or agent of the Company having custody of the book in which proceedings of meetings of Securityholders are recorded. Every written consent shall bear the date of signature of each Securityholder who signs the consent and no written consent shall be effective to take the action referred to therein unless, within sixty days of the earliest dated consent delivered in the manner required by these By-laws to the Company, written consents signed by Holders representing a sufficient amount of Securities to take action are delivered to the Company by delivery to (a) its registered office in the State of Delaware by hand or by certified or registered mail, return receipt requested, (b) its principal place of business, or (c) an Officer or agent of the Company having custody of the book in which proceedings of meetings of Securityholders are recorded. Prompt notice of the taking of the action without a meeting by less than unanimous written consent shall be given to those Securityholders who have not consented in writing.

## ARTICLE 2 BOARD OF DIRECTORS

*Section 2.01. Number; Powers; By-laws.* The business and affairs of the Company shall be managed by or under the direction of a Board of Directors composed initially of four Directors and thereafter of not less than four nor more than seven Directors. The Board shall manage the business and affairs of the Company and may exercise all powers in connection therewith, and except for such powers as are required to be exercised by Securityholders, all in accordance with the Agreement, these By-laws and applicable law. Except to the extent that the Board of Directors or the Securityholders confer such authority on a Director, no Director shall have the authority to bind the Company.

*Section 2.02. Voting Power.* Each Director shall, in the consideration of any matter by the Board of Directors, have a single vote at the time such vote is taken or made (whether at a meeting or by written consent). Except where a greater percentage approval may be provided for herein or in the Agreement or by law, an action shall be deemed approved by the Board of Directors only if it has been approved by a majority of the Directors.

*Section 2.03. Quorum.* At all meetings of the Board of Directors, the presence of at least a majority of Directors shall constitute a quorum for the transaction of business. In case at any meeting of the Board of Directors a quorum shall not be present, any Director present may adjourn the meeting from time to time until a quorum shall be present.

*Section 2.04. Designation; Removal; Replacement.* The term of office of a Director shall be until the earliest of the following events: (i) his or her successor is designated or (ii) he or she resigns or is removed. Any Director (other than any Independent Director) may be removed, with or without cause, by majority vote of the Common Securityholders. In the event of the resignation, removal or death of a Director, such Director shall be replaced by another person designated by majority vote of the Common Securityholders. Any Director may resign at any time upon written notice to the Board of Directors or to the President or the Secretary of the Company. Such resignation shall take effect at the time specified therein, and unless otherwise specified therein no acceptance of such resignation shall be necessary to make it effective.

*Section 2.05. Regular Meetings.* Regular meetings of the Board of Directors may be held at such places within or without the State of Delaware and at such times as the Board of Directors may from time to time determine, and if so determined notice thereof need not be given.

*Section 2.06. Special Meetings.* Special meetings of the Board of Directors may be held at any time or place within or without the State of Delaware whenever called by the Chairman of the Board, by the President or by any two Directors. Reasonable notice thereof shall be given by the person or persons calling the meeting.

*Section 2.07. Participation in Meetings by Conference Telephone Permitted.* Unless otherwise restricted by the Agreement or these By-laws, the Board of Directors, or any committee designated by the Board of Directors, may participate in a meeting of the Board of Directors or of such committee, as the case may be, by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to these By-laws shall constitute presence in person at such meeting.

*Section 2.08. Organization.* Meetings of the Board of Directors shall be presided over by the Chairman of the Board, or in the absence of the Chairman of the Board by the President, or in their absence, by a chairman chosen at the meeting. The Secretary, or in the absence of the Secretary, an Assistant Secretary, shall act as secretary of the meeting, but in the absence of the Secretary and any Assistant Secretary, the chairman of the meeting may appoint any person to act as secretary of the meeting.

*Section 2.09. Action by Directors Without a Meeting.* Unless otherwise restricted by the Agreement or these By-laws, any action required or permitted to be taken at any meeting of the Board of Directors, or of any committee thereof, may be taken without a meeting if all of the Board of Directors or of such committee, as the case may be, consent thereto in writing, and the writing or writings are filed with the minutes of proceedings of the Board of Directors or committee.

### ARTICLE 3 COMMITTEES

*Section 3.01. Committees.* The Board of Directors may, by resolution of the Board of Directors adopted by majority vote, designate one or more committees, each committee to consist of one or more of the Directors of the Company. Any such committee, to the extent provided in the resolution of the Board of Directors or in these By-laws, shall have and may exercise all the powers and authority of the Board of Directors in the

management of the business and affairs of the Company, and may authorize the seal of the Company to be affixed to all papers which may require it; but no such committee shall have the power or authority in reference to amending the LLC Certificate, adopting an agreement of merger, consolidation or conversion, recommending to the Securityholders the sale, lease or exchange of all or substantially all of the Company' s property and assets, recommending to the Securityholders a dissolution of the Company amending these By-laws; and, unless the resolution, these By-laws or the Agreement expressly so provides, no such committee shall have the power or authority to authorize the issuance of Securities, to adopt a certificate of ownership and merger, consolidation or conversion or to remove or indemnify Officers or Directors.

*Section 3.02. Committee Rules.* Unless the Board of Directors otherwise provides, each committee designated by the Board of Directors may adopt, amend and repeal rules for the conduct of its business. In the absence of a provision by the Board of Directors or a provision in the rules of such committee to the contrary, a majority of the members of such committee shall constitute a quorum for the transaction of business, the vote of a majority of the members present at a meeting at the time of such vote if a quorum is then present shall be the act of such committee, and in other respects each committee shall conduct its business in the same manner as the Board of Directors conducts its business pursuant to Article II of these By-laws.

#### ARTICLE 4 OFFICERS

*Section 4.01. Officers; Election.* As soon as practicable after the annual meeting of Common Securityholders in each year, the Board of Directors shall elect a President and a Secretary, and may also elect one or more Vice Presidents, one or more Assistant Vice Presidents, one or more Assistant Secretaries, a Treasurer and one or more Assistant Treasurers and such other Officers as the Board of Directors may deem desirable or appropriate and may give any of them such further designations or alternate titles as it considers desirable. Any number of offices may be held by the same person unless the Agreement or these By-laws otherwise provide.

*Section 4.02. Term of Office; Resignation; Removal; Vacancies.* Unless otherwise provided in the resolution of the Board of Directors electing any Officer, each Officer shall hold office until his or her successor is elected and qualified or until his or her earlier resignation or removal. Any Officer may resign at any time upon written notice to the Board of Directors or to the President or the Secretary of the Company. Such resignation shall take effect at the time specified therein, and unless otherwise specified therein no acceptance of such resignation shall be necessary to make it effective. The Board of Directors may remove any Officer with or without cause at any time. Any such removal shall be without prejudice to the contractual rights of such Officer, if any, with the Company, but the election of an Officer shall not of itself create contractual rights. Any vacancy occurring in any office of the Company by death, resignation, removal or otherwise may be filled by the Board of Directors at any regular or special meeting.

*Section 4.03. Powers and Duties.* The Officers of the Company shall have such powers and duties in the management of the Company as shall be stated in these By-laws or in a resolution of the Board of Directors which is not inconsistent with these By-laws and, to the extent not so stated, as generally pertain to comparable offices in a corporation organized under the General Corporation Law of the State of Delaware, subject to the control

of the Board of Directors. The Secretary shall have the duty to record the proceedings of the meetings of the Securityholders, the Board of Directors and any committees in a book to be kept for that purpose. The Board of Directors may require any Officer, agent or employee to give security for the faithful performance of his or her duties.

## ARTICLE 5 SECURITIES

*Section 5.01. Certificates for Securities.* The Preferred Securities in the Company shall be registered in the form of Definitive Class B Preferred Securities except that Class B Preferred Securities distributed to Holders of Global Trust Preferred Securities (as defined in the Trust Agreement) in connection with the liquidation, dissolution, winding up or termination of the Trust, may be in form of Book-Entry Class B Securities pursuant to Article 16 of the LLC Agreement. If such certificate is manually countersigned by a transfer agent or by a registrar, any other signature on the certificate may be a facsimile. In case any Officer who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such Officer before such certificate is issued, such certificate may be issued by the Company with the same effect as if such person were such Officer at the date of issue.

*Section 5.02. Lost, Stolen or Destroyed Certificates: Issuance of New Certificates.* The Company may issue a new certificate representing Class B Preferred Securities in the place of any certificate theretofore issued by it, alleged to have been lost, stolen or destroyed, and the Company may require the owner of the lost, stolen or destroyed certificate, or such owner's legal representative, to give the Company a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate or uncertificated Preferred Securities.

## ARTICLE 6 MISCELLANEOUS

*Section 6.01. Seal.* The Company may have a company seal which shall have the name of the Company inscribed thereon and shall be in such form as may be approved from time to time by the Board of Directors. The company seal, if any, may be used by causing it or a facsimile thereof to be impressed or affixed or in any other manner reproduced.

*Section 6.02. Waiver of Notice of Meetings of Securityholders, Directors and Committees.* Whenever notice is required to be given by law or under any provision of the Agreement or these By-laws, a written waiver thereof, signed by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Securityholders, Directors or a committee of Directors need be specified in any written waiver of notice unless so required by the Agreement or these By-laws.

*Section 6.03. Indemnification of Directors, Officers and Employees.* The Bank, as the Holder of the Common Security, shall indemnify to the full extent permitted

under the LLC Act any person made or threatened to be made a party to any action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such person or such person's testator or intestate is or was a Director, Officer or employee of the Company or serves or served at the request of the Company any other enterprise as a director, officer or employee except for such Director's or Officer's gross negligence or willful misconduct. Expenses, including attorneys' fees, incurred by any such person in defending any such action, suit or proceeding shall be paid or reimbursed by the Bank promptly upon receipt by it of an undertaking of such person to repay such expenses if it shall ultimately be determined that such person is not entitled to be indemnified by the Bank. The rights provided to any person by these By-laws shall be enforceable against the Bank by such person who shall be presumed to have relied upon it in serving or continuing to serve as a Director, Officer or employee as provided above. No amendment of these By-laws shall impair the rights of any person arising at any time with respect to events occurring prior to such amendment. For purposes of these By-laws, the term "Company" shall include any predecessor of the Company and any constituent company (including any constituent of a constituent) absorbed by the Company in a consolidation or merger; the term "other enterprise" shall include any limited liability company, corporation, partnership, joint venture, trust or employee benefit plan. The rights conferred on any Person by this Section 6.03 shall not be exclusive of any other rights which such Person may have or hereafter acquire under any statute, provision of these By-laws, the Agreement, any other agreement, vote of Securityholders or disinterested Directors or otherwise. The Bank's obligation, if any, to indemnify any Person who was or is serving at its request as a director, officer, employee or agent of any other enterprise shall be reduced by any amount such Person may collect as indemnification from such other enterprise. Any repeal or modification of the foregoing provisions of this Section 6.03 shall not adversely affect any right of protection hereunder of any Person in respect of any act or omission occurring prior to the time of such repeal or modification.

*Section 6.04. Interested Directors; Quorum.* No contract or transaction between the Company and one or more of its Directors or Officers, or between the Company and any other limited liability company, corporation, partnership, association or other organization in which one or more of its Directors or Officers are Directors or officers, or have a financial interest (except for the Bank), shall be void or voidable solely for this reason, or solely because the Director or Officer is present at or participates in the meeting of the Board of Directors or committee thereof which authorizes the contract or transaction, or solely because his or her or their votes are counted for such purpose, if: (1) the material facts as to his or her relationship or interest and as to the contract or transaction are disclosed or are known to the Board of Directors or the committee, and the Board of Directors or committee in good faith authorizes the contract or transaction by the affirmative votes of a majority of the disinterested Directors, even though the disinterested Directors would be less than a quorum; or (2) the material facts as to his or her relationship or interest and as to the contract or transaction are disclosed or are known to the Securityholders entitled to vote thereon, and the contract or transaction is specifically approved in good faith by vote of the Securityholders; or (3) the contract or transaction is fair as to the Company as of the time it is authorized, approved or ratified, by the Board of Directors, a committee thereof or the Securityholders. Common or interested Directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee that authorizes the contract or transaction.

*Section 6.05. Form of Records.* Any records maintained by the Company in the regular course of its business, including its Securities ledger, books of account and minute books, may be kept on, or be in the form of, punch cards, magnetic tape or disk, photographs, microphotographs or any other information storage device, provided that the records so kept can be converted into clearly legible form within a reasonable time. The Company shall so convert any records so kept upon the request of any person entitled to inspect the same.

*Section 6.06. Amendment of By-laws.* These By-laws may be amended or repealed, and new By-laws adopted, by the Board of Directors in accordance with the Agreement.



**List of Initial Directors**

John Cipriani  
Richard W. Ferguson  
Helmut Mannhardt  
Joseph J. Rice

**List of Initial Officers**

Richard W. Ferguson, President  
John Cipriani, Vice President and Treasurer  
Anjali Thadani, Vice President  
Helmut Mannhardt, Vice President  
Joseph J. Rice, Vice President  
Sonja K. Olsen, Secretary  
Sandra L. West, Assistant Secretary

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**[FORM OF CERTIFICATE EVIDENCING THE CLASS A PREFERRED  
SECURITY]**

THE SECURITIES EVIDENCED HEREBY HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE OFFERED OR SOLD IN THE UNITED STATES OR TO OR FOR THE ACCOUNT OF U.S. PERSONS UNLESS SO REGISTERED OR AN EXEMPTION THEREFROM IS AVAILABLE.

THIS CLASS A PREFERRED SECURITY IS NOT TRANSFERABLE EXCEPT IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE LIMITED LIABILITY COMPANY AGREEMENT.

Certificate Number R-A-\_\_\_

**Aggregate Liquidation  
Preference Amount  
U.S.\$25**

May 9, 2008

**CERTIFICATE FOR CLASS A PREFERRED SECURITY OF DEUTSCHE BANK  
CONTINGENT CAPITAL LLC V**

**Class A Preferred Security  
(Liquidation Preference Amount \$25 per Class A Preferred Security)**

**Deutsche Bank Contingent Capital LLC V**, a limited liability company formed under the laws of the State of Delaware (the “**Company**”), hereby certifies that Deutsche Bank Aktiengesellschaft, Frankfurt am Main, is the registered owner of U.S.\$25 aggregate liquidation preference amount of Preferred Securities of the Company representing preferred limited liability company interests in the Company, which are designated the Class A Preferred Security, liquidation preference amount U.S.\$25 per Class A Preferred Security (the “**Class A Preferred Security**”). The Class A Preferred Security is fully paid and is a nonassessable preferred limited liability company interest in the Company, as to which the Securityholder of the Company who holds the Class A Preferred Security (the “**Securityholder**”), in its capacity as such, has no liability in excess of its obligation to make payments provided for in the LLC Agreement (as defined below) and its share as provided in the LLC Agreement of the Company’s assets and undistributed profits (subject to its obligation to repay any funds wrongfully distributed to it), and is transferable on the books and records of the Company, in person or by a duly authorized attorney, upon surrender of this certificate duly endorsed and in proper form for transfer and otherwise in accordance with the provisions of the Amended and Restated Limited Liability Company Agreement of the Company dated as of May 9, 2008, as the same may be amended from time to time in accordance with its terms (the “**LLC Agreement**”). The powers, preferences and special rights and limitations of the Class A Preferred Security are set forth in, and this certificate and the Class A Preferred Security represented hereby are issued and shall in all respects be

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subject to the terms and provisions of, the LLC Agreement, authorizing the issuance of the Class A Preferred Security and determining the powers, preferences and other special rights and limitations, regarding capital payments, voting rights, return of capital and otherwise, and other matters relating to the Class A Preferred Security. Capitalized terms used herein but not defined herein shall have the meaning given them in the LLC Agreement. The Company shall furnish a copy of the LLC Agreement to the Securityholder without charge upon written request to the Company at its principal place of business.

The Securityholder, by accepting this certificate, is deemed to have agreed to be bound by the provisions of the LLC Agreement. Upon receipt of this certificate, the Securityholder is admitted to the Company as a Class A Preferred Securityholder, is bound by the LLC Agreement and is entitled to the benefits thereunder.

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IN WITNESS WHEREOF, this certificate has been executed on behalf of the Company by a duly authorized officer as of the day and year first written above.

DEUTSCHE BANK CONTINGENT CAPITAL LLC V

By: \_\_\_\_\_

Name:

Title:

Class A Preferred Certificate

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**[FORM OF CERTIFICATE EVIDENCING CLASS B PREFERRED SECURITIES]**

[IF THE CLASS B PREFERRED SECURITY IS TO BE A GLOBAL CERTIFICATE INSERT: This Class B Preferred Security is a global certificate registered in the name of The Depository Trust Company, a New York corporation (the “**Depository**”) (55 Water Street, New York, New York), or a nominee of the Depository. This Class B Preferred Security is exchangeable for Class B Preferred Securities registered in the name of a person other than the Depository or its nominee only in the limited circumstances described in the LLC Agreement and no transfer of this Class B Preferred Security (other than a transfer of this Class B Preferred Security as a whole by the Depository to a nominee of the Depository or by a nominee of the Depository to the Depository or another nominee of the Depository) may be registered except in limited circumstances.

Unless this Class B Preferred Security is presented by an authorized representative of the Depository to the Company or its agent for registration of transfer, exchange or payment, and any Class B Preferred Security issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of the Depository and any payment hereon is made to Cede & Co. or such other entity as is requested by an authorized representative of the Depository, ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.]

THE HOLDER HEREOF, BY ACQUIRING AND HOLDING THIS CERTIFICATE, WILL BE DEEMED TO HAVE REPRESENTED AND WARRANTED THAT ON EACH DAY THAT IT HOLDS THE CLASS B PREFERRED SECURITIES EITHER (A) IT IS NOT ITSELF, AND IS NOT ACQUIRING ANY CLASS B PREFERRED SECURITIES ON BEHALF OF OR WITH “PLAN ASSETS” OF, AN EMPLOYEE BENEFIT PLAN OR OTHER PLAN SUBJECT TO TITLE I OF THE U.S. EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED (“ERISA”), OR ANY PLAN OR ARRANGEMENT SUBJECT TO SECTION 4975 OF THE U.S. INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE “CODE”), A GOVERNMENTAL PLAN WHICH IS SUBJECT TO ANY FEDERAL, STATE OR LOCAL LAW THAT IS SUBSTANTIALLY SIMILAR TO SUCH PROVISIONS OF ERISA OR THE CODE (“SIMILAR LAW”) OR ANY ENTITY WHOSE UNDERLYING ASSETS INCLUDE “PLAN ASSETS” BY REASON OF ANY SUCH PLAN’S INVESTMENT IN THE ENTITY OR (B) THE PURCHASE, HOLDING AND REDEMPTION OF ANY CLASS B PREFERRED SECURITIES IS EXEMPT BY REASON OF SECTION 408(B)(17) OF ERISA, SECTION 4975(D)(20) OF THE CODE OR U.S. DEPARTMENT OF LABOR PROHIBITED TRANSACTION CLASS EXEMPTION (“PTCE”) 96-23 (FOR CERTAIN TRANSACTIONS DETERMINED BY IN-HOUSE ASSET MANAGERS), PTCE 95-60 (FOR CERTAIN TRANSACTIONS INVOLVING INSURANCE COMPANY

GENERAL ACCOUNTS), PTCE 91-38 (FOR CERTAIN TRANSACTIONS INVOLVING BANK COLLECTIVE INVESTMENT FUNDS), PTCE 90-1 (FOR CERTAIN TRANSACTIONS INVOLVING INSURANCE COMPANY SEPARATE ACCOUNTS), OR PTCE 84-14 (FOR CERTAIN TRANSACTIONS DETERMINED BY INDEPENDENT QUALIFIED PROFESSIONAL ASSET MANAGERS) OR SIMILAR EXEMPTIONS FROM SIMILAR LAW.

Certificate Number R-B-\_\_\_\_

**Aggregate Liquidation  
Preference Amount  
U.S. \$1,265,000,025**

May 9 2008

**CERTIFICATE FOR CLASS B PREFERRED SECURITIES OF  
DEUTSCHE BANK CONTINGENT CAPITAL LLC V**

**Class B Preferred Securities  
(Liquidation Preference Amount U.S.\$25  
per Class B Preferred Security)**

**Deutsche Bank Contingent Capital LLC V**, a limited liability company formed under the laws of the State of Delaware (the “**Company**”), hereby certifies that The Bank of New York (the “**Securityholder**”), as Property Trustee of Deutsche Bank Contingent Capital Trust V, for the benefit of the Holders or beneficial owners of the Trust Preferred Securities and the Holders of the Trust Common Security, is the registered owner of U.S. \$1,265,000,025 aggregate liquidation preference amount of the Preferred Securities of the Company representing preferred limited liability company interests in the Company, which are designated the Class B Preferred Securities, Liquidation Preference Amount U.S.\$25 per Class B Preferred Security (the “**Class B Preferred Securities**”). The Class B Preferred Securities are fully paid and are nonassessable preferred limited liability company interests in the Company, as to which the Securityholders of the Company who hold the Class B Preferred Securities (the “**Securityholders**”), in their capacities as such, have no liability in excess of their obligations to make payments provided for in the LLC Agreement (as defined below) and their share as provided in the LLC Agreement of the Company’s assets and undistributed profits (subject to their obligation to repay any funds wrongfully distributed to them), and are transferable on the books and records of the Company, in person or by a duly authorized attorney, upon surrender of this certificate duly endorsed and in proper form for transfer and otherwise in accordance with the provisions of the Amended and Restated Limited Liability Company Agreement of the Company dated as of May 9, 2008, as the same may be amended from time to time in accordance with its terms (the “**LLC Agreement**”). The powers, preferences and special rights and limitations of the Class B Preferred Securities are set forth in, and this certificate and the Class B Preferred Securities represented hereby are issued and shall in all respects be subject to the terms and provisions of the LLC Agreement, authorizing the issuance of the Class B Preferred Securities and determining the powers, preferences and other special rights and limitations, regarding Capital Payments, voting rights, return of capital and otherwise, and other matters relating to the Class B Preferred Securities. Capitalized terms used herein but not defined herein

shall have the meaning given them in the LLC Agreement. The Securityholder is entitled to the benefits of the Class B Preferred Securities Subordinated Guarantee Agreement dated as of May 9, 2008, between Deutsche Bank Aktiengesellschaft, Frankfurt am Main, (the “**Guarantor**”) and The Bank of New York, as Class B Preferred Guarantee Trustee (the “**Class B Preferred Guarantee**”), to the extent provided therein. The Company shall furnish a copy of the LLC Agreement and the Class B Preferred Guarantee to the Securityholder without charge upon written request to the Company at its principal place of business.

By accepting this certificate, the Securityholder hereby acknowledges and agrees to the subordination provisions in, and other terms of, the Class B Preferred Guarantee.

The Securityholder, by accepting this certificate, is deemed to have agreed to be bound by the provisions of the LLC Agreement. Upon receipt of this certificate, the Securityholder is admitted to the Company as a Class B Preferred Securityholder, is bound by the LLC Agreement and is entitled to the benefits thereunder.

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IN WITNESS WHEREOF, this certificate has been executed on behalf of the Company by a duly authorized officer as of the day and year first written above.

DEUTSCHE BANK CONTINGENT CAPITAL LLC V

By: \_\_\_\_\_

Name:

Title:

(see reverse for additional terms)

Class B Preferred Certificate

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[FORM OF REVERSE OF SECURITY]

Capital Payments on the Class B Preferred Securities shall be payable quarterly in arrears on March 30, June 30, September 30 and December 30 of each year, commencing on June 30, 2008. Capital Payments on the Class B Preferred Securities payable on each Class B Payment Date shall be calculated as provided below and shall accrue from and including the immediately preceding Class B Payment Date (or May 9, 2008 with respect to the Capital Payment payable June 30, 2008) to but excluding the relevant Class B Payment Date.

For each Class B Payment Period, Capital Payments shall accrue on the Class B Liquidation Preference Amount of each Class B Preferred Security at a fixed rate of 8.05% per annum, calculated on the basis of a 360-day year of twelve 30-day months.

If any Class B Payment Date or Class B Redemption Date falls on a day that is not a Business Day, payment of all amounts otherwise payable on such date will be made on the next succeeding Business Day, without adjustment, interest or further payment as a result of such delay in payment.

If the Trust or the Property Trustee is the Holder of the Class B Preferred Securities, all distributions of cash shall be made by wire transfer of same day funds to such Holder by 9:00 a.m., New York City time, on the applicable Class B Payment Date. If the Trust Preferred Securities (or, if the Trust is liquidated, the Class B Preferred Securities) are in book-entry only form, Capital Payments will be payable to the Holders of record of Class B Preferred Securities as they appear on the Register of the Company on the relevant record dates, which will be at the end of the Business Day immediately preceding the date on which the relevant Capital Payment will be paid. If the Trust Preferred Securities (or, if the Trust is liquidated, the Class B Preferred Securities) are not in book-entry only form, the relevant record dates shall be the end of the 15<sup>th</sup> Business Day prior to the relevant Class B Payment Date.

The Company will also have a right, upon the occurrence of a Company Special Redemption Event to redeem the Class B Preferred Securities at any time, in whole but not in part, and upon at least 30 calendar days' prior notice, subject to the Company having obtained any required regulatory approvals. Any such redemption shall be at the Redemption Price.

To the extent and in the manner described in the LLC Agreement, Capital Payments on the Class B Preferred Securities shall be cumulative with respect to the Upper Tier 2 Percentage of the Class B Preferred Securities (as defined in the LLC Agreement) and non-cumulative with respect to the Tier 1 Percentage of the Class B Preferred Securities (as defined in the LLC Agreement), if any.

On or after the Initial Redemption Date, the Class B Preferred Securities shall be redeemable at the option of the Company, in whole but not in part, on any Class B Payment Date, at the Redemption Price.

No redemption of the Class B Preferred Securities shall take place for any reason unless on the Class B Redemption Date (i) the Company has an amount of cash funds (by reason of payments on the Obligations or the Class B Preferred Guarantee) at least equal to the

Redemption Price, plus Additional Amounts, if any, (ii) the Company has an amount of Operating Profits for the current Class B Payment Period at least equal to the Capital Payments on the Class B Preferred Securities and Arrears of Payments, accrued and unpaid as of the Class B Redemption Date plus Additional Amounts, if any, (iii) the Bank has an amount of Distributable Profits for the preceding fiscal year of the Bank (for which audited unconsolidated financial statements are available) at least equal to the Capital Payments on the Class B Preferred Securities accrued and unpaid as of the Class B Redemption Date, plus the amount of Capital Payments (including any Arrears of Payments) on the Class B Preferred Securities theretofore paid, plus any Additional Amounts plus (x) if the Upper Tier 2 Percentage of the Class B Preferred Securities exceeds zero, capital payments payable on Parity Capital Securities and Preferred Tier 1 Capital Securities, or (y) if the Upper Tier 2 Percentage of the Class B Preferred Securities is zero, capital payments or dividends payable on any Preferred Tier 1 Securities, and (iv) no order of the BaFin (or any other relevant regulatory authority) is in effect prohibiting the Bank from making any distribution of profits.

No redemption of Class B Preferred Securities, whether on a Class B Payment Date, on or after the Initial Redemption Date or upon the occurrence of a Company Special Redemption Event, shall require the vote or consent of any of the Class B Preferred Securityholders.

In the event that payment of any redemption price, in respect of any Class B Preferred Securities, is improperly withheld or refused and not paid, Capital Payments on such Class B Preferred Securities shall continue to accrue from the Class B Redemption Date to the date of actual payment of such redemption price.

**Schedule 1**

**Tier 1 Qualification Election  
effective as of:**

**Upper Tier 2 Percentage**

**Tier 1 Percentage**

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Issue Date

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100%

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0 %

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned assigns and transfers this Class B Preferred Security Certificate to:

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(Insert assignee' s social security or tax identification number)

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(Insert address and zip code of assignee)

and irrevocably appoints

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agent to transfer this Class B Preferred Security Certificate on the books of the Company. The agent may substitute another to act for him or her.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

(Sign exactly as your name appears on the other side of this  
Class B Preferred Security Certificate)

**DEUTSCHE BANK CONTINGENT CAPITAL TRUST V**  
**TRUST PREFERRED SECURITIES**  
**SUBORDINATED GUARANTEE AGREEMENT**  
**DEUTSCHE BANK AKTIENGESELLSCHAFT**  
**AS THE GUARANTOR**  
DATED AS OF MAY 9, 2008

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## TABLE OF CONTENTS

	Page
ARTICLE I DEFINITIONS AND INTERPRETATIONS	1
Section 1.01. Definitions and Interpretation	1
ARTICLE II TRUST INDENTURE ACT	6
Section 2.01. Trust Indenture Act; Application	6
Section 2.02. Lists of Holders of Securities	6
Section 2.03. Reports by the Trust Preferred Guarantee Trustee	6
Section 2.04. Periodic Reports to Trust Preferred Guarantee Trustee	6
Section 2.05. Evidence of Compliance with Conditions Precedent	7
Section 2.06. Events of Default; Waiver	7
Section 2.07. Event of Default; Notice	7
Section 2.08. Rights of Holders	8
Section 2.09. Conflicting Interests	8
Section 2.10. Powers, Duties and Rights of Trust Preferred Guarantee Trustee	8
Section 2.11. Certain Rights of Trust Preferred Guarantee Trustee	9
Section 2.12. Not Responsible for Recitals or Issuance of Guarantee	11
ARTICLE III GUARANTEE TRUSTEE	12
Section 3.01. Trust Preferred Guarantee Trustee; Eligibility	12
Section 3.02. Appointment, Removal and Resignation of Trust Preferred Guarantee Trustee	12
ARTICLE IV GUARANTEE	13
Section 4.01. Guarantee	13
Section 4.02. Delivery of Guarantor Certificate	14
Section 4.03. Waiver of Notice and Demand	14
Section 4.04. Obligations Not Affected	14
Section 4.05. Action Against Guarantor	15
Section 4.06. Independent Obligations	15
Section 4.07. Taxes	15
Section 4.08. Rights Not Separately Transferable	17
ARTICLE V LIMITATIONS OF TRANSACTIONS; RANKING	17



**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
Section 5.02. Ranking	18
ARTICLE VI TERMINATION	19
Section 6.01. Termination	19
ARTICLE VII INDEMNIFICATION	20
Section 7.01. Exculpation	20
Section 7.02. Fees and expenses; Indemnification	20
ARTICLE VIII MISCELLANEOUS	21
Section 8.01. Successors and Assigns	21
Section 8.02. Amendments	21
Section 8.03. Judgment Currency Indemnity	22
Section 8.04. Assignment of the Guarantor	23
Section 8.05. Notices	23
Section 8.06. GOVERNING LAW	24
Section 8.07. Submission to Jurisdiction	24
EXHIBIT A Form of Guarantor' s Certificate	



## CROSS-REFERENCE TABLE<sup>1</sup>

Section of Trust Indenture Act of 1939, as amended	Section of Guarantee
310(a)	3.01(a)
310(b)	2.09, 3.01(c)
310(c)	Inapplicable
311(a)	2.02(b)
311(b)	2.02(b)
311(c)	Inapplicable
312(a)	2.02(a)
312(b)	2.02(b)
313	2.03
314(a)	2.04
314(b)	Inapplicable
314(c)	2.05
314(d)	Inapplicable
314(e)	2.05
314(f)	Inapplicable
315(a)	2.10(d), 2.10(e)
315(b)	2.07
315(c)	2.10(d)
315(d)	2.10(e)
316(a)	2.08(a), 2.06

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<sup>1</sup> This Cross-Reference Table does not constitute part of the Guarantee and shall not affect the interpretation of any of its terms or provisions.

This TRUST PREFERRED SECURITIES SUBORDINATED GUARANTEE AGREEMENT (this “Trust Preferred Guarantee”), dated as of May 9, 2008 is executed and delivered by DEUTSCHE BANK AKTIENGESELLSCHAFT, a company organized under the laws of the Federal Republic of Germany, with its principal executive office in Frankfurt am Main, Germany (together with its successors, the “Guarantor”), and THE BANK OF NEW YORK, in its capacity as Trust Preferred Guarantee Trustee (as defined herein), for the benefit of the Holders (as defined herein) from time to time of the Trust Preferred Securities (as defined herein) of Deutsche Bank Contingent Capital Trust V, a Delaware statutory trust (together with its successors, the “Trust”).

#### WITNESSETH

WHEREAS, pursuant to the Trust Agreement (as defined herein) the Trust is issuing on the date hereof its Trust Preferred Securities, having an aggregate liquidation preference amount of \$1,265,000,000, and may issue additional Trust Preferred Securities from time to time prior to June 30, 2013 as provided for in the Trust Agreement, in each case representing undivided preferred beneficial interests in the assets of the Trust (the “Trust Preferred Securities”); and

WHEREAS, in order to induce the Holders from time to time to purchase the Trust Preferred Securities, the Guarantor desires irrevocably and unconditionally to agree, to the extent set forth herein, to pay to the Holders from time to time of the Trust Preferred Securities the Guarantee Payments (as defined herein) and to make certain other payments on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the purchase by the Holders from time to time of Trust Preferred Securities, which purchase the Guarantor hereby agrees shall benefit the Guarantor, the Guarantor executes and delivers this Trust Preferred Guarantee for the benefit of the Holders from time to time of the Trust Preferred Securities.

#### ARTICLE I DEFINITIONS AND INTERPRETATIONS

Section 1.01. Definitions and Interpretation. In this Trust Preferred Guarantee, unless the context otherwise requires:

- (a) capitalized terms used but not defined herein have the meanings assigned to them in the Trust Agreement;
- (b) a term defined anywhere in this Trust Preferred Guarantee has the same meaning throughout;
- (c) all references to “the Trust Preferred Guarantee” or “this Trust Preferred Guarantee” are to this Trust Preferred Guarantee as modified, supplemented or amended from time to time;
- (d) all references in this Trust Preferred Guarantee to Articles and Sections are to Articles and Sections of this Trust Preferred Guarantee, unless otherwise specified; and

Trust Preferred Securities – Subordinated Guarantee Agreement

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(e) a reference to the singular includes the plural and vice versa.

“1940 Act” means the U.S. Investment Company Act of 1940, as amended.

“Additional Amounts” means an amount paid as additional Capital Payments to the extent set forth in the Trust Agreement.

“Affiliate” means, with respect to a specified Person, any Person directly or indirectly controlling, controlled by, or under common control with the specified Person. The terms “controlling”, “controlled by” and “under common control” mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting shares, by contract or otherwise.

“Arrears of Payments” has the meaning specified in the LLC Agreement.

“Authorized Officer” of a Person means any Person that is authorized to bind such Person.

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

“Capital Payments” means periodic distributions on the Trust Preferred Securities paid in accordance with the Trust Agreement.

“Class B Preferred Securities” means the Class B preferred securities evidencing preferred limited liability company interests in the Company.

“Company” means Deutsche Bank Contingent Capital LLC V, a Delaware limited liability company.

“Corporate Trust Office” means the office of the Trust Preferred Guarantee Trustee at which, at any particular time, its corporate trust business shall be principally administered, which office at the date hereof is located at 101 Barclay Street, Floor 21 West, New York, New York 10286.

“Distributable Profits” has the meaning assigned to it in the LLC Agreement.

“Event of Default” means (i) a default by the Guarantor on any of its obligations under Article 4 or (ii) a default by the Guarantor in the performance of any other obligation under this Trust Preferred Guarantee, and, in the case of (ii), continuance of such default for 60 days after the Trust Preferred Guarantee Trustee has given notice thereof to the Guarantor.

“Guarantee Payments” has the meaning assigned to it in Section 4.01.

“Guarantor” has the meaning assigned to it in the preamble to this Trust Preferred Guarantee.

“Guarantor Certificate” has the meaning assigned to it in Section 4.02.

“Holder” means any holder, as registered on the books and records of the Company or the Trust, of Class B Preferred Securities or Trust Preferred Securities, as the case may be; provided however, that, in determining whether the Holders of the requisite percentage of the liquidation preference amount of Trust Preferred Securities have given any request, notice, consent or waiver hereunder, “Holder” shall not include the Guarantor or any Affiliate of the Guarantor other than with respect to Trust Preferred Securities purchased or acquired by the Guarantor or its Affiliates in connection with transactions effected by or for the account of customers of the Guarantor or any of its Affiliates in connection with the distribution or trading of or market-making in connection with such securities and except that persons (other than Affiliates of the Guarantor) to whom the Guarantor or any of its subsidiaries have pledged Trust Preferred Securities may vote or consent with respect to such pledged securities pursuant to the terms of such pledge.

“Indemnified Person” means the Trust Preferred Guarantee Trustee, any Affiliate of the Trust Preferred Guarantee Trustee, or any officer, director, shareholder, member, partner, employee, representative, nominee, custodian or agent of the Trust Preferred Guarantee Trustee.

“LLC Agreement” means the Amended and Restated Limited Liability Company Agreement of the Company dated as of May 9, 2008 as amended, modified or supplemented from time to time.

“Majority” means, except as provided by the Trust Indenture Act, a vote by the Holder(s) of more than 50% of the aggregate liquidation preference amount of the Trust Preferred Securities.

“Officers’ Certificate” means, with respect to any Person, a certificate signed by two Authorized Officers of such Person.

“Parity Capital Securities” means, at any time, Parity Subsidiary Capital Securities and each class of ownership interests in the capital of the Guarantor that at such time rank senior to the preference shares of the Guarantor and junior to all other securities of the Guarantor that at such time (i) rank senior to preference shares and (ii) do not by their terms rank *pari passu* with such ownership interest of the Guarantor, if any.

“Parity Subsidiary Capital Securities” means any instrument of any subsidiary of the Guarantor subject to any guarantee or support agreement of the Guarantor ranking *pari passu* with the obligations of the Guarantor under the terms of this Trust Preferred Guarantee in effect with respect to the Upper Tier 2 Percentage of the Trust Preferred Securities.

“Payment Date” has the meaning specified in the Trust Agreement.

“Payment Period” means the period from and including the immediately preceding Payment Date (or the date of original issuance of the Trust Preferred Securities with respect to the Capital Payments payable on the first Payment Date) to but excluding the relevant Payment Date.

“Person” means any individual, corporation, association, partnership (general or limited), joint venture, trust, estate, limited liability company, or other legal entity or organization.

“Preferred Tier 1 Capital Securities” of any person means, at any time, each class of the most senior ranking preference shares of such person and any other instruments of such person (other than common shares) then qualifying as Tier 1 Regulatory Capital and, if such person is the Guarantor, Preferred Tier 1 Subsidiary Securities.

“Preferred Tier 1 Guarantee” means, at any time, any guarantee issued or support undertaking entered into by the Guarantor from time to time of any preference shares issued by any subsidiary of the Guarantor (including the Trust and the Company) from time to time, if such guarantee or support undertaking then ranks *pari passu* with the Guarantor’s obligations under this Trust Preferred Guarantee.

“Preferred Tier 1 Securities” means, at any time, collectively, the most senior ranking preference shares or any other instrument issued and outstanding from time to time by (i) the Guarantor or (ii) any subsidiary of the Guarantor subject to any Preferred Tier 1 Guarantee.

“Preferred Tier 1 Subsidiary Securities” means, at any time, the most senior ranking preference shares and any other instruments of any person other than the Guarantor, which, in each case, then qualify as Tier 1 Regulatory Capital and are subject to any agreement of the Guarantor that guarantees or otherwise provides support of such preference shares or other instruments.

“Redemption Date” means the date of redemption of the Trust Preferred Securities.

“Redemption Price” has the meaning assigned to it in the Trust Agreement.

“Registrar” means any bank or trust company appointed to register Trust Preferred Securities and transfers thereof as provided in the Trust Agreement, and shall initially be The Bank of New York.

“Relevant Jurisdiction” has the meaning assigned to it in the Trust Agreement.

“Responsible Officer” means, with respect to the Trust Preferred Guarantee Trustee, any officer within the Corporate Trust Office of the Trust Preferred Guarantee Trustee with direct responsibility for the administration of the Trust Preferred Guarantee, including any vice president, any assistant vice president, any trust officer, any secretary, any assistant secretary, the treasurer, any assistant treasurer or other officer of the Trust Preferred Guarantee Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of that officer’s knowledge of and familiarity with the particular subject.

“Shares” means the ordinary shares of common stock of the Guarantor and any other shares of the Guarantor’s capital stock ranking junior to the Preferred Tier 1 Securities, if any, in each case issued by the Guarantor from time to time.

“Stated Rate” has the meaning assigned to it in the Trust Agreement.

“Successor Trust Preferred Guarantee Trustee” means a successor Trust Preferred Guarantee Trustee possessing the qualifications to act as Trust Preferred Guarantee Trustee under Section 3.01.

“Tier 1 Qualification Election” has the meaning set forth in the LLC Agreement.

“Tier 1 Regulatory Capital” has the meaning set forth in the LLC Agreement.

“Trust” means Deutsche Bank Contingent Capital Trust V, a Delaware statutory trust.

“Trust Agreement” means the amended and restated trust agreement of Deutsche Bank Contingent Capital Trust V, dated as of May 9, 2008, among the Trustees (as defined therein), the Company as Sponsor, Deutsche Bank Aktiengesellschaft as holder of the Trust Common Security and the holders from time to time of the Trust Preferred Securities, as from time to time amended, modified or supplemented.

“Trust Common Security” means the security representing an undivided common beneficial interest in the assets of the Trust.

“Trust Indenture Act” means the U.S. Trust Indenture Act of 1939, as amended from time to time, or any successor legislation.

“Trust Preferred Guarantee” has the meaning set forth in the preamble to this Trust Preferred Guarantee.

“Trust Preferred Guarantee Additional Amounts” has the meaning set forth in Section 4.07.

“Trust Preferred Guarantee Trustee” means The Bank of New York, a New York banking corporation, and its successors, in its capacity as trustee under this Trust Preferred Guarantee, until a Successor Trust Preferred Guarantee Trustee has been appointed and has accepted such appointment pursuant to the terms of this Trust Preferred Guarantee by executing a counterpart hereof and becoming a party hereto, and thereafter means each such Successor Trust Preferred Guarantee Trustee.

“Trust Preferred Securities” has the meaning assigned to it in the first recital to this Trust Preferred Guarantee.

“Withholding Tax” means any present or future taxes, duties or governmental charges of any nature whatsoever imposed, levied or collected by or on behalf of any Relevant Jurisdiction or by or on behalf of any political subdivision or authority therein or thereof having the power to tax.

ARTICLE II  
TRUST INDENTURE ACT

Section 2.01. Trust Indenture Act; Application.

(a) This Trust Preferred Guarantee is subject to the provisions of the Trust Indenture Act that are required to be part of this Trust Preferred Guarantee and shall, to the extent applicable, be governed by such provisions. A term defined in the Trust Indenture Act has the same meaning when used in this Trust Preferred Guarantee, unless otherwise defined in this Trust Preferred Guarantee or unless the context otherwise requires.

(b) If and to the extent that any provision of this Trust Preferred Guarantee limits, qualifies or conflicts with the duties imposed by Sections 310 to 317, inclusive, of the Trust Indenture Act, such imposed duties shall control.

Section 2.02. Lists of Holders of Securities.

(a) The Trust Preferred Guarantee Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of Holders of Trust Preferred Securities. If the Trust Preferred Guarantee Trustee is not the Registrar, the Guarantor shall furnish to the Trust Preferred Guarantee Trustee at stated intervals of not more than six months, and at such other times as the Trust Preferred Guarantee Trustee may request in writing, a list, in such form and as of such date as the Trust Preferred Guarantee Trustee may reasonably require, containing all the information in the possession or control of the Registrar, the Guarantor or any of its paying agents other than the Trust Preferred Guarantee Trustee as to the names and addresses of Holders of Trust Preferred Securities.

(b) The Trust Preferred Guarantee Trustee shall comply with its obligations under Sections 311(a), 311(b) and 312(b) of the Trust Indenture Act.

Section 2.03. Reports by the Trust Preferred Guarantee Trustee. Within 60 days after May 1 of each year (beginning with May 2009), the Trust Preferred Guarantee Trustee shall provide to the Holders of the Trust Preferred Securities such reports as are required by Section 313(a) of the Trust Indenture Act, if any, in the form and in the manner provided by Section 313 of the Trust Indenture Act. The Trust Preferred Guarantee Trustee shall also comply with the other requirements of Section 313 of the Trust Indenture Act.

Section 2.04. Periodic Reports to Trust Preferred Guarantee Trustee. The Guarantor shall provide to the Trust Preferred Guarantee Trustee and transmit to the Holders of the Trust Preferred Securities, such documents, reports and information as required by Section 314 of the Trust Indenture Act (if any) and shall provide, within 60 days after the end of each of its fiscal years, the compliance certificate required by Section 314 of the Trust Indenture Act in the form and in the manner required by Section 314 of the Trust Indenture Act. Delivery of such reports, information and documents to the Trust Preferred Guarantee Trustee is for informational purposes only and the Trust Preferred Guarantee Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information

contained therein, including the Guarantor's compliance with any of its covenants hereunder (as to which the Trust Preferred Guarantee Trustee is entitled to rely exclusively on Officers' Certificates).

Section 2.05. Evidence of Compliance with Conditions Precedent. The Guarantor shall provide to the Trust Preferred Guarantee Trustee such evidence of compliance with the conditions precedent, if any, provided for in this Trust Preferred Guarantee that relate to any of the matters set forth in Section 314(c) of the Trust Indenture Act. Any certificate or opinion required to be given by an officer pursuant to Section 314(c)(1) may be given in the form of an Officers' Certificate and shall include:

- (a) a statement that each officer signing the Officers' Certificate has read the covenant or condition and the definition relating thereto;
- (b) a brief statement of the nature and scope of the examination or investigation undertaken by each officer in rendering the Officers' Certificate;
- (c) a statement that each such officer has made such examination or investigation as, in such officer's opinion, is necessary to enable such officer to express an informed opinion as to whether or not such covenant or condition has been complied with; and
- (d) a statement as to whether, in the opinion of each such officer, such condition or covenant has been complied with.

Section 2.06. Events of Default; Waiver. The Holders of a Majority of the Trust Preferred Securities may, by vote, on behalf of the Holders of all of the Trust Preferred Securities, waive any past Event of Default and its consequences (except an Event of Default in respect of a covenant or provision hereof which cannot be modified or amended without the consent of each Holder of Trust Preferred Securities, which can only be waived by all Holders of Trust Preferred Securities). Upon such waiver, any such Event of Default shall cease to exist for every purpose of this Trust Preferred Guarantee, but no such waiver shall extend to any subsequent Event of Default or impair any right consequent thereon.

Section 2.07. Event of Default; Notice.

(a) The Trust Preferred Guarantee Trustee shall, within 90 days after the occurrence of an Event of Default, transmit by mail, first class postage prepaid, to the Holders of the Trust Preferred Securities notices of all Events of Default actually known to a Responsible Officer of the Trust Preferred Guarantee Trustee, unless such Events of Default have been cured before the giving of such notice; provided, that, the Trust Preferred Guarantee Trustee shall be protected in withholding such notice if and so long as a Responsible Officer of the Trust Preferred Guarantee Trustee in good faith determines that the withholding of such notice is in the interests of the Holders of the Trust Preferred Securities.

(b) The Trust Preferred Guarantee Trustee shall not be deemed to have knowledge of any Event of Default unless a Responsible Officer of the Trust Preferred



Guarantee Trustee shall have received written notice, or a Responsible Officer of the Trust Preferred Guarantee Trustee charged with the administration of this Trust Preferred Guarantee shall have obtained actual knowledge, of such Event of Default.

Section 2.08. Rights of Holders.

(a) The Holders of a Majority of the Trust Preferred Securities have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trust Preferred Guarantee Trustee in respect of this Trust Preferred Guarantee or exercising any trust or power conferred upon the Trust Preferred Guarantee Trustee under this Trust Preferred Guarantee; provided, that, (1) such direction shall not be in conflict with any rule of law or with this Trust Preferred Guarantee, (2) the Trust Preferred Guarantee Trustee may take any other action deemed proper by the Trust Preferred Guarantee Trustee which is not inconsistent with such direction, and (3) subject to the provisions of Section 2.10, the Trust Preferred Guarantee Trustee shall have the right to decline to follow any such direction if a Responsible Officer of the Trust Preferred Guarantee Trustee shall determine in good faith that the proceeding so directed would involve the Trust Preferred Guarantee Trustee in personal liability.

(b) Notwithstanding any other provision of this Trust Preferred Guarantee, the right of any Holder of Trust Preferred Securities to receive Guarantee Payments if and when due, or to institute suit for the enforcement of any Guarantee Payment on and after the date such Guarantee Payment was due, shall be absolute and unconditional and shall not be impaired without the consent of such Holder.

Section 2.09. Conflicting Interests. The Class B Preferred Securities Subordinated Guarantee Agreement shall be deemed to be specifically described in this Trust Preferred Guarantee for the purposes of clause (i) of the first proviso contained in Section 310(b) of the Trust Indenture Act.

Section 2.10. Powers, Duties and Rights of Trust Preferred Guarantee Trustee.

(a) This Trust Preferred Guarantee shall be held by the Trust Preferred Guarantee Trustee for the benefit of the Holders of the Trust Preferred Securities.

(b) The Trust Preferred Guarantee Trustee shall not transfer this Trust Preferred Guarantee to any Person except to a Successor Trust Preferred Guarantee Trustee on acceptance by such Successor Trust Preferred Guarantee Trustee of its appointment to act as Successor Trust Preferred Guarantee Trustee. The right, title and interest of the Trust Preferred Guarantee Trustee shall automatically vest in any Successor Trust Preferred Guarantee Trustee, and such vesting and cessation of title shall be effective whether or not conveyancing documents have been executed and delivered pursuant to the appointment of such Successor Trust Preferred Guarantee Trustee.

(c) If an Event of Default actually known to a Responsible Officer of the Trust Preferred Guarantee Trustee has occurred and is continuing, the Trust Preferred Guarantee Trustee shall be entitled to enforce this Trust Preferred Guarantee for the benefit of the Holders of the Trust Preferred Securities.

(d) The Trust Preferred Guarantee Trustee, before the occurrence of any Event of Default and after the curing or waiver of all Events of Default that may have occurred, shall undertake to perform only such duties as are specifically set forth in this Trust Preferred Guarantee, and no implied covenants shall be read into this Trust Preferred Guarantee against the Trust Preferred Guarantee Trustee. In case an Event of Default actually known to a Responsible Officer of the Trust Preferred Guarantee Trustee has occurred and is continuing, the Trust Preferred Guarantee Trustee shall exercise such of the rights and powers vested in it by this Trust Preferred Guarantee, and use the same degree of care and skill in its exercise thereof, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

(e) No provision of this Trust Preferred Guarantee shall be construed to relieve the Trust Preferred Guarantee Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) in the absence of bad faith on the part of the Trust Preferred Guarantee Trustee, the Trust Preferred Guarantee Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Trust Preferred Guarantee Trustee and conforming to the requirements of this Trust Preferred Guarantee; provided that in the case of any such certificates or opinions that by any provision hereof are specifically required to be furnished to the Trust Preferred Guarantee Trustee, the Trust Preferred Guarantee Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Trust Preferred Guarantee (but need not confirm or investigate the accuracy of any mathematical calculations or other facts stated therein);

(ii) the Trust Preferred Guarantee Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer of the Trust Preferred Guarantee Trustee, unless it shall be proved that the Trust Preferred Guarantee Trustee was negligent in ascertaining the pertinent facts upon which such judgment was made;

(iii) the Trust Preferred Guarantee Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of a Majority of the Trust Preferred Securities relating to the time, method and place of conducting any proceeding for any remedy available to the Trust Preferred Guarantee Trustee, or the exercise of any trust or power conferred upon the Trust Preferred Guarantee Trustee under this Trust Preferred Guarantee; and

(iv) no provision of this Trust Preferred Guarantee shall require the Trust Preferred Guarantee Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if the Trust Preferred Guarantee Trustee shall have reasonable grounds for believing that the repayment of such funds or liability, or indemnity, satisfactory to the Trust Preferred Guarantee Trustee, against such expense, risk or liability, is not assured to it under the terms of this Trust Preferred Guarantee.

Section 2.11. Certain Rights of Trust Preferred Guarantee Trustee.

(a) Subject to the provisions of Section 2.10:

(i) the Trust Preferred Guarantee Trustee may conclusively rely, and shall be fully protected in acting or refraining from acting upon, any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document (whether in its original or facsimile form) believed by it to be genuine and to have been signed, sent or presented by the proper party or parties;

(ii) any direction or act of the Guarantor contemplated by this Trust Preferred Guarantee shall be sufficiently evidenced by an Officers' Certificate;

(iii) whenever, in the administration of this Trust Preferred Guarantee, the Trust Preferred Guarantee Trustee shall deem it desirable that a matter be proved or established before taking, suffering or omitting any action hereunder, the Trust Preferred Guarantee Trustee (unless other evidence is herein specifically prescribed) may, in the absence of bad faith on its part, request and conclusively rely upon an Officers' Certificate which, upon receipt of such request, shall be promptly delivered by the Guarantor;

(iv) the Trust Preferred Guarantee Trustee shall have no duty to see to any recording, filing or registration of any instrument (or any rerecording, refiling or registration thereof) except as required in the administration of this Trust Preferred Guarantee;

(v) the Trust Preferred Guarantee Trustee may, at the expense of the Guarantor, consult with counsel of its selection, and the advice or opinion of such counsel with respect to legal matters shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in accordance with such advice or opinion. Such counsel may be counsel to the Guarantor or the Trust Preferred Guarantee Trustee or any of their Affiliates and may include any of their employees. The Trust Preferred Guarantee Trustee shall have the right at any time to seek instructions concerning the administration of this Trust Preferred Guarantee from any court of competent jurisdiction;

(vi) the Trust Preferred Guarantee Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Trust Preferred Guarantee at the request or direction of any Holder, unless such Holder shall have provided to the Trust Preferred Guarantee Trustee such security and indemnity, satisfactory to the Trust Preferred Guarantee Trustee, against the costs, expenses (including attorneys' fees and expenses and the expenses of the Trust Preferred Guarantee Trustee's agents, nominees or custodians) and liabilities that might be incurred by it in complying with such request or direction, including such reasonable advances as may be requested by the Trust Preferred Guarantee Trustee; provided, that nothing contained in this Section 2.11(a)(vi) shall be taken to relieve the Trust Preferred Guarantee Trustee, upon the occurrence of an Event of Default, of its obligation to exercise the rights and powers vested in it by this Trust Preferred Guarantee;

(vii) the Trust Preferred Guarantee Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Trust Preferred Guarantee Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit but shall incur no liability or additional liability of any kind by reason of such inquiry or investigation;

(viii) the Trust Preferred Guarantee Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, nominees, custodians or attorneys, and the Trust Preferred Guarantee Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder;

(ix) any action taken by the Trust Preferred Guarantee Trustee or its agents hereunder shall bind the Holders of the Trust Preferred Securities, and the signature of the Trust Preferred Guarantee Trustee or its agents alone shall be sufficient and effective to perform any such action. No third party shall be required to inquire as to the authority of the Trust Preferred Guarantee Trustee to so act or as to its compliance with any of the terms and provisions of this Trust Preferred Guarantee, both of which shall be conclusively evidenced by the Trust Preferred Guarantee Trustee or its agent taking such action;

(x) whenever in the administration of this Trust Preferred Guarantee the Trust Preferred Guarantee Trustee shall deem it desirable to receive instructions with respect to enforcing any remedy or right or taking any other action hereunder, the Trust Preferred Guarantee Trustee (i) may request written instructions from the Holders of a Majority of the Trust Preferred Securities, (ii) may refrain from enforcing such remedy or right or taking such other action until such written instructions are received and (iii) shall be protected in conclusively relying on or acting in accordance with such written instructions; and

(xi) the Trust Preferred Guarantee Trustee shall not be liable for any action taken, suffered, or omitted by it in good faith and reasonably believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Trust Preferred Guarantee. No provision of this Trust Preferred Guarantee shall be deemed to impose any duty or obligation on the Trust Preferred Guarantee Trustee to perform any act or acts or exercise any right, power, duty or obligation conferred or imposed on it in any jurisdiction in which it shall be illegal, or in which the Trust Preferred Guarantee Trustee shall be unqualified or incompetent in accordance with applicable law, to perform any such act or acts or to exercise any such right, power, duty or obligation. No permissive power or authority available to the Trust Preferred Guarantee Trustee shall be construed to be a duty.

Section 2.12. Not Responsible for Recitals or Issuance of Guarantee. The recitals contained in this Trust Preferred Guarantee shall be taken as the statements of the Guarantor, and the Trust Preferred Guarantee Trustee does not assume any responsibility for

their correctness. The Trust Preferred Guarantee Trustee makes no representation as to the validity or sufficiency of this Trust Preferred Guarantee.

ARTICLE III  
GUARANTEE TRUSTEE

Section 3.01. Trust Preferred Guarantee Trustee; Eligibility.

(a) There shall at all times be a Trust Preferred Guarantee Trustee which shall:

(i) not be an Affiliate of the Guarantor; and

(ii) be a corporation with a combined capital and surplus of at least 50 million U.S. dollars (U.S.\$50,000,000) organized and doing business under the laws of the United States of America or any state or territory thereof or of the District of Columbia, and be permitted by the Securities and Exchange Commission to act as an institutional trustee under the Trust Indenture Act, authorized under such laws to exercise corporate trust powers, and subject to supervision or examination by federal, state, territorial or District of Columbia authority. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of the supervising or examining authority referred to above, then, for the purposes of this Section 3.01(a)(ii), the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

(b) If at any time the Trust Preferred Guarantee Trustee shall cease to be eligible to so act under Section 3.01(a), the Trust Preferred Guarantee Trustee shall immediately resign in the manner and with the effect set out in Section 3.02(c).

(c) If the Trust Preferred Guarantee Trustee has or shall acquire any “conflicting interest” within the meaning of Section 310(b) of the Trust Indenture Act, the Trust Preferred Guarantee Trustee and Guarantor shall in all respects comply with the provisions of Section 310(b) of the Trust Indenture Act, subject to the penultimate paragraph thereof.

Section 3.02. Appointment, Removal and Resignation of Trust Preferred Guarantee Trustee.

(a) Subject to Section 3.02(c), the Trust Preferred Guarantee Trustee may be removed without cause at any time, except when an Event of Default has occurred and is continuing, by the Guarantor by an instrument in writing executed by the Guarantor and delivered to the Trust Preferred Guarantee Trustee.

(b) Subject to Section 3.02(c), the Trust Preferred Guarantee Trustee may resign from office (without need for prior or subsequent accounting) at any time by an instrument in writing executed by the Trust Preferred Guarantee Trustee and delivered to the Guarantor.

(c) Subject to Section 3.02(d), any removal or resignation of the Trust Preferred Guarantee Trustee shall only take effect once a Successor Trust Preferred Guarantee Trustee has been appointed and has accepted such appointment by instrument in writing executed by such Successor Trust Preferred Guarantee Trustee and delivered to the Guarantor and the resigning or removed Trust Preferred Guarantee Trustee and the Trust Preferred Guarantee Trustee shall hold office until such an appointment of a Successor Trust Preferred Guarantee Trustee.

(d) If no Successor Trust Preferred Guarantee Trustee shall have been appointed and accepted appointment as provided in Section 3.02(c) within 60 days after delivery of an instrument of removal or resignation, the Trust Preferred Guarantee Trustee resigning or being removed may petition, at the expense of the Guarantor, any court of competent jurisdiction for appointment of a Successor Trust Preferred Guarantee Trustee. Such court may thereupon, after prescribing such notice, if any, as it may deem proper, appoint a Successor Trust Preferred Guarantee Trustee.

(e) No Trust Preferred Guarantee Trustee shall be liable for the acts or omissions to act of any Successor Trust Preferred Guarantee Trustee.

(f) The Guarantor shall pay to the Trust Preferred Guarantee Trustee on or prior to the date of termination of this Trust Preferred Guarantee or the effectiveness of any removal or resignation of the Trust Preferred Guarantee Trustee all amounts to which it is entitled to the date of such termination, removal or resignation.

#### ARTICLE IV GUARANTEE

##### Section 4.01. Guarantee.

(a) The Guarantor irrevocably and unconditionally agrees with the Trust Preferred Guarantee Trustee and the Holders from time to time of the Trust Preferred Securities, subject to the limitations set forth in this Trust Preferred Guarantee, to guarantee payment, on a subordinated basis as provided in Section 5.02, in full to such Holders (whether such rights under this Trust Preferred Guarantee are asserted by the Trust Preferred Guarantee Trustee or directly by any such Holder) (without duplication of amounts theretofore paid to the Holders by the Trust), regardless of any defense, right of set-off or counterclaim that the Trust may have or assert, of:

(i) Capital Payments due and payable on the Trust Preferred Securities on each Payment Date for the then current Payment Period, in the amounts and in the manner set forth in the Trust Agreement, including any Arrears of Payments that are due and payable pursuant to the terms of the Trust Preferred Securities, and including any Additional Amounts payable with respect to such Capital Payments and, if applicable, such Arrears of Payments;

(ii) on any Redemption Date, the Redemption Price for each Trust Preferred Security called for redemption by the Trust, in accordance with the provisions of the Trust Agreement;

(iii) upon any voluntary or involuntary dissolution, liquidation or winding up of the Trust (other than a dissolution of the Trust in which the Class B Preferred Securities are distributed to the Holders of the Trust Preferred Securities as provided in the Trust Agreement), the liquidation preference amount of the Trust Preferred Securities, plus accrued and unpaid Capital Payments on the Trust Preferred Securities in respect of the then current Payment Period to but excluding the date of liquidation, plus, with respect to the Upper Tier 2 Percentage only, Arrears of Payments that are due and payable, and plus any Additional Amounts payable with respect to such Capital Payments and, if applicable, such Arrears of Payments;

(collectively, the “Guarantee Payments”). All Guarantee Payments shall include interest accrued on such Guarantee Payments, at a rate per annum equal to the Stated Rate of the Trust Preferred Securities, since the date of the claim asserted under this Trust Preferred Guarantee relating to such Guarantee Payments.

(b) The Guarantor’s obligation to make any of the payments listed in (i) and (ii) of subsection (a) above may be satisfied by direct payment of the required amounts by the Guarantor to the Holders or by causing the Trust to pay such amounts to the Holders.

Section 4.02. Delivery of Guarantor Certificate. As of each (x) Payment Date with respect to which the Trust has not paid the full amount of Capital Payments at the Stated Rate payable as contemplated by clause (i) of Section 4.01(a) or (y) Redemption Date with respect to which the Trust has not paid the Redemption Price in full as contemplated by clause (ii) of Section 4.01(a), the Guarantor shall deliver an Officers’ Certificate to the Trust Preferred Guarantee Trustee within five Business Days after such Payment Date or Redemption Date, as applicable, substantially in the form attached as Exhibit A (the “Guarantor Certificate”).

Section 4.03. Waiver of Notice and Demand. The Guarantor hereby waives notice of acceptance of this Trust Preferred Guarantee and of any liability to which it applies or may apply, presentment, demand for payment, protest, notice of nonpayment, notice of dishonor, notice of redemption and all other notices and demands.

Section 4.04. Obligations Not Affected. The obligations, covenants, agreements and duties of the Guarantor under this Trust Preferred Guarantee shall in no way be affected or impaired by reason of the happening from time to time of any of the following:

(a) the release or waiver, by operation of law or otherwise, of the performance or observance by the Trust of any express or implied agreement, covenant, term or condition relating to the Trust Preferred Securities to be performed or observed by the Trust;

(b) the extension of time for the payment by the Trust of all or any portion of the Capital Payments, Arrears of Payments, Redemption Price, liquidation preference amount or other liquidation distribution or any other sums payable under the terms of the Trust Preferred Securities or the extension of time for the performance of any other obligation under, arising out of, or in connection with, the Trust Preferred Securities;

(c) any failure, omission, delay or lack of diligence on the part of the Holders of the Trust Preferred Securities to enforce, assert or exercise any right, privilege, power or remedy conferred on such Holders pursuant to the terms of the Trust Preferred Securities or any action on the part of the Trust granting indulgence or extension of any kind;

(d) the voluntary or involuntary liquidation, dissolution, sale of any collateral, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of debt of, or other similar proceedings affecting, the Trust or any of the assets of the Trust;

(e) any invalidity of, or defect or deficiency in, the Trust Preferred Securities;

(f) the settlement or compromise of any obligation guaranteed hereby or hereby incurred; or

(g) any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of a guarantor, it being the intent of this Section 4.04 that the obligations of the Guarantor hereunder shall be absolute and unconditional under any and all circumstances.

There shall be no obligation of the Holders of the Trust Preferred Securities to give notice to, or obtain consent of, the Guarantor with respect to the happening of any of the foregoing.

Section 4.05. Action Against Guarantor. The Guarantor waives any right or remedy to require that any action be brought first against the Trust or any other person or entity before proceeding directly against the Guarantor.

Section 4.06. Independent Obligations. The Guarantor acknowledges that its obligations hereunder are independent of the obligations of the Trust with respect to the Trust Preferred Securities, and that the Guarantor shall be liable as principal and as debtor hereunder to make Guarantee Payments pursuant to the terms of this Trust Preferred Guarantee notwithstanding the occurrence of any event referred to in subsections (a) through (g), inclusive, of Section 4.04. It is further understood that all rights of a Holder of a Trust Preferred Security against the Guarantor under this Trust Preferred Guarantee, and all corresponding obligations of the Guarantor to such Holder, are separate and independent of the rights and corresponding obligations between the Guarantor and the other Holders of the Trust Preferred Securities. This Trust Preferred Guarantee is a guarantee of payment and not of collection.

Section 4.07. Taxes. All payments in respect of the Guarantee Payments (including interest accrued thereon, if any) by the Guarantor shall be made without withholding or deduction for or on account of any Withholding Tax, unless the withholding or deduction of such Withholding Tax is required by law. In that event, the Guarantor shall pay, as additional Guarantee Payments, such additional amounts as may be necessary in order that the net amounts received by a Holder after such withholding or deduction for or on account of Withholding Tax will equal the amount which would have been received in respect of the Guarantee Payments (including interest accrued thereon, if any) had no such deduction or withholding been required (“Trust Preferred Guarantee Additional Amounts”), except that no such Trust Preferred



Guarantee Additional Amounts shall be payable to a Holder with respect to any Guarantee Payments,

(i) in respect of each portion of the Upper Tier 2 Percentage of the Trust Preferred Securities for Payment Periods ending prior to the Payment Period during which the respective Tier 1 Qualification Elections, if any, occurred with respect to such portions, if and to the extent that the Company is unable to pay corresponding amounts in respect of the Upper Tier 2 Percentage of the Class B Preferred Securities because such payment would exceed the Distributable Profits of the Guarantor for the fiscal year in respect of which the relevant Capital Payments are payable (after subtracting from such Distributable Profits the amounts of Capital Payments on the Upper Tier 2 Percentage of the Class B Preferred Securities and dividends or other distributions or payments on Parity Capital Securities, the Tier 1 Percentage, if any, of the Trust Preferred Securities and Preferred Tier 1 Capital Securities, if any, already paid on the basis of such Distributable Profits on or prior to the date on which such Trust Preferred Guarantee Additional Amounts will be payable), in which case such Trust Preferred Guarantee Additional Amounts shall be deferred and will thereupon constitute Arrears of Payments under this Trust Preferred Guarantee;

(ii) in respect of each portion of the Tier 1 Percentage of the Trust Preferred Securities for Payment Periods from and including the Payment Period during which the respective Tier 1 Qualification Elections, if any, occurred with respect to such portions, if and to the extent that the Company is unable to pay corresponding amounts in respect of the Tier 1 Percentage of the Class B Preferred Securities because of insufficient Distributable Profits of the Guarantor for the preceding fiscal year (after subtracting from such Distributable Profits the amounts of Capital Payments on the Tier 1 Percentage of the Class B Preferred Securities and dividends or other distributions or payments on the Preferred Tier 1 Securities, if any, already paid on the basis of such Distributable Profits on or prior to the date on which such Trust Preferred Guarantee Additional Amounts will be payable);

(iii) with respect to any Withholding Taxes that are payable by reason of a Holder or beneficial owner of Trust Preferred Securities to which such Trust Preferred Guarantee Payments relate having some connection with any Relevant Jurisdiction other than by reason only of the mere holding or beneficial ownership of Trust Preferred Securities;

(iv) with respect to any Withholding Taxes which are deducted or withheld pursuant to (i) European Council Directive 2003/48/EC or any other European Union Directive or Regulation implementing the conclusions of the ECOFIN Council meeting of 26-27 November 2000 on the taxation of savings income, or (ii) any international treaty or understanding entered into for the purpose of facilitating cooperation in the reporting and collection of savings income and to which (x) the United States, and (y) the European Union or Germany are parties, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding; or

(v) where such deduction or withholding can be avoided or reduced if the Holder or beneficial owner of Trust Preferred Securities to which such Trust Preferred Guarantee Payments relate makes a declaration of non-residence or other similar claim for exemption to the relevant tax authority or complies with any reasonable certification, documentation, information or other

reporting requirement imposed by the relevant tax authority, provided, however, that this exclusion shall not apply if the certification, information documentation or other reporting requirement would be materially more onerous to the Holder or beneficial owner of Trust Preferred Securities (in form, in procedure or substance of information required to be disclosed) than comparable information or other reporting requirements imposed under U.S. tax law, regulation and administrative practice (such as IRS Forms W-8 and W-9).

No later than two Business Days prior to the date on which a Guarantee Payment is due, the Guarantor shall furnish to the Trust Preferred Guarantee Trustee an Officers' Certificate instructing the Trust Preferred Guarantee Trustee as to whether any Guarantee Payment shall be made to Holders with or without withholding or deduction for or on account of any Withholding Tax. If any such withholding or deduction shall be required, then such Officers' Certificate shall specify by country the amount, if any, required to be withheld or deducted on such payments to such Holders and shall certify whether Trust Preferred Guarantee Additional Amounts will be payable with respect to such withholding or deduction and the Trust Preferred Guarantee Additional Amount so payable to each Holder. In such case, the Guarantor shall pay to the Trust Preferred Guarantee Trustee, the Trust Preferred Guarantee Additional Amounts required to be paid by this Section. The Guarantor covenants to indemnify the Trust Preferred Guarantee Trustee for, and to hold it harmless against, any loss, liability or expense reasonably incurred without negligence or bad faith on its part arising out of or in connection with actions taken or omitted by it in reliance on any Officers' Certificate furnished pursuant to this Section.

Section 4.08. Rights Not Separately Transferable. This Trust Preferred Guarantee is a guarantee for the benefit of each Holder from time to time of Trust Preferred Securities. Upon transfer of any Trust Preferred Securities to a third party, the prior Holder thereof shall no longer have any rights hereunder with respect to such transferred Trust Preferred Securities. The rights under this Trust Preferred Guarantee with respect to a Trust Preferred Security are not separately transferable from such Trust Preferred Security.

Section 4.09. No Assurance of Class B Preferred Capital Payment Authorization. Nothing in this Trust Preferred Guarantee shall constitute a guarantee or undertaking of any kind that (i) the Company or the Trust will at any time have sufficient assets to declare a Capital Payment on the Trust Preferred Securities or the Class B Preferred Securities, as the case may be, or (ii) any other condition for declaring such a Capital Payment will be met, or (iii) the Company will be authorized to declare a Capital Payment on the Class B Preferred Securities, or (iv) the Company will declare a Capital Payment on the Class B Preferred Securities if all conditions for the declaration of such a Capital Payment are met.

## ARTICLE V LIMITATIONS OF TRANSACTIONS; RANKING

### Section 5.01. Limitation of Transactions.

(a) For so long as any Trust Preferred Securities remain outstanding and the Upper Tier 2 Percentage of the Trust Preferred Securities exceeds zero, the Guarantor

undertakes not to give any guarantee or similar undertaking with respect to, or enter into any other agreement relating to the support of, or payment of any amounts in respect of, any Group Capital Securities of any of its affiliates which guarantee or similar undertaking or other support agreement would rank senior in any regard to this Trust Preferred Guarantee unless this Trust Preferred Guarantee is amended to give the Holders of the Trust Preferred Securities with respect to the Upper Tier 2 Percentage thereof such rights and entitlements as are contained in or attached to such other guarantee, similar undertaking or agreement so that the Guarantor' s obligations under this Trust Preferred Guarantee relating to the Upper Tier 2 Percentage of the Trust Preferred Securities rank at least on parity with, and contain substantially equivalent rights of priority as to payment, as such guarantee, similar undertaking or other support agreement.

“Group Capital Securities,” as used herein, includes any interests in the capital of any person that rank (A) senior to the preference shares, Preferred Tier 1 Capital Securities and common shares of such person and (B) junior to all other obligations of such person that (i) rank senior to the preference shares and Preferred Tier 1 Capital Securities, if any, of such person and (ii) do not by their terms rank *pari passu* with such interests.

(b) From and including the date of the first Tier 1 Qualification Election, if any, and for so long as any Trust Preferred Securities remain outstanding, the Guarantor undertakes not to issue any preference shares ranking senior on liquidation to its obligations under this Trust Preferred Guarantee or give any guarantee or similar undertaking with respect to, or enter into any other agreement relating to the support or payment of amounts in respect of, any other preference shares (or instruments ranking on parity with or junior to preference shares) issued by any other affiliated entity that would rank senior in right of payment to the Guarantor' s obligations under this Trust Preferred Guarantee in respect of the Tier 1 Percentage of the Trust Preferred Securities, unless this Trust Preferred Guarantee is amended to give the Holders of Trust Preferred Securities with respect to the Tier 1 Percentage thereof such rights and entitlements as are contained in or attached to such other guarantee, similar undertaking or agreement so that the Guarantor' s obligations under this Trust Preferred Guarantee relating to the Tier 1 Percentage of the Trust Preferred Securities rank at least on parity with, and contain substantially equivalent rights of priority as to payment as, such guarantee, similar undertaking or other support agreement.

(c) The Guarantor shall pay all amounts required to be paid pursuant to this Trust Preferred Guarantee in respect of any Capital Payments on the Trust Preferred Securities payable in respect of the most recent Payment Period prior to any dividend or other payment (except dividends in the form of Shares) upon the Shares.

#### Section 5.02. Ranking.

In respect of each portion of the Upper Tier 2 Percentage of the Trust Preferred Securities for Payment Periods ending prior to the Payment Period during which the respective Tier 1 Qualification Elections, if any, occurred with respect to such portions, in the case of a liquidation of the Guarantor, this Trust Preferred Guarantee will rank

(i) subordinate and junior to all senior and subordinated debt obligations of the Guarantor (including profit participation rights (*Genussscheine*));

(ii) senior to all preference shares, Preferred Tier 1 Capital Securities and the common shares of the Guarantor; and

(iii) unless otherwise expressly provided in the terms thereof, *pari passu* with any instrument or contractual obligation of the Guarantor ranking junior to any of the instruments included in the first clause above and senior to any of the instruments or contractual obligations of the Guarantor included in clause (ii) above.

(b) In respect of each portion of the Tier 1 Percentage of the Trust Preferred Securities for Payment Periods from and including the Payment Period during which the respective Tier 1 Qualification Elections, if any, occurred with respect to such portions, in the case of a liquidation of the Guarantor, this Trust Preferred Guarantee will rank

(i) subordinate and junior to all senior and subordinated debt obligations of the Guarantor that do not expressly rank on parity with the obligations of the Guarantor under this Trust Preferred Guarantee;

(ii) on parity with the most senior ranking preference shares of the Guarantor, if any, and with its obligations under any guarantee or support agreement or undertaking relating to any preference shares or other instrument of any subsidiary of the Guarantor qualifying as consolidated Tier 1 capital of the Guarantor that does not expressly rank junior to the obligations of the Guarantor under this Trust Preferred Guarantee; and

(iii) senior to the (x) Shares, (y) each class of preference shares of the Guarantor ranking junior to Preferred Tier 1 Securities of the Guarantor, if any, and any other instrument of the Guarantor ranking *pari passu* with such preference shares or junior thereto and (z) preference shares or any other instrument of any subsidiary of the Guarantor subject to any guarantee or support agreement of the Guarantor which guarantee or support agreement ranks junior to the obligations of the Guarantor under this Trust Preferred Guarantee.

## ARTICLE VI TERMINATION

Section 6.01. Termination. This Trust Preferred Guarantee shall terminate upon, and be of no further force and effect from the earlier of (i) full payment of the Redemption Price of all Trust Preferred Securities or repurchase and cancellation of all Trust Preferred Securities, or (ii) upon full payment of the aggregate liquidation preference amount of the Trust Preferred Securities, plus any accumulated and unpaid Capital Payments thereon, plus Arrears of Payments, if applicable, plus Additional Amounts, if any, as payable on the Trust Preferred Securities upon liquidation of the Trust pursuant to the Trust Agreement. Notwithstanding the foregoing, this Trust Preferred Guarantee will continue to be effective or will be reinstated, as the case may be, if at any time any Holder of Trust Preferred Securities must return payment of any sums paid under the Trust Preferred Securities or under this Trust Preferred Guarantee pursuant to (i) or (ii) above.

ARTICLE VII  
INDEMNIFICATION

Section 7.01. Exculpation.

(a) No Indemnified Person shall be liable, responsible or accountable in damages or otherwise to the Guarantor or any Holder or beneficial owner of Trust Preferred Securities for any loss, liability, expense, damage or claim incurred by reason of any act or omission performed or omitted by such Indemnified Person in good faith in accordance with this Trust Preferred Guarantee and in a manner that such Indemnified Person reasonably believed to be within the scope of the authority conferred on such Indemnified Person by this Trust Preferred Guarantee or by law, except that an Indemnified Person shall be liable for any such loss, liability, expense, damage or claim incurred by reason of such Indemnified Person's negligence or willful misconduct with respect to such acts or omissions.

(b) An Indemnified Person shall be fully protected in relying in good faith upon the records of the Guarantor and upon such information, opinions, reports or statements presented to the Guarantor by any Person as to matters the Indemnified Person reasonably believes are within such other Person's professional or expert competence, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits, losses, or any other facts pertinent to the existence and amount of assets from which Capital Payments to Holders of Trust Preferred Securities might properly be paid.

Section 7.02. Fees and expenses; Indemnification. The Guarantor agrees to pay to the Trust Preferred Guarantee Trustee from time to time such compensation as shall be agreed to in writing between the Guarantor and the Trust Preferred Guarantee Trustee for all services rendered by it hereunder and to reimburse the Trust Preferred Guarantee Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trust Preferred Guarantee Trustee in accordance with any provision of this Trust Preferred Guarantee (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to its negligence, willful misconduct or bad faith. The Guarantor agrees to indemnify each Indemnified Person for, and to hold each Indemnified Person harmless against, any and all loss, liability, damage, claim or expense (including taxes other than taxes based on the income of any such Indemnified Person) incurred without negligence or bad faith on its part, arising out of or in connection with the acceptance or administration of the trust or trusts hereunder, including the costs and expenses (including reasonable legal fees and expenses) of defending itself against, or investigating, any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder.

Promptly after receipt by an Indemnified Person of notice of the commencement of any action, such Indemnified Person will, if a claim in respect thereof is to be made against the Guarantor, notify the Guarantor in writing of the commencement thereof; provided that, failure to give such prompt notice shall not impair the obligations of the Guarantor hereunder except to the extent that such failure to provide notice materially prejudices the Guarantor. The Guarantor

shall be entitled to appoint counsel of the Guarantor's choice at the Guarantor's expense to represent the Indemnified Persons in any action for which indemnification is sought; provided, however, that such counsel shall be reasonably satisfactory to the Indemnified Persons. The Guarantor will not, without the prior written consent of the Indemnified Persons, settle or compromise or consent to the entry of any judgment with respect to any pending or threatened claim, action, suit or proceeding in respect of which indemnification may be sought unless such settlement, compromise or consent includes an unconditional release of each Indemnified Person from all liability arising out of such claim, action, suit or proceeding.

The obligations of the Guarantor under this Section 7.02 shall survive the termination of this Trust Preferred Guarantee or the earlier resignation or removal of the Trust Preferred Guarantee Trustee.

#### ARTICLE VIII MISCELLANEOUS

Section 8.01. Successors and Assigns. All guarantees and agreements contained in this Trust Preferred Guarantee shall bind the successors, assigns, receivers, trustees and representatives of the Guarantor and shall inure to the benefit of the Holders of the Trust Preferred Securities then outstanding.

Section 8.02. Amendments. (a) The Guarantor and the Trust Preferred Guarantee Trustee may, at any time and from time to time, without the consent of the Holders of the Trust Preferred Securities, modify this Trust Preferred Guarantee (i) to make any changes required pursuant to Section 5.01(a) or (b), (ii) to cure any ambiguity or correct any mistake, (iii) to correct or supplement any provision in this Trust Preferred Guarantee that may be defective or inconsistent with any other provision of this Trust Preferred Guarantee, (iv) to add to the covenants, restrictions or obligations of the Guarantor for the benefit of the Holders of the Trust Preferred Securities or to surrender any right or power conferred upon the Guarantor under this Trust Preferred Guarantee, (v) to evidence the succession of another entity to the Guarantor and the assumption by any such successor of the covenants of the Guarantor stated herein, (vi) to modify or supplement any provision in this Trust Preferred Guarantee to give effect to any provision made invalid by any changes in the 1940 Act, the Trust Indenture Act or the rules or regulations of either such Act or any other applicable law, provided that no such amendment shall have a material adverse effect on the rights, preferences or privileges of the Holders of the Trust Preferred Securities, (vii) to modify, eliminate and add to any provision of this Trust Preferred Guarantee to such extent as may be necessary or desirable, provided that no such amendment shall have a material adverse effect on the rights, preferences or privileges of the Holders of the Trust Preferred Securities, or (viii) in connection with the creation of any series of Trust Preferred Securities and the establishment of the particular terms thereof (including, without limitation, to confirm or provide that the benefits of this Trust Preferred Guarantee apply to additional Trust Preferred Securities issued on or before June 30, 2013 in accordance with the Trust Agreement).

(b) This Trust Preferred Guarantee may be modified with the prior approval of the Holders of not less than a Majority of the Trust Preferred Securities, provided that, (i) except as provided in clause (a) above, Sections 4.01, 4.02, 4.07 and the form of Exhibit A may not be

amended without the prior approval of each Holder of the Trust Preferred Securities, and (ii) any amendment to reduce the aggregate liquidation preference amount of Trust Preferred Securities whose Holders must consent to an amendment must be approved by each Holder of Trust Preferred Securities.

(c) Any amendment hereof in accordance with this Section 8.02 shall be binding on all Holders of Trust Preferred Securities.

(d) The Trust Preferred Guarantee Trustee shall be entitled to receive, and shall be fully protected in relying upon, a written opinion of counsel stating that the execution of any amendment pursuant to this Section 8.02 is authorized or permitted by this Trust Preferred Guarantee, stating that all requisite consents have been obtained or that no consents are required and stating that such amendment constitutes the legal, valid and binding obligation of the Guarantor, enforceable against the Guarantor in accordance with its terms, subject to customary exceptions. Subject to the preceding sentence, the Trust Preferred Guarantee Trustee shall sign such amendment if the same does not adversely affect the rights of the Trust Preferred Guarantee Trustee. The Trust Preferred Guarantee Trustee may, but shall not be obligated to, execute any such amendment that affects the Trust Preferred Guarantee Trustee's own rights, duties or immunities under this Trust Preferred Guarantee or otherwise.

#### Section 8.03. Judgment Currency Indemnity.

(a) If, for the purposes of obtaining judgment in any court, it is necessary to convert an amount due from the Guarantor under any provision of this Trust Preferred Guarantee to a currency other than U.S. dollars, the parties agree, to the fullest extent that they may effectively do so, that the rate of exchange used shall be that at which in accordance with normal banking procedures The Bank of New York could purchase such other currency with U.S. dollars at its New York office on the second Business Day preceding the day on which final judgment is given.

(b) The obligations of the Guarantor in respect of any amount due under this Trust Preferred Guarantee to the Trust Preferred Guarantee Trustee or any Holders of Trust Preferred Securities shall, notwithstanding any judgment in a currency other than U.S. dollars, be discharged only to the extent that on the Business Day following receipt by the Trust Preferred Guarantee Trustee or such Holders, as the case may be, of any amount adjudged to be so due in such other currency the Trust Preferred Guarantee Trustee or such Holders, as the case may be, may in accordance with normal banking procedures purchase U.S. dollars with such other currency.

(c) If the amount of U.S. dollars so purchased is less than the amount originally due to the Trust Preferred Guarantee Trustee or such Holders, as the case may be, in U.S. dollars, the Guarantor agrees, to the fullest extent that it may effectively do so, as a separate obligation and notwithstanding any such judgment, to indemnify the Trust Preferred Guarantee Trustee or such Holders, as the case may be, against such loss.

(d) If the amount of dollars so purchased exceeds the amount originally due to the Trust Preferred Guarantee Trustee or such Holders, as the case may be, in U.S.

dollars, the Trust Preferred Guarantee Trustee and such Holders agree to remit any remaining amount to the Guarantor.

Section 8.04. Assignment of the Guarantor. The Guarantor may not assign its obligations under this Trust Preferred Guarantee, except in the case of a merger or consolidation where the Guarantor is not the surviving entity, to the surviving entity or in the case of a sale, lease or other transfer of substantially all of its assets, to the purchaser and which surviving entity or purchaser expressly assumes the obligations of the Guarantor hereunder or such assumption of obligations results from applicable law.

Section 8.05. Notices. All notices provided for in this Trust Preferred Guarantee shall be in writing, duly signed by the party giving such notice, and shall be delivered, telecopied with receipt confirmed or mailed by first class mail, postage prepaid, as follows:

(a) If given to the Trust Preferred Guarantee Trustee, at the Trust Preferred Guarantee Trustee's mailing address set forth below:

The Bank of New York  
101 Barclay Street, Floor 4 East  
New York, New York 10286  
United States  
Telecopy No.: (212) 815-5802  
Attention: Corporate Trust Administration

(b) If given to the Guarantor, at the Guarantor's mailing address set forth below (or such other address as the Guarantor may give notice of to the Holders of the Trust Preferred Securities):

Deutsche Bank Aktiengesellschaft  
Theodor-Heuss-Allee 70  
D-60486 Frankfurt am Main  
Germany  
Telecopy No.: (+49) 69 910-35092  
Attention: Group Treasury

With copies to:

Deutsche Bank Contingent Capital LLC V  
60 Wall Street  
New York, New York 10005  
United States  
Telecopy No.: 212 797-0291  
Attention: The Directors

(c) If given to any Holder of Trust Preferred Securities, at the address set forth on the books and records of the Trust.



All such notices shall be deemed to have been given when received in person, telecopied with receipt confirmed, or mailed by first class mail, postage prepaid except that if a notice or other document is refused delivery or cannot be delivered because of a changed address of which no notice was given, such notice or other document shall be deemed to have been delivered on the date of such refusal or inability to deliver.

Section 8.06. GOVERNING LAW. THIS TRUST PREFERRED GUARANTEE SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES THEREOF.

Section 8.07. Submission to Jurisdiction. Any claim or proceeding brought by the Trust Preferred Guarantee Trustee on behalf of Holders or a Holder of Trust Preferred Securities to enforce the obligations of the Guarantor hereunder shall be brought exclusively in a court of competent jurisdiction in the State of New York. Any claim or proceeding relating to the application of Articles II and III, and the definitions of terms as used therein, including, without limitation, any claims, counter-claims and cross-claims asserted against the Trust Preferred Guarantee Trustee in connection therewith, shall be brought in a court of competent jurisdiction in the State of New York.

This TRUST PREFERRED GUARANTEE is executed as of the day and year first above written.

DEUTSCHE BANK AKTIENGESELLSCHAFT,  
as Guarantor

By: /s/ Jonathan Blake  
Name: Jonathan Blake  
Title: Director, Head of Capital Market Issuance

By: /s/ Marco Zimmermann  
Name: Marco Zimmermann  
Title: Vice President, Issuance and Liquidity Manager

THE BANK OF NEW YORK,  
as Trust Preferred Guarantee Trustee

By: /s/ Lesley Daley  
Name: Lesley Daley  
Title: Assistant Vice President

Trust Preferred Securities – Subordinated Guarantee Agreement

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EXHIBIT A  
[FORM OF GUARANTOR' S CERTIFICATE]

**DEUTSCHE BANK CONTINGENT CAPITAL LLC V**  
**CLASS B PREFERRED SECURITIES**  
**SUBORDINATED GUARANTEE AGREEMENT**  
**DEUTSCHE BANK AKTIENGESELLSCHAFT**  
**AS THE GUARANTOR**  
DATED AS OF MAY 9, 2008

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## TABLE OF CONTENTS

	Page
ARTICLE I DEFINITIONS AND INTERPRETATIONS	1
Section 1.01. Definitions and Interpretation	1
ARTICLE II TRUST INDENTURE ACT	6
Section 2.01. Trust Indenture Act; Application	6
Section 2.02. Lists of Holders of Class B Preferred Securities	6
Section 2.03. Reports by the Class B Preferred Guarantee Trustee	6
Section 2.04. Periodic Reports to Class B Preferred Guarantee Trustee	7
Section 2.05. Evidence of Compliance with Conditions Precedent	7
Section 2.06. Events of Default; Waiver	7
Section 2.07. Event of Default; Notice	7
Section 2.08. Rights of Holders	8
Section 2.09. Conflicting Interests	9
Section 2.10. Powers, Duties and Rights of Class B Preferred Guarantee Trustee	9
Section 2.11. Certain Rights of Class B Preferred Guarantee Trustee	10
Section 2.12. Not Responsible for Recitals or Issuance of Class B Preferred Guarantee	12
ARTICLE III GUARANTEE TRUSTEE	12
Section 3.01. Class B Preferred Guarantee Trustee; Eligibility	12
Section 3.02. Appointment, Removal and Resignation of Class B Preferred Guarantee Trustee	13
ARTICLE IV GUARANTEE	14
Section 4.01. Guarantee	14
Section 4.02. Delivery of Guarantor Certificate	15
Section 4.03. Waiver of Notice and Demand	15
Section 4.04. Obligations Not Affected	15
Section 4.05. Action Against Guarantor	16
Section 4.06. Independent Obligations	16
Section 4.07. Taxes	16
Section 4.08. Rights Not Separately Transferable	18
Section 4.09. No Assurance of Capital Payment Authorization	18



**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
ARTICLE V LIMITATIONS OF TRANSACTIONS; RANKING	18
Section 5.01. Limitation of Transactions	18
Section 5.02. Ranking	19
ARTICLE VI TERMINATION	20
Section 6.01. Termination	20
ARTICLE VII INDEMNIFICATION	21
Section 7.01. Exculpation	21
Section 7.02. Fees and expenses; Indemnification	21
ARTICLE VIII MISCELLANEOUS	22
Section 8.01. Successors and Assigns	22
Section 8.02. Amendments	22
Section 8.03. Judgment Currency Indemnity	23
Section 8.04. Assignment of the Guarantor	24
Section 8.05. Notices	24
Section 8.06. Governing Law	25
Section 8.07. Submission to Jurisdiction	25
EXHIBIT A Form of Guarantor' s Certificate	

CROSS-REFERENCE TABLE<sup>1</sup>

Section of Trust Indenture Act of 1939, as amended	Section of Guarantee	
310(a)		3.01(a)
310(b)		2.09, 3.01(c)
310(c)	Inapplicable	
311(a)		2.02(b)
311(b)		2.02(b)
311(c)	Inapplicable	
312(a)		2.02(a)
312(b)		2.02(b)
313		2.03
314(a)		2.04
314(b)	Inapplicable	
314(c)		2.05
314(d)	Inapplicable	
314(e)		2.05
314(f)	Inapplicable	
315(a)		2.10(d), 2.10(e)
315(b)		2.07
315(c)		2.10(d)
315(d)		2.10(e)
316(a)		2.08(a), 2.06

<sup>1</sup> This Cross-Reference Table does not constitute part of the Guarantee and shall not affect the interpretation of any of its terms or provisions.



This CLASS B PREFERRED SECURITIES SUBORDINATED GUARANTEE AGREEMENT (this “Class B Preferred Guarantee”), dated as of May 9, 2008 is executed and delivered by DEUTSCHE BANK AKTIENGESELLSCHAFT, a company organized under the laws of the Federal Republic of Germany, with its principal executive office in Frankfurt am Main, Germany (together with its successors, the “Guarantor”), and THE BANK OF NEW YORK, in its capacity as Class B Preferred Guarantee Trustee (as defined herein), for the benefit of the Holders (as defined herein) from time to time of the Class B Preferred Securities (as defined herein) of Deutsche Bank Contingent Capital LLC V, a Delaware limited liability company (together with its successors, the “Company”).

#### WITNESSETH

WHEREAS, pursuant to the LLC Agreement (as defined herein) the Company is issuing on the date hereof its Class B Preferred Securities, (with a liquidation preference amount of U.S.\$25 each) having an aggregate liquidation preference amount of \$1,265,000,025, and may issue additional Class B Preferred Securities from time to time prior to June 30, 2013 as provided for in the LLC Agreement, in each case representing preferred limited liability company interests in the Company (the “Class B Preferred Securities”); and

WHEREAS, in order to induce the Holders from time to time to purchase the Class B Preferred Securities, the Guarantor desires irrevocably and unconditionally to agree, to the extent set forth herein, to pay to the Holders from time to time of the Class B Preferred Securities the Class B Preferred Guarantee Payments (as defined herein) and to make certain other payments on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the purchase by the Holders from time to time of Class B Preferred Securities, which purchase the Guarantor hereby agrees shall benefit the Guarantor, the Guarantor executes and delivers this Class B Preferred Guarantee for the benefit of the Holders from time to time of the Class B Preferred Securities.

#### ARTICLE I

##### DEFINITIONS AND INTERPRETATIONS

Section 1.01. Definitions and Interpretation. In this Class B Preferred Guarantee, unless the context otherwise requires:

- (a) capitalized terms used but not defined herein have the meanings assigned to them in the LLC Agreement;
- (b) a term defined anywhere in this Class B Preferred Guarantee has the same meaning throughout;
- (c) all references to “the Class B Preferred Guarantee” or “this Class B Preferred Guarantee” are to this Class B Preferred Guarantee as modified, supplemented or amended from time to time;

Class B Preferred Securities – Subordinated Guarantee Agreement

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(d) all references in this Class B Preferred Guarantee to Articles and Sections are to Articles and Sections of this Class B Preferred Guarantee, unless otherwise specified; and

(e) a reference to the singular includes the plural and vice versa.

“1940 Act” means the U.S. Investment Company Act of 1940, as amended.

“Additional Amounts” means an amount paid as additional Capital Payments to the extent set forth in the LLC Agreement.

“Affiliate” means, with respect to a specified Person, any Person directly or indirectly controlling, controlled by, or under common control with the specified Person. The terms “controlling”, “controlled by” and “under common control” mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting shares, by contract or otherwise.

“Arrears of Payments” has the meaning specified in the LLC Agreement.

“Authorized Officer” of a Person means any Person that is authorized to bind such Person.

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

“Capital Payments” means periodic distributions on the Class B Preferred Securities declared (or deemed declared) in accordance with the LLC Agreement.

“Class B Payment Date” has the meaning specified in the LLC Agreement.

“Class B Payment Period” means the period from and including the immediately preceding Class B Payment Date (or the date of original issuance of the Class B Preferred Securities with respect to the Capital Payments payable on the first Class B Payment Date) to but excluding the relevant Class B Payment Date.

“Class B Preferred Guarantee” has the meaning set forth in the preamble to this Class B Preferred Guarantee.

“Class B Preferred Guarantee Additional Amounts” has the meaning set forth in Section 4.07.

“Class B Preferred Guarantee Payments” has the meaning assigned to it in Section 4.01.

“Class B Preferred Guarantee Trustee” means The Bank of New York, a New York banking corporation, and its successors, in its capacity as trustee under this Class B Preferred Guarantee, until a Successor Class B Preferred Guarantee Trustee has been appointed and has accepted such appointment pursuant to the terms of this Class B Preferred Guarantee by

executing a counterpart hereof and becoming a party hereto, and thereafter means each such Successor Class B Preferred Guarantee Trustee.

“Class B Preferred Securities” has the meaning assigned to it in the first recital to this Class B Preferred Guarantee.

“Class B Redemption Date” has the meaning assigned to it in the LLC Agreement.

“Company” has the meaning assigned to it in the preamble to this Class B Preferred Guarantee.

“Company Common Security” means the common security of the Company representing the limited liability company interest in the Company.

“Corporate Trust Office” means the office of the Class B Preferred Guarantee Trustee at which, at any particular time, its corporate trust business shall be principally administered, which office at the date hereof is located at 101 Barclay Street, Floor 21 West, New York, New York 10286.

“Event of Default” means (i) a default by the Guarantor on any of its obligations under Article 4 or (ii) a default by the Guarantor in the performance of any other obligation under this Class B Preferred Guarantee, and, in the case of (ii), continuance of such default for 60 days after the Class B Preferred Guarantee Trustee has given notice thereof to the Guarantor.

“Distributable Profits” has the meaning assigned to it in the LLC Agreement.

“Guarantor” has the meaning assigned to it in the preamble to this Class B Preferred Guarantee.

“Guarantor Certificate” has the meaning assigned to it in Section 4.02.

“Holder” means any holder, as registered on the books and records of the Company or the Trust, of Class B Preferred Securities or Trust Preferred Securities, as the case may be; provided, however, that, in determining whether the Holders of the requisite percentage of the liquidation preference amount of Class B Preferred Securities have given any request, notice, consent or waiver hereunder, “Holder” shall not include the Guarantor or any Affiliate of the Guarantor (other than the Property Trustee) other than with respect to Class B Preferred Securities purchased or acquired by the Guarantor or its Affiliates in connection with transactions effected by or for the account of customers of the Guarantor or any of its Affiliates in connection with the distribution or trading of or market-making in connection with such securities and except that persons (other than Affiliates of the Guarantor) to whom the Guarantor or any of its subsidiaries have pledged Class B Preferred Securities may vote or consent with respect to such pledged securities pursuant to the terms of such pledge.

“Indemnified Person” means the Class B Preferred Guarantee Trustee, any Affiliate of the Class B Preferred Guarantee Trustee, or any officer, director, shareholder, member, partner, employee, representative, nominee, custodian or agent of the Class B Preferred Guarantee Trustee.

“Initial Holder” means the Property Trustee as the initial Holder of the Class B Preferred Securities.

“LLC Agreement” means the Amended and Restated Limited Liability Company Agreement of the Company dated as of May 9, 2008 as amended, modified or supplemented from time to time.

“Majority” means, except as provided by the Trust Indenture Act, a vote by the Holder(s) of more than 50% of the aggregate liquidation preference amount of the Class B Preferred Securities.

“Officers’ Certificate” means, with respect to any Person, a certificate signed by two Authorized Officers of such Person.

“Parity Capital Securities” means, at any time, Parity Subsidiary Capital Securities and each class of ownership interests in the capital of the Guarantor that at such time rank senior to the preference shares of the Guarantor and junior to all other securities of the Guarantor that at such time (i) rank senior to preference shares and (ii) do not by their terms rank *pari passu* with such ownership interest of the Guarantor, if any.

“Parity Subsidiary Capital Securities” means any instrument of any subsidiary of the Guarantor subject to any guarantee or support agreement of the Guarantor ranking *pari passu* with the obligations of the Guarantor under the terms of this Class B Preferred Guarantee in effect with respect to the Upper Tier 2 Percentage of the Class B Securities.

“Person” means any individual, corporation, association, partnership (general or limited), joint venture, trust, estate, limited liability company, or other legal entity or organization.

“Preferred Tier 1 Capital Securities” of any person means, at any time, each class of the most senior ranking preference shares of such person and any other instruments of such person (other than common shares) then qualifying as Tier 1 Regulatory Capital and, if such person is the Guarantor, Preferred Tier 1 Subsidiary Securities.

“Preferred Tier 1 Guarantee” means, at any time, any guarantee issued or support undertaking entered into by the Guarantor from time to time of any preference shares issued by any subsidiary of the Guarantor (including the Trust and the Company) from time to time, if such guarantee or support undertaking then ranks *pari passu* with the Guarantor’s obligations under this Class B Preferred Guarantee.

“Preferred Tier 1 Securities” means, at any time, collectively, the most senior ranking preference shares or any other instrument issued and outstanding from time to time by (i) the Guarantor or (ii) any subsidiary of the Guarantor subject to any Preferred Tier 1 Guarantee.

“Preferred Tier 1 Subsidiary Securities” means, at any time, the most senior ranking preference shares and any other instruments of any person other than the Guarantor, which, in each case, then qualify as Tier 1 Regulatory Capital and are subject to any agreement of the Guarantor that guarantees or otherwise provides support of such preference shares or other instruments.

“Property Trustee” has the meaning assigned to it in the Trust Agreement.

“Redemption Price” has the meaning assigned to it in the LLC Agreement.

“Registrar” means any bank or trust company appointed to register Class B Preferred Securities and transfers thereof as provided in the LLC Agreement, and shall initially be The Bank of New York.

“Relevant Jurisdiction” has the meaning assigned to it in the LLC Agreement.

“Responsible Officer” means, with respect to the Class B Preferred Guarantee Trustee, any officer within the Corporate Trust Office of the Class B Preferred Guarantee Trustee with direct responsibility for the administration of the Class B Preferred Guarantee, including any vice president, any assistant vice president, any trust officer, any secretary, any assistant secretary, the treasurer, any assistant treasurer or other officer of the Class B Preferred Guarantee Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of that officer’s knowledge of and familiarity with the particular subject.

“Shares” means the ordinary shares of common stock of the Guarantor and any other shares of the Guarantor’s capital stock ranking junior to the Preferred Tier 1 Securities, if any, in each case issued by the Guarantor from time to time.

“Stated Rate” has the meaning assigned to it in the LLC Agreement.

“Successor Class B Preferred Guarantee Trustee” means a successor Class B Preferred Guarantee Trustee possessing the qualifications to act as Class B Preferred Guarantee Trustee under Section 3.01.

“Tier 1 Qualification Election” has the meaning assigned to it in the LLC Agreement.

“Tier 1 Regulatory Capital” has the meaning assigned to it in the LLC Agreement.

“Trust” means Deutsche Bank Contingent Capital Trust V, a Delaware statutory trust.

“Trust Agreement” means the amended and restated trust agreement of Deutsche Bank Contingent Capital Trust V, dated as of May 9, 2008, among the Trustees (as defined therein), the Company as Sponsor, Deutsche Bank Aktiengesellschaft as holder of the Trust Common Security and the holders from time to time of the Trust Preferred Securities, as from time to time amended, modified or supplemented.

“Trust Indenture Act” means the U.S. Trust Indenture Act of 1939, as amended from time to time, or any successor legislation.

“Trust Preferred Securities” means the 1,265,000,000 8.05% trust preferred securities issued by the Trust.

“Withholding Tax” means any present or future taxes, duties or governmental charges of any nature whatsoever imposed, levied or collected by or on behalf of any Relevant Jurisdiction or by or on behalf of any political subdivision or authority therein or thereof having the power to tax.

## ARTICLE II TRUST INDENTURE ACT

### Section 2.01. Trust Indenture Act; Application.

(a) This Class B Preferred Guarantee is subject to the provisions of the Trust Indenture Act that are required to be part of this Class B Preferred Guarantee and shall, to the extent applicable, be governed by such provisions. A term defined in the Trust Indenture Act has the same meaning when used in this Class B Preferred Guarantee, unless otherwise defined in this Class B Preferred Guarantee or unless the context otherwise requires.

(b) If and to the extent that any provision of this Class B Preferred Guarantee limits, qualifies or conflicts with the duties imposed by Sections 310 to 317, inclusive, of the Trust Indenture Act, such imposed duties shall control.

### Section 2.02. Lists of Holders of Class B Preferred Securities.

(a) The Class B Preferred Guarantee Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of Holders of Class B Preferred Securities. If the Class B Preferred Guarantee Trustee is not the Registrar, the Guarantor shall furnish to the Class B Preferred Guarantee Trustee at stated intervals of not more than six months, and at such other times as the Class B Preferred Guarantee Trustee may request in writing, a list, in such form and as of such date as the Class B Preferred Guarantee Trustee may reasonably require, containing all the information in the possession or control of the Registrar, the Guarantor or any of its paying agents other than the Class B Preferred Guarantee Trustee as to the names and addresses of Holders of Class B Preferred Securities.

(b) The Class B Preferred Guarantee Trustee shall comply with its obligations under Sections 311(a), 311(b) and 312(b) of the Trust Indenture Act.

Section 2.03. Reports by the Class B Preferred Guarantee Trustee. Within 60 days after May 1 of each year (beginning with May 2009), the Class B Preferred Guarantee Trustee shall provide to the Holders of the Class B Preferred Securities and for so long as the Initial Holder is the Holder of the Class B Preferred Securities, also to the Holders of the Trust Preferred Securities, such reports as are required by Section 313(a) of the Trust Indenture Act, if any, in the form and in the manner provided by Section 313 of the Trust Indenture Act. The Class B Preferred Guarantee Trustee shall also comply with the other requirements of Section 313 of the Trust Indenture Act.

Section 2.04. Periodic Reports to Class B Preferred Guarantee Trustee. The Guarantor shall provide to the Class B Preferred Guarantee Trustee and transmit to the Holders of the Class B Preferred Securities such documents, reports and information as required by Section 314 of the Trust Indenture Act (if any) and shall provide, within 60 days after the end of each of its fiscal years, the compliance certificate required by Section 314 of the Trust Indenture Act in the form and in the manner required by Section 314 of the Trust Indenture Act. Delivery of such reports, information and documents to the Class B Preferred Guarantee Trustee is for informational purposes only and the Class B Preferred Guarantee Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Guarantor's compliance with any of its covenants hereunder (as to which the Class B Preferred Guarantee Trustee is entitled to rely exclusively on Officers' Certificates).

Section 2.05. Evidence of Compliance with Conditions Precedent. The Guarantor shall provide to the Class B Preferred Guarantee Trustee such evidence of compliance with the conditions precedent, if any, provided for in this Class B Preferred Guarantee that relate to any of the matters set forth in Section 314(c) of the Trust Indenture Act. Any certificate or opinion required to be given by an officer pursuant to Section 314(c)(1) may be given in the form of an Officers' Certificate and shall include:

- (a) a statement that each officer signing the Officers' Certificate has read the covenant or condition and the definition relating thereto;
- (b) a brief statement of the nature and scope of the examination or investigation undertaken by each officer in rendering the Officers' Certificate;
- (c) a statement that each such officer has made such examination or investigation as, in such officer's opinion, is necessary to enable such officer to express an informed opinion as to whether or not such covenant or condition has been complied with; and
- (d) a statement as to whether, in the opinion of each such officer, such condition or covenant has been complied with.

Section 2.06. Events of Default; Waiver. The Holders of a Majority of the Class B Preferred Securities may, by vote, on behalf of the Holders of all of the Class B Preferred Securities, waive any past Event of Default and its consequences (except an Event of Default in respect of a covenant or provision hereof which cannot be modified or amended without the consent of each Holder of Class B Preferred Securities, which can only be waived by all Holders of Class B Preferred Securities), *provided that* for so long as the Initial Holder is the Holder of the Class B Preferred Securities, any such waiver also requires the consent of Holders of a majority in liquidation preference amount of the Trust Preferred Securities or the consent of all holders of Trust Preferred Securities, as applicable. Upon such waiver, any such Event of Default shall cease to exist, for every purpose of this Class B Preferred Guarantee, but no such waiver shall extend to any subsequent Event of Default or impair any right consequent thereon.

Section 2.07. Event of Default; Notice.

(a) The Class B Preferred Guarantee Trustee shall, within 90 days after the occurrence of an Event of Default, transmit by mail, first class postage prepaid, to the Holders of the Class B Preferred Securities (and, for so long as the Initial Holder is the Holder of the Class B Preferred Securities, also to the Holders of the Trust Preferred Securities), notices of all Events of Default actually known to a Responsible Officer of the Class B Preferred Guarantee Trustee, unless such Events of Default have been cured before the giving of such notice; provided, that, the Class B Preferred Guarantee Trustee shall be protected in withholding such notice if and so long as a Responsible Officer of the Class B Preferred Guarantee Trustee in good faith determines that the withholding of such notice is in the interests of the Holders of the Class B Preferred Securities or Trust Preferred Securities.

(b) The Class B Preferred Guarantee Trustee shall not be deemed to have knowledge of any Event of Default unless a Responsible Officer of the Class B Preferred Guarantee Trustee shall have received written notice, or a Responsible Officer of the Class B Preferred Guarantee Trustee charged with the administration of this Class B Preferred Guarantee shall have obtained actual knowledge, of such Event of Default.

Section 2.08. Rights of Holders.

(a) The Holders of a Majority of the Class B Preferred Securities have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Class B Preferred Guarantee Trustee in respect of this Class B Preferred Guarantee or exercising any trust or power conferred upon the Class B Preferred Guarantee Trustee under this Class B Preferred Guarantee; provided, that, (1) such direction shall not be in conflict with any rule of law or with this Class B Preferred Guarantee, (2) the Class B Preferred Guarantee Trustee may take any other action deemed proper by the Class B Preferred Guarantee Trustee which is not inconsistent with such direction, and (3) subject to the provisions of Section 2.10, the Class B Preferred Guarantee Trustee shall have the right to decline to follow any such direction if a Responsible Officer of the Class B Preferred Guarantee Trustee shall determine in good faith that the proceeding so directed would involve the Class B Preferred Guarantee Trustee in personal liability.

(b) Notwithstanding any other provision of this Class B Preferred Guarantee, the right of any Holder of Class B Preferred Securities to receive Class B Preferred Guarantee Payments if and when due, or to institute suit for the enforcement of any Class B Preferred Guarantee Payment on and after the date such Class B Preferred Guarantee Payment was due, shall be absolute and unconditional and shall not be impaired without the consent of such Holder.

(c) Notwithstanding any other provision of this Class B Preferred Guarantee, for so long as the Initial Holder is the Holder of any Class B Preferred Securities, any Holder of Trust Preferred Securities shall have the right to exercise directly any right or power of a Holder of Class B Preferred Securities with a corresponding liquidation preference amount under this Section 2.08.



Section 2.09. Conflicting Interests. The Trust Preferred Securities Subordinated Guarantee Agreement shall be deemed to be specifically described in this Class B Preferred Guarantee for the purposes of clause (i) of the first proviso contained in Section 310(b) of the Trust Indenture Act.

Section 2.10. Powers, Duties and Rights of Class B Preferred Guarantee Trustee.

(a) This Class B Preferred Guarantee shall be held by the Class B Preferred Guarantee Trustee for the benefit of the Holders of the Class B Preferred Securities and for so long as the Initial Holder is the Holder of the Class B Preferred Securities, also the benefit of the Holders of the Trust Preferred Securities.

(b) The Class B Preferred Guarantee Trustee shall not transfer this Class B Preferred Guarantee to any Person except to a Successor Class B Preferred Guarantee Trustee on acceptance by such Successor Class B Preferred Guarantee Trustee of its appointment to act as Successor Class B Preferred Guarantee Trustee. The right, title and interest of the Class B Preferred Guarantee Trustee shall automatically vest in any Successor Class B Preferred Guarantee Trustee, and such vesting and cessation of title shall be effective whether or not conveyancing documents have been executed and delivered pursuant to the appointment of such Successor Class B Preferred Guarantee Trustee.

(c) If an Event of Default actually known to a Responsible Officer of the Class B Preferred Guarantee Trustee has occurred and is continuing, the Class B Preferred Guarantee Trustee shall be entitled to enforce this Class B Preferred Guarantee for the benefit of the Holders of the Class B Preferred Securities and, for so long as the Initial Holder is the Holder of the Class B Preferred Securities, also the benefit of the Holders of the Trust Preferred Securities.

(d) The Class B Preferred Guarantee Trustee, before the occurrence of any Event of Default and after the curing or waiver of all Events of Default that may have occurred, shall undertake to perform only such duties as are specifically set forth in this Class B Preferred Guarantee, and no implied covenants shall be read into this Class B Preferred Guarantee against the Class B Preferred Guarantee Trustee. In case an Event of Default actually known to a Responsible Officer of the Class B Preferred Guarantee Trustee has occurred and is continuing, the Class B Preferred Guarantee Trustee shall exercise such of the rights and powers vested in it by this Class B Preferred Guarantee, and use the same degree of care and skill in its exercise thereof, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

(e) No provision of this Class B Preferred Guarantee shall be construed to relieve the Class B Preferred Guarantee Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) in the absence of bad faith on the part of the Class B Preferred Guarantee Trustee, the Class B Preferred Guarantee Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates

or opinions furnished to the Class B Preferred Guarantee Trustee and conforming to the requirements of this Class B Preferred Guarantee; provided that in the case of any such certificates or opinions that by any provision hereof are specifically required to be furnished to the Class B Preferred Guarantee Trustee, the Class B Preferred Guarantee Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Class B Preferred Guarantee (but need not confirm or investigate the accuracy of any mathematical calculations or other facts stated therein);

(ii) the Class B Preferred Guarantee Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer of the Class B Preferred Guarantee Trustee, unless it shall be proved that the Class B Preferred Guarantee Trustee was negligent in ascertaining the pertinent facts upon which such judgment was made;

(iii) the Class B Preferred Guarantee Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of a Majority of the Class B Preferred Securities relating to the time, method and place of conducting any proceeding for any remedy available to the Class B Preferred Guarantee Trustee, or the exercise of any trust or power conferred upon the Class B Preferred Guarantee Trustee under this Class B Preferred Guarantee; and

(iv) no provision of this Class B Preferred Guarantee shall require the Class B Preferred Guarantee Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if the Class B Preferred Guarantee Trustee shall have reasonable grounds for believing that the repayment of such funds or liability, or indemnity, satisfactory to the Class B Preferred Guarantee Trustee, against such expense, risk or liability, is not assured to it under the terms of this Class B Preferred Guarantee.

Section 2.11. Certain Rights of Class B Preferred Guarantee Trustee.

(a) Subject to the provisions of Section 2.10:

(i) the Class B Preferred Guarantee Trustee may conclusively rely, and shall be fully protected in acting or refraining from acting upon, any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document (whether in its original or facsimile form) believed by it to be genuine and to have been signed, sent or presented by the proper party or parties;

(ii) any direction or act of the Guarantor contemplated by this Class B Preferred Guarantee shall be sufficiently evidenced by an Officers' Certificate;

(iii) whenever, in the administration of this Class B Preferred Guarantee, the Class B Preferred Guarantee Trustee shall deem it desirable that a matter be proved or established before taking, suffering or omitting any action hereunder, the Class B Preferred Guarantee Trustee (unless other evidence is herein specifically prescribed) may, in the absence of bad faith on its part, request and conclusively rely upon an

Officers' Certificate which, upon receipt of such request, shall be promptly delivered by the Guarantor;

(iv) the Class B Preferred Guarantee Trustee shall have no duty to see to any recording, filing or registration of any instrument (or any rerecording, refiling or registration thereof) except as required in the administration of this Class B Preferred Guarantee;

(v) the Class B Preferred Guarantee Trustee may, at the expense of the Guarantor, consult with counsel of its selection, and the advice or opinion of such counsel with respect to legal matters shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in accordance with such advice or opinion. Such counsel may be counsel to the Guarantor or the Class B Preferred Guarantee Trustee or any of their Affiliates and may include any of their employees. The Class B Preferred Guarantee Trustee shall have the right at any time to seek instructions concerning the administration of this Class B Preferred Guarantee from any court of competent jurisdiction;

(vi) the Class B Preferred Guarantee Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Class B Preferred Guarantee at the request or direction of any Holder, unless such Holder shall have provided to the Class B Preferred Guarantee Trustee such security and indemnity, satisfactory to the Class B Preferred Guarantee Trustee, against the costs, expenses (including attorneys' fees and expenses and the expenses of the Class B Preferred Guarantee Trustee's agents, nominees or custodians) and liabilities that might be incurred by it in complying with such request or direction, including such reasonable advances as may be requested by the Class B Preferred Guarantee Trustee; provided, that nothing contained in this Section 2.11(a)(vi) shall be taken to relieve the Class B Preferred Guarantee Trustee, upon the occurrence of an Event of Default, of its obligation to exercise the rights and powers vested in it by this Class B Preferred Guarantee;

(vii) the Class B Preferred Guarantee Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Class B Preferred Guarantee Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit but shall incur no liability or additional liability of any kind by reason of such inquiry or investigation;

(viii) the Class B Preferred Guarantee Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, nominees, custodians or attorneys, and the Class B Preferred Guarantee Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder;

(ix) any action taken by the Class B Preferred Guarantee Trustee or its agents hereunder shall bind the Holders of the Class B Preferred Securities and for so long as the

Initial Holder is the Holder of the Class B Preferred Securities, also the Holders of the Trust Preferred Securities, and the signature of the Class B Preferred Guarantee Trustee or its agents alone shall be sufficient and effective to perform any such action. No third party shall be required to inquire as to the authority of the Class B Preferred Guarantee Trustee to so act or as to its compliance with any of the terms and provisions of this Class B Preferred Guarantee, both of which shall be conclusively evidenced by the Class B Preferred Guarantee Trustee or its agent taking such action;

(x) whenever in the administration of this Class B Preferred Guarantee the Class B Preferred Guarantee Trustee shall deem it desirable to receive instructions with respect to enforcing any remedy or right or taking any other action hereunder, the Class B Preferred Guarantee Trustee (i) may request written instructions from the Holders of a Majority of the Class B Preferred Securities, (ii) may refrain from enforcing such remedy or right or taking such other action until such written instructions are received and (iii) shall be protected in conclusively relying on or acting in accordance with such written instructions; and

(xi) the Class B Preferred Guarantee Trustee shall not be liable for any action taken, suffered, or omitted by it in good faith and reasonably believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Class B Preferred Guarantee. No provision of this Class B Preferred Guarantee shall be deemed to impose any duty or obligation on the Class B Preferred Guarantee Trustee to perform any act or acts or exercise any right, power, duty or obligation conferred or imposed on it in any jurisdiction in which it shall be illegal, or in which the Class B Preferred Guarantee Trustee shall be unqualified or incompetent in accordance with applicable law, to perform any such act or acts or to exercise any such right, power, duty or obligation. No permissive power or authority available to the Class B Preferred Guarantee Trustee shall be construed to be a duty.

Section 2.12. Not Responsible for Recitals or Issuance of Class B Preferred Guarantee. The recitals contained in this Class B Preferred Guarantee shall be taken as the statements of the Guarantor, and the Class B Preferred Guarantee Trustee does not assume any responsibility for their correctness. The Class B Preferred Guarantee Trustee makes no representation as to the validity or sufficiency of this Class B Preferred Guarantee.

### ARTICLE III GUARANTEE TRUSTEE

#### Section 3.01. Class B Preferred Guarantee Trustee; Eligibility.

(a) There shall at all times be a Class B Preferred Guarantee Trustee which shall:

(i) not be an Affiliate of the Guarantor; and

(ii) be a corporation with a combined capital and surplus of at least 50 million U.S. dollars (U.S.\$50,000,000) organized and doing business under the laws of the United States of America or any state or territory thereof or of the District of Columbia,

and be permitted by the Securities and Exchange Commission to act as an institutional trustee under the Trust Indenture Act, authorized under such laws to exercise corporate trust powers and subject to supervision or examination by federal, state, territorial or District of Columbia authority. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of the supervising or examining authority referred to above, then, for the purposes of this Section 3.01(a)(ii), the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

(b) If at any time the Class B Preferred Guarantee Trustee shall cease to be eligible to so act under Section 3.01(a), the Class B Preferred Guarantee Trustee shall immediately resign in the manner and with the effect set out in Section 3.02(c).

(c) If the Class B Preferred Guarantee Trustee has or shall acquire any “conflicting interest” within the meaning of Section 310(b) of the Trust Indenture Act, the Class B Preferred Guarantee Trustee and Guarantor shall in all respects comply with the provisions of Section 310(b) of the Trust Indenture Act, subject to the penultimate paragraph thereof.

Section 3.02. Appointment, Removal and Resignation of Class B Preferred Guarantee Trustee.

(a) Subject to Section 3.02(c), the Class B Preferred Guarantee Trustee may be removed without cause at any time, except when an Event of Default has occurred and is continuing, by the Guarantor by an instrument in writing executed by the Guarantor and delivered to the Class B Preferred Guarantee Trustee.

(b) Subject to Section 3.02(c), the Class B Preferred Guarantee Trustee may resign from office (without need for prior or subsequent accounting) at any time by an instrument in writing executed by the Class B Preferred Guarantee Trustee and delivered to the Guarantor.

(c) Subject to Section 3.02(d), any removal or resignation of the Class B Preferred Guarantee Trustee shall only take effect once a Successor Class B Preferred Guarantee Trustee has been appointed and has accepted such appointment by instrument in writing executed by such Successor Class B Preferred Guarantee Trustee and delivered to the Guarantor and the resigning or removed Class B Preferred Guarantee Trustee and the Class B Preferred Guarantee Trustee shall hold office until such an appointment of a Successor Class B Preferred Guarantee Trustee.

(d) If no Successor Class B Preferred Guarantee Trustee shall have been appointed and accepted appointment as provided in Section 3.02(c) within 60 days after delivery of an instrument of removal or resignation, the Class B Preferred Guarantee Trustee resigning or being removed may petition, at the expense of the Guarantor, any court of competent jurisdiction for appointment of a Successor Class B Preferred Guarantee Trustee. Such court may thereupon, after prescribing such notice, if any, as it may deem proper, appoint a Successor Class B Preferred Guarantee Trustee.

(e) No Class B Preferred Guarantee Trustee shall be liable for the acts or omissions to act of any Successor Class B Preferred Guarantee Trustee.

(f) The Guarantor shall pay to the Class B Preferred Guarantee Trustee on or prior to the date of termination of this Class B Preferred Guarantee or the effectiveness of any removal or resignation of the Class B Preferred Guarantee Trustee all amounts to which it is entitled to the date of such termination, removal or resignation.

#### ARTICLE IV GUARANTEE

##### Section 4.01. Guarantee.

(a) The Guarantor irrevocably and unconditionally agrees with the Class B Preferred Guarantee Trustee and the Holders from time to time of the Class B Preferred Securities, subject to the limitations set forth in this Class B Preferred Guarantee, to guarantee payment, on a subordinated basis as provided in Section 5.02, in full to such Holders (whether such rights under this Class B Preferred Guarantee are asserted by the Class B Preferred Guarantee Trustee or directly by any such Holder) (without duplication of amounts theretofore paid to the Holders by the Company), regardless of any defense, right of set-off or counterclaim that the Company may have or assert, of:

(i) Capital Payments due and payable on the Class B Preferred Securities on each Class B Payment Date for the then current Class B Payment Period, if declared by the Board of Directors of the Company or deemed declared pursuant to the LLC Agreement, in the amounts and in the manner set forth in the LLC Agreement, including any Arrears of Payments that are due and payable pursuant to the terms of the Class B Preferred Securities, and including any Additional Amounts payable with respect to such Capital Payments and, if applicable, such Arrears of Payments;

(ii) on any Class B Redemption Date, the Redemption Price for each Class B Preferred Security called for redemption by the Company in accordance with the provisions of the LLC Agreement; and

(iii) upon any voluntary or involuntary dissolution, liquidation or winding up of the Company, liquidation preference amount of the Class B Preferred Securities, plus accrued and unpaid Capital Payments on the Class B Preferred Securities in respect of the then current Class B Payment Period to but excluding the date of liquidation, plus, with respect to the Upper Tier 2 Percentage only, Arrears of Payments that are due and payable, and plus any Additional Amounts payable with respect to such Capital Payments and, if applicable, such Arrears of Payments;

(collectively, the "Class B Preferred Guarantee Payments").

All Class B Preferred Guarantee Payments shall include interest accrued on such Class B Preferred Guarantee Payments, at a rate per annum equal to the Stated Rate of the Class B Preferred Securities, since the date of the claim asserted under this Class B Preferred Guarantee relating to such Class B Preferred Guarantee Payments.

(b) The Guarantor's obligation to make any of the payments listed in (i) and (ii) of subsection (a) above may be satisfied by direct payment of the required amounts by the Guarantor to the Holders or by causing the Company to pay such amounts to the Holders.

Section 4.02. Delivery of Guarantor Certificate. As of each (x) Class B Payment Date with respect to which the Company has not paid the full amount of Capital Payments at the Stated Rate payable as contemplated by clause (i) of Section 4.01(a) or (y) Class B Redemption Date with respect to which the Company has not paid the Redemption Price in full as contemplated by clause (ii) of Section 4.01(a), the Guarantor shall deliver an Officers' Certificate to the Class B Preferred Guarantee Trustee within five Business Days after such Class B Payment Date or Class B Redemption Date, as applicable, substantially in the form attached as Exhibit A (the "Guarantor Certificate").

Section 4.03. Waiver of Notice and Demand. The Guarantor hereby waives notice of acceptance of this Class B Preferred Guarantee and of any liability to which it applies or may apply, presentment, demand for payment, protest, notice of nonpayment, notice of dishonor, notice of redemption and all other notices and demands.

Section 4.04. Obligations Not Affected. The obligations, covenants, agreements and duties of the Guarantor under this Class B Preferred Guarantee shall in no way be affected or impaired by reason of the happening from time to time of any of the following:

(a) the release or waiver, by operation of law or otherwise, of the performance or observance by the Company of any express or implied agreement, covenant, term or condition relating to the Class B Preferred Securities to be performed or observed by the Company;

(b) the extension of time for the payment by the Company of all or any portion of the Capital Payments, Arrears of Payments, Redemption Price, liquidation preference amount or other liquidation distribution or any other sums payable under the terms of the Class B Preferred Securities or the extension of time for the performance of any other obligation under, arising out of, or in connection with, the Class B Preferred Securities;

(c) any failure, omission, delay or lack of diligence on the part of the Holders of the Class B Preferred Securities (or so long as the Initial Holder is the Holder of the Class B Preferred Securities, on the part of the Holders of the Trust Preferred Securities) to enforce, assert or exercise any right, privilege, power or remedy conferred on such Holders pursuant to the terms of the Class B Preferred Securities (or Trust Preferred Securities, as applicable) or any action on the part of the Company (or the Trust, if applicable) granting indulgence or extension of any kind;

(d) the voluntary or involuntary liquidation, dissolution, sale of any collateral, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of debt of, or other similar proceedings affecting, the Company or any of the assets of the Company;

(e) any invalidity of, or defect or deficiency in, the Class B Preferred Securities;

(f) the settlement or compromise of any obligation guaranteed hereby or hereby incurred; or

(g) any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of a guarantor, it being the intent of this Section 4.04 that the obligations of the Guarantor hereunder shall be absolute and unconditional under any and all circumstances.

There shall be no obligation of the Holders of the Class B Preferred Securities or the Trust Preferred Securities to give notice to, or obtain consent of, the Guarantor with respect to the happening of any of the foregoing.

Section 4.05. Action Against Guarantor. The Guarantor waives any right or remedy to require that any action be brought first against the Company or any other person or entity before proceeding directly against the Guarantor.

Section 4.06. Independent Obligations. The Guarantor acknowledges that its obligations hereunder are independent of the obligations of the Company with respect to the Class B Preferred Securities, and that the Guarantor shall be liable as principal and as debtor hereunder to make Class B Preferred Guarantee Payments pursuant to the terms of this Class B Preferred Guarantee notwithstanding the occurrence of any event referred to in subsections (a) through (g), inclusive, of Section 4.04. It is further understood that all rights of a Holder of a Class B Preferred Security (and if and for so long as the Initial Holder is the Holder of the Class B Preferred Securities, all rights of a Holder of a Trust Preferred Security) against the Guarantor under this Class B Preferred Guarantee, and all corresponding obligations of the Guarantor to such Holder, are separate and independent of the rights and corresponding obligations between the Guarantor and the respective other Holders of the Class B Preferred Securities or Trust Preferred Securities, as the case may be. This Class B Preferred Guarantee is a guarantee of payment and not of collection.

Section 4.07. Taxes. All payments in respect of the Class B Preferred Guarantee Payments (including interest accrued thereon, if any) by the Guarantor shall be made without withholding or deduction for or on account of any Withholding Tax, unless the withholding or deduction of such Withholding Tax is required by law. In that event, the Guarantor shall pay, as additional Class B Preferred Guarantee Payments, such additional amounts as may be necessary in order that the net amounts received by a Holder of Class B Preferred Securities or Trust Preferred Securities after such withholding or deduction for or on account of Withholding Tax will equal the amount which would have been received in respect of the Class B Preferred Guarantee Payments (including interest accrued thereon, if any) had no such deduction or withholding been required ("Class B Preferred Guarantee Additional Amounts"), except that no such Class B Preferred Guarantee Additional Amounts shall be payable to a Holder with respect to any Class B Preferred Guarantee Payments,



(i) in respect of each portion of the Upper Tier 2 Percentage of the Class B Preferred Securities for Class B Payment Periods ending prior to the Class B Payment Period during which the respective Tier 1 Qualification Elections, if any, occurred with respect to such portions, if and to the extent that the Company is unable to pay corresponding amounts in respect of the Upper Tier 2 Percentage of the Class B Preferred Securities because such payment would exceed the Distributable Profits of the Guarantor for the fiscal year in respect of which the relevant Capital Payments are payable (after subtracting from such Distributable Profits the amounts of Capital Payments on the Upper Tier 2 Percentage of the Class B Preferred Securities and dividends or other distributions or payments on Parity Capital Securities, the Tier 1 Percentage, if any, of the Trust Preferred Securities and Preferred Tier 1 Capital Securities, if any, already paid on the basis of such Distributable Profits, on or prior to the date on which such Class B Preferred Guarantee Additional Amounts will be payable), in which case such Class B Preferred Guarantee Additional Amounts shall be deferred and will thereupon constitute Arrears of Payments under this Class B Preferred Guarantee;

(ii) in respect of each portion of the Tier 1 Percentage of the Class B Preferred Securities for Class B Payment Periods from and including the Class B Payment Period during which the respective Tier 1 Qualification Elections, if any, occurred with respect to such portions, if and to the extent that the Company is unable to pay corresponding amounts in respect of the Tier 1 Percentage of the Class B Preferred Securities because of insufficient Distributable Profits of the Guarantor for the preceding fiscal year (after subtracting from such Distributable Profits the amounts of Capital Payments on the Tier 1 Percentage of the Class B Preferred Securities and dividends or other distributions or payments on the Preferred Tier 1 Securities, if any, already paid on the basis of such Distributable Profits on or prior to the date on which such Class B Preferred Guarantee Additional Amounts will be payable);

(iii) with respect to any Withholding Taxes that are payable by reason of a Holder or beneficial owner of Class B Preferred Securities to which such Class B Preferred Guarantee Payments relate having some connection with any Relevant Jurisdiction other than by reason only of the mere holding or beneficial ownership of such Class B Preferred Securities;

(iv) with respect to any Withholding Taxes which are deducted or withheld pursuant to (i) European Council Directive 2003/48/EC or any other European Union Directive or Regulation implementing the conclusions of the ECOFIN Council meeting of 26-27 November 2000 on the taxation of savings income, or (ii) any international treaty or understanding entered into for the purpose of facilitating cooperation in the reporting and collection of savings income and to which (x) the United States, and (y) the European Union or Germany are parties, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding; or

(v) where such deduction or withholding can be avoided or reduced if the Holder or beneficial owner of Class B Preferred Securities to which such Class B Preferred Guarantee Payments relate makes a declaration of non-residence or other similar claim for exemption to the relevant tax authority or complies with any reasonable certification, documentation, information or other reporting requirement imposed by the relevant tax authority, provided, however, that this exclusion shall not apply if the certification, information documentation or other reporting requirement would be materially more onerous to the Holder or beneficial owner of Class B

Preferred Securities (in form, in procedure or substance of information required to be disclosed) than comparable information or other reporting requirements imposed under U.S. tax law, regulation and administrative practice (such as IRS Forms W-8 and W-9).

No later than two Business Days prior to the date on which a Class B Preferred Guarantee Payment is due, the Guarantor shall furnish to the Class B Preferred Guarantee Trustee an Officers' Certificate instructing the Class B Preferred Guarantee Trustee as to whether any Class B Preferred Guarantee Payment shall be made to Holders with or without withholding or deduction for or on account of any Withholding Tax. If any such withholding or deduction shall be required, then such Officers' Certificate shall specify by country the amount, if any, required to be withheld or deducted on such payments to such Holders and shall certify whether Class B Preferred Guarantee Additional Amounts will be payable with respect to such withholding or deduction and the Class B Preferred Guarantee Additional Amount so payable to each Holder. In such case, the Guarantor shall pay to the Class B Preferred Guarantee Trustee, the Class B Preferred Guarantee Additional Amounts required to be paid by this Section. The Guarantor covenants to indemnify the Class B Preferred Guarantee Trustee for, and to hold it harmless against, any loss, liability or expense reasonably incurred without negligence or bad faith on its part arising out of or in connection with actions taken or omitted by it in reliance on any Officers' Certificate furnished pursuant to this Section.

Section 4.08. Rights Not Separately Transferable. This Class B Preferred Guarantee is a guarantee for the benefit of each Holder from time to time of Class B Preferred Securities. Upon transfer of any Class B Preferred Securities to a third party, the prior Holder thereof shall no longer have any rights hereunder with respect to such transferred Class B Preferred Securities. The rights under this Class B Preferred Guarantee with respect to a Class B Preferred Security are not separately transferable from such Class B Preferred Security. The Initial Holder hereby accepts the rights under this Class B Preferred Guarantee held by the Class B Preferred Guarantee Trustee for the Initial Holder's benefit as initial purchaser of the Class B Preferred Securities (who in turn holds the Class B Preferred Securities and related rights under this Class B Preferred Guarantee for the benefit of the Holders of the Trust Preferred Securities) with the understanding that such rights shall be transferred by operation of law to any subsequent Holder acquiring a Class B Preferred Security from the Initial Holder or from a subsequent Holder of Class B Preferred Securities.

Section 4.09. No Assurance of Capital Payment Authorization. Nothing in this Class B Preferred Guarantee shall constitute a guarantee or undertaking of any kind that (i) the Company will at any time have sufficient assets, or be authorized pursuant to the LLC Agreement, to declare a Capital Payment on the Class B Preferred Securities, (ii) any other condition for declaring such a Capital Payment will be met or (iii) the Company will declare a Capital Payment on the Class B Preferred Securities if all conditions for the declaration of such a Capital Payment are met.

## ARTICLE V LIMITATIONS OF TRANSACTIONS; RANKING

Section 5.01. Limitation of Transactions.

(a) For as long as any Class B Preferred Securities remain outstanding and the Upper Tier 2 Percentage of the Class B Preferred Securities exceeds zero, the Guarantor undertakes not to give any guarantee or similar undertaking with respect to, or enter into any other agreement relating to the support of, or payment of any amounts in respect of, any Group Capital Securities of any of its affiliates which guarantee or similar undertaking or other support agreement would rank senior in any regard to this Class B Preferred Guarantee unless this Class B Preferred Guarantee is amended to give the Holders of the Class B Preferred Securities with respect to the Upper Tier 2 Percentage thereof such rights and entitlements as are contained in or attached to such other guarantee, similar undertaking or agreement so that the Guarantor's obligations under this Class B Preferred Guarantee relating to the Upper Tier 2 Percentage of the Class B Preferred Securities rank at least on parity with, and contain, substantially equivalent rights of priority as to payment, as such guarantee, similar undertaking or other support agreement.

"Group Capital Securities", as used herein, includes any interests in the capital of any person that rank (A) senior to the preference shares, Preferred Tier 1 Capital Securities and common shares of such person and (B) junior to all other obligations of such person that (i) rank senior to the preference shares and Preferred Tier 1 Capital Securities, if any, of such person and (ii) do not by their terms rank *pari passu* with such interests.

(b) From and including the date of the first Tier 1 Qualification Election, if any, and for so long as any Class B Preferred Securities remain outstanding, the Guarantor undertakes not to issue any preference shares ranking senior on liquidation to its obligations under this Class B Preferred Guarantee or give any guarantee or similar undertaking with respect to, or enter into any other agreement relating to the support or payment of amounts in respect of, any other preference shares (or instruments ranking on parity with or junior to preference shares) issued by any other affiliated entity that would rank senior in right of payment to the Guarantor's obligations under this Class B Preferred Guarantee in respect of the Tier 1 Percentage of the Class B Preferred Securities, unless this Class B Preferred Guarantee is amended to give the Holders of Class B Preferred Securities with respect to the Tier 1 Percentage thereof such rights and entitlements as are contained in or attached to such other guarantee, similar undertaking or agreement so that the Guarantor's obligations under this Class B Preferred Guarantee relating to the Tier 1 Percentage of the Class B Preferred Securities rank at least on parity with, and contain substantially equivalent rights of priority as to payment as, such guarantee, similar undertaking or other support agreement.

(c) The Guarantor shall pay all amounts required to be paid pursuant to this Class B Preferred Guarantee in respect of any Capital Payments on the Class B Preferred Securities payable in respect of the most recent Class B Payment Period prior to any dividend or other payment (except dividends in the form of Shares) upon the Shares.

#### Section 5.02. Ranking.

(a) In respect of each portion of the Upper Tier 2 Percentage of the Trust Preferred Securities for Class B Payment Periods ending prior to the Class B Payment

Period during which the respective Tier 1 Qualification Elections, if any, occurred with respect to such portions, in the case of a liquidation of the Guarantor, this Class B Preferred Guarantee will rank

(i) subordinate and junior to all senior and subordinated debt obligations of the Guarantor (including profit participation rights (*Genussscheine*));

(ii) senior to all preference shares, Preferred Tier 1 Capital Securities and the common shares of the Guarantor; and

(iii) unless otherwise expressly provided in the terms thereof, *pari passu* with any instrument or contractual obligation of the Guarantor ranking junior to any of the instruments included in the first clause above and senior to any of the instruments or contractual obligations of the Guarantor included in clause (ii) above.

(b) In respect of each portion of the Tier 1 Percentage of the Trust Preferred Securities for Class B Payment Periods from and including the Class B Payment Period during which the respective Tier 1 Qualification Elections, if any, occurred with respect to such portions, in the case of a liquidation of the Guarantor, this Class B Preferred Guarantee will rank

(i) subordinate and junior to all senior and subordinated debt obligations of the Guarantor that do not expressly rank on parity with the obligations of the Guarantor under this Class B Preferred Guarantee;

(ii) on parity with the most senior ranking preference shares of the Guarantor, if any, and with its obligations under any guarantee or support agreement or undertaking relating to any preference shares or other instrument of any subsidiary of the Guarantor qualifying as consolidated Tier 1 capital of the Guarantor that does not expressly rank junior to the obligations of the Guarantor under this Class B Preferred Guarantee; and

(iii) senior to the (x) Shares, (y) each class of preference shares of the Guarantor ranking junior to Preferred Tier 1 Securities of the Guarantor, if any, and any other instrument of the Guarantor ranking *pari passu* with such preference shares or junior thereto and (z) preference shares or any other instrument of any subsidiary of the Guarantor subject to any guarantee or support agreement of the Guarantor which guarantee or support agreement ranks junior to the obligations of the Guarantor under this Class B Preferred Guarantee.

## ARTICLE VI TERMINATION

Section 6.01. Termination. This Class B Preferred Guarantee shall terminate upon, and be of no further force and effect from the earlier of (i) full payment of the Redemption Price of all Class B Preferred Securities or repurchase and cancellation of all Class B Preferred Securities, or (ii) upon full payment of the aggregate liquidation preference amount of the Class B Preferred Securities, plus any accumulated and unpaid Capital Payments thereon, plus Arrears of Payments, if applicable, plus Additional Amounts, if any, as payable on the Class B Preferred

Securities upon liquidation of the Company pursuant to the LLC Agreement. Notwithstanding the foregoing, this Class B Preferred Guarantee will continue to be effective or will be reinstated, as the case may be, if at any time any Holder of Class B Preferred Securities must return payment of any sums paid under the Class B Preferred Securities or under this Class B Preferred Guarantee pursuant to (i) or (ii) above.

## ARTICLE VII INDEMNIFICATION

### Section 7.01. Exculpation.

(a) No Indemnified Person shall be liable, responsible or accountable in damages or otherwise to the Guarantor or any Holder or beneficial owner of Class B Preferred Securities and any Holder or beneficial owner of the Trust Preferred Securities) for any loss, liability, expense, damage or claim incurred by reason of any act or omission performed or omitted by such Indemnified Person in good faith in accordance with this Class B Preferred Guarantee and in a manner that such Indemnified Person reasonably believed to be within the scope of the authority conferred on such Indemnified Person by this Class B Preferred Guarantee or by law, except that an Indemnified Person shall be liable for any such loss, liability, expense, damage or claim incurred by reason of such Indemnified Person's negligence or willful misconduct with respect to such acts or omissions.

(b) An Indemnified Person shall be fully protected in relying in good faith upon the records of the Guarantor and upon such information, opinions, reports or statements presented to the Guarantor by any Person as to matters the Indemnified Person reasonably believes are within such other Person's professional or expert competence, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits, losses, or any other facts pertinent to the existence and amount of assets from which Capital Payments to Holders of Class B Preferred Securities might properly be paid.

Section 7.02. Fees and expenses; Indemnification. The Guarantor agrees to pay to the Class B Preferred Guarantee Trustee from time to time such compensation as shall be agreed to in writing between the Guarantor and the Class B Preferred Guarantee Trustee for all services rendered by it hereunder and to reimburse the Class B Preferred Guarantee Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Class B Preferred Guarantee Trustee in accordance with any provision of this Class B Preferred Guarantee (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to its negligence, willful misconduct or bad faith. The Guarantor agrees to indemnify each Indemnified Person for, and to hold each Indemnified Person harmless against, any and all loss, liability, damage, claim or expense (including taxes other than taxes based on the income of any such Indemnified Person) incurred without negligence or bad faith on its part, arising out of or in connection with the acceptance or administration of the trust or trusts hereunder, including the costs and expenses (including reasonable legal fees and expenses) of defending itself against, or

investigating, any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder.

Promptly after receipt by an Indemnified Person of notice of the commencement of any action, such Indemnified Person will, if a claim in respect thereof is to be made against the Guarantor, notify the Guarantor in writing of the commencement thereof; provided that, failure to give such prompt notice shall not impair the obligations of the Guarantor hereunder except to the extent that such failure to provide notice materially prejudices the Guarantor. The Guarantor shall be entitled to appoint counsel of the Guarantor's choice at the Guarantor's expense to represent the Indemnified Persons in any action for which indemnification is sought; provided, however, that such counsel shall be reasonably satisfactory to the Indemnified Persons. The Guarantor will not, without the prior written consent of the Indemnified Persons, settle or compromise or consent to the entry of any judgment with respect to any pending or threatened claim, action, suit or proceeding in respect of which indemnification may be sought unless such settlement, compromise or consent includes an unconditional release of each Indemnified Person from all liability arising out of such claim, action, suit or proceeding.

The obligations of the Guarantor under this Section 7.02 shall survive the termination of this Class B Preferred Guarantee or the earlier resignation or removal of the Class B Preferred Guarantee Trustee.

## ARTICLE VIII MISCELLANEOUS

Section 8.01. Successors and Assigns. All guarantees and agreements contained in this Class B Preferred Guarantee shall bind the successors, assigns, receivers, trustees and representatives of the Guarantor and shall inure to the benefit of the Holders of the Class B Preferred Securities and, if and for so long as the Initial Holder is the Holder of the Company Class B Securities, the Holders of the Trust Preferred Securities, then outstanding.

### Section 8.02. Amendments.

(a) The Guarantor and the Class B Preferred Guarantee Trustee may, at any time and from time to time, without the consent of the Holders of the Class B Preferred Securities, modify this Class B Preferred Guarantee (i) to make any changes required pursuant to Section 5.01(a) or (b), (ii) to cure any ambiguity or correct any mistake, (iii) to correct or supplement any provision in this Class B Preferred Guarantee that may be defective or inconsistent with any other provision of this Class B Preferred Guarantee, (iv) to add to the covenants, restrictions or obligations of the Guarantor for the benefit of the Holders of the Class B Preferred Securities or to surrender any right or power conferred upon the Guarantor under this Class B Preferred Guarantee, (v) to evidence the succession of another entity to the Guarantor and the assumption by any such successor of the covenants of the Guarantor stated herein, (vi) to modify or supplement any provision in this Class B Preferred Guarantee to give effect to any provision made invalid by any changes in the 1940 Act, the Trust Indenture Act or the rules or regulations of either such Act or any other applicable law, provided that no such amendment shall have a material adverse effect on the rights, preferences or privileges of the Holders of the Class B Preferred Securities (and, so long as the Trust holds the Class B Preferred Securities, the Trust

Preferred Securities), (vii) to modify, eliminate and add to any provision of this Class B Preferred Guarantee to such extent as may be necessary or desirable, provided that no such amendment shall have a material adverse effect on the rights, preferences or privileges of the Holders of the Class B Preferred Securities (and, so long as the Trust holds the Class B Preferred Securities, the Trust Preferred Securities), or (viii) in connection with the creation of any series of Class B Preferred Securities and the establishment of the particular terms thereof (including, without limitation, to confirm or provide that the benefits of this Class B Preferred Guarantee apply to additional Class B Preferred Securities issued on or before June 30, 2013 in accordance with the LLC Agreement).

(b) This Class B Preferred Guarantee may be modified with the prior approval of the Holders of not less than a Majority of the Class B Preferred Securities, provided that, (i) except as provided in clause (a) above, Sections 4.01, 4.02, 4.07 and the form of Exhibit A may not be amended without the prior approval of each Holder of the Class B Preferred Securities and (ii) any amendment to reduce the aggregate liquidation preference amount of Class B Preferred Securities whose Holders must consent to an amendment must be approved by each Holder of Class B Preferred Securities.

(c) Any amendment hereof in accordance with this Section 8.02 shall be binding on all Holders of Class B Preferred Securities.

(d) The Class B Preferred Guarantee Trustee shall be entitled to receive, and shall be fully protected in relying upon, a written opinion of counsel stating that the execution of any amendment pursuant to this Section 8.02 is authorized or permitted by this Class B Preferred Guarantee, stating that all requisite consents have been obtained or that no consents are required and stating that such amendment constitutes the legal, valid and binding obligation of the Guarantor, enforceable against the Guarantor in accordance with its terms, subject to customary exceptions. Subject to the preceding sentence, the Class B Preferred Guarantee Trustee shall sign such amendment if the same does not adversely affect the rights of the Class B Preferred Guarantee Trustee. The Class B Preferred Guarantee Trustee may, but shall not be obligated to, execute any such amendment that affects the Class B Preferred Guarantee Trustee's own rights, duties or immunities under this Class B Preferred Guarantee or otherwise.

#### Section 8.03. Judgment Currency Indemnity.

(a) If, for the purposes of obtaining judgment in any court, it is necessary to convert an amount due from the Guarantor under any provision of this Class B Preferred Guarantee to a currency other than U.S. dollars, the parties agree, to the fullest extent that they may effectively do so, that the rate of exchange used shall be that at which in accordance with normal banking procedures The Bank of New York could purchase such other currency with U.S. dollars at its New York office on the second Business Day preceding the day on which final judgment is given.

(b) The obligations of the Guarantor in respect of any amount due under this Class B Preferred Guarantee to the Class B Preferred Guarantee Trustee or any Holders of Class B Preferred Securities shall, notwithstanding any judgment in a currency other than U.S. dollars, be discharged only to the extent that on the Business Day following

receipt by the Class B Preferred Guarantee Trustee or such Holders, as the case may be, of any amount adjudged to be so due in such other currency the Class B Preferred Guarantee Trustee or such Holders, as the case may be, may in accordance with normal banking procedures purchase U.S. dollars with such other currency.

(c) If the amount of U.S. dollars so purchased is less than the amount originally due to the Class B Preferred Guarantee Trustee or such Holders, as the case may be, in U.S. dollars, the Guarantor agrees, to the fullest extent that it may effectively do so, as a separate obligation and notwithstanding any such judgment, to indemnify the Class B Preferred Guarantee Trustee or such Holders, as the case may be, against such loss.

(d) If the amount of dollars so purchased exceeds the amount originally due to the Class B Preferred Guarantee Trustee or such Holders, as the case may be, in U.S. dollars, the Class B Preferred Guarantee Trustee and such Holders agree to remit any remaining amount to the Guarantor.

Section 8.04. Assignment of the Guarantor. The Guarantor may not assign its obligations under this Class B Preferred Guarantee, except in the case of a merger or consolidation where the Guarantor is not the surviving entity, to the surviving entity, or in the case of a sale, lease or other transfer of substantially all of its assets, to the purchaser and which surviving entity or purchaser expressly assumes the obligations of the Guarantor hereunder or such assumption of obligations results from applicable law.

Section 8.05. Notices. All notices provided for in this Class B Preferred Guarantee shall be in writing, duly signed by the party giving such notice, and shall be delivered, telecopied with receipt confirmed or mailed by first class mail, postage prepaid, as follows:

(a) If given to the Class B Preferred Guarantee Trustee, at the Class B Preferred Guarantee Trustee' s mailing address set forth below:

The Bank of New York  
101 Barclay Street, Floor 4 East  
New York, New York 10286  
United States  
Telecopy No.: (212) 815-5802  
Attention: Corporate Trust Administration

(b) If given to the Guarantor, at the Guarantor' s mailing address set forth below (or such other address as the Guarantor may give notice of to the Holders of the Class B Preferred Securities):

Deutsche Bank Aktiengesellschaft  
Theodor-Heuss-Allee 70  
D-60486 Frankfurt am Main  
Germany  
Telecopy No.: (+49) 69 910-35092



Attention: Group Treasury

With copies to:

Deutsche Bank Contingent Capital LLC V  
60 Wall Street  
New York, New York 10005  
United States  
Telecopy No.: (212) 797-0291  
Attention: The Directors

(c) If given to any Holder of Class B Preferred Securities, at the address set forth on the books and records of the Company.

(d) If given to any Holder of Trust Preferred Securities, at the address set forth on the books and records of the Trust.

(e) All such notices shall be deemed to have been given when received in person, telecopied with receipt confirmed, or mailed by first class mail, postage prepaid except that if a notice or other document is refused delivery or cannot be delivered because of a changed address of which no notice was given, such notice or other document shall be deemed to have been delivered on the date of such refusal or inability to deliver.

Section 8.06. GOVERNING LAW. THIS CLASS B PREFERRED GUARANTEE SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES THEREOF.

Section 8.07. Submission to Jurisdiction. Any claim or proceeding brought by the Class B Preferred Guarantee Trustee on behalf of Holders or a Holder of Class B Preferred Securities or Trust Preferred Securities to enforce the obligations of the Guarantor hereunder shall be brought exclusively in a court of competent jurisdiction in the State of New York. Any claim or proceeding relating to the application of Articles II and III, and the definitions of terms as used therein, including, without limitation, any claims, counter-claims and cross-claims asserted against the Class B Preferred Guarantee Trustee in connection therewith, shall be brought in a court of competent jurisdiction in the State of New York.

This CLASS B PREFERRED GUARANTEE is executed as of the day and year first above written.

DEUTSCHE BANK AKTIENGESELLSCHAFT, as  
Guarantor

By: /s/ Jonathan Blake  
Name: Jonathan Blake  
Title: Director, Head of Capital Market Issuance

By: /s/ Marco Zimmermann  
Name: Marco Zimmermann  
Title: Vice President, Issuance and Liquidity Manager

THE BANK OF NEW YORK,  
as Class B Preferred Guarantee Trustee

By: /s/ Lesley Daley  
Name: Lesley Daley  
Title: Assistant Vice President

Class B Preferred Securities – Subordinated Guarantee Agreement

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EXHIBIT A  
[FORM OF GUARANTOR' S CERTIFICATE]

**SUBORDINATED DEPOSIT AGREEMENT**  
**BY AND BETWEEN**  
**DEUTSCHE BANK CONTINGENT CAPITAL LLC V**  
**AND**  
**DEUTSCHE BANK AKTIENGESELLSCHAFT**  
**DATED AS OF May 9, 2008**

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Subordinated Deposit Agreement

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This Subordinated Deposit Agreement (the “**Agreement**”), dated May 9, 2008, is entered into between Deutsche Bank Aktiengesellschaft, a German stock corporation (the “**Bank**”), and Deutsche Bank Contingent Capital LLC V, a Delaware limited liability company (the “**Company**”).

WHEREAS, pursuant to the LLC Agreement (as defined herein), the Company will issue the Class B Preferred Securities (as defined herein) to Deutsche Bank Contingent Capital Trust V (the “**Trust**”);

WHEREAS, pursuant to the Trust Agreement (as defined herein), the Trust will issue the Trust Preferred Securities (as defined herein) with the same terms and in the same amount as the Class B Preferred Securities;

WHEREAS, the Company will use the proceeds from the issuance of the Class B Preferred Securities to purchase the Initial Obligation (as defined herein) from the Bank;

WHEREAS, amounts paid by the Bank pursuant to the Initial Obligation will be used by the Company to pay capital payments on the Class A Preferred Security (as defined herein), the Class B Preferred Securities and the Company Common Security (as defined herein) in accordance with the LLC Agreement;

WHEREAS, the Company may from time to time defer capital payments on the Class B Preferred Securities pursuant to and in accordance with the LLC Agreement;

NOW, THEREFORE, the parties agree as follows:

Section 1. Certain Definitions.

“**Account**” means a deposit account in the name of the Company and maintained by the Bank subject to the terms of this Agreement.

“**Account Moneys**” means all monies from time to time deposited in the Account pursuant to Clause 2 (Deposit of Account Moneys), together with all property from time to time representing the same, together with any accrued interest thereon.

“**Agreement**” has the meaning specified in the preamble.

“**Arrears of Payments**” means Capital Payments, the payment of which has, in accordance with the deferral provisions of the Class B Preferred Securities, been deferred, and which thereupon constitute cumulative arrears of Capital Payments.

“**Bank**” has the meaning specified in the preamble.

“**Capital Payments**” means the periodic distributions on the Class B Preferred Securities in accordance with the LLC Agreement.

“**Company**” has the meaning specified in the preamble.

“**Class A Preferred Security**” means the single security in the Company designated as the Class A Preferred Security representing an ownership interest in the capital of the Company, with a liquidation amount of \$25 per Class A Preferred Security.

“**Class B Preferred Guarantee**” means the agreement by Deutsche Bank AG, as Guarantor, with The Bank of New York, as Class B Preferred Guarantee Trustee, for the benefit of the holders of the Class B Preferred Securities to guarantee payment, on a subordinated basis, of certain payments on the Class B Preferred Securities.

“**Class B Preferred Securities**” mean the class of securities in the Company representing preferred limited liability company interests in the Company, with a liquidation amount of \$25 per Class B Preferred Security.

“**Company**” has the meaning specified in the preamble.

“**Guarantees**” means the Trust Preferred Guarantee and the Class B Preferred Guarantee, collectively.

“**Initial Obligation**” means the subordinated obligation of the Bank acquired by the Company using the proceeds from the issuance of the Class B Preferred Securities.

“**Interest Payment Date**” means March 30, June 30, September 30 and December 30 of each year, commencing on June 30, 2008.

“**Junior Securities**” means (i) ordinary shares of common stock of the Bank, (ii) each class of preference shares of the Bank ranking junior to Preferred Tier 1 Securities of the Bank, if any, and any other instrument of the Bank ranking on parity with such preference shares or junior thereto and (iii) preference shares or any other instrument of any subsidiary of the Bank subject to any guarantee or support agreement of the Bank which guarantee or support undertaking ranks junior to the obligations of the Bank under the Guarantees.

“**Liability**” means any loss, damage, cost, charge, claim, demand, expense, penalty, judgment, demand, action proceeding or other liability whatsoever (including, without limitation, in respect of taxes, duties, levies, imposts and other charges) and including any value added tax or similar tax charged or chargeable in respect thereof and legal fees and expenses on a full indemnity basis.

“**LLC Agreement**” means the limited liability company agreement of the Company dated as of April 24, 2008, as amended and restated as of May 9, 2008 and as the same may be further amended from time to time in accordance with its terms.

“**Payment Date**” means March 30, June 30, September 30 and December 30 of each year, commencing on June 30, 2008.

“**Person**” means any individual, corporation, association, partnership (general or limited), joint venture, trust, estate, limited liability company, or other legal entity or organization.

“**Preferred Tier 1 Securities**” means (i) each class of the most senior ranking preference shares of the Bank, if any, and (ii) preference shares or any other instrument of any subsidiary of the Bank subject to any guarantee or support agreement of the Bank which guarantee or support undertaking ranks on parity with the obligations of the Bank under the Guarantees.

“**Trust**” has the meaning specified in the preamble.

“**Trust Agreement**” means the trust agreement of the Trust dated as of April 24, 2008, as amended and restated as of May 9, 2008 and as the same may be further amended from time to time in accordance with its terms.

“**Trust Preferred Guarantee**” means the agreement by Deutsche Bank AG, as Guarantor, with The Bank of New York, as Trust Preferred Guarantee Trustee, for the benefit of the holders of the Trust Preferred Securities to guarantee the payment, on a subordinated basis, of certain payments on the Trust Preferred Securities.

“**Trust Preferred Securities**” means the Trust Preferred Securities issued by the Trust.

Clause headings are for reference purposes only and shall not affect the construction or effect of any provision hereof.

In this Agreement, unless the context otherwise requires:

- (a) references to a party include references to the successors or assigns (immediate or otherwise) of that party;
- (b) references to “**person**” shall include any firm or body of persons whether corporate or incorporate and any person deriving title therefrom and any of their respective successors or assigns; and
- (c) words importing the singular number alone shall include the plural number and vice versa.

#### **Deposit of Account Moneys**

2.1 On each Interest Payment Date or other date when the Company receives payments of interest on the Initial Obligation which, as a result of the deferral of Capital Payments in accordance with the LLC Agreement, exceed the Capital Payments declared (or deemed declared) and paid on the Class B Preferred Securities on the corresponding Payment Date, the Account, if not already open at such time, shall be opened and such excess shall be deposited by the Company into the Account as Account Moneys pursuant to this Agreement.

## Payment of Amounts

At the time when the Company is required under the terms of the LLC Agreement to pay Arrears of Payments on the Class B Preferred Securities, the Bank shall release Account Moneys, for value on the date such Arrears of Payments are paid on the Class B Preferred Securities, in an amount equivalent to the amount of the Arrears of Payments then required to be and being paid.

## Treatment of Account Moneys

4.1 The Bank shall not make any deductions from the Account by virtue of any right of set-off, lien, consolation, merger or claim which it may have against the Company. The Bank shall not release any of the Account Moneys, except as provided in this Agreement.

The Bank shall pay interest on the cash balance in the Account standing to the credit of the Company at a rate of 0.75% per annum, compounded annually. Any interest earned or profit generated from the Account (subject to any deduction of tax at source and any bank or other charges (including without limitation any deductions made pursuant to clauses hereof and properly charged to the Account in accordance with this Agreement)) shall be for the account of the Company, and shall be paid in full to the Company on each Payment Date when such amounts are held in the Account.

4.3 The Company and the Bank agree that all Account Moneys shall be (i) subordinated in right of payment to the prior payment in full of all indebtedness and other liabilities of the Bank to its creditors (including subordinated liabilities), except those which by their terms rank on parity with or are subordinated to the Bank's obligations under this Subordinated Deposit Agreement, (ii) on parity with the most senior ranking preference shares of the Bank, if any, and any obligations or instruments of the Bank which by their terms rank on parity with such preference shares and (iii) senior to the Junior Securities.

## Representations and Warranties

5.1 The Company hereby represents and warrants to the Bank that (i) it is a company duly organized and in good standing in every jurisdiction where it is required so to be, (ii) it has the power and authority to sign and to perform its obligations under this Agreement, (iii) this Agreement is duly authorized and executed and is its legal, valid and binding obligation, (iv) any consent, authorization or instruction required in connection with its execution and performance of this Agreement has been provided by any relevant third party, (v) any act required by any relevant governmental or other authority to be done in connection with its execution and performance of this Agreement has been or will be done (and will be renewed if necessary), and (vi) its performance of this Agreement will not violate or breach any applicable law, regulation, contract or other requirement.



## Liability of the Bank

The Bank shall not be liable or responsible for any Liabilities or inconvenience which may result from anything done or omitted to be done by it in accordance with the provisions of this Agreement and shall bear no obligation or responsibility to any person in respect of the operation of the Account or its application of the Account Moneys unless such liability arises as a result of gross negligence, fraud or willful default on the part of the Bank. In particular, but without limiting the generality of the foregoing, the Bank shall not be liable for any failure to maximize the amount of interest or other amounts earned on all or part of the Account Moneys. Under no circumstances shall the Bank be liable for any consequential or special loss, or indirect, consequential or punitive damages, however caused or arising (including loss of business, goodwill, opportunity or profit) even if advised of the possibility of such loss or damage.

No implied duties or obligations shall be imposed on the Bank by virtue of its entering into this Agreement or its agreeing to provide the services hereunder. The Bank shall not be obligated to perform any additional duties unless it shall have previously agreed to perform such duties. The Bank shall not be under any obligation to take any action under this Agreement that it expects will result in any expense to, or liability for, it, the payment of which is not, in its opinion, assured to it within a reasonable time.

The Company shall indemnify and hold harmless the Bank for an amount equal to any and all Liabilities or obligations of any kind whatsoever (and any interest thereon) (including, but not limited to, all properly incurred costs, charges and expenses paid or incurred in disputing or defending any of the foregoing) that may be imposed on or incurred by the Bank in connection with any action, claim or proceeding of any kind brought or threatened to be brought against it as a result of its acting hereunder or as a result of any action taken or omitted to be taken by it before the date of this Agreement in preparation for acting hereunder, provided that the Company shall not have any obligation to indemnify the Bank or any of its officers and employees or any other person for any claims arising in consequence of the gross negligence, fraud or willful default on the part of the Bank.

The Bank shall be entitled to rely on, and shall not be liable for acting upon, and shall be entitled to treat as genuine and as the document it purports to be, any instruction, letter, notice, opinion, advice, or other document furnished to it by the Company or any lawyer or other expert in whatever format and by whatever means, including electronic, and believed by the Bank, in its absolute discretion, to be genuine and to have been signed and presented by the proper person or persons.

The indemnities contained in this Clause 6 shall survive the termination of this Agreement.

## Modification

- 7.1 No variation of this Agreement (or any document entered into pursuant to this Agreement) shall be valid unless it is in writing and signed by or on behalf of the Company and the Bank.

## Notices

- 8.1 Any notice under this Agreement shall be in writing and signed by or on behalf of the party giving it and may be served by leaving it or sending it by facsimile, pre-paid recorded delivery or registered post to the address and for the attention of the relevant party set out in Clause 8.2 (or as otherwise notified from time to time hereunder). Any notice to be served by facsimile or post shall be deemed to have been received:

- (a) in the case of facsimile, on confirmation of transmission being received by the sending machine; and
- (b) in the case of recorded delivery or registered post, 48 hours from the date of posting.

- 8.2 The addresses of the parties for the purpose of Clause 8.1 are as follows:

### Bank:

Deutsche Bank AG  
Theodor-Heuss-Allee 70  
D-60486 Frankfurt am Main  
Germany

Telecopy No.: (+49) 69 910-35092

### Company:

Deutsche Bank Contingent Capital Trust V  
60 Wall Street  
New York, New York 10005

Telecopy No.: (732) 460-7125  
Attention: Treasury (mail stop NYC 60-4011)

with a copy to:

Deutsche Bank Contingent Capital Trust V  
c/o Deutsche Bank Trust Company Delaware  
1011 Centre Road, Suite 200  
Wilmington  
Delaware 19805

## Termination

- 9.1 If there are no outstanding Account Moneys, the Account may be closed; provided, however, that this Agreement shall not be terminated except in accordance with the next paragraph.
- 9.2 Following redemption of the Class B Preferred Securities and the payment of all outstanding Account Moneys in accordance with this Agreement, the Bank shall following such payment close the Account and this Agreement shall terminate.

## Resignation

- 10 The Bank shall not have the right to resign its appointment hereunder.

## Counterparts

- 11 This Agreement may be entered into in any number of counterparts and by the parties to it on separate counterparts, each of which, when executed, shall be an original, but all the counterparts shall together constitute one and the same instrument.

## Whole Agreement

- 12 This Agreement represents the whole agreement between the parties in relation to its subject matter and supersedes all prior representations, promises, agreements and understandings.

## Other

- 13.1 This Agreement is governed by, and shall be construed in accordance with, the laws of Germany.

- The parties to this Agreement hereby irrevocably submit for the benefit of the non-exclusive jurisdiction of the local courts of Frankfurt, Germany and waive any objection to any proceedings in relation to this Agreement (“**Proceedings**”) in such courts, whether on the
- 13.2 ground of venue or on the ground that the Proceedings have been brought in an inconvenient forum. This submission is for the benefit of the Bank and shall not limit its right to take Proceedings in any other court of competent jurisdiction, nor shall the taking of Proceedings in one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction (whether concurrently or not).

- In the event that one or several provisions of this Agreement shall be invalid or unenforceable, or if this Agreement turns out to contain a
- 13.3 gap, the validity and enforceability of the other provisions of this Agreement shall not be affected thereby. In such case, the parties shall undertake to agree on such valid and enforceable provision or on provisions filling the gap in this Agreement which are as close as possible to the original commercial intention of the parties.

The Bank shall maintain a book-entry registration system with respect to the Account (the “**Register**”). A transfer of the right to payment 13.4 of principal and interest with respect to the Account will be effective only if transferred through a book-entry reflected in the Register. The Register will record the registered owners of the Account.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be duly executed as of the day and year first before written.

**DEUTSCHE BANK CONTINGENT CAPITAL LLC V**

By: /s/ Helmut Mannhardt  
Name: Helmut Mannhardt  
Title: Vice President

By: /s/ Anjali Thadani  
Name: Anjali Thadani  
Title: Vice President

**DEUTSCHE BANK AKTIENGESELLSCHAFT**

By: /s/ Jonathan Blake  
Name: Jonathan Blake  
Title: Director, Head of Capital Market Issuance

By: /s/ Marco Zimmermann  
Name: Marco Zimmermann  
Title: Vice President, Issuance and Liquidity Manager

Subordinated Deposit Agreement

FORM T-1

SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

STATEMENT OF ELIGIBILITY  
UNDER THE TRUST INDENTURE ACT OF 1939 OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE

CHECK IF AN APPLICATION TO DETERMINE  
ELIGIBILITY OF A TRUSTEE PURSUANT TO  
SECTION 305(b)(2)

THE BANK OF NEW YORK MELLON  
(Exact name of trustee as specified in its charter)

New York  
(State of incorporation  
if not a U.S. national bank)

13-5160382  
(I.R.S. employer  
identification no.)

One Wall Street, New York, N.Y.  
(Address of principal executive offices)

10286  
(Zip code)

DEUTSCHE BANK AKTIENGESELLSCHAFT  
(Exact name of obligor as specified in its charter)

DEUTSCHE BANK CORPORATION  
(Translation of Registrant's name into English)

Federal Republic of Germany  
(State or other jurisdiction of  
incorporation or organization)

Not Applicable  
(I.R.S. employer  
identification no.)

Theodor-Heuss-Allee 70  
60486 Frankfurt am Main  
Germany  
(Address of principal executive offices)

(Zip code)

Subordinated Guarantee of Company Preferred Securities of  
Deutsche Bank Contingent Capital LLC V  
(Title of the indenture securities)

**1. General information. Furnish the following information as to the Trustee:**

**(a) Name and address of each examining or supervising authority to which it is subject.**

Name	Address
Superintendent of Banks of the State of New York	One State Street, New York, N.Y. 10004-1417, and Albany, N.Y. 12223
Federal Reserve Bank of New York	33 Liberty Street, New York, N.Y. 10045
Federal Deposit Insurance Corporation	Washington, D.C. 20429
New York Clearing House Association	New York, New York 10005

**(b) Whether it is authorized to exercise corporate trust powers.**

Yes.

**2. Affiliations with Obligor.**

**If the obligor is an affiliate of the trustee, describe each such affiliation.**

None.

**16. List of Exhibits.**

**Exhibits identified in parentheses below, on file with the Commission, are incorporated herein by reference as an exhibit hereto, pursuant to Rule 7a-29 under the Trust Indenture Act of 1939 (the "Act") and 17 C.F.R. 229.10(d).**

1. A copy of the Organization Certificate of The Bank of New York Mellon (formerly known as The Bank of New York, itself formerly Irving Trust Company) as now in effect, which contains the authority to commence business and a grant of powers to exercise corporate trust powers. (Exhibit 1 to Amendment No. 1 to Form T-1 filed with Registration Statement No. 33-6215, Exhibits 1a and 1b to Form T-1 filed with Registration Statement No. 33-21672, Exhibit 1 to Form T-1 filed with Registration Statement No. 33-29637, Exhibit 1 to Form T-1 filed with Registration Statement No. 333-121195 and Exhibit 1 to Form T-1 filed with Registration Statement No. 333-152735).
4. A copy of the existing By-laws of the Trustee. (Exhibit 4 to Form T-1 filed with Registration Statement No. 333-154173).

6. The consent of the Trustee required by Section 321(b) of the Act (Exhibit 6 to Form T-1 filed with Registration Statement No. 333-152735).
7. A copy of the latest report of condition of the Trustee published pursuant to law or to the requirements of its supervising or examining authority.

- 3 -

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SIGNATURE

Pursuant to the requirements of the Act, the Trustee, The Bank of New York Mellon, a corporation organized and existing under the laws of the State of New York, has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in The City of New York, and State of New York, on the 12th day of February, 2010.

THE BANK OF NEW YORK MELLON

By: /S/ CHERYL CLARKE

Name: CHERYL CLARKE

Title: VICE PRESIDENT

- 4 -

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## Consolidated Report of Condition of

## THE BANK OF NEW YORK MELLON

of One Wall Street, New York, N.Y. 10286  
And Foreign and Domestic Subsidiaries,

a member of the Federal Reserve System, at the close of business December 31, 2009, published in accordance with a call made by the Federal Reserve Bank of this District pursuant to the provisions of the Federal Reserve Act.

Dollar Amounts In Thousands

<b>ASSETS</b>	
Cash and balances due from depository institutions:	
Noninterest-bearing balances and currency and coin	2,971,000
Interest-bearing balances	58,139,000
Securities:	
Held-to-maturity securities	4,414,000
Available-for-sale securities	48,838,000
Federal funds sold and securities purchased under agreements to resell:	
Federal funds sold in domestic offices	85,000
Securities purchased under agreements to resell	51,000
Loans and lease financing receivables:	
Loans and leases held for sale	38,000
Loans and leases, net of unearned income	25,990,000
LESS: Allowance for loan and lease losses	475,000
Loans and leases, net of unearned income and allowance	25,515,000
Trading assets	4,711,000
Premises and fixed assets (including capitalized leases)	1,057,000
Other real estate owned	4,000
Investments in unconsolidated subsidiaries and associated companies	915,000
Direct and indirect investments in real estate ventures	0
Intangible assets:	
Goodwill	4,991,000
Other intangible assets	1,471,000

	Dollar Amounts In Thousands
Other assets	<u>11,075,000</u>
<b>Total assets</b>	<b><u>164,275,000</u></b>

## LIABILITIES

Deposits:	
In domestic offices	60,985,000
Noninterest-bearing	30,587,000
Interest-bearing	30,398,000
In foreign offices, Edge and Agreement subsidiaries, and IBFs	73,119,000
Noninterest-bearing	2,527,000
Interest-bearing	70,592,000
Federal funds purchased and securities sold under agreements to repurchase:	
Federal funds purchased in domestic offices	2,043,000
Securities sold under agreements to repurchase	11,000
Trading liabilities	5,570,000
Other borrowed money:	
(includes mortgage indebtedness and obligations under capitalized leases)	1,249,000
Not applicable	
Not applicable	
Subordinated notes and debentures	3,490,000
Other liabilities	4,071,000
<b>Total liabilities</b>	<b><u>150,538,000</u></b>

## EQUITY CAPITAL

Perpetual preferred stock and related surplus	0
Common stock	1,135,000
Surplus (exclude all surplus related to preferred stock)	8,499,000
Retained earnings	5,404,000
Accumulated other comprehensive income	-1,665,000
Other equity capital components	0
Total bank equity capital	13,373,000
Noncontrolling (minority) interests in consolidated subsidiaries	364,000
Total equity capital	<u>13,737,000</u>
<b>Total liabilities and equity capital</b>	<b><u>164,275,000</u></b>

I, Thomas P. Gibbons, Chief Financial Officer of the above-named bank do hereby declare that this Report of Condition is true and correct to the best of my knowledge and belief.

Thomas P. Gibbons,  
Chief Financial Officer

We, the undersigned directors, attest to the correctness of this statement of resources and liabilities. We declare that it has been examined by us, and to the best of our knowledge and belief has been prepared in conformance with the instructions and is true and correct.

Gerald L. Hassell  
Robert P. Kelly  
Catherine A. Rein



Directors

## FORM T-1

SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

STATEMENT OF ELIGIBILITY  
UNDER THE TRUST INDENTURE ACT OF 1939 OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE

CHECK IF AN APPLICATION TO DETERMINE  
ELIGIBILITY OF A TRUSTEE PURSUANT TO  
SECTION 305(b)(2)

\_\_\_\_\_  
THE BANK OF NEW YORK MELLON  
(Exact name of trustee as specified in its charter)

New York  
(State of incorporation  
if not a U.S. national bank)

13-5160382  
(I.R.S. employer  
identification no.)

One Wall Street, New York, N.Y.  
(Address of principal executive offices)

10286  
(Zip code)

\_\_\_\_\_  
DEUTSCHE BANK AKTIENGESELLSCHAFT  
(Exact name of obligor as specified in its charter)

DEUTSCHE BANK CORPORATION  
(Translation of Registrant's name into English)

Federal Republic of Germany  
(State or other jurisdiction of  
incorporation or organization)

Not Applicable  
(I.R.S. employer  
identification no.)

Theodor-Heuss-Allee 70  
60486 Frankfurt am Main  
Germany  
(Address of principal executive offices)

(Zip code)

\_\_\_\_\_  
Subordinated Guarantee of Trust Preferred Securities of  
Deutsche Bank Contingent Capital Trust V  
(Title of the indenture securities)

**1. General information. Furnish the following information as to the Trustee:**

**(a) Name and address of each examining or supervising authority to which it is subject.**

Name	Address
Superintendent of Banks of the State of New York	One State Street, New York, N.Y. 10004-1417, and Albany, N.Y. 12223
Federal Reserve Bank of New York	33 Liberty Street, New York, N.Y. 10045
Federal Deposit Insurance Corporation	Washington, D.C. 20429
New York Clearing House Association	New York, New York 10005

**(b) Whether it is authorized to exercise corporate trust powers.**

Yes.

**2. Affiliations with Obligor.**

**If the obligor is an affiliate of the trustee, describe each such affiliation.**

None.

**16. List of Exhibits.**

**Exhibits identified in parentheses below, on file with the Commission, are incorporated herein by reference as an exhibit hereto, pursuant to Rule 7a-29 under the Trust Indenture Act of 1939 (the "Act") and 17 C.F.R. 229.10(d).**

- A copy of the Organization Certificate of The Bank of New York Mellon (formerly known as The Bank of New York, itself formerly Irving Trust Company) as now in effect, which contains the authority to commence business and a grant of powers to exercise corporate trust powers. (Exhibit 1 to Amendment No. 1 to Form T-1 filed with Registration Statement No. 33-6215, Exhibits 1a and 1b to Form T-1 filed with Registration Statement No. 33-21672, Exhibit 1 to Form T-1 filed with Registration Statement No. 33-29637, Exhibit 1 to Form T-1 filed with Registration Statement No. 333-121195 and Exhibit 1 to Form T-1 filed with Registration Statement No. 333-152735).
4. A copy of the existing By-laws of the Trustee. (Exhibit 4 to Form T-1 filed with Registration Statement No. 333-154173).

6. The consent of the Trustee required by Section 321(b) of the Act (Exhibit 6 to Form T-1 filed with Registration Statement No. 333-152735).
7. A copy of the latest report of condition of the Trustee published pursuant to law or to the requirements of its supervising or examining authority.

- 3 -

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SIGNATURE

Pursuant to the requirements of the Act, the Trustee, The Bank of New York Mellon, a corporation organized and existing under the laws of the State of New York, has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in The City of New York, and State of New York, on the 12th day of February, 2010.

THE BANK OF NEW YORK MELLON

By: /S/ CHERYL CLARKE

Name: CHERYL CLARKE

Title: VICE PRESIDENT

- 4 -

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## Consolidated Report of Condition of

## THE BANK OF NEW YORK MELLON

of One Wall Street, New York, N.Y. 10286  
And Foreign and Domestic Subsidiaries,

a member of the Federal Reserve System, at the close of business December 31, 2009, published in accordance with a call made by the Federal Reserve Bank of this District pursuant to the provisions of the Federal Reserve Act.

Dollar Amounts In Thousands

<b>ASSETS</b>	
Cash and balances due from depository institutions:	
Noninterest-bearing balances and currency and coin	2,971,000
Interest-bearing balances	58,139,000
Securities:	
Held-to-maturity securities	4,414,000
Available-for-sale securities	48,838,000
Federal funds sold and securities purchased under agreements to resell:	
Federal funds sold in domestic offices	85,000
Securities purchased under agreements to resell	51,000
Loans and lease financing receivables:	
Loans and leases held for sale	38,000
Loans and leases, net of unearned income	25,990,000
LESS: Allowance for loan and lease losses	475,000
Loans and leases, net of unearned income and allowance	25,515,000
Trading assets	4,711,000
Premises and fixed assets (including capitalized leases)	1,057,000
Other real estate owned	4,000
Investments in unconsolidated subsidiaries and associated companies	915,000
Direct and indirect investments in real estate ventures	0
Intangible assets:	
Goodwill	4,991,000
Other intangible assets	1,471,000

	Dollar Amounts In Thousands
Other assets	11,075,000
<b>Total assets</b>	<b><u>164,275,000</u></b>

## LIABILITIES

Deposits:	
In domestic offices	60,985,000
Noninterest-bearing	30,587,000
Interest-bearing	30,398,000
In foreign offices, Edge and Agreement subsidiaries, and IBFs	73,119,000
Noninterest-bearing	2,527,000
Interest-bearing	70,592,000
Federal funds purchased and securities sold under agreements to repurchase:	
Federal funds purchased in domestic offices	2,043,000
Securities sold under agreements to repurchase	11,000
Trading liabilities	5,570,000
Other borrowed money:	
(includes mortgage indebtedness and obligations under capitalized leases)	1,249,000
Not applicable	
Not applicable	
Subordinated notes and debentures	3,490,000
Other liabilities	4,071,000
<b>Total liabilities</b>	<b><u>150,538,000</u></b>

## EQUITY CAPITAL

Perpetual preferred stock and related surplus	0
Common stock	1,135,000
Surplus (exclude all surplus related to preferred stock)	8,499,000
Retained earnings	5,404,000
Accumulated other comprehensive income	-1,665,000
Other equity capital components	0
Total bank equity capital	13,373,000
Noncontrolling (minority) interests in consolidated subsidiaries	364,000
Total equity capital	13,737,000
<b>Total liabilities and equity capital</b>	<b><u>164,275,000</u></b>

I, Thomas P. Gibbons, Chief Financial Officer of the above-named bank do hereby declare that this Report of Condition is true and correct to the best of my knowledge and belief.

Thomas P. Gibbons,  
Chief Financial Officer

We, the undersigned directors, attest to the correctness of this statement of resources and liabilities. We declare that it has been examined by us, and to the best of our knowledge and belief has been prepared in conformance with the instructions and is true and correct.

Gerald L. Hassell  
Robert P. Kelly  
Catherine A. Rein



Directors

FORM T-1

SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

STATEMENT OF ELIGIBILITY  
UNDER THE TRUST INDENTURE ACT OF 1939 OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE

CHECK IF AN APPLICATION TO DETERMINE  
ELIGIBILITY OF A TRUSTEE PURSUANT TO  
SECTION 305(b)(2)

---

THE BANK OF NEW YORK MELLON  
(Exact name of trustee as specified in its charter)

New York  
(State of incorporation  
if not a U.S. national bank)

13-5160382  
(I.R.S. employer  
identification no.)

One Wall Street, New York, N.Y.  
(Address of principal executive offices)

10286  
(Zip code)

---

DEUTSCHE BANK CONTINGENT CAPITAL TRUST V  
(Exact name of obligor as specified in its charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

26-6356518  
(I.R.S. employer  
identification no.)

60 Wall Street  
New York, New York  
(Address of principal executive offices)

10005  
(Zip code)

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Trust Preferred Securities  
(Title of the indenture securities)

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**1. General information. Furnish the following information as to the Trustee:**

**(a) Name and address of each examining or supervising authority to which it is subject.**

Name	Address
Superintendent of Banks of the State of New York	One State Street, New York, N.Y. 10004-1417, and Albany, N.Y. 12223
Federal Reserve Bank of New York	33 Liberty Street, New York, N.Y. 10045
Federal Deposit Insurance Corporation	Washington, D.C. 20429
New York Clearing House Association	New York, New York 10005

**(b) Whether it is authorized to exercise corporate trust powers.**

Yes.

**2. Affiliations with Obligor.**

**If the obligor is an affiliate of the trustee, describe each such affiliation.**

None.

**16. List of Exhibits.**

**Exhibits identified in parentheses below, on file with the Commission, are incorporated herein by reference as an exhibit hereto, pursuant to Rule 7a-29 under the Trust Indenture Act of 1939 (the "Act") and 17 C.F.R. 229.10(d).**

1. A copy of the Organization Certificate of The Bank of New York Mellon (formerly known as The Bank of New York, itself formerly Irving Trust Company) as now in effect, which contains the authority to commence business and a grant of powers to exercise corporate trust powers. (Exhibit 1 to Amendment No. 1 to Form T-1 filed with Registration Statement No. 33-6215, Exhibits 1a and 1b to Form T-1 filed with Registration Statement No. 33-21672, Exhibit 1 to Form T-1 filed with Registration Statement No. 33-29637, Exhibit 1 to Form T-1 filed with Registration Statement No. 333-121195 and Exhibit 1 to Form T-1 filed with Registration Statement No. 333-152735).

4. A copy of the existing By-laws of the Trustee. (Exhibit 4 to Form T-1 filed with Registration Statement No. 333-154173).
6. The consent of the Trustee required by Section 321(b) of the Act (Exhibit 6 to Form T-1 filed with Registration Statement No. 333-152735).
7. A copy of the latest report of condition of the Trustee published pursuant to law or to the requirements of its supervising or examining authority.

- 3 -

---

SIGNATURE

Pursuant to the requirements of the Act, the Trustee, The Bank of New York Mellon, a corporation organized and existing under the laws of the State of New York, has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in The City of New York, and State of New York, on the 12th day of February, 2010.

THE BANK OF NEW YORK MELLON

By: /S/ CHERYL CLARKE

Name: CHERYL CLARKE

Title: VICE PRESIDENT

- 4 -

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## Consolidated Report of Condition of

## THE BANK OF NEW YORK MELLON

of One Wall Street, New York, N.Y. 10286  
And Foreign and Domestic Subsidiaries,

a member of the Federal Reserve System, at the close of business December 31, 2009, published in accordance with a call made by the Federal Reserve Bank of this District pursuant to the provisions of the Federal Reserve Act.

Dollar Amounts In Thousands

<b>ASSETS</b>	
Cash and balances due from depository institutions:	
Noninterest-bearing balances and currency and coin	2,971,000
Interest-bearing balances	58,139,000
Securities:	
Held-to-maturity securities	4,414,000
Available-for-sale securities	48,838,000
Federal funds sold and securities purchased under agreements to resell:	
Federal funds sold in domestic offices	85,000
Securities purchased under agreements to resell	51,000
Loans and lease financing receivables:	
Loans and leases held for sale	38,000
Loans and leases, net of unearned income	25,990,000
LESS: Allowance for loan and lease losses	475,000
Loans and leases, net of unearned income and allowance	25,515,000
Trading assets	4,711,000
Premises and fixed assets (including capitalized leases)	1,057,000
Other real estate owned	4,000
Investments in unconsolidated subsidiaries and associated companies	915,000
Direct and indirect investments in real estate ventures	0
Intangible assets:	
Goodwill	4,991,000
Other intangible assets	1,471,000



	Dollar Amounts In Thousands
Other assets	<u>11,075,000</u>
Total assets	<u>164,275,000</u>

## LIABILITIES

Deposits:	
In domestic offices	60,985,000
Noninterest-bearing	30,587,000
Interest-bearing	30,398,000
In foreign offices, Edge and Agreement subsidiaries, and IBFs	73,119,000
Noninterest-bearing	2,527,000
Interest-bearing	70,592,000
Federal funds purchased and securities sold under agreements to repurchase:	
Federal funds purchased in domestic offices	2,043,000
Securities sold under agreements to repurchase	11,000
Trading liabilities	5,570,000
Other borrowed money:	
(includes mortgage indebtedness and obligations under capitalized leases)	1,249,000
Not applicable	
Not applicable	
Subordinated notes and debentures	3,490,000
Other liabilities	4,071,000
Total liabilities	<u>150,538,000</u>

## EQUITY CAPITAL

Perpetual preferred stock and related surplus	0
Common stock	1,135,000
Surplus (exclude all surplus related to preferred stock)	8,499,000
Retained earnings	5,404,000
Accumulated other comprehensive income	-1,665,000
Other equity capital components	0
Total bank equity capital	13,373,000
Noncontrolling (minority) interests in consolidated subsidiaries	364,000
Total equity capital	<u>13,737,000</u>
Total liabilities and equity capital	<u>164,275,000</u>

I, Thomas P. Gibbons, Chief Financial Officer of the above-named bank do hereby declare that this Report of Condition is true and correct to the best of my knowledge and belief.

Thomas P. Gibbons,  
Chief Financial Officer

We, the undersigned directors, attest to the correctness of this statement of resources and liabilities. We declare that it has been examined by us, and to the best of our knowledge and belief has been prepared in conformance with the instructions and is true and correct.

Gerald L. Hassell  
Robert P. Kelly  
Catherine A. Rein



Directors

## FORM T-1

SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

STATEMENT OF ELIGIBILITY  
UNDER THE TRUST INDENTURE ACT OF 1939 OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE

CHECK IF AN APPLICATION TO DETERMINE  
ELIGIBILITY OF A TRUSTEE PURSUANT TO  
SECTION 305(b)(2)

---

THE BANK OF NEW YORK MELLON  
(Exact name of trustee as specified in its charter)

New York  
(State of incorporation  
if not a U.S. national bank)

13-5160382  
(I.R.S. employer  
identification no.)

One Wall Street, New York, N.Y.  
(Address of principal executive offices)

10286  
(Zip code)

---

DEUTSCHE BANK CONTINGENT CAPITAL LLC V  
(Exact name of obligor as specified in its charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

26-2498666  
(I.R.S. employer  
identification no.)

60 Wall Street  
New York, New York  
(Address of principal executive offices)

10005  
(Zip code)

---

Company Preferred Securities  
(Title of the indenture securities)

---

---

**1. General information. Furnish the following information as to the Trustee:**

**(a) Name and address of each examining or supervising authority to which it is subject.**

Name	Address
Superintendent of Banks of the State of New York	One State Street, New York, N.Y. 10004-1417, and Albany, N.Y. 12223
Federal Reserve Bank of New York	33 Liberty Street, New York, N.Y. 10045
Federal Deposit Insurance Corporation	Washington, D.C. 20429
New York Clearing House Association	New York, New York 10005

**(b) Whether it is authorized to exercise corporate trust powers.**

Yes.

**2. Affiliations with Obligor.**

**If the obligor is an affiliate of the trustee, describe each such affiliation.**

None.

**16. List of Exhibits.**

**Exhibits identified in parentheses below, on file with the Commission, are incorporated herein by reference as an exhibit hereto, pursuant to Rule 7a-29 under the Trust Indenture Act of 1939 (the "Act") and 17 C.F.R. 229.10(d).**

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7. A copy of the latest report of condition of the Trustee published pursuant to law or to the requirements of its supervising or examining authority.

- 3 -

---

SIGNATURE

Pursuant to the requirements of the Act, the Trustee, The Bank of New York Mellon, a corporation organized and existing under the laws of the State of New York, has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in The City of New York, and State of New York, on the 12th day of February, 2010.

THE BANK OF NEW YORK MELLON

By: /S/ CHERYL CLARKE

Name: CHERYL CLARKE

Title: VICE PRESIDENT

- 4 -

---

## Consolidated Report of Condition of

## THE BANK OF NEW YORK MELLON

of One Wall Street, New York, N.Y. 10286  
And Foreign and Domestic Subsidiaries,

a member of the Federal Reserve System, at the close of business December 31, 2009, published in accordance with a call made by the Federal Reserve Bank of this District pursuant to the provisions of the Federal Reserve Act.

Dollar Amounts In Thousands

<b>ASSETS</b>	
Cash and balances due from depository institutions:	
Noninterest-bearing balances and currency and coin	2,971,000
Interest-bearing balances	58,139,000
Securities:	
Held-to-maturity securities	4,414,000
Available-for-sale securities	48,838,000
Federal funds sold and securities purchased under agreements to resell:	
Federal funds sold in domestic offices	85,000
Securities purchased under agreements to resell	51,000
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Loans and leases held for sale	38,000
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LESS: Allowance for loan and lease losses	475,000
Loans and leases, net of unearned income and allowance	25,515,000
Trading assets	4,711,000
Premises and fixed assets (including capitalized leases)	1,057,000
Other real estate owned	4,000
Investments in unconsolidated subsidiaries and associated companies	915,000
Direct and indirect investments in real estate ventures	0
Intangible assets:	
Goodwill	4,991,000
Other intangible assets	1,471,000

	Dollar Amounts In Thousands
Other assets	<u>11,075,000</u>
Total assets	<u>164,275,000</u>

## LIABILITIES

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Interest-bearing	30,398,000
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Interest-bearing	70,592,000
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Federal funds purchased in domestic offices	2,043,000
Securities sold under agreements to repurchase	11,000
Trading liabilities	5,570,000
Other borrowed money:	
(includes mortgage indebtedness and obligations under capitalized leases)	1,249,000
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Not applicable	
Subordinated notes and debentures	3,490,000
Other liabilities	4,071,000
Total liabilities	<u>150,538,000</u>

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Total equity capital	<u>13,737,000</u>
Total liabilities and equity capital	<u>164,275,000</u>



I, Thomas P. Gibbons, Chief Financial Officer of the above-named bank do hereby declare that this Report of Condition is true and correct to the best of my knowledge and belief.

Thomas P. Gibbons,  
Chief Financial Officer

We, the undersigned directors, attest to the correctness of this statement of resources and liabilities. We declare that it has been examined by us, and to the best of our knowledge and belief has been prepared in conformance with the instructions and is true and correct.

Gerald L. Hassell  
Robert P. Kelly  
Catherine A. Rein



Directors